



**To:** Planning Commission  
**From:** Adam Nolan, Planning Services Division  
**Subject:** **2023 Amendment – “Regulating Delivery-Only Businesses of Food and Other Consumables” Application**  
**Memo Date:** February 22, 2023  
**Meeting Date:** March 1, 2023

**Action Requested:**  
Request Release for Public Review.

**Discussion:**  
At the next meeting on March 1, 2023, the Planning Commission will continue to review the application “Regulating Delivery-Only Businesses of Food and Other Consumables” (“Delivery-only” business) Application for the 2023 Annual Amendment to the [One Tacoma Comprehensive Plan](#) and [Land Use Regulatory Code](#) (“[2023 Amendment](#)”). Staff is requesting the release of the exhibits for public review and comment.

Staff provided updates to the Commission on February 15, 2023, on the status of technical analysis concerning the “Delivery-only Businesses” Application. Attached documents include 1) Staff Analysis Report and Exhibit A and 2) Discussion Outline. Upon completing the review of the above information, the Commission will be requested to release the application for public review in accordance with the requirements of the [Tacoma Municipal Code](#) (TMC), Section 13.02.070.

**Project Summary:**  
The Comprehensive Plan and its elements, as well as development regulations and regulatory procedures that implement the Comprehensive Plan, shall be adopted and amended by ordinance of the City Council following the procedures identified in TMC 13.02.070. Proposed amendments may be considered annually, for which the amendment process shall begin in July of any given year and be completed, with appropriate actions taken by the City Council by the end of June of the following year. The process for the [2023 Amendment](#) began with accepting applications during January-March 2022 and is slated for completion in June 2023.

**Prior Action:**

- September 7, 2022: Assessment and Determination
- January 4, 2023: Comment and Direction
- February 15, 2023: Comment and Direction

**Staff Contacts:**

- Adam Nolan, [anolan@cityoftacoma.org](mailto:anolan@cityoftacoma.org)

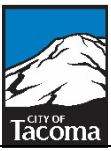
**Attachments:**

- Attachment 1: Staff Analysis Report and Exhibit A for “Delivery-Only Businesses” Application
- Attachment 2: Delivery-Only Businesses – Discussion Outline

c. Peter Huffman, Director







**2023 ANNUAL AMENDMENT  
TO THE COMPREHENSIVE PLAN AND LAND USE REGULATORY CODE**

**Application:  
Code Amendments Regulating Delivery-only Businesses  
of Food and Other Consumables**

**Staff Analysis Report  
March 1, 2023**

This application, “Code Amendments Regulating Delivery-only Businesses of Food and Other Consumables” (Delivery-only businesses) is being considered as part of the 2023 Annual Amendment to the *One Tacoma* Comprehensive Plan and Land Use Regulatory Code (“2023 Amendment”). The intent of this application is to seek appropriate amendments to the Tacoma Municipal Code, Title 13 to include definitions and development/performance standards specific to delivery-only business uses.

Project Summary	
<b>Application ID:</b>	Delivery-Only Businesses
<b>Applicant:</b>	Planning and Development Services Department
<b>Staff Contact:</b>	Adam Nolan, Associate Planner, <a href="mailto:anolan@cityoftacoma.org">anolan@cityoftacoma.org</a>
<b>Location and Size of Area:</b>	Citywide
<b>Current Land Use and Zoning:</b>	Various
<b>Neighborhood Council Area:</b>	Citywide
<b>Staff Recommendation:</b>	<p>Staff proposes:</p> <ul style="list-style-type: none"> <li>• To add commissary kitchens as a subset of “Retail” uses in the Tacoma Municipal Code land use tables. The use would be required to meet “Retail” use and development standards;</li> <li>• Additional Requirement setting limitation on commissary kitchen building size to 6000 square feet in a mixed-use district;</li> <li>• Additional Requirement of in-person, direct to customer sale component for retail establishment located on a designated pedestrian street; and</li> <li>• That the Planning Commission accept public comment and begin to develop recommendations to the City Council.</li> </ul>
<b>Project Proposal:</b>	See Exhibit “A”, attached



## 1. Area of Applicability

Citywide - in various zoning districts and geographical areas that allow retail commercial uses.

## 2. Background

The City of Tacoma has received recent requests to locate “delivery-only” businesses within the City. In the process of evaluating development proposal/s, it has been determined that Tacoma Municipal Code does not have a clear use definition or category for classifying delivery-only businesses; this also means there are currently no siting and development standards for this use.

Delivery-only businesses, a relatively new model, are generally food establishments and/or grocery businesses that are pickup/delivery-based (often through third-party online order/delivery services) and automobile-oriented. Delivery-only businesses are similar to retail uses except that there is no in-person dining or customer component. These characteristics (and lack of definition and standards in TMC for this use) have created tensions in determining how to define and regulate this use, including considerations of where this use is appropriately sited, and in considering potential on- and off-site impacts generated by this use.

To further illustrate this, a Director’s Interpretation/Determination was issued regarding the CloudKitchens’ proposal to redevelop a 6750 square foot site (3726 South G St.) that would house up to twenty separate delivery-only food establishments. The site is in a Neighborhood Commercial Mixed-Use Center (NCX) and along a Pedestrian Street. It was determined that unless conditioned properly, the proposed business did not operate in a manner similar to any use allowed outright in NCX districts. Delivery-only businesses, lacking an in-person customer component are also in conflict with the City’s Pedestrian Street use restrictions; in general, uses which are permitted are required to have a public-facing component (e.g., office or service area) at sidewalk level. Along with detailing conditions required for the CloudKitchens’ in further consideration of their development proposal, the Director’s Interpretation/Determination also noted that until the TMC can be amended to include an adequate definition of ghost kitchens or other delivery-only businesses, any establishment of such a business will be required to pursue an Official Determination and is likely to include similar operating conditions.

Staff has consulted with the Tacoma Pierce County Health Department (TPCHD) about how they handle operational permitting and food safety related to delivery-only businesses. TPCHD utilizes the Washington State Retail Food Code in this work and permits commissary kitchens that can then lease space to individual food establishments (including catering, food trucks, wholesale, and delivery-only businesses). Delivery-only businesses would be required to operate out of a commissary kitchen and get a food establishment permit. If the business was only housing delivery-only businesses and not actually making food (such as CloudKitchens example), then it would be considered a commissary and need to obtain a commissary permit.

Staff proposes to categorize delivery-only businesses as “commissary kitchens,” and further proposes through this amendment application to (See Exhibit A for proposed code changes):

- Add commissary kitchens as a subset of “Retail” uses in the Tacoma Municipal Code land use tables. The use would be required to meet “Retail” use and development standards;
- Add Additional Requirement in mixed-use land use table setting limitation on commissary kitchen building size to 6000 square feet in mixed-use districts; and

- Add Additional Requirement of in-person, direct to customer sale component for retail establishment located on a designated pedestrian street.

### 3. Analysis

It is imperative that both the Comprehensive Plan and the Code are properly maintained. The overall objective of the Minor Plan and Code Amendments is to keep the Plan and the Code current, respond to the changing circumstances, and enhance customer service. Staff analysis of this application has been conducted in accordance with TMC 13.02.070.F.2, which requires the following four provisions be addressed, as appropriate:

- A staff analysis of the application in accordance with the elements described in 13.02.070.D;
- An analysis of the consistency of the proposed amendment with State, regional and local planning mandates and guidelines;
- An analysis of the amendment options identified in the assessment report; and
- An assessment of the anticipated impacts of the proposal, including, but not limited to: economic impacts, noise, odor, shading, light and glare impacts, aesthetic impacts, historic impacts, visual impacts, and impacts to environmental health, equity and quality.

#### a. A staff analysis of the application in accordance with the elements described in 13.02.070.D;

TMC 13.02.070.D, subsection 5.d.(1), requires that the following objectives shall be met by applications for the annual amendment:

- Address inconsistencies or errors in the Comprehensive Plan or development regulations;

**Staff Response:** The application addresses inconsistencies in the Comprehensive Plan and development regulations by proposing to define and regulate delivery-only business with the intended results of providing clarity to City policy and development regulations.

- Respond to changing circumstances, such as growth and development patterns, needs and desires of the community, and the City’s capacity to provide adequate services;

**Staff Response:** Delivery-only businesses do respond to changing circumstances and the City’s capacity to provide adequate services. Delivery-only businesses are still a relatively new model that illustrate some changing circumstances or character of the food and restaurant industry, entrepreneurship, consumer behaviors, and food access. Proliferation of the delivery-only business model was further fueled by the COVID-19 pandemic.

City of Tacoma staff have received requests to locate delivery-only businesses within the City. The City lacks a clear categorical definition and development/performance standards for delivery-only businesses. This lack of clarity can be a potential barrier to economic development and increased food access, as well as make evaluation of development proposals for this use more burdensome on City staff and operations.

- Maintain or enhance compatibility with existing or planned land uses and the surrounding development pattern; and/or

**Staff Response:** It is noted that delivery-only businesses use does not currently meet compatibility standards of similar commercial land uses. Lack of clarity on defining and regulating this use increases the possibility of conflicts with surrounding land uses and development patterns, as well as various city policy

and goals. The proposal intends to address this by providing a definition and development/performance standards for delivery-only business.

- Enhance the quality of the neighborhood.

**Staff Response:** As delivery-only businesses are citywide and applicable to zoning districts that allow Commercial uses, assessment of how uses enhance quality of neighborhoods is not applicable in this case. Nonetheless, delivery-only business uses may enhance goals around food access, employment opportunities, entrepreneurship, economic development, and other goals.

**b. An analysis of the consistency of the proposed amendment with State, regional and local planning mandates and guidelines;**

**Staff Response:** As part of the initial staff assessment report, staff identified specific policies pertinent to the application. Based on those policies, staff does not identify any inconsistencies with State or regional planning mandates and guidelines. Staff notes that this application is an attempt to define and regulate a currently unlisted use in the TMC, and in doing so, ensure broad compatibility with the *One Tacoma Comprehensive Plan* elements. This proposal appears to be consistent with goals and policies detailed in the Urban Form, Design and Development, and Economic Development elements of the Comprehensive Plan.

**c. An assessment of the anticipated impacts of the proposal, including, but not limited to: economic impacts, noise, odor, shading, light and glare impacts, aesthetic impacts, historic impacts, visual impacts, and impacts to environmental health, equity, and quality.**

**Staff Response:** This application seeks to provide some regulatory clarity and consistency that would be helpful in better planning for and mitigating the potential impacts of delivery-only uses. Delivery-only businesses are automobile-oriented and oftentimes on-demand transactions mitigated through third-party ordering and delivery services. There is no in-person customer component, only possibility of order pickup/delivery. Impacts from delivery-only businesses also need to be considered in terms of ranges of the scale of operations or number of food establishments at the site. Below are some considerations of potential impacts:

- **Trip Generation, Parking, and Loading**

Planning staff has consulted with Public Works – Transportation staff. With this use being fairly new, there is not a great deal of data available concerning trip generation, air quality, and parking/loading impacts. Trip generation for more traditional restaurant, retail, or commercial establishments can generally be estimated based on dining/occupancy capacities and/or limitations on food offerings and kitchen space. Delivery-only businesses may have multiple food establishments/restaurants operating from a single site and are generally on-demand transactions. This makes it difficult to estimate trip generation, especially since there will be a range of scale of delivery-only business operations that could exist. One general assumption is that the more delivery-only food establishments at a site, the greater the trip generation and other associated impacts. Greater trip generation will have potential impacts on surrounding businesses and neighborhoods. Consideration of conflicts with pedestrian and multi-modal goals, policy, and infrastructure also need to be considered.

There are also anticipated impacts with parking and loading to meet the demand of greater trip generation. Pickup/delivery drivers generally use their own personal vehicles from delivery-only businesses and will utilize

parking/loading near the sites. The different zoning districts have varying levels of required parking/loading for retail uses, and these considerations and potential impacts need to be taken into account when determining appropriate zoning districts or additional regulations for siting these uses in the City.

- **Air Quality**

With this use being automobile-oriented, it is anticipated that there will be impacts on air quality. These are additional considerations that can be applied in considering parking/loading standards and applicable zoning districts and regulations.

The City has policy that could help address air quality concerns through its overall growth strategy. The Transportation Master Plan (TMP) identifies goals, strategies, and actions to support multimodal infrastructure including for pedestrian, bicycling, and transit priority networks. The TMP also supports the development of “20-minute neighborhoods” where goods and services can be obtained within short distances by using active transportation modes and reducing reliance on automobile trips that generate GHG emissions. There are also programs available through the City (TPU technical and financial assistance programs) and Pierce County (C-PACER program) that incentivize more environmentally sustainable development.

- **Economic Impact**

This application request is generally supportive of economic development policies of the *One Tacoma Comprehensive Plan*. Delivery-only businesses are a relatively new model, but there are already some smaller-scale examples in Tacoma. These examples demonstrate that delivery-only businesses can provide entrepreneurship opportunities, including providing essential affordable start-up space for small business food establishments, lower overhead/operating costs, concept testing, avenues for scaling-up, and an incubator/innovation role. The use will also provide employment opportunities with potential multipliers (food distribution, etc.).

- **Food Access and Safety**

Planning staff consulted with TPCHD staff concerning food access and safety. Delivery-only businesses can have food access and equity implications. Delivery-only businesses may play a role in providing greater food accessibility in Tacoma, especially in neighborhoods that currently have lower food access opportunities. Additionally, there can be greater oversight on food and operational safety by providing opportunities for delivery-only businesses to be permitted to operate out of commissary kitchens. This can also have broader public safety oversight implications by providing safe, regulated spaces to operate as opposed to people utilizing their home kitchens as food establishments/restaurants.

## 4. Public Outreach

Planning staff conducted outreach to numerous internal and external stakeholders. TPCHD staff provided insights into their permitting, food safety, and operational policies/standards. A few commissary Kitchen owner/operators in Tacoma were also consulted with to gather a better understanding of siting, infrastructure, and operational characteristics of

delivery-only businesses. City of Tacoma Public Works – Transportation Department was consulted about potential impacts related to transportation infrastructure, goals, and policies.

The Commission is scheduled to conduct a public hearing on the 2023 Amendment in early 2023. Additional public outreach for all the applications for the 2023 Amendment will be conducted prior to and during the public hearing process.

## 5. Recommendation

Staff proposes to categorize delivery-only businesses as “commissary kitchens,” and further proposes through this amendment application to:

- Add commissary kitchens as a subset of “Retail” uses in the Tacoma Municipal Code land use tables. The use would be required to meet “Retail” use and development standards;
- Add Additional Requirement in mixed-use land use table setting limitation on commissary kitchen building size to 6000 square feet in mixed-use districts; and
- Add Additional Requirement of in-person, direct to customer sale component for retail establishment located on a designated pedestrian street.

Staff recommends that the Planning Commission release this staff report and Exhibit “A” for public review and comment.

After the public hearing, staff will facilitate the Commission’s review of public comments, decision-making, and formulation of recommendations to the City Council, pursuant to TMC 13.02.070.H, as cited below:

### H. Findings and recommendations.

1. Upon completion of the public comment period and review of the public testimony, the Planning Commission will make a determination as to whether the proposed amendments are consistent with the following criteria:
  - a. Whether the proposed amendment will benefit the City as a whole, will not adversely affect the City’s public facilities and services, and bears a reasonable relationship to the public health, safety, and welfare; and
  - b. Whether the proposed amendment conforms to applicable provisions of State statutes, case law, regional policies, and the Comprehensive Plan.
2. The Commission will prepare a recommendation and supportive findings to forward to the City Council for consideration.

## 6. Exhibit

- Exhibit “A” – “Delivery Only Businesses” - Proposed Code Changes





## 2023 ANNUAL AMENDMENT TO THE COMPREHENSIVE PLAN AND LAND USE REGULATORY CODE

---

### “Delivery Only Businesses”- Proposed Code Changes

March 1, 2023

1. Amendment to Retail Definition:

“Retail.” Establishments engaged in retail sales of goods, including, but not limited to, the retail sale of merchandise not specifically listed under another use classification. This classification includes, but is not limited to, department stores, clothing stores, bank branches, furniture stores, pawn shop, pharmacies, and businesses retailing the following goods as examples: toys, hobby materials, food and beverages sales (including catering [and commissary kitchens](#)), hand-crafted items, jewelry, cameras, photographic supplies, electronic equipment, records, sporting goods, kitchen utensils, hardware, appliances, art, antiques, art supplies and services, baseball cards, coins, comics, paint and wallpaper, carpeting and floor covering, medical supplies, office supplies, bicycles, and new automotive parts and accessories (excluding service and installation).

2. Amendment to Retail Definition to establish size limitation for Commissary Kitchens in mixed-use centers.

Insert into “Additional Regulations” in Table 13.06.040 for retail uses within mixed-use districts:

[\\*Commissary Kitchens are limited to 6,000 SF of net building area and exterior display or storage of equipment is prohibited.](#)

3. Amendment to Retail Ground floor uses on Pedestrian Streets

Insert into “Additional Regulations” in Table 13.06.040 for retail uses within mixed-use districts:

[\\*Retail uses required to have in-person, direct customer sale component when located on designated pedestrian streets.](#)



## Attachment 2: Delivery-Only Businesses – Discussion Outline

March 1, 2023

### Background

- **January 4, 2023, Planning Commission meeting**  
Staff explored several potential options to consider in addressing delivery-only businesses, a use currently not classified in the TMC. Staff's preference is to organize Delivery-Only Businesses as a subset use of another use already identified in the TMC, specifically as a subset of the "Retail" use. Since many of the development standards that apply within the zoning code are based on the use classification, defining delivery-only business uses within the broader category of retail means that retail development standards would apply to delivery-only business.
- **February 15, 2023, Planning Commission meeting**  
Staff provided updates on analysis and responses to Commissioner comments from January 4, 2023. This included an overview of regulatory authority of the City of Tacoma and Tacoma Pierce County Health Department (TPCHD) pertaining to food establishments and delivery-only businesses, an overview of TPCHD permitting and local commissary kitchen operators, and examples of the range of currently existing or proposed delivery-only business uses in Tacoma. Staff proposed:
  - Categorize delivery-only business uses as "Commissary Kitchens" and add commissary kitchens as a subset of "Retail" uses in the Tacoma Municipal Code land use tables. This would mean that commissary kitchens are no longer an unlisted use and would be required to meet "Retail" use and development standards (parking, loading, etc.).
  - Amend the Retail ground floor uses standards on pedestrian streets. This would require Retail uses to have in-person, direct customer sale component when located on pedestrian streets in mixed use districts.

### Staff Proposal 1: Classify "Delivery Only Businesses" as "Commissary Kitchen"; make subset of Retail

Staff learned that TPCHD regulates commercial delivery only kitchens as a "commissary kitchen," including the proposed CloudKitchen in the Lincoln Neighborhood Center. Some other food establishment uses permitted by TPCHD to operate out of commissary kitchens include catering, mobile units/food trucks, and wholesale uses. TPCHD permits and oversee operational and food safety standards for commissary kitchens and food establishments. This includes determining number and kind of food establishments that can be permitted to operate out of the commissary kitchen based on space, equipment, and kitchen infrastructure available.

With this information in mind, staff proposes to treat delivery-only food establishments as a "commissary kitchen" use for consistency with TPCHD permitting. Staff further proposes to add commissary kitchens as a subset of "Retail" uses in the Tacoma Municipal Code land use tables. This would mean that commissary kitchens are no longer an unlisted use and would be required to meet "Retail" use and development standards (including site development and building design standards). Draft code language is found in Exhibit A.

### **Staff Proposal 2: Amend Retail Definition to establish size limitation for Commissary Kitchens in mixed-use centers**

At prior Planning Commission meetings on this topic, Commissioners commented on size ranges for delivery-only businesses and possibilities for establishing size limitations, especially in mixed-use centers. Staff presented a few current/proposed examples of delivery-only businesses in Tacoma as an example of ranges of scale and potential impacts of the use (see examples below). The largest scale example is the CloudKitchens proposal to redevelop a 6750 square foot building (located in NCX and on Pedestrian Street) to house up to twenty separate delivery-only food establishments.

Staff is using the CloudKitchens example to propose a baseline limitation on building size to be 6000 square feet for this use in a mixed-use district. Draft code language is found in Exhibit A. As an alternative, the Commission could limit uses to a 3500 square feet threshold in line with the Gourmet Niche example in the Narrows Mixed-use Center.

### **Staff Proposal 3: Add Amendment to Retail Ground floor uses on Pedestrian Streets**

In reviewing the existing development standards for retail uses on designated Pedestrian Streets in the City's established mixed-use centers, staff identified that current standards by definition would allow delivery-only retail uses in these locations, potentially conflicting with City goals and policies. Delivery-only retail lacks a direct in-person customer component and this conflicts with pedestrian street goals that generally require permitted uses to have a public facing component at sidewalk level and to encourage pedestrian traffic.

Staff proposes to require retail uses on designated pedestrian streets within mixed-use districts to have an in-person, direct customer sale component (as stated in draft code language in Exhibit A).

What are current Retail development standards? (From TMC 13.06.090 Site Development Standards)

**OFF-STREET PARKING**

<b>Residential, Commercial, and Industrial Zoning Districts - Required Off-Street Parking Spaces (TMC 13.06.090.C.3.h)</b>		
<b>Use</b>	<b>Unit</b>	<b>Required parking spaces (minimum)</b>
Retail commercial establishments, except as otherwise herein, less than 15,000 square feet of floor area	1,000 square feet of floor area	<b>2.50</b>
Retail commercial establishments, except as otherwise herein	1,000 square feet of floor area	<b>4.00</b>

<b>Mixed-Use Centers – Required Off-Street Parking Spaces. (TMC 13.06.090.C.3. j)</b>		
<b>Use</b>	<b>Unit</b>	<b>Required parking spaces (minimum)</b>
Commercial or Office Uses	1,000 square feet of floor area	<b>2.50</b>
Exceptions: (b) In NCX and CCX Districts, no parking is required for buildings located within 10 feet of the right-of-way of the designated pedestrian streets (see Section 13.06.040). (c) In NCX, CCX, and UCX Districts, no parking is required for the first 3,000 square feet of each ground-level retail or eating and drinking establishment.		

**LOADING SPACE**

<b>Loading Space Required Quantity Table (TMC 13.06.090.D.3)</b>		
<b>Use</b>	<b>Unit</b>	<b>Required space</b>
Retail and wholesale sales warehouses and industrial	Floor area 0-10,000 square feet	<b>2 stalls</b>
	10,001-25,000 square feet	<b>2 stalls</b>
	Over 25,000 square feet	2 stalls plus 1 stall for each additional 25,000 square feet thereof over 25,000 square feet

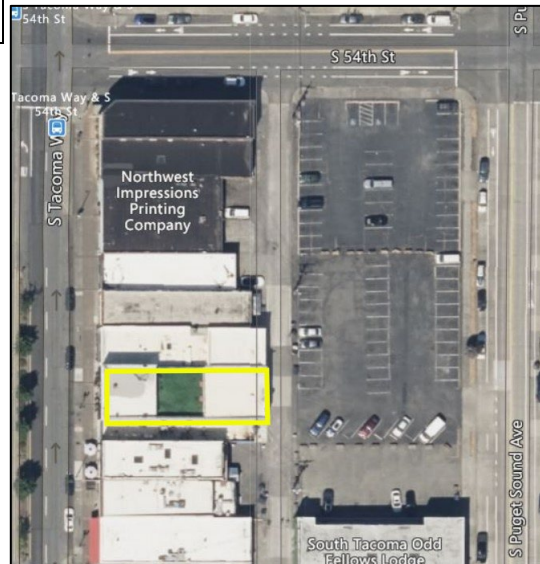
**Examples of TPCHD-permitted commissary kitchens (across different scales) that have pick-up and/or delivery-only food establishments in Tacoma**

<b>Gourmet Niche – 7104 6<sup>th</sup> Ave</b>	
<b>Zoning</b>	NCX
<b>Space size</b>	~3300 SF
<b>Pickup/Delivery-Only</b> - (1-2 businesses) Order in advance of actual pick-up or delivery date, not on-demand	
<b>Other Food Est.</b>	<ul style="list-style-type: none"> <li>• Catering (2 businesses)</li> <li>• Mobile Unit (2 businesses)</li> <li>• Wholesale (WSDA-permitted) (7 businesses)</li> </ul>
<b>Other</b>	<ul style="list-style-type: none"> <li>• Located designated Core Pedestrian Street</li> <li>• Designated Loading space; Parking lot (shared with other businesses)</li> </ul>



*Image/Map 1. Gourmet Niche commissary kitchen, 7104 6<sup>th</sup> Ave*

Edison Square – 5415 South Tacoma Way	
<b>Zoning</b>	NCX-STGPD
<b>Space size</b>	~850 SF
<b>Pickup/Delivery-only</b> - (2 businesses) On-demand customer pick-up and/or delivery-only	
<b>Other</b>	<ul style="list-style-type: none"> <li>• Catering (1 business)</li> </ul>
<b>Food Est.</b>	<ul style="list-style-type: none"> <li>• Mobile Unit (1 business)</li> </ul>
<b>Other</b>	<ul style="list-style-type: none"> <li>• Located designated Core Pedestrian Street</li> <li>• Loading, designated pick-up parking spots, and shared parking lot located in alleyway rear of building</li> </ul>



Image/Map 2. Edison Square commissary kitchen space, 5415 South Tacoma Way

CloudKitchens – 3726 South G St. (Proposed)	
Zoning	NCX
Space size	~6750 SF
<b>Proposal</b> - To alter existing building to include up to twenty separate kitchens that would prepare food to be delivered to the consumer through third-party delivery companies.	
Other	<ul style="list-style-type: none"> <li>Located on designated Pedestrian Street</li> </ul>



Image/Map 3. CloudKitchens proposed site, 3726 South G Street