

Ordinance No. 122043

Council Bill No. 115482

An ordinance relating to land use and zoning, amending Sections 23.61.006, 23.61.008 and 23.61.014 of the Seattle Municipal Code to clarify provisions related to the application of regulations and address relocation of nonconforming uses in the Station Area Overlay District.

CF No. _____

Date Introduced:	JAN 30 2006	
Date 1st Referred:	To: (committee)	Urban Development & Planning
Date Re - Referred:	JAN 30 2006	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote:	
3-27-06	8-0	
Date Presented to Mayor:	Date Approved:	
3-28-06	4/5/06	
Date Returned to City Clerk:	Date Published:	T.O. <input type="checkbox"/>
4/5/06	4/9/06	F.T. <input checked="" type="checkbox"/>
Date Vetoes by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Richard Conlin
Councilmember

Walk-in

Committee Action:

Approved
4-0
PS, TR, R, G, D

3-27-06 Passed 8-0 (Absent: Rasmussen)

This file is complete and ready for presentation to Full Council. Committee: _____ (initial/date)

Law Department

Law Dept. Review

OMP Review

City Clerk Review

Electronic Copy Loaded

Indexed

True
(Signature)

ORDINANCE 122043

AN ORDINANCE relating to land use and zoning, amending Sections 23.61.006, 23.61.008 and 23.61.014 of the Seattle Municipal Code to clarify provisions related to the application of regulations and address relocation of nonconforming uses in the Station Area Overlay District.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.61.006 of the Seattle Municipal Code, last amended by Ordinance 120452, is further amended as follows:

23.61.006 Application of Regulations.

All land located within the Station Area Overlay District is subject to the regulations of the underlying zone unless specifically modified by the provisions of this chapter. In the event of a conflict between the provisions of the Station Area Overlay District and the underlying zone including Pedestrian-Designated Zones, the provisions of this chapter prevail. Where a conflict exists between the provisions of this chapter and the Pike Pine Overlay District or the Shoreline Master Program, the provisions of the Pike Pine Overlay District or the Shoreline Master Program prevail.

Section 2. Section 23.61.008 of the Seattle Municipal Code, last amended by Ordinance 121245, is further amended as follows:

23.61.008 Prohibited uses.

The following uses are prohibited within an underlying commercial zone as both principal and accessory uses, except as otherwise noted:

- A. Drive-in businesses, except as provided in 23.61.014, Nonconforming uses;
- B. Dry storage of boats;
- C. General manufacturing;
- D. Heavy commercial services, except laundry facilities existing as of April 1, 2001;
- E. Sales and rental of large boats;



1 F. Vessel repair (major or minor);

2 G. Mini-warehouse;

3 H. Principal use, nonresidential long-term parking;

4 I. Outdoor storage;

5 J. Sale of heating fuel;

6 K. Sales and rental of motorized vehicles, except within an enclosed structure;

7 L. Sales, service and rental of commercial equipment and construction

8 materials;

9 M. Salvage and recycling;

10 N. Towing services;

11 O. Principal use vehicle repair (major or minor);

12 P. Wholesale showroom; and

13 Q. Warehouse.

14 Section 3. Section 23.61.014 of the Seattle Municipal Code, last amended by Ordinance
15 120452, is further amended as follows:

16 **23.61.014 Nonconforming uses.**

17 A. Expansion. Uses listed in this subsection may be expanded or extended by an amount
18 of gross floor area not to exceed twenty (20) percent of the existing gross floor area of the use
19 provided that this exception may be applied only once to any individual business establishment.

20 1. The provisions of this subsection apply to the following station areas:

21 ~~((1-))~~ a. Henderson;

22 ~~((2-))~~ b. Othello;

23 ~~((3-))~~ c. Edmunds; and

24 ~~((4-))~~ d. McClellan.

25 ~~((B-))~~ 2. The provisions of this subsection apply to the following nonconforming

26 uses:



- 1 ~~((1.))~~ a. Gas stations;
- 2 ~~((2.))~~ b. General manufacturing;
- 3 ~~((3.))~~ c. Heavy commercial services;
- 4 ~~((4.))~~ d. Mini-warehouse and warehouse; and
- 5 ~~((5.))~~ e. Vehicle repair (minor).

6 B. Relocation. In the University District Station Area, banks with a drive-in facility may
7 be moved to another location within the station area provided:

- 8 1. The use was in existence on the effective date of this ordinance;
- 9 2. This exception may be applied only once to any individual business

10 establishment;

- 11 3. The new location is not within a designated Pedestrian District;
- 12 4. The curbcut(s) at the new location will serve both the drive-in lane and access

13 to parking for the use;

- 14 5. The use at the new location is limited to one drive-in lane; and
- 15 6. The drive-in lane may not be located between the structure containing the bank

16 use and a street right-of-way.





City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

January 17, 2006

Honorable Jan Drago
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Drago:

I am transmitting the attached proposed Council Bill, which will amend the Land Use Code to allow banks that are displaced by new development activity in the University District to relocate and keep their drive-in facilities. Our recent efforts to create jobs and encourage new development in the University District are paying off. One great example is the investment that Safeco Insurance is making in relocating more than a thousand jobs from the eastside to a new office tower in Seattle.

Safeco's expansion however, will displace certain businesses, including a bank. The criteria in the proposed legislation will help make relocated banks with drive-in banking facilities compatible with a pedestrian-oriented area, thus mitigating the impacts that may otherwise result.

Please join me in supporting this legislation. Together, we can realize our goals for increased employment opportunities for our citizens in a revitalized University District. Should you have questions, please contact Mike Podowski at 386-1988.

Sincerely,

A handwritten signature in cursive script, appearing to read "Greg Nickels".

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
DPD	Mike Podowski/386-1988	Amanda Allen/684-8894

Legislation Title:

An ordinance relating to land use and zoning, amending Sections 23.61.006, 23.61.008 and 23.61.014 of the Seattle Municipal Code to clarify provisions related to the application of regulations and address relocation of nonconforming uses in the Station Area Overlay District.

Summary of the Legislation: The Department of Planning and Development (DPD) is proposing to amend the Land Use Code to allow existing banks with drive-in facilities to relocate within the University District Station Area Overlay District (SAOD), subject to certain conditions.

Background: While the provisions of the SAOD do not allow drive-in facilities, flexibility is allowed generally for nonconforming uses in limited circumstances. Specific provisions for banks are proposed to be consistent with existing provisions for other uses. This is intended to help existing businesses in a limited way as the character of the station area is in transition. Conditions proposed in the ordinance are intended to help these uses be compatible with future development in this station area.

X This legislation does not have any financial implications.

Attachment A: Director's Report and Recommendation



DIRECTOR’S REPORT AND RECOMMENDATION

Amendments to the University District Station Area Overlay District

INTRODUCTION

The Department of Planning and Development (DPD) is proposing a Land Use Code amendment to conditionally allow existing banks with drive-in banking facilities to relocate within the University District Station Area Overlay District (SAOD). The conditions are intended to mitigate impacts that may occur and to help ensure that the relocated bank is compatible with the surrounding area.

BACKGROUND

The SAOD was adopted in the summer of 2001 to carry out transit oriented development goals within walking distance of planned Link light rail stations. The University District station area (shown on the map attached to this report) is roughly centered at the intersection of NE 45th Street and 15th Avenue NE. Construction is underway on the light rail line between downtown Seattle and Sea-Tac Airport. This initial segment is anticipated to begin service in 2009. Construction of University Link, which would connect downtown to the University District, is anticipated to begin in 2008 and be completed in 2016.

Within the Station Area Overlay District, uses are permitted that allow for people to live, work and have ready access to goods and services in areas surrounding proposed light rail stations. Prohibited uses are uses not conducive to creating or enhancing mixed use, pedestrian oriented areas.

ANALYSIS

When new zoning provisions are adopted it is sometimes desirable to apply them with some measure of flexibility to aid an area’s transition from existing conditions to a more desirable character and function. In station areas, drive-in related uses are prohibited in order to encourage and increase pedestrian traffic that will result from light rail service in the neighborhood. However, drive-in banks exist within the University District SAOD now and there is a continued demand for drive-in banking services. Further, new development activity will displace one bank with a drive-in facility, where the bank does not own the property. The only other business with a drive-in facility that might have a demand similar to that of a drive-in bank is a restaurant. One such restaurant is in the University District SAOD and is on land that the business owns, and it is thus not susceptible to being displaced.

In keeping with the goals of the station area overlay district, provisions were included in the original legislation adopted in 2001 to provide for a transition period from current character to the one envisioned by development according to the SAOD. This transition is achieved by specialized provisions for nonconforming uses, applied in a very limited context. The proposed amendment would be consistent with the principal underlying existing nonconforming use provisions.



Non-conforming uses are uses that pre-exist new zoning requirements that change standards applicable to a use or prohibit the use altogether. Frequently when implementing new land use regulations, some existing uses become nonconforming.

In cases, such as with the SAOD, when zoning prohibits existing, permitted uses, the Land Use Code allows these uses to continue in operation and allows property or business owners to perform reasonable maintenance and upkeep. If the use ceases operation for a year or more, the use cannot be reestablished. In addition, the current SAOD allows for a one-time expansion of certain existing businesses made nonconforming by the use provisions of the overlay district. This is intended to help to maintain the viability of businesses that are already established until market conditions may make full redevelopment a viable option.

The ability to expand certain uses applies to the following station areas:

- Henderson;
- Edmunds; and
- Othello;
- McClellan.

The ability to expand is not proposed for all uses that would be prohibited by the SAOD. The following uses made nonconforming are allowed to expand one time:

- Gas stations;
- Mini-warehouse;
- General Manufacturing;
- Vehicle repair (minor); and
- Warehouses.
- Heavy Commercial Services;

The proposal would add to the provisions for the expansion of nonconforming uses, summarized above, to allow for limited relocation of bank uses with drive-in facilities within the University District SAOD, subject to these conditions:

- The exception may be applied only once to any individual business establishment;
- The new location is not within a designated Pedestrian District;
- The curbcut(s) at the new location will serve both the drive-in lane and access to parking for the use;
- The use at the new location is limited to one drive-in lane; and
- The drive-in lane may not be located between the structure containing the bank use and a street right-of-way.

Limited application of the proposed amendment is anticipated. Only two drive-in banks are estimated to be eligible. Further, the conditions proposed are intended to mitigate any negative impacts that would result from the proposal.



RECOMMENDATION

The Director recommends adoption of the proposed Land Use Code amendments. The proposal would preserve the intent of the SAOD, while supporting existing viable businesses by allowing flexibility to transition from current character and market demands to that envisioned by the goals of the SAOD.



STATE OF WASHINGTON – KING COUNTY

--SS.

197059
CITY OF SEATTLE, CLERKS OFFICE

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

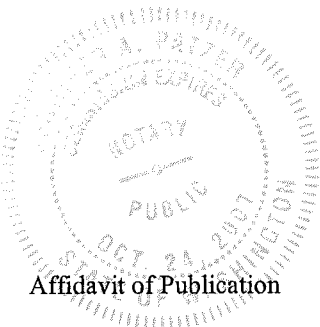
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122043 ORDINANCE

was published on

04/14/06

The amount of the fee charged for the foregoing publication is the sum of \$ 220.80, which amount has been paid in full.



Affidavit of Publication

Subscribed and sworn to before me on

04/17/06

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

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Section 2. Section 23.61.008 of the Seattle Municipal Code, last amended by Ordinance 121245, is further amended as follows:

23.61.008 Prohibited uses.

The following uses are prohibited within an underlying commercial zone as both principal and accessory uses, except as otherwise noted:

A. Drive-in businesses, except as provided in 23.61.014. Nonconforming uses;

B. Dry storage of boats;

C. General manufacturing;

D. Heavy commercial services, except laundry facilities existing as of April 1, 2001;

E. Sales and rental of large boats;

F. Vessel repair (major or minor);

G. Mini-warehouse;

H. Principal use, nonresidential long-term parking;

I. Outdoor storage;

J. Sale of heating fuel;

K. Sales and rental of motorized vehicles, except within an enclosed structure;

L. Sales, service and rental of commercial equipment and construction materials;

M. Salvage and recycling;

N. Towing services;

O. Principal use vehicle repair (major or minor);

P. Wholesale showroom; and

Q. Warehouse.

Section 3. Section 23.61.014 of the Seattle Municipal Code, last amended by Ordinance 120452, is further amended as follows:

23.61.014 Nonconforming uses.

A. Expansion. Uses listed in this subsection may be expanded or extended by an amount of gross floor area not to exceed twenty (20) percent of the existing gross floor area of the use provided that this exception may be applied only once to any individual business establishment.

1. The provisions of this subsection apply to the following station areas:

((1-)) a. Henderson;

((2-)) b. Othello;

((3-)) c. Edmunds; and

((4-)) d. McClellan.

((B-)) 2. The provisions of this subsection apply to the following nonconforming uses:

((1-)) a. Gas stations;

((2-)) b. General manufacturing;

((3-)) c. Heavy commercial services;

((4-)) d. Mini-warehouse and warehouse;

and

((5-)) e. Vehicle repair (minor).

B. Relocation. In the University District Station Area, banks with a drive-in facility may be moved to another location within the station area provided:

1. The use was in existence on the effective date of this ordinance;

2. This exception may be applied only once to any individual business establishment;

3. The new location is not within a designated Pedestrian District;

4. The curbside(s) at the new location will serve both the drive-in lane and access to parking for the use;

5. The use at the new location is limited to one drive-in lane; and

6. The drive-in lane may not be located between the structure containing the bank use and a street right-of-way.

((C- The standards for nonconforming uses of the underlying zone and any overlay districts apply, except that uses listed in subsection B may be expanded or extended by an amount of gross floor area not to exceed twenty (20) percent of the existing gross floor area of the use, provided that this exception may be applied only once to any individual business establishment.))

Section 4. Severability. The several provisions of this ordinance are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 5. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 27th day of March, 2006, and signed by me in open session in authentication of its passage this 27th day of March, 2006.

Nick Licata

~~Twenty (20) percent of the existing gross floor area not to exceed twenty (20) percent of the existing gross floor area of the use provided that this exception may be applied only once to any individual business establishment.~~

1. The provisions of this subsection apply to the following station areas:

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2. This exception may be applied only once to any individual business establishment.

3. The new location is not within a designated Pedestrian District.

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5. The use at the new location is limited to one drive-in lane; and

6. The drive-in lane may not be located between the structure containing the bank use and a street right-of-way.

~~((C- The standards for nonconforming uses of the underlying zone and any overlay districts apply, except that uses listed in subsection B may be expanded or extended by an amount of gross floor area not to exceed twenty (20) percent of the existing gross floor area of the use, provided that this exception may be applied only once to any individual business establishment.))~~

Section 4. Severability. The several provisions of this ordinance are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

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Passed by the City Council the 27th day of March, 2006, and signed by me in open session in authentication of its passage this 27th day of March, 2006.

Nick Licata
President of the City Council

Approved by me this 5th day of April, 2006.

Gregory J. Nickels, Mayor
Filed by me this 5th day of April, 2006.
(Seal) Judith Pippin

City Clerk

Publication ordered by JUDITH PIPPIN,
City Clerk

Date of publication in the Seattle Daily
Journal of Commerce, April 14, 2006.

4/14(197059)