

October 26, 2022

35653.0101

Barbara Veldee  
6006 92<sup>nd</sup> Ave SE  
Mercer Island, WA 98040

Re: Reply to Public Comment on VAR22-001

Dear Ms. Veldee:

Our office represents Market Place Properties, LLC (“MPP”), applicant under VAR22-001. We are in receipt of your comments on the Variance Application and were requested to provide a response to those comments.

As an initial matter, I have enclosed a copy of a supplemental September 30, 2022 letter submitted to the City which provides additional explanation regarding the special circumstances applicable to the MPP Property. As set out in the September 30, 2022 letter, there is a “break in bearing” between the survey monuments installed at the intersections of Island Crest Way/SE 60th St. and 92nd Ave Se/SE 60th St, which is not evident from conducting a survey of the physical monuments. The bearing break is only discoverable from reviewing the plat records for the property.

The bearing break is unique to the MPP Property and the surrounding properties. Taking the physical location of the monuments at face value results in a northerly shift of surveyed east-west property lines. Indeed, a survey of the property southwest of the MPP Property – at 9016 SE 61<sup>st</sup> Street – appears to have missed the break in bearing, and as a result the survey for that property was off by approximately 5 feet, with the survey stake marking the north backyard property line placed 5 feet north of the correct location.

The erroneously located survey stake for 9016 SE 61<sup>st</sup> Street reflects the same northern shift by the MPP surveyor in staking the foundation of the MPP residence, the result being the foundation was slightly closer to the true front MPP property line than was intended.

Because of the unusual circumstances surrounding the survey error at the MPP Property, granting the requested Variance will not set a precedent for other variance requests in this neighborhood or elsewhere in the City. It is highly unlikely that an identical issue will arise, where the circumstance of the City’s physical survey monuments lead to a survey error. This type of error is very unusual as it is, but given the City is now aware of the unique “break in bearing” issue, there is no reason to believe

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these unusual circumstances would arise again. Granting this isolated variance will not have a precedential effect, nor have an impact on the character of the neighborhood.

Even with the variance, the driveway will be a lengthy 16 feet on-site and a garage is available for parked vehicles at the MPP Property. Further, the actual street edge is a considerable distance from the Right of Way margin and poses no increased public safety concern for neighborhood traffic and pedestrians.

The unusual circumstances giving rise to this requested Variance are the bearing break of the physical City surveying monuments and erroneous acts of an independent surveyor. MPP is simply seeking the least amount of relief that would allow the newly constructed single-family dwelling on the MPP Property to remain, and avoid the excessive economic consequences that would otherwise result and negatively impact the neighborhood.

Regards,

WILLIAMS, KASTNER & GIBBS PLLC



Abigail Stagers

Alan Wallace

astagers@williamskastner.com

awallace@williamskastner.com

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

September 30, 2022

35653.0101

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

Re: VAR22-001

Dear Permit Coordinator:

On behalf of Market Place Properties, LLC (“MPP”), applicant under VAR22-001, this letter is submitted in supplementation of MPP’s request for a variance regarding property at 6027 SE 60<sup>th</sup> Street (“MPP Property”).

MICC 19.06.110(B) sets out the eight criteria for granting a variance. Subsection (d) requires showing that there are special circumstances applicable to the property in question. Examples of special circumstances include size, shape, topography or location of the lot.

As set out in the initial Variance Application, a survey error led to a mistake in the location of the foundation and the encroachment into the setback for which this variance is sought. Ultimately, however, the survey error was the result of a physical feature unique to the MPP Property – a bearing break affecting City survey monuments to the east at the Island Crest Way/SE 60<sup>th</sup> St. intersection and the monument to the west at the 92<sup>nd</sup> Ave Se/SE 69<sup>th</sup> St. intersection. (See, Survey noting “bearing break per Plat of Timberland No. 4” attached at *Exhibit G*). The noted break in bearing is only evident from review of the final plat records. A survey conducted simply by referencing the two physical survey monuments does not disclose the break.

The break in bearing appears to have been missed by a prior surveyor at the property kitty-corner southwest of the MPP Property, at 9016 SE 61<sup>st</sup> Street (“Neighbor Property”). The survey stake for the northeast corner of the Neighbor Property (the southwest corner of the MPP Property) was placed 5 feet north of the actual property line. (See, *Exhibit G*). Likewise, the north property line for the MPP Property was initially staked approximately 5 feet north of the actual boundary line and the MPP site features (such as the fence) were incorrectly mapped onto the MPP survey map. As such, it can be concluded that MPP’s surveyor relied upon the Neighbor Property’s erroneous survey stake as the beginning point to measure and stake the MPP Property. As a result, the foundation form for the MPP project was staked in a location that encroached into the actual front yard setback.

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The “break in bearing” between monuments is a physical feature unique to the lot location. The survey kitty-corner to the MPP Property failed to account for this physical feature affecting all lots in the block containing the MPP Property, which is a special circumstance unique to these parcels, and warrants variance relief under the facts of this application.

Regards,

WILLIAMS, KASTNER & GIBBS PLLC



Abigail Stagers

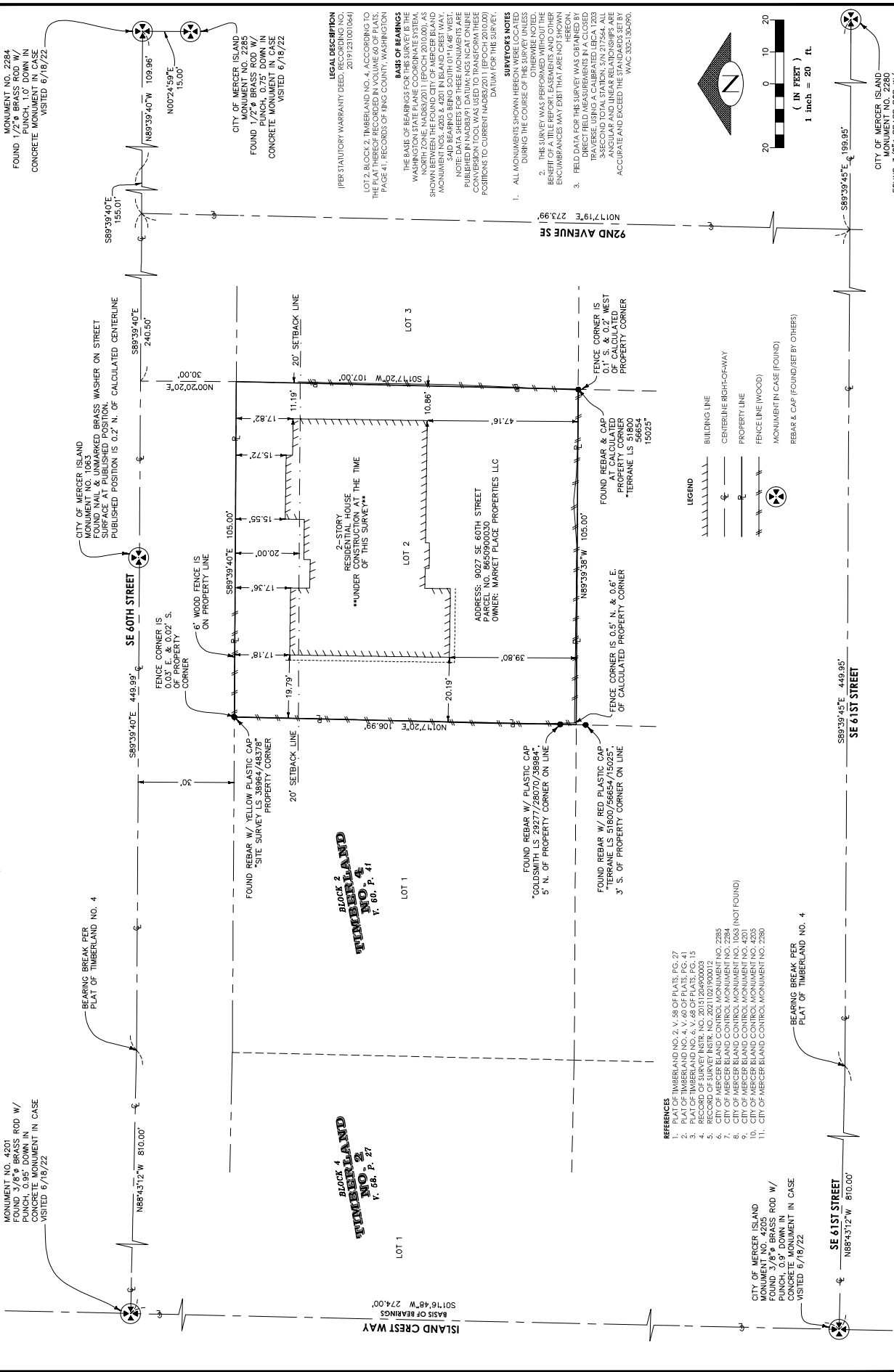
Alan Wallace

astagers@williamskastner.com

awallace@williamskastner.com

# EXHIBIT G

SOUTHWEST 1/4 SECTION 19, TOWNSHIP 24 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN



**LEGAL DESCRIPTION**  
 [PER STATUTORY WARRANTY DEED, RECORDING NO. 20191231001064]  
 LOT 2, BLOCK 2, TIMBERLAND NO. 4, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 60 OF PLATS, PAGE 41, RECORDS OF KING COUNTY, WASHINGTON

**BASE OF BEARINGS**  
 THE BASE OF BEARINGS FOR THIS SURVEY ARE THE WASHINGTON STATE PLATE MERIDIAN BEARING BETWEEN THE FOUND CITY OF MERCER ISLAND MONUMENT NO. 1063 AND MONUMENT NO. 2285, AND THE WASHINGTON STATE PLATE MERIDIAN BEARING BETWEEN MONUMENT NO. 1063 AND MONUMENT NO. 2284.  
 NOTE: DATA SHEETS FOR THESE MONUMENTS ARE PUBLISHED IN NAD83(7) DATUM; NGS NCAT ONLINE COORDINATE CONVERSION TOOL WAS USED TO CONVERT FORMS TO CURRENT NAD83(7) DATUM FOR THIS SURVEY.

**SURVEYOR'S NOTES**  
 1. ALL MONUMENTS SHOWN HEREON WERE LOCATED DURING THE COURSE OF THIS SURVEY UNLESS OTHERWISE NOTED.  
 2. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT, EASEMENTS AND OTHER ENCUMBRANCES MAY EXIST THAT ARE NOT SHOWN.  
 3. FIELD DATA FOR THIS SURVEY WAS OBTAINED BY DIRECT FIELD MEASUREMENTS IN A CLOSED TRAVERSE USING A CALIBRATED LEICA 1203 TOTAL STATION. ANGULAR AND LINEAR READINGS ARE ACCURATE AND EXCEED THE STANDARDS SET BY WAC 352-130-090.



**CITY OF MERCER ISLAND**  
 MONUMENT NO. 2280  
 FOUND 3/8" BRASS ROD W/ PUNCH, 0.75' DOWN IN CONCRETE MONUMENT IN CASE  
 VISITED 6/18/22

**CITY OF MERCER ISLAND**  
 MONUMENT NO. 1063  
 FOUND NAIL & UNMARKED BRASS WASHER ON STREET SURFACE AT PUBLISHED POSITION.  
 PUBLISHED POSITION IS 0.2' N. OF CALCULATED CENTERLINE

**CITY OF MERCER ISLAND**  
 MONUMENT NO. 2285  
 FOUND 1/2" BRASS ROD W/ PUNCH, 0.75' DOWN IN CONCRETE MONUMENT IN CASE  
 VISITED 6/18/22

**RECORDER'S CERTIFICATE**  
 FILED FOR RECORD THIS \_\_\_\_ DAY OF \_\_\_\_\_ OF SURVEYS, 20\_\_ AT \_\_\_\_\_ IN BOOK \_\_\_\_\_ AT PAGE \_\_\_\_\_ AT THE REQUEST OF BUSH, ROED & HITCHINGS, INC.

**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 \_\_\_\_\_ IN \_\_\_\_\_

**MANAGER** \_\_\_\_\_  
**SUPT. OF RECORDS** \_\_\_\_\_

**DATE:** 7/10/22  
**SCALE:** 1" = 20'  
**CHECK BY:** PLS  
**DRAWN BY:** LWR  
**JOB NO.:** 2022156.00  
**SHEET 1 OF 1**

**BUSH, ROED & HITCHINGS, INC.**  
**LAND SURVEYORS & CIVIL ENGINEERS**  
 2009 MINOR AVE. EAST  
 SEATTLE, WASHINGTON 98102-8513  
 (206) 332-4144  
 1-800-835-0308  
 WWW.BRHSURV.COM