

Scott Clements  
3044 67th Ave SE  
Mercer Island, WA 98040  
206-793-1074  
scottcclements@comcast.net  
Website

December 19, 2022

Grace Manahan  
Assistant Planner  
City of Mercer Island dept of planning & Community Development  
RE: Permit Application Number 2210-2120

Dear Grace,

My name is Scott Clements and I live at 3044 67<sup>th</sup> Ave SE, Mercer Island which is the property directly to the south of 3036 67<sup>th</sup> Ave SE. I am writing you with respect to permit application Number 2210-2120 that you have received from Buchan Homes. The permit set of drawings that you have received from Buchan Homes includes approximately 1,000 square feet at the south border which is my property through adverse possession. I have attached my recent Record of Survey recorded in King County on July 21<sup>st</sup>, 2022. Please note the hashed area that states "Area of Questionable Ownership" which is my property that I have been maintaining for the past 28 years. The plans that you have received cannot be used to calculate land area for any necessary development, standard calculations, such as impervious surfaces, lot coverage, etc.

In addition, the current plans call for destruction of my Hedge and Cherry Tree that support and sit atop the steep slope that exists within the fenced area adjacent to my carport. Buchan Homes' plans call for the clearing of the existing fence, Hedge and Cherry Tree so that a new fence can be built within the fenced area that I have solely maintained for the last 28 years. There is nothing in the plans that shows any measures to protect that slope from collapsing and damaging my carport. The plans also confirm Buchan Homes' goal of destroying the existing fence and extending its new fence into the fenced area at the rear or eastern section of my property that I have also exclusively maintained for the last 28 years.

We have raised these issues with Buchan Homes and attempted to work with them to come up with a reasonable solution since last June, but Buchan Homes has ignored these issues and submitted these plans that fail to address them. I ask that you do not consider the above referenced application for approval until these issues have been resolved. Please include this letter and the attached Recorded Record of Survey into the applicant's folder as party of record documents that the applicant will need to respond to.

Thank you,



Scott Clements  
3044 67<sup>th</sup> Ave SE  
Mercer Island, WA  
98040

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Website

December 20, 2022

Grace Manahan  
Assistant Planner  
City of Mercer Island Dept of Planning & Community Development  
RE: Complaint to Quiet Title

Dear Grace,

Please find attached the Complaint to Quiet Title which was filed in King County Superior Court Friday December 15<sup>th</sup>, 2022. Because the Applicant proposes to remove vegetation and install fencing in the area that I have obtained by adverse possession, and the Application is predicated on Applicant's erroneous calculation of its lot area, I ask that you (City of Mercer Island Dept of Planning & Community Development) do not consider Application Number 2210-2120 until this matter has been resolved by the Court.

Thank you,



Scott Clements  
3044 67<sup>th</sup> Ave SE  
Mercer Island, WA  
98040

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

SCOTT CLEMENTS, an individual,  
Plaintiff,

v.

WILLIAM E. BUCHAN, INC., a Washington  
corporation,  
Defendant.

NO. 22-2-20693-4 SEA

COMPLAINT TO QUIET TITLE

**I. PARTIES**

1. Plaintiff Scott Clements (“**Plaintiff**”) owns certain real property in King County, Washington, located at 3044 67<sup>th</sup> Avenue SE, Mercer Island, Washington, a portion of which is identified by King County parcel no. 2174501005 (“**Clements Property**”).

2. Defendant William E. Buchan, Inc. (“**Defendant**”) is a Washington corporation. Defendant owns certain real property in King County, Washington located at 3036 67<sup>th</sup> Avenue SE, Mercer Island, Washington, consisting of a portion of the property identified by King County parcel no. 2174501025 (“**Defendant Property**”).

3. The north boundary of the Clements Property abuts the south boundary of the Defendant Property.

**II. JURISDICTION AND VENUE**

4. The Court has jurisdiction over the subject matter of this lawsuit pursuant to RCW 2.08.010.



1           12.     Since 1994, Plaintiff has maintained the Adversely Possessed Area exclusively,  
2 with only one exception detailed below.

3           13.     In the mid-1990s, while Plaintiff was a tenant on the Clements Property, he hired  
4 a crew to trim the Hedge, which was then severely overgrown. Plaintiff's landlord reimbursed  
5 Plaintiff for the cost of that work.

6           14.     In the early 2000s, Plaintiff again hired a crew to trim the overgrown Hedge.

7           15.     The Adversely Possessed Area slopes upward to the north, and the slope increases  
8 as one moves eastward. Plaintiff's constant maintenance of the slope, including consistent  
9 pruning and leaf raking, has been and is necessary to prevent sloughing and protect and ensure  
10 the functionality of Plaintiff's carport.

11          16.     In 2015, a cedar tree within the Adversely Possessed Area had grown so large that  
12 its roots were threatening the carport and foundation of the Clements Property, so Plaintiff had  
13 the tree removed.

14          17.     Since 1994, the only time the owners or tenants of the Defendant Property ever  
15 had the Hedge trimmed was in 2019. That trimming was completed through trespass onto the  
16 Clements Property coordinated by the then owner of the Defendant Property. Plaintiff objected,  
17 and the then owner of the Defendant Property apologized to Plaintiff for the trespass and  
18 intrusion. In acknowledgement of Defendant's predecessor's trespass and to compensate Plaintiff  
19 for same, Defendant's predecessor asked Plaintiff to coordinate yard maintenance of the then-  
20 exposed Defendant Property to Plaintiff's satisfaction, and Defendant's predecessor paid for that  
21 yard maintenance.

22          18.     Defendant purchased the Defendant Property in 2021.

23          19.     Defendant plans to develop a single-family home residence much larger than the  
24 house currently on the Defendant Property. In November 2022, Defendant submitted a permit  
25 application to the City of Mercer Island for its proposed demolition and construction.  
26 Defendant's permit is currently subject to a public comment period which ends January 4, 2023.





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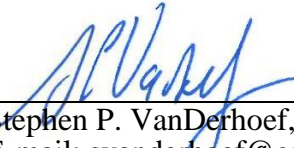
**V. REQUEST FOR RELIEF**

Plaintiff requests following relief:

1. An order quieting title to the Adversely Possessed Area in Plaintiff's name;
2. An order ejecting Defendant from the Adversely Possessed Area;
3. An award of Plaintiff's costs and reasonable attorneys' fees incurred in this matter; and
5. Such other relief as the Court deems just and proper.

DATED this 16<sup>th</sup> day of December, 2022.

CAIRCROSS & HEMPELMANN, P.S.

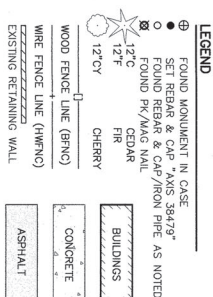
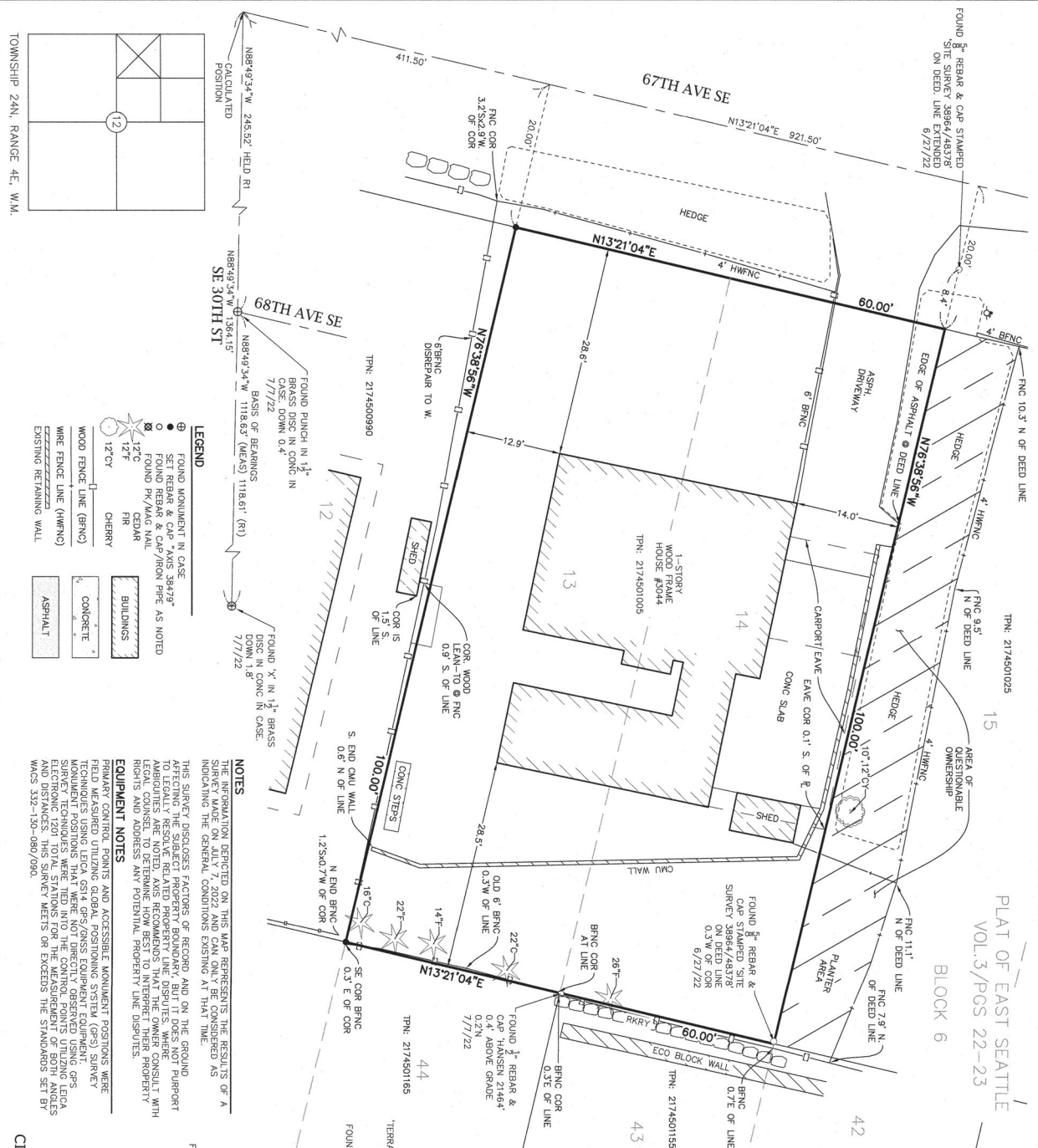
  
\_\_\_\_\_  
Stephen P. VanDerhoef, WSBA No. 20088  
E-mail: svanderhoef@caircross.com  
Henry Avery, WSBA No. 54086  
E-mail: havery@caircross.com  
524 Second Avenue, Suite 500  
Seattle, WA 98104-2323  
Telephone: (206) 587-0700  
Facsimile: (206) 587-2308  
Attorneys for Plaintiff Scott Clements



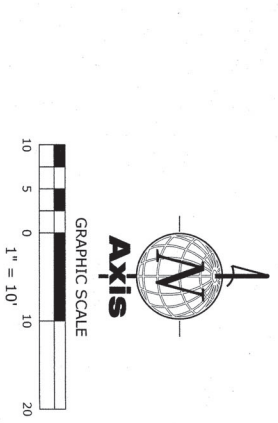
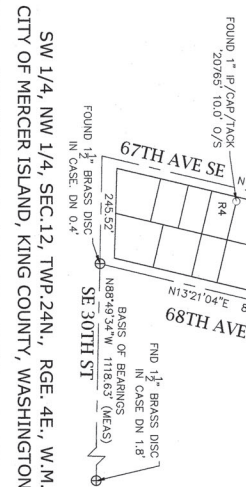
# Exhibit A

# RECORD OF SURVEY

PLAT OF EAST SEATTLE  
 VOL. 3 / PGS 22-23  
 BLOCK 6



**NOTES**  
 THE INFORMATION DERIVED ON THIS MAP REPRESENTS THE RESULTS OF A SURVEY MADE ON JULY 7, 2022 AND CAN ONLY BE CONSIDERED AS INDICATING THE GENERAL CONDITIONS EXISTING AT THAT TIME.  
 THIS SURVEY DISCLOSES FACTORS OF RECORD AND ON THE GROUND AFFECTING THE SUBJECT PROPERTY BOUNDARY, BUT IT DOES NOT PURPORT TO LEGALLY RESOLVE RELATED PROPERTY LINE DISPUTES. WHERE LEGAL COUNSEL IS TO DETERMINE THE BEST INTERESTS OF THE PROPERTY RIGHTS AND ADDRESS ANY POTENTIAL PROPERTY LINE DISPUTES.  
**EQUIPMENT NOTES**  
 PRIMARY CONTROL POINTS AND ACCESSIBLE MONUMENT POSITIONS WERE FIELD MEASURED UTILIZING GLOBAL POSITIONING SYSTEM (GPS) SURVEY TECHNIQUES USING LEICA GS14 GPS/GNSS EQUIPMENT. MONUMENT POSITIONS THAT WERE NOT DIRECTLY OBSERVED USING GPS ELECTRONIC 1201 TOTAL STATIONS FOR THE MEASUREMENT OF BOTH ANGLES AND DISTANCES. THIS SURVEY MEETS OR EXCEEDS THE STANDARDS SET BY WACS 332-130-080/080.



**LEGAL DESCRIPTION/TITLE REPORT NOTES**  
 THE LEGAL DESCRIPTIONS OF THE INTERESTS OF RECORD WHICH WOULD BE DISCLOSED BY TITLE REPORT ARE SHOWN.  
 LEGAL DESCRIPTION FOR PROPERTY WAS OBTAINED FROM DEED OF TRUST RECORDED UNDER RECORDING NUMBER 20141222009526.  
 LOTS 13 AND 14, BLOCK 6, EAST SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 22, IN KING COUNTY, WASHINGTON SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

- REFERENCES**
1. ROS BY GEOMETRICAL SURVEY UNDER REC. NO. 200804151900004
  2. ROS BY TERRANE RECORDED UNDER REC. NO. 20210728900027
  3. ROS BY PLAT RECORDED UNDER REC. NO. 0204041890004
  4. ROS BY PLAT RECORDED UNDER REC. NO. 0204041890004
  5. PLAT OF EAST SEATTLE, BOOK OF PLATS VOL. 3, PAGES 22-23
  6. PLAT OF EAST SEATTLE, BOOK OF PLATS VOL. 3, PAGES 22-23
  7. B.L.A. BY M.W. MARSHALL RECORDED UNDER REC. NO. 9890989002

TOWNSHIP 24N, RANGE 4E, W.M.

RECORDERS CERTIFICATE: NO. 2022-1111  
 FILED FOR RECORD THIS 21<sup>ST</sup> DAY OF JULY 2022 AT THE REQUEST OF AXIS SURVEYING AND MAPPING INC.  
 DIVISION OF RECORDS AND ELECTRONICS

SURVEYORS CERTIFICATE  
 THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF SCOTT CLEMENTS  
 IN JUNE 2022

SCOTT CLEMENTS  
 3044 67TH AVE SE  
 MERCER IS., WA 98040

SW 1/4, NW 1/4, SEC. 12, TWP. 24N., RGE. 4E., W.M.,  
 CITY OF MERCER ISLAND, KING COUNTY, WASHINGTON

|          |            |
|----------|------------|
| JOB NO.  | DATE       |
| 22-111   | 7/14/22    |
| DRAWN BY | CHECKED BY |
| JRP      | BBB        |
| SCALE    | SHEET      |
| 1"=10'   | 1 OF 1     |



MANAGER  
 SUPT. OF RECORDS

BRUCE E. BAILEY  
 CERTIFICATE NO. 38479



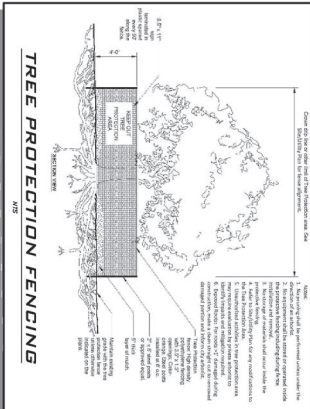
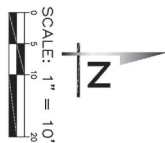
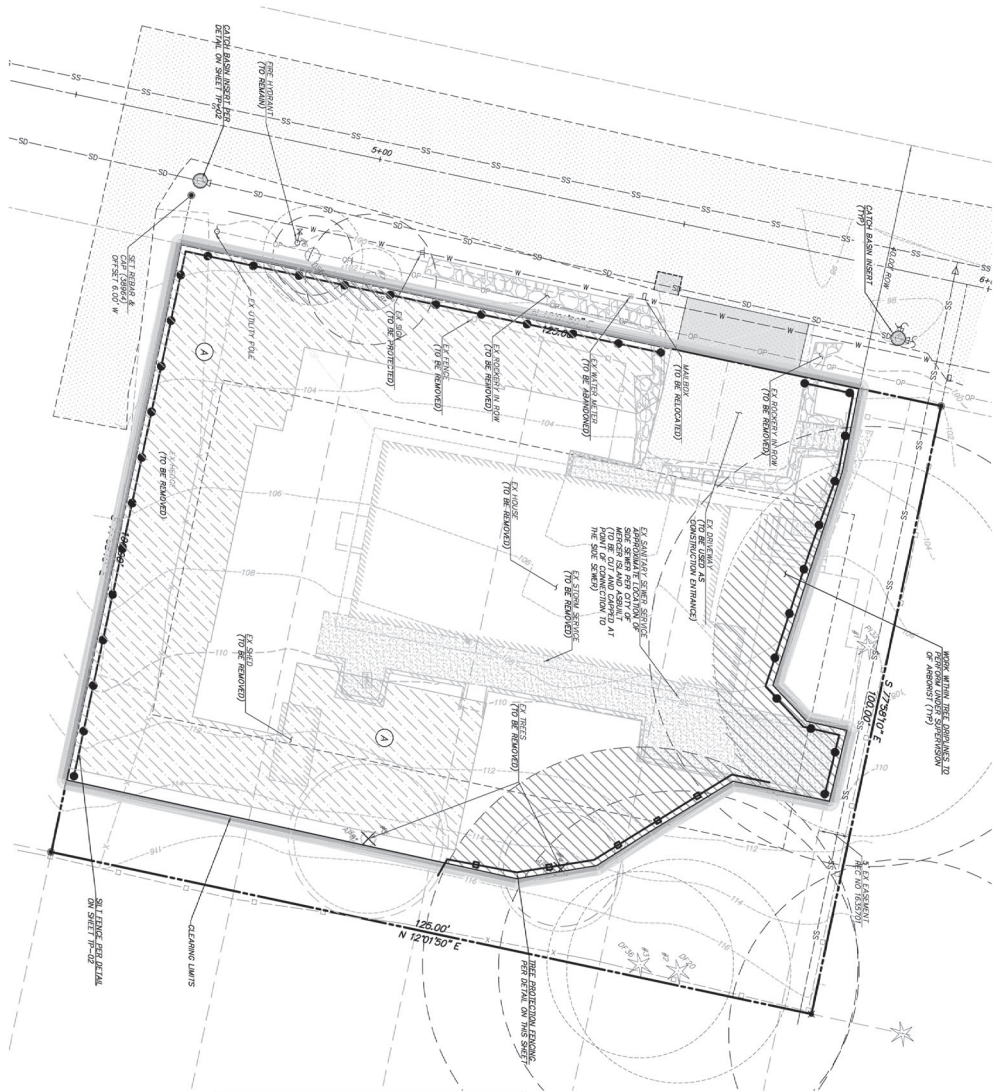
Axis Survey & Mapping  
 15241 NE 90TH ST, SUITE 100  
 REDMOND, WA 98052  
 TEL. 425.823.5700  
 FAX 425.823.6700  
 WWW.AXISSURV.COM



2169/241

# Exhibit B

SW 1/4, NW 1/4, SEC 12, TWP 24N, RNG 4E, W.M.



**NOTE**  
 CAPTURE BASIN INLET PROTECTION TO BE INSTALLED UP TO 250' DOWNSTREAM OF THE PROTECTED SITE

**SOIL AMENDMENT LEGEND**  
 (A) NEW TURF AREA REQUIRING AMENDMENT

**POST-CONSTRUCTION SOIL MANAGEMENT NOTES**  
 AMEND SOILS WITH COMPOST PER PRE-APPROVED AMENDMENT METHOD  
 SCABBY EXISTING SOILS TO DEPTH OF 8 INCHES  
 REFER TO CITY OF MERCER ISLAND SECTION D, POST-CONSTRUCTION SOIL MANAGEMENT FORM UNDER SEPARATE COVER FOR CALCULATED AMENDMENT QUANTITIES

**NOTE**  
 EXISTING WATER METERS TO BE ABANDONED

**EXISTING UTILITY NOTE**  
 EXISTING UTILITIES ARE SHOWN IN THE APPROXIMATE LOCATION. THERE IS NO WARRANTY AS TO THE LOCATION, DEPTH, OR TYPE OF UTILITIES. THE CONTRACTOR SHALL UNCOVER ALL INDICATED UTILITIES AND MATERIAL IS ACCURATE. THE CONTRACTOR SHALL UNCOVER ALL INDICATED UTILITIES WHERE CROSSING, INTERFERENCES, OR CONNECTIONS OCCUR PRIOR TO ANY CONSTRUCTION. THE CONTRACTOR SHALL MAKE THE NECESSARY ARRANGEMENTS FOR PROTECTION OF SAID UTILITIES. THE CONTRACTOR SHALL MAKE THE NECESSARY ARRANGEMENTS FOR PROTECTION OF SAID UTILITIES. THE CONTRACTOR SHALL MAKE THE NECESSARY ARRANGEMENTS FOR PROTECTION OF SAID UTILITIES. THE CONTRACTOR SHALL MAKE THE NECESSARY ARRANGEMENTS FOR PROTECTION OF SAID UTILITIES.

**BLUELINE**

1500 15TH AVENUE, SUITE 200  
 SEASIDE, WA 98138  
 WWW.BLUELINEENGINEERING.COM

**SCALE:**  
 AS SHOWN

**PROJECT MANAGER:**  
 YANICK METZ, PE

**PROJECT ENGINEER:**  
 ALI RAHMANI, PE

**DESIGNER:**  
 CONSTRUCTION WORKSHOP

**ISSUE DATE:**  
 07/14/2022

| NO | DATE | BY | REVISIONS |
|----|------|----|-----------|
|    |      |    |           |
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**TESC, DETENTION, & TREE RETENTION PLAN**

**3036 67TH AVENUE SE**

**SITE PLAN**

PARCEL 2174501025

CITY OF MERCER ISLAND WASHINGTON



6/16/22

**JOB NUMBER:**  
 22-042

**SHEET NUMBER:**  
 TP-01

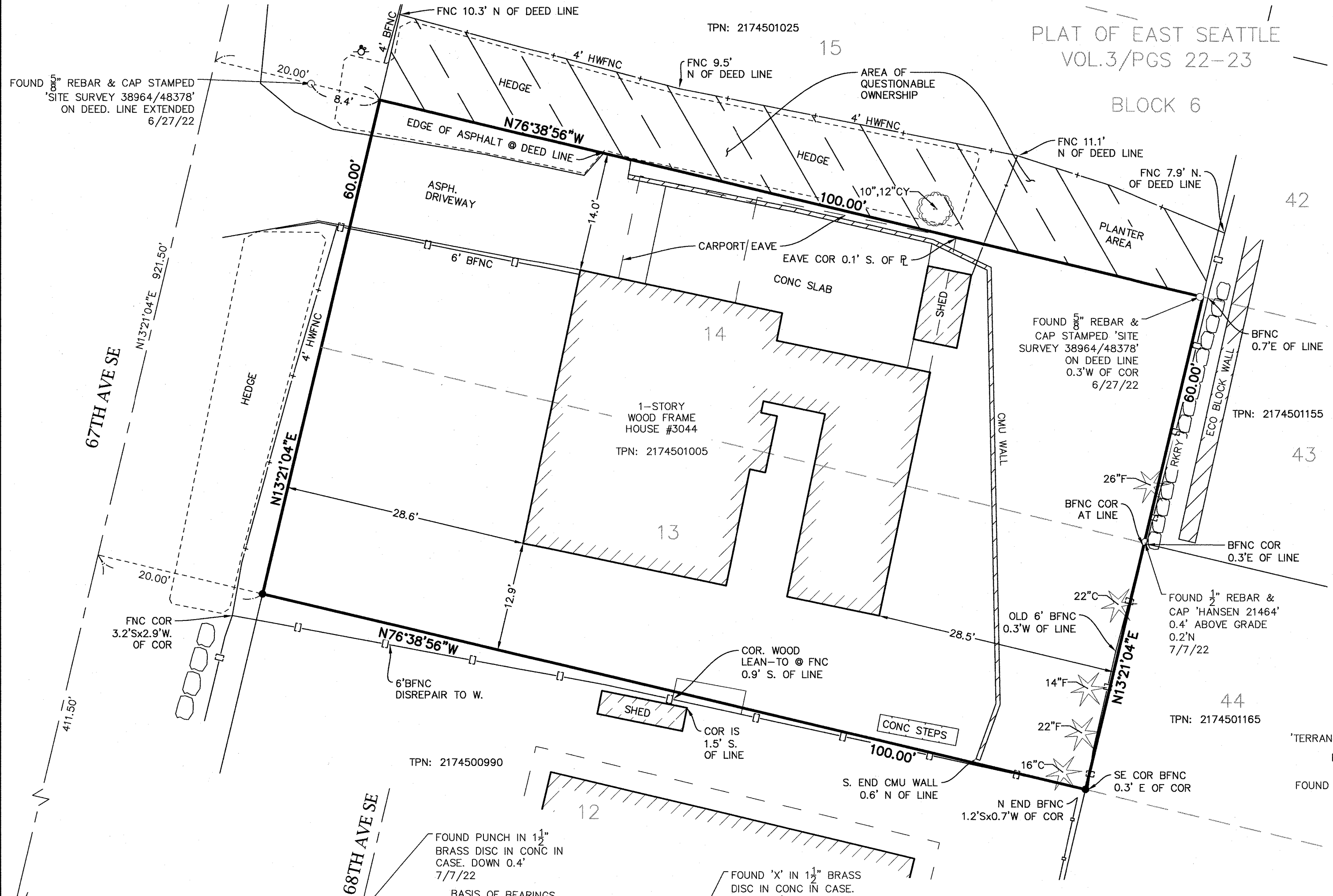
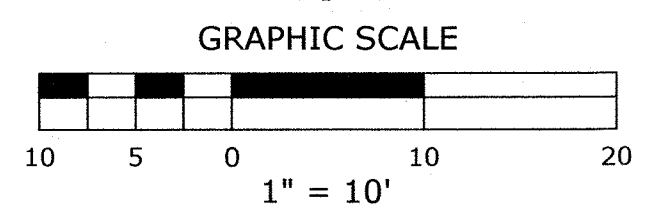
2 OF 5



469/241

# RECORD OF SURVEY

PLAT OF EAST SEATTLE  
 VOL.3/PGS 22-23  
 BLOCK 6



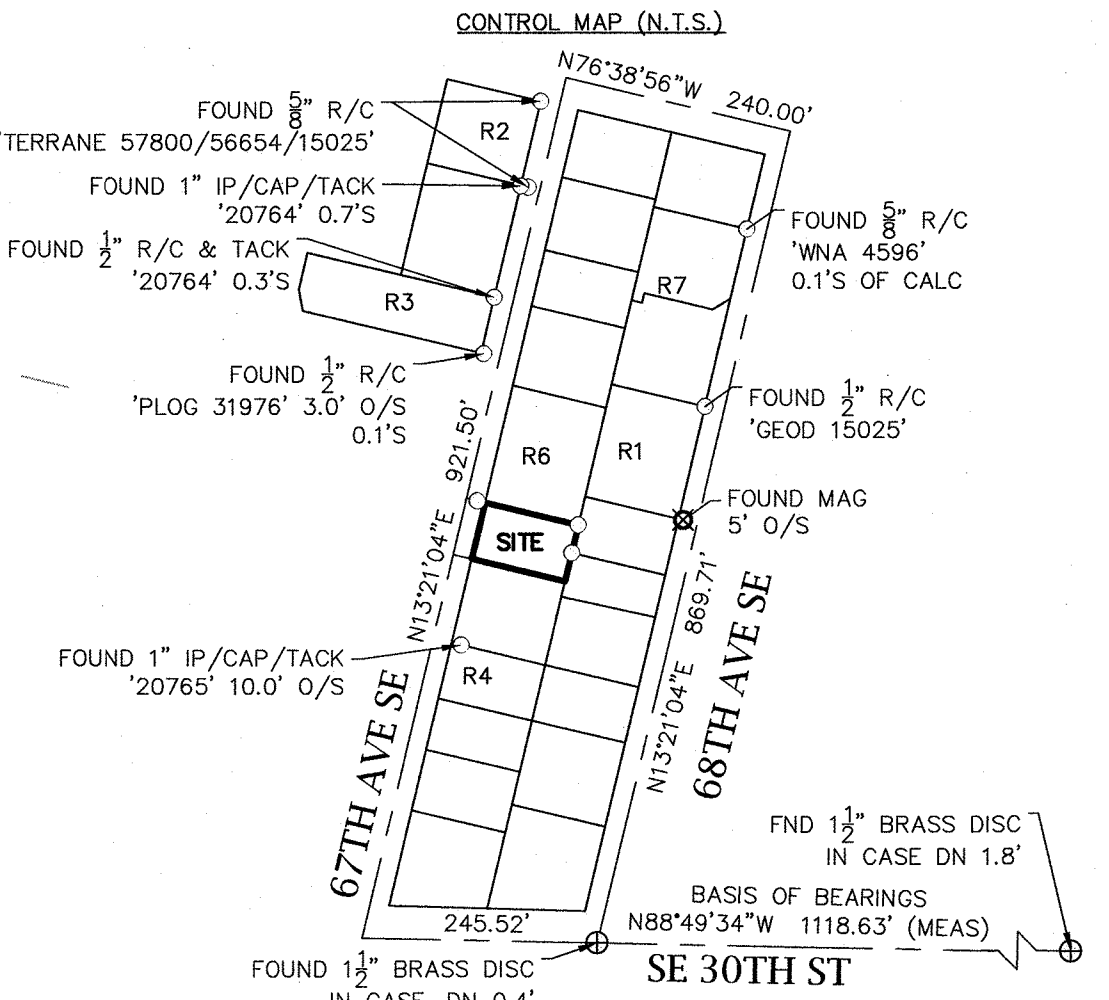
**BASIS OF BEARINGS**  
 BASIS OF BEARINGS N88°49'34\"/>

**DATUM**  
 HORIZONTAL DATUM:  
 NAD '83/'11 GPS HxGN SMARTNET

**LEGAL DESCRIPTION/TITLE REPORT NOTES**  
 NO EASEMENTS, RESTRICTIONS, OR RESERVATIONS OF RECORD WHICH WOULD BE DISCLOSED BY TITLE REPORT ARE SHOWN.  
 LEGAL DESCRIPTION FOR PROPERTY WAS OBTAINED FROM DEED OF TRUST RECORDED UNDER RECORDING NUMBER 20141222000626.

LOTS 13 AND 14, BLOCK 6, EAST SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 22, IN KING COUNTY, WASHINGTON SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

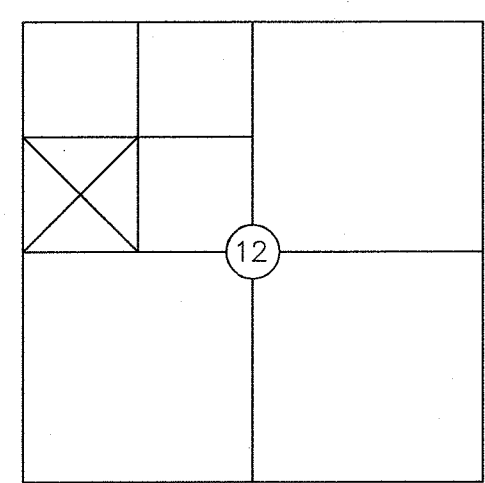
- REFERENCES**
1. ROS BY GEODIMENSION RECORDED UNDER REC. NO. 20080415900004
  2. ROS BY TERRANE RECORDED UNDER REC. NO. 20210726900027
  3. ROS BY PLOG RECORDED UNDER REC. NO. 20210419900014
  4. ROS BY JONES, BASSI & ASSOCIATES RECORDED UNDER REC. NO. 8904249004
  5. PLAT OF EAST SEATTLE, BOOK OF PLATS VOL. 3, PAGES 22-23
  6. UNRECORDED SURVEY OF TPN: 2174501025 BY SITE SURVEY DATED 8/17/21
  7. BLA BY M.W. MARSHALL RECORDED UNDER REC. NO. 9809089002



**NOTES**  
 THE INFORMATION DEPICTED ON THIS MAP REPRESENTS THE RESULTS OF A SURVEY MADE ON JULY 7, 2022 AND CAN ONLY BE CONSIDERED AS INDICATING THE GENERAL CONDITIONS EXISTING AT THAT TIME.

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**EQUIPMENT NOTES**  
 PRIMARY CONTROL POINTS AND ACCESSIBLE MONUMENT POSITIONS WERE FIELD MEASURED UTILIZING GLOBAL POSITIONING SYSTEM (GPS) SURVEY TECHNIQUES USING LEICA GS14 GPS/GNSS EQUIPMENT. MONUMENT POSITIONS THAT WERE NOT DIRECTLY OBSERVED USING GPS SURVEY TECHNIQUES WERE TIED INTO THE CONTROL POINTS UTILIZING LEICA ELECTRONIC 1201 TOTAL STATIONS FOR THE MEASUREMENT OF BOTH ANGLES AND DISTANCES. THIS SURVEY MEETS OR EXCEEDS THE STANDARDS SET BY WACS 332-130-080/090.



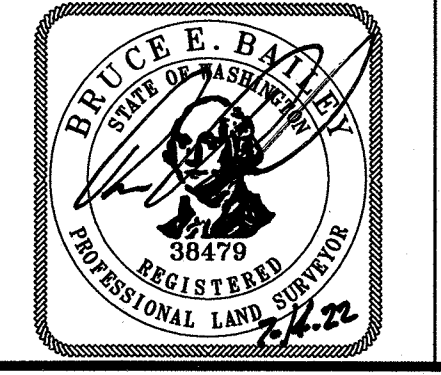
**LEGEND**

|  |                                      |  |           |
|--|--------------------------------------|--|-----------|
|  | FOUND MONUMENT IN CASE               |  | BUILDINGS |
|  | SET REBAR & CAP "AXIS 38479"         |  | CONCRETE  |
|  | FOUND REBAR & CAP/IRON PIPE AS NOTED |  | ASPHALT   |
|  | FOUND PK/MAG NAIL                    |  |           |
|  | 12\"/>                               |  |           |
|  | 12\"/>                               |  |           |
|  | 12\"/>                               |  |           |
|  | WOOD FENCE LINE (BFNC)               |  |           |
|  | WIRE FENCE LINE (HWFNC)              |  |           |
|  | EXISTING RETAINING WALL              |  |           |

SW 1/4, NW 1/4, SEC.12, TWP.24N., RGE. 4E., W.M.  
 CITY OF MERCER ISLAND, KING COUNTY, WASHINGTON

**RECORDER'S CERTIFICATE:** NO. \_\_\_\_\_  
 FILED FOR RECORD THIS 21<sup>st</sup> DAY OF July, 2022 AT 2:53 PM  
 IN BOOK 469 OF SURVEYS, PAGE 241 AT THE REQUEST OF AXIS  
 SURVEYING AND MAPPING INC.  
 DIVISION OF RECORDS AND ELECTIONS  
 \_\_\_\_\_  
 MANAGER

**SURVEYOR'S CERTIFICATE**  
 THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF SCOTT CLEMENTS  
 IN JUNE 2022  
 \_\_\_\_\_  
 BRUCE E. BAILEY CERTIFICATE NO. 38479



SCOTT CLEMENTS  
 3044 67TH AVE SE  
 MERCER IS., WA 98040

15241 NE 90TH ST, SUITE 100  
 REDMOND, WA 98052  
 TEL. 425.823-5700  
 FAX 425.823-6700  
 www.axismap.com

|          |            |
|----------|------------|
| JOB NO.  | DATE       |
| 22-111   | 7/14/22    |
| DRAWN BY | CHECKED BY |
| JRP      | BEB        |
| SCALE    | SHEET      |
| 1"=10'   | 1 OF 1     |

20220721900038 Vol:469 Page:241  
 Survey Rec: \$287.50  
 7/21/2022 2:53 PM  
 KING COUNTY, WA

## Clements Public Comment Response

We have completed mediation with Clements and lawyers are working on the final agreements and easement. Essentially, we are granting a 3' non exclusive easement along the south property line. Any fence or hedge would have to be built outside of this easement. The cherry tree will remain. We are also guaranteeing the stability of the slope in this area. If we can get away without building a retaining wall, we will probably put a 6' fence right at the 3' line, but if we have to build a wall we will probably do a pyramidalis hedge because fence+wall cannot exceed 6' in the 10' setback.