



**To:** Planning Commission  
**From:** Adam Nolan, Planning Services Division  
**Subject:** **2023 Amendment – “Regulating Delivery-Only Businesses of Food and Other Consumables” Application**  
**Memo Date:** December 28, 2022  
**Meeting Date:** January 4, 2023

**Action Requested:**  
Comment and Direction.

**Discussion:**

At the next meeting on January 4, 2023, staff will provide a briefing on status of the analysis of the staff-initiated application “Regulating Delivery-Only Businesses of Food and Other Consumables” (“Delivery-only” business) for the 2023 Annual Amendment to the [One Tacoma Comprehensive Plan](#) and [Land Use Regulatory Code](#) (“2023 Amendment”). The purpose of the briefing is to seek feedback and direction from the Commission, in anticipation of returning to the Commission on February 15, 2023 (tentative) to release final draft of staff analysis report for Public Review, in accordance with the requirements of the [Tacoma Municipal Code](#) (TMC), Section 13.02.070.

Attached to facilitate the Commission’s comment and direction is the document “Delivery-Only Businesses - Discussion Outline.”

**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

**Staff Contacts:**

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**Attachment:**

1. Attachment A: Delivery-Only Businesses – Discussion Outline

c. Peter Huffman, Director



## Attachment A: Delivery-Only Businesses – Discussion Outline (Draft)

### What are some characteristics of Delivery-Only Businesses?

- Auto-oriented, Delivery-based model;
- Retail sales but for off-site consumption of prepared meals or grocery delivery;
- Oftentimes 3rd party app transactions dependent on on-demand food couriers (Door Dash, Uber Eats, etc.);
- No public entry or customer in-person interface with the business;
- Physical location may include one or more separate business entities preparing materials for delivery;
- Food access: Could present opportunities to help fill gaps in food accessibility

### What are some potential impacts or issues with Delivery-Only Businesses?

Potential Impacts of Delivery-Only Businesses	
<p><b>Conflicts with Pedestrian Streets goals</b> Does not support walk-in retail or enhance opportunities for pedestrian-based commerce</p>	<p><b>Effects on businesses</b> Diminishes opportunities for combining shopping visits to neighboring businesses (parking and traffic conflicts could affect accessibility to businesses; less customer visits)</p>
<p><b>Trip Generation</b> Potential for greater intensification of trips; every order could be a vehicle trip</p>	<p><b>Walkability and modal conflicts</b> Increased vehicular traffic, loading, idling, and rapid pickup transactions can create conflicts with pedestrians, bicyclists, and other modes</p>
<p><b>Air Quality</b> Increased trip generation and idling increases auto-induced greenhouse gas emissions</p>	<p><b>Use Not Classified in Tacoma Municipal Code</b> City staff has gone through process of analysis based on permit activity and determined use does not cleanly fit into other current uses/definitions (Retail, Catering, Wholesale/Distribution, etc.)</p>

## Case Study: CloudKitchens

Address: 3726 South G St. (former Lincoln Hardware site)

- Street designated as a “Pedestrian Street” in Lincoln Neighborhood Mixed Use District
- The site is zoned NCX-Neighborhood Commercial Mixed-Use District



Map 1. 3726 S G St.



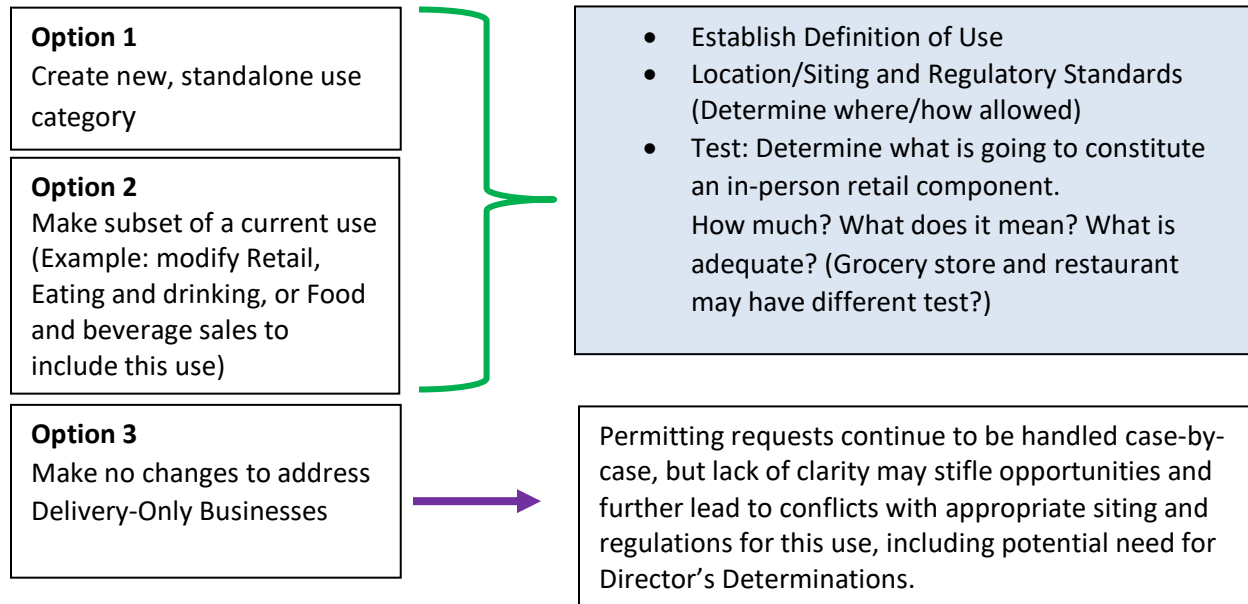
Image 1. 3726 S G St., former site of Lincoln Hardware

CloudKitchens' representatives engaged the City's Pre-Development process (PRE20-0151) beginning in July of 2020 for explore re-development at 3726 S G St. as a catering use. The applicant submitted a complete application for building permits (BLDCA21-0041 and SDEV21-0024) in late January 2021 to convert the site's existing building into a "ghost kitchen" location. The building would be altered to include up to twenty separate kitchens which would prepare food to be delivered to the consumer through third-party delivery companies (e.g. Door Dash or Uber Eats).

On August 25, 2022, the Director of the City's Planning and Development Services issued an Interpretation/Determination (LU21-0191) related to CloudKitchens' application for the site. The Interpretation/Determination detailed, among other things, conditions required if the applicant chooses to move forward with the project, including actions to study and mitigate for modal conflicts, and parking and load management. The Interpretation/Determination also stated that:

- The proposed business is not a catering business and does not fit within the scope or definition of any other use category in the Tacoma Municipal Code, including retail or eating and drinking establishments.
- Unless conditioned properly, the proposed business does not operate in a manner similar to any use allowed outright in the NCX district.
- A "ghost kitchen" may only be considered in conformity with the other non-residential uses permitted in the "NCX" Neighborhood Commercial Mixed-Use District if the City and the owner apply strict monitoring and controls over traffic and solid waste.
- 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.

## What are some options or approaches to regulating Delivery-Only Businesses?



### Option 1 – Establish separate use category

This option would necessitate a broad delivery-only use classification and development of standards specific to that use. Staff has several concerns with this approach:

- Overreach: A definition that is overly broad could have unintended effects on other uses, such as wholesale distribution or catering.
- One size fits all: There are some distinct types of uses that generally fall under the delivery-only category and may be more appropriately regulated based on their individual specificity.
- Level of effort: At this time, staff does not have the resources to conduct a study or analysis sufficient to develop a unique regulatory framework for these uses.

### Option 2 – Integrate as subset of existing uses categories (staff preference)

#### 1. Definitions

As noted above, Option 2 would be to organize Delivery-Only Businesses as a subset use of another use already identified in the TMC. With this in mind, an option could be to add a “Retail – Delivery Only” use as a subset of “Retail” as defined in TMC and “Eating and Drinking – Delivery Only” as a subset of “Eating and Drinking.”

“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), 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)

“Eating and drinking.” Establishments in which food and/or beverages are prepared and sold at retail for immediate consumption. Eating and drinking establishments include restaurants and drinking establishments as defined below:

1. “Drinking establishment” means an establishment other than a restaurant, licensed to sell alcoholic beverages for consumption on premises; that limits patronage to adults of legal age for the consumption of alcohol; and in which limited food service may be accessory to the service of alcoholic beverages. Drinking establishments may include but are not limited to taverns, saloons, bars, pubs, or cocktail lounges associated with restaurants. This use does not include brewpubs, catering services, or industrial-scale food production facilities.
2. “Restaurant” means a use in which food and/or beverage preparation and service is provided for individual consumption either on- or off-premises, and in which any service of alcoholic beverages is accessory to the service of food. This classification includes, but is not limited to, cafés, eateries, bistros, diners, restaurants, sandwich shops, and coffee shops. “Catering services.” Preparation and delivery of food and beverages for off-site consumption without provision for on-site pickup or consumption.

Staff will evaluate “Retail” and “Eating and drinking” parking and loading scenarios and provide information to the Planning Commission for further consideration.

## **2. Standards**

Many of the development standards that apply within the zoning code are based on the use classification. For example, parking quantity standards are based on the use, not the zone. By defining the delivery only uses within the broader category of retail and eating and drinking establishments, the standards for those use categories apply to the delivery-only business.

- *Parking:* Parking shall be based on the parking requirement for the same-sized establishment as set forth in TMC 13.06.090.C.
- *Loading zones:* Loading zones shall be provided per the requirements in TMC 13.06.090.D.

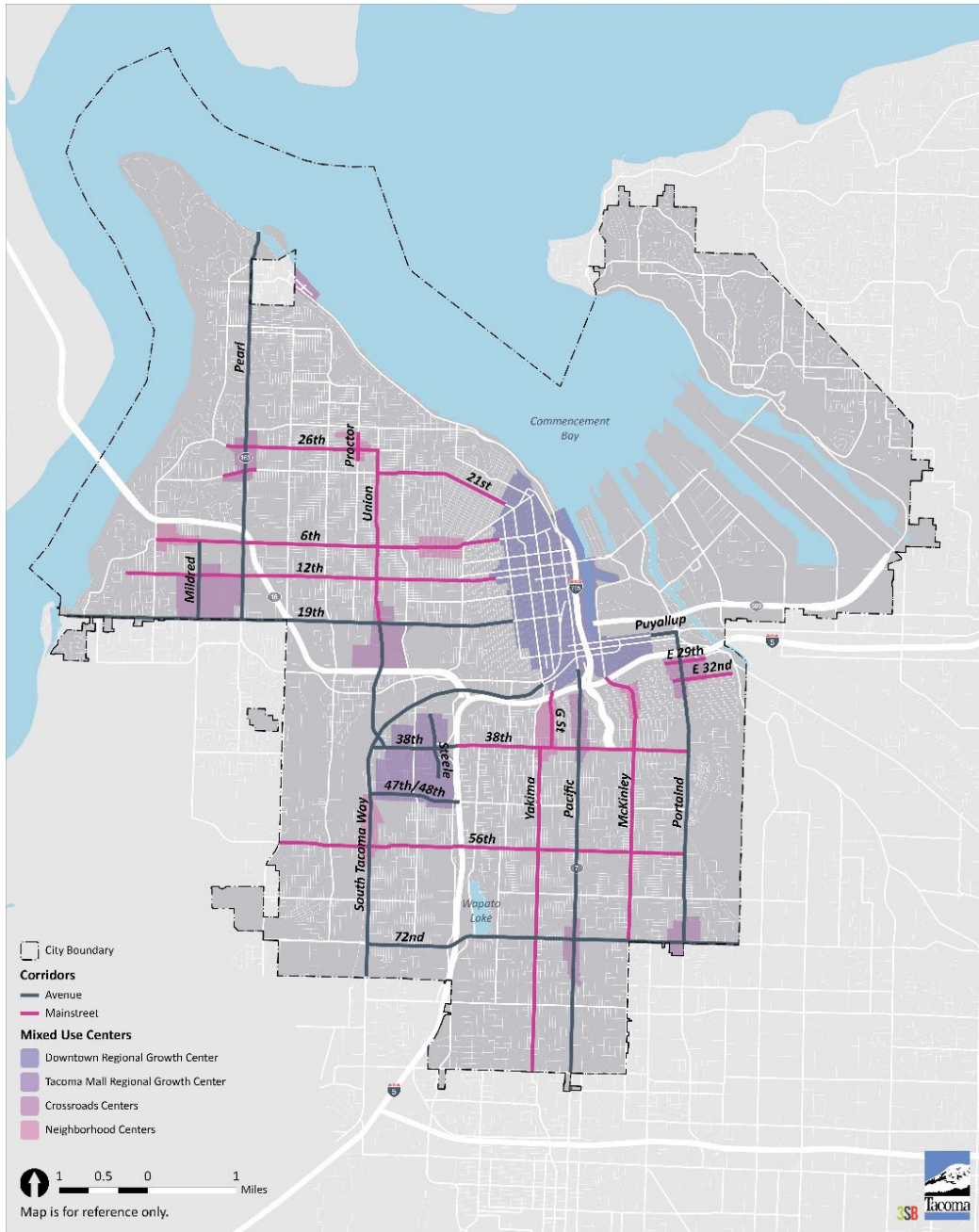
- *Design and other development standards:* Subject to the same design and development standards as a retail commercial use. See TMC 13.06.090.B and TMC 13.06.100.

### **3. Siting**

In weighing options, the Planning Commission will need to make determinations on where Delivery-Only Businesses should be allowed to operate. Appropriate siting can avoid the types of off-site impacts that have been commonly associated with these uses. With this consideration, staff seeks direction from the Planning Commission on location considerations for Delivery-Only Businesses. A few potential options to consider locations in the city where Delivery-Only Businesses could be allowed include:

1. Prohibit on all Pedestrian streets (See Map 3)
  - Would otherwise be allowed in all districts that allow commercial uses
  - This could potentially prohibit these uses in appropriate industrial districts that have a designated pedestrian street.
2. Prohibit in mixed use centers
  - Would be allowed in non-center zoning districts and on pedestrian streets outside of the centers.
  - Crossroads centers generally have characteristics that can more easily accommodate these uses with lesser impacts than in Neighborhood Centers.
3. Prohibit in C-1
  - Generally, the C-1 district is smaller in scale with more neighborhood-oriented services and amenities and lower traffic volumes.





Map 2. City of Tacoma, Corridors (Pedestrian Streets) Map



