



## CITY OF SEATAC ZONING CODE INTERPRETATION



**REGARDING:** Is a Restaurant Use Allowed in the South 154<sup>th</sup> Street Station Area Overlay District?

**FILE NO:** INT18-0001

**DATE:** December 11, 2018

**DETERMINATION:** Restaurant Uses are allowed in certain zones and under certain conditions in the South 154<sup>th</sup> Street Station Area Overlay District

---

### I. REQUEST

Planning Division staff received a general public inquiry on whether a restaurant use is an allowed use in the South 154<sup>th</sup> Street Station Area Overlay District. Upon review of Use Chart for the South 154<sup>th</sup> Street Station Area Overlay District, SMC 15.305.050, it was determined that a restaurant use is an unlisted use in the South 154<sup>th</sup> Street Station Area Overlay District.

### II. CODE AUTHORITY

In accordance with SMC 15.100.050 F, the Planning Manager (Director's designee) shall issue administrative interpretations on the Zoning Code in order to clarify the intent and standards. The interpretation shall have the stated issue, findings of fact, and conclusions and shall be considered during the annual review of the code for inclusion as a standard.

In regards to unlisted uses (SMC 15.205.020) when any known and identifiable use is not listed as a permissible use in any classification, the Planning Manager shall review the findings of facts and conclusions, and issue a decision of one (1) of the following actions:

1. Approve or deny the use as a similar and compatible use for that zone classification;
2. Require approval or denial through the conditional use process; or
3. Begin the process for review of an amendment to the land use charts.

The purpose of the Manager's review shall be to determine that the characteristics of any such use shall not be unreasonably incompatible with the type of uses permitted in surrounding areas, and for the further purpose of determining the need for stipulating such conditions that would mitigate potential impacts and reasonably assure that the basic purpose of this code shall be served.

### III. BACKGROUND

Development standards for the South 154<sup>th</sup> Street Station Area were adopted as Chapter 15.38 in the Municipal Code in 2007 by Ordinance 07-1025. The standards for the 154<sup>th</sup> Street Station Area were recodified as Chapter 15.305, South 154<sup>th</sup> Street Station Area Overlay District in 2015 by Ordinance 15-1018.

In both the 2007 and 2015 versions of the chapter, Restaurant uses were allowed in the South 154<sup>th</sup> Street Station Area Overlay District as follows:

UH Zone: Conditional use permit, as an accessory to primary use, not to exceed 20% of primary use

UH-UCR Zone: Permitted use, as part of a mixed use development

CB-C Zone: Permitted use

In 2017, the City undertook amendments to the South 154<sup>th</sup> Street Station Area Overlay District to provide greater flexibility, streamline language, and support future redevelopment within the station area. Chapter 15.305 was repealed and replaced in its entirety by Ordinance 17-1015. In repealing and replacing the Chapter, the Restaurant Use row in the Land Use Chart was removed. There is no legislative history or intent on why the restaurant use was eliminated from the Use Chart in SMC 15.305.055. Furthermore, none of the public notices, hearing notices, or SEPA documents identify the elimination of the restaurant use as a proposed amendment to Chapter 15.305.

### IV. FINDINGS OF FACT

1. A restaurant is defined in 15.105.180 as *Commercial use (excluding fast food restaurants) which sells prepared food or beverages and generally offers accommodations for consuming the food or beverage on the premises.*
2. The restaurant use is an unlisted use in that it is a known and identifiable use that is not listed as a permissible use in any classification in the South 154<sup>th</sup> Station Area Overlay District Use Chart, SMC 15.305.055.
3. An unlisted use may be allowed if it is found to be a similar and compatible use for a zone classification (SMC 15.205.020(B)(1)).
4. Between 2007 and 2017, a restaurant use was previously considered a compatible use for the South 154<sup>th</sup> Street Station Area Overlay District by being allowed in the following zones as provided:

UH Zone: Conditional use, as an accessory to primary use, not to exceed 20% of primary use

UH-UCR Zone: Permitted use, as part of a mixed use development

CB-C Zone: Permitted use

These zones allow restaurant uses subject to similar standards where these zones exist outside the South 154<sup>th</sup> Street Station Area Overlay District.

5. The legislative history, intent, and public notice documents for Ordinance 17-1015 does not identify the elimination of the restaurant use as an

amendment to Chapter 15.305. Review of the Planning Commission minutes when this Ordinance was presented also does not reflect any discussion of the potential elimination of the restaurant use.

6. Current SMC Sections 15.305.050 and 15.305.057, and the Additional Regulations Column of Section 15.305.055, reference a “restaurant” use, indicating that the elimination from the use chart was unintentional.
7. Allowing restaurants in the South 154<sup>th</sup> Street Station Area Overlay District is necessary to give full meaning to these sections and is consistent with the goals, objectives and policies of the adoption Station Area Plan.

## V. CONCLUSION

Restaurant uses were previously allowed in the South 154<sup>th</sup> Street Station Area Overlay District from 2007 through 2017 and were unintentionally removed by Ordinance 17-1015. A restaurant use is an unlisted use and may be approved by interpretation per SMC 15.205.020. A restaurant use is a similar and compatible use in the UH, UH-UCR, and CB-C, provided the use is mitigated through additional conditions and permitting in the UH and UH-UCR zones.

## VI. INTERPRETATION

A “restaurant” use, as defined in 15.105.180, is allowed in the South 154<sup>th</sup> Street Station Area Overlay District as follows:

UH Zone: Conditional use, provided it is accessory to primary use and does not exceed 20% of the primary use.

UH-UCR Zone: Permitted use, provided it is part of a Mixed Use Development (Chapter 15.520 SMC)

CB-C Zone: Permitted use

  
\_\_\_\_\_  
Jennifer Kester  
Planning Manager, Community and Economic Development

12/11/18  
\_\_\_\_\_  
Date

## APPEAL PERIOD

This interpretation may be appealed to the City Hearing Examiner within 14 days from the date of this letter. All appeals of the above interpretation must be filed by **5:00 P.M., December 26<sup>th</sup>, 2018**. There is a \$207.94 fee to appeal this determination