

# McCULLOUGH HILL LEARY, PS

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December 9, 2022

VIA EMAIL

City Council  
9611 S.E. 36<sup>th</sup> Street  
Mercer Island, WA 98040

Re: 3 Eden Lane West, Mercer Island Sewer Easement Replacement

Dear Councilmembers:

I am writing on behalf of Allan Montpellier and Feliz Montpellier (together, “Owner”), owner of the real property located at 3 Eden Lane West in Mercer Island, parcel number 2251000030 (the “Property”) to request approval to correct the location of the City of Mercer Island’s (“City”) sewer easement over the Property as further described below.

## **Background**

The City is the beneficiary of a 1964 sewer easement, King County recording number 5804682 (the “1964 Easement”) that does not reflect the as-built location of the City’s sewer line on the Owner’s Property. Enclosed for your reference, please find the survey dated January 22, 2021, prepared by Terrane (the “Survey”). The Survey shows the location of the 1964 Easement in orange, and the as-built location of the City sewer line in green. In short, the City’s utility line was constructed in a different location than the location defined in the 1964 Easement. There is currently no easement in place over the actual sewer line.

## **Request**

To correct this issue, the Owner requests that the City partially relinquish the incorrect, 1964 Easement to the extent that it burdens the Property, in exchange for a new easement granted by the Owner to the City over the correct, as-built sewer area. The proposed new easement area is shown in red on the Survey.

We have worked together with the City Attorney and City Engineer to prepare a partial relinquishment of the 1964 Easement enclosed herein (the “Partial Release”) and a new replacement sewer easement also enclosed (the “Sewer Easement”) for City Council’s review and approval.

## **Consideration**

We believe the request to correct the sewer easement over the Property is mutually beneficial to the City and the Owner for the following reasons: (1) the proposed Sewer Easement is being updated to reflect more robust easement terms for the City; (2) the proposed Sewer Easement includes a typical

December 9, 2022

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width for maintenance; and (3) the 1964 Easement does not reflect the actual location of the sewer line and Owner spent considerable time, money, and effort identifying and attempting to correct this issue through this process, drafting the proposed Sewer Easement, drafting the Partial Release, and hiring surveyors to define the locations of the existing and proposed easements.

The proposed new Sewer Easement is 20 feet wide, in accordance with feedback from City staff. The 1964 Easement is in the wrong location, but it is 30 feet wide. The new Sewer Easement is correctly located and is in accordance with current City requirements for utility line easements. We believe the Owner's expenditures to date provide adequate consideration for a mutually beneficial exchange here. However, to the extent the Council feels additional consideration is required, the Owner is willing to provide \$500 in additional consideration for the new Sewer Easement on the Property.

The Owner contemplates applying for building permits to make certain improvements to the Property in early 2023 and would like to have the incorrect 1964 Easement released and the new Sewer Easement in place as soon as possible. If the enclosed Partial Release and Sewer Easement are acceptable to you, we would request City Council's approval of each.

Please let us know if you have any questions or require additional information. Thank you in advance for your review of this request.

Sincerely,

s/ Jessica Roe

On behalf of the Owner

cc: Allan and Feliz Montpelier, Owners

Patrick Yamashita, City Engineer and Public Works Deputy Director

Bio Park, City Attorney

Enclosures: Survey; Proposed Partial Release; Proposed Sewer Easement

# ENCLOSURES

# SURVEY

# TOPOGRAPHIC & BOUNDARY SURVEY

measure success

TOPOGRAPHIC & BOUNDARY SURVEY  
PARCEL NO. 2251000030



**Terrane**  
10801 Main Street, Suite 102, Bellevue, WA 98004  
phone 425.458.4488 support@terrane.net  
www.terrane.net

JOB NUMBER: 202543  
DATE: 01/22/21  
DRAFTED BY: IDV-DSS  
CHECKED BY: JGM/CSP  
SCALE: 1" = 10'  
REVISION HISTORY  
10/25/21 SEWER INFO  
SHEET NUMBER  
1 OF 1

## LEGAL DESCRIPTION

LOT 3, EDEN LANE WEST, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 101 OF PLATS, PAGES 64 AND 65, IN KING COUNTY, WASHINGTON;  
TOGETHER WITH AN EASEMENT FOR ROAD AND UTILITIES AS DELINEATED ON THE FACE OF SAID PLAT;  
EXCEPT ANY PORTION LYING WITHIN SAID LOT 3.  
TOGETHER WITH AN UNDIVIDED 1/7 INTEREST IN RECREATIONAL WATERFRONT.  
SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

## BASIS OF BEARINGS

N 88°41'09" W BETWEEN FOUND PROPERTY CORNERS ALONG THE NORTH LINE OF THE SUBJECT PARCEL PER R1

## REFERENCES

R1. RECORD OF SURVEY, VOL. 125, PG. 53, RECORDS OF KING COUNTY, WASHINGTON.

## VERTICAL DATUM

NAV088 PER CITY OF MERCER ISLAND BENCHMARK #1995 (D.B. ID #46981)  
ELEV: 178.273

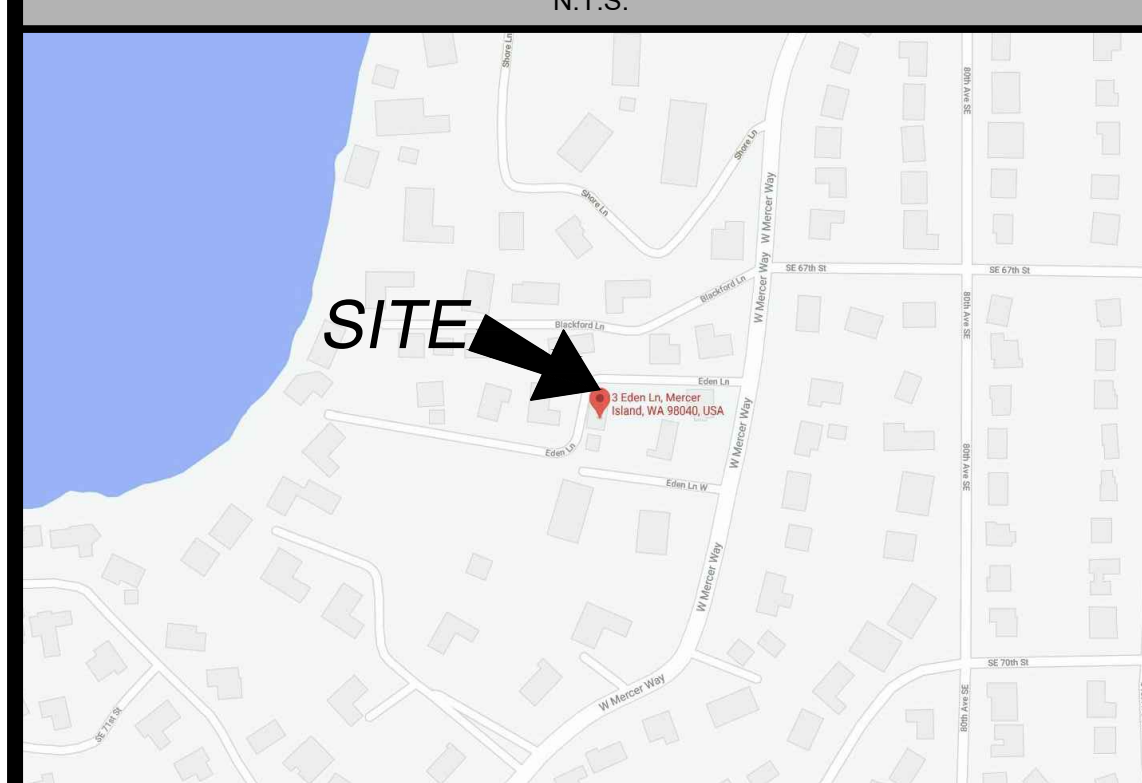
## SURVEYOR'S NOTES

1. THE TOPOGRAPHIC SURVEY SHOWN HEREON WAS PERFORMED IN JANUARY OF 2021. THE FIELD DATA WAS COLLECTED AND RECORDED ON MAGNETIC MEDIA THROUGH AN ELECTRONIC THEODOLITE. THE DATA FILE IS ARCHIVED ON DISC OR CD. WRITTEN FIELD NOTES MAY NOT EXIST. CONTOURS ARE SHOWN FOR CONVENIENCE ONLY. DESIGN SHOULD RELY ON SPOT ELEVATIONS.
2. ALL MONUMENTS SHOWN HEREON WERE LOCATED DURING THE COURSE OF THIS SURVEY UNLESS OTHERWISE NOTED.
3. THE TYPES AND LOCATIONS OF ANY UTILITIES SHOWN ON THIS DRAWING ARE BASED ON INFORMATION PROVIDED TO US, BY OTHERS OR GENERAL INFORMATION READILY AVAILABLE IN THE PUBLIC DOMAIN INCLUDING, AS APPLICABLE, IDENTIFYING MARKINGS PLACED BY UTILITY LOCATE SERVICES AND OBSERVED BY TERRANE IN THE FIELD. AS SUCH, THE UTILITY INFORMATION SHOWN ON THESE DRAWINGS ARE FOR INFORMATIONAL PURPOSES ONLY AND SHOULD NOT BE RELIED ON FOR DESIGN OR CONSTRUCTION PURPOSES; TERRANE IS NOT RESPONSIBLE OR LIABLE FOR THE ACCURACY OR COMPLETENESS OF THIS UTILITY INFORMATION. FOR THE ACCURATE LOCATION AND TYPE OF UTILITIES NECESSARY FOR DESIGN AND CONSTRUCTION, PLEASE CONTACT THE SITE OWNER AND THE LOCAL UTILITY LOCATE SERVICE (800-424-5555).
4. SUBJECT PROPERTY TAX PARCEL NO. 2251000-0030
5. SUBJECT PROPERTY AREA PER THIS SURVEY IS 19,997 ±S.F. (0.46 ACRES)
6. THE PROPERTY DESCRIBED HEREON IS THE SAME AS THE PROPERTY DESCRIBED IN CHICAGO TITLE COMPANY OF WASHINGTON, COMMITMENT NO. 0192574-ETU, WITH AN EFFECTIVE DATE OF OCTOBER 2, 2020 AND THAT ALL EASEMENTS, COVENANTS AND RESTRICTIONS REFERENCED IN SAID TITLE COMMITMENT OR APPARENT FROM A PHYSICAL INSPECTION OF THE PROPERTY OR OTHERWISE KNOWN TO ME HAVE BEEN PLOTTED HEREON OR OTHERWISE NOTED AS TO THEIR EFFECT ON THE PROPERTY.
7. FIELD DATA FOR THIS SURVEY WAS OBTAINED BY DIRECT FIELD MEASUREMENTS WITH A CALIBRATED ELECTRONIC 5-SECOND TOTAL STATION AND/OR SURVEY GRADE GPS OBSERVATIONS. ALL ANGULAR AND LINEAR RELATIONSHIPS ARE ACCURATE AND MEET THE STANDARDS SET BY WAC 332-130-090.

## LEGEND

	ASPHALT SURFACE		HEAT EXCHANGER
	BUILDING		INLET (TYPE 1)
	CENTERLINE ROW		PAVER SURFACE
	CONCRETE SURFACE		POST/BBALL HOOP
	RETAINING WALL		POWER METER
	DECK		POWER POLE
	FENCE LINE (CHAIN LINK)		POWER TRANSFORMER
	FENCE LINE (WOOD)		SEWER LINE
	FLAGSTONE SURFACE		SEWER MANHOLE
	GRAVEL SURFACE		STORM DRAIN LINE
	GENERATOR		TELEPHONE SENTRY
	SEWER EASEMENT AREA		TREE (AS NOTED)
	REBAR / IRON PIPE AS NOTED (FOUND)		WATER LINE
			WATER METER
			WATER VALVE

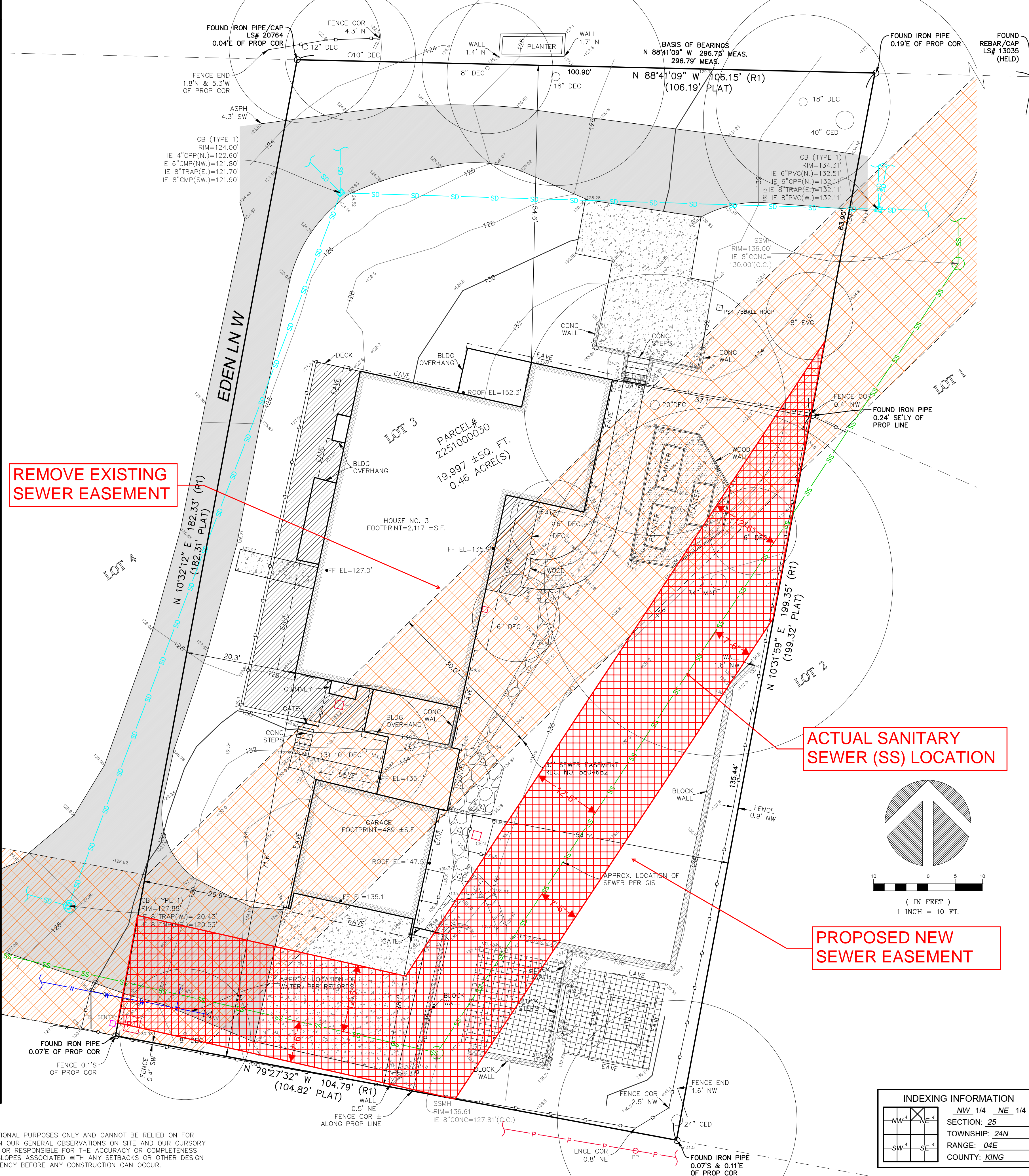
## VICINITY MAP N.T.S.



## SCHEDULE B ITEMS

1. EASEMENT(S) FOR THE PURPOSE(S) SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS SET FORTH IN A DOCUMENT:  
PURPOSE: ROAD AND UTILITIES  
RECORDING DATE: DECEMBER 31, 1957  
RECORDING NO.: 4861912  
AFFECTS: THE WESTERLY AND NORTHERLY PORTION OF LOT 3 (NOT PLOTTED)
2. EASEMENT(S) FOR THE PURPOSE(S) SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS SET FORTH IN A DOCUMENT:  
IN FAVOR OF: MERCER ISLAND SEWER DISTRICT  
PURPOSE: SEWER PIPELINE WITH NECESSARY APPURTENANCES  
RECORDING DATE: OCTOBER 28, 1964  
RECORDING NO.: 5804682  
AFFECTS: THE EASTERLY PORTION OF LOT 3 (PLOTTED)
3. RESTRICTIONS CONTAINED IN INSTRUMENT, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, INCLUDING BUT NOT LIMITED TO THOSE BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, SOURCE OF INCOME, GENDER, GENDER IDENTITY, GENDER EXPRESSION, MEDICAL CONDITION OR GENETIC INFORMATION, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW, AS SET FORTH IN THE DOCUMENT  
RECORDING DATE: OCTOBER 12, 1972  
RECORDING NO.: 7210120043 (BLANKET IN NATURE)
4. COVENANTS, CONDITIONS, RESTRICTIONS, RECITALS, RESERVATIONS, EASEMENTS, EASEMENT PROVISIONS, DEDICATIONS, BUILDING SETBACK LINES, NOTES AND STATEMENTS, IF ANY, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, INCLUDING BUT NOT LIMITED TO THOSE BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, SOURCE OF INCOME, GENDER, GENDER IDENTITY, GENDER EXPRESSION, MEDICAL CONDITION OR GENETIC INFORMATION, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW, AS SET FORTH ON MERCER ISLAND SHORT PLAT NUMBER BORTLES:  
RECORDING NO: 7602200452 (NOT PLOTTED)
5. COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED IN INSTRUMENT, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, INCLUDING BUT NOT LIMITED TO THOSE BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, SOURCE OF INCOME, GENDER, GENDER IDENTITY, GENDER EXPRESSION, MEDICAL CONDITION OR GENETIC INFORMATION, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW, AS SET FORTH IN THE DOCUMENT  
RECORDING DATE: APRIL 20, 1976  
RECORDING NO.: 7604200277 (BLANKET IN NATURE)
6. PROTECTIVE MAINTENANCE AGREEMENT AND THE TERMS AND CONDITIONS THEREOF  
RECORDING DATE: APRIL 20, 1976  
RECORDING NO.: 7604200416 (BLANKET IN NATURE)
- AMENDMENT OF SAID PROTECTIVE MAINTENANCE AGREEMENT AND THE TERMS AND CONDITIONS THEREOF  
RECORDING DATE: JULY 10, 1978  
RECORDING NO.: 7807100810 (BLANKET IN NATURE)
7. COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED IN INSTRUMENT, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, INCLUDING BUT NOT LIMITED TO THOSE BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, SOURCE OF INCOME, GENDER, GENDER IDENTITY, GENDER EXPRESSION, MEDICAL CONDITION OR GENETIC INFORMATION, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW, AS SET FORTH IN THE DOCUMENT  
RECORDING DATE: APRIL 20, 1976  
RECORDING NO.: 7604200483 (BLANKET IN NATURE)
8. COVENANTS, CONDITIONS, RESTRICTIONS, RECITALS, RESERVATIONS, EASEMENTS, EASEMENT PROVISIONS, DEDICATIONS, BUILDING SETBACK LINES, NOTES AND STATEMENTS, IF ANY, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, INCLUDING BUT NOT LIMITED TO THOSE BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, SOURCE OF INCOME, GENDER, GENDER IDENTITY, GENDER EXPRESSION, MEDICAL CONDITION OR GENETIC INFORMATION, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW, AS SET FORTH ON EDEN LANE WEST:  
RECORDING NO: 7701050468 (NOT PLOTTED)
9. ANY RIGHTS, INTERESTS, OR CLAIMS WHICH MAY EXIST OR ARISE BY REASON OF THE FOLLOWING MATTERS DISCLOSED BY SURVEY,  
RECORDING DATE: OCTOBER 14, 1998  
RECORDING NO.: 9810149009 (CURRENT CONDITIONS SHOWN)

**STEEP SLOPE/BUFFER DISCLAIMER:**  
THE LOCATION AND EXTENT OF STEEP SLOPES SHOWN ON THIS DRAWING ARE FOR INFORMATIONAL PURPOSES ONLY AND CANNOT BE RELIED ON FOR DESIGN AND/OR CONSTRUCTION. THE PITCH, LOCATION, AND EXTENT ARE BASED SOLELY ON OUR GENERAL OBSERVATIONS ON SITE AND OUR CURSORY REVIEW OF READILY AVAILABLE PUBLIC DOCUMENTS; AS SUCH, TERRANE CANNOT BE LIABLE OR RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF ANY STEEP SLOPE INFORMATION. THE LIMITS AND EXTENT OF ANY STEEP SLOPES ASSOCIATED WITH ANY SETBACKS OR OTHER DESIGN OR CONSTRUCTION PARAMETERS MUST BE DISCUSSED AND APPROVED BY THE REVIEWING AGENCY BEFORE ANY CONSTRUCTION CAN OCCUR.



**REMOVE EXISTING SEWER EASEMENT**

**ACTUAL SANITARY SEWER (SS) LOCATION**

**PROPOSED NEW SEWER EASEMENT**

# PROPOSED PARTIAL RELEASE

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Bio Park  
City Attorney  
9611 SE 36<sup>th</sup> Street  
Mercer Island, WA

Reference No. 5804682

PARTIAL RELINQUISHMENT OF SEWER EASEMENT

<b>Reference #s of Document Released or Assigned:</b>	5804682
<b>Grantors:</b>	Allan Montpellier and Feliz Montpellier
<b>Grantee:</b>	City of Mercer Island
<b>Abbreviated Legal Description of Grantee Property:</b>	EASEMENT UNDER PORTION of Lot 3, Eden Lane West, Plat of King County, Washington, Pg. 64-65.
<b>Full Legal Description is on Page:</b>	Exhibit "A"
<b>Assessor's Tax Parcel Number(s):</b>	225100003006

This Partial Relinquishment of a Sewer Easement (this "**Agreement**") is entered by and between the City of Mercer Island, a municipal corporation of the State of Washington ("**Mercer Island**") and Allan Montpellier and Feliz F. Montpellier, a married couple (the "**Owners**").

**RECITALS**

- A. Owners are the owners in fee of that certain real property situated in King County, Washington (the "**Property**") legally described on Exhibit A attached hereto and incorporated herein.
- B. The Property and other properties are burdened by an easement, granted in 1964 to the Mercer Island Sewer District, for the installation, construction, maintenance, operation, repair and replacement of a sewer pipeline on the Property under Recording No. 5804682 of the Official Records of King County (the "**1964 Easement**"), attached and

incorporated herein as Exhibit B.

- C. Mercer Island is a municipal corporation of the State of Washington and the successor in interest to the Mercer Island Sewer District.
- D. A sewer was constructed on another portion of the Property that does not coincide with the 1964 Easement location (the “**Sewer**”). A new easement for the Sewer was never granted and the easement for the sewer was never amended, relinquished, or released to reflect the as-built location of the Sewer.
- E. The Owners and Mercer Island have agreed that in exchange for the Mercer Island's relinquishment and release of the 1964 Easement on the Property as shown on Exhibit C, the Owners shall grant to Mercer Island a new easement on the Property for the Sewer in the correct as-built location.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by this reference, and for other valuable consideration the sufficiency of which is agreed upon by the parties, the parties hereby agree as follows:

1. Description of 1964 Easement. The Property is currently subject to the 1964 Easement, but the parties desire to release the Property from the Easement while otherwise keeping the 1964 Easement in place with respect to all other burdened properties under the easement.
2. Release of 1964 Easement. Mercer Island hereby releases and relinquishes all of its rights, title and interest in, to and under the 1964 Easement with respect to the Property and agrees to the release of the 1964 Easement as an encumbrance against the Property only, provided, however, that nothing herein shall be construed as a release of other properties burdened by the 1964 Easement. A graphical depiction of the 1964 Easement on the Property is shown on Exhibit C.
3. Integration. This Agreement embodies the entire understanding of the parties and, except for the new easement to be granted by Owners to Mercer Island for the Sewer, to be granted concurrently with this Agreement, there are no further or other agreements or understandings, written or oral; in effect between the parties regarding the subject matter hereof and Mercer Island accepts the partial relinquishment and release of the 1964 Easement.
4. Amendment. This Agreement may not be amended or modified except in writing signed by each of the parties hereto.
5. Counterparts. This Agreement may be executed in counterparts, which when taken together, shall constitute one Agreement. However, this Agreement shall not be effective unless and until each counterpart signature has been obtained.



6. Governing Law. This Agreement shall be governed by the laws of the State of Washington
7. Authorized Signature. Each party to this Agreement warrants and represents to the other party that the individual signing this Agreement on behalf of such party has been duly authorized to execute this Agreement.

*[Signature blocks are on the following page.]*

DRAFT





**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

LOT 3, EDEN LANE WEST, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 101 OF PLATS, PAGES 64 AND 65, IN KING COUNTY, WASHINGTON;

TOGETHER WITH AN EASEMENT FOR ROAD AND UTILITIES AS DELINEATED ON THE FACE OF SAID PLAT;

EXCEPT ANY PORTION LYING WITHIN SAID LOT 3.

TOGETHER WITH AN UNDIVIDED 1/7 INTEREST IN RECREATIONAL WATERFRONT.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

**EXHIBIT B**  
**[THE 1964 EASEMENT]**

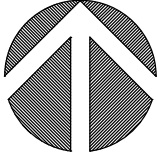
Refer to the graphic on the following page.



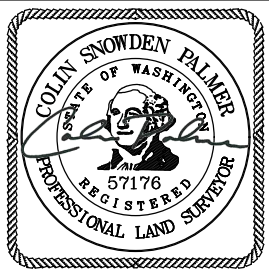
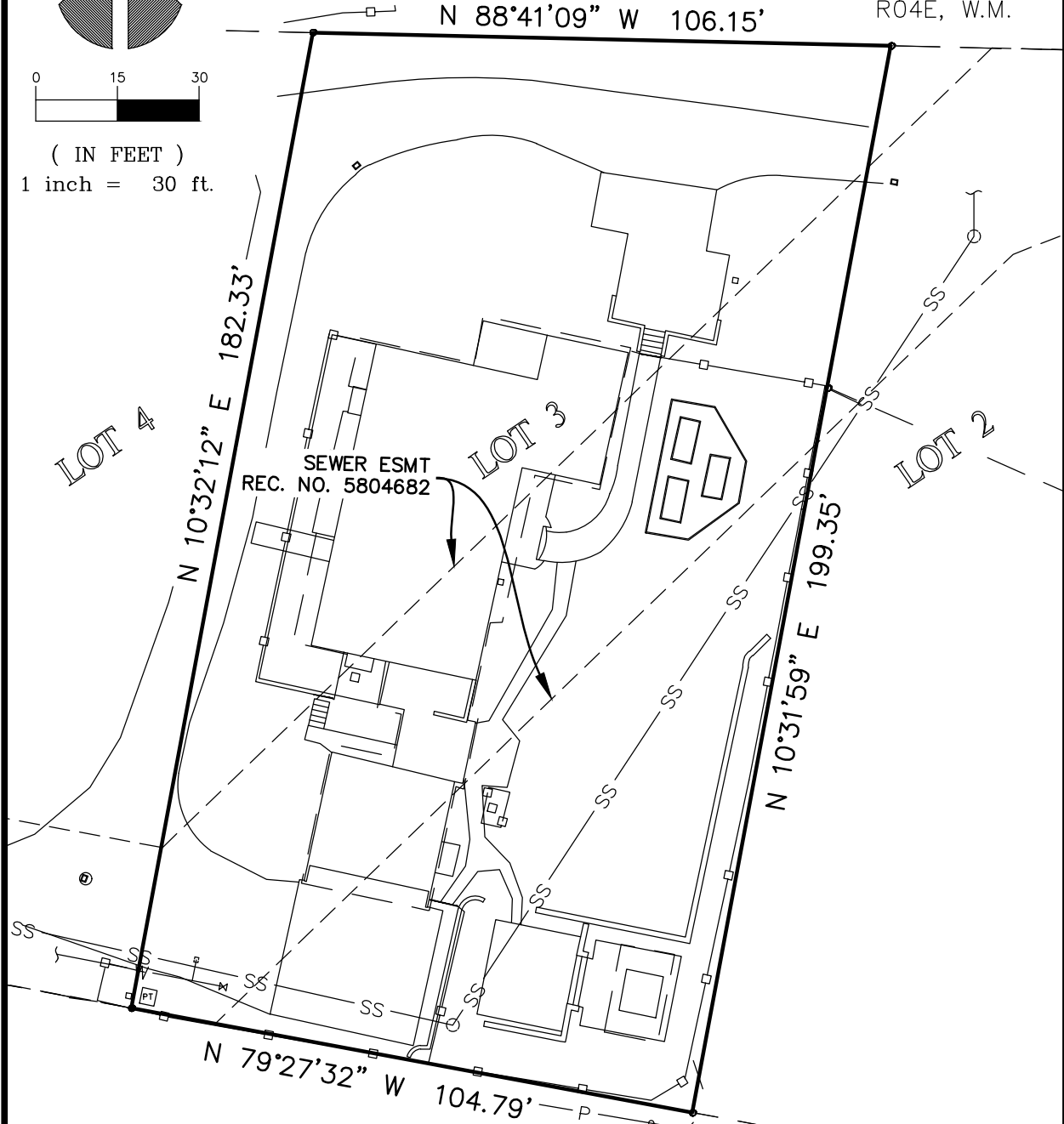
**EXHIBIT C**  
**GRAPHICAL DEPICTION OF THE 1964 EASEMENT ON THE PROPERTY**

# EXHIBIT C

NW 1/4, NE 1/4,  
SEC. 25, T24N,  
R04E, W.M.



( IN FEET )  
1 inch = 30 ft.



## SANITARY SEWER EASEMENT EXHIBIT

3 EDEN LANE WEST  
MERCER ISLAND, WA 98040  
PARCEL NO. 225100-0030

JOB NO. 202543  
DATE: 12/09/22  
PAGE 1 OF 1

# TERRANE

10801 Main Street, Suite 102  
Bellevue, WA 98004  
p: 425-458-4488 | e: info@terrane.net



# **PROPOSED SEWER EASEMENT**

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Bio Park  
City Attorney  
9611 SE 36<sup>th</sup> Street  
Mercer Island, WA

**PERMANENT EASEMENT FOR PUBLIC SEWER**

<b>Reference #s of Document Released or Assigned:</b>	N/A
<b>Grantors:</b>	Allan Montpellier and Feliz Montpellier
<b>Grantee:</b>	City of Mercer Island
<b>Abbreviated Legal Description of Grantor Property:</b>	EASEMENT UNDER PORTION of Lot 3, Eden Lane West, Plat of King County, Washington, Pg. 64-65.
<b>Full Grantor Legal Description:</b>	Exhibit "A"
<b>Easement Legal Description:</b>	Exhibit "B"
<b>Easement Area:</b>	Exhibit "C"
<b>Assessor's Tax Parcel Number(s):</b>	225100003006

THIS PERMANENT EASEMENT FOR PUBLIC SEWER ("**Easement**") is granted by Allan Montpellier and Feliz F. Montpellier, a married couple, hereinafter called "**Grantors**" or the "**Owners**" to the City of Mercer Island, a municipal corporation of the State of Washington, hereinafter called the "**Grantee**" or "**City**."

RECITALS

WHEREAS, Grantors are the owners of that certain real property situated in the City of Mercer Island, King County, Washington legally described on Exhibit A attached hereto and

incorporated herein (the “**Property**”).

WHEREAS the City is a municipal corporation of the State of Washington and the successor in interest to the Mercer Island Sewer District. In 1964 the Mercer Island Sewer District was granted an easement for the installation, construction, maintenance, operation, repair and replacement of a sewer pipeline on the Property under Recording No. 5804682 of the Official Records of King County (the “**1964 Easement**”).

WHEREAS A public sewer system was constructed on another portion of the Property that did not coincide with the 1964 Easement location (the “**Sewer**”). A new easement for the Sewer was never granted and the easement for the sewer was never amended, relinquished or released to reflect the as-built location of the Sewer.

WHEREAS The Owners and the City have agreed that in exchange for the City’s relinquishment and release of the 1964 Easement on the Property, the Owners shall grant the City a new easement on the Property for the Sewer.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by this reference, and for other valuable consideration the sufficiency of which is agreed upon by the parties, the parties hereby agree as follows:

1. **Grant of Easement for Public Sewer.** The Owners grant to the City a permanent easement in, on, over, across and through that portion of the Property that is legally described in or depicted on Exhibit B (the “**Easement Area**”), attached hereto and by this reference incorporated herein, for the purpose of the installation, construction., maintenance, operation, repair, and replacement of the Sewer and its appurtenances (the “**Easement Improvements**”) together with a right of access for ingress and egress to and from the Easement Area as reasonably necessary to Grantee’s installation, construction, maintenance, operation, repair, and replacement, of the Easement Improvements. The Easement Improvements shall be and shall at all times remain the property and responsibility of Grantee.
2. **Access.** Grantor also covenants and agrees that, upon reasonable notice to Grantor, Grantee shall have the right of access and parking to the Easement over and across the Property to enable Grantee to exercise its rights hereunder. Grantee, in the course of maintenance, inspection, construction, repair, and or replacement of the above-described public utility system shall not obstruct the Grantor’s ingress and egress into the Grantor’s property when practical.
3. **Grantor’s Use of Property.** Grantor shall have the continuing right to use the Easement Area with the following limitations: (a) Grantor shall not grant easement rights to third parties in the Easement Area without the prior written consent of the Grantee, which shall not be unreasonably withheld (b) No improvements that might interfere with the rights granted to the Grantee under this Easement may be installed in the Easement Area without the prior written approval of the Grantee. Grantee consents to all existing improvements in the Easement Area as depicted in Exhibit C.

4. **Grantee's Use of Easement Area.** Grantee shall at all times exercise its rights under this Easement in accordance with the requirements of all applicable statutes, orders, rules and regulations of any public authority having jurisdiction. Grantee shall, upon completion of any maintenance, removal, repair or replacement or other activities in the Easement Area remove any debris and restore the surface of any portion of the Grantor's property disturbed by Grantee's activities to the reasonably approximate condition in which it existed at the commencement of Grantee's activities. Except in the case of an emergency, Grantee shall provide Grantor with at least twenty (20) days' prior written notice before commencing any maintenance, removal, repair, replacement, or other activities in the Easement Area, together with a copy of the plans and a schedule for such activity or work.

5. **Notices.** Any notices required or permitted under this Easement shall be personally delivered or sent by certified mail, return receipt requested and shall be deemed given three (3) days following the date when mailed or one (1) business day following personal delivery. All notices shall be sent to the following addresses:

To Grantee: City of Mercer Island  
City Engineer  
9611 SE 36th Street  
Mercer Island, WA 98040

To Grantor: Allan and Feliz Montpellier (or then-current Grantor)  
3 Eden Lane West  
Mercer Island, WA 98040

Either party may change the address to which notice is sent by notice to the other party.

6. **Counterparts.** This Easement may be executed in counterparts, which when taken together, shall constitute one Easement. However, this Easement shall not be effective unless and until each counterpart signature has been obtained.

7. **Authorized Signature.** Each party to this Easement warrants and represents to the other party that the individual signing this Easement on behalf of such party has been duly authorized to execute this Easement.

8. **Runs with the Land/Successors and Assigns.** This Easement and the covenants, restrictions, easements, conditions, rights, duties and obligations contained herein will run with the Property and will inure to the benefit of and be binding upon Grantor's successors and assigns and future owners of the Property.

[Signatures attached.]





**EXHIBIT A  
LEGAL DESCRIPTION OF THE PROPERTY**

LOT 3, EDEN LANE WEST, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 101 OF PLATS, PAGES 64 AND 65, IN KING COUNTY, WASHINGTON;

TOGETHER WITH AN EASEMENT FOR ROAD AND UTILITIES AS DELINEATED ON THE FACE OF SAID PLAT;

EXCEPT ANY PORTION LYING WITHIN SAID LOT 3.

TOGETHER WITH AN UNDIVIDED 1/7 INTEREST IN RECREATIONAL WATERFRONT. SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

DRAFT

**EXHIBIT B**  
**LEGAL DESCRIPTION AND DEPICTION OF THE EASEMENT AREA**

THAT PORTION OF LOT 3 OF EDEN LANE WEST AS RECORDED IN VOLUME 101 OF PLATS, PAGES 64

AND 65, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT;

THENCE ALONG THE EAST LINE OF SAID LOT, SOUTH 10°31'59" WEST 50.23 FEET TO THE POINT

OF BEGINNING;

THENCE SOUTH 33°26'42" WEST 139.56 FEET;

THENCE NORTH 77°16'33" WEST 50.49 FEET TO THE WEST LINE OF SAID LOT;

THENCE ALONG SAID WEST LINE, SOUTH 10°32'12" WEST 20.01 FEET;

THENCE SOUTH 77°16'33" EAST 63.55 FEET;

THENCE NORTH 33°26'42" EAST 106.06 FEET TO SAID EAST LINE;

THENCE ALONG SAID EAST LINE, NORTH 10°31'59" EAST 51.37 FEET TO THE POINT OF BEGINNING.

CONTAINING 3,597 SQUARE FEET, MORE OR LESS



**EXHIBIT C**  
**GRAPHICAL DEPICTION OF EASEMENT AREA**

