



**CITY OF KIRKLAND**

Planning and Community Development Department  
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225  
www.ci.kirkland.wa.us

**ADVISORY REPORT  
FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS**

**To:** Kirkland Hearing Examiner

**From:**  Sean LeRoy, Project Planner

 Eric R. Shields, AICP, Planning Director

**Date:** June 3, 2010

**File:** SHR10-00001 / ZON10-00003 – Wenger Variance

**Hearing Date and Place:** July 1, 2010  
City Hall Council Chamber  
123 Fifth Avenue, Kirkland

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## **I. INTRODUCTION**

### **A. APPLICATION**

1. Applicant: Dave King, on behalf of property owners Edward Wenger and Crystal Ondo
2. Site Location: 551 5<sup>th</sup> Ave West
3. Request: This is a request for a Shoreline and Zoning Code Variance to allow the construction of a new single family residence to be located within the required yard setbacks from 5<sup>th</sup> Ave West, north setback yard and sun angle setback (see Attachments 2, 4). In the written response to the variance criteria, the applicant requests a variance to the garage requirements found in Kirkland Zoning Code 115.43. However, since the lot is less than 50' wide and does not have a front yard setback these standards do not apply to the proposed development.
4. Review Process: Process IIA, Hearing Examiner conducts public hearing and makes final decision.
5. Summary of Key Issues and Conclusions:
  - Compliance with Kirkland Zoning Code Approval Criteria (see Section II.D)
  - Compliance with Shoreline Master Program Approval Criteria (see Section II.E)

### **B. RECOMMENDATIONS**

Based on Statements of Fact and Conclusions (Section II), I recommend approval of this application subject to the following conditions:

1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 3, Development Standards, is provided in this report to familiarize the applicant with some of the additional development regulations. This attachment does not include all of the additional regulations. When a condition of approval conflicts with a development regulation in Attachment 3, the condition of approval shall be followed.

## **II. FINDINGS OF FACT AND CONCLUSIONS**

### **A. SITE DESCRIPTION**

1. Site Development and Zoning:
  - a. Facts:
    - (1) Lot Size: Approximately 7500 square feet, approximately 30' wide by 249' deep
    - (2) Land Use: The site is currently developed with a single family residence on the west side of 5<sup>th</sup> Ave West access easement
    - (3) Zoning: Waterfront District II (WD II)
    - (4) Shoreline Designation: Suburban Residential
    - (5) Terrain and Vegetation: The portion of the property in which the existing structure exists and the proposed structure will be located, gently slopes from the east to the west. The parcel includes a steep slope from the east edge of 5<sup>th</sup> Ave West to the east property line (Waverly Wave). The new structure will not be located in this area.

- b. Conclusions: The size and terrain of the subject property has some impact in the review of the applicant's variance request. See Sections II.E and II.F for further discussion.
2. Neighboring Development and Zoning:
- a. Facts: The subject property is located within an area zoned for and developed with single family residences. To the west of the subject property is Lake Washington and to the east is Waverly Way and single family residences.
  - b. Conclusion: The neighboring development and zoning are not factors in the review of this application.

## B. HISTORY

In 1991 a variance was proposed from both the City of Kirkland Zoning and the Shoreline Master Program for the following setbacks: north property line, south property line and sun angle. The variance was approved by the Hearing Examiner on August 19, 1991.

## C. PUBLIC COMMENT

The public comment period began March 10<sup>th</sup>, 2010 and ended April 10, 2010, during which time the Planning Department received no comments.

## D. ZONING CODE APPROVAL CRITERIA

### 1. DEVELOPMENT REGULATIONS

- a. Facts:
  - (1) The site is located in the Waterfront District (WD) II zone.
  - (2) Detached dwelling units (single family) uses are allowed uses with this zone.
  - (3) The proposal complies with the regulations for the WD II zone as set forth in KZC 30.25.10, except as discussed below.
  - (4) The applicant proposes the following encroachments into the required zoning setbacks:
    - (a) The north property Line setback of 5 feet is proposed to be reduced to 6" for 18.75' of 67.94' total along north façade.
    - (b) The sun angle setback of 45 degrees is proposed to be reduced to 73 degrees
    - (c) The required 10' setback from the west line of the access easement 5<sup>th</sup> Ave West is proposed to be reduced to 2.5.
- b. Conclusion: Approval of a zoning variance is necessary to construct the structure, as proposed.

### 2. ZONING VARIANCE

- a. Facts: Zoning Code Chapter 120 sets forth the mechanism whereby a provision of the Code may be varied on a case-by-case basis if the application of the provision would result in an unusual and unreasonable hardship.
  - (1) Zoning Code section 120.20 establishes three criteria with which a variance request must comply in order to be granted. The applicant's response to these criteria can be found in Attachment 4. Sections II.D.3 through II.D.5 contain the staff's findings of fact and conclusions based on these three criteria.

- b. Conclusions: Based on the following analysis, the application meets the established criteria for a variance.
3. Variance Criterion 1: The variance will not be materially detrimental to the property or improvements in the area of the subject property or to the City, in part or as a whole.
- a. Facts:
- (1) The proposed structure will essentially match the footprint of the existing structure, which was granted a variance in 1991 (see Attachment 2)
  - (2) Due to the narrowness of some lots, including this one, and the presence of the access easement 5<sup>th</sup> Ave West, several properties have been granted variances for the same or similar requests (for example, 555 5<sup>th</sup> Ave West is a similar 30' wide lot immediately north of subject property was granted a variance, see COK zoning file ZON02-00027).
  - (3) The applicant is proposing to reduce the north setback from 5' to 6".
  - (4) The applicant is requesting to reduce the required 45 degree sun angle set back to 73 degrees.
  - (5) The neighbors to the north and the south have provided their support in writing to the Planning Department.
- b. Conclusions:
- (1) The variance will not be materially detrimental to the property or improvements in the area as the proposal is in line with the prior variances which have been granted historically, including the variance granted for the subject property in 1991.
  - (2) While the variance includes a request to reduce the north property setback to 6", the proposed setback is greater than the 3" setback for the existing structure, and the corresponding setback to the south (5') will be met. Furthermore, the area which will extend into the north property line setback is only a portion of the north façade (see Attachment 2).
  - (3) The applicant's neighbor to the north, who stands to be most impacted by the proposal, has provided his written support of the present variance request. The City has also received written support of the proposed variance from the neighbor to the south (see Attachment 5).
  - (4) The variance will not be materially detrimental to the City, in part or as a whole, as the request is in line with the character of the neighborhood as a whole and single family residential land use patterns established by the Comprehensive Plan.
4. Variance Criterion 2: The variance is necessary because of special circumstances regarding the size, shape, topography, or location of the subject property, or the location of preexisting improvements on the subject property that conformed to the Zoning Code in effect when the improvement was constructed.
- a. Facts:
- (1) The subject property is 30' wide in a neighborhood where the typical lot is 60' wide. The unusual narrowness of the lot limits development.
  - (2) With resulting north and south property line setbacks, the building width is further limited to 20'.

- (3) In addition to the north and south property line setbacks, the addition of the required 45 degree sun angle set back, further restricts the potential envelope for development of a home.
  - b. Conclusion: In order to reasonably construct a single family residence, the variance is necessary due to the special circumstances regarding the size and shape of the subject property; which, with associated setbacks, unduly burdens and excessively limits the construction of a single family residence.
5. Variance Criterion 3: The variance would not constitute a grant of special privilege to the subject property which is inconsistent with the general rights that this Code allows for other properties in the same area and zone as the subject property.
  - a. Facts:
    - (1) A variance was granted in 1991 to construct the existing home.
    - (2) The proposed structure is essentially similar in scope and location to the footprint of the existing structure.
    - (3) Several single family residences and associated accessory structures have been granted similar variances due to the size, shape and presence of the 5<sup>th</sup> Ave West access easement.
    - (4) The existing structure was granted a variance by the City of Kirkland Planning Department in 1991 for the reconstruction and addition to the existing structure. The variance request was quite similar to the current request and involved a reduction in the north, south, front and sun angle set back yards.
    - (5) The proposed structure essentially matches the footprint of the existing structure, and in some cases is a reduction of the existing structure.
    - (6) The proposed variance does not substantially differ from other variances that have been historically granted for properties in this area.
  - b. Conclusions:
    - (1) The proposal does not constitute a grant special privilege because it is consistent with the rights granted through previous variance and granted to other properties in the area.
6. GENERAL ZONING CODE CRITERIA
  - a. Fact: Zoning Code section 150.65.3 states that a Process IIA application may be approved if:
    - (1) It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
    - (2) It is consistent with the public health, safety, and welfare.
  - b. Conclusion: The proposal complies with the criteria in section 150.65.3 It is consistent with all applicable development regulations (see Sections II) and the Comprehensive Plan (see Section II) and is generally consistent with all applicable Zoning Code regulations, except where indicated (see Section II.D). In addition, it is consistent with the public health, safety and welfare, because the

proposed development provides a single family residence in a manner that is consistent with the applicable goals of the Comprehensive Plan.

## **E. SHORELINE MASTER PROGRAM (SMP)**

### 1. Development Regulations

#### a. Facts:

- (1) The site is located in the Suburban Residential (SR) Shoreline Environment.
- (2) Detached dwelling unit (single family) uses are allowed uses within this shoreline environment.
- (3) The minimum requirement for "all other setbacks" within the Suburban Residential Shoreline Environment is 5'.
- (4) The proposed structure will encroach into the 5' setback from the north property line and the 5' setback from the 5th Ave West access easement.

b. Conclusion: The approval of a shoreline variance is necessary to construct the single family residence as proposed.

### 2. Shoreline Variance Approval Criteria

#### a. Facts:

- (1) Municipal Code Section 24.06.050 sets forth the mechanism whereby a provision of the Code may be varied on a case-by-case basis if the application of the provision would impose unnecessary hardship on the applicant or thwart the policies set forth in RCW 90.58.020.
- (2) WAC 173-27-170 establishes six criteria with which a variance request must comply in order to be granted. The applicant's response to these criteria can be found in Attachment 4

b. Conclusion: Based on the following analysis, the application meets the established criteria for a variance per WAC 173-27-170.

### 3. Shoreline Variance Criteria 1: That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with reasonable uses of the property.

#### a. Facts:

- (1) The property is constrained by both its width (30'), and the presence of an access easement and setbacks associated with the property lines.
- (2) The presence of both setbacks and the unusual width of the subject property, limits the width of the home beyond what is typical for a single family residence within the City of Kirkland.
- (3) Typical elements associated with a single family residence such as a garage and front entry, are limited because of the aforementioned constraints.

#### b. Conclusions:

- (1) It is not uncommon a single family residence to have an attached garage 20' or more in width. With the subject property's setbacks reducing the buildable width to 20', little if any space is left for an entry way.
- (2) The strict application of the dimensional standards set forth in the Shoreline Master Program would significantly interfere with the

development of a single family residence including vehicular and pedestrian access to the house.

4. Shoreline Variance Criteria 2: That the hardship described above is specifically related to the property and is the result of unique conditions such as irregular lot shape, size or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions.
  - a. Fact:
    - (1) The subject property is unique in that it is only 30' wide, whereas the majority of properties in this area are 60' wide.
  - b. Conclusions:
    - (1) The hardship is a result of the unique conditions of the subject property and is not a result of restrictions or limitations resulting from the applicant's own actions.
    - (2) The unusual narrowness of the subject property and the north property line setback (5') restricts the ability to reasonably construct a single family residence, an allowed use with the Suburban Residential Shoreline Environment.
5. Shoreline Variance Criteria 3: That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment:
  - a. Facts:
    - (1) The subject property is an area already developed entirely with single family residences.
    - (2) The proposed structure design is compatible in size with existing detached structures.
    - (3) No adverse impacts to the shoreline environment are expected. The proposed structure will be located landward of the high waterline and will meet the shoreline setback requirement.
  - b. Conclusions:
    - (1) As a single family residence the proposed development is compatible with other authorized uses and with uses planned for the area under the comprehensive plan and shoreline master program.
    - (2) No adverse impacts will be caused to the shoreline environment as the required setback from the shoreline will be met and exceeded, and no work shall take place water ward of the high water line.
6. Shoreline Variance Criteria 4: That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area:
  - a. Facts:
    - (1) The proposed use, single family residence, is an allowed use within the Shoreline Master Program.
    - (2) Several other parcels within the same shoreline jurisdiction have constructed single family residences which extend into the various required setbacks, not least those required under the Shoreline Master Program. One such example is the property to the north, 555 5<sup>th</sup> Ave West.
  - b. Conclusion: Because of the presence of other single family residences, built as a result of similar variances, the proposed variance will not constitute a grant of special privilege.

7. Shoreline Variance Criteria 5: That the variance requested is the minimum necessary to afford relief.
  - a. Facts:
    - (1) The proposed variance is within the scope, scale and character of other single family residences around the subject property.
    - (2) The proposed single family residence will meet all other shoreline requirements, despite the aforementioned constraints.
    - (3) The neighbor to the north has provided his support in writing to the Planning Department.
    - (4) The footprint of the proposed structure essentially matches that of the existing structure which was constructed as a result of a prior approved variance to the Shoreline Master Program.
  - b. Conclusion: The requested variance is the minimum necessary to afford relief, in order to accommodate a reasonably sized home on this constrained lot.
8. Shoreline Variance Criteria 8: That the public interest will suffer no substantial detrimental effect.
  - a. Fact: No substantial detrimental effects have been identified.
  - b. Conclusion: The public interest will suffer no substantial detrimental effect as a result of approving the variance for the proposed structure.

#### **F. COMPREHENSIVE PLAN**

1. Fact: The subject property is located within the Market neighborhood. The Market Neighborhood Land Use Map designates the subject property for low density residential use at 1 to 3 units per acre (see Attachment 6)
2. Conclusion: The proposal is consistent with the Comprehensive Plan for the Market Neighborhood.

#### **G. DEVELOPMENT STANDARDS**

1. Fact: Additional comments and requirements placed on the project are found on the Development Standards, Attachment 3.
2. Conclusion: The applicant should follow the requirements set forth in Attachment 3.

### **III. SUBSEQUENT MODIFICATIONS**

Modifications to the approval may be requested and reviewed pursuant to the applicable modification procedures and criteria in effect at the time of the requested modification.

### **IV. APPEALS AND JUDICIAL REVIEW**

The following is a summary of the deadlines and procedures for appeals. Any person wishing to file or respond to a appeal should contact the Planning Department for further procedural information.

## **A. APPEALS**

### 1. Appeal to City Council:

Section 150.80 of the Zoning Code allows the Hearing Examiner's decision to be appealed by the applicant and any person who submitted written or oral testimony or comments to the Hearing Examiner. A party who signed a petition may not appeal unless such party also submitted independent written comments or information. The appeal must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., \_\_\_\_\_, twenty-one (21) calendar days following the postmarked date of distribution of the Hearing Examiner's decision on the application.

### 2. Appeal to Shoreline Hearings Board:

Pursuant to RCW 90.58.180 and WAC 173-27-220 any person aggrieved by the City's final decision on the Shoreline Substantial Development Permit may seek appeal to the State Shoreline Hearings Board by filing a petition for review. All petitions for review shall be filed with the Shoreline Hearings Board within 21 days of the date the Department of Ecology receives the City's decision. Within seven days of filing any petition for review with the Shoreline Hearings Board, the petitioner shall serve copies of the petition for review on the Department of Ecology, the State Attorney General and the City of Kirkland. The petition for review must contain items required by WAC 461-08-055.

## **B. JUDICIAL REVIEW**

Section 150.130 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within 21 calendar days of the issuance of the final land use decision by the City.

## **V. LAPSE OF APPROVAL**

Under Section 150.135 of the Zoning Code, the applicant must submit to the City a complete building permit application approved under Chapter 150, within four (4) years after the final approval on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per Section 150.130, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. Furthermore, the applicant must substantially complete construction approved under Chapter 150 and complete the applicable conditions listed on the Notice of Approval within six (6) years after the final approval on the matter, or the decision becomes void.

## **VI. APPENDICES**

Attachments 1 through 6 are attached.

1. Vicinity Map
2. Proposal Drawings
3. Development Standards
4. Applicant's Response to the Variance Criteria
5. Neighbor's Letter of Support
6. Market Neighborhood Land Use Map

**VII. PARTIES OF RECORD**

Applicant: Dave King, Stuart Silk Architects, 2400 N 45<sup>th</sup> Street, Seattle, WA 98103

Department of Planning and Community Development  
Department of Public Works  
Department of Building and Fire Services

A written decision will be issued by the Hearing Examiner within eight calendar days of the date of the open record hearing.

**Wegner Variance  
SHR10-00001**

Waverly Beach Park

**P**

Waverly Way

11th Ave W

10th Ave W  
6th

**551 5th Avenue West**

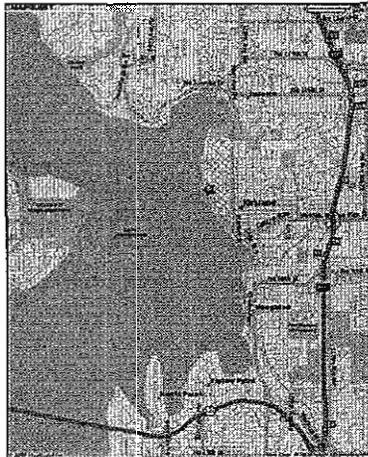
5th Ave W

5th St

Waverly







1 VICINITY PLAN  
Scale 1/4" = 100'-0"

**PROPERTY DATA**

**PROJECT ADDRESS**  
551 5TH AVE. W.  
KIRKLAND, WA 98033

**ZONING DESIGNATION**  
WCH SR

**HEIGHT LIMIT**  
25 ABOVE A.B.E.

**LOT AREA**  
7500 SQ FT

**ASSESSOR'S TAX NUMBER**  
124810-0010-06

**PROJECT DATA**

**OWNER**  
EDWARD WENGER & CRYSTAL ONDO  
3 CHEMIN DES BOUGERIES  
1231 CONCHES, GENIEVE  
SWITZERLAND

**CONTACT:** CRYSTAL ONDO  
PHONE: 011-41-79-696-5779  
CRYSONDO@MAIL.COM

**ALTERNATE CONTACT:** LUCY ONDO  
LUCYONDO@AOL.COM  
PHONE: 425 649 8767

**ARCHITECT**  
STUART SILK ARCHITECTS  
2400 N 45TH STREET SUITE 201  
SEATTLE, WASHINGTON 98102  
PHONE: 206 728 1550  
DAVE@STUARTSILK.COM  
CONTACT: DAVID KING

**SURVEYOR**  
RICHARD OWENS  
PHONE: 206 324 2786  
RGOWENS@COMCAST.NET

**GEOTECHNICAL ENGINEER**  
GEO GROUP NORTHWEST, INC  
PHONE: 425 848 8757

**CONSTRUCTION DATA**

**SCOPE OF WORK**  
DEMOLISH EXISTING AND CONSTRUCT NEW  
SINGLE FAMILY RESIDENCE WITH  
ATTACHED GARAGE.

**AREA SUMMARY**

CONDITIONED SPACE	1024 sq ft
LOWER LEVEL	1012 sq ft
MAIN LEVEL	1418 sq ft
UPPER LEVEL	1418 sq ft
TOTAL	3452 sq ft

**DECK & TERRACE AREAS**

DECKS (2)	134 sq ft
FRONT WALK	154 sq ft
LOWER TERRACE	228 sq ft
TOTAL	538 sq ft

**UNCONDITIONED SPACE**

GARAGE	404 sq ft
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**LOT COVERAGE**

LOT AREA	7500 sq ft
ROOF AREA AREA	1420 sq ft
PAVED AREA	873 sq ft
PERCENT COVERAGE	18.9%

**LEGAL DESCRIPTION**

THE NORTHERLY HALF OF THE FOLLOWING  
DESCRIBED TRACT:  
THAT PORTION OF GOVERNMENT LOT 3, SECTION  
6, TOWNSHIP 25 NORTH, RANGE 5 EAST W.M., IN  
KING COUNTY WASHINGTON, DESCRIBED AS  
FOLLOWS:

COMMENCING AT A POINT IN THE WESTERLY  
MARGIN OF LAKE AVENUE (WAVERLY WAY) SOUTH  
72 DEGREES 07'15" WEST 80 FEET FROM THE  
NORTHWEST CORNER OF LOT 1, BLOCK 11, MAP  
OF KIRKLAND, ACCORDING TO THE PLAT THEREOF  
RECORDED IN VOLUME 8 OF PLATS, PAGE 53, IN  
KING COUNTY WASHINGTON;

THENCE ALONG SAID WESTERLY MARGIN NORTH  
17 DEGREES 04'45" WEST 1168.81 FEET TO THE  
TRUE POINT OF BEGINNING;

THENCE SOUTH 72 DEGREES 07'15" WEST 448.72  
FEET TO A POINT ON INNER HARBOR LINE OF LAKE  
WASHINGTON;

THENCE NORTH 17 DEGREES 22'00" WEST ALONG  
SAID INNER HARBOR LINE 50 FEET, ENTIRE LOT 2;  
THENCE NORTH 72 DEGREES 07'15" EAST 448.84  
FEET TO THE WESTERLY MARGIN OF SAID LAKE  
AVENUE;

THENCE SOUTH 17 DEGREES 08'45" EAST 80  
FEET TO THE TRUE POINT OF BEGINNING;

(ALSO KNOWN AS THE NORTHERLY HALF OF LOT  
2, BLOCK 16B, BURKE AND FARRAR'S KIRKLAND  
DIVISION NO. 37, ACCORDING TO THE  
UNRECORDED PLAT THEREOF)

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SHT	DESCRIPTION
A-1.0	SITE PLAN & PROJECT INFO
A-1.1	ENLARGED SITE PLAN
A-2.0	NORTH & EAST ELEVATIONS
A-2.1	SOUTH & WEST ELEVATIONS
A-3.0	BUILDING SECTIONS
	SURVEY

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DATE: 01-01-10

Attachment 2

DESIGN: SMS, DLK

DRAWN: DLK

CHECKED: AM

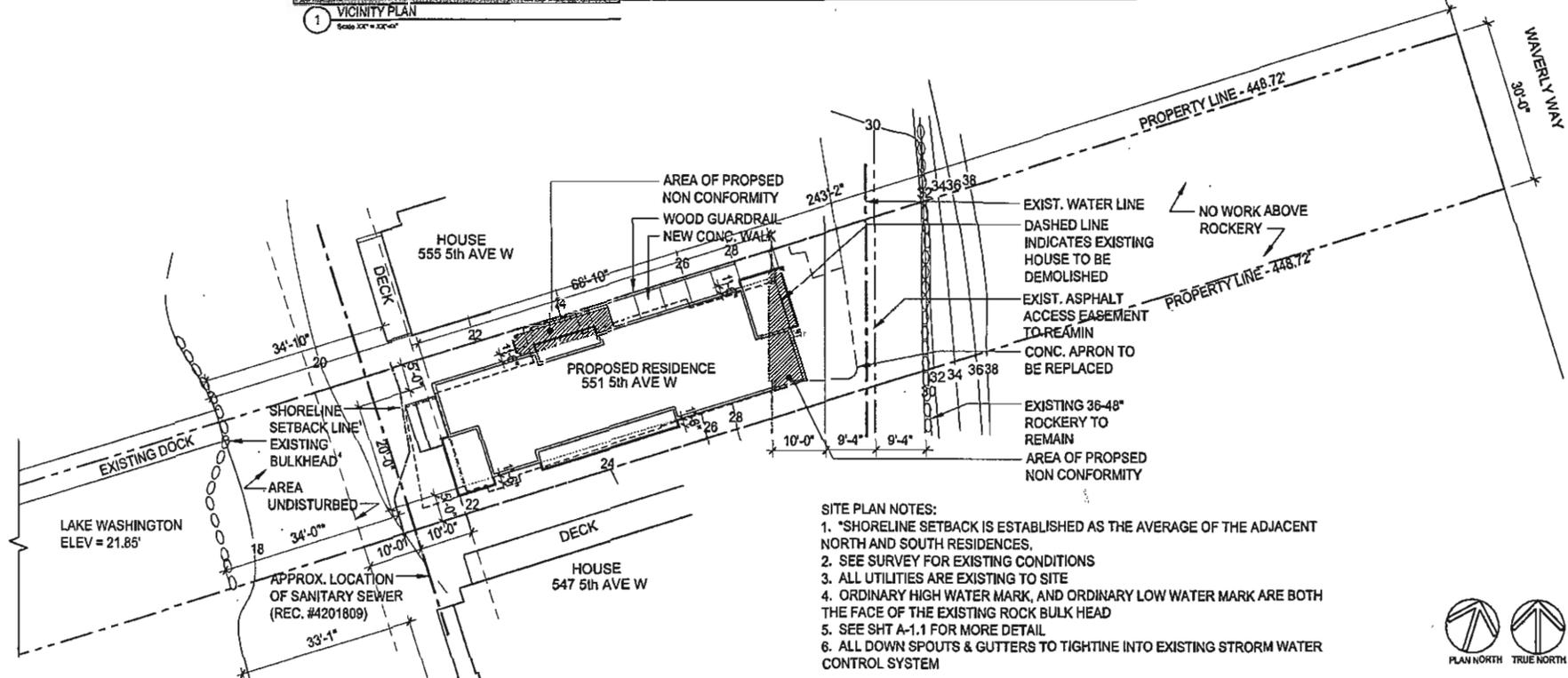
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REVISIONS

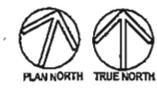
**Stuart Silk Architects**  
2400 North 45th Street  
Seattle, Washington 98103  
206 728 9500 phone  
206 448 1357 fax  
gsen@stuartsilks.com

**WENGER RESIDENCE**  
551 5TH AVE W  
KIRKLAND,  
WA 98033

**ENLARGED SITE PLAN**



- SITE PLAN NOTES:**
- \*SHORELINE SETBACK IS ESTABLISHED AS THE AVERAGE OF THE ADJACENT NORTH AND SOUTH RESIDENCES.
  - SEE SURVEY FOR EXISTING CONDITIONS
  - ALL UTILITIES ARE EXISTING TO SITE
  - ORDINARY HIGH WATER MARK, AND ORDINARY LOW WATER MARK ARE BOTH THE FACE OF THE EXISTING ROCK BULK HEAD
  - SEE SHT A-1.1 FOR MORE DETAIL
  - ALL DOWN SPOUTS & GUTTERS TO TIGHTLINE INTO EXISTING STORM WATER CONTROL SYSTEM



2 SITE PLAN  
Scale 1" = 20'

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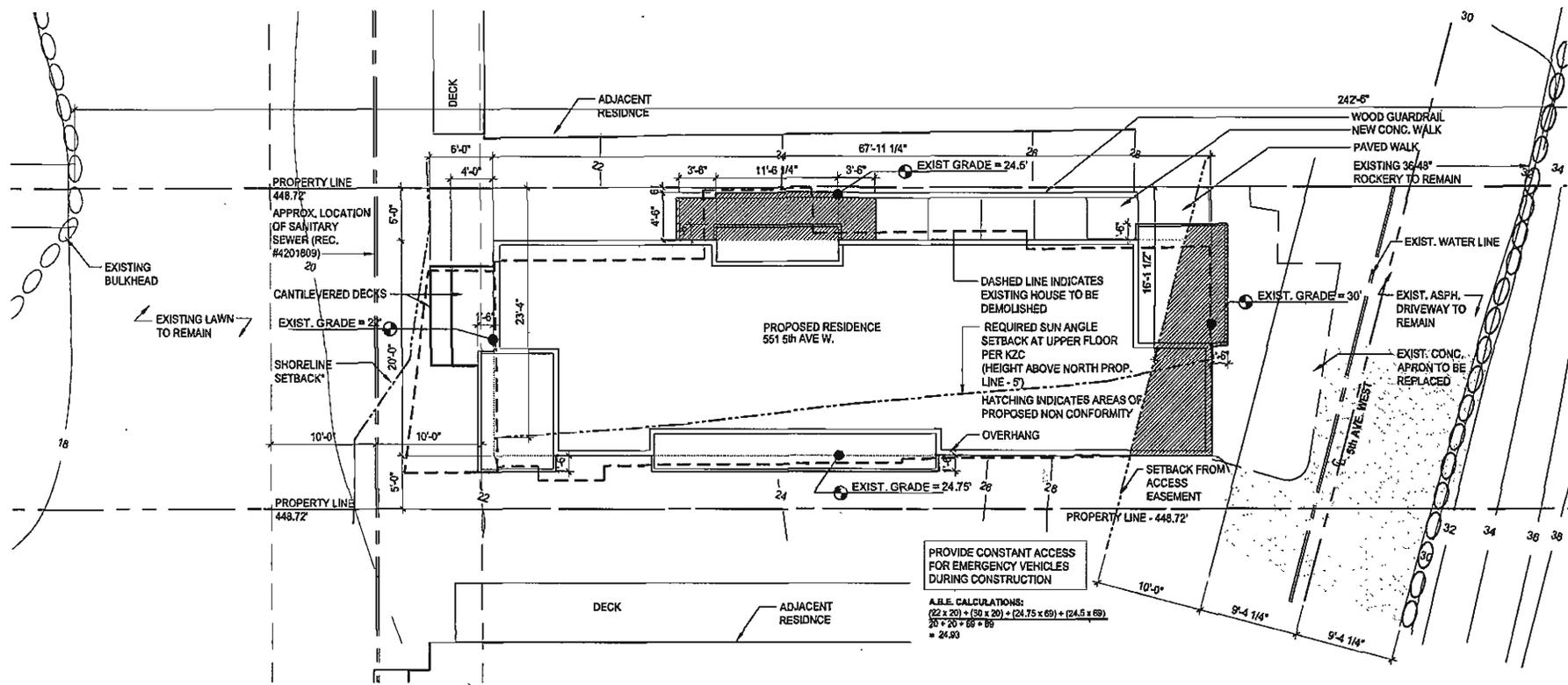
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DRAWN	DLK
CHECKED	AM
DATE	01-01-10

REVISIONS

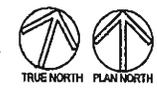
**Stuart Silk Architects**  
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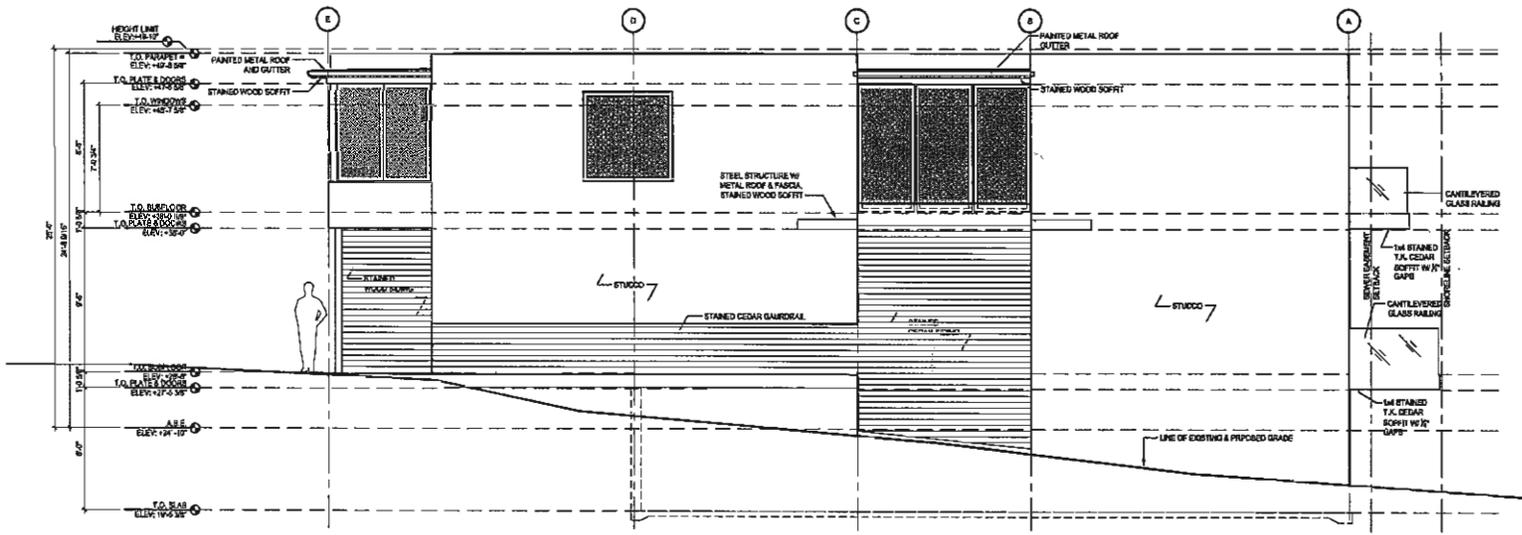
**WENGER RESIDENCE**  
 551 5TH AVE W  
 KIRKLAND,  
 WA 98033

**ENLARGED SITE PLAN**

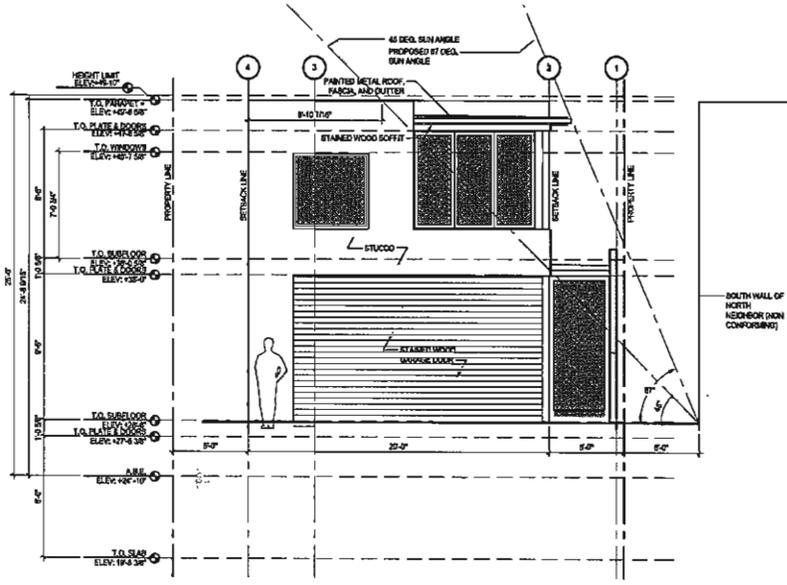


1 ENLARGED SITE PLAN  
 Scale 1" = 10'





1 NORTH ELEVATION  
Scale 1/8" = 1'-0"



2 EAST ELEVATION  
Scale 1/8" = 1'-0"

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DRAWN	DLK, LG
CHECKED	AM
DATE	01-01-10

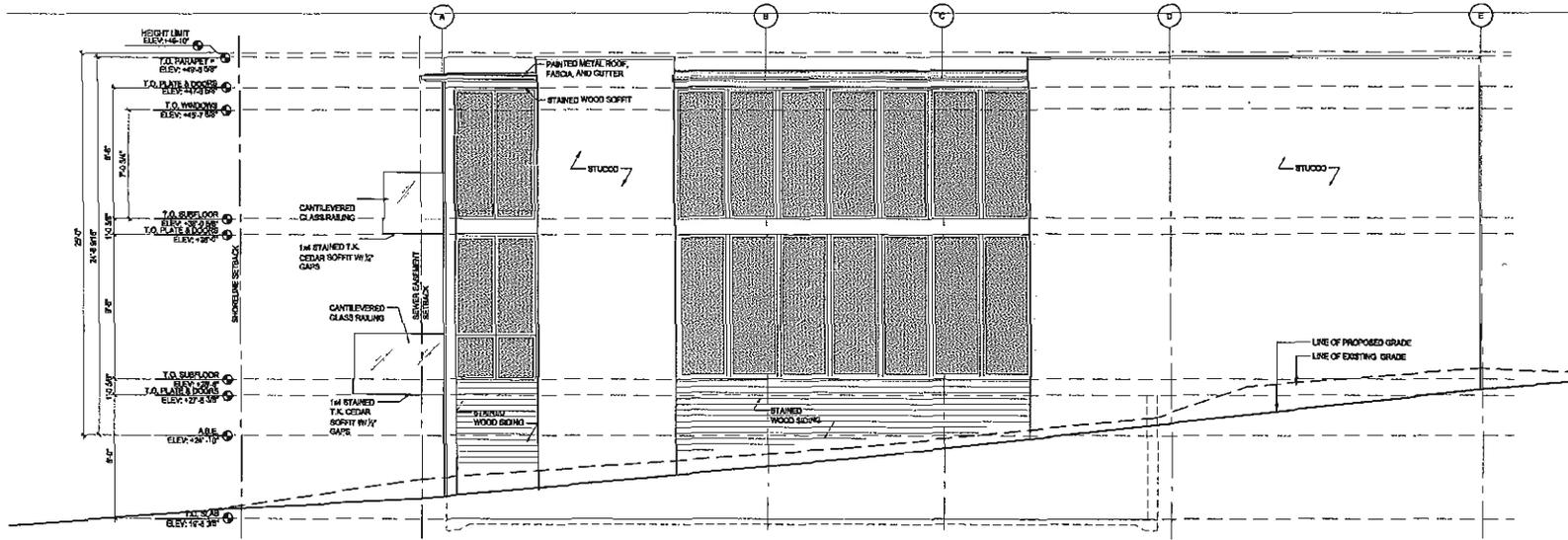
REVISIONS

**Stuart Silk Architects**  
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Seattle, Washington 98103  
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206-448-1337 fax  
general@stuartsilksilk.com

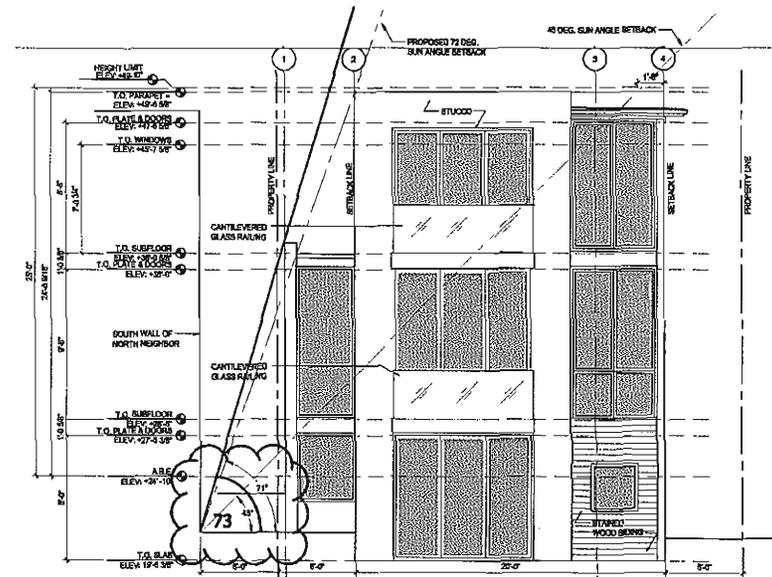
**WENGER RESIDENCE**  
551 5TH AVE W  
KIRKLAND,  
WA 98033

**NORTH & EAST ELEVATIONS**

A-2.0



1 SOUTH ELEVATION  
Scale 1/8" = 1'-0"



2 WEST ELEVATION  
Scale 1/8" = 1'-0"

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**WENGER RESIDENCE**  
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KIRKLAND,  
WA 98033

**SOUTH & WEST ELEVATIONS**

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DATE 01-01-10

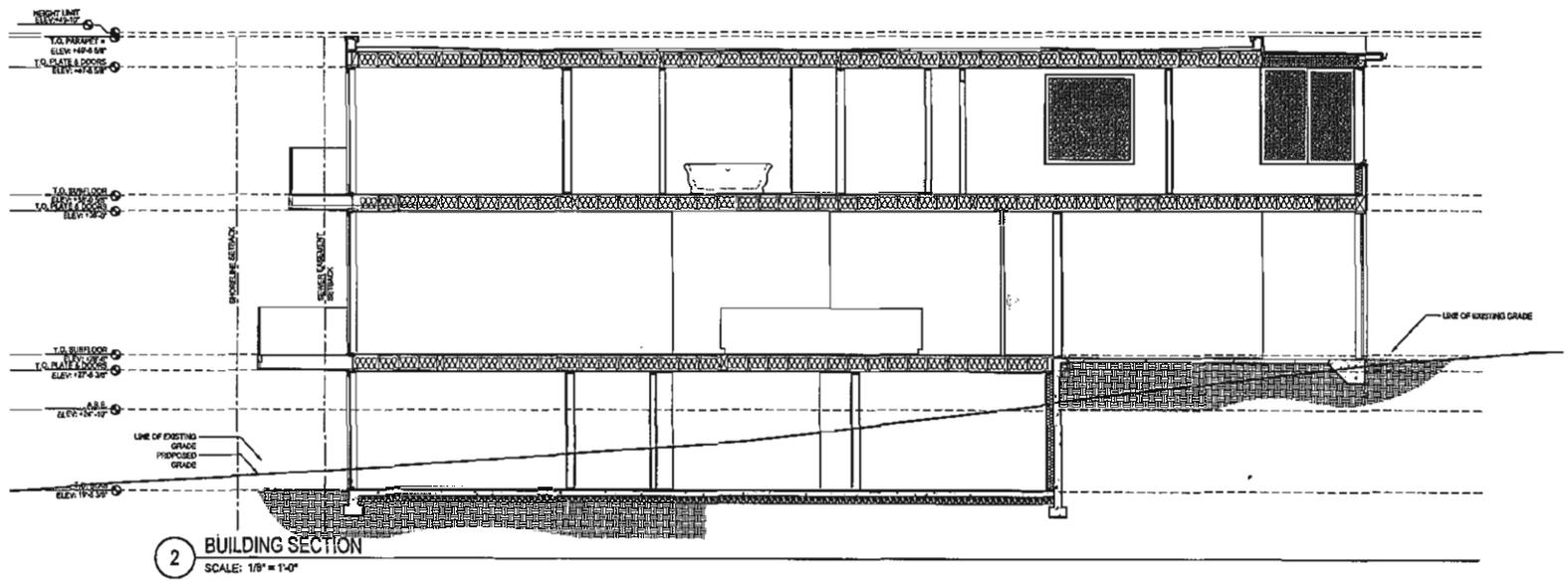
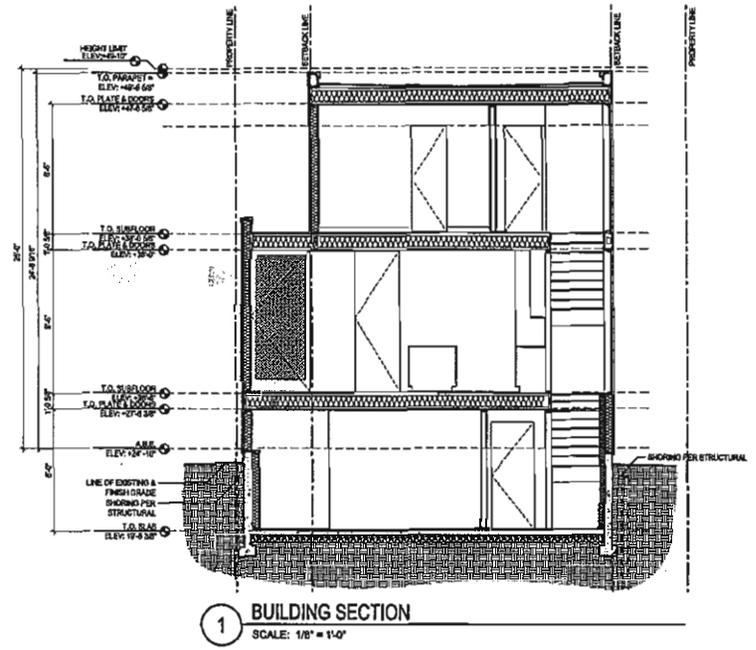
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**WENGER RESIDENCE**  
551 5TH AVE W  
KIRKLAND,  
WA 98033

**BUILDING SECTIONS**

A-3.0







## CITY OF KIRKLAND

Planning and Community Development Department  
123 Fifth Avenue, Kirkland, WA 98033 425.587-  
3225

[www.ci.kirkland.wa.us](http://www.ci.kirkland.wa.us)

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### DEVELOPMENT STANDARDS LIST

File: SHR10-00001 / ZON10-00003 - Wenger

#### **SHORELINE MASTER PROGRAM STANDARDS**

##### **WAC173-27-190 Substantial Development, Conditional Use, or Variance Permits.**

Construction pursuant to a substantial development, conditional use, or variance permit shall not begin and is not authorized until 21 days from the date of filing, or until all review proceedings initiated within 20 days from the date of filing have been terminated, except as provided in RCW90.58.140(5)(a) & (b).

#### **ZONING CODE STANDARDS**

**85.25.1 Geotechnical Report Recommendations.** The geotechnical recommendations contained in the report by Geo Group Northwest, Inc. dated August 29, 2008 shall be implemented.

**95.52 Prohibited Vegetation.** Plants listed as prohibited in the Kirkland Plant List shall not be planted in the City.

**105.20 Required Parking.** 2 parking spaces are required for this use.

**115.25 Work Hours.** It is a violation of this Code to engage in any development activity or to operate any heavy equipment before 7:00 am. or after 8:00 pm Monday through Friday, or before 9:00 am or after 6:00 pm Saturday. No development activity or use of heavy equipment may occur on Sundays or on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day. The applicant will be required to comply with these regulations and any violation of this section will result in enforcement action, unless written permission is obtained from the Planning official.

**115.40 Fence Location.** Fences over 6 feet in height may not be located in a required setback yard. A detached dwelling unit abutting a neighborhood access or collector street may not have a fence over 3.5 feet in height within the required front yard. No fence may be placed within a high waterline setback yard or within any portion of a north or south property line yard, which is coincident with the high waterline setback yard.

**115.43 Garage Requirements for Detached Dwelling Units in Low Density Zones.** Detached dwelling units served by an open public alley, or an easement or tract serving as an alley, shall enter all garages from that alley. Whenever practicable, garage doors shall not be placed on the front façade of the house. Side-entry garages shall minimize blank walls. For garages with garage doors on the front façade, increased setbacks apply, and the garage width shall not exceed 50% of the total width of the front façade. These regulations do not apply within the disapproval jurisdiction of the Houghton Community Council. Section 115.43 lists

Attachment 3

other exceptions to these requirements.

**115.75.2 Fill Material.** All materials used as fill must be non-dissolving and non-decomposing. Fill material must not contain organic or inorganic material that would be detrimental to the water quality, or existing habitat, or create any other significant adverse impacts to the environment.

**115.90 Calculating Lot Coverage.** The total area of all structures and pavement and any other impervious surface on the subject property is limited to a maximum percentage of total lot area. See the Use Zone charts for maximum lot coverage percentages allowed. Section 115.90 lists exceptions to total lot coverage calculations See Section 115.90 for a more detailed explanation of these exceptions.

**115.95 Noise Standards.** The City of Kirkland adopts by reference the Maximum Environmental Noise Levels established pursuant to the Noise Control Act of 1974, RCW 70.107. See Chapter 173-60 WAC. Any noise, which injures, endangers the comfort, repose, health or safety of persons, or in any way renders persons insecure in life, or in the use of property is a violation of this Code.

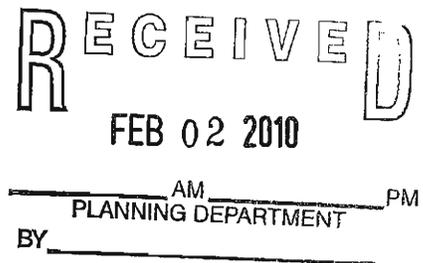
**115.115 Required Setback Yards.** This section establishes what structures, improvements and activities may be within required setback yards as established for each use in each zone.

**115.115.3.g Rockeries and Retaining Walls.** Rockeries and retaining walls are limited to a maximum height of four feet in a required yard unless certain modification criteria in this section are met. The combined height of fences and retaining walls within five feet of each other in a required yard is limited to a maximum height of 6 feet, unless certain modification criteria in this section are met.

**115.115.3.p HVAC and Similar Equipment:** These may be placed no closer than five feet of a side or rear property line, and shall not be located within a required front yard; provided, that HVAC equipment may be located in a storage shed approved pursuant to subsection (3)(m) of this section or a garage approved pursuant to subsection (3)(o)(2) of this section. All HVAC equipment shall be baffled, shielded, enclosed, or placed on the property in a manner that will ensure compliance with the noise provisions of KZC 115.95.

**95.50.2.b Tree Maintenance.** For detached dwelling units, the applicant shall submit a 5-year tree maintenance agreement to the Planning Department to maintain all pre-existing trees designated for preservation and any supplemental trees required to be planted.

February 02, 2010



## Request for Variance

**Subject Property:** Wenger Residence 551 5<sup>th</sup> Ave. West Kirkland, WA 98033

**Tax Parcel #:** 124810-0010-06

**Legal Description:** Attached

**Lot Size:** 7500 S.F.

**Zoning:** Waterfront District II (WDII), Suburban Residential (SR)

**Current Land Use:** Single family detached

**Attached Reports:** Geotechnical Engineering Report by Geo Group Northwest, Inc.

**Attached Drawings:** A-1.0 Site Plan, A-1.1 General Notes, A-2.0 Lower Floor Plan, A-2.1 Main Floor Plan, A-2.2 Upper Floor Plan, A-2.3 Roof Plan, A-3.0 N&E Elevations, A-3.1 S&W Elevations, A-4.0 Building Sections, A-5.0 Wall Sections.

**Attached Photographs:** Existing East Elevation, Existing West Elevation

**Attached Renderings:** Proposed East Elevation, Proposed West Elevation

**Applicable Comprehensive Plans:** City of Kirkland Shoreline Variance – Process IIA Review and Zoning Permit Variance

### Proposed Project:

Existing single family residence to be demolished and replaced with a new single family residence. Portions of the existing south and north walls are non-conforming, and the existing north entry bump out falls within inches of the north property line. For the new residence, we propose to provide 5' setbacks to the north and south, with the exception of a new, one story entry bump out, which would be located in approximately the same location as the existing, non conforming entry. The new conditioned area will be 3452 s.f., with a 404 s.f., garage, and 538 s.f. of decks & terraces. It is a 3 story, 4 bedroom house, with a daylight basement and two car garage. Currently the access easement, 5<sup>th</sup> Ave. West, runs through the middle of each lot along the street, with many garage walls within the access easement setback.

### Variance Requests:

1. **Increase Sun Angle Setback from 45 to 67 degrees.**
2. **Maintain existing non-conformity at north side yard for entry bump out.**
3. **Maintain existing non-conformity at access easement setback on east side of residence.**
4. **Maintain existing non-compliance with garage requirements for detached dwelling units in low density zones (KCZ 115.43).**

### General Discussion of Site Conditions and Proposal:

The lot is a legal lot and one of only two along the street that are 30 feet wide (typical lot in this area is 60' wide). It was created before enactment of the current zoning code and well before the owner purchased the property. Due to the limited width of the lot, compliance with the city's "Sun Angle Set Back" ordinance severely limits development options. In addition to its unusually small width, the lot is bisected by 5<sup>th</sup> Ave. West, which is the access road for the entire neighborhood. The buildable area (distance between west access easement setback and shoreline setback) is minimal, and further

limits development options. Because the eastern portion of the lot (east of 5<sup>th</sup> Ave.) is very steep, development options are limited still further.

**Criteria for Granting Variance for Sun Angle Setback:**

**1. The variance will not be materially detrimental to the property or to improvements in the area of the subject property or to the City in part or as a whole.**

*For the following reasons, we request relief through variance:*

- a. The proposed residence follows nearly the same footprint as the existing residence.
- b. The existing residence has an almost identical portion of its structure encroaching into the north side yard setback.
- c. The height of the portion of structure at encroachment is kept to one story to minimize its impact.
- d. Proposed encroachment into required side yard setbacks is decreased overall as compared to the existing residence.
- e. The property is third from the end of 5<sup>th</sup> Ave. West and has little to no impact on neighbors to the south.
- f. The existing structure is unsound, and the design does not keep with current development along the street.
- g. Most residences along 5<sup>th</sup> Ave. West, including the existing residence, have non-conforming, east facing garage walls.

**2. The variance is necessary because of special circumstances regarding the size, shape, topography, or location of the subject property, or the location of the preexisting improvement on the subject property that conformed to the Zoning Code in effect when the improvement was constructed:**

*For the following reasons, we request relief through variance:*

- a. The extremely narrow nature of the lot severely limits development. To abide by the "Sun Angle Ordinance" would require a upper floor width of under 10' at the east side (exterior dimensions), and a main floor width of under 10' on the west side (no upper floor would be allowed at the west side).
- b. Compliance with side yard setback prevents the development of an adequate entry space due to the extremely narrow nature of the lot.
- c. The 30' wide lot which is unusual for the neighborhood. The typical lot is 60' wide.
- d. The lot is bisected by 5<sup>th</sup> Ave. West. The eastern portion is an environmentally sensitive steep slope, so development on this portion is not ideal.
- e. The distance between the west access easement setback and the sewer easement setback is minimal and therefore limits development options.

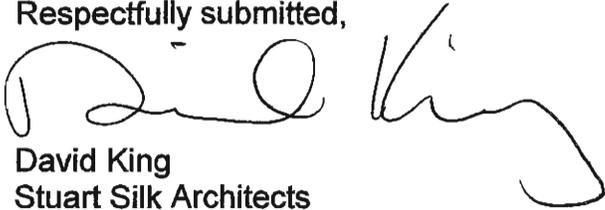
**3. The variance would not constitute a grant of special privilege to the subject property which is inconsistent with the general rights that this code allows to other property in the same area and zone as the subject property.**

*For the following reasons, we request relief through variance:*

- a. The proposed residence follows nearly the same footprint as is existing residence.
- b. The neighbor to the north was granted a variance to increase the sun angle (2003). Therefore there is precedent for this variance.

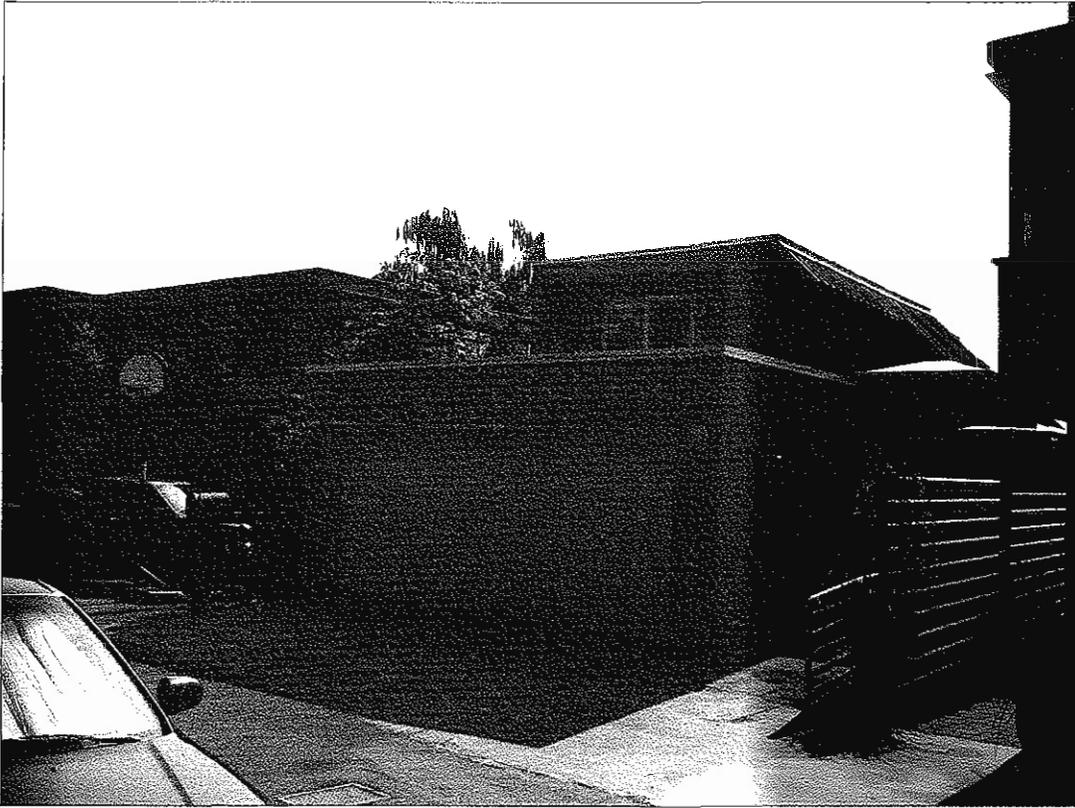
- c. The neighbor to the north was granted a variance to maintain existing non-conformity at access easement to the east in (2003). Therefore there is precedent for this variance.
- d. The neighbor to the north was granted a variance to build within setbacks (2003). Therefore there is precedent for this variance.
- e. The existing residence, as well as most others on 5<sup>th</sup> Ave W, have eastern facing walls with garage doors that do not conform to the easement setback, or to KCZ 115.43.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David King". The signature is fluid and cursive, with a large initial "D" and a long, sweeping tail.

David King  
Stuart Silk Architects

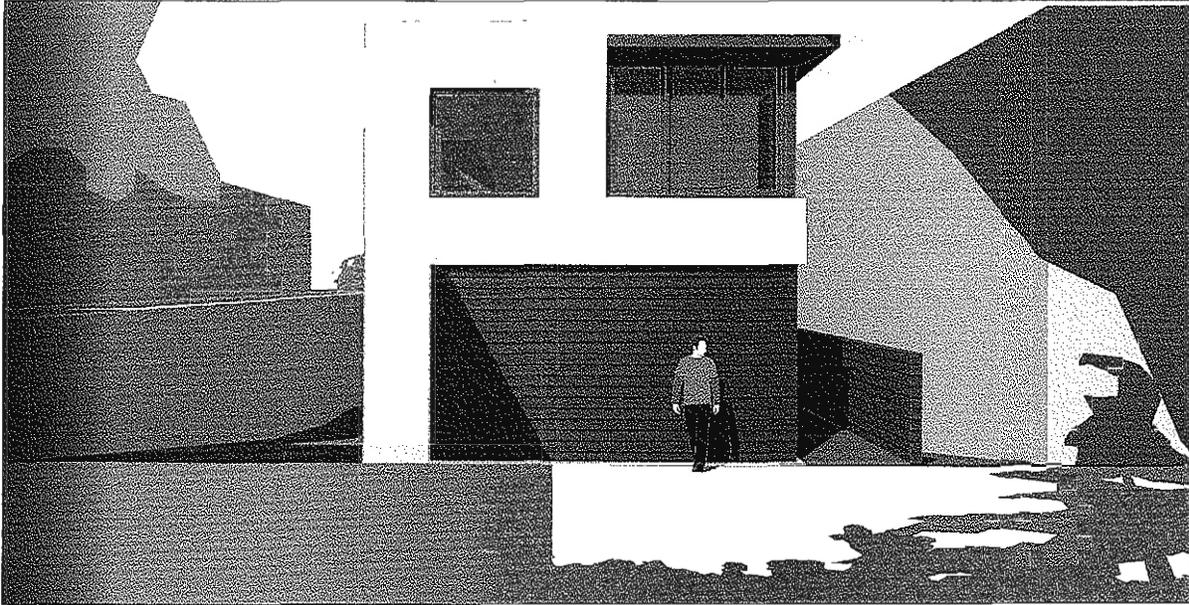




Existing East Elevation



Existing West Elevation



Proposed East Elevation



Proposed West Elevation

**GEORGE R. OSBORNE, JR.**

P. O. Box 97010

Kirkland, Washington 98083-9710

425-827-4221

Facsimile 425-828-4314

RECEIVED  
FEB 17 2010

PLANNING DEPARTMENT

BY \_\_\_\_\_

February 12, 2010

Sean LeRoy  
City Hall, 123 5<sup>th</sup> Ave.  
Kirkland, WA 98033-6189

Dear Mr LeRoy,

I am the owner of the property at 555th Ave West. Crystal Ondo and Edward Wenger are the owners of the property immediately to the south of mine. They propose to build a new house within the footprint of their existing house. I have reviewed the plans for their new house which include a portion of the dwelling unit which will be zero lot line with my property. Their proposed dwelling is also closer to the property line that might be allowed by the zoning code without a variance. I fully support the granting of a variance to the zoning code, the demolition of their existing house and the construction of the new house as depicted in their plans. I think the new structure will be a great addition to our neighborhood.

Please contact me if you need any additional information.

Sincerely,



George Osborne

Attachment 5



Joanne Shellan & John Schwabacher  
545 5<sup>th</sup> Ave West  
Kirkland, WA 98033  
425.822.2144

April 18, 2010

Sean LeRoy  
City Hall, 123 5<sup>th</sup> Ave  
Kirkland, WA 98033

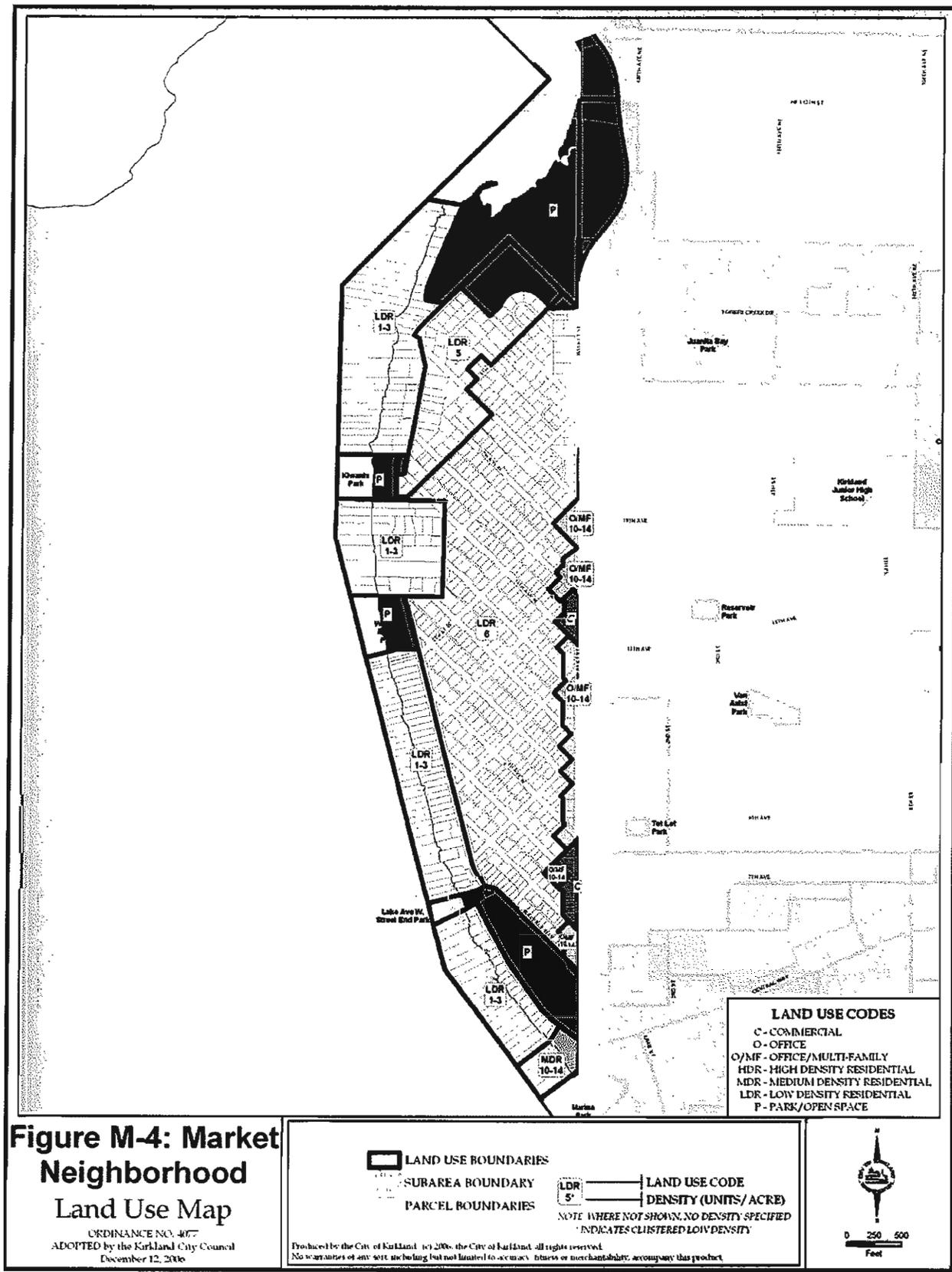
Dear Mr. Le Roy,

We live at the property at 545 5<sup>th</sup> Ave West in Kirkland, just one house south of Edward Wenger and Crystal Ondo. We have been made aware of their building intentions and that the excavation will occur near our common property line. We approve of them taking down the old house, getting a variance, and building a new house. We will welcome them to our neighborhood.

Sincerely,

Joanne Shellan & John Schwabacher





**Figure M-4: Market Neighborhood Land Use Map**  
 ORDINANCE NO. 4077  
 ADOPTED by the Kirkland City Council  
 December 12, 2006

**Figure M-4: Market Neighborhood Land Use**

*Attachment 6*