



City of Seattle  
 Gregory J. Nickels, Mayor

**Department of Planning and Development**  
 D. M. Sugimura, Director

**CITY OF SEATTLE  
 ANALYSIS AND DECISION OF THE DIRECTOR OF  
 THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 3007395  
**Applicant Name:** Brittani Ard  
**Address of Proposal:** 2331 East Madison Street

**SUMMARY OF PROPOSED ACTION**

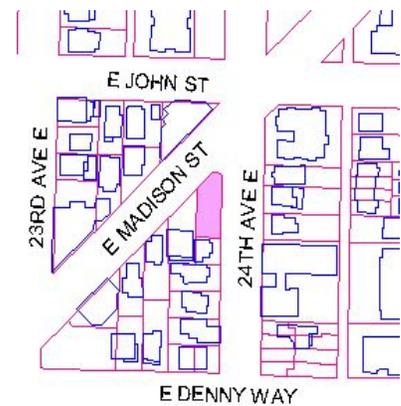
Land Use Application to allow one live-work unit and one 2-unit townhouse structure. Residential parking for two vehicles is provided, one within the structure and one surface.

The following approval is required:

**Variance** – to allow a parking access from East Madison Street rather than 24<sup>th</sup> Avenue Section 23.47.032.A.1.c Seattle Municipal Code (SMC).

**BACKGROUND DATA**

The site is located on the southwest corner of East Madison Street and 24<sup>th</sup> Avenue, in the Downtown/Central area. The irregularly shaped site is approximately 3,564 square feet with approximately 95 feet of frontage on 24<sup>th</sup> Avenue East and 45 feet frontage on East Madison Street. The entire parcel is vacant and is located within the NC2-40 (Neighborhood Commercial 2-40) zone.



**Area Development**

The surrounding area which fronts East Madison Street is zoned NC2-40 zone. Surrounding development remains mixed with neighborhood commercial businesses along East Madison with views of the single family houses beyond. Due south and across 24<sup>th</sup> Avenue, from the site, is the newly constructed, “Terra View Ventures” which is built below the grade of 24<sup>th</sup>. This is in contrast to the proposed site being built above the grade of

24<sup>th</sup> Avenue. Multi-family zoning (L-3) is located to the north of the intersection across Madison. Multi-family zoning (L-2) is located to the south of the intersection fronting 24<sup>th</sup> Avenue East.

### Description of Proposal

The applicant proposes to develop the site with one live/work unit of approximately 1495 square feet and one, 2-unit townhouse structure at approximately 3409 square feet on a vacant site that is 3564 square feet. (Building permit #6130642).

Per SMC 23.047A.033.A.1.c *access must be taken from the street located within a commercial zone with the least lineal feet.* 24<sup>th</sup> Avenue East is the street with the least lineal feet located in the commercial zone; therefore access is required from 24<sup>th</sup> Avenue East.

The variance from SMC 23.047A.033.A.1.c would allow the applicant to re-locate the parking access from 24<sup>th</sup> Avenue East to its other frontage along East Madison Street.

### Public Comment

Notice of the proposal was issued on June 28<sup>th</sup>, 2007 and ended July 12<sup>th</sup>, 2007. One resident expressed her approval, of the live-work unit and the one, two unit townhouse structure to be located in her neighborhood, as a great idea.

### Site Visit

The site visit was conducted on November 19, 2007. The PASV photos are accurate and the overgrown vegetation of brambles and blackberry vines fill the site. The Bowhall Maple adjacent to the proposed parking access is as healthy as those on the north side of East Madison Street and the remaining tree of Madison frontage is of a different species and not as robust. Existing curb, gutter and sidewalk is in good shape along the perimeter of the site. At the intersection of 24<sup>th</sup> Avenue with East Madison Avenue two items of signage are placed in the sidewalk- "24<sup>th</sup> Avenue" in White and Blue Tile and "Twenty Fourth Ave No" in brass letters embedded in the concrete. Traffic is fast and parking is tight. This busy part of Capital Hill is on a higher elevation with vista views of Mount Rainier and the Cascade Mountains.

### ANALYSIS - VARIANCE

As provided in SMC 23.40.020, variances from the provisions or requirements of Seattle Municipal Code Title 23 shall be authorized only when all of the facts and conditions stated in the numbered paragraphs below are found to exist:

- 1. Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity;***

The subject property has two street frontages and no alley. If the property were adjacent to an alley, access could be provided to the site from the alley. However, access is limited to 24<sup>th</sup> Avenue East per SMC 23047A.033.A.1.c wherein access must be taken from the street located within a commercial zone with the least lineal feet.

The topography of the site slopes downward from west to east approximately 8' and at the property line to the east, it drops again 2.5' to the sidewalk grade and again 3' to curb grade. The existing sidewalk does not meet current City of Seattle requirements for sidewalk grades. Between the sidewalk grade and the property line at the east end of the site is a large duct bank owned by Seattle City Light (SCL) the placement is such that it restricts access to the site from 24<sup>th</sup> Avenue.

The frontage of 24<sup>th</sup> Avenue East includes a sidewalk which is 3 feet above the road grade. Additionally Seattle City Light's duct bank is located under the sidewalk. The location of the duct bank is not the standard depth. (A locator service confirmed its location and verifies the inaccuracy of the DPD ArcView Application).

Seattle City Light indicates that, regardless of cost (which SCL estimates would exceed \$175,000), the conductors are not to be disturbed or relocated. The conductors are described by SCL as underground high-voltage power feeders. The existence of such underground high-voltage power feeders and a possible interruption of the power provided by those feeders to the rest of the SCL distribution system is unusual for a site proposed for development. The difficulty of the situation is compounded by the non-standard depth of the duct bank, such that access to the site would require the re-grading of the right of way, relocation of the duct bank to a standard depth and the installation of the sidewalk. SCL does not want the conductors disrupted or buried deeper along the span of this block from East Madison down to Denny Way. Therefore, a parking access cannot be located on 24<sup>th</sup> Avenue and access must be proposed for East Madison Street.

Thus, the strict application of the Land Use Code under these conditions would prevent the vehicular access to the site and thus the enjoyment of normal land use privileges allowed in the same zone and vicinity.

- 2. *The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;***

Plans indicate that the proposed variance is minor. The applicant proposes to provide access to the site from East Madison Street. The proposed location is allowed under Land Use Code requirements. The proposed access would be proportional in size to several nearby properties, and therefore does not constitute any special privilege.

- 3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;***

This pattern of development where properties take access from East Madison Street is common in this zone and vicinity. The proposed parking access is not anticipated to be materially detrimental to any adjacent property or improvement.

However, the current proposal impacts a Bowhall Maple and would require its removal from the SDOT Right of Way. The revision of location, or the angle of the parking access is not practicable due to development criteria and constraints. SDOT will require (1) payment of the full value of the tree, minus a replacement tree (2) a two week public notification period of the tree's removal and (3) a Street Use permit.

The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located.

**4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;***

For this site the Land Use Code requires access off of 24<sup>th</sup> Avenue East. Seattle City Light has directed that the duct bank is not to be disturbed. Thus, the applicant would not be able to develop this site if access were limited to 24<sup>th</sup> Avenue East.

Due to the access requirement of SMC 23047A.033.A.1.c, the topography of the existing lot, and the placement of existing structures such as the duct bank below the ROW of 24<sup>th</sup> Avenue East (under the sidewalk), strict application of the applicable provisions of the Land Use Code would cause undue hardship and would not reflect surrounding development in response to these difficulties.

**5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code and adopted Land Use regulations for the area.***

The Land Use Code provides for a variance process for relief from unusual conditions and situations that the rules of the Code could not anticipate. At the same time, the spirit and intent of the Land Use Code and land use regulations is to provide development compatible with environmental constraints, land development patterns, and existing neighborhood character.

The request for a variance is due to the unusual presence of a large SCL duct bank buried at a rather shallow depth below a sidewalk which has an atypical relationship with the abutting subject site. Moreover, SCL has specifically noted that they do not want the conductors disrupted (buried deeper) along the span of this block from East Madison Street down to East Denny Way. This variance application seeks to provide flexibility for a minor modification in a situation constrained by existing structures and street designation.

The proposed access from East Madison Street is consistent with the spirit and purpose of the Land Use Code and adopted Land Use Comprehensive Policies as applicable.

**DECISION - VARIANCE**

Based on the above findings and analysis all of the facts and conditions stated in the numbered criteria of SMC 23.40.020, *Variances*, are found to exist. The requested variance is **CONDITIONALLY APPROVED**, subject to the following condition:

Prior to Issuance of Master Use Permit

1. Revise plan sets to correctly identify the street tree on Madison St. (a Bowhall Maple) which conflicts with the proposed driveway and curbcut location. Remove incorrect description "Elm".

Prior to Issuance of Construction Permit

2. Revise plan sets to correctly identify the street tree on Madison St. (a Bowhall Maple) which conflicts with the proposed driveway and curbcut location. Remove incorrect description "Elm".

Non-Appealable Condition

3. SDOT Requires payment of full value of street tree to be removed (less cost of any replacement) a public notification period prior to removed of the tree, and a street use permit.

Signature: \_\_\_\_\_ (signature on file) Date: December 13, 2007

Carreen N. Rubenkönig, Land Use Planner  
Department of Planning and Development

CNR:lc