



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**

FROM CONCEPT TO CONSTRUCTION

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**Date:** December 5, 2014  
**To:** Interested Person  
**From:** Andrew Gulizia, Land Use Services  
503-823-7010 / [Andrew.Gulizia@portlandoregon.gov](mailto:Andrew.Gulizia@portlandoregon.gov)

## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has **approved** a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 14-168486 AD**

#### **GENERAL INFORMATION**

**Applicant:** Scott Nance  
Alpha Environmental Services  
11080 SW Allen Blvd, Suite 100 / Beaverton, OR 97005

**Property Owner:** John Chulick  
1811 SE Harrison St. / Portland, OR 97214

**Site Address:** 1811 SE Harrison St.

**Legal Description:** BLOCK 23 LOT 4, LADDS ADD  
**Tax Account No.:** R463305220  
**State ID No.:** 1S1E02DB 04700  
**Quarter Section:** 3232  
**Neighborhood:** Hosford-Abernethy, contact Joanne Stainbrook at 503-231-9245  
**Business District:** Division-Clinton Business Association, contact Darice Robinson at 503-233-1888  
**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010  
**Other Designations:** Ladd's Addition Historic District (non-contributing resource)  
**Zoning:** R5 – Single-Dwelling Residential 5,000  
**Case Type:** AD – Adjustment Review  
**Procedure:** Type II administrative decision with appeal to the Adjustment Committee

**Proposal:** The applicant has installed a radon mitigation pipe on the outside of the house that is set back 3'9" from the north side lot line. Since Zoning Code Section 33.110.220.B requires structures in the R5 zone to be set back 5' from side lot lines, the applicant requests an Adjustment to reduce the north side setback requirement for the radon mitigation system from 5' to 3'9".

**Relevant Approval Criteria:** In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Section 33.805.040.A-F of the Portland Zoning Code.

## ANALYSIS

**Site and Vicinity:** The site is a 3,700 square-foot lot located on the northeast side of SE Harrison Street, between SE Locust Avenue and SE Hemlock Avenue. The site is developed with a two-story, single-dwelling residence and a detached garage. Neighboring properties are developed with a mix of one-story and two-story homes. A commercial district along SE Hawthorne Boulevard is approximately 1,000 feet north of the site.

**Zoning:** The R5 designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The site is also within the Ladd's Addition Historic District, and is classified as a "non-contributing resource." However, the associated regulations do not affect the Adjustment request. Radon mitigation systems on non-street-facing facades are specifically exempted from Historic Review per Zoning Code Section 33.445.320.B.13.

**Land Use History:** City records indicate one prior land use review for this site. In 2013, a Historic Review for window replacements was approved (LU 13-203909 HR).

**Agency Review:** A "Notice of Proposal" was mailed November 10, 2014. The following Bureaus have responded with no concerns about the proposal:

- Bureau of Environmental Services;
- Bureau of Transportation Engineering;
- Water Bureau;
- Fire Bureau;
- Site Development Section of BDS;
- Life Safety Review Section of BDS; and
- Bureau of Parks-Forestry Division.

**Neighborhood Review:** One letter in support of the proposal was received from owner of the adjacent property to the north. The neighboring property owner stated that the location of the radon mitigation system between the two homes was necessary, and that the since the pipe was painted to match the house it was minimally intrusive.

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated that approval criteria A through F, below, have been met.

- A.** Granting the Adjustment will equally or better meet the purpose of the regulation to be modified; and

**Findings:** The applicant is requesting an Adjustment to the minimum setback requirement for structures in the R5 zone. The purpose of the setback requirement is stated in Zoning Code Section 33.110.220.A:

**Purpose.** *The setback regulations for buildings and garage entrances serve several purposes:*

- *They maintain light, air, separation for fire protection, and access for fire fighting;*

- *They reflect the general building scale and placement of houses in the city's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The proposed setback Adjustment is for a radon mitigation pipe which protrudes into the required north side setback. The pipe extends most of the height of the house, but is fairly narrow in width. It has little or no impact on light, air, privacy, the general building scale of the neighborhood, or the physical relationship between residences. The Fire Bureau reviewed the proposal and expressed no concerns about fire protection. Since the pipe is in the north side yard, the front yard is unaffected. The driveway and garage are on the opposite side of the property, so the proposed setback Adjustment has no impact on parking or driver visibility when backing onto the street. Placement of the radon mitigation system on the north side of the house promotes compatibility with the neighborhood because the system is not easily seen from the street. Based on these reasons, the proposed Adjustment equally meets the intent of the regulation and this criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** Because the site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. The radon mitigation system does not face the street and is not visually prominent in the neighborhood. It was installed on the north side wall of the house on this site and faces the south side wall of the neighboring house to the north. The exterior part of the system is composed of a pipe which was painted to match the house. The owner of the abutting property to the north, which would be most impacted by the proposed setback Adjustment from the north lot line, submitted a letter in support of the proposal stating that the visual impact of the radon mitigation system is minimal (Exhibit F-1). For these reasons, the proposal will not result in any negative impacts to neighborhood livability or appearance. This criterion is met.

- C.** If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** As only one Adjustment is being requested, this criterion is not applicable.

- D.** City-designated scenic resources and historic resources are preserved; and

**Findings:** The site is within the Ladd's Addition Historic District and is classified as a "non-contributing resource." Radon mitigation systems on non-street-facing facades are exempt from Historic Review per Zoning Code Section 33.445.320.B.13. As discussed in the findings for approval criterion B, the radon mitigation system is painted to match the house and is not prominent visually from the street. Therefore, it has minimal impacts on the historic resources in the area, and this criterion is met.

- E.** Any impacts resulting from the Adjustment are mitigated to the extent practical; and

**Findings:** As discussed in the findings for approval criterion B, the proposal will have no adverse impacts on the livability of the surrounding residential area. As there are no identified adverse impacts for which mitigation would be required, this criterion is not applicable.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As there are no environmental overlay zones mapped on site, this criterion is not applicable.

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

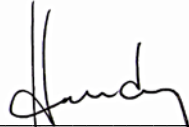
The proposal to reduce the minimum setback for a radon mitigation system equally meets the intent of the setback regulation and will not have adverse impacts on the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Since the approval criteria are met, the proposal should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the north side setback requirement for the radon mitigation system from 5' to 3'9" (Zoning Code Section 33.110.220.B), per the approved site plan and building elevation, Exhibits C-1 and C-2, signed and dated December 3, 2014, subject to the following conditions:

- A. A retroactive mechanical permit for the radon mitigation system must be obtained by February 6, 2015. As part of the mechanical permit application submittal, each of the required drawings must reflect the information and design approved by this land use review as indicated in Exhibits C-1 and C-2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-168486 AD."
- B. If the house siding is repainted in the future, the portion of the radon mitigation system which abuts the repainted siding must be repainted to match.

**Staff Planner: Andrew Gulizia**

**Decision rendered by:**  **on December 3, 2014**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: December 5, 2014**

**About this Decision.** This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on June 11, 2014, and was determined to be complete on **November 5, 2014**.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on June 11, 2014.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless extended by the applicant, **the 120 days will expire on: March 5, 2015.**

**Some of the information contained in this report was provided by the applicant.**

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

**Appealing this decision.** This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on December 19, 2014**, at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](http://www.portlandonline.com).

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within

21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **December 22, 2014**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034. For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

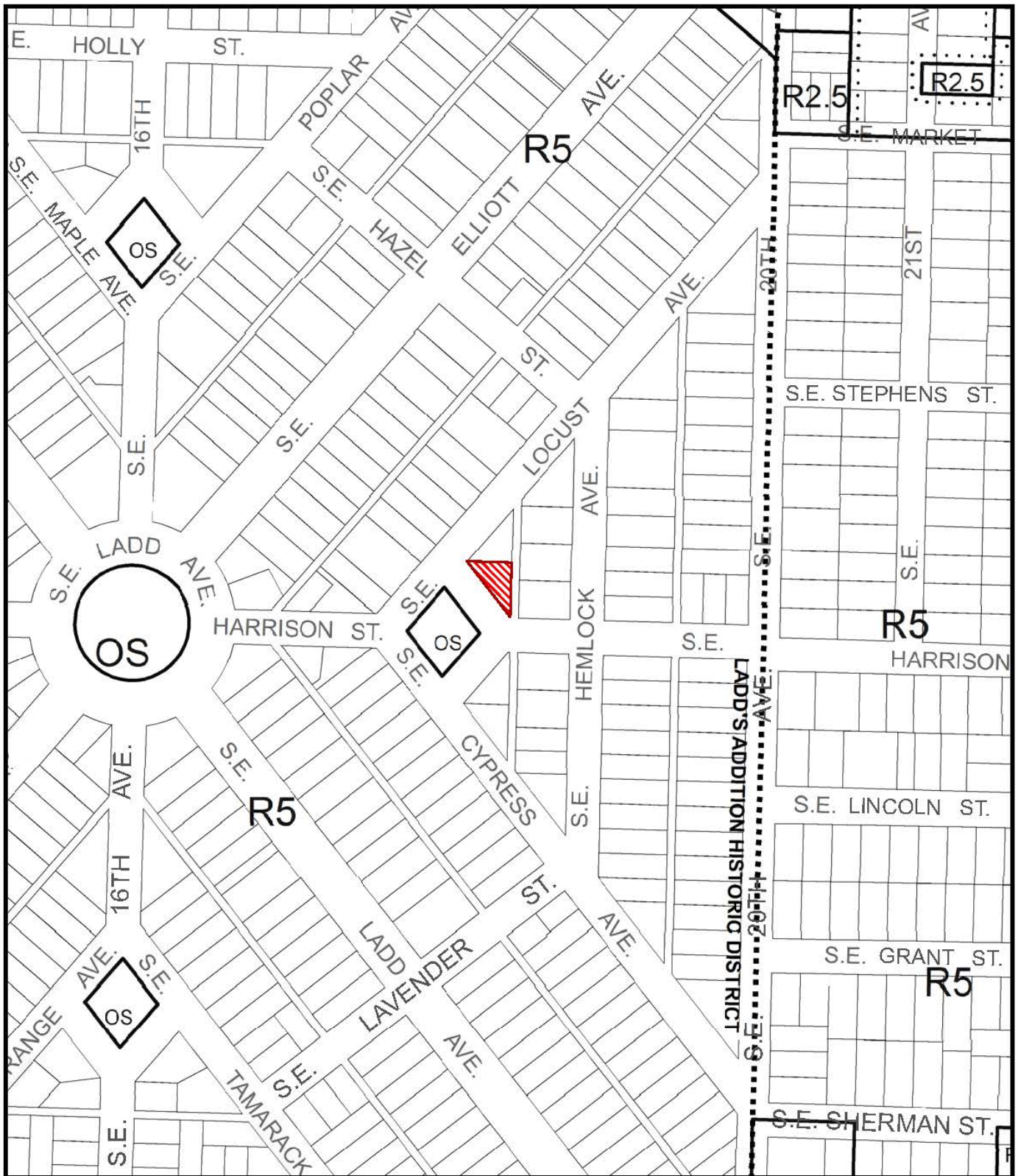
**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site plan (attached)
  - 2. Building elevation (attached)
- D. Notification Information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Life Safety Review Section of BDS
  - 7. Bureau of Parks, Forestry Division
- F. Correspondence
  - 1. Letter from Patrick Riechel and Lauren Wang, dated November 23, 2014
- G. Other:
  - 1. Original LU application form and receipt
  - 2. Incompleteness determination letter, dated June 23, 2014

**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**





# ZONING



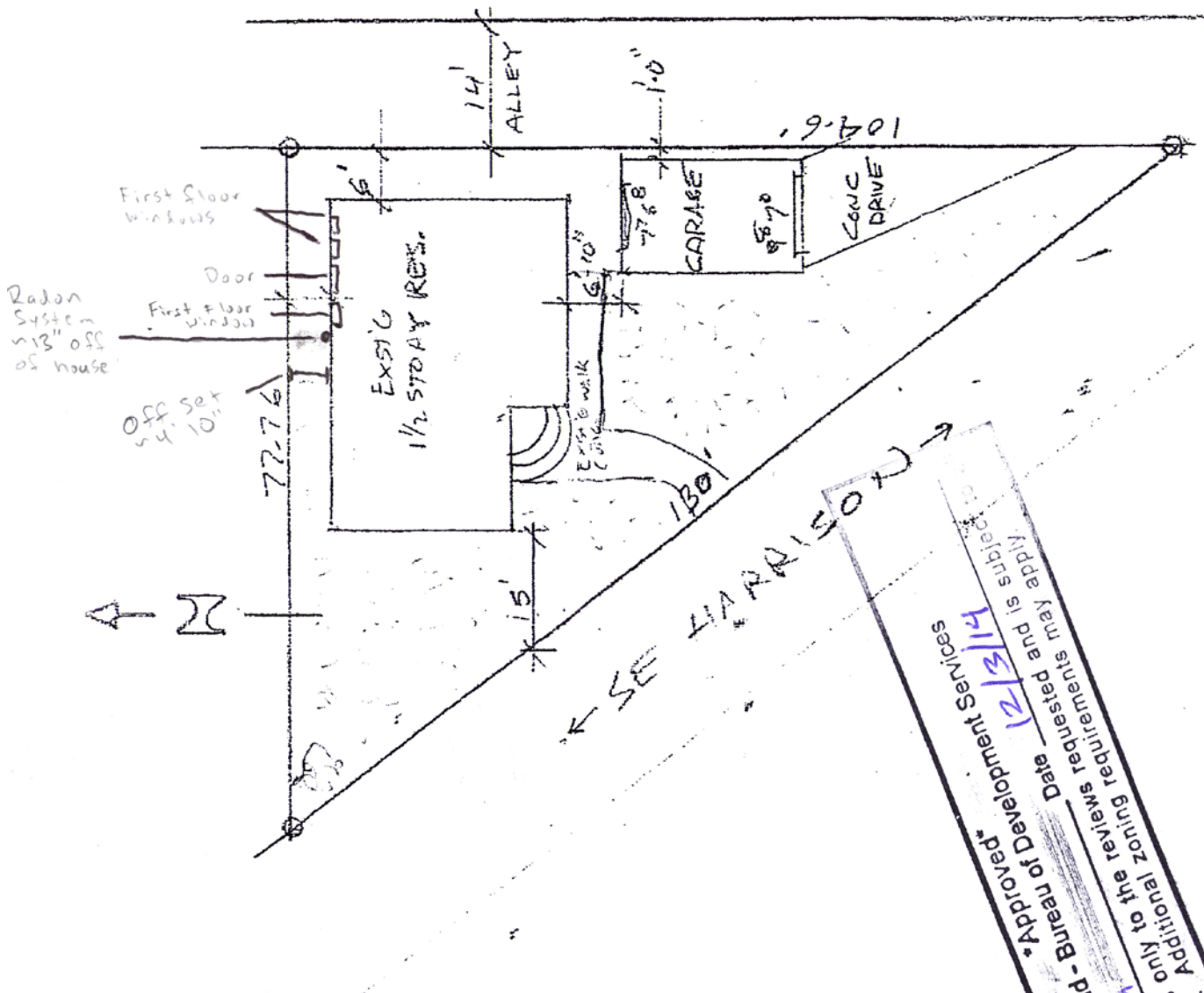
Site



This site lies within the:  
LADD'S ADDITION HISTORIC DISTRICT

File No.	LU 14-168486 AD
1/4 Section	3232
Scale	1 inch = 225 feet
State_Id	1S1E02DB 4700
Exhibit	B (Jun 13, 2014)





# EXIST'G SITE PLAN

SCALE: 1" = 20'-0"

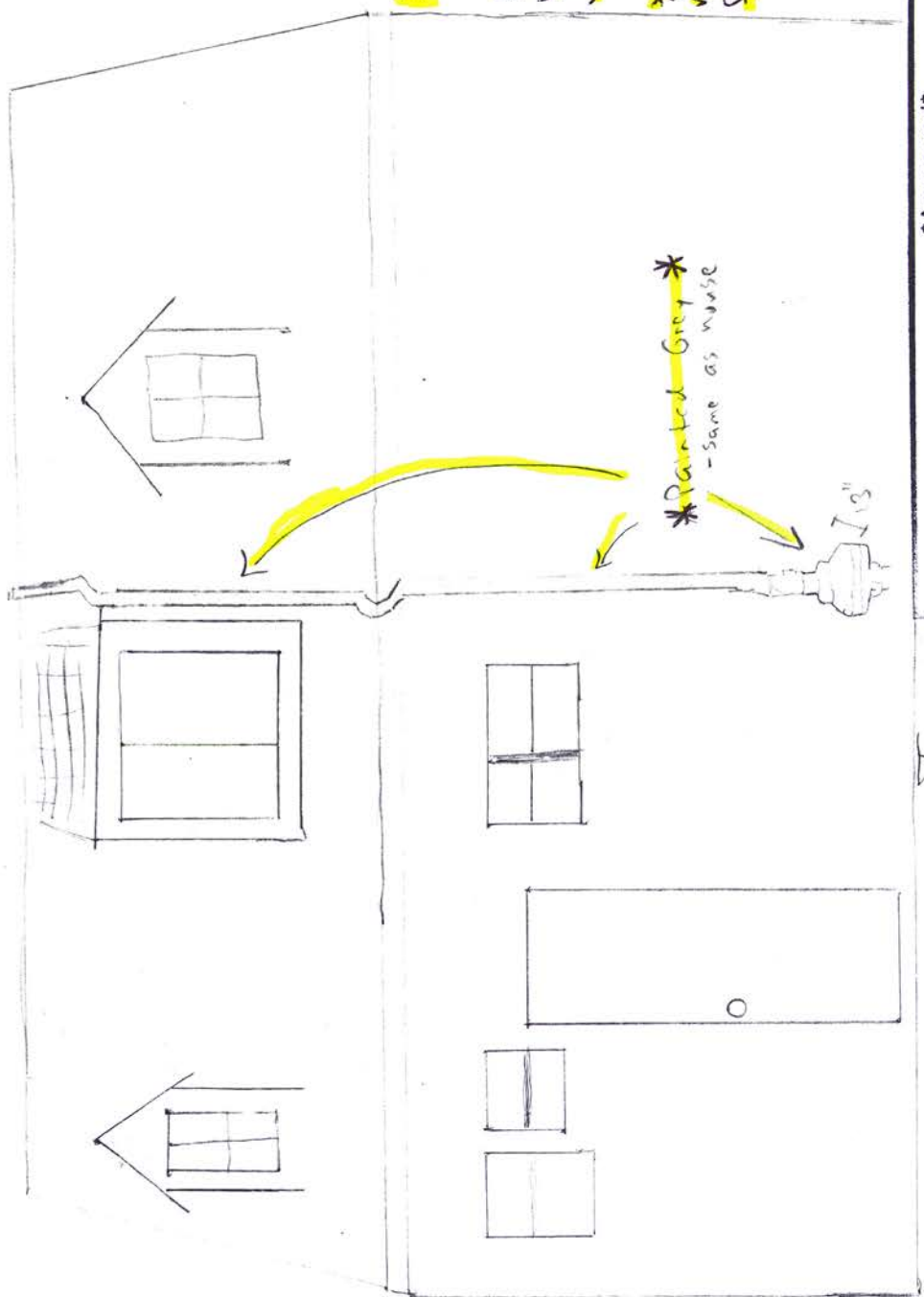
City of Portland - Bureau of Development Services  
 Approved: **A 6/12/14**  
 Date: **12/3/14**  
 This approval applies only to the reviews requested and is subject to additional zoning requirements may apply.

9.9.13

LU 14-168486 AD

Exhibit C-1

\*Prank  
C.D.C  
Elevation



Issues to Consider

- \*Neighbor behind has a radon system ~15' away
- \*System is not easily seen from the street

\*Approved\*

City of Portland - Bureau of Development Services

Planner A. Gulizia Date 12/3/14

\* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

4' 10" Offset

\* Drawing not to perfect scale