ACTION: Request a Use Permit to allow temporary outdoor vending (food trucks) for CLOUDKITCHENS, located at 1900 East 5th Street. The applicant is City Storage Systems, LLC.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approve, subject to conditions

BACKGROUND INFORMATION: CLOUDKITCHENS (PL190123) is proposed on the northeast corner of South Perry Lane and East 5th Street in the GID, General Industrial District. The applicant, John Liu of City Storage Systems, LLC, wishes to utilize an existing industrial parking lot facility to provide up to twelve (12) third party “Mobile Food Facilities”, commonly known as “food trucks”, to the site to operate primarily as virtual restaurants. These virtual restaurants will offer meal delivery services through third party delivery services such as Uber Eats, Postmates, Grubhub, and Doordash. Walk-up customers will be allowed for take-out orders; seating and tables will not be provided. The request includes the following:

- ZUP 190039 Use Permit to allow temporary outdoor vending (food trucks).

<table>
<thead>
<tr>
<th>Property Owner</th>
<th>1900 E 5th STREET PHO LLC</th>
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<tbody>
<tr>
<td>Applicant</td>
<td>John Liu, City Storage Systems, LLC</td>
</tr>
<tr>
<td>Zoning District</td>
<td>GID</td>
</tr>
<tr>
<td>Net Site Area</td>
<td>103,926 s.f. (2.39 ac)</td>
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<tr>
<td>Building Area</td>
<td>32,285 s.f.</td>
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<tr>
<td>Lot Coverage</td>
<td>31% (no standard max. required)</td>
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<tr>
<td>Vehicle Parking</td>
<td>75 spaces (60 min. required total; 42 min. for industrial use and 17 min. for food trucks)</td>
</tr>
<tr>
<td>Bicycle Parking</td>
<td>0 spaces (11 min. required)</td>
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<tr>
<td>Hours of Operation</td>
<td>5 p.m. to 9 p.m., M-F; 11 a.m. to 3 p.m., Sa &amp; Su</td>
</tr>
</tbody>
</table>

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Lee Jimenez, Senior Planner (480) 350-8486

Department Director: Chad Weaver, Community Development Director
Legal review by: N/A
Prepared by: Lee Jimenez, Senior Planner
Reviewed by: Steve Abrahamson, Principal Planner
COMMENTS
The intent of the use permit is to allow food trucks to complement their existing schedule of events and catering orders. Food truck parking will be provided on the western portion of the parking lot and may be left on-site overnight. Electrical hook-up and greywater removal tanks will be available for food trucks. Temporary job site lights will be utilized to meet minimum lighting standards required by the Zoning and Development Code and the conditions of approval of the Use Permit. Ultimately, tenant improvements are proposed for the interior of the on-site building to provide commercial kitchens for the same type of concept; only without food trucks. Therefore, the food truck concept is temporary and intended to cease when temporary certificate of occupancy is issued for the tenant improvements.

PUBLIC INPUT
As of the publishing of the staff summary report, one (1) letter in support of the request was received by staff.

USE PERMIT
The proposed use requires a Use Permit to allow temporary outdoor vending (food trucks) within the GID, General Industrial District.

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

1. Any significant increase in vehicular or pedestrian traffic; both vehicular and pedestrian traffic will increase, but not at a significant enough level that would cause a detriment to the surrounding area.

2. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions; the proposed use will emit odors and smoke as a result from cooking food, but not at a level exceeding ambient conditions. These emissions are not considered noxious and are consistent with ambient conditions of the surrounding area. Furthermore, idling food trucks and electric generators will be minimized as electrical hook-up will be provided on-site.

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 proposed use is expected to benefit the local community by providing new jobs and dining options. Additionally, the proposed use aligns with Priorities and Next Steps to “Activate a food truck hub to attract people” identified in a recently completed Urban Land Institute study on the Smith Innovation Hub.

4. Compatibility with existing surrounding structures and uses; other than all required site improvements to conform with Code and to comply with recommended conditions of approval, no other structural changes are anticipated to the site. The use is compatible with the surrounding area.

5. Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public; large crowds are not anticipated that would otherwise lead to disruptive behavior.

REASONS FOR APPROVAL:
Based on the information provided by the applicant 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 font):

1. The Use Permit is valid only after all applicable building permits and clearances have been obtained, the required inspections have been completed, and a Final Inspection has been passed.
2. 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.

3. All required Federal, State, County, and Municipal permits, licenses, and clearances shall be obtained or the Use Permit is void.

4. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney’s office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.

5. Any intensification or expansion of use shall require a new Use Permit.

6. The use shall conform to the temporary outdoor vending general regulations of the Zoning & Development Code.

7. No outdoor live entertainment shall be allowed without a separate Use Permit.

8. All food trucks shall only be parked within conforming parking stalls. At no time shall food trucks block drive aisles, driveways, refuse enclosures, and fire lanes.

9. The maximum number of food trucks provided on-site for restaurant take out only (no tables and chairs) and food truck storage shall be limited to twenty-three (23). This maximum number may be increased subject to conformance with parking standards of the Zoning & Development Code.

10. The use shall conform to lighting standards of the Zoning & Development Code. Specifically, all food truck order and pick-up windows and doors shall be illuminated to a minimum-security lighting level from dusk to dawn with five (5) foot-candles of light at finish grade, during hours of operation.

11. Any use of temporary lighting (lights and generators on wheels) shall comply with the City of Tempe Code and Zoning & Development Code. Permanent lighting shall require an electrical permit through the Community Development Department Building Safety Division.

12. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review.

13. If the food truck area cannot conform to lighting standards of the Zoning & Development Code, the hours of operation shall be limited from dawn to dusk, daily.

14. Provide a minimum of eleven (11) bicycle parking spaces per City of Tempe bicycle rack detail T-578 standard or equivalent design prior to the Use Permit becoming effective.

15. The use is approved for take out only (no tables and chairs) unless the Community Development Department Building Safety Division authorized restroom facilities are provided.

16. If there are any tents, awnings, or canopies, all building permits and clearances required by the Community Development Department Building Safety Division shall be obtained prior to beginning the use.
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.

- The Use Permit is valid for CLOUDKITCHENS and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.

- 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.

- Temporary Outdoor Vending General Regulations:
  - Permitted subject to a Use Permit;
  - Must be located on the specified lot identified by the Use Permit and not in the public right-of-way, unless authorized with an encroachment permit, subject to approval by Engineering and Transportation Department Director or designee;
  - Shall not occupy the minimum required parking areas, landscape areas, or vehicular driveways (including fire lanes);
  - Must allow for a minimum four (4) foot wide pedestrian path across any building frontage and to and from all building entrances and exits. On public sidewalks a minimum six (6) foot wide pathway clearance shall be provided;
  - Sound amplification may not be used for sales demonstrations;
  - The allowable signage, size and location of the business, and storage of equipment/materials, shall be established through the Use Permit; and
  - Shall not include the sale of the following commodities or provide the following services on the premises; vehicle sales which have more than three (3) vehicles on display, vehicle washing or detailing, or motor vehicle repair.

- 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.

- Music, sound, or live entertainment (with a Use Permit) shall not violate the City of Tempe Noise Ordinance.

HISTORY & FACTS:
None pertinent to the Use Permit request.

ZONING AND DEVELOPMENT CODE REFERENCE:
Section 3-302 Permitted Uses in Office/Industrial Districts
Section 3-417 Outdoor Retailing
Section 4-603 Parking Ratios
Section 4-803 Lighting Standards
Section 6-308 Use Permit
DEVELOPMENT PROJECT FILE
for
CLOUDKITCHENS
(PL190123)

ATTACHMENTS:
1. Location Map
2. Aerial
3-5. Letter of Explanation
6. Site Plan
7-8. Site Context Photos
9. Public Input
Dear Mr. Jimenez,

I am writing on behalf of City Storage Systems LLC, dba CloudKitchens, to formally request a Use Permit confirming that our intended use as described below is permitted subject to a Use Permit as a Section 3-417(D) Temporary Outdoor Vending location under the General Industrial District (“GID”) zone.

Our property, located at 1900 East Fifth Street, Tempe, AZ, 85281 (“Property”), contains both a physical structure and a parking lot. This request pertains only to the attached parking lot (“Parking Lot”), and not to the existing physical structure.

Overview of Operation
The Parking Lot is approximately 32,298 square feet in size. Our intention is to utilize this space to invite up to 10-12 different 3rd party Mobile Food Facilities (“MFF”), more commonly known as “Food Trucks,” to our site to operate primarily as virtual restaurants. A “virtual” restaurant is a restaurant which has the majority of its sales via 3rd party delivery services, such as Uber Eats, Postmates, Grubhub and Doordash. Customers place orders via these services, and the restaurant then prepares and packages the food - on board the MFF in this case - which is then delivered to the customers by the delivery service. We also intend to allow customers to walk up to the truck and place orders, in a more traditional Food Truck experience, but we expect very few orders of this nature. We do not intend to allow customers to eat on site, and therefore, we do not plan on having seating or tables.

Our typical hours of operation will be dinners throughout the week (roughly, 5pm - 9pm), and lunches on the weekends (roughly, 11am - 3pm).

Scope of Use of Site
The intent is for trucks to use this program as a way to complement their existing schedule of events and catering orders. These trucks will operate on the west side of our lot, near the eastern wall of the current building; this is illustrated in our attached site plan. MFF owners may leave their MFFs at the site overnight if they wish.

We intend to provide some infrastructure for the MFFs. We intend to build electrical outlets (permit BP190777) to allow MFF’s to plug into. We will have greywater removal tanks on site that food trucks can utilize - they empty their trucks into these tanks, and a 3rd party service named Baker Commodities will come on-site to pump those tanks empty. The site has exterior lighting (noted on the site map) and we also have 2 temporary
job site lights at 15K lumens each to provide lighting at night. There will be portable restrooms for food truck staff to utilize; customers that walk up will be able to use these as well, although we do not expect much, if any, usage from customers, since we do not intend for customers to eat on site.

Furthermore, our intended use adheres to the General Regulations for Temporary Outdoor Vending as provided in Section 3-417(D)(2). The operation is on private property, and thus not in the public right-of-way. The operation does not occupy the minimum number of parking areas - there are 75 parking spots current (3 are ADA approved), of which 42 are required, and we do not plan to have more than 10-12 food trucks. The operation shall not occupy landscape areas either - MFFs need flat, stable ground to park on, and thus will stay clear of any landscape areas. The operation will not occupy any driveways either, as they will be needed for thoroughfare of the delivery drivers.

Additionally, the regulation regarding a four foot wide pedestrian path to building entrances and exits does not apply here - the building will not be in use during the duration of this project. We will not have any sound amplification for sales demonstrations, as our primary business model is to sell via delivery services, which necessarily means that the end customers are *not* on site. Finally, we do not plan to have any signage at this time, as this is just a temporary project.

**Impact of Use of Site**
There are a few different areas of impact given our operation and use of the site, all of them minimal to the surrounding areas.

First, there will be delivery drivers that will come on site to pick up. Delivery drivers will be in the Parking Lot for 1-2 minutes, and we anticipate an efficient ingress and egress, which will minimize the impact of traffic and congestion. Delivery drivers are incentivized not to linger, as they are not paid for idle time (pickup time), only drive / delivery time. As the number of pick-up orders on delivery platforms is nearly zero (not even all services offer this), we do not anticipate many on-foot end customers.

Second, the trucks themselves will create minimal nuisance. There will be minimal noise from the food trucks’ generators, as they are utilizing our electrical outlets instead. Trucks will be idle, not be driving in and out of the lot frequently, so there will be minimal smoke emitted.

The site itself is in an industrial area; foot traffic is not high, and thus we do not expect crowds of people that may otherwise lead to disruptive behavior. We do not plan to market this site as an event space, as our core business is aiding partners in building their delivery business.

Finally, this project is distinct from a different, larger project in which we will build out kitchens within the physical structure. *We intend to run this MFF operation during the several months it will take to build and permit those kitchens, and not after the building has obtained a Temporary Certificate of Occupancy.*

**Other considerations**
We are not preparing, storing, or selling food ourselves, and thus, Cesar Sanchez, Environmental Specialist Supervisor for Mobile Food / Special Events at Maricopa County Environmental Services has confirmed that we do not need any health permits.

This project will benefit the local community by providing a new revenue stream and promotion to local restaurants, create new jobs, and bring access to a variety of new food to people nearby.
We would be grateful to receive confirmation of our use as Temporary Outdoor Vending under the GID zone in the City of Tempe. Thank you in advance for your consideration.

Sincerely,

John Liu
City Storage Systems LLC
(650) 773.2825
June 26, 2019

Mark Davis
DA-OB, LLC
1415 N. 7th Avenue
Phoenix, AZ 85007

City of Tempe Design Review Commission
Tempe City Hall

Re: PL190123

Dear Commissioners,

Thank you for considering this letter as you deliberate the proposed change to our community! I am a developer, an owner of an adaptive reuse building undergoing renovations and an advocate for the improvements to the Smith Innovation Hub (SIH).

In order to obtain information of this project I obtained a Public Records Request and reviewed the Use Permit Application. In reviewing the application, it appears that the use is rather innovative and creative – some key characteristics that the SIH prides itself on. In reviewing this application, I encourage you to remove your Tempe glasses and put on your SIH glasses – you will see a vision of new businesses trying to thrive. Entrepreneurs, creatives, crafters and people creating something out of nothing and an area that has an authentic flare that needs to blossom and grow. I am writing to offer my support for the Use Permit.

ULI Arizona’s Technical Advisory Panel, an organization I am a leader within, recently completed a study commissioned by the City of Tempe on the SIH. The third recommendation on page 25 of the report that is provided under Priorities and Next Steps is to “Activate a food truck hub to attract people”. This report is fresh off the press and was actually just presented to the SIH stakeholders today. Should you be interested in the report, please ask staff to provide a copy for your deliberation.

The project plan is raw, loose and likely will need to work through future issues as it gets traction. In my opinion, SIH is where this type of plan needs to take place. I fully support the approval of the applicant’s use permits and request that the Community Development Department expedite their approvals to allow for this interesting and exciting use to take place.

Sincerely,

Mark Davis