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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

CHRISTOPHER A. NIEDERMAN and  
NICOLE L. NIEDERMAN, husband and  
wife, and the marital community  
composed thereof,

Plaintiffs,

v.

STEVE YANG and SOPHY YANG,  
husband and wife, and the marital  
community composed thereof; UMPQUA  
BANK, a foreign bank corporation.

Defendants.

NO. 20-2-08679-7 SEA

DECLARATION OF RYAN  
STERNOFF IN SUPPORT OF  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT  
DISMISSING ALL OF PLAINTIFFS'  
REMAINING CLAIMS

Ryan Sternoff states and declares as follows:

1. I am over 18 years of age, a resident of Washington State and am  
competent to make this declaration based on my personal knowledge.

2. Attached hereto as **Exhibit A** is a true and correct copy of the Evan's  
Addition Plat, recorded under King County Recording No. 7701260554.

3. Attached hereto as **Exhibit B** is a true and correct copy of the 1994  
Boundary Line Adjustment recorded under King County Recording No. 9412229001.

1 4. Attached hereto as **Exhibit C** is a true and correct copy of the 2021  
2 Boundary Line Adjustment recorded under King County Recording No.  
3 20210526900003.

4 5. Attached hereto as **Exhibit D** is a true and correct copy of the  
5 Niedermans' Deed recorded under King County Recording no. 20150317001129.

6 6. Attached hereto as **Exhibit E** is a true and accurate copy of the April 30,  
7 2019, letter sent through the Niedermans' counsel to the City of Mercer Island, obtained  
8 from the Niedermans' production.

9 7. Attached hereto as **Exhibit F** is a true and accurate copy of the  
10 September 11, 2019, letter sent through the Niedermans' counsel to Steve and Sophy  
11 Yang, obtained from the City of Mercer Island public records, and produced by the  
12 Niedermans.

13 8. Attached hereto as **Exhibit G** is a true and correct copy of the  
14 Niedermans' response to the Yangs' Response for Admission No. 5.

15 I certify under penalty of perjury of the laws of the state of Washington that the  
16 foregoing is true and correct.

17 EXECUTED this 2<sup>nd</sup> day of September 2021 at Seattle Washington.

18   
19 Ryan W. Sternoff

20  
21  
22  
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25

# EXHIBIT A

# EVAN'S ADDITION

## SECTION 30, TWP. 24 N., RGE. 5 E., W.M.

### CITY OF MERCER ISLAND · KING COUNTY, WASHINGTON

#### A REPLAT OF LOT "C" OF THE DOGAN SHORT PLAT

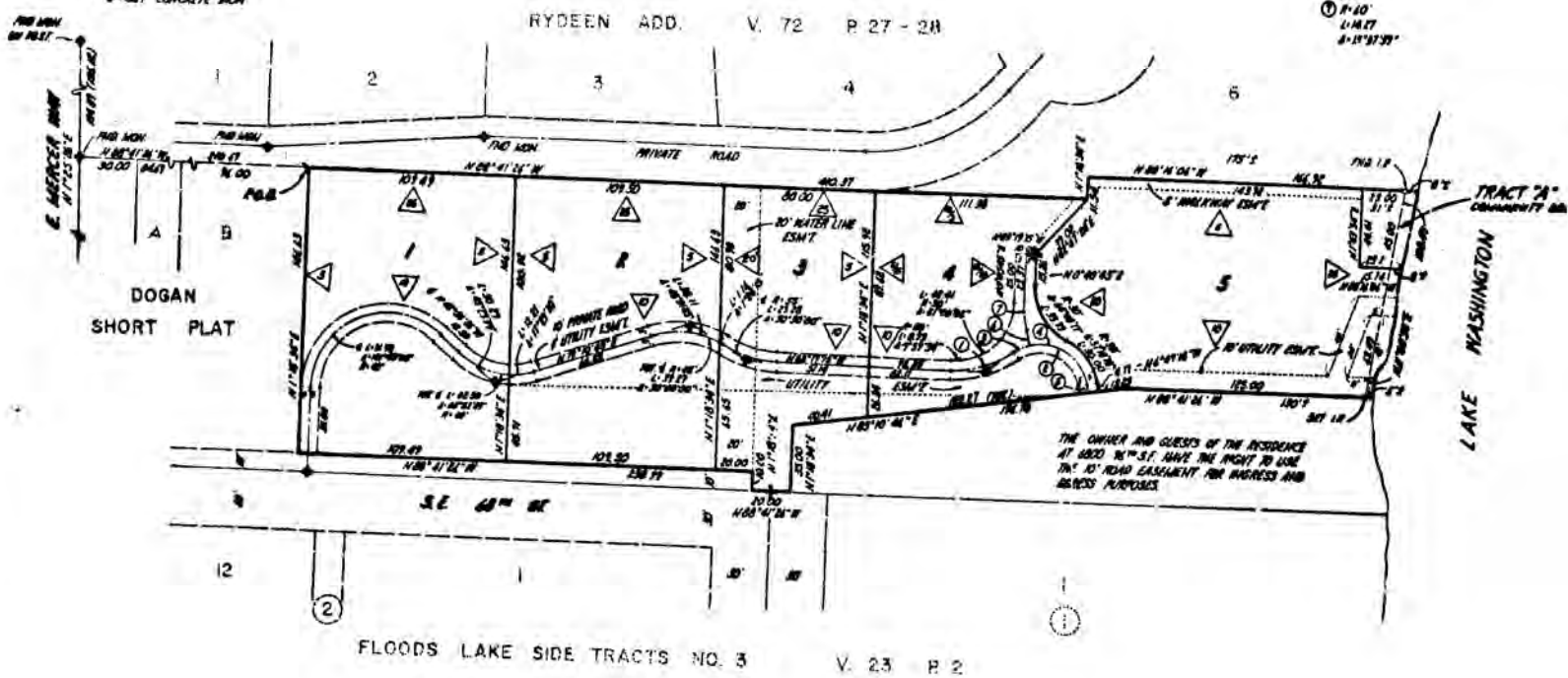
7701260554  
PLT

7701260554 101/90



SCALE: 1"=50'  
◆ SET CONCRETE MARK

- ① N. 55° 25' 00" E. 117.00'
- ② N. 75° 00' 00" E. 117.00'
- ③ N. 75° 00' 00" E. 117.00'
- ④ N. 75° 00' 00" E. 117.00'
- ⑤ N. 75° 00' 00" E. 117.00'
- ⑥ N. 75° 00' 00" E. 117.00'
- ⑦ N. 75° 00' 00" E. 117.00'
- ⑧ N. 75° 00' 00" E. 117.00'
- ⑨ N. 75° 00' 00" E. 117.00'
- ⑩ N. 75° 00' 00" E. 117.00'



### DESCRIPTION

This Plat of Evan's Addition is a replat of Lot "C" of the Dogan Short Plat, located in Section 30, Township 24 North, Range 5 East, W.M., filed with the City of Mercer Island in May, 1974, more particularly described as follows:

Commencing at a brass monument marked with an 'X' on the intersection of E. Mercer Way and the north property line of the said Dogan Short Plat extended westerly, thence S 88° 41' 26" E along the south line of the Plat of Rydeen Addition, recorded in Volume 72, pages 27 and 28, records of King County, Washington, a distance of 210.69 feet to the northeast corner of Lot "B" of said Dogan Short Plat, and the Point of Beginning; thence continuing along the south line of said Rydeen Addition S 88° 41' 26" E a distance of 410.37 feet; thence N 01° 18' 34" E a distance of 11.54 feet; thence S 88° 16' 06" E a distance of 166.92 feet to an existing iron pipe; thence continuing S 88° 16' 06" E a distance of 7.0 feet more or less to the shoreline of Lake Washington; thence southwesterly along said shoreline to the southerly line of said Dogan Short Plat extended easterly; thence along said southerly line N 88° 41' 26" W a distance of 5.0 feet more or less to an iron pipe; thence continuing N 88° 41' 26" W a distance of 125.00 feet; thence S 83° 10' 44" W a distance of 176.78 feet; thence S 01° 18' 34" W a distance of 35.00 feet; thence N 88° 41' 26" W a distance of 20.00 feet; thence N 01° 18' 34" W a distance of 70.00 feet; thence N 88° 41' 26" W along the north right-of-way of S.E. 68th St. a distance of 238.99 feet to the southeast corner of said Lot "C"; thence N 01° 18' 34" E along the east line of said Lot "B" a distance of 146.63 feet to the Point of Beginning.

Together with the second class shorelands adjoining and lying between the northerly and southerly lines of the above described plat produced easterly.

### RESTRICTIONS

Maintenance and repair of the private road, the community beach tract "A" and all storm drainage facilities located within the utility easement, shall be the responsibility of the owners of each lot herein and each lot owner shall pay one fifth (1/5) of the cost thereof. In the event that maintenance and repair of the storm water drainage facilities is not performed to the satisfaction of the City Engineer, after a timely demand has been made for such action, the City shall have the right to enter upon the premises and perform the necessary maintenance and repair and charge the owner of each lot for his pro rata share of the total cost of such maintenance and repair. In addition, the City or the owner of any lot shall have the right to bring an action in superior court to require such maintenance and repair to the storm water drainage facilities as is deemed necessary by the City Engineer.

The engineered street, water, sanitary sewer, and storm drainage designs are on file with the City of Mercer Island.

All footing and roof drains shall be tightlined directly to the storm drainage system.

Access to all lots shall be limited to the 10' private road easement.

No land clearing permits will be issued prior to the issuance of building permits for individual single family houses.

No land clearing, filling, or building construction shall be allowed in that portion of land lying south of the 10' private road easement except with the expressed approval of the Planning Commission.

All lots in this plat are subject to the protective covenants as recorded in Volume \_\_\_\_\_ page \_\_\_\_\_ Book \_\_\_\_\_ Records of King County, Washington.

**EVAN'S ADDITION**  
**SECTION 30, TWP. 24 N., RGE. 5 E., W.M.**  
**CITY OF MERCER ISLAND · KING COUNTY, WASHINGTON**  
**A REPLAT OF LOT "C" OF THE DOGAN SHORT PLAT**

7701260554 101/91/92

**DEDICATION**

KNOW ALL MEN BY THESE PRESENTS that I, the undersigned, owner in fee simple of the land hereby platted, hereby declare this plat and dedicate to the public forever all roads and ways shown hereon, except Tract A and the 10 foot private road, with the right to make all necessary slopes for cuts and fills and the right to continue to drain said roads and ways over and across any lot where water might take a natural course, in the original reasonable grading of the roads and ways shown hereon.

Jon Evans                      Irene Dogan  
Joyce C. Evans

**PLANNING COMMISSION**

Examined and approved this 15<sup>th</sup> day of December, 1976.  
Sam Fry                      Highland Paulsen  
 Chairman                      Secretary

**ACKNOWLEDGMENTS**

STATE OF WASHINGTON  
 COUNTY OF KING

This is to certify that on the 9 day of December, 1976, before me, the undersigned a Notary Public, personally appeared JON EVANS and JOYCE EVANS his wife, to me known to be the individuals who executed the within dedication and acknowledged to me they signed and sealed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

T. B. Humbler  
 Notary Public in and for the State of  
 Washington residing at Lynnwood

**CITY COUNCIL**

Examined and approved this 10<sup>th</sup> day of January, 1977.  
Bob Johnson                      Ronald L. Martin  
 Mayor                      Account Clerk



**TREASURER'S CERTIFICATE**

I hereby certify that all city assessments on the property herein contained are paid in full. This 11<sup>th</sup> day of January, 1977.

Ronald L. Martin  
 City Treasurer

STATE OF WASHINGTON  
 COUNTY OF KING

This is to certify that on the 9<sup>th</sup> day of December, 1976, before me, the undersigned, a Notary Public, personally appeared IRENE DOGAN to me known to be the individual who executed the within dedication and acknowledged to me she signed and sealed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.  
J. Paul Marshall  
 Notary Public in and for the State of  
 Washington residing at Seattle

**DEPARTMENT OF ASSESSMENTS**

Examined and approved this 12 day of January, 1977.

HARVEY H. HOPPE                      A. Martin  
 King County Assessor                      Deputy King County Assessor

**LAND SURVEYOR'S CERTIFICATE**

I hereby certify that this plat of Evan's Addition is based upon an actual survey and subdivision of Section 30, TWP 24N, RGE. 5 E. W.M., that the courses and distances are shown correctly thereon; that the monuments will be set, and the lot and block corners staked correctly on the ground as construction is completed, and that I have complied with the provisions of the platting regulations.



Harold G. Cornell  
 Harold G. Cornell  
 Professional Land Surveyor  
 Certificate No. 10927

**COMPTROLLER'S CERTIFICATE**

I hereby certify that all property taxes are paid, that there are no delinquent assessments certified to this office for collection and that all special assessments certified to this office for collection on any of the property contained, dedicated as streets, alleys or for other public use, are paid in full. This 26<sup>th</sup> day of Jan., 1977.

HUAN L. JAMES                      W. B. Martin  
 King Co. Comptroller                      Deputy King Co. Comptroller

**RECORDING CERTIFICATE**

Filed for record at the request of the Mercer Island City Council this day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ minutes past \_\_\_\_\_ m., and recorded in Volume \_\_\_\_\_ of Plats, page \_\_\_\_\_, records of King County, Washington.

**DEPARTMENT OF RECORDS AND ELECTIONS**

Manager                      Superintendent of Records

**DEPARTMENT OF SYSTEMS ENGINEERING**

Examined and approved this 11<sup>th</sup> day of January, 1977.

Philip D. Kaufeldt  
 City Engineer



# EXHIBIT B



EVANS/YANG LOT LINE REVISION

MI-94-1039

LOT LINE REVISION

FILE NO. 1984 CITY OF MERCER ISLAND KING COUNTY, WASHINGTON AFFIDAVIT OF OWNERSHIP

Approvals

KING COUNTY Department of Assessments Examined and approved this 21 day of Dec 1984 by Scott Wilson City Engineer

NE 1/4 30-24-05 2.5% CO-90-90 & 6626 Department of Records

Filed for record at the request of:

ACKNOWLEDGMENTS STATE OF WASHINGTON ) ) ss. (CORPORATE) COUNTY OF KING ) )

ON THIS 25th DAY OF October 1984 THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED MARY K. MATHIAS AND OFFICER RESPECTIVELY, OF WILKINSON, MULTIPLE SALES BACK-THE CORPORATION TO ME, KNOW TO BE THE PRESIDENT AND OFFICER OF SAID CORPORATION, FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT THEY WERE AUTHORIZED TO EXECUTE THE SAID INSTRUMENT AND THAT THE SEAL AFFIXED IS THE CORPORATE SEAL OF SAID CORPORATION.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR FIRST ABOVE WRITTEN.



ACKNOWLEDGMENTS STATE OF WASHINGTON ) ) ss. (CORPORATE) COUNTY OF KING ) )

ON THIS 25th DAY OF October 1984 THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED TO ME, KNOW TO BE THE SECRETARY, RESPECTIVELY, OF COMPANY IN THE PENDING OF THE CORPORATION, THAT EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED THE SAID INSTRUMENT TO BE THE FREE AND VOLUNTARY ACT AND DEED OF SAID CORPORATION, FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT THEY WERE AUTHORIZED TO EXECUTE THE SAID INSTRUMENT AND THAT THE SEAL AFFIXED IS THE CORPORATE SEAL OF SAID CORPORATION.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR FIRST ABOVE WRITTEN.



STATE OF WASHINGTON ) ) ss. (INDIVIDUAL) COUNTY OF KING ) )

ON THIS DAY PERSONALLY APPEARED BEFORE ME I-HSING YANG TO ME KNOWN TO BE THE INDIVIDUALS DESCRIBED HEREIN AND WHO EXECUTED THE WITHIN AND FOREGOING INSTRUMENT, AND ACKNOWLEDGED THE WITHIN AND FOREGOING INSTRUMENT TO BE THE FREE AND VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES THEREIN MENTIONED.

GIVEN UNDER MY HAND AND OFFICIAL SEAL THIS 25th DAY OF October 1984

L.S. NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON RESIDING AT: Bellevue, WA MY COMMISSION EXPIRES: May 15, 1997

STATE OF WASHINGTON ) ) ss. (INDIVIDUAL) COUNTY OF KING ) )

ON THIS DAY PERSONALLY APPEARED BEFORE ME DONALD L. EVANS AND JEANETTE D. EVANS TO ME KNOWN TO BE THE INDIVIDUALS DESCRIBED HEREIN AND WHO EXECUTED THE WITHIN AND FOREGOING INSTRUMENT, AND ACKNOWLEDGED THE WITHIN AND FOREGOING INSTRUMENT TO BE THE FREE AND VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES THEREIN MENTIONED.

GIVEN UNDER MY HAND AND OFFICIAL SEAL THIS 28th DAY OF October 1984

L.S. NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON RESIDING AT: Bellevue, WA MY COMMISSION EXPIRES: 1/11/95

LEGAL DESCRIPTION OF REVISED LOT 5

THAT PORTION OF LOTS 4 AND 5, EVANS'S ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 101 OF PLATS, PAGES 91 AND 92, IN KING COUNTY, WASHINGTON, LYING WESTERLY OF THE FOLLOWING DESCRIBED LINE.

BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 4, EVANS'S ADDITION WHICH BEARS S88°41'20"E, DISTANT 103.38' FROM THE NORTHWEST CORNER OF SAID LOT 4; HENCE S88°41'20"E, DISTANT 102.36' TO THE SOUTH LINE OF SAID LOT 4; AND THE TERMINUS OF THIS LINE.

TOGETHER WITH SECOND CLASS SHORELANDS ADJOINING AS DELINEATED ON THE FACE OF THE PLAT;

TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT A (COMMUNITY BEACH) AND SECOND CLASS SHORELANDS ADJACENT TO AND ABUTTING THEREON;

AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS AND UTILITY PURPOSES OVER THE 10 FOOT PRIVATE ROAD AS DELINEATED ON THE FACE OF THE PLAT.

SUBJECT TO: ALL EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD, IF ANY.

LEGAL DESCRIPTION OF ORIGINAL LOTS

LOT 4, EVANS'S ADDITION, ACCORDING TO THE PLAT THEREOF IN VOLUME 101 OF PLATS, PAGES 91 AND 92, IN KING COUNTY, WASHINGTON;

TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT A (COMMUNITY BEACH) AND SECOND CLASS SHORELANDS ADJACENT TO AND ABUTTING THEREON;

AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS AND UTILITY PURPOSES OVER THE 10 FOOT PRIVATE ROAD AS DELINEATED ON THE FACE OF THE PLAT.

SUBJECT TO: ALL EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD, IF ANY.

LEGAL DESCRIPTION OF REVISED LOT 4

THAT PORTION OF LOTS 4 AND 5, EVANS'S ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 101 OF PLATS, PAGES 91 AND 92, IN KING COUNTY, WASHINGTON, LYING WESTERLY OF THE FOLLOWING DESCRIBED LINE.

BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 4, EVANS'S ADDITION WHICH BEARS S88°41'20"E, DISTANT 103.38' FROM THE NORTHWEST CORNER OF SAID LOT 4; HENCE S88°41'20"E, DISTANT 102.36' TO THE SOUTH LINE OF SAID LOT 4; AND THE TERMINUS OF THIS LINE.

TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT A (COMMUNITY BEACH) AND SECOND CLASS SHORELANDS ADJACENT TO AND ABUTTING THEREON;

AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS AND UTILITY PURPOSES OVER THE 10 FOOT PRIVATE ROAD AS DELINEATED ON THE FACE OF THE PLAT.

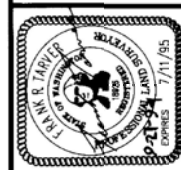
SUBJECT TO: ALL EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD, IF ANY.

RECORDER'S CERTIFICATE

Filed for record this \_\_\_ day of \_\_\_ 19\_\_\_ at \_\_\_ M in book \_\_\_ of \_\_\_ at pg \_\_\_ at the request of FRANK R. TARVER Mgr. Supt. of Records

SURVYOR'S CERTIFICATE

This map correctly represents a survey made by me or under my direction with the requirements of the Survey Recording Act at the request of EVANS/YANG in SEPT 1994. Certificate No. 18926 Significare



LOT LINE REVISION FOR EVANS/YANG LOTS 4 & 5 EVAN'S ADDITION

Table with 4 columns: DIV BY (WLA), DATE (9-27-94), JOB NO. (90167), SCALE (NONE), SHEET (2 OF 2). Includes contact info for C & T Surveying.

MAP ON FILE IN VAULT Return to: City of Mercer Island Planning Department P. O. Box 1440, Mercer Island, WA 98040-1440

DECLARATIONS: Know all men by these presents that we, the undersigned, owners in interest of the land herein described do hereby make a lot line revision thereof pursuant to RCW 58.17.060 and declare this lot line revision to be the graphic representation of the true and correct location of the boundaries of the land as shown and in accordance with the desire of the owners, in witness whereof we have set our hands and seals.

Signatures of I-Hsing Yang, Jeanette D. Evans, and Donald L. Evans.



# EXHIBIT C

446/165

# AMENDED EVANS/YANG LOT LINE REVISION

## MERCER ISLAND LOT LINE REVISION MI-94-1039

AS FILED IN VOLUME 101 OF SURVEYS, PAGES 185 AND 185A,  
KING COUNTY RECORDING NO. 9412229001  
A PORTION OF THE NE 1/4 OF THE NE 1/4, SECTION 30, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M.  
MERCER ISLAND, KING COUNTY, WASHINGTON

### DECLARATION

WE, THE UNDERSIGNED OWNER(S) IN FEE SIMPLE (AND CONTRACT PURCHASER(S)) OF THE LAND HEREBY DESCRIBED, DO HEREBY MAKE A LOT LINE REVISION HEREIN TO CORRECT AN ERROR IN THE 1994 LOT LINE REVISION TO BE THE GRAPHIC REPRESENTATION OF THE SAME, AND THAT SAID LOT LINE REVISION IS MADE WITH THE FIRST CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE OWNER(S).

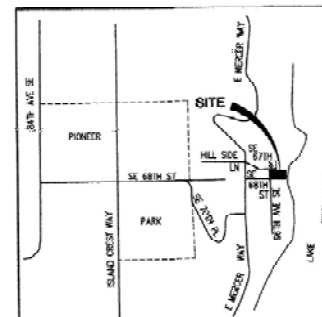
IN WITNESS WHEREOF, WE HAVE SET OUR HANDS AND SEALS

BY: Steve Yang Sophy Chen Yang  
(NAME) Steve Yang Sophy Chen Yang

BY: Yingjun Wang Jia Liu  
(NAME) Yingjun Wang Jia Liu

### AMENDMENT NOTE

THE SOLE PURPOSE OF THIS AMENDMENT IS TO CHANGE THE LOCATION OF THE VEHICLE TURNAROUND AREA INDICATED IN LOT 5 OF THE 1994 LOT LINE REVISION MAP TO THE NEW LOCATION SHOWN ON SHEET 2 AND DETAILED ON SHEET 1 OF THIS AMENDED LOT LINE REVISION. NO LOT LINE ARE BEING REVISED.



VICINITY MAP  
1"=1/4 MILE

### ACKNOWLEDGEMENT

STATE OF WASHINGTON | SS.  
COUNTY OF KING

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT Steve Yang and Sophy C. Yang ARE THE PERSONS WHO APPEARED BEFORE ME, AND SAID PERSONS ACKNOWLEDGED THAT THEY SIGNED THIS INSTRUMENT, ON OATH STATED THAT THEY ACKNOWLEDGED IT TO BE THEIR FREE AND VOLUNTARY ACT, FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

GIVEN UNDER MY HAND AND OFFICIAL SEAL THIS 3 DAY OF May, 2021.

Patricia H. Reuchmann  
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON

PRINTED NAME Patricia H. Reuchmann  
MY COMMISSION EXPIRES 3/8/23



### ACKNOWLEDGEMENT

STATE OF WASHINGTON | SS.  
COUNTY OF KING

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT Yingjun Wang & Jia Liu ARE THE PERSONS WHO APPEARED BEFORE ME, AND SAID PERSONS ACKNOWLEDGED THAT THEY SIGNED THIS INSTRUMENT, ON OATH STATED THAT THEY ACKNOWLEDGED IT TO BE THEIR FREE AND VOLUNTARY ACT, FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

GIVEN UNDER MY HAND AND OFFICIAL SEAL THIS 4 DAY OF May, 2021.

Patricia H. Reuchmann  
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON

PRINTED NAME Patricia H. Reuchmann  
MY COMMISSION EXPIRES 3/8/23



### CITY OF MERCER ISLAND APPROVALS

EXAMINED AND APPROVED THIS 17<sup>th</sup> DAY OF May, 2021

Mrs. B.A.G.  
CODE OFFICIAL

EXAMINED AND APPROVED THIS 6<sup>th</sup> DAY OF May, 2021

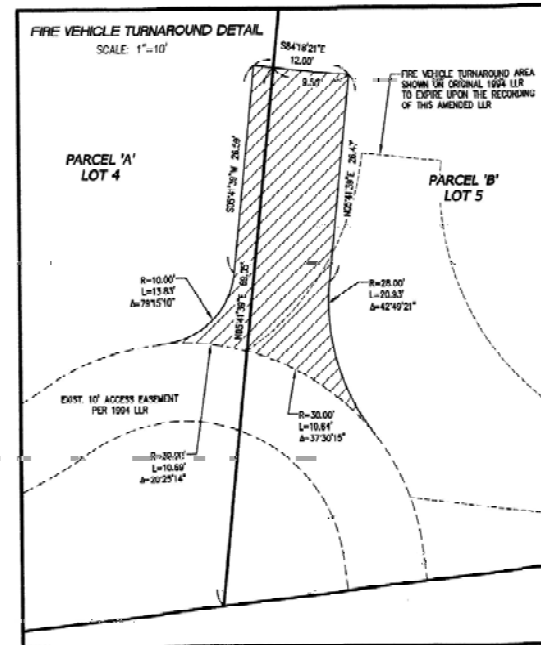
Carlye J. White  
CITY ENGINEER

### KING COUNTY DEPARTMENT OF ASSESSMENTS

EXAMINED AND APPROVED THIS 26 DAY OF May, 2021

John Wilson Mark Bolan  
ASSESSOR DEPUTY ASSESSOR

TAX ACCOUNT(S) 2396000040, 2396000050



NOTE: THE FIRE VEHICLE TURNAROUND SHALL BE COMPRISED OF PAVEMENT THAT WILL SUPPORT THE IMPOSING LOADS OF FIRE APPARATUS AS LISTED IN THE INTERNATIONAL FIRE CODE. THE FIRE VEHICLE TURNAROUND WILL BE MAINTAINED BY THE OWNERS OF THE LOTS WHERE THE FIRE VEHICLE TURNAROUND IS LOCATED. NOTWITHSTANDING THE FOREGOING, THE RECORDING OF THIS DOCUMENT SHALL NOT OTHERWISE MODIFY MAINTENANCE OBLIGATIONS SET FORTH IN COVENANTS OR MAINTENANCE AGREEMENTS ENCUMBERING THE EVANS ADDITION LOTS, OF PUBLIC RECORD.

### RECORDER'S CERTIFICATE

FILED FOR RECORD THIS 26<sup>th</sup> DAY OF May, 2021, AT 4:54 PM IN BOOK 446 OF SURVEYS, AT PAGE 165 AT THE REQUEST OF APEX ENGINEERING LLC.

Patricia H. Reuchmann  
MANAGER SUPERINTENDENT OF RECORDS

### SURVEYOR'S CERTIFICATE

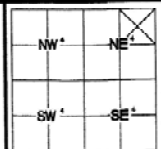
THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF STEVE YANG IN JANUARY, 2021.

Timothy McInerney 4/26/2021  
THE SURVEYOR, P.L.S. NO. 45702 DATE



### RECORD OF SURVEY FOR STEVE YANG

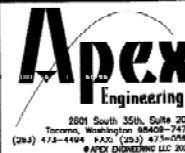
9668 SE 88TH ST  
MERCER ISLAND, WASHINGTON



### INDEXING INFORMATION

NE 1/4 NE 1/4  
SECTION: 30  
TOWNSHIP: 24N  
RANGE: 5E  
COUNTY: KING

JOB: 35450	DATE: 2/16/2021
SCALE: NO SCALE	SHEET: 1 OF 2
DRAWN BY: WEL	CHECKED BY: J.M



446/164

# AMENDED EVANS/YANG LOT LINE REVISION MERCER ISLAND LOT LINE REVISION MI-94-1039

AS FILED IN VOLUME 101 OF SURVEYS, PAGES 185 AND 185A,  
KING COUNTY RECORDING NO. 9412229001  
A PORTION OF THE NE 1/4 OF THE NE 1/4, SECTION 30, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M.  
MERCER ISLAND, KING COUNTY, WASHINGTON

### ORIGINAL LEGAL DESCRIPTIONS

#### PARCEL A (TPN 2396000040)

THAT PORTION OF LOTS 4 AND 5, EVANS' ADDITION ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 101 OF PLATS, PAGES 91 AND 92, IN KING COUNTY, WASHINGTON, LAYING WESTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 4, EVANS' ADDITION WHICH BEARS S88°41'20"E, DISTANT 103.30' FROM THE NORTHWEST CORNER OF SAID LOT 4; THENCE S05°41'30" A DISTANCE OF 102.56' TO THE SOUTH LINE OF SAID LOT 4 AND THE TERMINUS OF THIS LINE.

TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT A (COMMUNITY BEACH) AND SECOND CLASS SHORELANDS ADJACENT TO AND ABUTTING THEREON; AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS AND UTILITY PURPOSES OVER THE 10 FOOT PRIVATE ROAD AS DELINEATED ON THE FACE OF THE PLAT.

SUBJECT TO ALL EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD, IF ANY.

#### PARCEL B (TPN 2396000050)

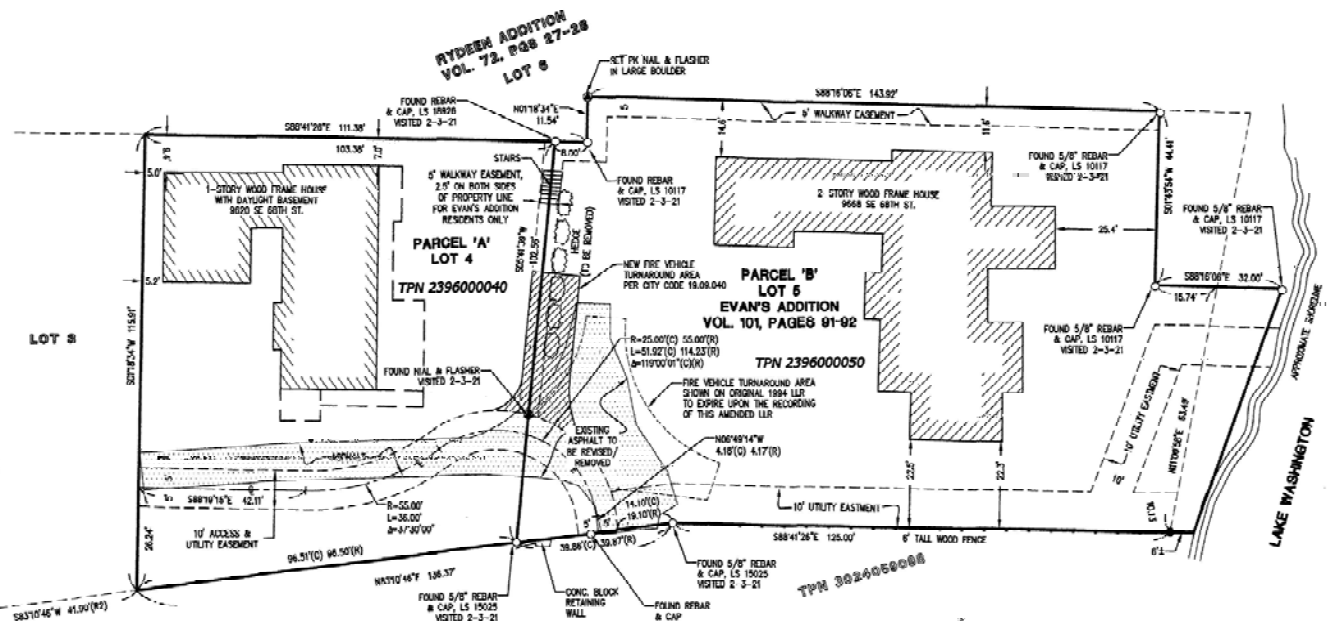
THAT PORTION OF LOT 4 AND 5, EVANS' ADDITION ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 101 OF PLATS, PAGES 91 AND 92, IN KING COUNTY, WASHINGTON, LAYING EASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 4, EVANS' ADDITION WHICH BEARS S00°41'30"E, DISTANT 103.35' FROM THE NORTHWEST CORNER OF SAID LOT 4; THENCE S05°41'30" A DISTANCE OF 102.56' TO THE SOUTH LINE OF SAID LOT 4 AND THE TERMINUS OF THIS LINE.

TOGETHER WITH SECOND CLASS SHORELANDS ADJOINING AS DELINEATED ON THE FACE OF THE PLAT;

TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT A (COMMUNITY BEACH) AND SECOND CLASS SHORELANDS ADJACENT TO AND ABUTTING THEREON; AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS AND UTILITY PURPOSES OVER THE 10 FOOT PRIVATE ROAD AS DELINEATED ON THE FACE OF THE PLAT.

SUBJECT TO ALL EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD, IF ANY.



**BASES OF BEARINGS**  
THE PLAT OF EVANS' ADDITION RECORDED IN VOLUME 101 OF PLATS, PAGES 91 AND 92, RECORDS OF KING COUNTY

**REFERENCES**  
R1 - PLAT OF EVANS' ADDITION, VOL. 101, PG. 91.  
R2 - RECORD OF SURVEY UNDER REC. NO. 20200105000027.

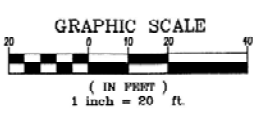
**PARCEL AREAS**

**PARCEL A (TPN 2396000040)**  
(ORIGINAL)  
GROSS AREA.....10,823 SF  
NET (LESS ROAD EASEMENT).....9,810 SF

(REVISED)  
GROSS AREA.....10,893 SF  
NET (LESS ROAD EASEMENT).....9,853 SF

**PARCEL B (TPN 2396000050)**  
(ORIGINAL)  
GROSS AREA.....18,091 SF  
NET (LESS ROAD EASEMENT).....16,757 SF

(REVISED)  
GROSS AREA.....18,051 SF  
NET (LESS ROAD EASEMENT).....17,346 SF



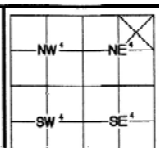
**LEGEND**

- MONUMENT AS DESCRIBED
- SET 5/8" REBAR & CAP, L.S. NO. 45792
- FOUND NAIL AS NOTED
- FOUND REBAR & CAP AS NOTED
- (PH) RECORD DIMENSION (SEE REFERENCE LIST)
- (M) MEASURED DISTANCE
- (C) CALCULATED DIMENSION



**RECORD OF SURVEY FOR STEVE YANG**

9668 SE 68TH ST  
MERCER ISLAND, WASHINGTON



**INDEXING INFORMATION**

NE 1/4 NE 1/4

SECTION: 30  
TOWNSHIP: 24N  
RANGE: 5E  
COUNTY: KING

**JOB:** 35450  
**DATE:** 2/16/2021

**SCALE:** 1" = 20'  
**SHEET:** 2 OF 2

**DRAWN BY:** WEL  
**CHECKED BY:** TJM



# EXHIBIT D

**FIDELITY NATIONAL TITLE**

*Call 89776  
4176*

When recorded return to:  
Christopher A. Niederman and Nicole L. Niederman  
6800 96th Avenue SE  
Mercer Island, WA 98040



**20150317001129**

FIDELITY NATIONAL TITLE  
PAGE-001 OF 004  
03/17/2015 14:47  
KING COUNTY, WA

**E2718872**

03/17/2015 14:41  
KING COUNTY, WA  
TAX \$30,888.00  
SALE \$1,735,000.00

PAGE-001 OF 001

**STATUTORY WARRANTY DEED**

THE GRANTOR(S) Kenneth B. Simons and Carol J. Simons, as tenants in common  
for and in consideration of Ten And No/100 Dollars (\$10.00) and other good and valuable  
consideration

in hand paid, conveys, and warrants to Christopher A. Niederman and Nicole L. Niederman, husband  
and wife

the following described real estate, situated in the County of King, State of Washington:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Abbreviated Legal: (Required if full legal not inserted above.)

*Dtn. Gov. Lot 1, Sec. 30, TWP 24 N, RNG 5E, W.M.*

Tax Parcel Number(s): 302405 9098 05

Subject to:

1. RIGHTS, RESERVATIONS, COVENANTS, CONDITIONS, RESTRICTIONS, AGREEMENTS, NOTES, DEDICATIONS, ENCROACHMENTS, AND EASEMENTS PRESENTLY OF RECORD.

Dated: March 10, 2015

*[Signature]*  
\_\_\_\_\_  
Kenneth B. Simons

*[Signature]*  
\_\_\_\_\_  
Carol J. Simons

**EXHIBIT "A"**  
Legal Description

**For APN/Parcel ID(s): 302405 9098 05**

---

PARCEL A:

THAT PORTION OF GOVERNMENT LOT 1, SECTION 30, TOWNSHIP 24 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 1;  
THENCE NORTH 89°59'33" EAST, ALONG THE SOUTHERLY LINE THEREOF A DISTANCE OF 185 FEET;  
THENCE NORTHERLY AT RIGHT ANGLES TO A POINT ON A LINE WHICH IS PARALLEL TO AND 60 FEET NORTHERLY OF THE SOUTHERLY LINE OF SAID GOVERNMENT LOT 1, WHICH POINT IS THE TRUE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED;  
THENCE EASTERLY ALONG SAID PARALLEL LINE TO THE PRESENT SHORE LINE OF LAKE WASHINGTON;  
THENCE SOUTHERLY ALONG SAID SHORE LINE, TO THE SOUTHERLY LINE OF SAID GOVERNMENT LOT 1;  
THENCE WESTERLY, ALONG SAID SOUTHERLY LINE 311.94 FEET MORE OR LESS, TO A POINT WHICH IS 10 FEET EASTERLY, MEASURED ALONG SAID SOUTHERLY LINE, FROM THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 1;  
THENCE NORTHERLY AT RIGHT ANGLES TO SAID SOUTHERLY LINE, 35 FEET;  
THENCE EASTERLY TO THE TRUE POINT OF BEGINNING,

TOGETHER WITH SHORE LANDS SITUATE IN FRONT OF, ADJACENT TO AND ABUTTING THEREON.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

PARCEL B:

AN EASEMENT FOR INGRESS AND EGRESS AS DELINEATED ON THE PLAT OF EVAN'S ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 101 OF PLATS, PAGES 91 AND 92, RECORDS OF KING COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

*KBS  
CJS*

STATUTORY WARRANTY DEED  
(continued)

State of Washington  
County of King

I certify that I know or have satisfactory evidence that

Kenneth B. SIMONS  
 are the person(s) who appeared before me, and said person(s) acknowledged that  
 (he/she/they) signed this of instrument and acknowledged it to be  (his/her/their) free and voluntary act  
for the uses and purposes mentioned in this instrument.

Dated: March 13, 2015

Name: Lorena Condorpusa  
Notary Public in and for the State of Washington  
Residing at: Kirkland, WA  
My appointment expires: 05/09/17



Unofficial Copy

For an acknowledgment in an individual capacity:

STATE OF Washington )  
COUNTY OF King ) ss:

I certify that I know or have satisfactory evidence that

Carol J. Simons

is the person who appeared before me, and said person acknowledged that (he/she/they) signed this instrument and acknowledged it to be (his/hers/their) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: March 13, 2015

[Seal]



[Signature]  
Notary Public for State of Washington  
Residing at: Kirkland  
My appointment expires: 05/09/17

Official Copy



# EXHIBIT E

April 30, 2019

Via Email: [epermit.tech@mercergov.org](mailto:epermit.tech@mercergov.org)

City of Mercer Island  
Community Planning & Development  
9611 SE 36<sup>th</sup> Street  
Mercer Island, WA 98040

Re: MI Project Number: 1902-005 – 6660 East Mercer Way, Mercer Island, WA 98040

Williams Kastner represents Chris and Nicole Niederman in connection with their neighbors' pending building permit application, MI Project Number 1902-005. Mr. and Mrs. Niederman's property is located at 6800 96<sup>th</sup> Ave. SE, Mercer Island, WA 98040. A Public Notice of Application posted near Mr. and Mrs. Niederman's home states their neighbors to the north, Mr. and Mrs. Yang, have submitted a permit application with the City of Mercer Island requesting a Type 3 building permit. Approval of this application would result in demolishing the current home located at 6660 East Mercer Way, and constructing a new 4,538 square foot home with a 484 square foot garage in its place. The Public Notice of Application is attached hereto at **Tab A**.

The Niedermans, the Yangs, and the four abutting property owners to the west all utilize a substandard private access road/utility easement located between SE 68<sup>th</sup> St. and SE 67<sup>th</sup> St. for ingress and egress to their properties. *See Tab B, Aerial Shot of Properties and Private Access Road.* A building permit for constructing a new residence must be conditioned on improving the access road to comply with current Mercer Island City Code access road requirements.

MICC Section 19.09.040 requires that "[a]ll private access roads serving three or more single-family dwellings shall be at least 20 feet in width." As provided in MICC Section 17.07.010, Mercer Island has expressly adopted and incorporated by reference the 2015 edition of the International Fire Code. Appendix D to the IFC, titled "Fire Apparatus Access Roads," also requires that dead-end private access roads less than 500 feet in length must be at least 20 feet in width to ensure the fire department can reach and render services to the homes located along the road. The importance of the road width requirement cannot be overstated as it serves to protect Mercer Island residents' health and welfare by ensuring that fire trucks and other emergency response vehicles have adequate access to render emergency services. This requirement applies whenever a new home is constructed.

Current measurement of the private access road shows a width of 10 feet or less. While the existing homes and associated use of the access road enjoy legal nonconforming use status, demolishing a resident results in loss of legal nonconforming use status. Approval of a building permit to construct a new residence must comply with current City Codes, including MICC Section 19.09.040. As a result, a building permit issued for the Yangs' project should be expressly conditioned on their widening the access road to 20 feet in order to bring the road into compliance with MICC Section 19.09.040(B). Any widening of the access road will also require City engineering approval of a grading permit for this work. Absent such an update, the new home would constitute an illegal nonconforming use.

A second issue of importance is that the Yangs' construction plans alter the shared access road at the southwestern corner of their property to no longer align with the Niedermans' existing driveway. A rendering from the Yangs' construction plans depicting their proposed modification of the access road relative to the Niedermans' existing driveway is attached hereto at **Tab C**. If the requested building permit is issued, the Niedermans will be forced to spend considerable time and money to reposition their existing driveway to align with the revised access road proposed in the Yangs' construction plans.

Fundamental notions of fairness and due process dictate that a property owner has no right to develop his property in a manner that is to the immediate and obvious detriment of his neighbor. Stated simply, the Yangs do not have the right to force a neighboring property owner to modify their property in order to accommodate the Yangs' proposed redevelopment. This is particularly true here, where the Niedermans' right to access their property via the existing access road/easement is expressly stated on the face of City subdivision approval. *See Tab D*. Unlawfully impairing the Niedermans' use of the long-established access easement location, which has been regularly used in its current location for over 15 years, is separate grounds for denying this permit application.

In addition, relocating the driveway pursuant to the Yangs' construction plans is simply not possible at this time. The Niedermans have already received approval from Puget Sound Energy and commenced installation of a power transformer in the same area that the Yangs' construction plans designate for relocating the driveway. *See Tab E*, Puget Sound Energy Site Plans. The transformer will serve both the Niedermans' property and the abutting homeowner to the south. To this end, the Niedermans have already granted the property owners to the south an easement to facilitate their use of the transformer. They have also spent approximately \$17,000 to install conduit and lines for the transformer. Approval of the Yangs' building permit application would force Puget Sound Energy, the Niedermans, and their neighbor to the south to abandon and undo, at considerable expense, the project that is already underway and determine a new suitable site for the power transformer. Issuance of the building permit would also render the time, energy, and capital spent selecting the current location of the transformer, planning for its installation, and commencing installation a complete waste.

April 30, 2019

Page 3

In summary, given that the current width of the access road is noncompliant with MICC Section 19.09.040(B), and provides inadequate access for fire trucks and other emergency response vehicles, Mr. and Mrs. Yang should be required to improve the access road as a condition for issuance of any building permit for their project. If they do not update the access road, we view that their new home will be an illegal nonconforming use. Additionally, the current building permit application should be denied because the proposed construction would improperly alter the current path of the access road, thereby violating the right of access expressly stated on the face of the City subdivision approval and forcing the Niedermans to relocate their driveway. This driveway cannot be relocated to the area designated in the Yangs' construction plans because, pursuant to Puget Sound Energy's approval and existing site plan, a power transformer is currently being installed in that location.

For the foregoing reasons, the requested building permit application should be denied.

Kind regards,



Alan L. Wallace

Sean T. James

WILLIAMS, KASTNER & GIBBS PLLC

601 Union Street, Suite 4100

Seattle, WA 98101-2380

Telephone: (206) 628-6600

Fax: (206) 628-6611

Email: [awallace@williamskastner.com](mailto:awallace@williamskastner.com)

[sjames@williamskastner.com](mailto:sjames@williamskastner.com)

cc: Chris Niederman, Nicole Niederman  
Kari Sand - Mercer Island City Attorney

# TAB A

---

# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | [www.mercergov.org](http://www.mercergov.org)

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## PUBLIC NOTICE OF APPLICATION

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**NOTICE IS HEREBY GIVEN** that the City of Mercer Island has received the application described below:

**File No.:** 1902-005

**Permit Type:** Type 3

**Description of Request:** A request for a building permit to demo existing single family residence & rebuild a 4538 sq ft single family residence with a 484 sq ft garage.

**Applicant/ Owner:** Richard Fisher / Steve & Sophy Yang

**Location of Property:** 6660 East Mercer Way, Mercer Island, WA 98040;  
Identified by King County Assessor tax parcel number: 2396000050

**SEPA Compliance:** The proposal is categorically exempt from SEPA review per WAC 197-11-800.

**Project Documents:** Please follow this file path to access the associated documents for this project:  
<https://mieplan.mercergov.org/public/1902-005/>

**Written Comments:** Written comments on this proposal may be submitted to the City of Mercer Island either by email, in person, or by mail to the City of Mercer Island, 9611 SE 36th Street, Mercer Island, WA 98040-3732. Anyone may comment on the application, receive notice, and request a copy of the decision once made.

Only those persons who submit written comments or participate at the public hearing (if a hearing is required) will be parties of record; and only parties of record will have the right to appeal.

**Applicable Development Regulations:** Building permits are reviewed for compliance with:  
Title 15 – Water, Sewers, and Public Utilities  
Title 17 – Construction Codes  
Title 19 – Unified Land Development Code

A copy of these regulations may be found here:  
<http://www.codepublishing.com/WA/MercerIsland/>

**Other Associated Permits:** A future stormwater, ROW use, tree, sewer, demolition, water meter, temporary power may be required at a later date.

**Public Hearing:** Pursuant to MICC 19.15.030 Table B a public hearing is not required for Type 1-3 permits.

**Application Process Information:** Date of Complete Application: March 26<sup>th</sup>, 2019  
Date of Notice of Application (Comment Period): April 1st through May 1<sup>st</sup>, 2019

The project is available for review at the City of Mercer Island, Community & Planning Development, 9611 SE 36<sup>th</sup> Street, Mercer Island, Washington.

Project Contact:

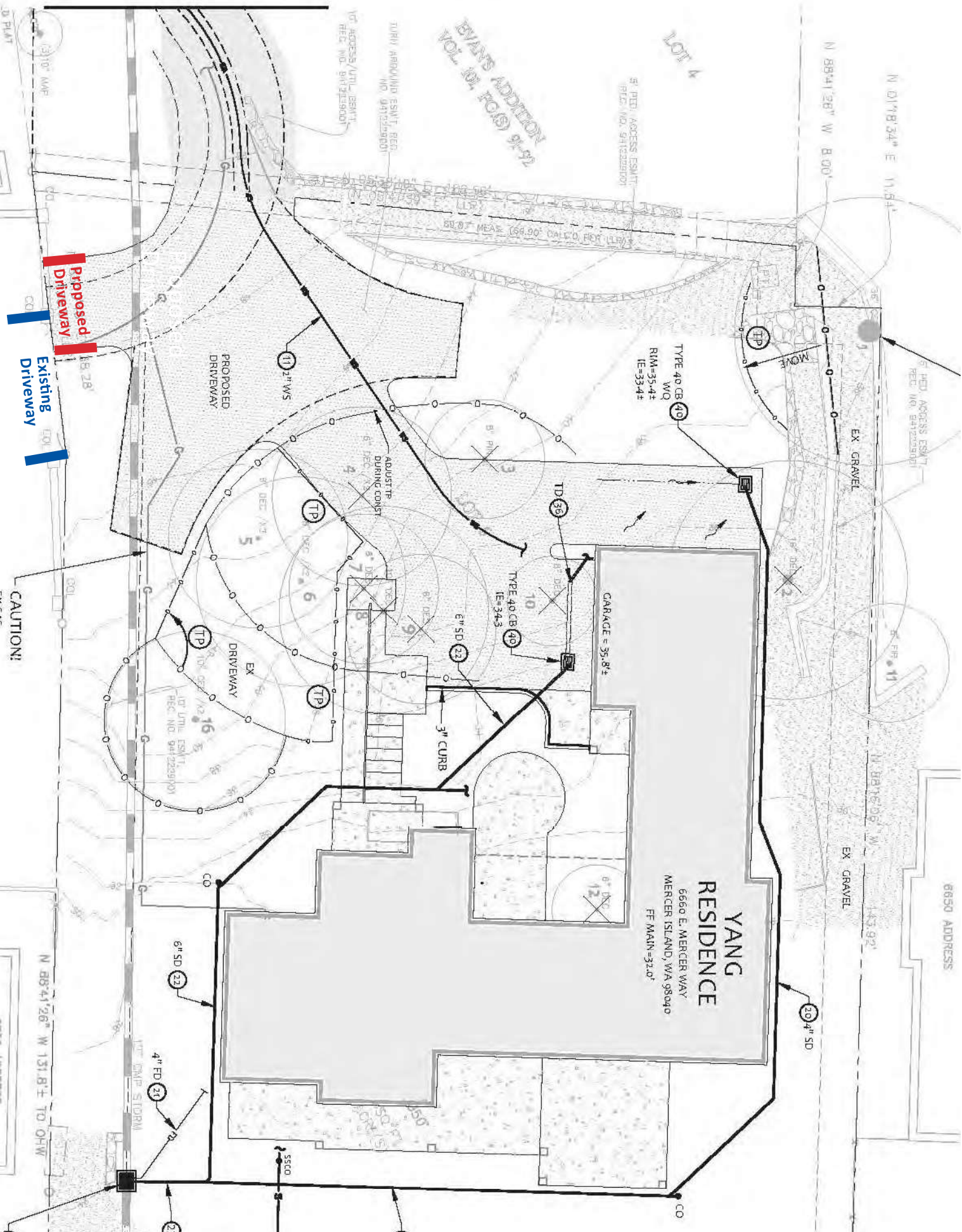
Nicole Gaudette/ Senior Planner  
Community Planning & Development  
City of Mercer Island  
9611 SE 36<sup>th</sup> Street  
Mercer Island, WA 98040  
(206) 275-7719  
[Nicole.Gaudette@mercergov.org](mailto:Nicole.Gaudette@mercergov.org)

# TAB B





**TAB C**



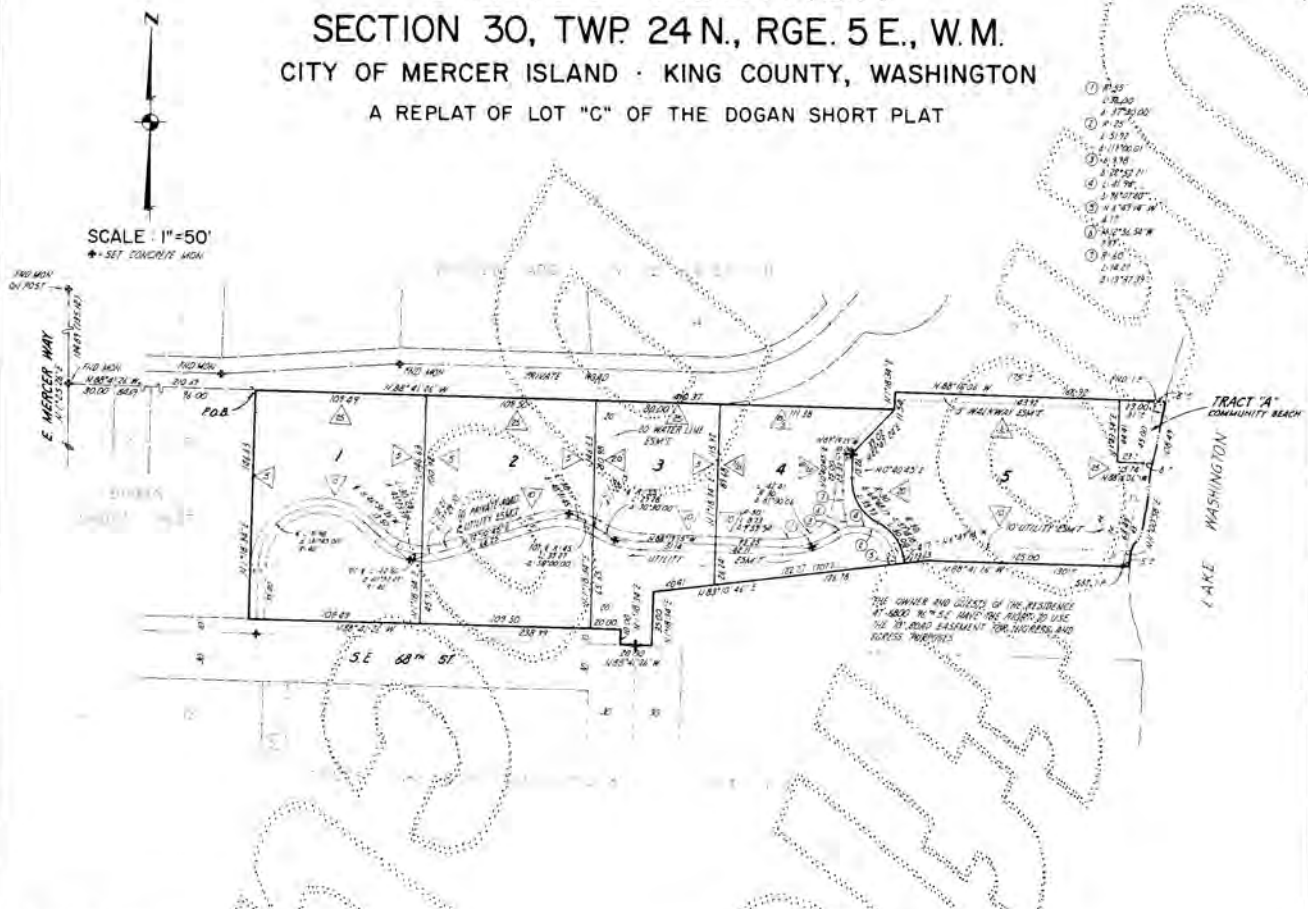
**TAB D**

# EVAN'S ADDITION

## SECTION 30, TWP. 24 N., RGE. 5 E., W.M.

### CITY OF MERCER ISLAND · KING COUNTY, WASHINGTON

A REPLAT OF LOT "C" OF THE DOGAN SHORT PLAT



#### DESCRIPTION

This Plat of Evan's Addition is a replat of Lot "C" of the Dogan Short Plat, located in Section 30, Township 24 North, Range 5 East, W.M., filed with the City of Mercer Island in May, 1974, more particularly described as follows:

Commencing at a brass monument marked with "1974" at the intersection of E. Mercer Way and the north property line of the said Dogan Short Plat extended westerly, thence S 88° 24' 26" E along the south line of the Plat of Rydeen Addition, recorded in Volume 72, pages 27 and 28, records of King County, Washington, a distance of 210.69 feet to the northeast corner of Lot "B" of said Dogan Short Plat, and the Point of Beginning, thence continuing along the South line of said Rydeen Addition S 88° 24' 26" E a distance of 410.37 feet; thence N 01° 15' 34" E a distance of 71.54 feet; thence S 88° 16' 06" E a distance of 166.52 feet to an existing iron pipe; thence continuing S 88° 16' 06" E a distance of 7.0 feet, more or less to the shoreline of Lake Washington, thence southwesterly along said shoreline to the southerly line of said Dogan Short Plat extended westerly; thence along said southerly line N 88° 41' 26" W a distance of 5.0 feet more or less to an iron pipe; thence continuing N 88° 41' 26" W a distance of 125.00 feet; thence S 83° 10' 44" W a distance of 176.78 feet; thence S 91° 12' 34" W a distance of 35.00 feet; thence N 88° 41' 26" W a distance of 20.00 feet; thence N 01° 15' 34" W a distance of 70.00 feet; thence N 88° 41' 26" W along the north right-of-way of S.E. 68th St. a distance of 238.95 feet to the southeast corner of said Lot "B"; thence N 01° 15' 34" E along the east line of said Lot "B" a distance of 146.63 feet to the Point of Beginning.

Together with the second class shorelands adjoining and lying between the southerly and southerly lines of the aboves described plat produced easterly.

#### RESTRICTIONS

Maintenance and repair of the private roads, the community beach tract "A" and all storm drainage facilities located within the utility easement, shall be the responsibility of the owners of each lot herein and each lot owner shall pay one fifth (1/5) of the cost thereof. In the event that maintenance and repair of the storm water drainage facilities is not performed to the satisfaction of the City Engineer, after a timely demand has been made for such action, the City shall have the right to enter upon the premises and perform the necessary maintenance and repair and charge the owner of each lot for his pro rata share of the total cost of such maintenance and repair. In addition, the City or the owner of any lot shall have the right to bring an action in superior court to require such maintenance and repair to the storm water drainage facilities as is deemed necessary by the City Engineer.

The engineered street, water, sanitary sewer, and storm drainage designs are on file with the City of Mercer Island.

All existing and new drains shall be lighted directly to the storm drainage system.

Access to all lots shall be limited to the 10' private road easement.

No land clearing permit shall be issued prior to the issuance of building permit for individual lots herein.

No land clearing, filling, or building construction shall be allowed on that portion of land lying south of the 10' private road easement except with the expressed approval of the Planning Commission.

All jobs in this plat are subject to the protective covenants as recorded in Volume \_\_\_\_\_ page \_\_\_\_\_ Records of King County, Washington.

SS-024-M PARADELUX, INC.

SHEET 1 OF 2 SHEETS

15 1500

# EVAN'S ADDITION

SECTION 30, TWP. 24 N., RGE. 5 E., W.M.  
CITY OF MERCER ISLAND · KING COUNTY, WASHINGTON  
A REPLAT OF LOT "C" OF THE DOGAN SHORT PLAT

### DEDICATION

KNOW ALL MEN BY THESE PRESENTS that I, the undersigned, owner in fee simple of the land hereby platted, hereby declare this plat and dedicate to the public forever all roads and ways shown hereon, except Tract A and the 10 foot private road, with the right to make all necessary allowances for cuts and fills and the right to continue to drain said roads and ways over and across any lot where water might take a natural course, to the original responsible grading of the roads and ways shown hereon.

Jon Evans  
Notary Public in and for the State of Washington

### PLANNING COMMISSION

Examined and approved this 15<sup>th</sup> day of December, 1976  
Sam Fry Chairman  
Stephen A. Cantelmo Secretary

### ACKNOWLEDGMENTS

STATE OF WASHINGTON  
COUNTY OF KING

This is to certify that on the 15<sup>th</sup> day of January, 1977, before me, the undersigned, a Notary Public, personally appeared JON EVANS and JUDY EVANS known to me the individuals who executed the within dedication and acknowledged to me they signed and sealed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public in and for the State of Washington residing at \_\_\_\_\_

STATE OF WASHINGTON  
COUNTY OF KING

This is to certify that on the 15<sup>th</sup> day of January, 1977, before me, the undersigned, a Notary Public, personally appeared IRENE DOGAN known to me the individual who executed the within dedication and acknowledged to me she signed and sealed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public in and for the State of Washington residing at \_\_\_\_\_

### LAND SURVEYOR'S CERTIFICATE

I hereby certify that this plat of Evan's Addition, is based upon an actual survey and subdivision of Section 30, Twp. 24 N., Rge. 5 E., W.M., that the corners and distances are shown correctly thereon; that the monuments will be set, and the lot and block corners staked correctly on the ground as construction is completed, and that I have complied with the provisions of the platting regulations.



Howard E. Cornell  
Howard E. Cornell  
Professional Land Surveyor  
Certificate No. 10927

### CITY COUNCIL

Examined and approved this 15<sup>th</sup> day of January, 1977  
B. J. [Signature] Mayor  
Robert [Signature] At-Large

### TREASURER'S CERTIFICATE

I hereby certify that all City assessments on the property herein contained are paid in full. This 11<sup>th</sup> day of January, 1977

Robert [Signature]  
City Treasurer

### DEPARTMENT OF ASSESSMENTS

Examined and approved this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_

King County Assessor Deputy King County Assessor

### COMPTROLLER'S CERTIFICATE

I hereby certify that all property taxes are paid, that there are no delinquent assessments certified to this office for collection and that all special assessments certified to this office for collection on any of the property contained, obligated as streets, alleys, or for other public use, are paid in full. This 26<sup>th</sup> day of Jan., 1977

HUGH J. [Signature] King Co. Comptroller  
J. C. [Signature] Deputy King Co. Comptroller

### RECORDING CERTIFICATE 7701260554

Filed for record at the request of the Mercer Island City Council this 26 day of JANUARY, 1977, at \_\_\_\_\_ minutes past 12:00 P.M. and recorded in Volume 101 of Plats, pages 21, 22 records of King County, Washington.

DEPARTMENT OF RECORDS AND ELECTIONS  
Manager Superintendent of Records

### DEPARTMENT OF SYSTEMS ENGINEERING

Examined and approved this 15<sup>th</sup> day of January, 1977

Philip D. [Signature]  
City Engineer

# TAB E







# EXHIBIT F

September 11, 2019

**VIA FIRST CLASS MAIL, CERTIFIED MAIL and EMAIL**

Steve and Sophy Yang  
6660 East Mercer Way  
Mercer Island, WA 98040

Re: Interference with Prescriptive Easement and Unlawful Obstruction

Dear Mr. and Mrs. Yang:

This firm represents Chris and Nicole Niederman, your neighbors to the south. The Niedermans own the property located at 6800 96th Ave. SE, Mercer Island, WA 98040. This letter concerns your pending building permit application, MI Project Number 1902-005. As you know, in addition to your property, the Niedermans and the four abutting property owners to the west all utilize a private access road/utility easement located between SE 68th St. and SE 67th St. for ingress and egress to their properties. The access road/easement is expressly identified on the face of the City subdivision approval.

Based on your construction plans, we understand you intend to alter the shared access road on the southwestern corner of your property so it will no longer align with the Niedermans' existing driveway. See **Attachment A**. We write to insist you marginally alter your construction plans to maintain the current location of the shared access road so it continues to align with the Niedermans' driveway access.

While you have the right to develop your property, this right is not absolute. The law does not allow you to develop your property to the immediate and obvious detriment of your neighbors, Chris and Nicole Niederman. As aptly noted by the Washington Supreme Court in *N. Bend Lumber Co. v. City of Seattle*, 116 Wash. 500, 505, 199 P. 988 (1921): "One owns real estate for the use he may make of it. Being the owner, he may make such use of it as he sees fit, **so long as he does not injure his neighbor.**" (Emphasis added). You will run afoul of this basic principle if your development shifts the access road and forces the Niedermans to alter their existing driveway.

Furthermore, the Niedermans have acquired a prescriptive easement through the open and continuous use of your property to access their driveway. Any attempt to change the Niedermans' lane of ingress and egress to their property, or narrow the width of their driveway entrance, is an unlawful encroachment and interference with their prescriptive easement. A prescriptive easement is established when a person or persons use the land of another for ten or more years and show that (1) the land was used in an open and notorious manner; (2) the use was continuous and uninterrupted; (3)

Williams, Kastner & Gibbs PLLC  
Two Union Square  
601 Union Street, Suite 4100  
Seattle, Washington 98101  
main 206.628.6600 fax 206.628.6611  
www.williamskastner.com  
WASHINGTON . OREGON

the use occurred over a uniform route, (4) the use was adverse to the landowner; and (5) the use occurred with the knowledge of such owner at a time when he was able in law to assert and enforce his rights. *Gamboia v. Clark*, 183 Wn.2d 38, 43, 348 P.3d 1214 (2015). A prescriptive right can be established “notwithstanding the fact that the owner of the servient estate and others who desired to go upon the road also used it.” *Hendrickson v. Sund*, 105 Wash. 406, 410, 177 P. 808 (1919). The Niedermans satisfy each of these elements. For more than 15 years, the southwestern corner of your property, which is not part of the access easement, has been continuously and openly used for ingress and egress to 6800 96th Ave. SE.

As the servient estate owner, you cannot develop your property in a manner that interferes with the Niedermans’ ability to access their driveway via the prescriptive easement. As noted in *Cole v. Laverty*, 112 Wn. App. 180, 184–85, 49 P.3d 924 (2002), “[a] servient estate owner has the right to use his or her land for any purpose **that does not interfere with enjoyment of the easement**...If the dominant estate has established use of an easement right of way, **obstruction of that use clearly interferes with the proper enjoyment of the easement**.” (Emphasis added). “It follows that a dominant estate owner has the right to protect his rights in the easement by requiring the servient estate owner to remove any structure that could deny the easement owner his full easement rights.” *Littlefair v. Schulze*, 169 Wn. App. 659, 666, 278 P.3d 218, 222 (2012).

Additionally, Washington law is well established that you cannot unilaterally relocate the Niedermans’ prescriptive easement to align with your construction plans. See *State ex rel. Northwestern Elec. Co. v. Clark County Superior Court*, 28 Wn.2d 476, 488, 183 P.2d 802 (1947) (easement right, once granted and exercised, cannot be changed “at the pleasure of the grantee”); *Northwest Cities Gas Co. v. Western Fuel Co.*, 13 Wn.2d 75, 88, 123 P.2d 771 (1942) (an adverse use creates a prescriptive easement that cannot be terminated or abridged at the will of the servient estate owner); *White Bros. Crum Co. v. Watson*, 64 Wash. 666, 670, 117 P. 497 (1911) (cannot change character of servitude without consent).

Developing your property in a way that prevents the Niedermans from accessing their driveway will subject you to liability for unlawful obstruction and interference with the Niedermans’ easement. We expect you will alter your construction plans to maintain the current location of the shared access road so that it continues to align with the Niedermans’ driveway access. If you do not make this alteration and move forward with your current construction plans, the Niedermans will be forced to take legal action to (1) establish their prescriptive easement as a matter of law; and (2) obtain an injunction preventing you from obstructing and/or interfering with their continued use of the easement.

September 11, 2019

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Please contact me if you have any questions regarding my clients' intentions. You may wish to forward this letter to legal counsel. If you retain an attorney, please let us know and we will work with that person.

Very truly yours,

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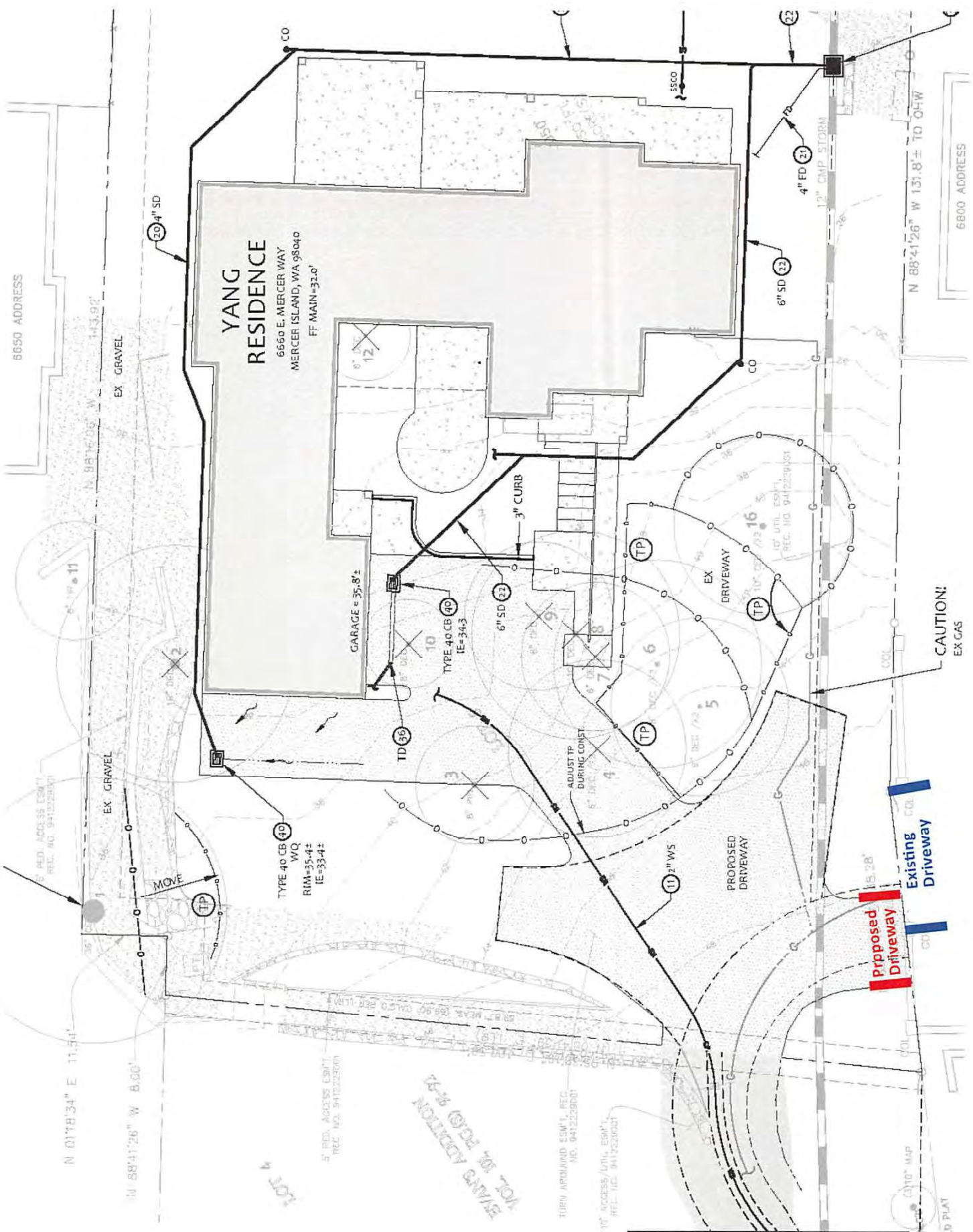
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# ATTACHMENT A



# EXHIBIT G



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SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN THE COUNTY OF KING

CHRISTOPHER A. NIEDERMAN and  
NICOLE L. NIEDERMAN, husband and  
wife, and the marital community composed  
thereof,

Plaintiffs,

v.

STEVE YANG and SOPHY YANG, husband  
and wife, and the marital community  
composed thereof; UMPQUA BANK, a  
foreign bank corporation,

Defendants.

NO. 20-2-17449-1 SEA

PLAINTIFFS' RESPONSES TO  
DEFENDANTS STEVE YANG AND  
SOPHY YANG'S FIRST REQUESTS  
FOR ADMISSION

Plaintiffs Christopher A. Niederman and Nicole L. Niederman ("Plaintiffs") answer and respond to defendants Steve Yang and Sophy Yang's ("Defendants") First Requests for Admission as follows:

**GENERAL OBJECTIONS**

1. To the extent that any Request for Admission may be construed as calling for information subject to a claim of privilege or protection, including, without limitation, the attorney-client privilege, the joint defense privilege, or the attorney work product doctrine, Plaintiffs hereby claim such privileges and/or protections and object to the Request for Admission on that basis.

2. To the extent that any Request for Admission may be construed as calling for information not in the possession of Plaintiffs, Plaintiffs object to such Request for Admission

1           **RESPONSE:** Subject to their General Objections, the Niedermans admit they are not  
2 a signatory to Exhibit B, but assert they are third-party beneficiaries to the agreement, and  
3 otherwise have rights under the recorded easement.  
4

5           **REQUEST FOR ADMISSION NO. 4:** Admit that there is no conveyance of  
6 property rights to the Niederman Property through the Boundary Line Adjustment recorded  
7 under King County Recording No. 9412229001 that is attached as **Exhibit B**.

8           **RESPONSE:** The Niedermans specifically object that this Request improperly calls  
9 for a legal conclusion. Subject to their General and Specific Objections, the Niedermans deny  
10 this Request.  
11

12           **REQUEST FOR ADMISSION NO. 5:** Admit that prior to the date the new concrete  
13 driveway was constructed on the north side of the Niederman Property in 2019, You were  
14 aware that the proposed driveway location did not match the “10’ private road easement”  
15 stated on the face of the document recorded under King County Recording No. 7701260554,  
16 which is attached as **Exhibit C**.

17           **RESPONSE:** Subject to their General Objections, the Niedermans admit the Request,  
18 but further respond that the driveway was placed in exactly the same position as the prior  
19 driveway at their residence, and was constructed in accordance with an approved building  
20 permit from the City of Mercer Island.  
21

22           **REQUEST FOR ADMISSION NO. 6:** Admit that You have not suffered any  
23 physical injury as a result of the “emotional distress” alleged through Fourth Cause of Action  
24 in your Complaint.

25           **RESPONSE:** Subject to their General Objections, the Niedermans respond this  
26 Request is moot given the voluntary dismissal of their Fourth Cause of Action.





