

**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 03/28/2023
Agenda Item: 7**

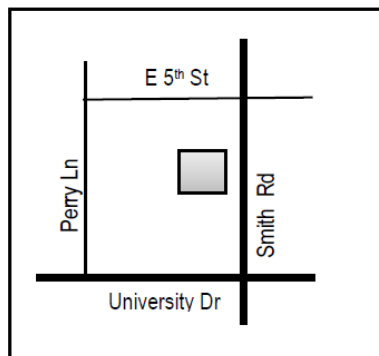
ACTION: Review for compliance with the conditions of approval for a Use Permit to allow vehicle rentals within the General Industrial District for UCARS within General Industrial District, located at 640 South Smith Road. The applicant is Guidant Law PLC.

FISCAL IMPACT: N/A

RECOMMENDATION: None

BACKGROUND INFORMATION: On December 13th, 2022, the Development Review Commission granted UCARS (PL220314) the approval of a Use Permit to allow vehicle rentals within General Industrial District. Since there were concerns from the public regarding the use, the conditions of approval for the Use Permit stipulated that UCARS shall return to the Development Review Commission for review of compliance on March 28th, 2023. The review includes the following:

Review for compliance with the conditions of approval for ZUP220066, a Use Permit to allow vehicle rentals within General Industrial District.



Property Owner	KT 777 LLC
Applicant	Guidant Law PLC
Zoning District	GID
Site Area	35,196 s.f.
Building Area	9,405 s.f.
Lot Coverage	26.7%
Building Setbacks	25' front, 20' parking (front), 0' sides, 0' rear min. required
Vehicle Parking	36 spaces (31 min. required)
Hours of Operation	9 a.m. to 7 p.m., Monday - Friday

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Lily Drosos, Planner I (480) 350-8245

Department Director: Jeff Tamulevich, Community Development Director
Legal review by: N/A
Prepared by: Lily Drosos, Planner I
Reviewed by: Steve Abrahamson, Principal Planner

COMMENTS

UCars is located on the west side of Smith Road, north of University Drive and south of Fifth Street. UCars owns a fleet of vehicles which it leases to rideshare drivers for companies such as Uber and Lyft. Wrench Doc Auto Repair & Body Shop also services vehicles on-site. In the past year, the businesses have received four code violations, three of which have been closed. The current, active code violation was initially opened for operating without a Use Permit. Although the Use Permit was approved by the Development Review Commission on December 13th, 2022, this violation is still open because the businesses are not conforming with the conditions of approval set forth.

Complaints have been received by Code Compliance, the Police Department, Fire Department, and Engineering & Transportation from adjacent business owners regarding a high volume of inoperable vehicles parked along Smith Road and 5th Street. Violations for parking in fire lanes and driveways have also been reported. Since the December 13th, 2022, hearing, City staff has received several complaints from adjacent businesses, expressing their concern with UCars' inability to comply with the conditions.

PUBLIC INPUT

Since the December 13th, 2022, Development Review Commission meeting, City staff has received regular email updates from neighboring business owners with pictures of UCars' inventory parked on the street. *See Pages 7-19 of Development Project File.*

POLICE INPUT

The Police Department has reported 25 calls from complainants. *See Page 3 of Development Project File.*

CODE COMPLIANCE INPUT

The Code Compliance Division has conducted 10 inspections on site since December 13th, 2022 and has received one complaint from the public. Since UCars is in violation of conditions #4 and #5 of the Use Permit, the CM221789 record remains open. On January 31st, 2023, the first citation was issued. Staff conducted site visits after the citation was issued and observed repeated violations. *See Pages 4-5 of Development Project File.*

ENGINEERING & TRANSPORTATION INPUT

In response to requests from several property and business owners in the area, the Engineering & Transportation Department prepared and distributed a hybrid door-to-door/online petition to properties and businesses on Smith Road from 3rd Street to University Drive and on 5th Street from Perry Lane to Rockford Drive. The petition proposed the installation of permanent signage on the previously-mentioned roadway segments that would prohibit overnight parking from 7:00 PM to 5:00 AM, Monday through Friday.

Of the 31 properties within the immediate area of the proposed signage, 24, or 77.4%, were recorded as being in support of the proposal and therefore sufficient support for signage installation was received. The Engineering & Transportation Department will be moving forward with the manufacture and installation of the new signage in the coming weeks. Additionally, the current design of the Smith Road Streetscapes project still includes the future installation of signage that will prohibit parking along Smith Road at all times, replacing the signage installed on Smith Road under the scope of the above-mentioned petition. *See Page 6 of Development Project File.*

USE PERMIT

The proposed use requires a Use Permit to allow vehicle rentals within GID zoning district.

Section 6-308(E) Approval criteria for Use Permit (*in italics*):

1. *Any significant increase in vehicular or pedestrian traffic*; the site has sufficient parking for the uses per ZDC Section 4-603. As imposed by the conditions, the business shall keep all vehicle inventory on the property and designated storage lots at all times. Therefore, there is no anticipated increase in vehicular and pedestrian traffic.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*; nuisances exceeding that of the ambient conditions are not expected to arise from vehicle rentals, as the operation shall be conducted on-site during business hours.

3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan;* the leasing of vehicles is a permitted use within the GID zoning district, subject to a Use Permit. Therefore, the use shall not contribute to the deterioration of the neighborhood or downgrading of property values.
4. *Compatibility with existing surrounding structures and uses;* the use is compatible with the existing surrounding structures and uses, as adjacent businesses are also located within the GID.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public;* the business has taken action to mitigate concerns surrounding the use, such as removing vehicles from Smith Road and 5th Street. The applicant is taking preventative measures to avoid nuisances that would negatively impact the general public.

REASONS FOR APPROVAL:

Based on the information provided by the applicant, the public input received and the above analysis staff supports approval of the requested Use Permit. This request meets the required criteria and will conform to the conditions.

SHOULD AN AFFIRMATIVE ACTION BE TAKEN ON THIS REQUEST, THE FOLLOWING NUMBERED CONDITIONS OF APPROVAL SHALL APPLY, BUT MAY BE AMENDED BY THE DECISION-MAKING BODY.

CONDITION(S) OF APPROVAL: (Non-standard conditions are identified in bold)

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

1. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during the building plan check process.
2. **Return to the Development Review Commission for review of compliance with conditions of approval on March 28th, 2023. The timing for the three-month review period to commence begins when the decision for the use permit is made. Advise Community Development staff when in full business operation.**
3. Hours of operation to end no later than 7:00 p.m. on Monday through Friday.
4. **All vehicles generated from the businesses shall be kept on-site in parking areas or other designated storage lots, at all times.**
5. **In compliance with the Zoning and Development Code, Section 4-702 (C), all front yard landscape areas and driveway entrances shall remain clear of any vehicle parking.**

CODE/ORDINANCE REQUIREMENTS:

THE BULLETED ITEMS REFER TO EXISTING CODE OR ORDINANCES THAT PLANNING STAFF OBSERVES ARE PERTINENT TO THIS CASE. THE BULLET ITEMS ARE INCLUDED TO ALERT THE DESIGN TEAM AND ASSIST IN OBTAINING A BUILDING PERMIT AND ARE NOT AN EXHAUSTIVE LIST.

USE PERMIT:

- The Use Permit is valid for UCars and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
- The use permit approval shall be void if the use is not commenced or if an application for a building permit has not been submitted, whichever is applicable, within twelve (12) months after the use permit is granted or within the time stipulated by the decision-making body.
- The decision-making body, upon finding that the applicant has not taken corrective actions to resolve issues related to the permit/approval and that a continuation of the permit/approval is not in the interest of the public health, safety and general welfare, can revoke the permit/approval after providing written notice of its intentions to the holder of the permit.

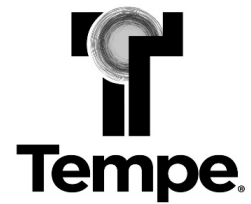
- Specific requirements of the **Zoning and Development Code (ZDC)** are not listed as a condition of approval but will apply to any application. To avoid unnecessary review time and reduce the potential for multiple plan check submittals, become familiar with the ZDC. Access the ZDC through <http://www.tempe.gov/zoning> or purchase from Development Services.
- Any intensification or expansion of use shall require a new Use Permit.
- All required permits and clearances shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the Use Permit becoming effective.
- All required Federal, State, County, and Municipal permits, licenses, and clearances shall be obtained, or the Use Permit is void.

HISTORY & FACTS:

May 4, 2022	The businesses received a code violation (CM220754) for vehicles obstructing the sidewalk. The violation was closed on May 4, 2022.
June 9, 2022	The businesses received a parking standard violation (CM220993).
September 8, 2022	CM220993 was closed.
September 14, 2022	The businesses received a code violation (CM221616) for storing damaged vehicles on Smith Road and 5 th Street.
September 15, 2022	CM221616 was closed.
October 12, 2022	A code violation (CM221789) for was received for operating a vehicle rental business without a Use Permit.
November 7, 2022	A Use Permit application was filed (PL220314).
December 6, 2022	Engineering & Transportation installed temporary no parking signs.
December 13, 2022	The Development Review Commission approved the Use Permit to allow vehicle rentals within the GID for UCars, subject to the conditions of approval.
January 18, 2023	Engineering & Transportation installed additional temporary no parking signs.
January 31, 2023	Code Compliance staff visited the site and observed violations of conditions #4 and #5 of the Use Permit, and a citation was issued.
February 16, 2023- March 3, 2023	Engineering & Transportation collected online and in-person signatures on the petition.

ZONING AND DEVELOPMENT CODE REFERENCE:

- [Section 3-302, Permitted Uses in Office/Industrial Districts](#)
- [Section 4-204, Development Standards for Office/Industrial Districts](#)
- [Section 4-603, Parking Ratios](#)
- [Section 4-702, General Landscape Standards](#)
- [Section 6-308, Use Permit](#)



DEVELOPMENT PROJECT FILE

for
UCARS
(PL220314)

ATTACHMENTS:

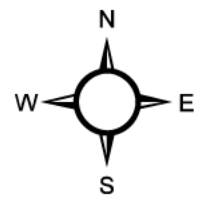
1. Aerial Map
2. Location Map
3. Police Department List of Complainants
- 4-5. Code Compliance Summary of Actions since December 13, 2022
6. Engineering & Transportation New Signage Installation Area Exhibit
- 7-14. Comments Received by City Staff from Adjacent Business Owners
- 15-19. Samples of Photos Received

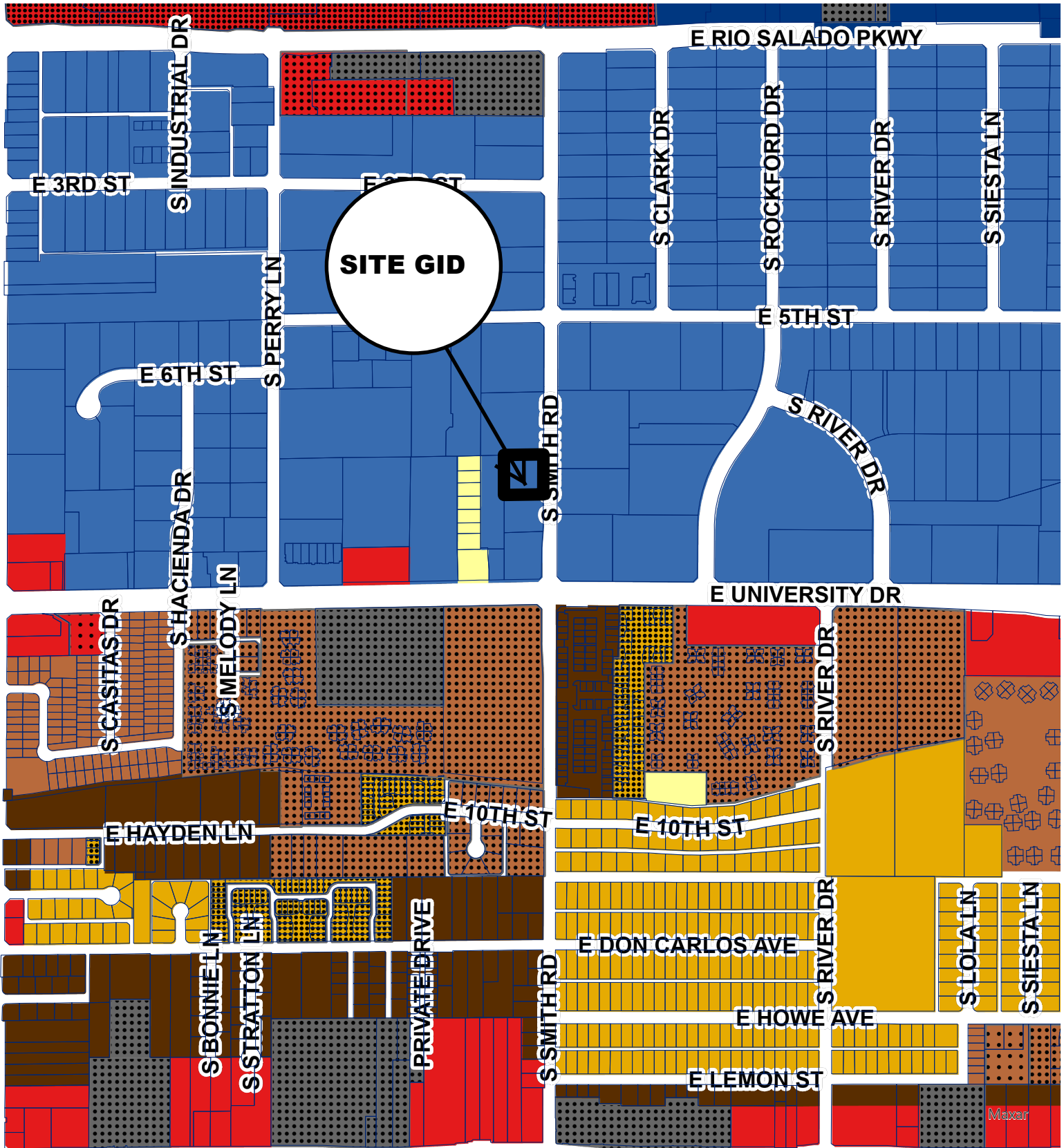
U CARS

PL220314



Aerial Map





- | | |
|--|---|
| General Industrial District (GID) | Agricultural (AG) |
| Heavy Industrial District (HID) | Single-Family Residential (R1-6) |
| Mixed Use High (MU-4) | Single-Family Residential Planned Area Dev (R1-PAD) |
| Commercial Shopping and Services (CSS) | Multi-Family Residential (R-2) |
| Planned Commercial Center Neighborhood (PCC-1) | Multi-Family Residential Restricted (R-3R) |
| Planned Commercial Center General (PCC-2) | Multi-Family Residential Limited (R-3) |
| Regional Commercial Center (RCC) | Multi-Family Residential General (R-4) |



Complainants for the Smith parking problem with U-Car

Business Name	Address	Contact Name	Telephone Number
Cordes Performance		Jason Simmons	
Tempe Crane		Terri Naddi	
Local Auto		Dawn Nida	
ECD Systems		Mike Bradley	
Mr. Glass Works		Mike Gonzales	
Braemar Acme Rubber		Carl Fillipone	
William's Express		Julian Benevidez	
Pure Life Jewelry		Jenny Rodriguez	
Tempe Crane		Diane Gibson	
RT Research		Russell Twiford	
Kelly Spicers		Dustin Donovan	
Sigler Wholesale		Dean Ehrhardt	
Lost Saguaro		Miguel Cuesta	
Scorpion Ammo		Mark Hillegas	
		John Lockett	
Express Stucco		Weston Miller	
		Brenda Needham	
Contractor for Mapei		Chris Rasta	
Schuman's Auto Clinic		Chris Kmett	
		Lawrence Massa	
Mechanical Genius		Robert Lugo	
Pedestrian that	Frequents area	Andre Roberts	
Mr. Glass Works	Duplicate	Logan Espinoza	
		Charlie	
Tempe Crane	Duplicate	Jeffrey Laing	





COMMUNITY DEVELOPMENT Code Compliance

Summary of actions since 12/13/22:

- Conducted 10 inspections on site
- 1 public complaint received
- First citation issued on 1/31/23
- Use permit conditions 4 and 5 still in violation today.

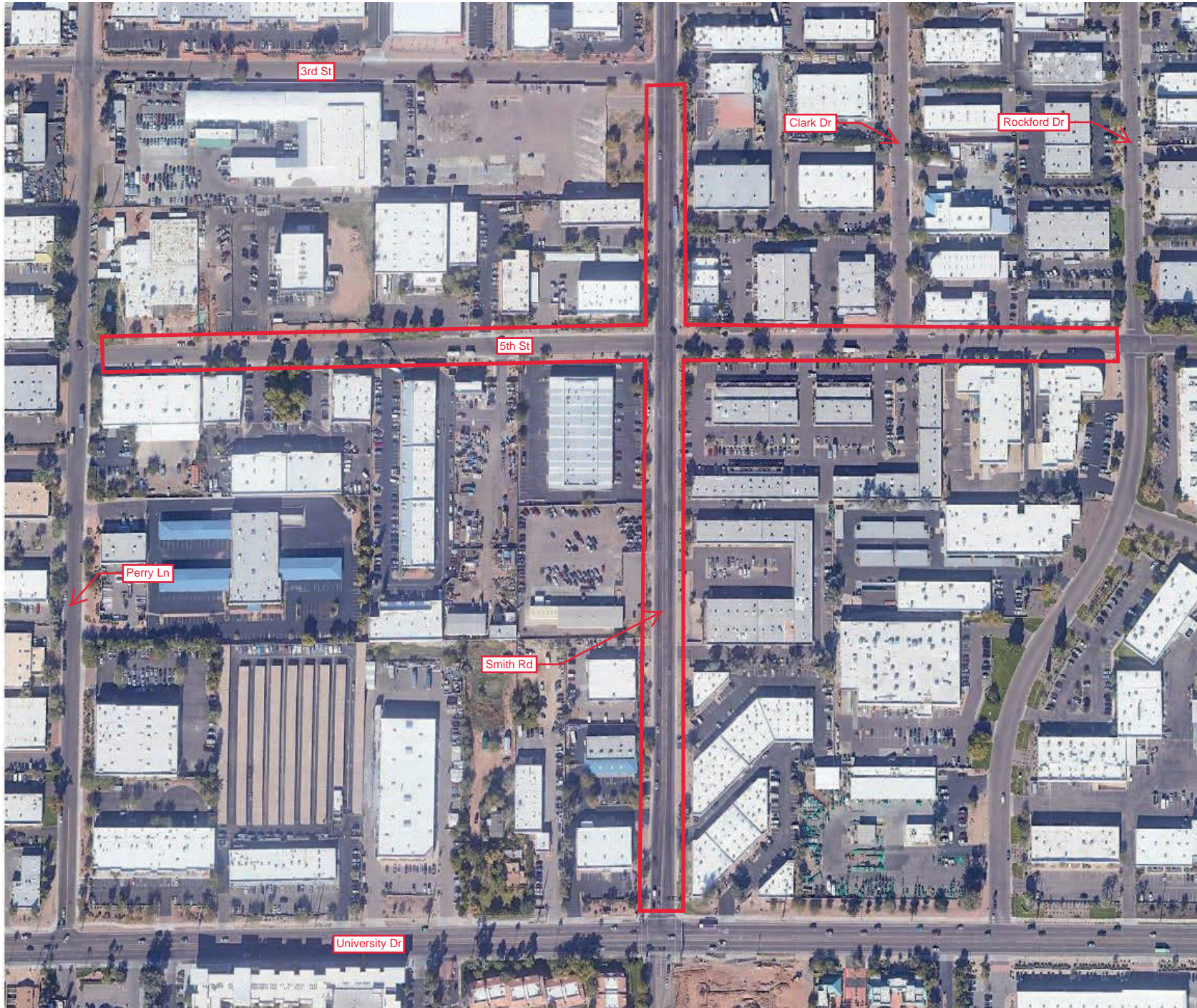
Enforcement

CM221789	UCARS RIDESHARE VEH HUB / WREN
Description of Work:	NEEDS A USE PERMIT FOR THE RIDESHARE VEHICLE/LEASING
Project Address:	640 S SMITH RD
Marvin White	12/13/2022 Visited site, Violations observed - vehicle storage, weeds and unpermitted sign.
Marvin White	12/21/2022 Visited site, Violations observed - vehicle storage, weeds and unpermitted sign. Contacted property owner and the attorney.
Marvin White	1/6/2023 Visited site, Violations observed- vehicle storage, weeds and unpermitted sign. Received an additional complaint of vehicle being stored on the street.
Cassidy Hernandez	1/9/2023 Received an anonymous complaint from 311 on 1/09/2022 for vehicles stored on the street.
Marvin White	1/9/2023 Visited site, Violations observed- vehicle storage, weeds, and unpermitted sign. Final certified violation letter mailed to business owner, property owner and attorney.
Marvin White	1/18/2023 Final certified violation letters signed and returned from business owner, property owner and attorney.
Marvin White	1/18/2023 Visited site and met with the business supervisor Jacob Koshoshek and his attorney Eric Faas. Violations observed- vehicle storage and an unpermitted sign, overgrown weeds have been removed.
Marvin White	1/20/2023 Sign permit application received by the City.
Marvin White	1/23/2023 Visited site with Drew Yocom and met with the business supervisor Jacob Koshoshek and his attorney Eric Faas.



COMMUNITY DEVELOPMENT Code Compliance

Marvin White	1/30/2023	Visited site with Drew Yocom and met with the business supervisor Jacob Koshoshek and his attorney Eric Faas. Violations observed- vehicle storage and an unpermitted sign.
Marvin White	01/31/2023	Visited site, Violations observed - vehicle storage in violation of use permit conditions # 4 & 5. Citation issued.
Marvin White	02/10/2023	Spoke with Eric Faas over the phone after receiving the citation.
Marvin White	02/22/2023	Visited site, Violations observed - vehicle storage in violation of use permit conditions # 4 & 5.
Marvin White	03/02/2023	Visited site, Violations observed - vehicle storage in violation of use permit conditions # 4 & 5. Contacted Eric Faas, he advised that they are moving forward with relocating portions of the business.



Roadway segments where new signage will soon be installed, prohibiting parking from 7:00 PM to 5:00 AM, Monday through Friday.

From: [Terri Naddy](#)
To: [Carl](#); [Hayes, Michael](#)
Cc: [Trader, Luke](#); [Woods, Corey](#); [Carr, Tyler](#); [Hollow, Catherine](#); [Drosos, Lily](#); [Taaffe, Sue](#); [Piedrahita, German](#);
Subject: [REDACTED]
Date: Fwd: Ucars taking control of Tempe streets
Friday, January 6, 2023 11:49:58 AM



This message needs your attention

- This is their first email to you.

All,

No doubt the driver of that delivery truck in the last picture had to leave his truck empty in the middle of the road to communicate with someone in person because there is literally NO WHERE for him to safely pull off the side anywhere close to his destination thanks to the jerks at Ucars. They are also in blatant violation of at least 2 conditions of their Zoning Use Permit ZUP220066 issued on December 13th.

That being said, I just filed a commercial code complaint with Char at Development Services, work order #13116657.

Feel free to contact us if you have any questions, thank you!

Terri Naddy
Tempe Crane, Inc.
[REDACTED]

IMPORTANT: Please call our office to schedule jobs or make changes to your scheduled crane/rigging services. Answering phones are our first priority.

----- Forwarded Message -----

Subject:Ucars taking control of Tempe streets

Date:Fri, 6 Jan 2023 10:38:27 -0700

From:Carl [REDACTED]

To:michael_hayes@tempe.gov

CC:Luke_Trader@tempe.gov, Corey_Woods@tempe.gov, Tyler_Carr@tempe.gov, CATHERINE_HOLLOW@TEMPE.GOV, [REDACTED], Lily_Drosos@tempe.gov, [sue taaffe@tempe.gov](mailto:sue_taaffe@tempe.gov), German_Piedrahita@tempe.gov, [REDACTED]

Happy New Year all

Just want to share some pictures that I have taken today.

There has been no improvements here, no enforcement, no law and order on the streets of Smith and 5th.

Does anyone have any suggestions? Can we chalk tires? Can we start towing these cars?

What is the hold up? Should I call Gary Harper at 3 on your side?

Thank You!
Carl Phillipone
Braemar USA



From: [Terri Naddy](#)
To: [Carl](#); [Hayes, Michael](#)
Cc: [Trader, Luke](#); [Woods, Corey](#); [Carr, Tyler](#); [Hollow, Catherine](#); [Drosos, Lily](#); [Taaffe, Sue](#); [Piedrahita, German](#); [j_tamulevich@tempe.gov](#); [drew_voccom@tempe.gpv](#)
Subject: Re: Ucar Parking chaos at 5th and Smith
Date: Monday, January 16, 2023 5:15:14 PM

We noticed a similar trend. When my employee came it at 08:00 he didn't count but said it was a lower number than when he left to grab lunch. When he counted at around 14:45, number was at 49.

Feel free to contact us if you have any questions, thank you!

Terri Naddy
Tempe Crane, Inc.
[REDACTED]

IMPORTANT: Please call our office to schedule jobs or make changes to your scheduled crane/rigging services. Answering phones are our first priority.

On 1/16/2023 5:07 PM, Carl wrote:

Hi All

Today's update on car storage on Tempe streets.

This morning at 6:00 am 14 cars on Smith, 3 cars on 5th Street

This afternoon at 1:30 pm 42 cars on Smith > 5 cars on 5th Street

Thank You!
Carl Phillipone
Braemar USA
[REDACTED]



From: [Carl](#)
To: [Hayes, Michael](#)
Cc: [Trader, Luke](#); [Woods, Corey](#); [Carr, Tyler](#); [Hollow, Catherine](#); [REDACTED]; [Drosos, Lily](#); [Taaffe, Sue](#); [Piedrahita, German](#); [REDACTED]; j_tamulevich@tempe.gov; drew_yoccom@tempe.gov
Subject: Running a business on the streets of Tempe.
Date: Thursday, January 26, 2023 10:57:39 AM

Hi All

Just an update

43 cars on Smith today.....

Ucars selling, storing, repairing, and warehousing cars on the streets of Tempe!

Thank You!
Carl Phillipone
Braemar USA
[REDACTED]



From: [Carl](#)
To: [Hayes, Michael](#)
Cc: [Trader, Luke](#); [Woods, Corey](#); [Carr, Tyler](#); [Hollow, Catherine](#); [REDACTED]; [Drosos, Lily](#); [Taaffe, Sue](#); [Piedrahita, German](#); [REDACTED]; j_tamulevich@tempe.gov; drew_yoccom@tempe.gov
Subject: Ucar just doing what ever they want
Date: Friday, January 27, 2023 2:50:55 PM

Happy Friday all

Today's update

42 cars on Smith today.
New car arrivals no tags.
Expired tags
Many cars parked all night and day
Parking in red zones
Moving enforcement signs for car storage

We need a clean sweep of cars on Smith
Can we get these cars removed this weekend?

Thank You!
Carl Phillipone
Braemar USA
[REDACTED]



I hope this helps and that you have a great afternoon!

Thank you,



Tyler Carr | Civil Engineer
Traffic Engineering
200 E 5th St | Tempe, AZ 85281
C: 480.417.6124 | O: 480.350.2791
Tyler_Carr@tempe.gov

From: Mike Bradley <[REDACTED]>
Sent: Monday, February 13, 2023 10:10 AM
To: Carr, Tyler <Tyler_Carr@tempe.gov>; Seyler, Shelly <shelly_seyler@tempe.gov>; Ching, Andrew <Andrew_Ching@tempe.gov>; Hayes, Michael <michael_hayes@tempe.gov>
Cc: Ben Wilson <[REDACTED]>
Subject: RE: UCars Rideshare Abuse of Public Roadway

Hello Tyler,
It's been a couple of months now since we last corresponded about the UCars parking issue on Smith Road. It's my understanding there was a hearing in December and I've observed temporary signs coming and going on sections of Smith and 5th Street, but the problem remains unabated while the hazards and eyesore remain.

I wonder if you can provide an update on what property owners on Smith, like myself, can expect in the near future.

Thank you,

Mike Bradley | CEO



From: Carr, Tyler <Tyler_Carr@tempe.gov>
Sent: Tuesday, December 6, 2022 8:41 AM
To: Mike Bradley <[REDACTED]>
Subject: RE: UCars Rideshare Abuse of Public Roadway

Good morning Mike,

I wanted to write to you to offer some (hopefully) good news. The first batch of temporary no parking signs are scheduled to be placed today. Hopefully this begins to help address your concerns while we pursue a more lasting solutions, but in the meantime, if we find the temporary signage isn't performing they way we intend it to, we have the ability to adjust them to make them hopefully more effective in the interim period.

From: [Terri Naddy](#)
To: [Carl](#); [Hayes, Michael](#)
Cc: [Trader, Luke](#); [Woods, Corey](#); [Carr, Tyler](#); [Hollow, Catherine](#); [Drosos, Lily](#); [Taaffe, Sue](#); [Piedrahita, German](#); [REDACTED]; [REDACTED]
Subject: Re: Fwd: Ucars taking control of Tempe streets
Date: Tuesday, February 28, 2023 2:15:44 PM

i This message needs your attention
• You've never replied to this person.

All,

I looked into when Tempe's Development Review Commission will be reviewing UCar's compliance of the conditions of their business license. Although there is no agenda written as of yet, I was advised this meeting is scheduled for 3/28/23. Below is the link to the calendar, the agenda should be published a week or two ahead of time. Please plan to appear in person to support. If you wish to speak you will need to fill out a form when you arrive (you will likely have a time limit of 3 minutes per my experience with other municipalities). If you cannot make it, please submit an online comment to be read into the record.

Here is the link to Tempe's calendar of meetings:

<https://www.tempe.gov/community/calendar-of-events-meetings/-curm-3/-cury-2023>

Also, please share this amongst your neighbors. If each one of us shares this with 1-2 neighbors and asks for that neighbor to share as well, we should have enough ripple effect to be able to get the word out beyond the "required by law" 600' perimeter of their address. This perimeter basically includes Smith from University to 5th St and as we all know, their antics extend far past that distance. My goal is for the Development Review Commission to get enough feedback that they will need to take some sort of immediate action against UCars.

Feel free to contact us if you have any questions, thank you!

Terri Naddy
Tempe Crane, Inc.
[REDACTED]

IMPORTANT: Please call our office to schedule jobs or make changes to your scheduled crane/rigging services. Answering phones are our first priority.

On 1/6/2023 11:46 AM, Terri Naddy wrote:

All,

No doubt the driver of that delivery truck in the last picture had to leave his truck empty in the middle of the road to communicate with someone in person because there is literally NO WHERE for him to safely pull off the side anywhere close to his destination thanks to the jerks at Ucars. They are also in blatant violation of at least 2 conditions of their Zoning Use Permit ZUP220066 issued on December 13th.

From: [Carl](#)
To: [Hayes, Michael](#)
Cc: [Trader, Luke](#); [Woods, Corey](#); [Carr, Tyler](#); [Hollow, Catherine](#); [REDACTED]; [Drosos, Lily](#); [Taaffe, Sue](#); [Piedrahita, German](#); [C \[REDACTED\]](#); j_tamulevich@tempe.gov; drew_voccom@tempe.gov
Subject: Long term street parking and massive dirt building up on city streets.
Date: Tuesday, February 28, 2023 9:23:55 AM

Good morning all

Just want to share some pictures of a Lincoln Navigator that has been parked for over 100 days on Smith.

We need to have the City mark these cars and follow up after the 72 hours for removal.

Note: look at the grime and filth that is accumulating on the streets, **can we get the cars moved so the street sweeper can be scheduled for cleaning?**

Smith has not been cleaned in over 2 years!

Thank You!
Carl Phillipone
Braemar USA







rench
Doc
640
UCars
RideShare Vehicle Hub





NO PARKING
7PM TO 5AM
MON - FRI
TOW-AWAY
ZONE



2010 TOYOTA
51T1636