



Minutes of the Development Review Commission REGULAR MEETING December 13, 2022

Minutes of the **Regular Meeting** of the Development Review Commission, of the City of Tempe, was held in Council Chambers
31 East Fifth Street, Tempe, Arizona

Present:

Chair Michael DiDomenico
Vice Chair Andrew Johnson
Commissioner Don Cassano
Commissioner Barbara Lloyd
Commissioner Michelle Schwartz
Commissioner Linda Spears
Commissioner Joe Forte

City Staff Present:

Jeff Tamulevich, Director – Community Development
Ryan Levesque, Deputy Director, Community Development
Suparna Dasgupta, Principal Planner
Steve Abrahamson, Principal Planner
Diana Kaminski, Senior Planner
Lee Jimenez, Senior Planner
Karen Stovall, Senior Planner
Lily Drosos, Planner I
Joanna Barry, Administrative Assistant II

Absent:

Alt Commissioner Rhiannon Corbett
Alt Commissioner Charles Redman
Alt Commissioner Robert Miller

Hearing convened at 6:00 p.m. and was called to order by Chair DiDomenico

Consideration of Meeting Minutes:

- 1) Development Review Commission – Study Session 11/08/22
- 2) Development Review Commission – Regular Meeting 11/08/22

Motion: Motion made by Vice Chair Johnson to approve Study Session minutes with minor correction and Regular Meeting Meeting minutes for November 8, 2022 and seconded by Commissioner Lloyd.

Ayes: Chair DiDomenico, Vice Chair Johnson, and Commissioners Lloyd and Spears.

Nays: None

Abstain: Commissioners Cassano, Schwartz, and Forte

Absent: None

Vote: Motion passes 4-0

The following items were considered for **Consent Agenda**:

- 3) Request a Development Plan Review for a 13,489 s.f. addition to an existing one-story police training facility consisting of new training facilities and offices for **CITY OF SCOTTSDALE POLICE & FIRE TRAINING FACILITY**, located at 911 North Stadem Drive. The applicant is Fucello Architects. **(PL220066)**
- 4) Request a Development Plan Review for three (3) new, single-story industrial buildings totaling 689,109 square feet for **OMP TEMPE INDUSTRIAL PARK**, located at 1480 North McClintock Drive. The applicant is Berry Riddell, LLC. **(PL220160)**

- 5) Request a Use Permit to allow one required parking space within the front yard setback for the **WILSON RESIDENCE**, located at 217 East Tulane Drive. The applicant is Tyler Wilson. **(PL220218)**
- 6) Request a Use Permit Standard to increase the maximum building height from 35 feet to 38 feet, and a Development Plan Review consisting of a new 68,454 square-foot industrial warehouse building for **ALAMEDA INDUSTRIAL**, located at 1107 West Alameda Drive. The applicant is Dalke Design Group, LLC. **(PL220121)**
- 7) Request a Use Permit to allow massage therapy for **YW RELAXATION**, located at 5000 South Arizona Mills Circle, #108. The applicant is Fan Yang. **(PL220261)**
- 9) Request a Zoning Map Amendment from GID to MU-4; a Planned Area Development to establish development standards; and a Development Plan Review for a new six-story, mixed use development consisting of 343 dwelling units, five (5) live-work units and commercial use for **RIO & MCCLINTOCK**, located at 1801 East Rio Salado Parkway. The applicant is Gammage & Burnham, PLC. **(PL220192)**

Motion: Motion made by Vice Chair Johnson to approve Consent Agenda and seconded by Commissioner Spears.

Ayes: Chair DiDomenico, Vice Chair Johnson, Commissioners Cassano, Lloyd, Schwartz, Spears, and Forte.

Nays: None

Abstain: None

Absent: None

Vote: Motion passes 7-0

The following items were considered for **Public Hearing**:

- 8) Request a Use Permit to allow vehicle rentals for **UCARS** within General Industrial District, located at 640 South Smith Road. The applicant is Guidant Law PLC **(PL220314)**

PRESENTATION BY APPLICANT:

Mr. Eric Faas - Guidant Law PLC, gave an overview of the request. He stated they have a fleet of vehicles that they lease out to rideshare drivers, such as Uber and Lyft. They are a long-term leasing company, where the cars are out for a couple of months. He stated that this use is allowed, and what they are here about today is the parking issue on Smith Road. He noted that neighbors have been complaining about it, and UCARS is actively working to solve the problem, but it is taking some time. They are asking for modification to Conditions of Approval No. 3 & 4. They would like Condition No. 3 relating to the business hours be modified because part of the solution to the parking problem is moving cars back and forth after business hours. Condition No. 4 requires all business vehicles to be onsite, however right now they do not have enough parking onsite to accomplish that which is why cars are being parked up and down Smith Road. He advised there are up to 12 vehicles coming into UCARS, and 15 going out daily. Due to the length vehicles are out, and those that need repairs, they need to have a large number of vehicles on hand. They do not have enough spaces onsite for vehicles. They have an agreement with AAMCO for storage of around 40 vehicles on their screened lot. He stated the requirement for a screened lot makes it difficult for them to solve their vehicle storage issue. He advised they have employed a broker to help them find another lot to store vehicles. They are looking for either another storage location or adding a second UCARS location. He noted they are going to need a reasonable amount of time to comply with the Conditions of Approval. He is hoping this can be done before they come back before the DRC in March 2023.

Mr. Faas advised that the reason they are requesting the 7:00 p.m. versus 5:00 p.m. end time listed in Condition No. 3, is because the "No Overnight Parking" begins at 7:00 p.m. They need the time after the business hours end at 5:00 p.m. to remove all of the vehicles from the street. Regarding Condition No. 4, he noted there are on average 20 vehicles onsite for maintenance, so cars that are in queue to go out, and employee parking, is on the street. He stated the onsite manager did a parking analysis of vehicles that are parked on Smith Road. He noted that UCARS

has the right to park in front of their business address. They are proposing that they be allowed to park cars on the west side of Smith Road as they think that would alleviate the impact on the neighbors.

Commissioner Spears asked how long the average lease of a vehicle is and was advised it is about eight weeks. Mr. Faas stated the current fleet is about 400 vehicles so there is a certain amount that are returned or go out daily. Commissioner Spears asked how many cars are on the lot/in the area on an average day. Mr. Faas advised it was about 60-90 vehicles. He noted they are trying to find another lot to store vehicles but that the screening requirement makes it a challenge.

Commissioner Lloyd asked if the request to park on the west side of the street would be temporary until they find a long-term solution. She also asked how long UCARS' lease/commitment is for the current building. Mr. Faas stated he believes the lease is until 2024. It is a five-year lease, and he believes it began in 2019. He stated the request to park on the west side of the street is temporary. He noted that based on the Smith Road Improvement Project, there will be bike lanes on both sides of the street within 6-18 months.

Commissioner Cassano referenced the applicant's letter of explanation where they are requesting to park a maximum of 30 vehicles on Smith Road when available, however Mr. Faas had reference 40-60 vehicles being on Smith Road. Mr. Faas advised they had met with staff on the day the report was to be published so he did not have time to update the letter.

Commissioner Cassano asked how an enforcement officer driving through the area after UCARS is closed would know which cars were theirs and which were not. Mr. Faas advised that most of the cars are Toyota Prius, so if one is on the street it is most likely from UCARS or belongs to an employee who purchased one.

Vice Chair Johnson reference Condition No. 4 asked if they are requesting to just have that delayed for 60 days or if they are objecting to it completely. Mr. Faas advised that they are objecting to it. He stated that once the bike lanes are installed they will not have any choice so at a minimum they should be allowed to park in front of the business. Vice Chair Johnson noted that Mr. Faas stated there are signs going up stating "No Overnight Parking" so they should not be doing that. Mr. Faas advised they are posted in a limited number of places. He stated that once he saw them going up he called Catherine Hollow, Principal Civil Engineer – City of Tempe, and advised her they are in the middle of a land use application and asked if they could finish the process before more signs were put up and she agreed. There were a few south of UCARS then they placed them on either side of the driveway to create extra spacing, not completely up and down the street.

Commissioner Cassano asked the applicant how many cars they can park in front of their business and Mr. Faas advised it was only five, but it would allow for overnight drop-offs. He advised they are using Smith Road as a storage area right now. They will instruct the drivers that they need to drop the cars off in front of the business.

PRESENTATION BY STAFF:

**Ms. Suparna Dasgupta, Principal Planner, advised that Ms. Hollow was online in case the Commission had any questions for her.*

Ms. Lily Drosos, Planner I, gave an overview of the request. She advised that based on the current uses, the zoning code requires 31 spaces onsite and that currently 36 are provided. Ms. Drosos advised that within the past year the business has received four code violations, three of which have been closed. The current active violation is for operating a vehicle rental business without a Use Permit. Complaints have been received by Code Compliance, police department, fire department, and the Engineering & Transportation Departments. The complaints are related to a high number of vehicles being parked on both sides of Smith Road and 5th Street. The concern is that the overflow of vehicles on the street makes the road narrower and poses safety concerns and the threat of collisions.

A neighborhood meeting was not required, and staff has received seven comments voicing opposition to the Use Permit. This does not include the complaints received by the other departments. Ms. Drosos went over the non-

standard Conditions of Approval. One of these requires the applicant to come back before the Commission in March 2023 to review compliance of these conditions.

Chair DiDomenico noted that the aerial map shows 36 paved and numbered spaces on the UCARS lot. He asked if the southwest corner, which looks like a retention area, could be paved and used for additional parking. Mr. Steve Abrahamson, Principal Planner, noted that this area could potentially be required retention so he does not know if it could be used for this. Chair DiDomenico asked if parallel parking or double stacking is allowed along the building in the drive lanes. Ms. Drosos advised it is something they might have to look at during site plan review and get feedback from other departments.

Commissioner Spears noted this is a request for a Use Permit to allow them to do business and asked if they would have to cease doing business at this location if it is not approved. Ms. Drosos advised that was correct. They have an active code violation for operating without the Use Permit. If the Use Permit request is denied they would need to relocate.

Vice Chair Johnson asked if there was a reason for the applicant not getting Use Permit being in the first place. Mr. Abrahamson advised it appears they opened their business without checking into what would be needed to operate safely and legally.

PUBLIC COMMENT:

Mr. Abrahamson read out loud for the record all public comments received by the City. Below is a summary of the comments. The full comments are on file as public record.

Ruben Solis, Peterson Air Care, Tempe – Opposed

- Does not believe they will begin to obey common traffic laws with any permits they are allowed.
- Their priorities for public safety are second to their financial pockets.
- They have a large quantity of employees, customers and vendors that surround their location daily creating noise, safety issues, and traffic issues.
- Would like them to search for a properly sized location where the public is not put in jeopardy.

Michael Jagoda, AHR Mechanical, Tempe – Opposed

- The excessive parking of vehicles by UCARS is a danger to local businesses, their employees, and current/potential clients.
- There are very few available parking spots due to all these cars.
- The roadway is now narrowed by cars parked on either side of the street causing dangerous situations for pedestrians and locals trying to work and do business.
- It is nearly impossible to safely pull out of parking lots due to restricted vision created by all those cars lined up and down the streets.

Jeff Laing, Tempe resident – Opposed

- Company has willfully disregarded public safety in parking multiple cars for their company use on Smith Road and on 5th Street.
- Operating without a permit shows complete disrespect for rules. If the City had not been required to intervene, they would have never tried to get the proper permits for their business.
- When they have car carriers delivering, they park in the middle of the road to unload, leaving very little room on each side to get by in a safe manner.

The following public comments were in person

Mr. James Farrington, Phoenix resident, advised he was the former owner of Tempe Crane, which is on the corner of Smith Road and 5th Street. He stated that vehicles from UCARS park all along Smith Road and are now parking on 5th Street. There are crane operators that have to drive down the street with vehicles parked along both sides, as

well as a truck unloading vehicles in the middle of the street. He does not think this is fair, especially since he had to follow all the rules with his business.

Mr. Robert Johnson, Gilbert resident, manages a property at 625 South Smith Road. They share a driveway adjacent to one of UCARS' driveways. He is concerned about how they plan to supervise the commitments to park on the west side. He noted they have been very polite when approached with an issue, and they do respond, but 24 hours later the exact same thing happens again. He has been on-site at the property he manages when someone with a UCARS vehicle will park in one of their spaces. He advises them that they could not park there because it is private property, but they say they are just there to drop the vehicle off. He stated there does not seem to be a good line of communication with the owners and those who lease or drop off vehicles. He is also concerned about the open-ended nature of their request when it comes to the timeframe. He noted the differing numbers the applicant gave regarding how many vehicles can be parked on the street. He stated they have vehicles that go all the way up Smith Road to 5th Street and then down along 5th Street. This makes it very scary for anyone exiting onto the street. He stated they are past capacity for this location.

APPLICANT RESPONSE:

Mr. Faas stated they have been upfront on the number of cars on hand and have been working towards a solution. They do want the right to be able to park on the west side of Smith Street. Eventually they will need to have all the vehicles off the street since the bike lanes are coming. He said they would be able to contain cars to the west side by securing another lot. They are not looking for an unlimited amount of time but will be back in 90 days for a review. Regarding the lack of the Use Permit, he understands they opened as a repair and maintenance business and thought leasing was allowed but it was not.

Commissioner Spears asked if the applicant was paying sales tax for the leases and was advised that they were.

Commissioner Lloyd asked if staff had any issue with modifying Condition No. 4 and was advised that they do not if it means getting the vehicle off the street.

Commissioner Schwartz noted the letter of explanation states their hours are 9:00 to 5:00 p.m. and asked why they are requesting hours in Condition No. 4 be extended to 7:00 p.m. Mr. Faas stated that they need the extra time after the business closes at 5:00 p.m. to move the cars off the street.

Vice Chair Johnson asked if they have been parking cars on the street since the business first opened. Mr. Faas stated he was not sure, but that the last year has really been the problem as they have grown so much. Vice Chair Johnson asked if over the past year they have only been able to acquire 40 additional parking spots. Mr. Faas advised that was correct but noted that the screening requirement is making it difficult to find more. They are hoping to find a larger facility in Mesa or Phoenix and then have the Smith Road site can become a satellite operation.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Chair DiDomenico noted there are car dealerships around town that just had stem walls and asked for clarification on why a screened lot would be required for UCARS. Ms. Drosos stated that because this use is for vehicle storage versus vehicle sales it requires them to meet the screening requirements and have it on an approved surface. Mr. Abrahamson noted that the screening requirement also applies since this is a fleet of vehicles.

Commissioner Cassano noted there is an unimproved lot directly to the west of the UCARS building and asked if it requires a six-foot wall since it is interior to everything else. Mr. Abrahamson advised that that property used to be a County island but was annexed and possibly "grandfathered" in. This may have, and might still be, a storage lot.

Ms. Suparna Dasgupta, Principal Planner, suggested the Commission have Catherine Hollow give them an update on the plans along Smith Road.

Ms. Hollow advised that if a business wants no parking in front of their business, the City will do it. They have received several requests from businesses along Smith Road to have no parking signs put up. They initially put up "No Overnight Parking" signs in two locations on 5th Street and one on Smith Road. They paused installing further signs until after the outcome of this meeting. She noted they will start putting out more "No Parking" signs in front of business tomorrow. They will not put one in front of UCARS since they have not requested one, but if other business request it they will put them out.

Commissioner Lloyd asked for clarification of Condition of Approval No. 4 since it appears to state no on-street parking overnight. She also asked staff what would trigger a violation of this Use Permit based upon this condition and staff advised that is correct.

Commissioner Spears noted she would like Condition No. 4 to remain as stated in the report.

Commissioner Schwartz stated she was also curious about the City's compliance strategy to ensure they adhere to the Use Permit Conditions of Approval.

Mr. Abrahamson advised that it would be self-enforced by the applicant and that if the City receives further complaints that they are not adhering then they would investigate.

Vice Chair Johnson noted it would be up the Commission to determine if the Use Permit remains active after they hear it at the March 2023 compliance review.

Motion: Motion made by Commissioner Spears to approve PL220314 with Condition of Approval No. 3 being modified and seconded by Vice Chair Johnson.

Ayes: Chair DiDomenico, Vice Chair Johnson, and Commissioners Cassano, Lloyd, and Spears.

Nays: Commissioners Schwartz and Forte.

Abstain: None

Absent: None

Vote: Motion passes 5-2

Staff Announcements: NONE

There being no further business the meeting adjourned at 7:20 p.m.

Prepared by: Joanna Barry, Administrative Assistant

Reviewed by: Suparna Dasgupta, Principal Planner

