Development Services

From Concept to Construction

Phone: 503-823-7300 Email: bds@portlandoregon.gov 1900 SW 4th Ave, Portland, OR 97201 More Contact Info (http://www.portlandoregon.gov//bds/article/519984)





APPEAL SUMMARY Status: Hold for Additional Information - Held over from ID 18983 (2/13/19) for additional information Appeal ID: 20438 Project Address: 3212 SW 10th Ave Hearing Date: 5/22/19 Appellant Name: Robert Evenson Case No.: B-019 Appellant Phone: 503-221-0890

	- + P
Appeal Type: Building	Plans Examiner/Inspector: Guy Altman
Project Type: commercial	Stories: 3+ Occupancy: R-2 over S-2 Construction Type: V-B
Building/Business Name:	Fire Sprinklers: Yes - throughout
Appeal Involves: Addition to an existing structure, Reconsideration of appeal	LUR or Permit Application No.:
Plan Submitted Option: pdf [File 1]	Proposed use: Apartments & garage

APPEAL INFORMATION SHEET

Appeal item 1

Code Section	705.8
Requires	Table 705.8 - Maximum area of exterior wall openings based on Fire Separation
	Distances and degree of opening protection.
	This relates to the window openings on the North elevation
	Fire Separation Distance is defined by the code as follows:
	"The distance measured from the building face to one of the following:"
	The closest interior lot line (existing measurement)
	To the centerline of a street, an alley or public way
	To an imaginary line between two buildings on the lot (proposed measurement)
Proposed Design	We designed the Forward Building additions to provide affordable living units for medical students
	at the nearby OHSU. The units are small to fit the restricted site, but we want to maximize the
	livability, while still qualifying as low-income units.
	The proposed building is a three-story addition over an existing one-story garage with a 3-hour
	concrete separation between the existing garage .level and the 3 floors of living levels above. The
	existing portion of the building fills the total 50' x 100' site, property line to property line.
	We originally provided a five-foot setback for the window wall on the north elevation to meet Table
	705.8 requirements for a sprinkled building and unrated windows.
	The owners/ developers of the Forward Building also own the north, adjacent property, a three
	story 4-plex that is one story above grade where it abuts the existing garage level of the proposed
	building as indicated on the attached photos and drawings. The 4-plex abuts the existing garage

Appeals | The City of Portland, Oregon

for 50 feet or half of the length, and provides a 36" high parapet, as shown on Sheet A2.2 Because of the common property ownership, and with the use of a recorded covenant, we should be able to revise the Fire Separation Distance to a line ten feet between the proposed building addition and an imaginary line on the adjacent property to the north. That would allow us to move the north exterior window wall closer to the existing property line than the current five-foot setback, increasing the size of the living units, and allow the unrated openings to be sized up to 25% of the exterior wall per 705.8.

We are currently working with Nancy Thorington at BOS to create the covenant, a draft of Which is attached.

Reason for alternativeThe Building Code allows for the Fire Separation Distance to be measured as an imaginary line
between two buildings on the same lot. That requirement can be achieved while keeping separate
lots, and placing a "Not to Sell Covenant" or other appropriate legal restriction on the adjacent lot
that is in common ownership. The main benefit will be to allow the living units on the north side of
the proposed building to be larger and more comfortable for the tenants. This will make this a
viable, doable project in line with the City's goals of walkability, green, low-income housing and
car-share all "forward thinking."
There is also structural benefit and aesthetic benefit to stacking the 3-story addition

directly over the existing concrete garage walls.

Appeal item 2

Appear item z	
Code Section	Table 705.8
Requires	Table 705.8 - Maximum area of exterior wall openings based on Fire Separation Distances and degree of opening protection. This relates to window openings on the South elevation
Proposed Design	In order to maximize the size of each micro living unit on the upper 3 levels, the south exterior wall at all these units is held back 3 feet from the south property line, while the adjacent one-hour rated exterior walls without windows are closer to the property line (two slightly different wall planes).
	We propose to size the window openings on the south elevation the same as the north, east and west elevations as indicated on the submitted drawings. Table 705.8 would limit the size of the south openings to 15% and force us to reduce the window sizes to an unreasonably small size, considering this is the only window in each unit. The proposed window sizes do not exceed the 25% of exterior wall calculation, which we feel provides more natural light and is therefore more livable than 15%.
	We propose to put a water curtain using automatic sprinklers at oil these window openings which provides better fire protection to the units as noted in 705.8.2.
Reason for alternative	The goal is to provide the best living conditions within each living unit, including maximizing natural light where possible. Providing a water curtain at each window provides a reasonable alternative and better fire safety to each unit, rather than limiting the window sizes to 15% of the exterior wall.
Appeal item 3	
Code Section	Section 705.8.6.2
Requires	Section 705.8.6.2 Vertical Exposure for Buildings on Separate Lots "When a new building is erected adjacent to an existing building, all openings in the exterior wall of

https://www.portlandoregon.gov/bds/appeals/index.cfm?action=entry&appeal id=20438

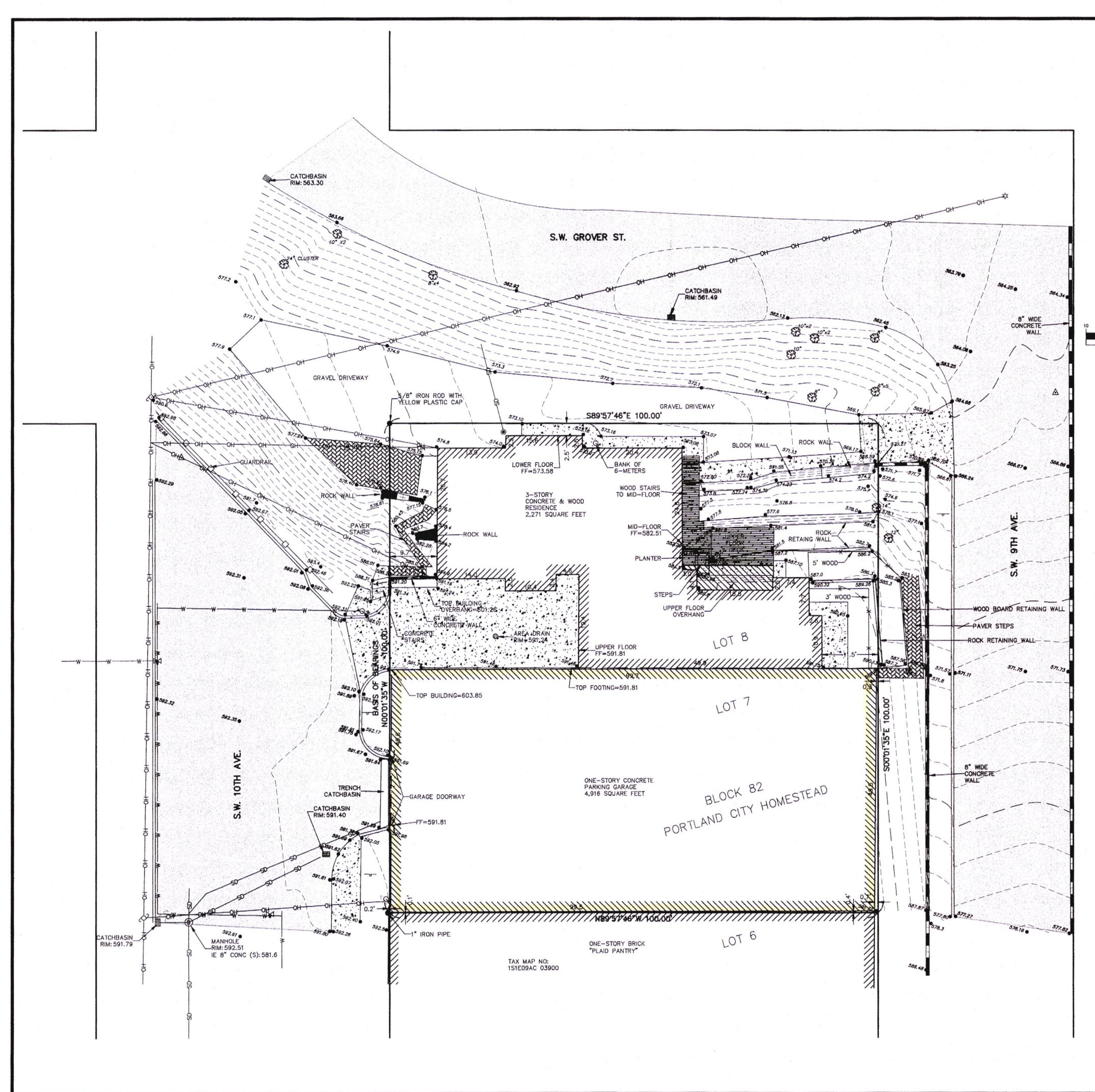
	the new building are required to be not less than ³ / ₄ hour when the openings are less than 15 feet vertically above the roof of the existing building".
	This relates to window openings within 15 feet on both the north and south sides, but only on the first living level, which is within 15 feet.
Proposed Design	The new building will be sprinklered throughout.
	The existing building to the north is under the same ownership as noted above. There is an
	existing 36" high concrete/ masonry parapet wall at the roof to the south as well as on the north side.
	The floor of the first living level is a 3-hour rated concrete separation above the garage.
	We are proposing to provide a water curtain tied to the sprinkler system to all the first level units or
	both the north and south sides of the new building.
Reason for alternative	The overall goal is to provide the best possible fire and life safety within all the living units while utilizing the same sized unrated windows on both the north and south living units that do not exceed 25% of the exterior wall at each level.
	We feel that providing a code approved water curtain tied to the sprinkler system to all the living units on the first living level provides better safety and protection to the tenants.
	All the requested Building Code Appeals are related to each other and based largely on existing site conditions on the north and south. To provide the best and safest living conditions within the
	units, and as well to create an affordable, handsome and harmonious building design, we are compelled to request the Building Code Appeals noted above. We hope you will approve them all.
	Thank you for your consideration.

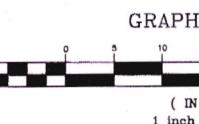
1. Increase in North exterior wall openings from 15 to 25 percent with covenant to not sell properties separately: Hold for additional information.

2. Increase in South exterior wall openings from 15 to 25 percent with covenant to not sell properties separately: Hold for additional information.

3. Type 13 water curtain sprinkler protection at non-fire rated openings in buildings with vertical exposure on separate lots: Hold for additional information.

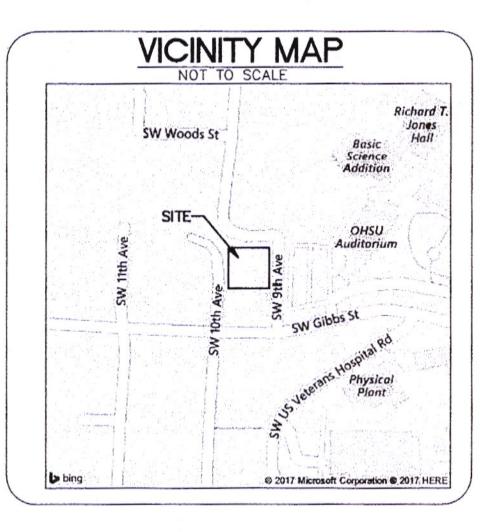
Appellant may contact John Butler (503 823-7339) with questions.



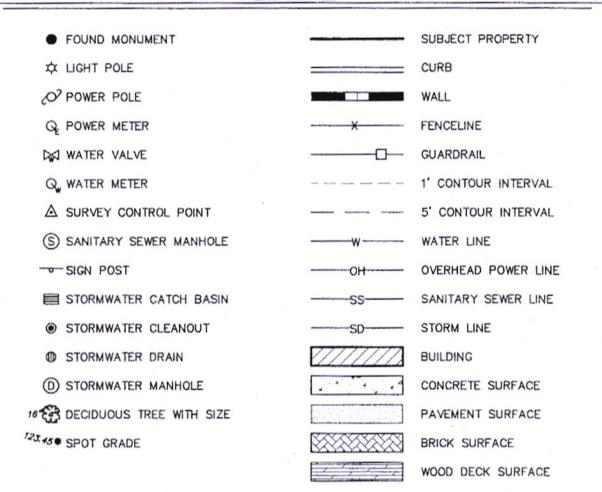


TOPOGRAPHIC SURVEY

SITUATED IN THE N.E. 1/4 OF SECTION 9, T.1S, R.1E, W.M. CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON



LEGEND

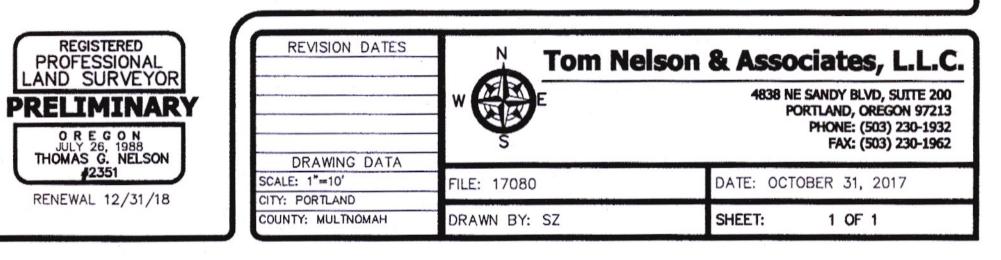


GENERAL NOTES

- 1. THE BASIS OF BEARING FOR THIS SURVEY IS THE EAST LINE OF SW 10TH AVENUE AS SHOWN ON THAT SURVEY FILED FOR RECORD AS SN 61278, SURVEY RECORDS OF MULTNOMAH COUNTY, OREGON. SAID EAST LINE OF SW 10TH AVENUE BEARS NORTH 00'01'35" WEST.
- 2. VERTICAL ELEVATIONS ARE BASED ON CITY OF PORTLAND BENCHMARK #1053 WITH A PUBLISHED ELEVATION OF 642.425 FEET (CITY OF PORTLAND DATUM).
- 3. THE PROPERTY IS DESIGNATED BY MULTNOMAH COUNTY, OREGON AS PARCEL NO. 1S1E09AC-04000 AND 1S1E09AC-04100.
- 4. TOM NELSON & ASSOCIATES, L.L.C., DID NOT CONDUCT THE ORIGINAL BOUNDARY SURVEY OF THIS PROPERTY. TOM NELSON & ASSOCIATES, L.L.C., RECOVERED A SUFFICIENT NUMBER OF POINTS SET OR FOUND BY SURVEY NUMBER 61278, MULTNOMAH COUNTY SURVEY RECORDS, TO RECONSTRUCT THE LOCATION OF THE BOUNDARY AS SHOWN HEREON. THE BEARING, DISTANCE AND IMPROVEMENT LOCATIONS SHOWN ON THIS MAP ARE BASED ENTIRELY ON THE PROPERTY LINES AS DETERMINED BY SN 61278. EVEN THOUGH WE HAVE NO REASON TO QUESTION THIS SURVEY, WE LIMIT OUR GUARANTEE TO THE EXTENT THAT OUR SURVEY IS CORRECT ONLY IF THE PROPERTY SURVEYED AND PLATTED IS, IN FACT, A TRUE AND ACCURATE SURVEY OF THE PROPERTY.
- 5. THE UTILITIES SHOWN ON THIS MAP ARE LOCATED FROM APPARENT SURFACE FEATURES AND PAINT MARKS ON THE GROUND AS LOCATED BY OTHERS. PIPE LOCATIONS ARE THE RESULT OF OUR DRAWING A STRAIGHT LINE BETWEEN SURFACE FEATURES OR SAID PAINT MARKS. SURFACE FEATURES MAY ALSO INCLUDE WATER VALVES, MANHOLES, ETS. THE PAINT MARKS ON THE GROUND ARE COLOR CODED AND TYPICALLY RESULT FROM A CALL TO THE "ONE CALL" UTILITY LOCATION CENTER.

WE MAKE NO GUARANTEE TO THE ACCURACY OR COMPLETENESS OF ANY UTILITY INFORMATION SHOWN ON OUR MAP. WE HAVE NO INFORMATION TO GUARANTEE THAT THE PIPES ARE IN FACT A STRAIGHT LINE BETWEEN SURFACE FEATURES OR THAT THE PAINT MARKS ARE ACCURATELY LOCATED.

6. THIS MAP IS BASED OF A FIELD SURVEY CONDUCTED ON OCTOBER 18 AND 19, 2017, ANY MODIFICATIONS TO THE SITE AFTER THESE DATES WILL NOT BE REFLECTED HEREON.



GRAPHIC SCALE

(IN FEET) 1 inch = 10 ft.





PROPERTIES UNDER COMMON OWNERSHIP

1/31/2019

W-

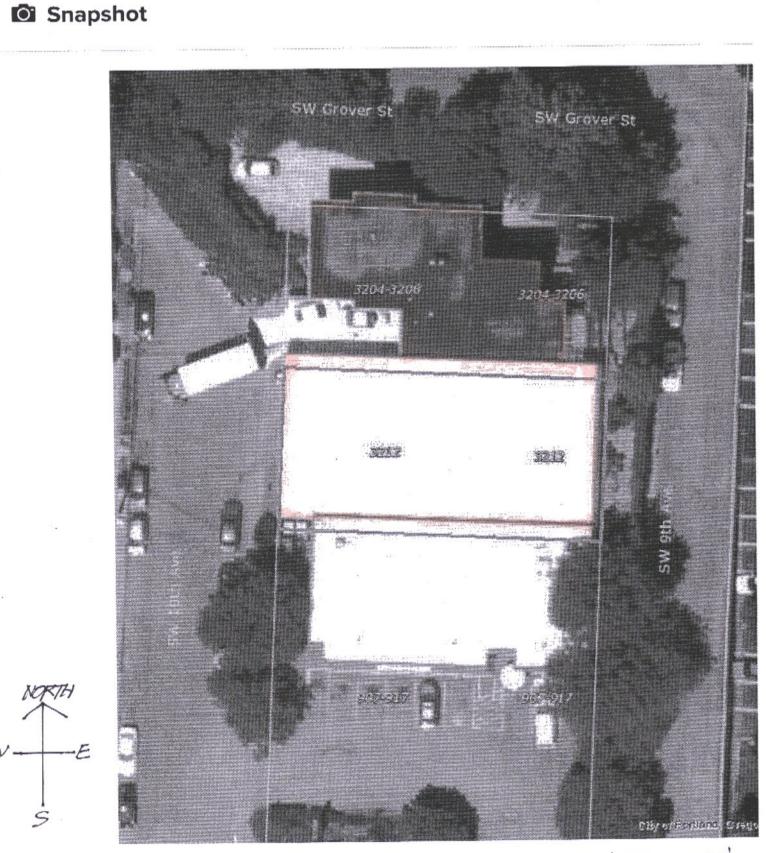
5

PortlandMaps: 3212 SW 10TH AVE



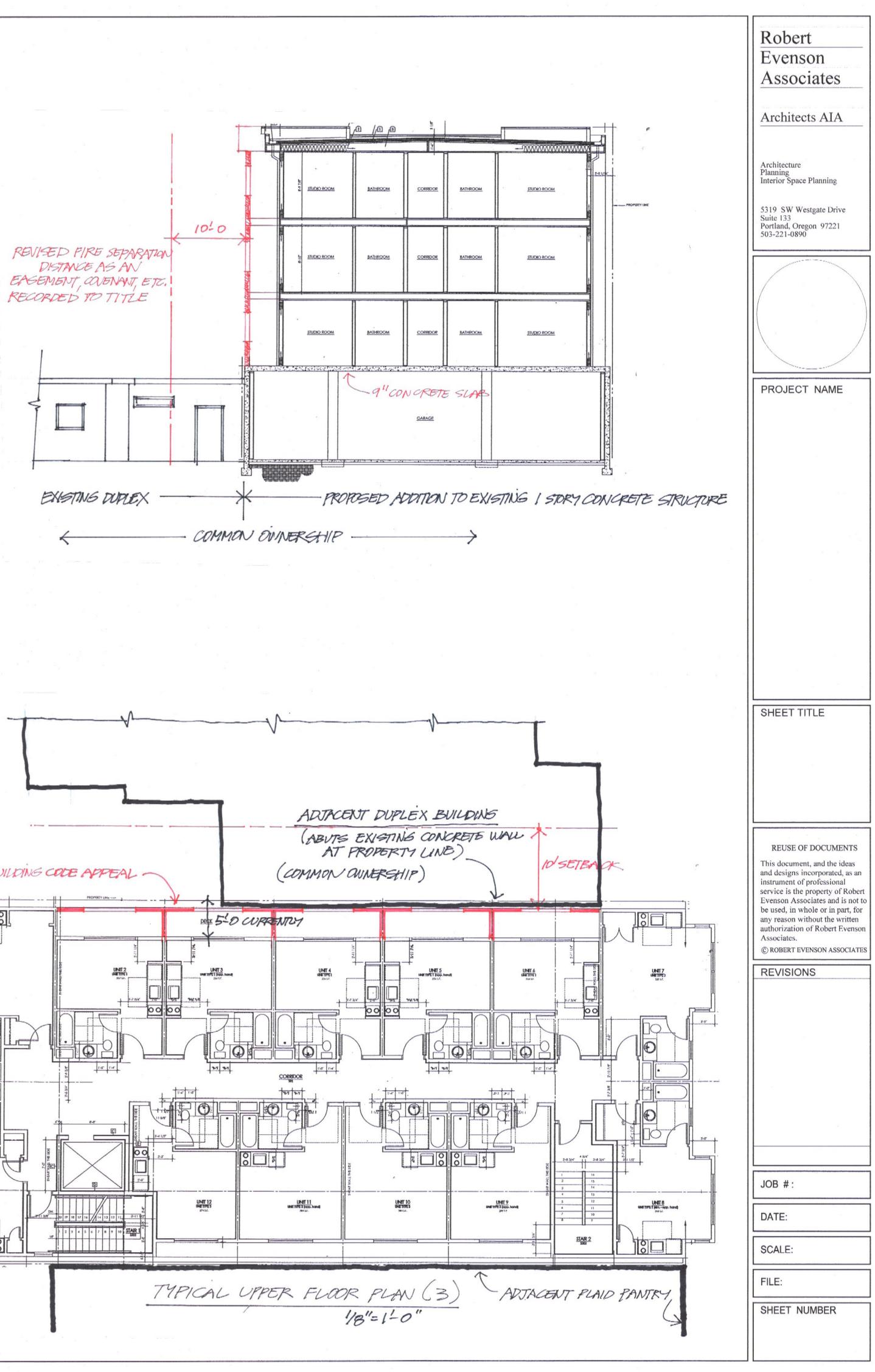
FIRE SEPARATION DISTANCE. The distance measured from the building face to one of the following: 1. The closest interior *lot line*;

face of the wall.



ADJACENT PROPERTIES UNDER COMMON ONNERSHIP

	DEGREE OF OPENING PROTECTION	ALLOWABLE AREA*
	Unprotected, Nonsprinklered (UP, NS)	Not Permitted
0 to less than 3 ^{b, c}	Unprotected, Sprinklered (UP, S) ⁱ	Not Permitted
	Protected (P)	Not Permitted
-	Unprotected, Nonsprinklered (UP, NS)	Not Permitted
3 to less than 5 ^{d, e}	Unprotected, Sprinklered (UP, S)i	15%
	Protected (P)	15%
1977 - 1977 - 1977 - 1977 - 1977 - 1977 - 1977 - 1977 - 1977 - 1977 - 1977 - 1977 - 1977 - 1977 - 1977 - 1977 -	Unprotected, Nonsprinklered (UP, NS)	10% ^h
5 to less than 10 ^{s, f, j}	Unprotected, Sprinklered (UP, S)i	25%
	Protected (P)	25%
	Unprotected, Nonsprinklered (UP, NS)	15% ^h
10 to less than 15 ^{e, f, g}	Unprotected, Sprinklered (UP, S)i	45%
	Protected (P)	45%
	Unprotected, Nonsprinklered (UP, NS)	25%
15 to less than 20 ^{f, g}	Unprotected, Sprinklered (UP, S) ⁱ	75%
	Protected (P)	75%
	Unprotected, Nonsprinklered (UP, NS)	45%
20 to less than 25 ^{f. g}	Unprotected, Sprinklered (UP, S)	No Limit
	Protected (P)	No Limit
	Unprotected, Nonsprinklered (UP, NS)	70%
25 to less than 30 ^{f, g}	Unprotected, Sprinklered (UP, S)i	No Limit
	Protected (P)	No Limit
	Unprotected, Nonsprinklered (UP, NS)	No Limit
30 or greater	Unprotected, Sprinklered (UP, S)i	Not Required
	Protected (P)	Not Required



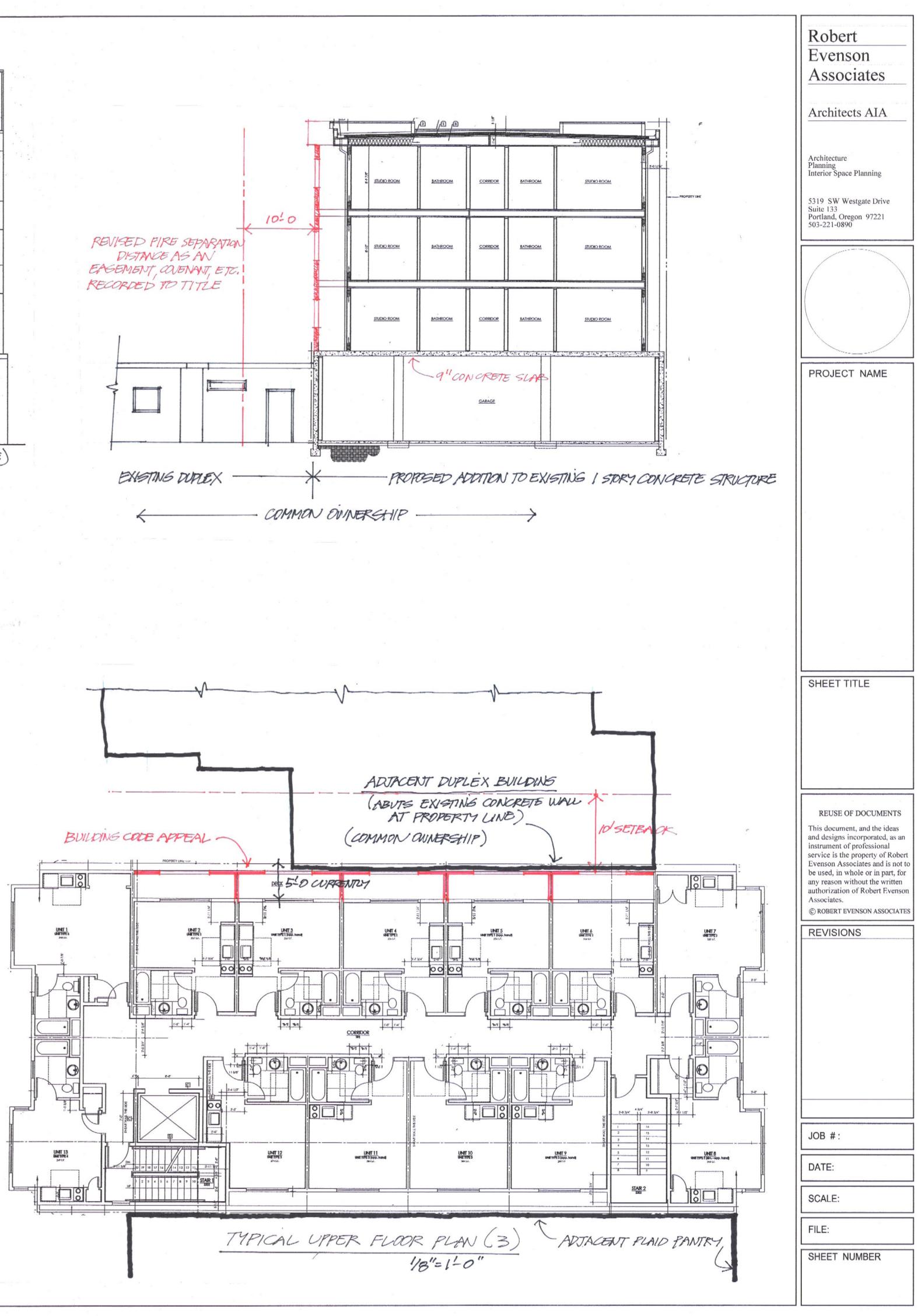
2. To the centerline of a street, an alley or public way; or 3. To an imaginary line between two buildings on the lot. The distance shall be measured at right angles from the

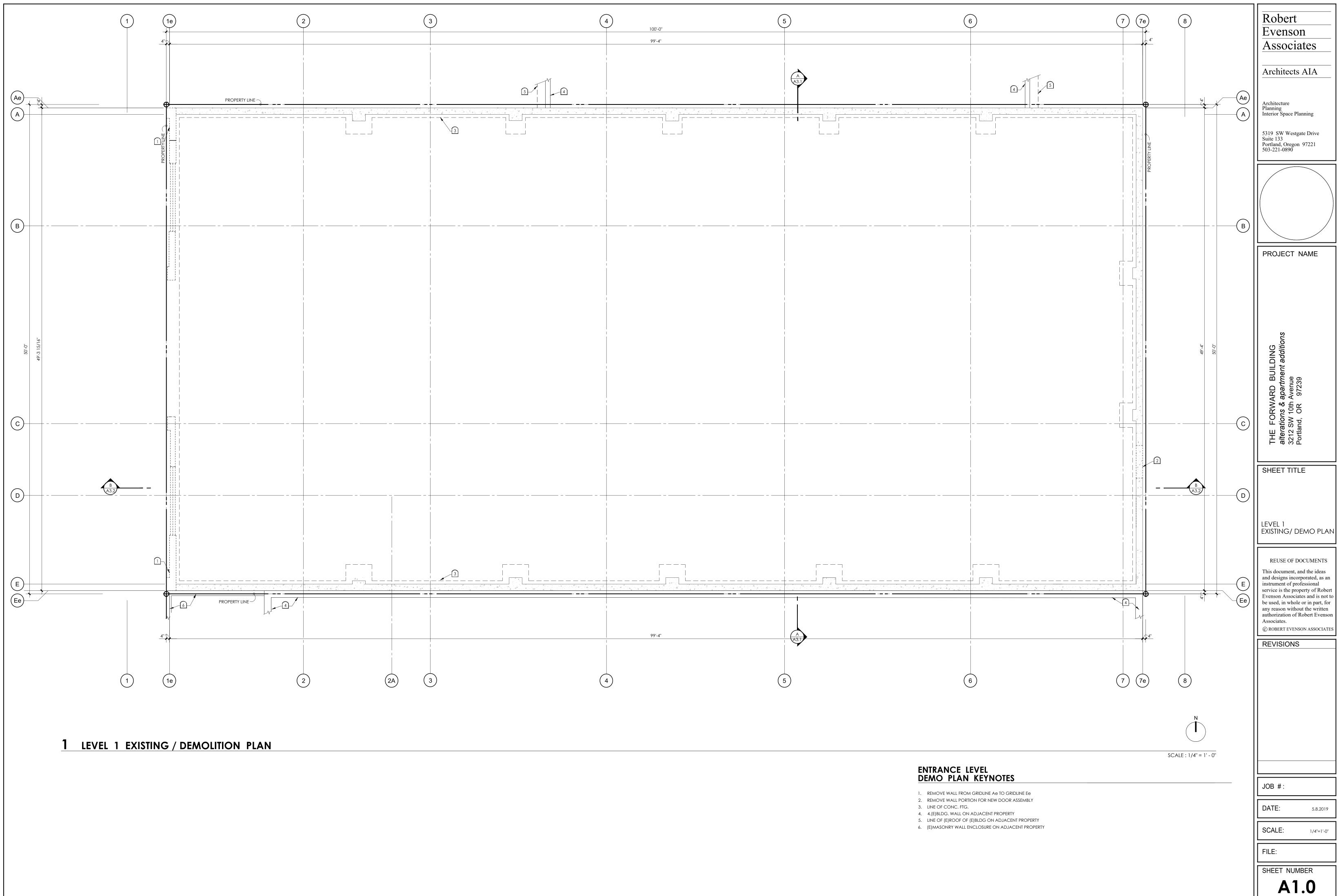
2014 OREGON STRUCTURAL SPECIALTY CODE

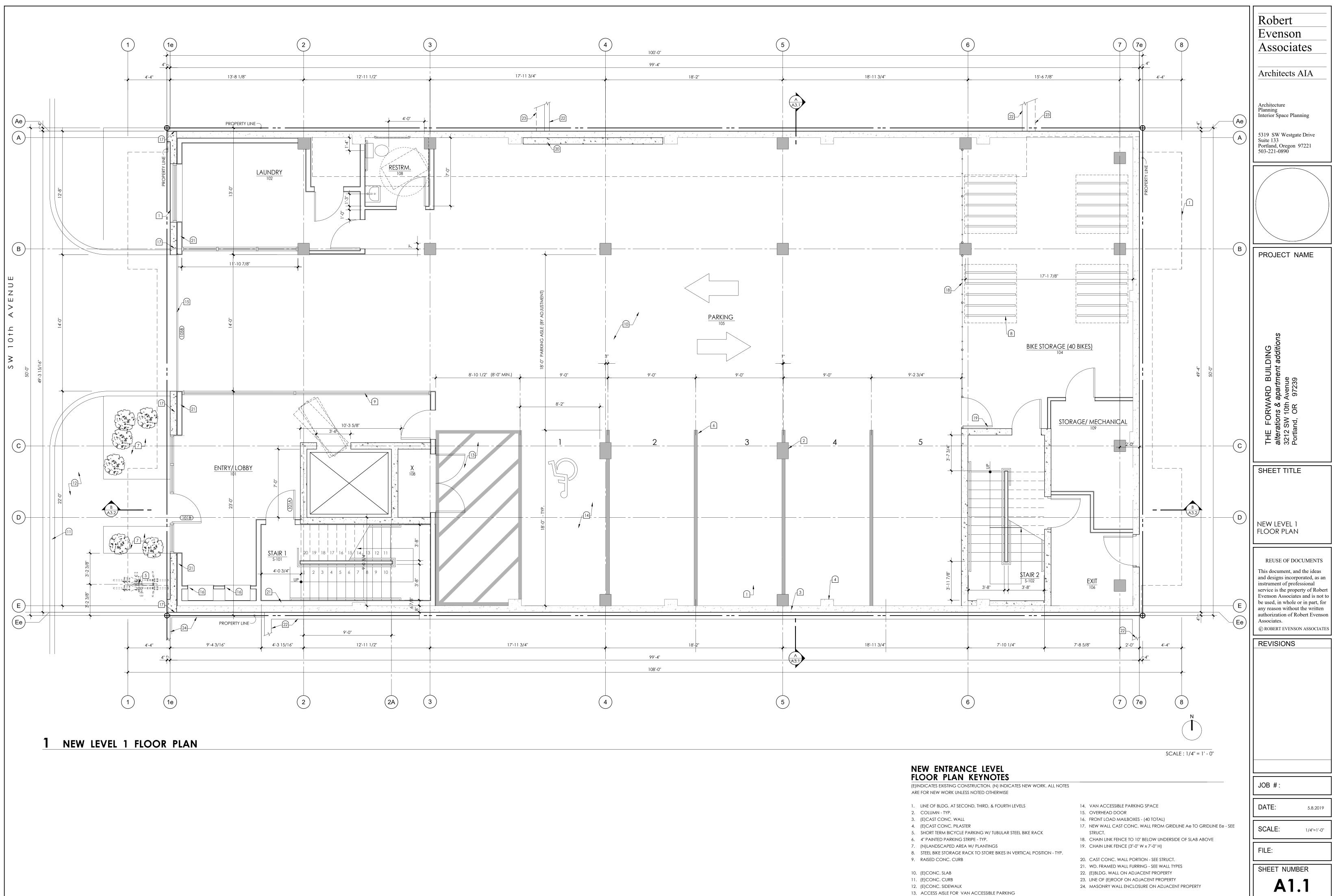
i. Not applicable to Group H-1, H-2 and H-3 occupancies.
 j. For special requirements for Group U occupancies, see Section 406.3.2.

126

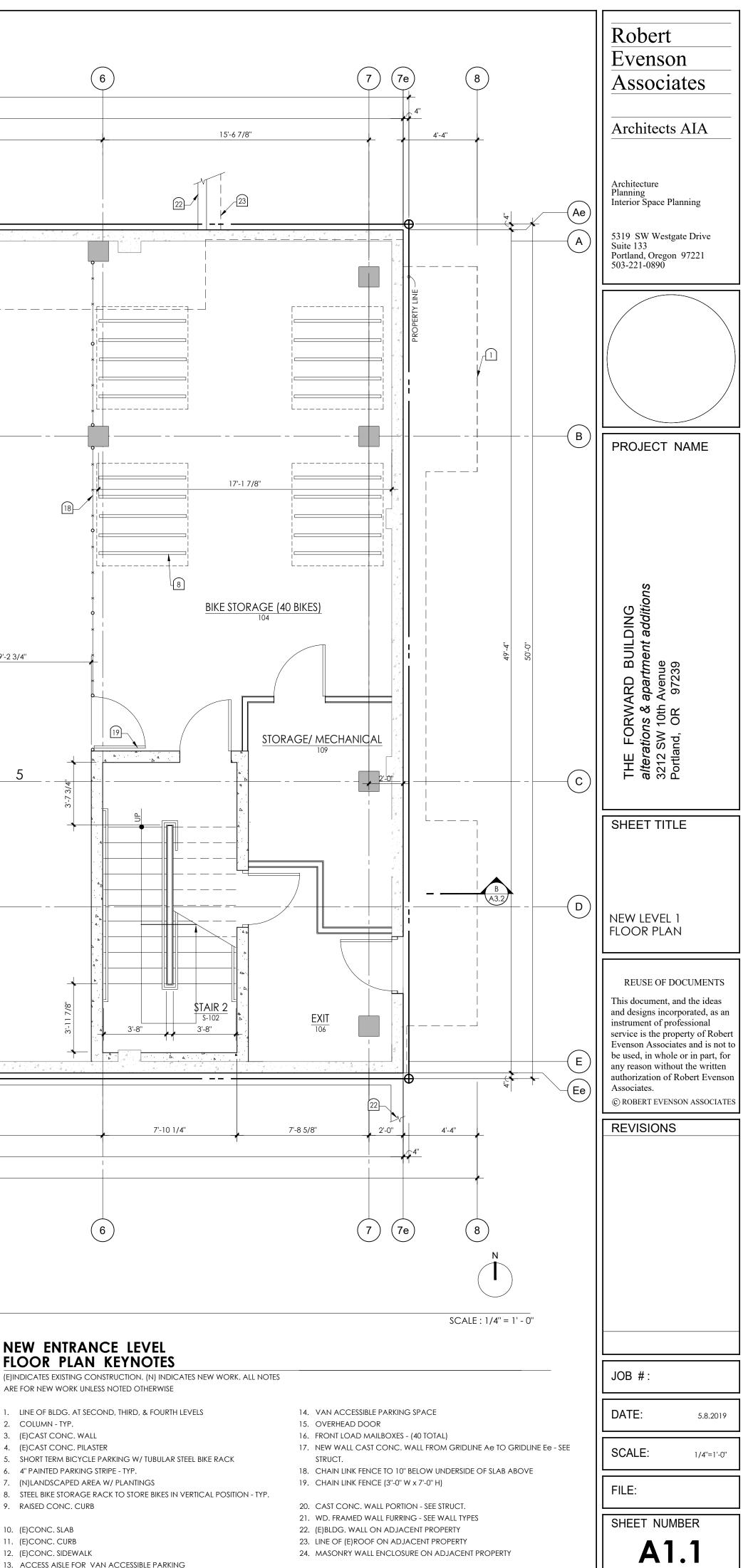
2014 OREGON STRUCTURAL SPECIALTY CODE

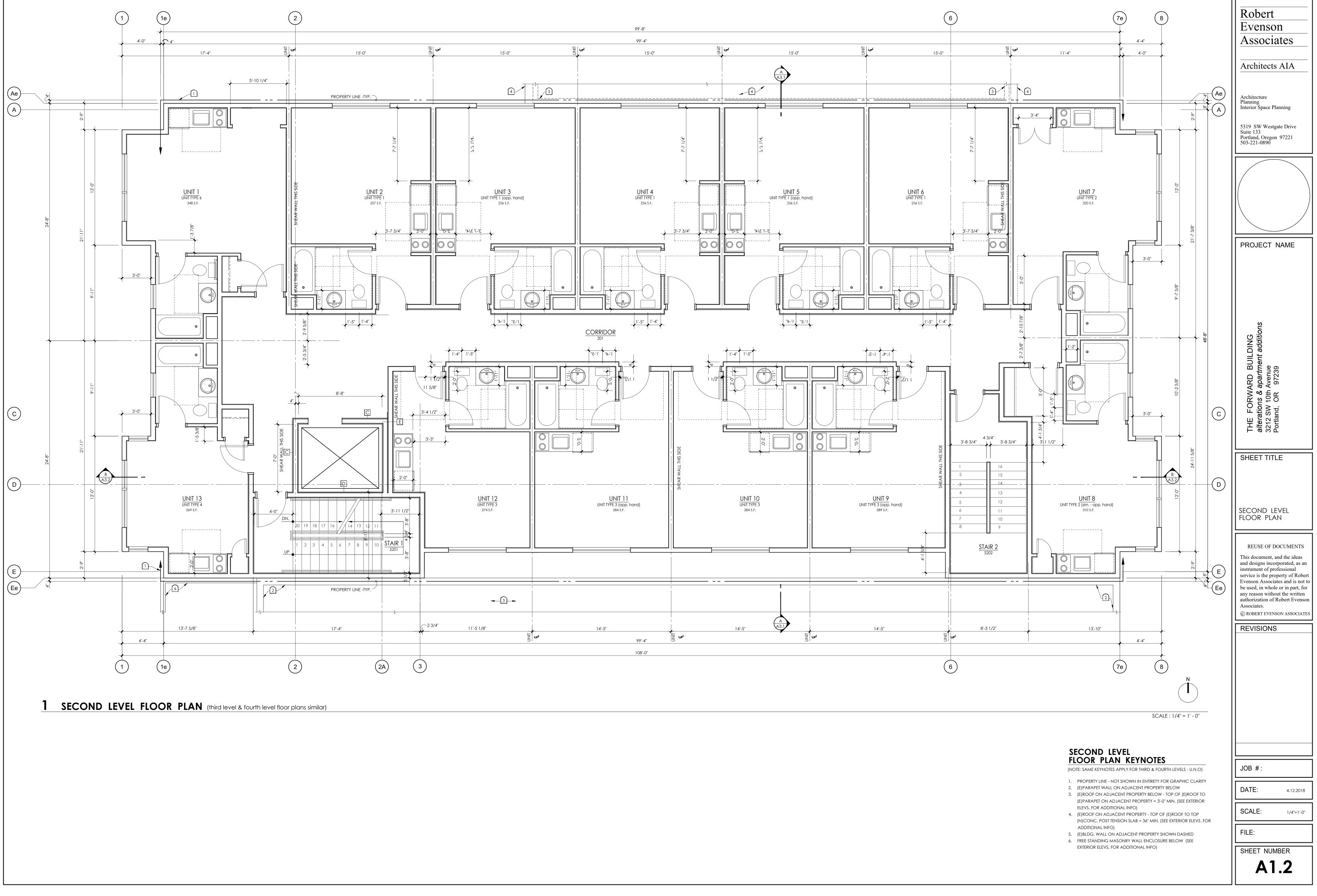




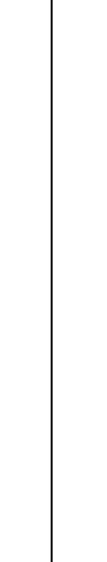


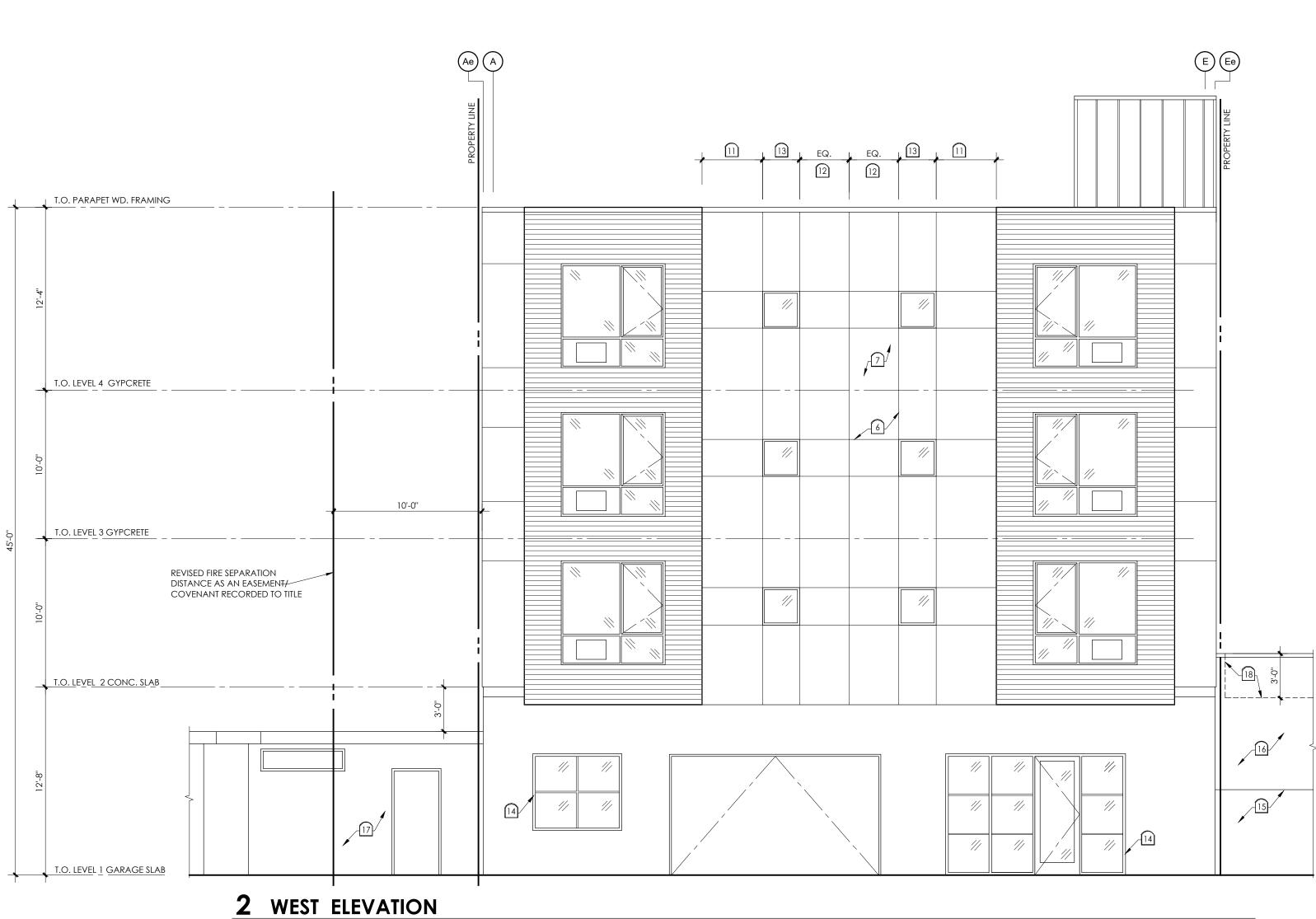




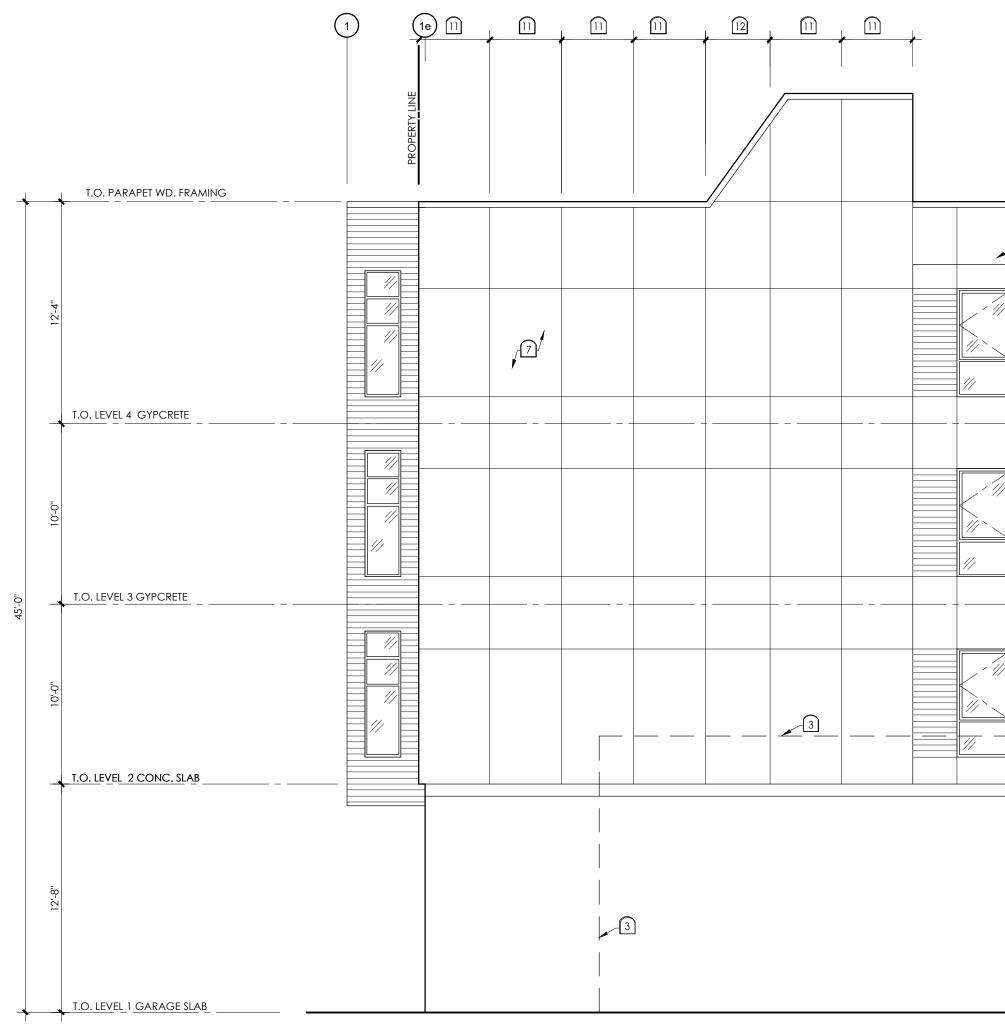






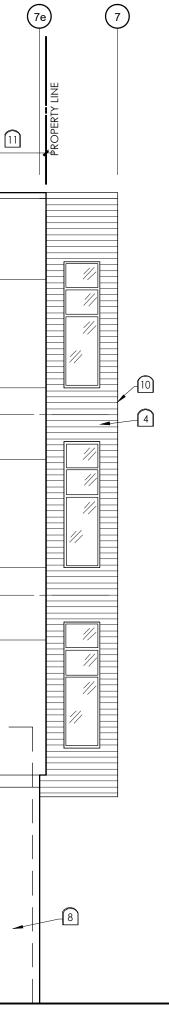


SOUTH ELEVATION



8'-5" \$?	*	5		12		
			_			
		9			, ^D	
		6		 		

SCALE : 3/16" = 1' - 0"



ELEVATION GENERAL NOTES

A. MATERIALS INDICATED BY KEYNOTE CALLOUTS ARE TYPICAL U.N.O. AND APPLY TO ALL EXTERIOR ELEVATIONS Robert

Evenson

Associates

Architects AIA

Planning Interior Space Planning

5319 SW Westgate Drive Suite 133 Portland, Oregon 97221 503-221-0890

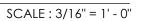
PROJECT NAME

Architecture

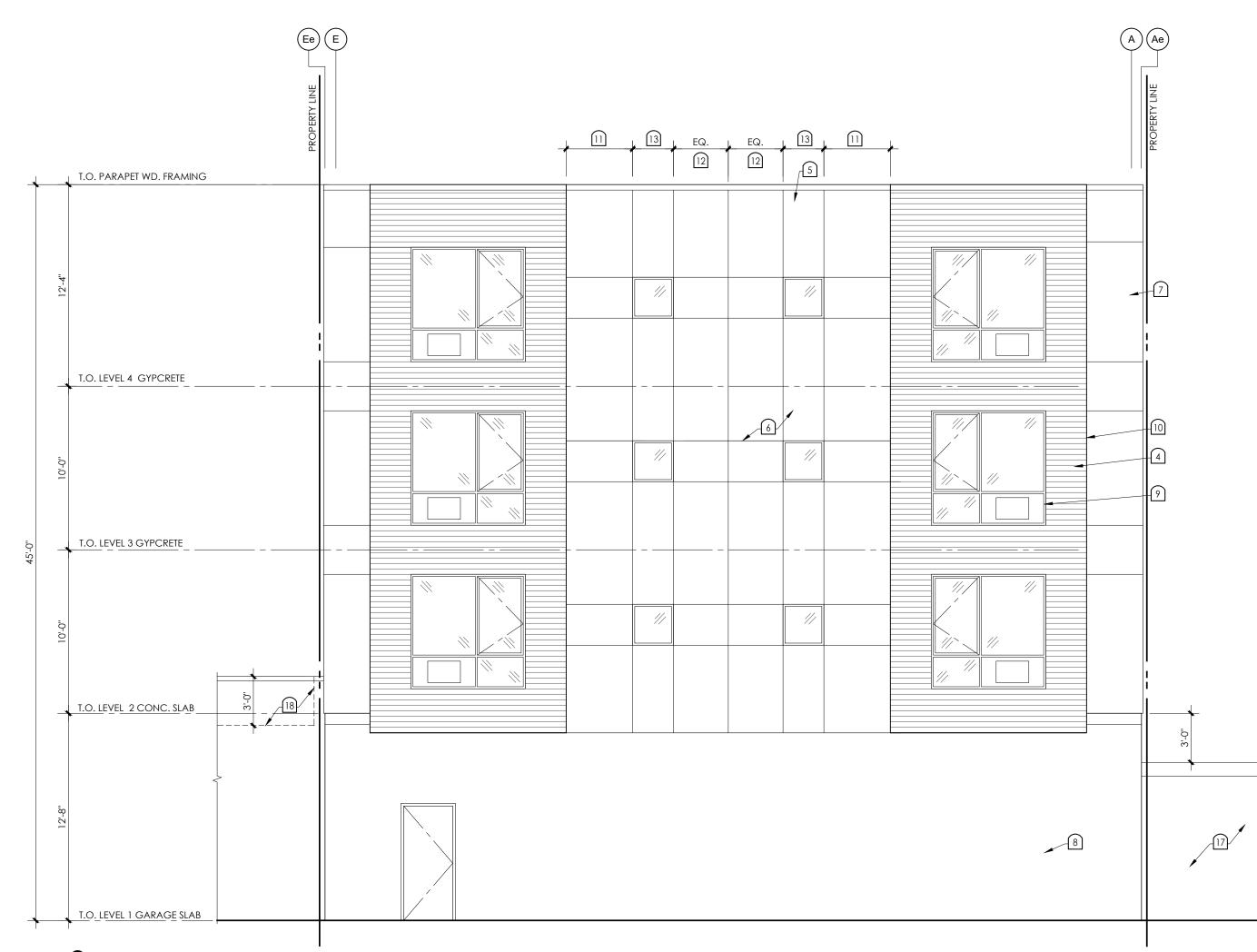
B. ALL DIMENSIONS ARE TO FACE OF STUD, UNLESS NOTED OTHERWISE

ELEVATION KEYNOTES

- NOT USED
 NOT USED
- 3. LINE OF BLDG. ON ADJACENT PROPERTY
- 4. CEMENT FIBER LAP SIDING, 4" TYP.
- 5. PRE-FINISHED SHT. MTL. COPING
- 6. HORIZONTAL & VERTICAL REVEAL SYSTEM ALIGN W/ WINDOW ASSEMBLY TYP.7. FIBER CEMENT PANEL
- 8. XXXX OVER (E)CAST CONC. WALL
- 9. PREFINISHED SHT. METAL GRILL ASSEMBLY OVER PTAC UNIT(SHOWN DASHED). ALIGN W/ ADJACENT WINDOWS. SEE AX.X FOR ADDITIONAL INFO
- CORNER XXXX
 FULL PANEL WIDTH
- 12. REMNANT WIDTH
- 13. ALIGN PANEL W / WINDOW ASSEMBLY
- ALUM. STOREFRONT ASSEMBLY
 MASONRY WALL ENCLOSURE AT ADJACENT PROPERTY
- 16. (E)BLDG. ON ADJACENT PROPERTY
- 17. EXISTING DUPLEX DWELLING ON ADJACENT PROPERTY
- PARAPET WALL & T.O. ROOF AT EXISTING STRUCTURE ON ADJACENT PROPERTY
 EXISTING ADJACENT BUILDING ON ADJACENT PROPERTY ABUTTING EXISTING CAST CONC. WALL (SHOWN W/ DASHED LINE)



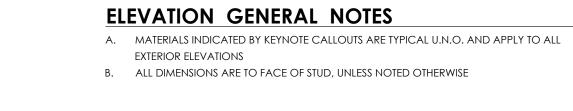
Ш Δ $\leq \propto \pm$ ш *al*เษ. 3212 ้า†เุ SHEET TITLE ELEVATIONS **REUSE OF DOCUMENTS** This document, and the ideas and designs incorporated, as an instrument of professional service is the property of Robert Evenson Associates and is not to be used, in whole or in part, for any reason without the written authorization of Robert Evenson Associates. © ROBERT EVENSON ASSOCIATES REVISIONS JOB #: DATE: 5.8.2019 SCALE: 3/16"= 1'-0" FILE: SHEET NUMBER A2.1



1 NORTH ELEVATION



2 EAST ELEVATION



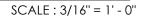
ELEVATION KEYNOTES

1. NOT USED 2. NOT USED

(1e)

(1)

- 3. LINE OF BLDG. ON ADJACENT PROPERTY
- 4. CEMENT FIBER LAP SIDING, 4" TYP. 5. PRE-FINISHED SHT. MTL. COPING
- 6. HORIZONTAL & VERTICAL REVEAL SYSTEM ALIGN W/ WINDOW ASSEMBLY TYP.
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- 8. XXXX OVER (E)CAST CONC. WALL 9. PREFINISHED SHT. METAL GRILL ASSEMBLY OVER PTAC UNIT(SHOWN DASHED). ALIGN W/ ADJACENT WINDOWS. SEE AX.X FOR ADDITIONAL INFO
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- 14. ALUM. STOREFRONT ASSEMBLY 15. MASONRY WALL ENCLOSURE AT ADJACENT PROPERTY
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- 18. PARAPET WALL & T.O. ROOF AT EXISTING STRUCTURE ON ADJACENT PROPERTY 19. EXISTING ADJACENT BUILDING ON ADJACENT PROPERTY ABUTTING EXISTING CAST CONC. WALL (SHOWN W/ DASHED LINE)

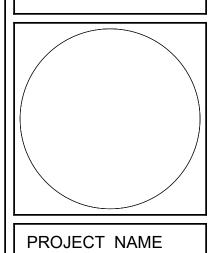


Robert Evenson Associates

Architects AIA

Architecture Planning Interior Space Planning

5319 SW Westgate Drive Suite 133 Portland, Oregon 97221 503-221-0890



E FORWARD BUILDING *rations & apartment additio*. 2 SW 10th Avenue land, OR 97239 THE *altera* 3212 (Portla

SHEET TITLE

ELEVATIONS

REUSE OF DOCUMENTS

This document, and the ideas and designs incorporated, as an instrument of professional service is the property of Robert Evenson Associates and is not to be used, in whole or in part, for any reason without the written authorization of Robert Evenson Associates. © ROBERT EVENSON ASSOCIATES

REVISIONS

JOB #:

DATE:

5.8.2019

SCALE: 3/16"= 1'-0"

FILE:

SHEET NUMBER

A2.2

SCALE : 3/16" = 1' - 0"

Robert Evenson Associates

Architects AIA

May 10, 2019

APPEALS BOARD

City of Portland Bureau of Development Services

REVISED / UPDATED NARRATIVE

SUPPLEMENT TO PREVIOUS APPEAL ID: 18983

FIRST BUILDING CODE SECTION BEING APPEALED:

 Table 705.8 - Maximum area of exterior wall openings based on Fire Separation

 Distances and degree of opening protection.

This relates to the window openings on the North elevation

Fire Separation Distance is defined by the code as follows:

"The distance measured from the building face to one of the following:"

1. The closest interior lot line (existing measurement)

2. To the centerline of a street, an alley or public way

3. To an imaginary line between two buildings on the lot (proposed measurement)

PROPOSED DESIGN

We designed the Forward Building additions to provide affordable living units for medical students at the nearby OHSU. The units are small to fit the restricted site, but we want to maximize the livability, while still qualifying as low-income units. The proposed building is a three-story addition over an existing one-story garage with a 3-hour concrete separation between the existing garage level and the 3 floors of living levels above. The existing portion of the building fills the total 50' x 100' site, property line to property line.

We originally provided a five-foot setback for the window wall on the north elevation to meet Table 705.8 requirements for a sprinkled building and unrated windows. The owners / developers of the Forward Building also own the north, adjacent property, a three story 4-plex that is one story above grade where it abuts the existing garage level of the proposed building as indicated on the attached photos and drawings. The 4-plex abuts the existing garage for 50 feet or half of the length, and provides a 36" high parapet, as shown on Sheet A2.2

Because of the common property ownership, and with the use of a recorded covenant, we should be able to revise the Fire Separation Distance to a line ten feet between the proposed building addition and an imaginary line on the adjacent property to the north. That would allow us to move the north exterior window wall closer to the existing property line than the current five-foot setback, increasing the size of the living units, and allow the unrated openings to be sized up to 25% of the exterior wall per 705.8 We are currently working with Nancy Thorington at BDS to create the covenant, a draft of which is attached.

5319 SW Westgate Dr. #133 Portland, Oregon 97221 503-221-0890 bevenson@opusnet.com

Architecture Planning Interiors

Commercial Multi-Family Retail Residential Renovation

Code Section 705.8.2 Protected Openings

Exception: "Opening protectives are not required where the building is equipped with an automatic sprinkler system in accordance with section 903.3.1.1 and the exterior openings are protected by a water curtain using automatic sprinklers approved for that use."

REASON FOR ALTERNATE

The Building Code allows for the Fire Separation Distance to be measured as an imaginary line between two buildings on the same lot. That requirement can be achieved while keeping separate lots, and placing a "Not to Sell Covenant" or other appropriate legal restriction on the adjacent lot that is in common ownership. The main benefit will be to allow the living units on the north side of the proposed building to be larger and more comfortable for the tenants. This will make this a viable, doable project in line with the City's goals of walkability, green, low-income housing and car-share.....all "forward thinking."

There is also structural benefit and aesthetic benefit to stacking the 3-story addition directly over the existing concrete garage walls.

SECOND BUILDING CODE SECTION BEING APPEALED:

 Table 705.8 – Maximum area of exterior wall openings based on Fire Separation

 Distances and degree of opening protection.

This relates to window openings on the South elevation

PROPOSED DESIGN

In order to maximize the size of each micro living unit on the upper 3 levels, the south exterior wall at all these units is held back 3 feet from the south property line, while the adjacent one-hour rated exterior walls without windows are closer to the property line (two slightly different wall planes).

We propose to size the window openings on the south elevation the same as the north, east and west elevations as indicated on the submitted drawings. Table 705.8 would limit the size of the south openings to 15% and force us to reduce the window sizes to an unreasonably small size, considering this is the only window in each unit. The proposed window sizes do not exceed the 25% of exterior wall calculation, which

we feel provides more natural light and is therefore more livable than 15%. We propose to put a water curtain using automatic sprinklers at all these window openings which provides better fire protection to the units as noted in 705.8.2

REASON FOR ALTERNATE

The goal is to provide the best living conditions within each living unit, including maximizing natural light where possible. Providing a water curtain at each window { provides a reasonable alternative and better fire safety to each unit, rather than limiting the window sizes to 15% of the exterior wall.

THIRD BUILDING CODE SECTION BEING APPEALED:

Section 705.8.6.2 Vertical Exposure for Buildings on Separate Lots "When a new building is erected adjacent to an existing building, all openings in the exterior wall of the new building are required to be not less than % hour when the openings are less than 15 feet vertically above the roof of the existing building".

This relates to window openings within 15 feet on both the north and south sides, but only on the first living level, which is within 15 feet.

PROPOSED DESIGN

The new building will be sprinklered throughout.

The existing building to the north is under the same ownership as noted above. There is an existing 36" high concrete / masonry parapet wall at the roof to the south as well as on the north side.

The floor of the first living level is a 3-hour rated concrete separation above the garage.

We are proposing to provide a water curtain tied to the sprinkler system to all the firstlevel units on both the north and south sides of the new building.

REASON FOR ALTERNATE

The overall goal is to provide the best possible fire and life safety within all the living units while utilizing the same sized unrated windows on both the north and south living units that do not exceed 25% of the exterior wall at each level. We feel that providing a code approved water curtain tied to the sprinkler system to all the living units on the first living level provides better safety and protection to the tenants.

All the requested Building Code Appeals are related to each other and based largely on existing site conditions on the north and south. To provide the best and safest living conditions within the units, and as well to create an affordable, handsome and harmonious building design, we are compelled to request the Building Code Appeals noted above. We hope you will approve them all.

Thank you for your consideration.

Robert Evenson, Project Architect Bill flowers, Owner / Developer

DRAFT TO NANKY THORINGTON

AFTER RECORDING, RETURN TO: Bureau of Development Services

1900 SW Fourth Avenue, Suite 5000 Portland, OR 97201

COVENANT NOT TO SELL PROPERTIES SEPARATELY

APPLICATION NO.

RECITALS

A. The Forward Building, LLC., William Flowers, Mngr., (Declarant) is the record owner of the two adjacent parcels described in Section 1 below.

B. Declarant is proposing to construct a 3-story sprinkled addition over the existing structure located at 3212 SW 10th Ave. The existing structure extends to the property lines on all four sides.

C. Declarant proposes to build the north exterior walls of said addition over the existing exterior wall which is adjacent to the property line that separates the two commonly owned and adjacent parcels. Part of this exterior wall will include unrated windows into the individual living units at each story.

D. The 2014 Oregon Structural Specialty Code (OCCS) Section 705.8 sets out the maximum allowable area of window openings based on the fire separation distance to a property line or imaginary line between two buildings on the same lot. It also prohibits unrated openings / windows totaling 25% of the exterior wall on sprinkled buildings that are located 5 feet or less from the property line.

E. Declarant is proposing to install non-rated window openings not to exceed 25% of the north exterior wall at each story within the one- hour rated exterior walls of a sprinkled building.

F. Declarant has requested that the City approve an alternative method of meeting the Building Code requirements described in Sections C, D, and E above, and the City has approved such an alternative based on the terms of this agreement.

G. Declarant has agreed to not sell the parcels described in Section 1 below separately, unless Declarant obtains prior written approval of the City of Portland Bureau of Development Services.

H. Declarant has further agreed to record this Agreement, to provide record notice of the terms of this Agreement, and to bind subsequent transferees of the parcels described in Section 1 below.

I. In consideration of the promises in this agreement, NOW, THEREFORE, the Declarant agrees as follows:

AGREEMENT

1. CONSIDERATION.

Declarant has requested that the City allow Declarant to construct a one-hour rated exterior wall over the existing exterior wall that is adjacent to the north property line, and to allow the installation of unrated openings not to exceed 25% of the exterior wall at each story. In exchange for the promises under this Agreement, Declarant acknowledges that this Agreement is executed as an alternate method of complying with the various sections of the Building Code.

1. LEGAL DESCRIPTION. The properties that are subject to this Agreement are as follows:

a. Parcel A: 3212 SW 10th PORTLAND CITY HMSTD, BLOCK 82. LOT 7

b. Parcel B: 3204-3206 SW 10th PORTLAND CITY HMSTD, BLOCK 82, LOT 9

2. COVENANT NOT TO SELL PROPERTIES SEPARATELY. Declarant, Declarant's successors and assigns, covenant that the parcels described in Section 1 above may not be sold or deeded separately or sold to different owners such that the parcels are no longer under common ownership without the prior written approval of the City of Portland Bureau of Development Services. If such approval is granted and the parcels are sold separately, all openings in the buildings located at the property line on the parcels described in Section 1 above shall be replaced with walls that have a fire rating to the satisfaction of and under permit from the Bureau of Development Services, and all exit discharges shall be made to comply with the then-current Building Code.

3. TERM AND BINDING EFFECT. This Agreement shall be effective as of the date of the signature(s) below and shall continue in perpetuity. All terms and provisions herein are intended to and shall be covenants running with the land and/or equitable servitudes burdening the parcels described in Section 1 above and shall be binding on Declarant, Declarant's heirs, executors, administrators, successors, and assigns and all current and future owners of the parcels described in Section 1 above and all persons claiming title, possession, or ownership of or to such properties.

4. DEFINITIONS. Building Code means the State of Oregon Building Code as defined in Oregon Revised Statutes Chapter 455, as amended from time-to-time and as adopted by the City of Portland.

5. MODIFICATION AND TERMINATION. The Declarant(s) and subsequent owners and assigns may not modify, withdraw from, terminate, or dissolve this Agreement without the prior written approval of the City of Portland. Declarant(s) and subsequent owners and assigns agree that any violation of the terms of this Agreement will result in immediate and automatic termination of this Agreement, and all openings in the building located at the property line on the parcels described in Section 1 above shall be replaced with walls that have a fire rating to the satisfaction of and under permit from the Bureau of Development Services, and all exit discharges shall be made to comply with the thencurrent Building Code. 6. THIRD PARTY BENEFICIARY. The City of Portland is intended to be the sole third party beneficiary of this Agreement.

7. GOVERNING LAW AND VENUE. This Agreement shall be construed in accordance with the laws of the State of Oregon. Any action arising out of or relating to this Agreement shall be commenced in the Circuit Court for Multnomah County, Oregon, and if in the federal courts, in the United States District Court for the District of Oregon, Portland Division. Any arbitration or other form of alternative dispute resolution arising out of this Agreement shall take place in an appropriate forum within Portland, Oregon.

8. COPY TO BUREAU OF DEVELOPMENT SERVICES. Upon recording, Declarant shall provide a copy of this Agreement to the Bureau of Development Services.

9. NOTICES. Any notice under this Agreement shall be made in writing and sent to the City of Portland at the address below and to each owner via first class mail, in care of the street address of the owner's lot, or in the event the owner does not reside on said property, in care of the current property tax notification address of the property; provided, however, that an owner can change the notification address by written notice to each other owner and the City of Portland.

City of PortlandBureau of Development Services

1900 SW Fourth Avenue, Suite 5000

Portland, OR 97201

10 INDEMNIFICATION. The Declarant, Declarant's successors and assigns shall indemnify, defend, and hold harmless the City of Portland, its officers, agents, officials, and employees against any and all claims, demands, actions, and suits, including attorneys' fees and costs brought against any of them arising out of or resulting from the terms of this Agreement.

11. CONSIDERATION. Declarant has requested that the City allow Declarant to [keep existing openings in buildings that are at [or construct a building that crosses] the property line between the parcels described in Section 1 above and to allow exit discharges that cross property lines on the properties described in Section 1 of this Agreement. Such properties do not comply with the following sections of the 2014 Oregon Structural Specialty Code: 705.8 and Table 705.8, which set out the maximum allowable area of exterior wall openings based on the fire separation distance to a property line and prohibit openings in exterior walls on buildings that are located three feet or less from a property line, 602.1 and Table 601, which require wall construction adjacent to property lines to be fire-rated, and 1027.5, which requires exit discharges to provide direct and unobstructed access to a public way. In exchange for the promises under this Agreement, Declarant acknowledges that this Agreement is executed as an alternate method of complying with these sections of the Building Code.

12. AUTHORITY TO EXECUTE AGREEMENT. The Declarant expressly represents and warrants that the persons executing this Agreement are duly authorized to do so. This Agreement may be executed

in counterparts, and each counterpart shall have the same binding legal effect as if it were a single document containing all signatures.

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13. SEVERABILITY. Each provision of this Agreement shall be independent and severable. The invalidity or partial invalidity of any provision thereof shall not affect any of the remaining portions of that or any other provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth below.

DECLARANT:	Date:
(signature)	
Ву:	Title:
(printed name)	
STATE OF OREGON	
County of	
Personally appeared before me this da	ıy of, 20,
(r	name) and acknowledged the foregoing
instrument to be his/her voluntary act and de	eed.
Ву:	
Notary Public for Oregon	
My Commission Expires:	
Approved as to form:	Date:
Building Official or De	signee (signature)
Printed name:	



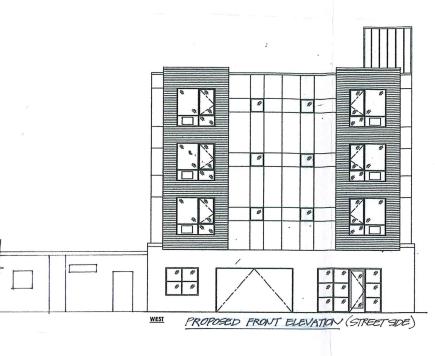


PROPERTIES UNDER COMMON OWNERSHIP

PortlandMaps: 3212 SW 10TH AVE 1/31/2019 🙆 Snapshot



ADJACENT PROPERTIES UNDER COMMON OMNERSHIP



FIRE SEPARATION DISTANCE. The distance measured from the building face to one of the following:

1. The closest interior lot line;

2. To the centerline of a street, an alley or public way; or

3. To an imaginary line between two buildings on the lot.

The distance shall be measured at right angles from the face of the wall.

2014 OREGON STRUCTURAL SPECIALTY CODE

	IUM AREA OF EXTERIOR WALL OPENINGS BASED ATION DISTANCE AND DEGREE OF OPENING PROT	DN TECTION
E SEPARATION DISTANCE (feet)	DEGREE OF OPENING PROTECTION	ALLOWABLE AREA'
	Unprotected, Nonsprinklered (UP, NS)	Not Permitted
0 to less than 3h, c	Unprotected, Sprinklered (UP, S)	Not Permitted
	Protected (P)	Not Permitted
3 to less than 5 ^{4, e}	Unprotected, Nonsprinklered (UP, NS)	Not Permitted
	Unprotected, Sprinklered (UP, S)	15%
	Protected (P)	15%
5 to less than 10 ^{n, C1}	Unprotected, Nonsprinklered (UP, NS)	10% ^b
	Unprotected, Sprinklered (UP, S)	25%
	Protected (P)	25%
	Unprotected, Nonsprinklered (UP, NS)	15% ^b
0 to less than 15". f. g	Unprotected, Sprinklered (UP, S)'	45%
	Protected (P)	45%
	Unprotected, Nonsprinklered (UP, NS)	25%
15 to less than 201 r	Unprotected, Sprinklered (UP, S)'	75%
	Protected (P)	75%
-	Unprotected, Nonsprinklered (UP, NS)	45%
20 to less than 25 ^{f, g}	Unprotected, Sprinklered (UP, S)	No Limit
	Protected (P)	No Limit
and a second	Unprotected, Nonsprinklered (UP, NS)	70%
25 to less than 30 ^{f. g}	Unprotected, Sprinklered (UP, S)	No Limit
	Protected (P)	No Limit
	Unprotected, Nonsprinklered (UP, NS)	No Limit
30 or greater	Unprotected, Sprinklered (UP, S)	Not Required
	Protected (P)	Not Required

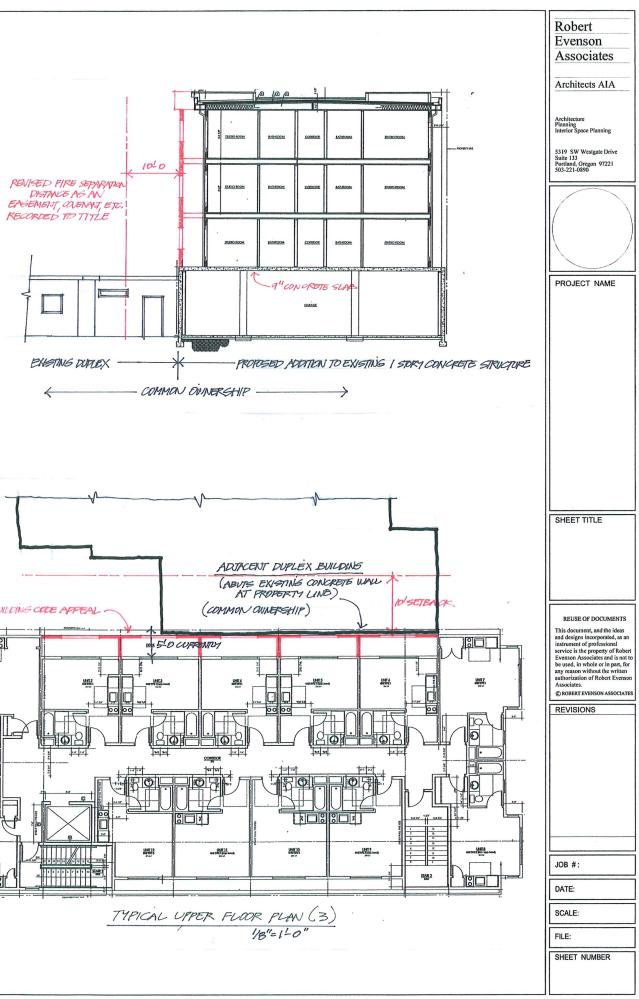
For SI: 1 foot = 304.8 m UP, NS = Unprotected o he area of the exterior wall, per story. ildings with differing heights, see Section 706.6.1. on the same lot, see Section 706.8. ne tot, see Section 700.8: etect openings shall he 25 percent for Group R-3 occupancies. penings with a fire separation distance of less than 15 feet for Group H-all not be limited for Group R-3 occupancies, with a fire separation dis with a fire separation distance of 10 feet or greater shall not be limited.

openings in an open parking struc-ldings accessory to Group R-3. ble to Group H-1, H-2 and H-3 ocr requirements for Group U occupan

 Not applicable to
 J. For special require cies, see Section 406.3.2.

126

2014 OREGON STRUCTURAL SPECIALTY CODE



BUILDING CARE APPEAL -UNIT 13

Robert Evenson Associates

Architects AIA

APPEALS BOARD City of Portland Bureau of Development Services

February 3, 2019

CODE SECTION BEING APPEALED:

Table 705.8 Maximum area of exterior wall openings based on Fire Separation Distances and degree of opening protection.

Fire Separation Distance is defined by the code as follows:

"The distance measured from the building face to one of the following:"

- 1. The closest interior lot line (existing measurement)
- 2. To the centerline of a street, an alley or public way
- 3. To an imaginary line between two buildings on the lot (proposed measurement)

PROPOSED DESIGN

Architecture Planning Interiors

We designed the Forward Building to provide affordable living units for medical students at the nearby OHSU. The units are small to fit the restricted site, but we want to maximize the livability. The proposed building is a three-story addition over an existing one-story garage with a 3-hour concrete separation between the garage level and the 3 floors of living levels.

We currently show a five-foot setback for the window wall on the north elevation to meet Table 705.8 requirements for a sprinkled building and unrated windows. The owners / developers of the Forward Building also own the north, adjacent property, a three-story 4-plex that is one story above grade where it abuts the existing garage level of the proposed building as indicated on the attached photos and drawings. Because of the common property ownership, we should be able to revise the Fire Separation Distance to a line ten feet between the proposed building addition and an imaginary line on the adjacent property to the north.

That would allow us to move the north exterior window wall closer to the existing property line than the current five-foot setback, increasing the size of the living units.

REASON FOR ALTERNATE

The Building Code allows for the Fire Separation Distance to be measured as an imaginary line between two buildings on the same lot. That requirement can be achieved while keeping separate lots, and placing a recorded deed restriction, covenant, or other appropriate legal restriction on the adjacent lot that is in common ownership. The main benefit will be to allow the living units on the north side of the proposed building to be larger and more comfortable for the tenants. This will make this a viable, doable project in line with the City's goals of walkability, green, low-income housing and car-share all "forward thinking."

Thank you for your consideration.

Robert Evenson, Project Architect

5319 SW Westgate Dr. #133 Portland, Oregon 97221 503-221-0890 bevenson@opusnet.com

Commercial Multi-Family Retail Residential Renovation