



Planning Department
231 NE Fifth Street ◦ McMinnville, OR 97128
(503) 434-7311 Office ◦ (503) 474-4955 Fax
www.ci.mcminnville.or.us

Office Use Only:	
File No.	<u>AV 220</u>
Date Received	<u>7-27-2020</u>
Fee	_____
Receipt No.	_____
Received by	<u>SA</u>

Administrative Variance Application

Applicant Information

Applicant is: Property Owner Contract Buyer Option Holder Agent Other _____

Applicant Name Pioneer Design Group Phone _____

Contact Name Ben Altman Phone 971-708-6258
(If different than above)

Address 9020 SW Washington Sq. Rd. #170

City, State, Zip Portland, OR 97223

Contact Email baltman@pd-grp.com

Property Owner Information

Property Owner Name KWDS, LLC Phone _____
(If different than above)

Contact Name Kim McAvoy Phone 503-682-2337

Address PO Box 145

City, State, Zip Wilsonville, OR 97070

Contact Email kmcavoy@jkmanage.com

Site Location and Description

(If metes and bounds description, indicate on separate sheet)

Property Address 2501 NE Evans Street

Assessor Map No. R4 T4S - R4W-16BC 03200 Total Site Area 4.38 Acres

Subdivision _____ Block _____ Lots 3200 & 3201

Comprehensive Plan Designation Residential Zoning Designation R-4 Multiple Family

Please indicate the type of administrative variance requested:

- Lot Size Requirement _____ Reduction to _____
- Road Frontage Requirement _____ Reduction to _____
- Setback--front, rear, side Requirement 21 feet Reduction to 19.18 & 19.55 ft.
- Other _____ Requirement _____ Reduction to _____

1. Describe, in detail, the nature of the request. A Variance to allow the reduction in rear yard setback for Buildings E & F from 21 feet to 19.18 & 19.55 respectively.
- _____
- _____
- _____
2. Is the variance request for this property due to unique circumstances (i.e. shape or topography of the site)? If yes, please describe nature of circumstance. No.
- The adjustments to the setbacks for Building E & F are do to site construction error, which was not identified until after the buildings were constructed.
- The setback errors were not indentified during foundation inspection or any other time during construction. The error was not identified until an ALTA Survey was completed, after construction was complete.
- _____
- _____
3. What exceptional or extraordinary circumstances apply to the property which do not apply generally to other property in the same zone or vicinity. _____
- As noted, the exceptional circumstance in this case is that the error was not identified early during the construcion process, at which time correction could have been made without significant cost or hardship. But, moving the two buildings after construcion is not practical nor economicllly feasible.
- _____
- _____
4. What property right would be preserved substantially the same as owners of the other property in the same zone or vicinity, by granting the variance. The property right to be preserved is one of allowing for Administrative variance of less than 10% deviation from the required standard, under Section 17.74.080-090.
- _____
- _____
- _____
- _____

5. What unnecessary hardship would be avoided by granting the variance. _____
The unnecessary hardship to be avoided is one of significant economic cost of demolishing
two completed buildings and constructing two new buildings, relocated to meet the 21
foot rear setback requirement.

6. Why won't this request be materially detrimental to the surrounding area. The requested variance
is less than 10%, representing only a 1.82 foot reduction for Building E and 1.45 foot
reduction for Building F. These minor variations in setback will not be visually recognizable
by the average passerby on NE Baker Street. In addition, a screening fence has been
constructed along the NE Baker Street frontage, which add visual and physical separation
of the buildings from the street view.

In addition to this completed application, the applicant must provide the following:

- A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), indicating existing and proposed buildings, dimensions, adjacent street(s), and distances from property lines, and any other information that would help substantiate or clarify your request.*
- Payment of the applicable review fee, which can be found on the Planning Department web page.*

I certify the statements contained herein, along with the evidence submitted, are in all respects true and are correct to the best of my knowledge and belief.

Ben Altman
Applicant's Signature

7-23-2020
Date

Property Owner's Signature

Date

5. What unnecessary hardship would be avoided by granting the variance, _____
The unnecessary hardship to be avoided is one of significant economic cost of demolishing
two completed buildings and constructing two new buildings, relocated to meet the 21
foot rear setback requirement.

6. Why won't this request be materially detrimental to the surrounding area. The requested variance
is less than 10%, representing only a 1.82 foot reduction for Building E and 1.45 foot
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- A site plan (drawn to scale, with a north arrow, legible, and of a reproducible size), indicating existing and proposed buildings, dimensions, adjacent street(s), and distances from property lines, and any other information that would help substantiate or clarify your request.
- Payment of the applicable review fee, which can be found on the Planning Department web page. to be determined at time of decision being made final

I certify the statements contained herein, along with the evidence submitted, are in all respects true and are correct to the best of my knowledge and belief.

Ben Altman
Applicant's Signature

7-23-2020
Date

[Signature]
Property Owner's Signature
manager -
Mumbai
KWDS, LLC

7-23-2020
Date

LAND USE APPLICATION
CITY OF McMINNVILLE, OREGON

**EVANS CROSSING
SETBACK VARIANCE**

July 27, 2020

APPLICANT/OWNER:

**KWDS, LLC
PO Box 145
Wilsonville, OR 97070
Contact: Kim McAvoy
Phone: 503-682-2337
Email: kmcavoy@jkmanage.com**

APPLICANT'S REPRESENTATIVE:

**Pioneer Design Group
9020 Washington Square Drive, Suite 170
Portland, OR 97223
Contact: Ben Altman
Ph. Dir. 971-708-6258
Email: baltman@pd-grp.com**

FACT SHEET

Project Name: **Evans Crossing**

Proposed Action: **Setback Variance**

Tax Map: T4S R4W 16BC

Tax Lots: 3200 & 3201

Site Size: 4.38 Acres, 190,833 square feet

Addresses: 2501 NE Evans Street

Location: West side of NE Evans Street, just north of NE 26th Street, and east side of NE Baker Street.

Zoning: R-4 Multi-Family

APPLICANT/OWNER:

KWDS, LLC
PO Box 145
Wilsonville, OR 97070
Contact: Kim McAvoy
Phone: 503-682-2337
Email: kmcavoy@jkmanage.com

APPLICANT'S REPRESENTATIVE:

Pioneer Design Group
9020 Washington Square Drive, Suite 170
Portland, OR 97223
Contact: Ben Altman
Ph. Dir. 971-708-6258
Mail: baltman@pd-grp.com

GENERAL INFORMATION

The subject property consists of a single Tax Lot 3200 & 3201, Map T4S R4W Section 16BC, the address is 2501 NE Evans Street. The property contains approximately 4.38 acres, or 190,833 square feet, and is zoned R-4 Multi-Family, per zone change ZC3-17/ZC4-17, Ordinance 5022.

Existing Conditions

The subject site has been developed with a multi-family housing development, as approved by prior zone change.

The Site Development Plans were reviewed and approved through the building permit process, subject to the Conditions of Approval established by the Zone Change Ordinance.

However, the ALTA Survey prepared for the final financing identified rear yard setback violations along the Baker Street frontage were identified for Buildings E and F.

Surrounding Uses

North - The property immediately north of the subject property is a developed residential subdivision which is zoned R-2.

East – To the east the property abuts Evan Street, with residential development zoned R-1 across the street.

South - The property immediately south of the subject property is a developed residential subdivision which is zoned R-2. Zone change Condition 4 provides for buffering along the south boundary of the site.

West - To the west the property abuts Baker Street. No access to the site is allowed from Baker Street. The property and development sits at an elevation approximately 10 feet above the elevation of NE Baker Street.

COMPLIANCE WITH APPLICABLE DEVELOPMENT CODE CRITERIA

Chapter 17.21

R-4 MULTIPLE-FAMILY RESIDENTIAL ZONE

Sections:

17.21.010 Permitted uses.

17.21.020 Conditional uses.

17.21.030 Lot size.

17.21.040 Yard requirements.

17.21.050 Building height.

17.21.060 Density requirements.

17.21.010 Permitted uses. In an R-4 zone, the following uses and their accessory uses are permitted:

- A. Single-family dwelling;
- B. Two-family dwelling;
- C. Multiple-family dwelling;
- E. Condominium;

17.21.030 Lot size. In an R-4 zone, the lot size shall not be less than five thousand square feet, except that the lot area for common wall, single-family lots shall not be less than two thousand five hundred square feet per family. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.21.040 Yard requirements. In an R-4 zone, each lot shall have yards of the following size unless otherwise provided for in Section 17.54.050:

- A. A front yard shall not be less than fifteen feet;
- B. A side yard shall not be less than six feet, except an exterior side yard shall not be less than fifteen feet;
- C. A rear yard shall not be less than twenty feet;
- D. Whether attached to a residence or as a separate building, a covered storage facility for a vehicle on which the main opening is toward a street shall be located not less than twenty feet to the property line bordering the street;
- E. All yards shall be increased, over the requirements of this section, one foot for each two feet of building height over thirty-five feet. (Ord. 4912 §3, 2009; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.21.050 Building height. In an R-4 zone, a building shall not exceed sixty feet in height. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.21.060 Density requirements. In an R-4 zone, the lot area per family shall not be less than fifteen hundred square feet for each unit with two bedrooms or less, and not less than seventeen hundred fifty square feet for each unit with three bedrooms, and an additional five hundred square feet for each additional bedroom in excess of three in any one unit. The above requirements may be waived if the provisions of Section 17.21.020(M) are utilized. (Ord. 4796 §1(b), 2003; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

[17.21.070 Signs. Moved to Chapter 17.62 (Signs), by Ord. 4900 November 5, 2008.]

17.21.030 Lot size. In an R-4 zone, the lot size shall not be less than five thousand square feet, except that the lot area for common wall, single-family lots shall not be less than two thousand five hundred square feet per family. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

RESPONSE: The base R-4 zone allows for multi-family apartments as a permitted use, subject to standards and density, per Chapter 17.21.030 to .060.

The subject site has been developed with a multi-family housing development, as approved by through the building permit process, consistent with the R-4 zoning, per zone change ZC3-17/ZC4-17, Ordinance 5022.

17.21.040 Yard requirements. In an R-4 zone, each lot shall have yards of the following size unless otherwise provided for in Section 17.54.050:

- A. A front yard shall not be less than fifteen feet;
- B. A side yard shall not be less than six feet, except an exterior side yard shall not be less than fifteen feet;
- C. A rear yard shall not be less than twenty feet;
- D. Whether attached to a residence or as a separate building, a covered storage facility for a vehicle on which the main opening is toward a street shall be located not less than twenty feet to the property line bordering the street;
- E. All yards shall be increased, over the requirements of this section, one foot for each two feet of building height over thirty-five feet. (Ord. 4912 §3, 2009; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Response: The ALTA Survey prepared for this development identified rear setback violation for Buildings E & F.

17.21.050 Building height. In an R-4 zone, a building shall not exceed sixty feet in height. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Response: Consistent with 17.21.040E, the minimum required setbacks are adjusted based on building heights exceeding 35 feet. The ALTA Survey confirms that all setbacks are consistent with the approved plans, except for the rear setbacks along NE Baker Street for Buildings E & F.

Per the ALTA Survey there are only two buildings (E & F) which do not meet the required rear yard setback. These two buildings both exceed 35 feet in height, and therefore required additional setback per 17.21.040E, as follows:

**Table 1
Setback Requirement
Based on Building Height**

Building	Height	Standard R-4 Rear Setback	Additional Setback for Height Over 35 feet	Total Required Setback	Actual Setback
E	38.3 feet	20 feet	1 foot	21 feet	19.18 feet
F	38.2 feet	20 feet	1 foot	21 feet	19.55 feet

These violations were not identified until after the buildings were constructed, which makes it impractical and economically infeasible to correct by moving the buildings. It is also noted that the building permit plans were actually approved with 20 foot setback along NE Baker Street.

Permission to depart from certain provisions of the Zoning Ordinance without changing the zoning of the property. A variance is requested when adherence to specific standards in the Zoning Ordinance would cause a particular hardship.

Therefore, the applicant is requesting an Administrative Variance to correct the violation. With the variance request, the applicant is requesting the variance from the required 21 foot setback.

An administrative variance is the process under which the Planning Director may grant certain adjustments to specific requirements in the Zoning Ordinance when the adjustment is within the limitations and conditions stated in Section 17.74.090 (Administrative Variance-Review Criteria) of the McMinnville Zoning Ordinance and listed below. These provisions are to be used sparingly. A request for a variance beyond these limitations is processed as a full variance application, which is subject to Planning Commission review at a public hearing.

Limits for adjustment are as follows:

A. Lot area: Maximum possible adjustment of one percent of the minimum lot area but not more than 90 square feet.

B. Setbacks: Maximum adjustment of 10 percent of the required setback. Variances are not allowed for standards pertaining to the number of dwelling units permitted, parking requirements, height of building, vision clearance area, density, or use of property.

17.74.080 Administrative Variance Limitations. Limitations for an administrative variance are outlined in Section 17.74.090. A request for an administrative variance beyond these limitations shall be submitted and processed as a variance application.

Response: The applicant is requesting an Administrative Variance to correct the identified setback violation, under B. above.

17.74.090 Administrative Variance-Review Criteria. The Planning Director may grant limited adjustments to the terms of this title as follows:

A. Lot area: Maximum possible adjustment of one percent of the minimum lot area, but not more than 90 (ninety) square feet;

Response: This application is not related to lot area. The development meets lot area requirements.

B. Setbacks: Maximum adjustment of 10 (ten) percent of the required setback.

Response: The standard minimum rear setback is 20 feet, with additional setback required for building height, as reflected in Table 1. The actual setbacks identified by the ALTA Survey compared to the required setbacks are as follows:

- Building E 19.18 feet versus 21 feet = 8.6% variance.
- Building F 19.55 feet versus 21 feet = 6.9% variance

Both variances are less than 10% of the applicable standard. Therefore, this criterion is met.

C. These provisions shall be used sparingly and shall not be exceeded except by regular referral to the Planning Commission.

Response: The requested variances are being applied sparingly as they are applied to only two of the 10 total buildings, and only for the rear setback, with less than 10% variance from the standard. All other setbacks maintain compliance with the R-4 setback standards, as approved building permit plans.

The property and development sits at an elevation approximately 10 feet above the elevation of NE Baker Street, so there is both a horizontal and vertical separation of the buildings from the street. In addition to the rear setback, a fence has been constructed along the entire frontage of NE Baker Street, which screens and buffers the buildings from the street view, thereby visually minimizing the minor setback variation. This variation will not be recognizable to the average passerby.

D. Special conditions may be attached to adjustments if such conditions relate directly to the adjustments. Subjects not allowable for adjustment are: number of dwelling units permitted, parking requirements, height of building, vision clearance area, density or use of property.

Response: The requested variances are limited to just the rear setbacks for Buildings E & F, and are not listed above as being disallowed.

FINAL CONCLUSION: Based on the findings presented herein, the applicant has demonstrated compliance with all of the applicable R-4 and Administrative Variance criteria.

The request to allow a minor setback variance for the area between Buildings E & F adjacent to Evans Street of the Evan Crossing multi-family apartments.

Therefore, the applicants respectfully request approval of the requested setback Variance.

ATTACHMENTS:

1. Staff Report, Zone Change File number ZC-3-17/ZC4-17, Ord 5022.
2. ALTA Survey, prepared by K & E Excavating Inc.

A.L.T.A./NSPS LAND TITLE SURVEY

EVANS CROSSING

2501 N.E. EVANS STREET

FOR: KWDS, LLC

TAX LOT: R4416BC 03200

LOT 8, JOPLING'S SUBDIVISION

LOCATED IN THE

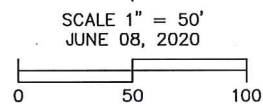
NW 1/4 OF SECTION 16 & NE 1/4 OF SECTION 17, T 4 S, R 4 W, W.M.,

IN THE CITY OF MCMINNVILLE,

YAMHILL COUNTY, OREGON

LEGEND

- FOUND MONUMENT
- SET 5/8" REBAR WITH YELLOW PLASTIC CAP, STAMPED, "K&E EXC INC LS 2596"
- NEW RIGHT OF WAY LINE
- - - CENTERLINE OF ROADWAY
- - - - - PUBLIC UTILITY EASEMENT LINE
- x - NEW CONSTRUCTED FENCE
- () RECORD BEARING AND DISTANCE AS PER YCRS 6464
- M.R. MARKET ROAD
- YCRS YAMHILL COUNTY RECORD OF SURVEY



ALTA NOTES

2501 NE EVANS STREET, MCMINNVILLE, OR 97128
 GROSS LAND AREA:
 +/- 4.38 ACRES
 +/- 190,833 SQ. FT.
 GROSS FLOOR AREA, INCLUDING PATIOS,
 AT GROUND LEVEL: 44,276 SQ. FT.
 SETBACK AND BUILDING RESTRICTIONS:
 PER CITY OF MCMINNVILLE LAND DEVELOPMENT
 ORDINANCE NUMBER 5022 (06-13-2020)
 ZONE: R-4 MULTIPLE-FAMILY RESIDENTIAL ZONE
 TITLE 17 "ZONING"
 CHAPTER 17.21.040 "YARD REQUIREMENTS"
 A) 15.0' FRONT SETBACK
 B) 15.0' EXTERIOR SIDE SETBACK
 C) 20.0' REAR SETBACK
 E) ALL YARDS SHALL BE INCREASED, OVER THE
 REQUIREMENTS OF THIS SECTION, ONE FOOT
 FOR EACH TWO FEET OF BUILDING HEIGHT
 OVER THIRTY-FIVE FEET.

BUILDING HEIGHTS

BUILDING A	38.9'
BUILDING B	38.9'
BUILDING C	38.7'
BUILDING D	38.2'
BUILDING E	38.3'
BUILDING F	38.2'
BUILDING G	38.7'
BUILDING H	38.8'
BUILDING I	38.8'
BUILDING J	38.7'

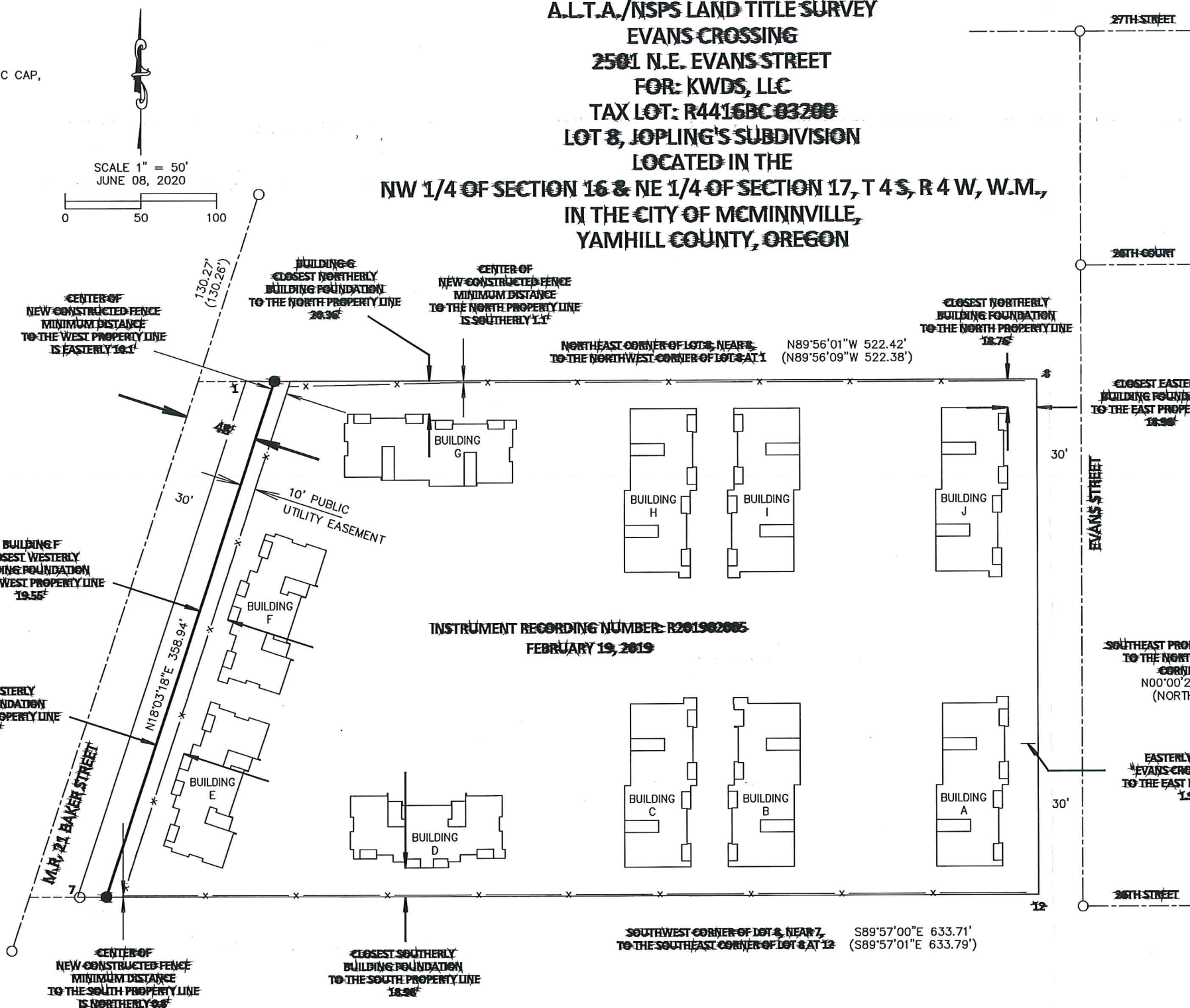
THE BUILDING HEIGHT IS THE DIFFERENCE IN ELEVATION FROM THE SURVEYED ROOF PEAK TO THE SURVEYED FINISHED CONCRETE WALKWAY, MEASURED AT THE ENTRANCE OF THE STAIRWELL.

NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO MEASURE THE NEWLY CONSTRUCTED APARTMENT BUILDINGS. DISPLAY ON THIS PLAT THE MINIMUM DISTANCE FROM THE MEASURED FOUNDATION OF THE APARTMENT BUILDINGS TO EACH OF THE FOUR PROPERTY LINES. COMPUTE THE HEIGHT FOR EACH NEW APARTMENT BUILDING. FROM THE ROOF PEAK TO THE FINISHED GRADE MEASURED AT THE STAIRWELL. THE NEWLY CONSTRUCTED FENCE WAS ALSO SURVEYED AND THE MINIMUM DISTANCE FROM THE CENTER OF THE NEW FENCE TO THE PROPERTY LINE IS DISPLAYED ON THIS PLAT. THE ORIGINAL CONTROL WAS USED TO CONDUCT THIS SURVEY. THIS CONTROL WAS USED IN THE ESTABLISHMENT OF THE PROPERTY LINES. THE ELECTRICAL AND WATERLINE EASEMENT SURVEYS ARE INCLUDED, TO SHOW THE EASEMENTS FROM KWDS LLC TO MCMINNVILLE WATER & LIGHT.

TITLE COMMITMENT REFERENCES

THE PROPERTY SURVEYED AND SHOWN ON RECORD OF SURVEY "DEDICATION OF RIGHT OF WAY AND EASEMENT" (SHEET 2) IS THE SAME PROPERTY AS DESCRIBED IN TITLE NUMBER XXXX-XXXX-XXXX, DATED XXX-XXX-XXX, PREPARED BY AMERITITLE, 320 CHURCH ST. NE, SALEM, OR 97301



INSTRUMENT RECORDING NUMBER: R201902005
FEBRUARY 19, 2019

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 JANUARY 19, 1993
 JAMES E. SWENSON
 2596
 RENEWS JUNE 30, 2022

K&E EXCAVATING INCORPORATED
3871 LANGLEY ST. SE
SALEM, OREGON 97317
503-399-4833
KEEX.NET