



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
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Date: July 15, 2011
To: Interested Person
From: Mark Bello, Land Use Services
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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 reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 11-142349 AD
ACCESSORY DWELLING UNIT (ADU) MAIN ENTRANCE

GENERAL INFORMATION

Applicant: Mel Seger
Cosmo Investments LLC
PO Box 17282
Portland, OR 97217-0282

Site Address: 128 SE 22ND AVE

Legal Description: BLOCK 13 S 1/2 OF N 1/2 OF LOT 4&5, DUNNS ADD
Tax Account No.: R219801160
State ID No.: 1N1E35DD 06800
Quarter Section: 3032
Neighborhood: Buckman, contact Susan Lindsay at 503-725-8257.
Business District: None
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.
Zoning: R2.5 Residential 2,500

Case Type: AD Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicant is creating an Accessory Dwelling Unit (ADU) at 128 SE 22nd Avenue. The zoning code does not allow a second entrance for an ADU to orient to the street as the main entrance to a house typically does. As designed, the ADU main entrance fronts SE 22nd Avenue at a 45 degree angle. So, an adjustment to the code is required. ADU development standards are listed in Section 33.205.030.

ANALYSIS

Zoning: The Residential 2,500 (R2.5) single-dwelling zone is intended to preserve land for

housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. The minimum density for new lots in this zone is 1 unit per 5,000 square feet and the maximum density is based on lot size and street configuration. Both detached and attached single-dwellings are allowed. Minimum lot size for both types of development is 1,600 square feet with minimum front lot line of 30 feet and minimum depth of 40 feet. There is no required minimum lot width or front lot line for lots that are developed with structures that meet certain additional development standards related to design.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **June 7, 2011**. The following Bureaus have responded with no issues or concerns:

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. Bureau of Parks, Forestry Division

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 7, 2011. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of Adjustments. The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations. They also allow for alternative ways to meet the purposes of the code, while allowing the zoning.

33.805.040 Adjustment Approval Criteria The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria

A. through F. have been met:

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

[Purpose statement:

Section 33.205.030.A states that the ADU design standards are intended to address the following purposes:

- Ensure that accessory dwelling units are compatible with the desired character and livability of Portland's residential zones;
- Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;
- Ensure that accessory dwelling units are smaller in size than houses, attached houses, or manufactured homes; and
- Provide adequate flexibility to site buildings so that they fit the topography of sites.]

and

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area; and
- 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; [*not applicable; only one adjustment is requested*] and
- D.** City-designated scenic resources and historic resources are preserved; and
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical.

FINDINGS AND CONCLUSIONS

The applicant's proposal meets all of the relevant approval criteria. The character of the surrounding area is mixed with single dwelling and multi dwelling development scattered throughout the neighborhood between SE Ankeny and SE Oak streets and between SE 18th and SE 28th Avenues. On the block between SE Ankeny and SE Ash the majority of street frontage is adjacent to apartment buildings. The applicant has submitted several examples of dwellings that have a second main entrance facing the street.

The main entrance and ADU entrance both lead to a common front yard that serves as a functional pedestrian space. This is possible because on-site parking will be eliminated as this site is close to transit service on Burnside.

Granting this adjustment will maintain the accessory nature of this basement remodeled into an ADU. No additional ADU floor area will be created. The main entrance to the ADU will be angled at the northwest corner of the house and the street presence will be minimized. The new window at the basement grade is consistent with the window at the main level. See Exhibits C-1 and C-2.

No cumulative impacts are expected to occur from approval of the proposal and it is consistent with the purpose of the R2.5 zone, which is to preserve land for housing and to provide housing opportunities for individual household. There are no scenic or historic resources on the site; no impacts have been identified and the site is not located in an environmental zone, so the criteria related to these issues do not apply. Therefore, because all of the relevant approval criteria are met, the proposal can be approved, in substantial compliance with the proposed site plan.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Section 33.205.030, to allow a second entrance for the ADU on the front house façade at 128 SE 22nd Avenue, per the approved plans, Exhibits C-1 and C-2, signed and dated July 18, 2011, subject to the following condition:

- A. As part of the building permit application each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use as indicated by Exhibits C.1 and C.2 or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "Proposal and design as approved in - Case File LU 11-142349 AD. No field changes allowed."

Staff Planner: Mark Bello

Decision rendered by:  **on July 13, 2011**

By authority of the Director of the Bureau of Development Services

Decision mailed: July 15, 2011

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 May 24, 2011, and was determined to be complete on **June 2, 2011**.

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 May 24, 2011.

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 further extended by the applicant, **the 120 days will expire on: September 30, 2011.**

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 July 29, 2011** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth 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.

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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 **August 1, 2011**.
- 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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:

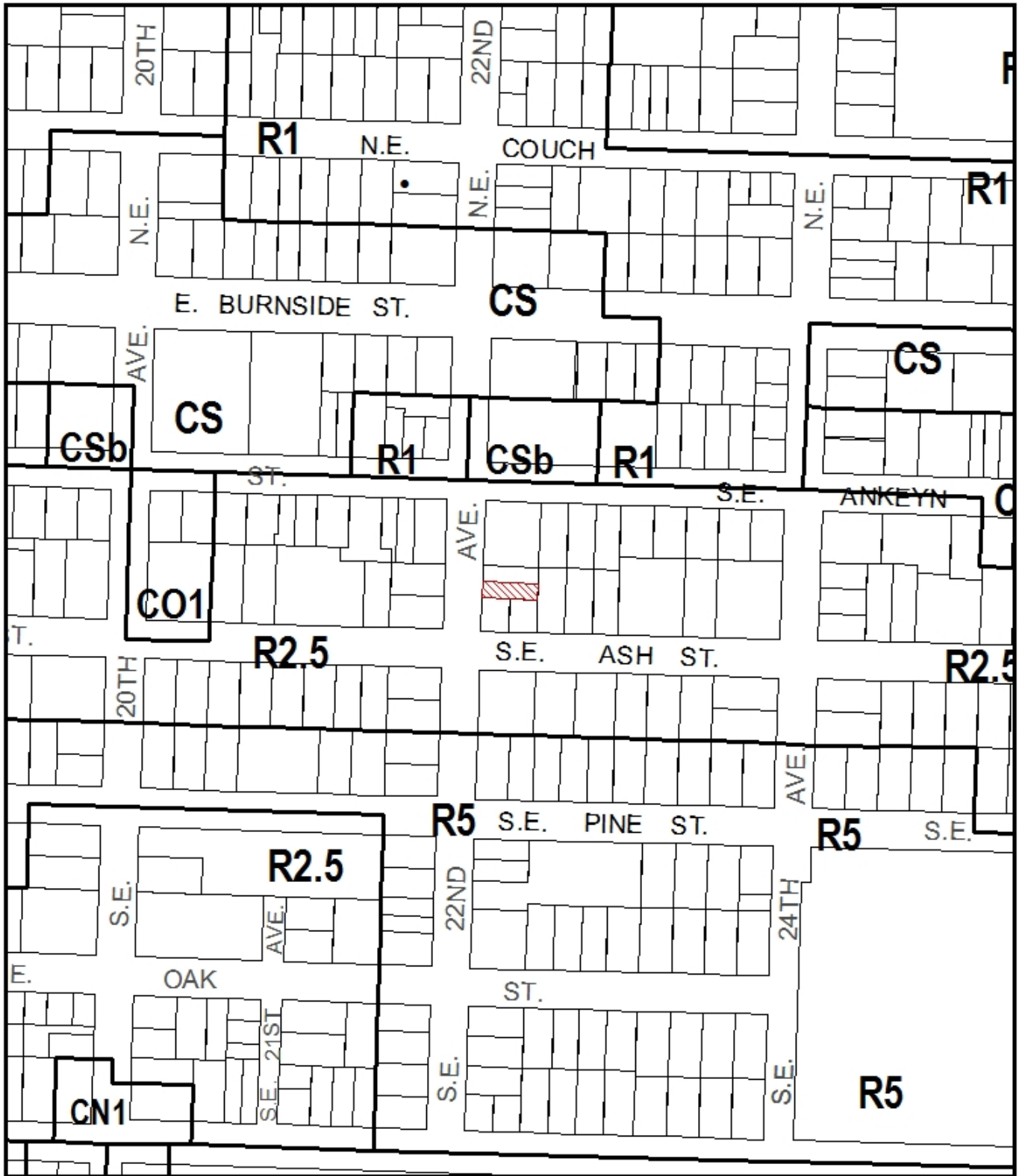
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. West Elevation (attached)
 - 3. Main Floor Plan
 - 4. Basement (ADU) Floor Plan
- 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. Bureau of Parks, Forestry Division
- F. Correspondence: (none)
- G. Other:
 - 1. Original LU Application

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

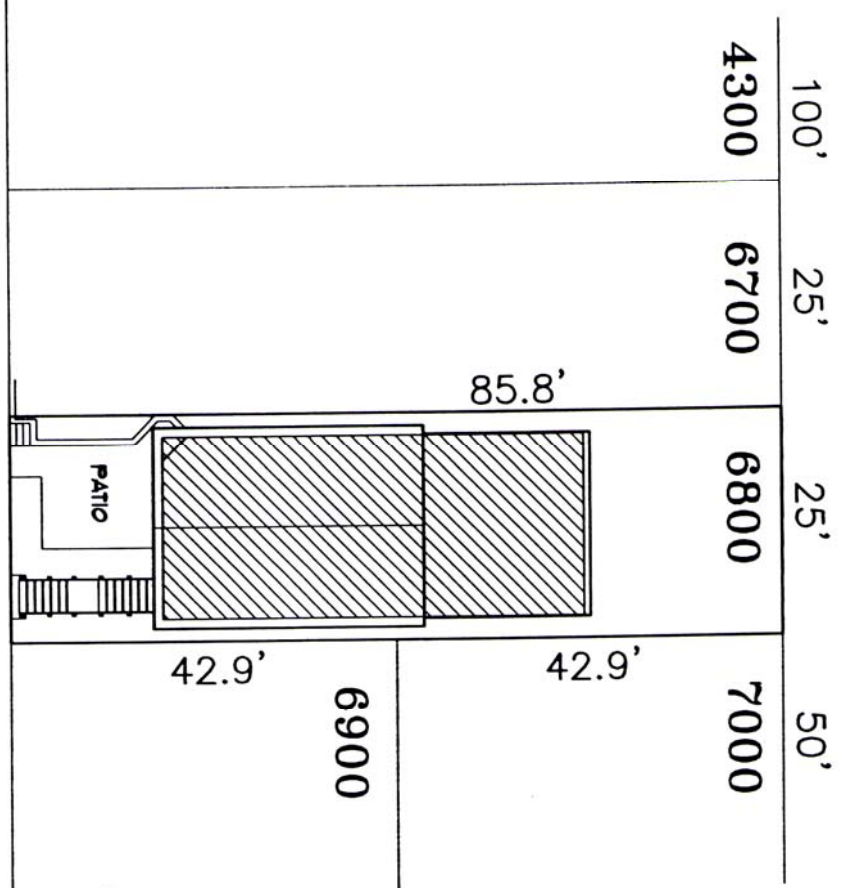


File No.	<u>LU 11-142349 AD</u>
1/4 Section	<u>3032</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E35DD 6800</u>
Exhibit	<u>B</u> (May 26,2011)

CASE NO. 11-142349
 EXHIBIT C1

SE 22ND AVE
 4 EA STREET PARKING TO CORNER
 City of Portland - Bureau of Development Services
 Approved*
 Date 7/13/11

PLAN VIEW
 SCALE: 1" = 20'-0"



129 SE 22ND AVE.
 MULTNOMAH COUNTY
 PROPERTY ID: R149676
 STATE ID: NEE5DD 6800
 ALT ACCT. # R2199901160
 MAP NUMBER: 3032 OLD

AREA OF PROPERTY = 2145 SF.
 FOOTPRINT OF EXIST. HOME = 942 SF.
 SF EXIST. LIVING = 1440 SF.
 TOTAL NEW LIVING = 924 SF.
 TOTAL LIVING SPACE 2364
 MAIN HOUSE 1691 ADU 673

EXIST. LIVING SPACE = 2015 SF.
 (INCLUDES BASEMENT)
 NEW LIVING SPACE = 4354 SF.
 (INCLUDES BASEMENT)

AREA OF SCOPE

CASE NO. 11-142349
 EXHIBIT C1

LU 11-142349 AD

PROJECT NO.	
DATE	
BY	
CHECKED	
APPROVED	
SHEET NO.	PL-1

PROJECT NAME
 NEW FOUNDATION
 PORTLAND, OR

DRAWN FOR
 COSMO INVESTMENTS

SHEET TITLE
 PLOT PLAN

LARSON DESIGN
 11266 SE 21 AVE SUITE 104
 CLACKAMAS, OR 97015

PHONE: (503) 725-7787 FAX: (503) 725-7240
 CELL: (971) 445-9385
 E-MAIL: larsen_jd@larsondesign.com



ADD ENTRANCE

Approved
City of Portland - Bureau of Development Services

WB Date 7/13/11

CASE NO. 11-142349
EXHIBIT 62