

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: Decision Rendered

| | |
|---|---|
| Appeal ID: 14929 | Project Address: 1526 N Holman St |
| Hearing Date: 4/12/17 | Appellant Name: Dan Williams |
| Case No.: B-005 | Appellant Phone: 503-819-7754 |
| Appeal Type: Building | Plans Examiner/Inspector: John Cooley |
| Project Type: commercial | Stories: 3 Occupancy: R Construction Type: not given |
| Building/Business Name: | Fire Sprinklers: Yes - location not given |
| Appeal Involves: Erection of a new structure | LUR or Permit Application No.: 16-132725-CO |
| Plan Submitted Option: pdf [File 1] | Proposed use: approved 6-plex |

APPEAL INFORMATION SHEET

Appeal item 1

Code Section 2014 ORSC 302.1

Requires R302.1 Exterior Walls. Construction, projections, openings and penetrations of exterior walls of dwellings and accessory building shall comply with Table R302.1.

Proposed Design The existing dwelling is proposed to remain on the adjacent property (1532 N Holman). A PLA is proposed as the previous lot confirmation had an error and it was found the existing dwelling is over the line. The PLA is in review (LU 16-282822-PR). A 6-plex has been approved (LU 16-132725-CO) for the site (1526 N Holman) After the PLA, the existing dwelling main wall will be 0.26 to 0.41 feet from the property line. There are no eaves on the existing dwelling east facade. The applicant is proposing a 5.74 foot wide no build easement along the western property line (shared line) to provide adequate spacing between the existing dwelling and the approved 6-plex. This will provide 6 feet total between building walls and at least 4 feet between eaves. The 6-plex will also have a fire sprinkler system and will have fire rated walls.

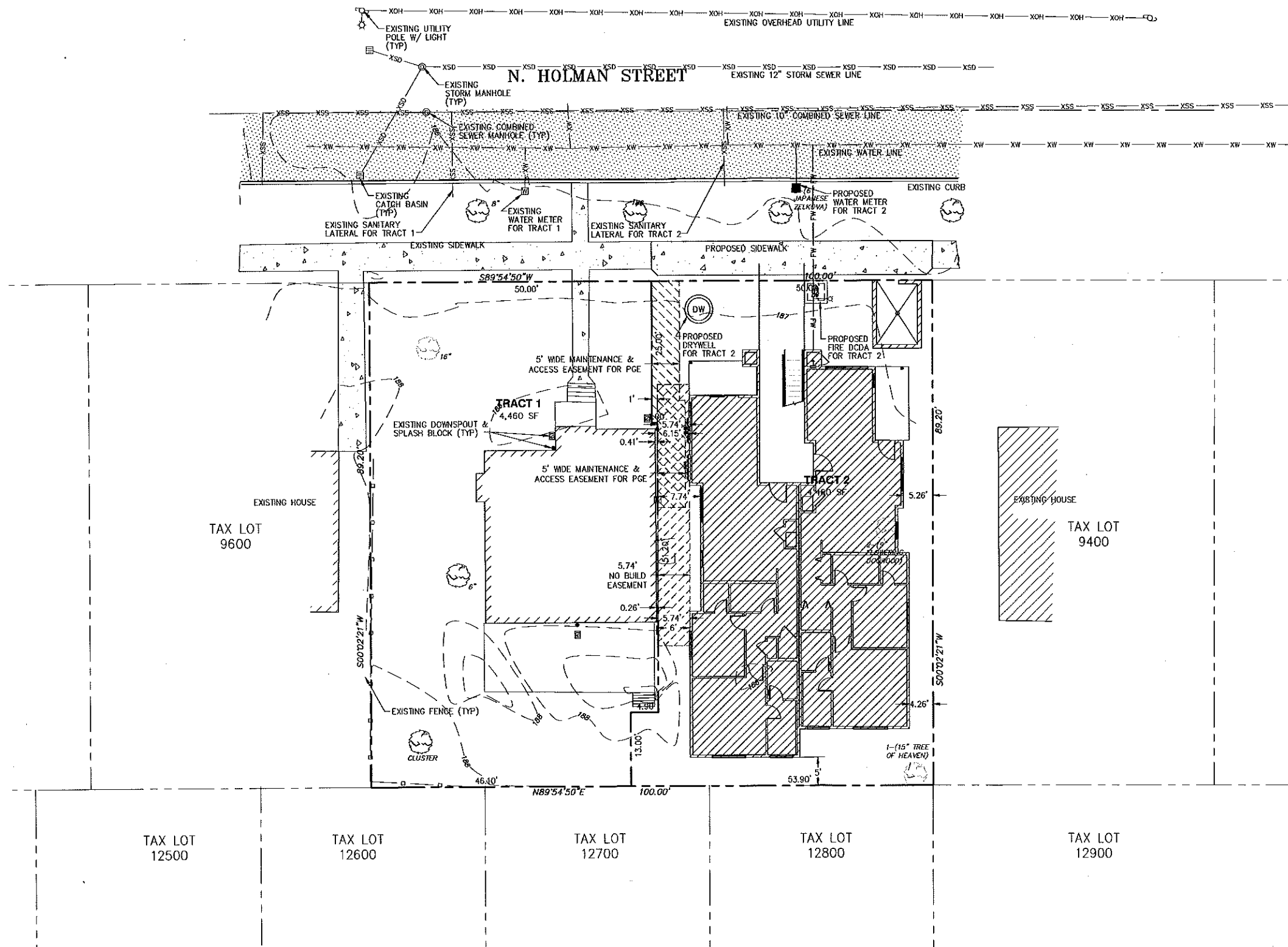
Reason for alternative The proposed alternate allows for the existing dwelling at 1532 N Holman to remain. The 5.74 foot wide no build easement on 1526 N Holman with the concurrent PLA provides equivalent fire safety and accessibility that two 3-foot side yard setbacks would provide. This will provide 6 feet total between building walls and at least 4 feet between eaves.

APPEAL DECISION

Unprotected walls and openings on east side of single family dwelling due to property line adjustment error. See also appeal 10495: Granted provided 6 plex projections comply with OSSC Section 705.2 and covenant for no build easement be amended to reflect changes. Appellant may contact Nancy Thorington (503-823-7023) for more information.

The Administrative Appeal Board finds with the conditions noted, that the information submitted by the appellant demonstrates that the approved modifications or alternate methods are consistent with the intent of the code; do not lessen health, safety, accessibility, life, fire safety or structural requirements; and that special conditions unique to this project make strict application of those code sections impractical.

Pursuant to City Code Chapter 24.10, you may appeal this decision to the Building Code Board of Appeal within 180 calendar days of the date this decision is published. For information on the appeals process and costs, including forms, appeal fee, payment methods and fee waivers, go to www.portlandoregon.gov/bds/appealsinfo, call (503) 823-7300 or come in to the Development Services Center.



SIGNED ON:
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
NOVEMBER 30, 2007
JAMES BURTON BROWN
60379

RENEWS: DECEMBER 31, 2017

1532 N HOLMAN STREET
TAX MAP T1N R1E 16DA
TAX LOT 9500
PORTLAND, OREGON

PLA EXHIBIT
4-3-2017

| REVISIONS | |
|-----------|-------------|
| NO. | DESCRIPTION |
| | |

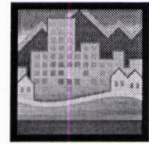
EMERIO
Design

6107 SW MURRAY BLVD, SUITE 147
BEAVERTON, OREGON 97008
PH: (503)-746-8812

SHEET
1
of
1

PREVIOUS APPEAL**Development Services****From Concept to Construction**

Phone: 503-823-7300 TTY : 503-823-6868 1900 SW 4th Ave, Portland, OR 97201

**APPEAL SUMMARY****Status:** Decision Rendered**Appeal ID:** 10495**Project Address:** 1532 N Holman St**Hearing Date:** 2/19/14**Appellant Name:** Vic Remmers**Case No.:** B-005**Appellant Phone:** Not given**Appeal Type:** Building**Plans Examiner/Inspector:** Katherine Bang**Project Type:** residential**Stories:** ? **Occupancy:** R-3 **Construction Type:** V-B**Building/Business Name:****Fire Sprinklers:** No**Appeal Involves:** other: Existing dwelling & property line **LUR or Permit Application No.:****Plan Submitted Option:** pdf [File 1] [File 2]**Proposed use:** Single family dwelling**APPEAL INFORMATION SHEET****Appeal item 1****Code Section** 2011 ORSC 302.1

Requires R302.1 Exterior Walls. Construction, projections, openings and penetrations of exterior walls of dwellings and accessory building shall comply with Table R302.1. Exterior walls must have one hour fire resistive construction and openings are not permitted if the property line is less than 3 ft from the house.

Proposed Design The existing dwelling is proposed to remain on a lot (Lot 4) with a Lot Confirmation and a future partition on the parcel to the east (Lot 3) after confirmation. The existing dwelling main wall will be 0.35 feet from the property line, with the one eave at the northeast corner to be removed. Therefore, there will be no eaves on the existing house along the eastern property line to be confirmed. The applicant is also proposing to remove the stairs and doorway along the eastern side of the house and replace the door with a window. The applicant is proposing a 6 foot wide no build easement on the adjacent lot (Lot 3) to provide adequate spacing between the existing dwelling and any future building on Lot 3 (future partition). This will provide 6 feet total between building walls and at least 4 feet between eaves.

The existing dwelling is proposed to remain with minor modifications to the eastern wall (See attached photo).

Reason for alternative The proposed alternate allows for the existing dwelling to remain. The 6 foot wide no build easement on Lot 3 with the concurrent Lot Confirmation (property to east- will go through partition processes) provides equivalent fire safety and accessibility that two 3-foot side yard setbacks

would provide. This will provide 6 feet total between building walls and at least 4 feet between eaves.

APPEAL DECISION

Unprotected walls and openings on east side of single family dwelling: Granted provided the no-build easement extends 6 ft beyond the structure or to the adjacent right of way. A maintenance and access agreement for PGE meter must also be recorded. Easement to be reviewed and approved by BDS prior to recording. Appellant may contact Nancy Thorington (503-823-7023) for more information.

The Administrative Appeal Board finds that the information submitted by the appellant demonstrates that the approved modifications or alternate methods are consistent with the intent of the code; do not lessen health, safety, accessibility, life, fire safety or structural requirements; and that special conditions unique to this project make strict application of those code sections impractical.

AFTER RECORDING, RETURN TO:

COVENANT FOR FUTURE NO-BUILD EASEMENT AND AGREEMENT NOT TO BUILD
_____ **[INSERT APPLICATION NO.]**

RECITALS

A. ALAN K. HOLZAPFEL and DORCAS T. HOLZAPFEL ("Declarant"), are the record owners of the parcels described in Section 2 below.

B. Declarant has submitted an application to the City of Portland for an appeal of Building Code **2011 ORSC 302.1** regarding exterior walls, construction, projections, openings and penetrations of exterior walls of dwelling. The existing dwelling is proposed to remain on a lot (Lot 4) with a Lot Confirmation and a future partition on the parcel to the east (Lot 3) after confirmation. The existing dwelling main wall will be 0.35 feet from the property line, with the one eave at the northeast corner to be removed. Therefore, there will be no eaves on the existing house along the eastern property line to be confirmed. The applicant is also proposing to remove the stairs and doorway along the eastern side of the house and replace the door with a window. The applicant is proposing a 6 foot wide no build easement on the adjacent lot (Lot 3) to provide adequate spacing between the existing dwelling and any future building on Lot 3 (future partition). This will provide 6 feet total between building walls and at least 4 feet between eaves.

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C. In exchange for the promises under this Covenant for Future No-Build Easement and Agreement Not to Build ("Agreement"), Declarant has requested that the City approve an alternative method of meeting the Building Code requirements described above.

D. Declarant further desires to burden Lot 4 with a covenant that will immediately create a no-build easement in perpetuity to benefit Parcel 1 of Lot 3, effective upon the date when Lot 4 and Parcel 1 of Lot 3 are no longer under common ownership.

E. Declarant has agreed not to build any new or additional structures within the No-Build Easement Area described below.

F. Declarant has further agreed to record this Agreement, to provide record notice of the terms of this Agreement, and to bind subsequent transferees of Parcels 1 and 2 to the terms of this Agreement.

NOW, THEREFORE, the Declarant agrees as follows:

AGREEMENT

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

a. The properties to be burdened by the No-Build Easement are:

Lot 4, Block 6, ROSALIND ADDITION, City of Portland, Multnomah County, State of Oregon.

b. The properties to be benefitted by the No-Build Easement are:

Parcel 1 of Lot 3, Block 6, ROSALIND ADDITION, City of Portland, Multnomah County, State of Oregon.

c. The No-Build Easement Area is as follows:

A 6-foot by 46.17-foot No-Build Easement, as shown and described more fully in Exhibits "A" and "B" attached hereto (the "No-Build Easement Area").

2. **NO-BUILD EASEMENT AREA RESTRICTIONS.** No new or additional above-ground structure, including, but not limited to, a dwelling unit, garage, shed, fence or any other above-ground building or structure, shall be erected, constructed, or placed upon any portion of the No-Build Easement Area. If the structure located on said Lot 4 is demolished or destroyed in the future, regardless of the cause, any replacement structure may not be built in whole or in part within the No-Build Easement Area, unless it complies with all codes in effect at the time of replacement.

3. **COVENANT FOR NO-BUILD EASEMENT.** Declarant, Declarant's successors and assigns, covenant that, if Declarant or subsequent owners or assigns transfer ownership of Lot 4, Block 9, and Parcel 1, Lot 3 so that the parcels are no longer under common ownership, the subsequent owners and users of Lot 4, Block 9 shall immediately be burdened by a No-Build Easement on Parcel 1 of Lot 3, Block 9. Subsequent owner(s) of Lot 4, Block 9 and Parcel 1 of Lot 3, Block 9 shall abide by the No-Build Easement Area restrictions described in Section 3 of this Agreement.

4. **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 for the benefit of Parcel 2 and burdening Parcel 1 and shall be binding on Declarant, Declarant's heirs, executors, administrators, successors, and assigns and all current and future owners of Parcels 1 and 2 and all persons claiming title, possession, or ownership of or to such properties.

5. 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.

6. MODIFICATION AND TERMINATION. The Declarant(s) and subsequent owners and assigns may not modify, withdraw from, terminate, or dissolve this Agreement without the written approval of the City of Portland. If this Agreement is a condition of approval of a property division, the City of Portland may require such condition to be modified before permitting this Agreement to be terminated or dissolved or permitting a party to withdraw from 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 Superior 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 Portland:

Bureau 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 the existing structure to remain as is with eaves less than three feet from the property line. Such properties do not comply with the following sections of the 2011 Oregon Residential Specialty Code:

Code Section being appealed: 2011 ORSC 302.1

Regulation Requirement: **R302.1 Exterior Walls.** Construction, projections, openings and penetrations of exterior walls of dwellings and accessory building shall comply with Table R302.1.

TABLE R302.1
EXTERIOR WALLS

| EXTERIOR WALL ELEMENT | | MINIMUM FIRE-RESISTANCE RATING | MINIMUM FIRE SEPARATION DISTANCE |
|-----------------------|-----------------------------|---|-------------------------------------|
| Walls | (Fire-resistance rated) | 1 hour-tested in accordance with ASTM E 119 or UL 263 with exposure from both sides | < 3 feet |
| | (Not fire-resistance rated) | 0 hours | ≥ 3 feet |
| Projections | (Fire-resistance rated) | 1 hour on the underside | ≥ 2 feet to 3 feet |
| | (Not fire-resistance rated) | 0 hours | 3 feet |
| Openings in walls | Not allowed | N/A | < 3 feet |
| | Unlimited | 0 hours | 3 feet or greater |
| Penetrations | All | Comply with Section R302.4 | < 3 feet |
| | | None required | 3 feet or greater |

For SI: 1 foot = 304.8 mm.

N/A = Not Applicable.

3-14

2011 OREGON RESIDENTIAL SPECIALTY CODE

The existing dwelling is proposed to remain on a lot (Lot 4) with a Lot Confirmation and a future partition on the parcel to the east (Lot 3) after confirmation. The existing dwelling main wall will be 0.35 feet from the property line, with the eave along the east side of the house to be removed. Therefore, there will be no eaves on the existing house along the eastern property line to be confirmed. The applicant is also proposing to remove the stairs and doorway along the eastern side of the house and replace the door with a window. The applicant is proposing a 6 foot wide no build easement on the adjacent lot (Lot 3) to provide adequate spacing between the existing dwelling and any future building on Lot 3 (future partition). This will provide 6 feet total between building walls and at least 4 feet between eaves.

In exchange for the promises under this Agreement, Declarant acknowledges that this Agreement is executed as an alternative to complying with these sections of the Building Code. The parties agree that the City of Portland is an intended third party beneficiary of this Agreement.

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.

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 Easement Agreement as of the date set forth below.

DECLARANT ALAN K. HOLZAPFEL and DORCAS T. HOLZAPFEL

ALAN K. HOLZAPFEL

DORCAS T. HOLZAPFEL

ADDRESS: _____
(mailing address)

STATE OF OREGON)
)
County of _____)

This instrument was acknowledged before me on _____, 2014, by ALAN K. HOLZAPFEL and DORCAS T. HOLZAPFEL.

By: _____
Notary Public for Oregon

My Commission Expires: _____



CENTERLINE CONCEPTS
LAND SURVEYING, INC.

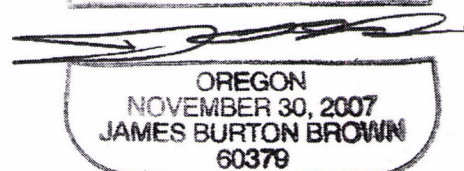
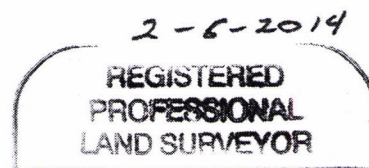
729 Molalla Avenue, Ste. 1 and 2, Oregon City, OR 97045
P. 503-650-0188 F. 503-650-0189

Exhibit "A"
No Build Easement
Legal Description

A Tract of land being a portion of Lot 3, Block 6 per the Plat of "Rosalind Addition", Plat records of Multnomah County, located in the Southeast 1/4 of Section 16, Township 1 North, Range 1 East of the Willamette Meridian, City of Portland, County of Multnomah, State of Oregon, being more particularly described as follows:

BEGINNING at a point on the West line of Lot 3, Block 6 per the Plat of "Rosalind Addition", Plat records of Multnomah County, said point bears S00°02'21"W, 18.25 feet from the Northwest corner thereof; thence leaving said West line, S89°57'39"E, 6.00 feet to a point being 6.00 feet East of said West line when measured at right angles; thence Easterly of, parallel with, and 6.00 feet distant from said West line, S00°02'21"W, 46.17 feet; thence N89°57'39"W, 6.00 feet to a point on said West line; thence along said West line, N00°02'21"E, 46.17 feet to the **POINT OF BEGINNING**.

Contains 277 Square Feet, more or less.



RENEWAL DATE 12-31-2015

N. HOLMAN STREET

30.00'

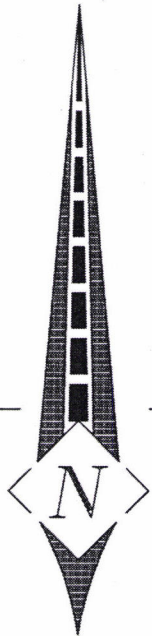
N.W. CORNER
LOT 3

POINT OF
BEGINNING

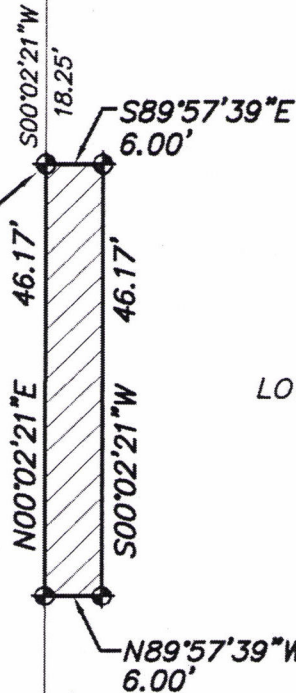
LOT 5

LOT 4

LOT 3



"ROSALIND ADDITION"
BLOCK 6



SIGNED ON: 2-6-2014

REGISTERED
PROFESSIONAL
LAND SURVEYOR

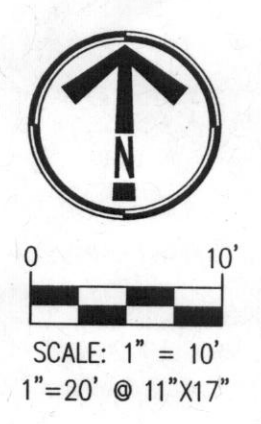
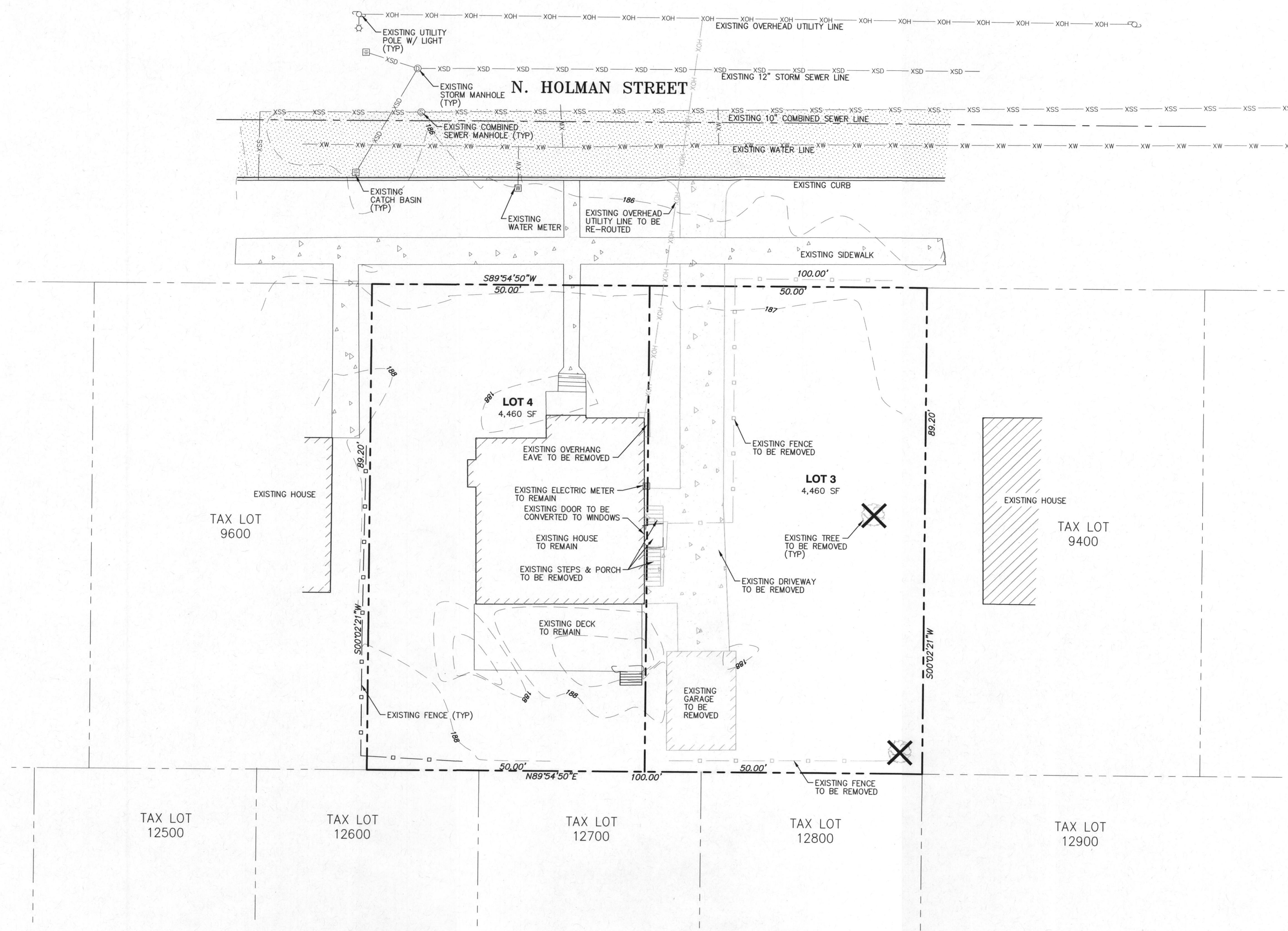
OREGON
NOVEMBER 30, 2007
JAMES BURTON BROWN
60379

VALID THROUGH DECEMBER 31, 2015

CLIENT: EMERIO
ORIG. DATE: FEBRUARY 5, 2014
DRAWN BY: JBB
SHEET No. 1 of 1

EXHIBIT "B"
NO BUILD EASEMENT
PORTLAND, OR
Scale: 1"=20'


CENTERLINE CONCEPTS
LAND SURVEYING, INC.
729 MOLALLA AVE., SUITE 1 & 2
OREGON CITY, OREGON 97045
PHONE 503.650.0188 FAX 503.650.0189



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|--|--|
| 1532 N HOLMAN STREET TAX MAP T1N R1E 16DA TAX LOT 9500 PORTLAND, OREGON | |
| LOT CONFIRMATION | |
| REVISIONS NO. DATE DESCRIPTION | |
| 6107 SW MURRAY BLVD. SUITE 147 BEAVERTON, OREGON 97008 PH: (503)-746-8812 | |
| SHEET 1 OF 1 | |