

**TOWN OF CAREFREE
NOTICE of PUBLIC HEARING
of the
BOARD OF ADJUSTMENT**

WHEN: MONDAY, AUGUST 22, 2022

WHERE: TOWN COUCNIL CHAMBERS
33 EASY STREET
CAREFREE, AZ 85377

LIVESTREAM: [HTTPS://ZOOM.US/](https://zoom.us/j/3229729660)
MEETING ID 322 972 9660
PASSCODE 12345
TELEPHONE AUDIO: 1.669.900.6833 OR 1.253.215.8782

TIME: 5:00 P.M.

Pursuant to A.R.S. 38-431.02, notice is hereby given to the members of the Board of Adjustment and to the general public that the Board will hold a public hearing on **MONDAY, AUGUST 22, 2022**, at **5:00** p.m.

The agenda for the hearing is as follows:

CALL TO ORDER

ROLL CALL and PLEDGE OF ALLEGIANCE

ITEM #1 **APPEAL** of the Zoning Administrator's interpretation of the Town of Carefree Zoning Ordinance *Article V. Uses Permitted in each Zoning District and Additional Requirements and Clarification for Uses Permitted in each Zoning District, Section 5.02 (21)* as it pertains to a repair shop.

CASE #: 22-07-AP

APPLICANT: Mr. Josh Awad
8733 West Puget Avenue
Peoria, AZ 85345

CASE *A Time to Ride, Appeal to the Zoning Administrator's Decision*

LOCATION: Mariachi Plaza, 7171 East Cave Creek Road, **Suite J**
APN # 216-83-281

ZONING: Commercial (C)

**GENERAL
PLAN:**

The Carefree General Plan designates the property as
Town Center (TC)

This is a public hearing and comments from the public will be taken.

ITEM #2 ADJOURNMENT

TOWN OF CAREFREE

Samantha J. Gesell

Samantha Gesell, Planning Clerk
POSTED this 17TH day of AUGUST 2022.



FOR SPECIAL ACCOMMODATIONS

Please contact the Planning Clerk, 8 Sundial Circle (PO Box 740), Carefree, AZ 85377;
(480) 488-3686, at least two working days prior to the meeting if you require special
accommodations due to a disability.



STAFF REPORT – Board of Adjustment

MEETING DATE: AUGUST 22, 2022

Item No. 1

SUBJECT **Appeal of Zoning Administrator Decision, Case No. 22-07-AP:** Pursuant to Article III., Section 3.04 (4) (A) (1) any person aggrieved or affected by a decision of the Zoning Administrator may file an appeal with the Board of Adjustment.

REQUEST Confirm the decision of the Zoning Administrator.

Key Items for Consideration:

- 1) Subject business: *Time to Ride AZ* located at 7171 Cave Creek Road, Suite J and owned by Mr. Joshua Awad.
- 2) The appellant is challenging the Zoning Administrator's assertion that *Time to Ride AZ* is operating an illegal repair shop business in a Commercial zoning district where such use is restricted. Specifically, *Article V. Uses Allowed per Zoning District*, Section 5.02 (21) states: "All items to be repaired shall be kept inside a completely enclosed building. **Repair shop does not include servicing or repair of motor vehicles.**"
- 3) Citizen participation requirements were met.

**APPELLANT/
OWNER INFO**

Appellant:

Mr. Joshua Awad, Owner
Arizona Unlimited Motorsports LLC
8733 West Puget Avenue
Peoria, AZ 85345

Appellant's Representative:

Mr. Grant Frazier, Legal Council
c/o Galbut Beabeau
6720 N. Scottsdale Road, Suite 305
Scottsdale, AZ 85253

LAND USE

Zoning

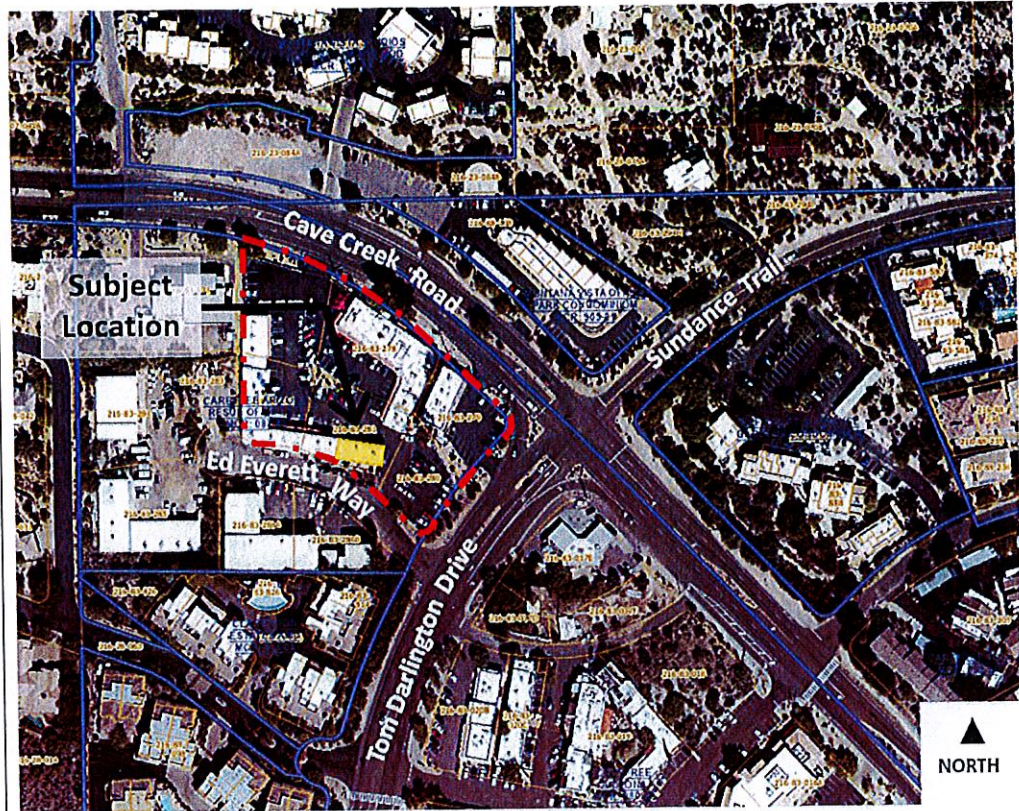
The zoning for the subject location and surrounding properties is Commercial (C). Permitted uses include, but are not limited to, a rental shop for goods and materials and a repair shop excluding the service or repair of motor vehicles.

Existing Use

The subject business *Time to Ride AZ*, is located in Mariachi Plaza, an existing commercial center. The property is part of Original Carefree platted back in 1958 and later subdivided in 1960, each under Maricopa County's jurisdiction prior to the Town's incorporation.

**LOCATION &
CONTEXT**

7171 East Cave Creek Road, Original Carefree (MCR: 80-27 and 87-43).
See map below.



Source: Maricopa County Assessor's Office, 2022

ZONING
ADMINISTRATOR
DECISION

The following summary is a rebuttal to the supplemental document prepared by Mr. Grant Frazier of Galbut Beabeau and submitted on Mr. Joshua Awad's behalf on June 16, 2022. Although Mr. Frazier has been involved for "the last roughly five months", staff has been involved and held several conversations with Mr. Awad dating back to 2019 when Mr. Awad first approached the Town to discuss his proposed business plans. Staff will outline the facts as they occurred and show that Mr. Frazier's document is false, unsubstantiated, and borderline libelous. It will further demonstrate that a change in direction regarding third-party vehicles was warranted as the location was becoming a traffic nuisance and potential fire hazard.

Background

Prior to Mr. Frazier's involvement, the Town met with Mr. Awad on several occasions before and after the violation letter dated December 21, 2021, was issued. Early in 2019, Mr. Awad visited Town Hall, and met with various staff to ensure all aspects of his business model were permitted for the space he was intending to lease at Mariachi Plaza (7171 Cave Creek Road, Suite J, Carefree).

Initial conversations with Michael Tibbett, Town of Carefree Chief Building Official, entailed a discussion of Mr. Awad's operations as it pertained to ATV/UTV/jet ski rentals. Mr. Awad expressed at that time he needed to maintain his fleet of vehicles, by which Mr. Tibbett responded that minor repairs such as battery replacements, oil changes, tire changes, glass and/or plastic

windshield replacements, and spark plug, belt, and hose replacements would be allowed. It was made clear that welding, engine rebuilds, and/or gasoline would be prohibited at this location due to the occupancy type and construction of the building. Mr. Tibbett further stated that to allow for an occupancy change would require a building permit to address fire sprinkler and fire separation wall requirements. Mr. Tibbett was verbally assured that was not the intention of *Time to Ride AZ* by Mr. Awad as well as evidenced by the lack of a building permit submittal to include such improvements as stated herein. At no time did Mr. Awad mention he was interested in offering these services to third parties nor was he confused about any operational terminology, much as Mr. Frazier implies.

Mr. Awad reviewed his business plans with Stacey Bridge-Denzak, Town of Carefree Planning Director and Zoning Administrator in the presence of Mr. Tibbett, who stated that the rental use of the various recreational vehicles was permitted at the current location. Mr. Awad asked about storage and maintenance of his vehicles; Ms. Bridge-Denzak agreed that his vehicles could be maintained as described by Mr. Tibbett on site (in support of the rental use), but all vehicles would be stored off site (which Mr. Awad said he had already arranged) and work occurred indoors. Ms. Bridge-Denzak was also very clear that no third-party services of any kind would be allowed. Mr. Awad understood, and no further questions were received by Ms. Bridge-Denzak following that meeting until the time of the complaint.

Mr. Awad also spoke with the Town of Carefree's then Code Enforcement Officer, Mr. Kevin Stuckey, about the proposed use, who reinforced the premise that only the leased vehicles may be maintained; similar services of third-party vehicles may not. That is evidenced by Mr. Stuckey's affidavit provided by Mr. Awad's attorney. *Time to Ride AZ's* first business license describes the primary business as "Rentals" and further describes the nature of the business as "Renting ATV, UTV, Dirt Bikes and Jet Skis; Parts and Service". Subsequent business license applications state the same. Each application was approved by Mr. Stuckey. Therefore, it was always understood by all parties that "parts and service" referred to Mr. Awad's own vehicles based on these prior conversations as outlined herein.

In 2021, staff received a complaint, and current Town of Carefree Enforcement Officer Dennis Randolph investigated the circumstances. Among the violations as outlined in the December 2021 letter, was that repairs and maintenance of third-party vehicles were being performed. When staff first met with Mr. Awad in early 2022 to discuss the letter, at no time did Mr. Awad deny that these operations were happening, nor did he ask for clarification regarding "maintenance" "repair" and "service". Staff was sympathetic to Mr. Awad's concerns that the third-party component of his business was strong, but also relayed to him that staff must fairly enforce its regulations. Following that discussion, Mr. Awad involved legal counsel.

Per the attached documents in Mr. Frazier's report, staff addressed all of his concerns until the discussion became circular with him. Ms. Bridge-Denzak

provided thorough responses to Mr. Frazier as it pertained to the issue at hand, the illegal third-party services. Ms. Bridge-Denzak along with Town Administration eventually decided to move ahead with enforcement and limit service operations to only Mr. Awad's fleet because 1) staff received complaints from the Carefree Water Company that their customers could not access the water supply stand pipe 2) the Town Streets Department had issues accessing the Town's maintenance yard just beyond; and, 3) staff determined that it had no way to regulate repairs and maintenance operations of Mr. Awad's vehicles versus third-party vehicles. It also became apparent that Mr. Frazier was not interested in working towards any resolution, and further engagement on Mr. Frazier's part was a delay tactic. All of his emails were addressed and Ms. Bridge-Denzak's replies were clear and concise. Mr. Frazier would not accept staff's findings even after she provided the appeals option.

Analysis

Mr. Frazier in his document has created a false narrative in support of his limited involvement with the circumstances as described herein. First, his client fully understood the Town's position with regards to his rental business and maintenance of his own vehicles, which Mr. Awad acknowledged even after he violated those understandings. Staff was willing to entertain a compromise until it was clear that the Town would not be able to manage on a consistent basis the operations related to third-party repairs nor ensure the prohibited services deemed a safety hazard would not occur. To date, *Time to Ride AZ* has failed it's last two fire inspections including the storage of flammable materials inside of the building, something Mr. Tibbett explained required building upgrades.

Second, Ms. Bridge-Denzak engaged in a productive manner and assisted both Mr. Awad and Mr. Frazier with guidance and information as it pertained to the violations of *Time to Ride AZ*, and as Mr. Frazier compared it to other rental and vehicle sales in Town. When asked about *Grind and Gears* (located on Easy Street) bike rental operations, staff explained those are not motor vehicles and therefore may legally provide repair services. When asked about *Hard Enduro*, a dirt bike retailer also located in Mariachi Plaza, who offered oil change services per their web page, staff reached out to the owner who agreed to provide those services off site. Therefore, the Town was consistent and fair with regards to other businesses that were similar in nature to *A Time to Ride AZ*. Staff equally enforced the Town's requirements based on her knowledge of the circumstances and Town regulations.

And, Ms. Bridge-Denzak was not vague as Mr. Frazier implies. As witnessed by Mr. Michael Tibbett, Mr. Kevin Stuckey, and Mr. Dennis Randolph on various occasions, Mr. Awad admitted he was repairing vehicles other than his own fleet, which was not permitted; Ms. Bridge-Denzak never refused to clarify her assertions when asked, and it is Mr. Frazier's lack of history regarding discussions and agreements already in place he has chosen to overlook and create a new version of events; and lastly, Ms. Bridge-Denzak most certainly

did not discriminate against Mr. Awad in any manner or form as evidenced by her explanation and enforcement relative to other businesses in Town.

In summary, Mr. Joshua Awad knowingly and intentionally is operating a third-party repair shop and providing services and repairs of motor vehicles which are expressly prohibited under the Town's zoning regulations. Regardless of terminology, a repair shop is not allowed at this location. This was made clear to Mr. Awad the moment he presented his business plans to various staff, at the time of the violation, and when he brought in his legal representation to the table. Mr. Awad even acknowledged that to be the case.

Staff stands by her interpretation, communications, and integrity as the Town's Zoning Administrator. To imply otherwise is egregious. Since Mr. Awad's legal representation has no real evidence that supports his claims as described in his report, Mr. Frazier resorts to lies, belittlement, and defamation of Ms. Bridge-Denzak's character in order to make his case. He has created a false narrative since the truth does not support his assertions.

Citizen Participation

The required notification for an Appeal of the Zoning Director's determination includes notice of hearing by both publication in a newspaper and by posting the notice on site of the affected property. These requirements have been met. Mr. Awad on behalf of Mr. Frazier requested a continuation of the originally scheduled July hearing due to a travel conflict. Staff agreed and granted the request. No comments have been received by staff at the time this report was published.

BOARD OF
ADJUSTMENT

The Board of Adjustment is being asked to uphold, overturn, or modify the Zoning Administrator's decision.

ATTACHMENTS

- Rural Metro Fire Inspection Reports
- Hard Enduro Correspondence
- Business License Applications
- Mr. Grant Frazier's Report including Exhibits

RURAL METRO FIRE INSPECTION REPORTS



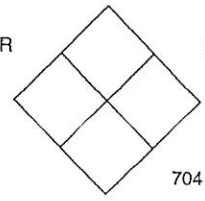
RURAL METRO FIRE

OCCUPANCY INSPECTION / TEST CERTIFICATE

BUS. LIC:	USAGE:	SITE I.D.:
OCCUPANCY:		DIST:
ADDR:	STE:	CITY:
OWNER/MGR:	PHONE:	EMER. PHONE:
ADDR:	STE:	CITY:
CHANGES		
BUS. LIC:	USAGE:	ACTIVITY:
OCCUPANCY:	Annual FIRE RE-INSPECTION TIME TO RIDE	
ADDR:	STE:	CITY:
OWNER/MGR:	PHONE:	EMER. PHONE:
ADDR:	STE:	CITY:
INSPECTOR:	DATE:	TIME:

ITEMS TO BE CORRECTED:

- 1. REPAIR ILLUMINATED EXIT SIGNS.
- 2. REPAIR EMERGENCY LIGHTS.
- 3. EXITS TO REMAIN UNLOCKED DURING BUSINESS HOURS.
- 4. CLEAR BLOCKED EXITS.
- 5. EGRESS PATHS SHALL BE A MINIMUM OF _____ INCHES.
- 6. SPRINKLER SYSTEM TO BE SERVICED, TESTED, AND/OR REPAIRED.
- 7. ALARM SYSTEM TO BE SERVICED, TESTED, AND/OR REPAIRED.
- 8. SERVICE HOOD SYSTEM (required every six months).
- 9. REMOVE STORAGE TO 18 INCHES BELOW SPRINKLER HEAD.
- 10. CLEAN HOOD AND FLUE SYSTEM.
- 11. REMOVE EXTENSION CORDS USED AS PERMANENT WIRING.
- 12. FIRE EXTINGUISHER TO BE SERVICED, TAGGED, & MOUNTED 3 TO 5 FT. ABOVE THE FLOOR.
- 13. CHAIN ALL PRESSURIZED GAS CYLINDERS TO A SECURE OBJECT.
- 14. KEEP FIRE LANES CLEAR.
- 15. MOUNT KNOX SECURITY BOX 4 TO 6 FT. ABOVE GRADE.
- 16. OTHER
- 17. NO VIOLATION SEEN AT TIME OF INSPECTION.



CORR DATE	DESCRIPTION
	- EXIT sign in front (board)
	- Propane Tank properly storage cabinet keep out of sun
	- OPEN wires need to be covered
	- Flammable liquids cabinet needed

SYSTEM TESTING

APPROVED REJECTED

FLUSHING TEST: Underground piping has been flushed according to NFPA standards YES NO

HYDROSTATIC TEST: Piping hydrostatically tested at _____ PSI for _____ Hours.

LEAKAGE TEST: Total leakage measured: _____ Gallons _____ Hours.

PRESSURES REQ'D. at BOR. _____ PSI. TYPE OF HEADS _____

_____, representing _____

certify that the system tested above was installed, approved and tested to all national standards and local ordinances.

Signature: R. Wick Title/Position: Fire Marshal Date: 28 June 2022

TEST FINAL

THIS IS AN OFFICIAL NOTICE OF CODE VIOLATIONS REQUIRING CORRECTION. THIS INSPECTION IS FOR YOUR SAFETY. YOUR COOPERATION IS APPRECIATED. A FOLLOW-UP COMPLIANCE INSPECTION WILL AUTOMATICALLY OCCUR AFTER _____

COPY RECEIVED BY: Justin Lupo DATE _____



RURAL METRO FIRE

OCCUPANCY INSPECTION / TEST CERTIFICATE

BUS. LIC:	USAGE:	SITE I.D.:
OCCUPANCY:		DIST:
ADDR:	STE:	CITY:
OWNER/MGR:	PHONE:	EMER. PHONE:
ADDR:	STE:	CITY:
CHANGES		
BUS. LIC:	USAGE	ACTIVITY
OCCUPANCY:	Annual Fire Inspection Time to Ride	
ADDR:	STE J	CITY: Carefree
OWNER/MGR:	PHONE:	EMER. PHONE:
ADDR:	STE:	CITY:
INSPECTOR: Ryan Wick 602-677-4421	DATE: 18 Apr 22	TIME: 0830
PAGE: 1	OF: 1	

ITEMS TO BE CORRECTED:

- | | | | |
|---|---|--|---|
| <input type="checkbox"/> 1. REPAIR ILLUMINATED EXIT SIGNS. | <input type="checkbox"/> 8. SERVICE HOOD SYSTEM (required every six months). | <input type="checkbox"/> SPRINKLER | <input checked="" type="checkbox"/> NON-SPRINKLER |
| <input type="checkbox"/> 2. REPAIR EMERGENCY LIGHTS. | <input type="checkbox"/> 9. REMOVE STORAGE TO 18 INCHES BELOW SPRINKLER HEAD. | | |
| <input type="checkbox"/> 3. EXITS TO REMAIN UNLOCKED DURING BUSINESS HOURS. | <input type="checkbox"/> 10. CLEAN HOOD AND FLUE SYSTEM. | | |
| <input type="checkbox"/> 4. CLEAR BLOCKED EXITS. | <input type="checkbox"/> 11. REMOVE EXTENSION CORDS USED AS PERMANENT WIRING. | | |
| <input type="checkbox"/> 5. EGRESS PATHS SHALL BE A MINIMUM OF _____ INCHES. | <input checked="" type="checkbox"/> 12. FIRE EXTINGUISHER TO BE SERVICED, TAGGED, & MOUNTED 3 TO 5 FT. ABOVE THE FLOOR. | <input type="checkbox"/> 15. MOUNT KNOX SECURITY BOX 4 TO 6 FT. ABOVE GRADE. | |
| <input type="checkbox"/> 6. SPRINKLER SYSTEM TO BE SERVICED, TESTED, AND/OR REPAIRED. | <input type="checkbox"/> 13. CHAIN ALL PRESSURIZED GAS CYLINDERS TO A SECURE OBJECT. | <input type="checkbox"/> 16. OTHER | |
| <input type="checkbox"/> 7. ALARM SYSTEM TO BE SERVICED, TESTED, AND/OR REPAIRED. | <input type="checkbox"/> 14. KEEP FIRE LANES CLEAR. | <input type="checkbox"/> 17. NO VIOLATION SEEN AT TIME OF INSPECTION. | |

CORR DATE	DESCRIPTION
	- Annual Fire Inspection
	- Exit signs needed in front
	- Fire Extinguisher needs service Add one upfront
	- no open wires in ceiling
	- Propane storage outside locked up
	- Research proper storage of flammable liquids

SYSTEM TESTING APPROVED REJECTED

FLUSHING TEST: Underground piping has been flushed according to NFPA standards YES NO

HYDROSTATIC TEST: Piping hydrostatically tested at _____ PSI for _____ Hours.

LEAKAGE TEST: Total leakage measured: _____ Gallons _____ Hours.

PRESSURES REQ'D. at BOR. _____ PSI. TYPE OF HEADS _____

I _____ representing _____

certify that the system tested above was installed, approved and tested to all national standards and local ordinances.

Signature: Ryan Wick Title/Position: Fire Marshal Date: 18 Apr 2022

THIS IS AN OFFICIAL NOTICE OF CODE VIOLATIONS REQUIRING CORRECTION. THIS INSPECTION IS FOR YOUR SAFETY. YOUR COOPERATION IS APPRECIATED. A FOLLOW-UP COMPLIANCE INSPECTION WILL AUTOMATICALLY OCCUR AFTER _____

COPY RECEIVED BY: [Signature] DATE: _____

HARD ENDURO CORRESPONDENCE

Stacey Bridge-Denzak

From: Stacey Bridge-Denzak
Sent: Friday, May 6, 2022 10:42 AM
To: hardendurooutfitters@gmail.com
Cc: Dennis Randolph; Gary
Subject: Hard Enduro Outfitters: Follow Up

Dear Mitch,

Thank you for your call this morning. As we discussed per the zoning letter dated May 4, 2022, you will provide the service/maintenance operations for your dirt bikes off site.

I appreciate your understanding in this matter.

Regards,
Stacey

Stacey Bridge-Denzak
Planning Director and Zoning Administrator
Town of Carefree

Email: stacey@carefree.org
Phone: 480-488-3686 Fax: 480-488-3845
PO Box 740, 8 Sundial Circle, Carefree, AZ 85377

www.carefree.org





TOWN OF CAREFREE

8 SUNDIAL CIRCLE

PO BOX 740

CAREFREE, AZ 85377

(480) 488-3686 · FAX (480) 488-3845

May 4, 2022

HAND DELIVERED AND US MAIL

Mr. Mitchell A. Carvolth
Hard Enduro Outfitters
7171 East Cave Creek Road, Suite O
Carefree, AZ 85377

Dear Mr. Carvolth,

It has come to the Town's attention that along with selling dirt bike parts and accessories, you are also servicing that type of vehicle for maintenance purposes. Per the Carefree Zoning Ordinance, this may only occur at a service station (gas station) with the approval of a Special Use permit. Therefore, this is not permitted in your location:

- *Article V. Uses Permitted in each Zoning District and Additional Requirements and Clarification for Uses Permitted in each Zoning District, Section 5.02 Section 5.02 (24)(B):* A Service Station may include vehicle repair, tire shops, windshield replacement/repair, body shop, and other similar uses.

The types of maintenance/service not permitted includes, but it not limited to:

- Oil and filter changes
- Battery testing, cleaning, and replacement
- Testing and replacing brake pads and brake fluid
- Fixing or replacing exterior glass or plastic windshields, windows, etc. and fixing superficial damage to the exterior of the vehicle
- Analyzing engine health, including check engine lights, spark plugs, serpentine belts, and radiator hoses
- Alignments and suspension services
- Tire rotation, balancing, and/or repair, and replacement

You may continue to install parts that you sell from your store. However, you may not continue to perform any of the above listed or related services on the bikes you sell and/or third-party vehicles. We anticipate that you may have existing customers, and therefore, will allow you to continue until May 31, 2022. After that time, the service portion of your business must cease.

If you have any questions, please feel free to contact me directly. Thank you for your attention in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stacey Bridge-Denzak', with a long horizontal flourish extending to the right.

Stacey Bridge-Denzak
Planning Director and Zoning Administrator

Cc: Gary Neiss, Town Administrator
Dennis Randolph, Code Enforcement Officer

BUSINESS LICENSE APPLICATIONS

BUSINESS LICENSE APPLICATION



Town of Carefree
 Administrative Offices
 8 Sundial Circle
 Carefree, AZ 85377

Make \$40 check payable to: Town of Carefree
 Mail to: PO Box 740
 Carefree, AZ 85377

275

SECTION I. Business Information						Office Use Only	
DBA (Name on Sign) <i>Time To Ride Az</i>		Official Business Name <i>Arizona Unlimited Motorsports</i>		Would like your business listed on the Town's website? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Business License # 21/22- <i>275</i>	
Primary Business Type: (Check One) <input type="checkbox"/> Retail Sales <input type="checkbox"/> Service <input type="checkbox"/> Restaurant/Bar <input type="checkbox"/> Construction/Contracting <input type="checkbox"/> Commercial Rentals (Attach list of tenant names and contact information) <input type="checkbox"/> Residential Rentals (# of units _____) <input type="checkbox"/> Farmers Market <input checked="" type="checkbox"/> Other <i>Rentals off road</i> Describe Nature of Business: _____						Application Fee \$40.00 paid CK# <i>0258</i> CC: _____ Cash _____	
<input checked="" type="checkbox"/> CHECK HERE IF THERE ARE NO CHANGES FROM LAST YEAR. FILL IN BLUE BLOCKS ABOVE AND SIGN AT BOTTOM.						Receipt # <i>29377</i>	
# of Employees (including Owner)		State Sales Tax# (TPT)		Contractor's License # (If applicable)		Initials <i>DR</i>	
APPLICATION PURPOSE: (Check One) <input type="checkbox"/> New Business to Carefree <input type="checkbox"/> License Renewal <input type="checkbox"/> Updating Information						Comments	
Contact Name(s)			Title(s)				
Business Physical Address (no PO Box) Suite/Apt#			Business Mailing Address (PO Box) Suite/Apt#				
City	State	Zip Code	City	State	Zip Code		
Business Phone #		CEL Phone # or Additional Phone #					
E-Mail			Business Website				
Type of Ownership: <input type="checkbox"/> Individual <input type="checkbox"/> LLC <input type="checkbox"/> Corp.-State/Inc. # _____ <input type="checkbox"/> Partnership <input type="checkbox"/> Ltd. Partnership <input type="checkbox"/> Other _____ Describe							
SECTION II. Business Premises Status & Landlord/Property Manager Contact Information (if not located in Carefree disregard this section)							
Do you own the property where your business is located? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "No" – complete the Landlord/Property Manager contact information below:							
Landlord/Property Manager Name <i>Kim</i>			E-Mail Address		(Area Code) Telephone #		
Mailing Address		Suite/Apt#	City		State	Zip Code	
Do you rent a portion of your business premises to someone else? <input type="checkbox"/> Yes <input type="checkbox"/> No Name of other Person/Entity: _____							
SECTION III. Applicant's Certification: I certify that the statements made in this application are true and complete to the best of my knowledge. I accept the license authorized and issued in response to this application with the condition that I report timely and pay any taxes due to the State of Arizona. NOTE: Incomplete applications may not be processed.							
Print Name(s) <i>Josh Awar</i>			Signature(s) 			Date <i>6/30/21</i>	

FOR CREDIT CARD PAYMENT Authorization for \$44.00 payment (\$4.00 credit card fee) to the Town of Carefree: Signature _____ Date: _____

CREDIT CARD: CARD NUMBER _____ EXPIRES _____ / _____ CCV# _____ ZIP CODE _____

IF YOU PURCHASE AN EXISTING BUSINESS - BE SURE THE FORMER OWNER HAS PAID ALL SALES TAX. BY LAW, YOU MAY BE LIABLE FOR ANY UNPAID TAX. Revised 3/26/2018

BUSINESS LICENSE APPLICATION



Town of Carefree
 Administrative Offices
 8 Sundial Circle
 Carefree, AZ 85377

Make \$40 check payable to: Town of Carefree
 Mail to: PO Box 740
 Carefree, AZ 85377

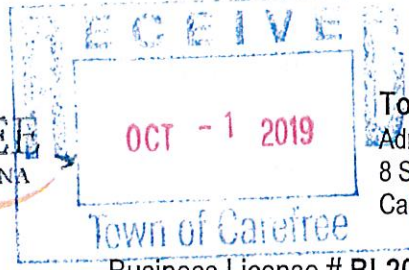
275

SECTION I. Business Information							Office Use Only		
DBA (Name on Sign) Time To Ride AZ			Official Business Name Arizona Unlimited Motorsports LLC		Would like your business listed on the Town's website? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Business License # 20/21 275		
Primary Business Type: (Check One) <input checked="" type="checkbox"/> Retail Sales <input checked="" type="checkbox"/> Service <input type="checkbox"/> Restaurant/Bar <input type="checkbox"/> Construction/Contracting <input type="checkbox"/> Commercial Rentals (Attach list of tenant names and contact information) <input type="checkbox"/> Residential Rentals (# of units _____) <input type="checkbox"/> Farmers Market <input checked="" type="checkbox"/> Other Rental Describe Nature of Business: off road rental, Parts, Service, Jet ski rental							Application Fee \$40.00 paid 00122		
<input checked="" type="checkbox"/> CHECK HERE IF THERE ARE NO CHANGES FROM LAST YEAR. FILL IN BLUE BLOCKS ABOVE AND SIGN AT BOTTOM.							Receipt # 25748		
# of Employees (including Owner)		State Sales Tax# (TPT)		Contractor's License # (If applicable)			Initials KES		
APPLICATION PURPOSE: (Check One) <input type="checkbox"/> New Business to Carefree <input type="checkbox"/> License Renewal <input type="checkbox"/> Updating Information							Comments		
Contact Name(s)				Title(s)					
Business Physical Address (no PO Box)			Suite/Apt#		Business Mailing Address (PO Box)			Suite/Apt#	
City		State	Zip Code		City		State	Zip Code	
Business Phone #		CEL Phone # or Additional Phone #							
E-Mail				Business Website					
Type of Ownership: <input type="checkbox"/> Individual <input type="checkbox"/> LLC <input type="checkbox"/> Corp.-State/Inc. # _____ <input type="checkbox"/> Partnership <input type="checkbox"/> Ltd. Partnership <input type="checkbox"/> Other _____ Describe									
SECTION II. Business Premises Status & Landlord/Property Manager Contact Information (if not located in Carefree disregard this section)									
Do you own the property where your business is located? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No" - complete the Landlord/Property Manager contact information below:									
Landlord/Property Manager Name				E-Mail Address			(Area Code) Telephone #		
Mailing Address			Suite/Apt#		City		State	Zip Code	
Do you rent a portion of your business premises to someone else? <input type="checkbox"/> Yes <input type="checkbox"/> No Name of other Person/Entity: _____									
SECTION III. Applicant's Certification: I certify that the statements made in this application are true and complete to the best of my knowledge. I accept the license authorized and issued in response to this application with the condition that I report timely and pay any taxes due to the State of Arizona. NOTE: Incomplete applications may not be processed.									
Print Name(s) Josh Award				Signature(s) 			Date 6/4/20		

FOR CREDIT CARD PAYMENT Authorization for \$44.00 payment (\$4.00 credit card fee) to the Town of Carefree: Signature _____ Date: _____
 CREDIT CARD: CARD NUMBER _____ EXPIRES _____ / _____ CCV# _____ ZIP CODE _____

BUSINESS LICENSE APPLICATION

Make \$40 check payable to: Town of Carefree
 Mail to: PO Box 740
 Carefree, AZ 85377



Town of Carefree
 Administrative Offices
 8 Sundial Circle
 Carefree, AZ 85377

Business License # BL2018/19- 303

303

SECTION I. Business Information							Office Use Only							
Official Business Name Arizona Unlimited Motorsports LLC		DBA (Name on Sign) Time to Ride AZ		State Sales Tax # (TPT) ATV, UTV, Dirt Bike and Jet-ski rental			Application Fee \$40.00							
Primary Business Type: (Check One) <input checked="" type="checkbox"/> Retail Sales		<input type="checkbox"/> Service		<input type="checkbox"/> Restaurant/Bar		<input type="checkbox"/> Construction/Contracting		Receipt # 25026						
<input type="checkbox"/> Commercial Rentals (Attach list of tenant names and contact information)		<input type="checkbox"/> Residential Rentals (# of units _____)												
<input checked="" type="checkbox"/> Other Rentals		Describe Nature of Business: Rentals ATV, UTV, Dirt Bike and Jet-ski Parts and Service						Initials KLS						
<input type="checkbox"/> CHECK HERE IF THERE ARE NO CHANGES FROM LAST YEAR. FILL IN BLUE BLOCKS AND SIGN AT BOTTOM.														
# of Employees (including Owner) 2-4 Depending on season		Date Business Started in Carefree 11/1/19		Contractor's License # (If applicable)			DHS 78							
APPLICATION PURPOSE: (Check One) <input checked="" type="checkbox"/> New Business to Carefree							<input type="checkbox"/> License Renewal		<input type="checkbox"/> Updating Information		Comments			
Contact Name(s) Josh Awad				Title(s) Owner										
Business Physical Address (no PO Box) 7171 E Cave Creek Rd STEJ			Suite/Apt#		Business Mailing Address (PO Box)			Suite/Apt#						
City Carefree		State AZ	Zip Code 85377		City		State	Zip Code						
Business Phone #		CEL Phone # or Additional Phone # 714 519 5639												
E-Mail time torideAZoffice@gmail.com				Business Website timetorideAZ.com										
Type of Ownership: <input checked="" type="checkbox"/> Individual <input checked="" type="checkbox"/> LLC							<input type="checkbox"/> Corp.-State/Inc. # _____		<input type="checkbox"/> Partnership		<input type="checkbox"/> Ltd. Partnership		<input type="checkbox"/> Other _____ Describe	
SECTION II. Business Premises Status & Landlord/Property Manager Contact Information														
Do you own the property where your business is located? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "No" - complete the Landlord/Property Manager contact information below:														
Landlord/Property Manager Name Kim Tillery				E-Mail Address kim.tillery@desertcapital.com				(Area Code) Telephone #						
Mailing Address 7171 E Cave Creek Rd			Suite/Apt#		City Carefree		State AZ		Zip Code 85377					
Do you rent a portion of your business premises to someone else? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Name of other Person/Entity: _____														
SECTION III. Applicant's Certification: I certify that the statements made in this application are true and complete to the best of my knowledge. I accept the license authorized and issued in response to this application with the condition that I report timely and pay any taxes due to the State of Arizona. NOTE: Incomplete applications may not be processed.														
Print Name(s) JOSH AWAD				Signature(s) 				Date 9/30/19						

Authorization signature for \$44.00 payment to the Town of Carefree: _____ Date: _____

IF YOU ARE PAYING BY CREDIT CARD: CARD NUMBER _____ EXPIRES _____ / _____ CCV# _____ ZIP CODE _____

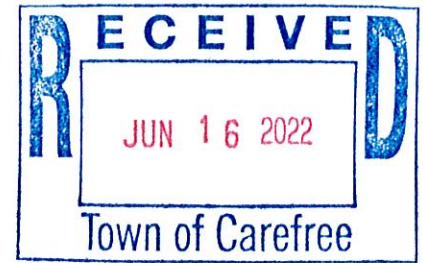
IF YOU PURCHASE AN EXISTING BUSINESS - BE SURE THE FORMER OWNER HAS PAID ALL SALES TAX. BY LAW, YOU MAY BE LIABLE FOR ANY UNPAID TAX. Revised 6/1/2018

MR. GRANT FRAZIER'S REPORT



GALBUT BEABEAU
A PROFESSIONAL CORPORATION
LAWYERS & COUNSELORS

22-07-AP



June 15, 2022

Via E-Mail and Hand Delivery

Town of Carefree
Attention: Board of Adjustment
Attention: Stacey Bridge-Denzak, Zoning Administrator
8 Sundial Circle, P.O. Box 740
Carefree, Arizona 85377
stacey@carefree.org

Re: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ – Appeal of Town of Carefree Zoning Decision.

Dear Town of Carefree Board of Adjustment:

This firm represents Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ (“Time to Ride”), which operates a motorsports business at: 7171 E Cave Creek Road, Suite J, Cave Creek, Arizona 85331. Time to Ride has communicated with Town of Carefree (“Town”) Planning Director & Zoning Administrator Stacey Bridge-Denzak and other Town officials over the last roughly five months regarding alleged Zoning Ordinance and Town Code violations. All but one of these compliance items have been addressed, or are currently in the process of being addressed, by Time to Ride in consultation with Town officials.

The remaining Zoning Ordinance violation concerns whether Time to Ride may perform “maintenance,” “service,” repairs,” and/or “installation of parts” sold by Time to Ride for (a) its rental fleet of ATVs and UTVs, and/or (B) third-party ATVs and UTVs owned by local residents. Ms. Bridge-Denzak has materially changed her answer to these questions no fewer than 3 times over the last five months, with her most recent determination, from which this appeal is made, stating that Time to Ride may neither “service” nor “repair” (a) its own rental fleet, or (b) third-party ATVs/UTVs.

Time to Ride brings this appeal because: (1) Ms. Bridge-Denzak’s determination is so vague – in part due to her broad, interchangeable, and conflicting use of the terms “repairs,” “maintenance,” “service,” and “installation of parts” as discussed below – that Time to Ride has no intelligible understanding of what her determination means in practice; (2) Ms. Bridge-Denzak has refused to clarify her determinations with specificity or real life examples of permitted and prohibited actions, despite repeated requests for the same; (3) Ms. Bridge-Denzak’s determination is contrary to, and inconsistent with, her previous determinations on the subject, which were to (a) initially permit both “maintenance” of Time to Ride’s ATV/UTV rental fleet and third-party ATVs and UTVs, and then to (b) permit “maintenance” of only Time

to Ride's ATV/UTV rental fleet; and (4) Ms. Bridge-Denzak's determination is legally incorrect, arbitrary and capricious, and, upon information and belief, has been selectively and discriminatorily enforced against Time to Ride and its owner, Joshua Awad – one of Carefree's few minority business owners.

I. The Town's Violation Letter.

The dispute underlying this appeal began with a December 16, 2021, letter from Ms. Bridge-Denzak (the "Violation Letter"), in which she identified the following three alleged violations by Time to Ride of the Zoning Ordinance and Town Code:

- I. Carefree Zoning Ordinance, Article V. Uses Permitted in each Zoning District and Additional Requirements and Clarification for Uses Permitted in each Zoning District, Section 5.02 as it pertains to a rental stores/repair shops:
 - Section 5.02, (20): All items to be rented or sold shall be placed inside a completely enclosed building or under a covered arcade. Displays of materials or goods located outside the building shall not impede pedestrian circulation.
 - Section 5.02 (21): All items to be repaired shall be kept inside a completely enclosed building. Repair shop does not include servicing or repair of motor vehicles.
- II. Carefree Zoning Ordinance, Article VII. Signs Permitted
 - Subsection 8.03 (8) Wall Signs: WALL SIGNS, whether new or modified, shall require a building permit.
- III. Carefree, AZ Town Code, Chapter 5 Health and Safety, Section 5-6 Illicit Discharge and Connection:
 - Subsection 5-6-6 Discharge Prohibitions (A) Prohibition of illegal discharges, "No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.

See Exhibit 1.

The Violation Letter does not contain (1) any information regarding the activities or conditions constituting the alleged violation, (2) any analysis of why/how the alleged actions (or lack thereof) constitute violations of the Zoning Ordinance and Town Code, or (3) paths for Time to Ride to return to compliance with the Zoning Ordinance and Town Code. The Violation Letter simply regurgitates ambiguous text of the Zoning Ordinance and Town Code and summarily states that violations have occurred.

II. Time to Ride's Efforts to Secure Information Regarding the Alleged Violations and Satisfactory Solutions, and Ms. Bridge-Denzak's Frustration of the Same.

To understand which actions (or lack thereof) underpinned the Violation Letter and how to satisfactorily address the same, Time to Ride owner, Mr. Awad, and undersigned counsel met



with Town representatives Ms. Bridge-Denzak, Michael Tibbetts, and Mark Milstone on January 26, 2022, at the Town Hall. The Town representatives stated compliance item I(5.0(21)) of the Violation Letter was included because *certain* aspects of Time to Ride's "parts and service" operations violate the Zoning Ordinance.

Time to Ride requested the Town representatives explain which aspects of Time to Ride's parts and service business were permissible and which were impermissible. In attempting to answer Time to Ride, Town representatives broadly, interchangeably, and conflictingly used the terms "repair," "maintenance," "service," and "installation of parts," driving Time to Ride to press for more specificity, including via reference to whether or not specific service offerings are permissible. Ms. Bridge-Denzak and Mr. Tibbetts identified the following non-exhaustive list of service offerings as being permissible under the Zoning Ordinance:

- Oil changes¹
- Filter changes
- Battery testing, cleaning, and replacement
- Testing and replacing brake pads and brake fluid
- Fixing or replacing exterior glass or plastic windshields, windows, etc. and fixing superficial damage to the exterior of the vehicle
- Analyzing engine health, including check engine lights, spark plugs, serpentine belts, and radiator hoses
- Alignments and suspension services
- Tire rotation, balancing, repair, and replacement

Ms. Bridge-Denzak and Mr. Tibbetts identified the following service offerings as being impermissible under the Zoning Ordinance:²

- Sale of gasoline
- Rebuilding of motors
- Welding
- "Major structural work"

At the meeting's conclusion, the Town representatives requested Time to Ride confirm in writing the matters discussed at the meeting and the company's proposed actions to address the

¹ The Town representatives noted that this service item could only be offered if certain precautions were taken to guard against the flammability and potential negative environmental impacts of the oil in question.

² The Town representatives noted that these service offerings were impermissible under Time to Ride's then-current situation, but that they could, with the exception of "major structural work," be pursued if Time to Ride secured a Special Use Permit.



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identified compliance items. During the drafting process, Time to Ride requested additional information relating to the parts and service compliance item. Ms. Bridge-Denzak stated in a March 7, 2022, e-mail response to undersigned counsel: “Mr. Awad [(Time to Ride’s owner)] needs to confirm that he is no longer repairing vehicles as discussed, but **general maintenance is acceptable so long as it occurs all indoors.**” See Exhibit 2 (underline emphasis original; bolded emphasis added).

Time to Ride sent Ms. Bridge-Denzak a letter on March 16, 2022³ to confirm Time to Ride’s understanding of the topics discussed during the parties’ January 26, 2022, meeting; request Ms. Bridge-Denzak confirm or deny the same understanding; and provide proposed actions to address the identified compliance items (the “Confirmation Letter”). See generally Exhibit 3. The Confirmation Letter included a request that Ms. Bridge-Denzak confirm the non-exhaustive list of permissible offerings stated above so that Time to Ride had guideposts within which to operate its business on a going forward basis.

During the Meeting, the parties talked through the Town’s view on which parts and service offerings are permissible, which included:

- Oil and filter changes
- Battery testing, cleaning, and replacement
- Testing and replacing brake pads and brake fluid
- Fixing or replacing exterior glass or plastic windshields, windows, etc. and fixing superficial damage to the exterior of the vehicle
- Analyzing engine health, including check engine lights, spark plugs, serpentine belts, and radiator hoses
- Alignments and suspension services
- Tire rotation, balancing, repair, and replacement

Please let me know if the Town disagrees with the above recollection of our conversation, and if so, in what way. Once Time to Ride has more definitive guardrails on which business practices are permissible, it can order its actions accordingly.

See Exhibit 3. This request was especially important because of (1) Ms. Bridge-Denzak’s apparent distinction in her e-mail between “repairs” being violative and “maintenance” being non-violative, and (2) those terms (as well as “service” and “installation of parts”) going undefined and being used broadly, interchangeably, and conflictingly during the parties’ January 26, 2022, meeting.

³ The passage of time was due to my fiancé and I contracting COVID-19 several days after the January 26, 2022, meeting, and being limited for roughly a month thereafter by significant ongoing symptoms.



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On March 17, 2022, Ms. Bridge-Danzek provided a response to the Time to Ride's Confirmation Letter (the "Response Letter"), which states with regard to Time to Ride's "maintenance" and "repair" activities:

As stated, staff met with Mr. Awad on several occasions prior to his business opening in Mariachi Plaza. Mike Tibbett, Chief Building Official; Kevin Stuckey, previous Code Enforcement Officer; and I, Planning Director and Zoning Administrator, each concur that we told Mr. Awad [(Time to Ride's owner)] that maintenance and minor repairs may only be performed on his own fleet of vehicles. Mr. Stucky supports this assertion as per his attached affidavit requested by you. Furthermore, I have been the Town's Zoning Administrator for almost 8 years (and a city planner for almost 14 years) and am confident that I relayed the correct information to Mr. Awad: Vehicle repair is only permitted with approval of a Special Use Permit associated with a service station (gas station). We agreed to allow Mr. Awad to perform regular maintenance on his own vehicles to allow him to operate his business without a hinderance to his everyday operations.

...

It was discussed on January 11th [(the correct date of the meeting is: January 26, 2022)] to possibly allow for general maintenance of third-party vehicles. At this time the Town can no longer agree to permit any service to third-party vehicles. This determination comes after further discussion with legal staff and upper management. And as Zoning Administrator, I'm not able to authorize these services at this location.

See Exhibit 4 (emphasis added).

Ms. Bridge-Denzak's Response Letter is concerning in multiple respects. First, in refusing to confirm specific examples of permissible and impermissible service offerings and again generally using the terms "maintenance" and "repairs," Ms. Bridge-Denzak precludes Time to Ride from developing an intelligible, practical understanding of her Zoning Ordinance determination and how Time to Ride can comply with the same. Second, the position is contrary to, and inconsistent with, her determination on the subject at the January 26, 2022, meeting, which was to permit the above-identified permissible service offerings for both (1) Time to Ride's ATV/UTV rental fleet and (2) local residents' ATVs and UTVs. Third, Ms. Bridge-Denzak's position is factually (Ms. Bridge-Denzak and Mr. Tibbetts affirmatively stated Time to Ride could provide the above-identified permissible services; they did not merely discuss this as a "possibility") and legally (see below) incorrect. Fourth, it evidences the selective and discriminatory enforcement of the Zoning Ordinance determination against Time to Ride and related restraint on business as further detailed below.



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Several months ago, Mr. Awad raised these concerns to Town of Carefree Vice Mayor John Crain. Mr. Awad highlighted two examples of Carefree businesses that appear to provide parts and service offerings with the Town's blessing: (1) Hard Enduro Outfitters, which sells and services dirt bikes, including the sale and installation of dirt bike parts; and (2) Grind and Gears, which sells, rents, and services e-bikes and related parts.

On April 12, 2022, Ms. Bridge-Denzak wrote to Time to Ride regarding Mr. Awad's conversation with Vice Mayor John Crain, and stated Grind and Gears could "repair" e-bikes but that Time to Ride could not "service" or "repair" ATVs and UTVs because e-bikes are not "motorized vehicles" under Arizona statute, while ATVs and UTVs supposedly are:

Lastly, the key issue in that conversation with the Vice Mayor was Mr. Awad compared his atv/jet ski rental business, including third party repairs, to the new e-bike rental business in Town Center. According to state statute, e-bikes are NOT considered motorized vehicles, and therefore repairs are permitted so long as they are indoors (ARS 28-819). Time to Ride services motorized vehicles, which are defined by statute as being self-propelled, utilizing motor vehicle fluid (gasoline) and requiring registration with the State. The difference is clear and specifically regulated. The Town prohibits repairs of motorized vehicles unless it is associated with a service (gas) station and an approved Special Use Permit.

See **Exhibit 2** (emphasis added). Ms. Bridge-Denzak did not address in her communication why Time to Ride was seemingly prohibited from selling any ATV or UTV parts to third parties and providing related installation services, but the same prohibition did not extend to business neighbor Hard Enduro Outfitters as it relates to dirt bikes.

Time to Ride tried to solicit an explanation of the distinction in an April 18, 2022, e-mail, which read in pertinent part:

With regard to Mr. Awad's discussion with the Vice Mayor – you are correct the e-bike example was raised and Time to Ride understands the distinction the Town has drawn. I believe another example was raised during the discussion – [Hard Enduro Outfitters](#), which is located next door to Time to Ride in the Mariachi Plaza. Hard Enduro Outfitters is a "Sherco dealer focusing on the offroad market, selling motorcycle parts and accessories to the dirtbike community." In addition to selling and renting dirt bikes and selling dirt bike parts, Hard Enduro Outfitters also provides dirt bike part installation (including the parts it sells), repair, and maintenance (including oil changes) services. See, e.g., the attached screenshots. The dirt bikes sold, rented, and serviced by Hard Enduro Outfitters are motor vehicles under A.R.S. § 28-101(50). Time to Ride is not aware of Hard Enduro Outfitters having secured a Special Use Permit for its parts and services business. If the Town considers there to be a distinction between Time to Ride AZ's parts



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and service business and Hard Enduro Outfitters', will the Town explain the distinction?

See **Exhibit 2** (emphasis original).

Mr. Awad, on behalf of Time to Ride, met with Ms. Bridge-Denzak and Mr. Milstone on or about April 26, 2022. During that meeting, Ms. Bridge-Denzak and Mr. Milstone stated Hard Enduro Outfitters "is permitted to sell and install its merchandise" but would not (a) commit to Time to Ride being permitted to likewise "sell and install its merchandise," or (b) explain what was encompassed by this permitted offering as it relates to Hard Enduro Outfitters or Time to Ride (*i.e.*, what constitutes permitted "merchandise" and "installation" thereof).

Ms. Bridge-Denzak responded to Time to Ride's April 18, 2022, e-mail and April 26, 2022, in-person inquiries, on May 4, 2022, stating:

Thank you for your patience as we reviewed your additional concerns with regards to Hard Enduro Outfitters. Yes, the business [(Hard Enduro Outfitters)] is permitted to sell and install its merchandise, however, it is not permitted to perform maintenance/service of motorized vehicles as you highlighted in your email. There is no special distinction between their operations related to service and A Time to Ride's. We did speak with the business, and they stated that they service dirt bikes (and bicycles, which is permitted) beyond installing the parts and accessories they sell. We will be issuing a letter similar to the one we initially sent to Mr. Awad later today.

See **Exhibit 2** (emphasis original).

Again, Ms. Bridge-Denzak conflated and used interchangeably "maintenance" and "service" and did not distinguish these terms in any way from "installation of merchandise."

In a May 12, 2022, e-mail, Time to Ride sought to secure clarification from Ms. Bridge-Denzak on these open items. The e-mail provided in pertinent part:

I have a few clarifying questions regarding your 5/4/22 e-mail:

- You stated in your e-mail Hard Enduro "is permitted to sell and install its merchandise" and noted the same to Mr. Awad during your meeting with he and Mr. Milstone. Given that (a) the motorbikes on which Hard Enduro installs its parts/merchandise are motor vehicles under, *inter alia*, A.R.S. § 28-101(50), and (b) the Town of Carefree has similarly classified the ATVs and UTVs on which Arizona Unlimited Motorsports LLC d/b/a Time to Ride installs its parts/merchandise,



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does this mean the Town of Carefree is OK with Time to Ride selling
ATV/UTV parts/merchandise and installing the same?

Clarification on the above items would be greatly appreciated.

See Exhibit 2.

Time to Ride requested an update on an answer to the above clarifying question on May 19, 2022. See Exhibit 2. Ms. Bridge-Denzak responded on May 22, 2022, stating in pertinent part:

1. The reference to “motorized vehicles” was regarding the comparison Mr. Awad tried to draw between *A Time to Ride* and *Grind and Gears* (the sale/rental/service of electric bicycles). I made a generalized statement to describe the clear distinction between the two businesses; I did not classify Mr. Awad’s business as similar to *Hard Enduro* as you state below. In fact, I actually referenced ARS 28-819, *Electric Bicycles*. And as I’m sure you’re aware, ATVs have a specific definition under ARS 28-101 as do motorcycles. In any case, the issue at hand is the maintenance and repairs that are being performed illegally under the Town’s current Ordinance. If Mr. Awad is looking to expand upon his current business model of offroad rentals to include sales, we’re happy to have that conversation at a later time. From a cursory understanding, yes, selling ATVs and UTVs including parts and merchandise would be permitted at his current location.
2. Approval of a Special Use Permit is required when a service station (gas station) is proposed under Commercial zoning. Motorized vehicle repair is only allowed at a service station (gas station). Therefore, without a gas station, there may be no motorized vehicle repairs. There is no service station at 7166 Ed Everett Way, nor would a future one be permitted under Section 5.02 (24).

See Exhibit 2 (emphasis added).

Instead, Ms. Bridge-Denzak muddied the waters by again failing to distinguish between “maintenance,” “service,” “repairs,” and the “sale and installation of merchandise.” She also again avoided explanation for her seemingly disparate and discriminatory treatment of Time to Ride when compared to Hard Enduro Outfitters. Time to Ride again sought clarification from Ms. Bridge-Denzak in a May 24, 2022, e-mail, including the following questions:

1. Is the Town’s position that Hard Enduro’s motorcycles are or are not “motor vehicles” under A.R.S. 28-101(50)?
2. Is the Town’s position that Time to Ride’s ATVs and UTVs are or are not “motor vehicles” under A.R.S. 28-101(50)?



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3. If the Town's position differs as to #1 and #2 (i.e., that Hard Enduro's motorcycles are not "motor vehicles" and Time to Ride's ATVs/UTVs are "motor vehicles") please explain the reasoning.
4. If the Town's position is the same as to #1 and #2 (either that both are "motor vehicles" or that both are not "motor vehicles"), then please (A) confirm that both Hard Enduro and Time to Ride should be treated the same with regard to being "permitted to sell and install its merchandise."; or (B) if the Town thinks the businesses should be treated differently (i.e., Hard Enduro is "permitted to sell and install its merchandise" while Time to Ride is not), please state with specificity why that is the case.

See **Exhibit 2**. Time to Ride made clear: "The purpose of these questions is to ascertain where the actual boundaries are under the Zoning Ordinance, as Time to Ride wants to stay in compliance. It has not been made clear to date." See **Exhibit 2**. Ms. Bridge-Denzak replied in a June 1, 2022, e-mail, which stated in pertinent part:

I'm not going to give legal opinions or advice, nor am I going to debate state statute with you. The matter at hand is not about *Hard Enduro* or *Grind and Gears*; it is about the service and repairs of motor vehicles taking place at *A Time to Ride*. **The Town has been very clear in "establishing the boundaries" of this use under zoning particularly as it pertains to *A Time to Ride*.** There is no question that the activities occurring on site, as confirmed by Mr. Awad, do not comply with Carefree's Zoning Ordinance. We have provided you with options to assist in this matter, which you have decided not to pursue.

Therefore, and at this time, operations related to the service and repairs of any motorized vehicle (third-party and rental fleet) must cease. If you have any further questions/comments, I'm happy to schedule a meeting to include our Town Attorney to address the Town's position. ...

See **Exhibit 2** (underline emphasis original; bolded emphasis added).

Unfortunately, the statement "The Town has been very clear in 'establishing the boundaries' of this use under zoning particularly as it pertains to *A Time to Ride*" is anything but reality and is directly refuted by months of Time to Ride asking the Town for a detailed and consistent application of the Zoning Ordinance, including through examples of other similar Carefree businesses, and Ms. Bridge-Denzak refusing to provide the same. See generally **Exhibit 2**. To drive the point home, in the very same e-mail that Mr. Bridge-Denzak claims she has made the Town's position "very clear," Ms. Bridge-Denzak again changes her Zoning Ordinance determination, stating this time that Time to Ride is not only prohibited from providing "service and repairs" to third-party ATVs and UTVs, but also from providing "service and repairs" to Time to Ride's own rental fleet.



The following is a high-level summary of Ms. Bridge-Denzak's change in application of the Zoning Ordinance as Time to Ride requested clarification and advocated for fair treatment consistent with other Carefree businesses:

- January 26, 2022 – Ms. Bridge-Denzak and Mr. Tibbetts stated Time to Ride may maintain, service, and repair its own ATV and UTV rental fleet and provide the above-enumerated permissible service offerings to third-party ATV and UTV owners.
- March 17, 2022 – Ms. Bridge-Denzak confirms Time to Ride may “perform regular maintenance on [its] own vehicles to allow [it] to operate [its] business without a hinderance to [its] everyday operations” but that it may not provide “any service to third-party vehicles.”
- April 26, 2022 – Ms. Bridge-Denzak confirms in-person that dirt bike business Hard Enduro Outfitters “is permitted to sell and install its merchandise” but refuses to state that Time to Ride may do the same or what is encompassed in the “sale and installation of merchandise.”
- May 4, 2022 – Ms. Bridge-Denzak confirms via e-mail that dirt bike business Hard Enduro Outfitters “is permitted to sell and install its merchandise” but refuses to state that Time to Ride may do the same or what is encompassed in the “sale and installation of merchandise.”
- April 26, 2022 through May 22, 2022 – Ms. Bridge-Denzak refuses to (a) commit to Time to Ride being permitted to likewise “sell and install its merchandise” on third party ATVs and UTVs, or (b) explain what is encompassed in the “sale and installation of merchandise” as it relates to Time to Ride or Hard Enduro Outfitters (and how this is distinct from “repairs,” “service,” or “maintenance”).
- May 22, 2022 – Ms. Bridge-Denzak states: “From a cursory understanding, yes, selling ATVs and UTVs including parts and merchandise would be permitted at [Time to Ride’s] current location[,]” but is again unwillingly to distinguish between this permitted action and the stated prohibition on “repair,” “maintenance,” and “service.”
- June 1, 2022 – Ms. Bridge-Denzak states that Time to Ride may not provide “service or repairs” for either (a) its own rental fleet, or (b) third-party ATVs/UTVs.

III. Time to Ride’s Appeal.

Time to Ride brings this appeal under Town Zoning Ordinance Section 3.04(4)(A)(1), which provides an aggrieved party may appeal an alleged error, order, requirement, or decision made by the Zoning Administrator in enforcement of the Zoning Ordinance within “twenty-one (21) calendar days of such decision or within twenty-one (21) calendar days of when the appealing party knew or should have known of the decision.” Ms. Bridge-Denzak’s latest



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decision conveyed in her June 1, 2022, providing an appeal deadline of June 22, 2022, at the earliest.

Time to Ride's appeal to the Board of Adjustment requests the same things the business has been seeking for the last several months from Ms. Bridge-Denzak, namely: (1) clarification regarding what specifically Time to Ride may and may not do with regard to the "maintenance," "service," and "repair" of, and "installation of parts" on, its own ATVs and UTVs and the third-party ATVs and UTVs, and (2) confirmation that the aforementioned position as to Time to Ride will be consistently and fairly applied by Ms. Bridge-Denzak and the Town to other similarly situated businesses, such as Hard Enduro Outfitters.

With regard to the former – the law's accessibility is of paramount importance so that people can study it, internalize it, figure out what it requires of them, and use it as a framework for their plans and expectations and for settling their disputes with others (including the Town). The Zoning Ordinance is ambiguous on its face as to the matter described herein, which is evidenced by, *inter alia*, Ms. Bridge-Denzak – who has served as the Town's Planning and Zoning Administrator for 8 years (and a city planner for 14 years) – materially changing her interpretation at least 3 times over the last roughly 5 months. How is Time to Ride supposed to effectively order its business actions when the very person who is charged with knowing and applying the Zoning Ordinance best is unable to definitively and intelligibly apply and explain the same? As Founding Father James Madison famously warned: "It will be of little avail to the people that the laws are made by [people] of their own choice if the laws be so ... incoherent that they cannot be understood."

With regard to the latter – it is axiomatic that a municipality, via its officials (*i.e.*, Ms. Bridge-Denzak as Town Planning Director & Zoning Administrator), has the responsibility and the duty to enforce its ordinances consistently and fairly. In failing to do so, a municipality risks undermining the validity of the ordinance in court, especially where the ordinance is not regularly enforced, or, worse yet, when the ordinance is selectively and/or discriminatorily enforced – as appears to be the case here.

Time to Ride respectfully requests the Board of Adjustment (a) vacate Ms. Bridge-Denzak's vague and unsupported determination of the Zoning Ordinance as it applies to Time to Ride, and (b) issue a detailed final order finding:

1. Time to Ride may "service" and "maintain" its ATV and UTV rental fleet, including:
 - Filter changes
 - Battery testing, cleaning, and replacement
 - Testing and replacing brake pads and all vehicle fluids



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- Fixing or replacing exterior glass or plastic windshields, windows, etc. and fixing superficial damage to the exterior of the ATVs and UTVs (e.g., body plastics, graphics, etc.)
 - Analyzing engine health, including check engine lights, spark plugs, serpentine belts, and radiator hoses
 - Alignments and suspension services
 - Tire rotation, balancing, repair, and replacement
 - All other recommended services per the ATV/UTV service manual, including electrical diagnostics
2. Time to Ride may not, without a special use permit:
- Sell gasoline
 - Rebuild motors
 - Weld
3. Time to Ride may sell ATV and UTV parts and merchandise and install the same on third-party ATVs and UTVs, with approved service offerings to include, but not be limited to:
- Filter changes
 - Battery testing, cleaning, and replacement
 - Testing and replacing brake pads and brake fluid
 - Fixing or replacing exterior glass or plastic windshields, windows, etc. and fixing superficial damage to the exterior of the ATVs and UTVs (e.g., body plastics, graphics, etc.)
 - Analyzing engine health, including check engine lights, spark plugs, serpentine belts, and radiator hoses
 - Alignments and suspension services
 - Tire rotation, balancing, repair, and replacement
 - All other recommended services per the ATV/UTV service manual, including electrical diagnostics

IV. Conclusion.

Time to Ride enjoys operating its highly successful business in Carefree and appreciates that the Town has previously expressed admiration of what the Time to Ride team has worked hard to build. The business provides the Town's residents with first-class motorsports rental services, high-paying employment opportunities, and significant tax and other economic benefits. Time to Ride has worked in good faith to understand Ms. Bridge-Denzak's Zoning Ordinance concerns and determinations as discussed above, but unfortunately these efforts have been frustrated by an unwillingness to provide Time to Ride with the information it needs to order its actions. Time to Ride respectfully requests that the Board of Adjustment puts an end to the Town's seesawing on the matter by granting the appeal as requested above.



Town of Carefree
Attention: Board of Adjustment
Attention: Stacey Bridge-Denzak, Zoning Administrator
June 15, 2022
Page 13 of 13

Time to Ride looks forward to the Board of Adjustment's review and decision regarding this matter.

My client reserves all claims, remedies, and defenses arising out of and related to the matters referenced hereinabove, including the right to appeal any clarification of Ms. Bridge-Denzak's determination.

Sincerely,

Grant H. Frazier

Grant H. Frazier

CC: Joshua Awad (Time to Ride) (*via e-mail*)



EXHIBIT 1



TOWN OF CAREFREE

8 SUNDIAL CIRCLE

PO BOX 740

CAREFREE, AZ 85377

(480) 488-3686 · FAX (480) 488-3845

December 16, 2021

Mr. Josh Awad
A Time to Ride
7171 East Cave Creek Road
Carefree, AZ 85377

Dear Mr. Awad,

It has come to the Town's attention that the following issues are not compliant with the Carefree Zoning Ordinance and Carefree Town Code requirements. The following are the specific violations:

- I. Carefree Zoning Ordinance, Article V. Uses Permitted in each Zoning District and Additional Requirements and Clarification for Uses Permitted in each Zoning District, Section 5.02 as it pertains to a rental stores/repair shops:
 - Section 5.02, (20): All items to be rented or sold shall be placed inside a completely enclosed building or under a covered arcade. Displays of materials or goods located outside the building shall not impede pedestrian circulation.
 - Section 5.02 (21): All items to be repaired shall be kept inside a completely enclosed building. Repair shop does not include servicing or repair of motor vehicles.
- II. Carefree Zoning Ordinance, Article VII. Signs Permitted
 - Subsection 8.03 (8) Wall Signs: WALL SIGNS, whether new or modified, shall require a building permit.
- III. Carefree, AZ Town Code, Chapter 5 Health and Safety, Section 5-6 Illicit Discharge and Connection:
 - Subsection 5-6-6 Discharge Prohibitions (A) Prohibition of illegal discharges, "No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.

Since we are heading into the holiday season, please reach out to the Town after the 1st of the year to discuss how to remedy the items as listed above. This is a courtesy notice. If the Town does not hear back from you, the Town may issue citations for the above offenses.

If you have any questions, please feel free to contact me directly. Thank you for your attention in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'SBD', with a long horizontal flourish extending to the right.

Stacey Bridge-Denzak
Planning Director and Zoning Administrator

Cc: Gary Neiss, Town Administrator
Dennis Randolph, Code Enforcement Officer

EXHIBIT 2

Grant Frazier

From: Stacey Bridge-Denzak <Stacey@carefree.org>
Sent: Wednesday, June 1, 2022 10:29 AM
To: Grant Frazier
Cc: Mike; Mark Milstone; Dennis Randolph; Gary; mwright@shermanhoward.com; John Crane; Time To Ride AZ
Subject: RE: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry

Grant,

I'm not going to give legal opinions or advice, nor am I going to debate state statute with you. The matter at hand is not about *Hard Enduro* or *Grind and Gears*; it is about the service and repairs of motor vehicles taking place at *A Time to Ride*. The Town has been very clear in "establishing the boundaries" of this use under zoning particularly as it pertains to *A Time to Ride*. There is no question that the activities occurring on site, as confirmed by Mr. Awad, do not comply with Carefree's Zoning Ordinance. We have provided you with options to assist in this matter, which you have decided not to pursue.

Therefore, and at this time, operations related to the service and repairs of any motorized vehicle (third-party and rental fleet) must cease. If you have any further questions/comments, I'm happy to schedule a meeting to include our Town Attorney to address the Town's position. The "Smith 8925 Sediment/Oil Interceptor" is acceptable to Mark Milstone and is to be included with the submittal of a right-of-permit as discussed. Again, this must be provided within a quick timeframe in order to comply with the Town's stormwater regulations.

Regards,
Stacey

Stacey Bridge-Denzak
Planning Director and Zoning Administrator
Town of Carefree

Email: stacey@carefree.org
Phone: 480-488-3686 Fax: 480-488-3845
PO Box 740, 8 Sundial Circle, Carefree, AZ 85377

www.carefree.org



From: Grant Frazier <gfrazier@gb.law>
Sent: Tuesday, May 24, 2022 7:48 PM
To: Stacey Bridge-Denzak <Stacey@carefree.org>
Cc: Mike <Mike@carefree.org>; Mark Milstone <Mark@Carefree.org>; Dennis Randolph <Dennis@Carefree.org>; Gary <Gary@carefree.org>; mwright@shermanhoward.com; John Crane <john@carefree.org>; Time To Ride AZ <timetorideazoffice@gmail.com>
Subject: RE: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry
Importance: High

Stacey:

Thank you. As stated in the intro to my questions, they relate to your 5/4/22 e-mail (not 4/12/22 e-mail concerning *Grind and Gears*/e-bikes and the definition in A.R.S. 28-819); the comparison between (1) *Time to Ride* (ATV/UTV), and (2) *Hard Enduro* (motorcycles); and the Town's position that "*Hard Enduro* ... is permitted to sell and install its merchandise" (and the implication that *Time to Ride* may not do the same).

I am not sure the relevance of "motorcycles" and "all terrain vehicles" each having their own definition under A.R.S. 28-101 as neither "motorcycle," "all terrain vehicle," "ATV," or "UTV" is used in the Town Zoning Ordinance and "motor vehicle" under A.R.S. 28-101(50) remains the pertinent definition and the one that has been referenced in my communications. In any event, *Hard Enduro's* motorcycles fit within the statutory definition of "motor vehicle":

50. "Motor vehicle":

(a) Means either:

(i) A self-propelled vehicle.

(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.

(b) Does not include a scrap vehicle, a personal delivery device, a personal mobile cargo carrying device, a motorized wheelchair, an electric personal assistive mobility device, an electric bicycle, an electric miniature scooter, an electric standup scooter or a motorized skateboard. For the purposes of this subdivision:

(i) "Motorized skateboard" means a self-propelled device that does not have handlebars and that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

(ii) "Motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

A.R.S. 28-101(50) (emphasis added).

In fact, the definition of "motorcycle" specifically states a "motorcycle" is a "motor vehicle." See A.R.S. 28-101(47) ("'Motorcycle' means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excludes a tractor, an electric bicycle, an electric miniature scooter, an electric standup scooter and a moped.") (emphasis added). Relatedly, some, but not all, "all-terrain vehicles" are "motor vehicles," as indicated by the two sub-definitions:

3. "All-terrain vehicle" means either of the following:

(a) A motor vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is fifty or fewer inches in width.

(iii) Has an unladen weight of one thousand two hundred pounds or less.

(iv) Travels on three or more nonhighway tires.

(v) Is operated on a public highway.

(b) A recreational off-highway vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is eighty or fewer inches in width.

(iii) Has an unladen weight of two thousand five hundred pounds or less.

(iv) Travels on four or more nonhighway tires.

(v) Has a steering wheel for steering control.

(vi) Has a rollover protective structure.

(vii) Has an occupant retention system.

A.R.S. 28-101(3) (emphasis added).

In light of the following, our specific questions are:

1. Is the Town's position that *Hard Enduro's* motorcycles are or are not "motor vehicles" under A.R.S. 28-101(50)?
2. Is the Town's position that *Time to Ride's* ATVs and UTVs are or are not "motor vehicles" under A.R.S. 28-101(50)?
3. If the Town's position differs as to #1 and #2 (i.e., that *Hard Enduro's* motorcycles are not "motor vehicles" and *Time to Ride's* ATVs/UTVs are "motor vehicles") please explain the reasoning.
4. If the Town's position is the same as to #1 and #2 (either that both are "motor vehicles" or that both are not "motor vehicles"), then please (A) confirm that both *Hard Enduro* and *Time to Ride* should be treated the same with regard to being "permitted to sell and install its merchandise."; or (B) if the Town thinks the businesses should be treated differently (i.e., *Hard Enduro* is "permitted to sell and install its merchandise" while *Time to Ride* is not), please state with specificity why that is the case.

The purpose of these questions is to ascertain where the actual boundaries are under the Zoning Ordinance, as Time to Ride wants to stay in compliance. It has not been made clear to date. Our preference is to avoid having to resort to administrative appeals and/or litigation. I hope you will aid us in accomplishing that goal by providing answers by EOD 5/27/22. Relatedly, will you confirm that installation of the Smith 8925 Sediment/ Oil Interceptor will be sufficient to address the Town's compliance item concerning Town Code Subsection 5-6-6, as was agreed during the meeting on 4/26/22? My client understandably wants to confirm the same before incurring thousands of dollars in cost.

Thank you.

GRANT H. FRAZIER

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 602.955.1455 | www.gb.law | [Connect on LinkedIn](#) | [Follow Galbut Beabeau](#)



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From: Stacey Bridge-Denzak <Stacey@carefree.org>
Sent: Sunday, May 22, 2022 9:54 PM
To: Grant Frazier <gfrazier@gb.law>
Cc: Mike <Mike@carefree.org>; Mark Milstone <Mark@Carefree.org>; Dennis Randolph <Dennis@Carefree.org>; Gary <Gary@carefree.org>; mwright@shermanhoward.com; John Crane <john@carefree.org>; Time To Ride AZ <timetorideazoffice@gmail.com>
Subject: RE: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry

In response to your remaining questions:

1. The reference to "motorized vehicles" was regarding the comparison Mr. Awad tried to draw between *A Time to Ride* and *Grind and Gears* (the sale/rental/service of electric bicycles). I made a generalized statement to describe the clear distinction between the two businesses; I did not classify Mr. Awad's business as similar to *Hard Enduro* as you state below. In fact, I actually referenced ARS 28-819, *Electric Bicycles*. And as I'm sure you're aware, ATVs have a specific definition under ARS 28-101 as do motorcycles. In any case, the issue at hand is the maintenance and repairs that are being performed illegally under the Town's current Ordinance. If Mr. Awad is looking to expand upon his current business model of offroad rentals to include sales, we're happy to have that conversation at a later time. From a cursory understanding, yes, selling ATVs and UTVs including parts and merchandise would be permitted at his current location.

2. Approval of a Special Use Permit is required when a service station (gas station) is proposed under Commercial zoning. Motorized vehicle repair is only allowed at a service station (gas station). Therefore, without a gas station, there may be no motorized vehicle repairs. There is no service station at 7166 Ed Everett Way, nor would a future one be permitted under Section 5.02 (24).
3. The path we discussed at our meeting and as referenced in the March 22, 2022 letter would be an appeal to the Board of Adjustment, in which there is an alleged error in an order, requirement, or decision made by the Zoning Administrator in the enforcement of the Zoning Ordinance. We did not discuss a text amendment. The specifics can be found under Section 3.04 (4); here is link to the Town's Zoning Ordinance <https://carefree.org/DocumentCenter/View/3639/Zoning-Ordinance-Effective-Aug-2021?bidId=> . I suggest that you make application for the appeal as soon as possible if this is the path you choose. Following application, a hearing date will be determined and the appropriate notifications made. The process is approximately 2-3 months.
4. The May 31st deadline was a courtesy to Mr. Awad. Technically the appeal should have been submitted on or before April 22, since this was 21 days after the March 22 letter that outlined the Zoning Administrator's determination related to lack of compliance. The appeal option is noted in that letter. We have been trying to work with Mr. Awad understanding his time constraints running a business, but it's time to conclude this matter. It has been almost 6 months since the original violation letter was sent. If you want to go by the strict enforcement of the Ordinance, the BOA option has expired.

Grant, I think we have exhausted all aspects of the issues at hand. You and your client need to decide a path forward or Mr. Awad needs to cease the maintenance/repair operations at his business. Please be aware that the appeals process does not guarantee that Mr. Awad will gain approval and be allowed to continue these operations.

Regards,
Stacey

Stacey Bridge-Denzak
Planning Director/Zoning Administrator
Town of Carefree

Email: stacey@carefree.org
Phone: 480-488-3686 Fax: 480-488-3845
PO Box 740, 8 Sundial Circle, Carefree, AZ 85377
www.carefree.org



From: Grant Frazier <gfrazier@gb.law>
Sent: Thursday, May 19, 2022 9:50 AM
To: Stacey Bridge-Denzak <Stacey@carefree.org>
Cc: Mike <Mike@carefree.org>; Mark Milstone <Mark@Carefree.org>; Dennis Randolph <Dennis@Carefree.org>; Gary <Gary@carefree.org>; mwright@shermanhoward.com; John Crane <john@carefree.org>; Time To Ride AZ <timetorideazoffice@gmail.com>
Subject: RE: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry

Thank you, Stacey. I appreciate it.

GRANT H. FRAZIER

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From: Stacey Bridge-Denzak <Stacey@carefree.org>
Sent: Thursday, May 19, 2022 9:49 AM
To: Grant Frazier <gfrazier@gb.law>
Cc: Mike <Mike@carefree.org>; Mark Milstone <Mark@Carefree.org>; Dennis Randolph <Dennis@Carefree.org>; Gary <Gary@carefree.org>; mwright@shermanhoward.com; John Crane <john@carefree.org>; Time To Ride AZ <timetorideazoffice@gmail.com>
Subject: Re: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry

Grant,

I'm out of the office today, but I will respond by the end of the week.

Stacey

Sent from my iPhone

On May 19, 2022, at 9:36 AM, Grant Frazier <gfrazier@gb.law> wrote:

Stacey:

Good morning. Are you able to provide an answer to the below questions today?

Thank you.

GRANT H. FRAZIER

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From: Grant Frazier
Sent: Thursday, May 12, 2022 4:30 PM
To: Stacey Bridge-Denzak <Stacey@carefree.org>
Cc: Mike <Mike@carefree.org>; Mark Milstone <Mark@Carefree.org>; Dennis Randolph <Dennis@Carefree.org>; Gary <Gary@carefree.org>; mwright@shermanhoward.com; John Crane <john@carefree.org>; Time To Ride AZ <timetorideazoffice@gmail.com>
Subject: RE: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry

Stacey:

Thank you for the e-mail. I heard you, Mr. Awad, and Mr. Milstone made good progress on the drainage item during your recent meeting. I am glad to hear it. Mr. Awad is meeting with a contractor within the next week to discuss installation of the interceptor.

I have a few clarifying questions regarding your 5/4/22 e-mail:

- You stated in your e-mail Hard Enduro “is permitted to sell and install its merchandise” and noted the same to Mr. Awad during your meeting with he and Mr. Milstone. Given that (a) the motorbikes on which Hard Enduro installs its parts/merchandise are motor vehicles under, *inter alia*, A.R.S. § 28-101(50), and (b) the Town of Carefree has similarly classified the ATVs and UTVs on which Arizona Unlimited Motorsports LLC d/b/a Time to Ride installs its parts/merchandise, does this mean the Town of Carefree is OK with Time to Ride selling ATV/UTV parts/merchandise and installing the same?
- With regard to Mr. Awad’s inquiry regarding use of the property at 7166 Ed Everett Way for Time to Ride’s desired third party repair business, you note that “[w]hile it looks like a feasible location based on its limited visibility and industrial nature, it does not comply with the requirements outlined in the Zoning Ordinance.” Will you specify which requirement(s) of the Zoning Ordinance you are referencing/are not met? Are you solely referencing the Town Zoning Ordinance requirement for a “Service Station” special use permit under Zoning Ordinance Table 5.1 (*i.e.*, the property doesn’t meet the zoning ordinance because a Service Station SPU hasn’t been applied for and secured)? Are you saying even if a Service Station SPU was applied for, the property wouldn’t meet the requirements for said permit under Section 5.02(24)? Or something else?
- During the meeting with Mr. Awad and Mr. Milstone, you noted Time to Ride should explore an application to the Town Board of Adjustment if Time to Ride wanted to further pursue its desired third-party repair business. You were kind enough to provide Mr. Awad with the attached informational packet. Thank you. Will you provide clarification on the path you believe appropriate for Time to Ride’s application (*i.e.*, a variance, text amendment, etc.)? Are you able to provide a high-level timeline of what to expect in pursuing said identified path?
- With regard to the stated 5/31/22 deadline for an appeal – will you specify the zoning ordinance provision utilized to calculate this deadline?

Clarification on the above items would be greatly appreciated.

Thank you.

GRANT H. FRAZIER

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From: Stacey Bridge-Denzak <Stacey@carefree.org>
Sent: Wednesday, May 4, 2022 10:52 AM
To: Grant Frazier <gfrazier@gb.law>; Time To Ride AZ <timetorideazoffice@gmail.com>
Cc: Mike <Mike@carefree.org>; Mark Milstone <Mark@Carefree.org>; Dennis Randolph <Dennis@Carefree.org>; Gary <Gary@carefree.org>; mwright@shermanhoward.com; John Crane <john@carefree.org>
Subject: RE: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry

Grant,

Thank you for your patience as we reviewed your additional concerns with regards to Hard Enduro Outfitters. Yes, the business is permitted to sell and install its merchandise, however, it is not permitted to perform maintenance/service of motorized vehicles as you highlighted in your email. There is no special distinction between their operations related to service and A Time to Ride's. We did speak with the business, and they stated that they service dirt bikes (and bicycles, which is permitted) beyond installing the parts and accessories they sell. We will be issuing a letter similar to the one we initially sent to Mr. Awad later today.

As a follow up, Mark Milstone and I met with Mr. Awad on 4/26/22 to discuss the drainage issue. Mark reviewed the proposed options, and provided feedback and direction regarding the preferred system, its installation, and required permitting.

At that time, Mr. Awad also asked if he could move the maintenance/repair portion of the business to the area where he stores his rental vehicles (7166 Ed Everett Way). I did discuss this further inhouse, and unfortunately that location is not a viable option. It has the correct zoning (Commercial), but there is no service station in place. While it looks like a feasible location based on its limited visibility and industrial nature, it does not comply with the requirements outlined in the Zoning Ordinance. Again, if you disagree you have the option to submit for an appeal to the Zoning Administrator's determination as outlined in this letter. The case would go to the Board of Adjustment for a final decision. As discussed at the same meeting, the repair aspect of the business may continue until May 31, 2022, in order to finish out existing contracts. If you plan to submit for an appeal, that needs to take place before May 31st.

I hope this email answers everything.

Regards,
Stacey

Stacey Bridge-Denzak
Planning Director and Zoning Administrator
Town of Carefree

Email: stacey@carefree.org

Phone: 480-488-3686 Fax: 480-488-3845
PO Box 740, 8 Sundial Circle, Carefree, AZ 85377

www.carefree.org



From: Grant Frazier <gfrazier@gb.law>
Sent: Monday, April 18, 2022 2:33 PM
To: Stacey Bridge-Denzak <Stacey@carefree.org>
Cc: Mike <Mike@carefree.org>; Mark Milstone <Mark@Carefree.org>; Dennis Randolph <Dennis@Carefree.org>; Gary <Gary@carefree.org>; mwright@shermanhoward.com; John Crane <john@carefree.org>
Subject: RE: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry

Stacey:

Thank you for the update regarding the sign permit. Time to Ride is working with its contractor to address the comments ASAP. It is my understanding that the required information will be submitted this week.

Thank you for the clarification regarding the parked location of the Mini Cooper with the Black Mountain Coffee Shop logo. Understood regarding Mr. Awad's ability to put the Time to Ride AZ logo on a personal vehicle and park it in the Mariachi Plaza with the property owner's consent.

With regard to Mr. Awad's discussion with the Vice Mayor – you are correct the e-bike example was raised and Time to Ride understands the distinction the Town has drawn. I believe another example was raised during the discussion – [Hard Enduro Outfitters](#), which is located next door to Time to Ride in the Mariachi Plaza. Hard Enduro Outfitters is a "Sherco dealer focusing on the offroad market, selling motorcycle parts and accessories to the dirtbike community." In addition to selling and renting dirt bikes and selling dirt bike parts, Hard Enduro Outfitters also provides dirt bike part installation (including the parts it sells), repair, and maintenance (including oil changes) services. *See, e.g.*, the attached screenshots. The dirt bikes sold, rented, and serviced by Hard Enduro Outfitters are motor vehicles under A.R.S. § 28-101(50). Time to Ride is not aware of Hard Enduro Outfitters having secured a Special Use Permit for its parts and services business. If the Town considers there to be a distinction between Time to Ride AZ's parts and service business and Hard Enduro Outfitters', will the Town explain the distinction?

With regard to the stormwater compliance item – Mr. Awad will reach out to the town engineer directly today to set up a time to discuss the referenced interceptor and installation research and a path forward. Time to Ride appreciates the Town's patience and understanding as Time to Ride it works to address the compliance items during the business's peak busy season.

Thank you.

GRANT H. FRAZIER

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From: Stacey Bridge-Denzak <Stacey@carefree.org>
Sent: Tuesday, April 12, 2022 2:45 PM
To: Grant Frazier <gfrazier@gb.law>
Cc: Mike <Mike@carefree.org>; Mark Milstone <Mark@Carefree.org>; Dennis Randolph <Dennis@Carefree.org>; Gary <Gary@carefree.org>; mwright@shermanhoward.com; John Crane <john@carefree.org>
Subject: RE: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry

Dear Grant,

It has been 3 weeks since the Town responded to your March 16th letter regarding *Time to Ride's* rebuttal to the zoning and compliance matters (Town of Carefree letter dated December 16, 2021). Since that time, we understand Mr. Awad spoke with Vice Mayor John Crane, where Mr. Awad brought up additional concerns as relayed to me by the Vice Mayor - - below are answers to those concerns.

First, the Town received the required sign permit, and comments were issued. Once the comments have been addressed and resubmitted to the Town, the Town will issue the building permit.

Second, related to the Mini Cooper and the Black Mountain Coffee Shop logo, Mr. Awad is correct. A car may not be parked on the dirt portion of Ho Road and/or in the Town's sight visibility triangle along Tom Darlington Drive. This was addressed with the owner of the vehicle. As for further down Ho Road, parking is permitted for automobiles. The Town is not going to regulate what logos etc are on people's personal vehicles. However, Mr. Awad's atv's are considered "outdoor merchandise" (not signage) and may not be located further than 15 feet from his business location. If Mr. Awad wants to put his logo on his personal vehicle and park within Mariachi Plaza (with the owner's consent), the Town would not consider that a violation.

Lastly, the key issue in that conversation with the Vice Mayor was Mr. Awad compared his atv/jet ski rental business, including third party repairs, to the new e-bike rental business in Town Center. According to state statute, e-bikes are NOT considered motorized vehicles, and therefore repairs are permitted so long as they are indoors (ARS 28-819). *Time to Ride* services motorized vehicles, which are defined by statute as being self-propelled, utilizing motor vehicle fluid (gasoline) and requiring registration with the State. The difference is clear and specifically regulated. The Town prohibits repairs of motorized vehicles unless it is associated with a service (gas) station and an approved Special Use Permit.

With that said, *Time to Ride* must cease its service operations to third party vehicles or the Town will not renew its business license. The Town is willing to allow Mr. Awad to complete existing contracts with third parties until the end of this month (April). Also, prior to April 30, 2022, *Time to Ride* must commit to an agreed upon approach with the Town (Mark Milstone) to resolve the MS4 issues. Your letter as

referenced above stated *Time to Ride's* extensive research was nearing completion. Please ask Mr. Awad to reach out to the Town at his earliest convenience.

If you have any questions with regards to this email, feel free to reach out to me directly.

Regards,
Stacey

Stacey Bridge-Denzak
Planning Director and Zoning Administrator
Town of Carefree

Email: stacey@carefree.org
Phone: 480-488-3686 Fax: 480-488-3845
PO Box 740, 8 Sundial Circle, Carefree, AZ 85377

www.carefree.org



From: Stacey Bridge-Denzak
Sent: Tuesday, March 22, 2022 11:04 AM
To: 'Grant Frazier' <gfrazier@gb.law>
Cc: Mike <Mike@carefree.org>; Mark Milstone <Mark@Carefree.org>; Dennis Randolph <Dennis@Carefree.org>; Gary <Gary@carefree.org>; mwright@shermanhoward.com; Kevin Stuckey <kstuckinaz@gmail.com> <kstuckinaz@gmail.com>
Subject: RE: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry

Please find the attached correspondence regarding you letter the Town received on March 16, 2022.

Thank you,
Stacey

Stacey Bridge-Denzak
Planning Director and Zoning Administrator
Town of Carefree

Email: stacey@carefree.org
Phone: 480-488-3686 Fax: 480-488-3845
PO Box 740, 8 Sundial Circle, Carefree, AZ 85377

www.carefree.org



From: Grant Frazier <gfrazier@gb.law>
Sent: Thursday, March 17, 2022 6:49 PM
To: Stacey Bridge-Denzak <Stacey@carefree.org>
Cc: Mike <Mike@carefree.org>; Mark Milstone <Mark@Carefree.org>; Dennis Randolph <Dennis@Carefree.org>; Gary <Gary@carefree.org>
Subject: RE: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry

Thank you for confirming receipt, Stacey.

GRANT H. FRAZIER

6720 N. Scottsdale Road, Suite 305, Scottsdale, Arizona 85253
602.955.1455 | www.gb.law | [Connect on LinkedIn](#) | [Follow Galbut Beabeau](#)



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From: Stacey Bridge-Denzak <Stacey@carefree.org>
Sent: Thursday, March 17, 2022 4:39 PM
To: Grant Frazier <gfrazier@gb.law>
Cc: Mike <Mike@carefree.org>; Mark Milstone <Mark@Carefree.org>; Dennis Randolph <Dennis@Carefree.org>; Gary <Gary@carefree.org>
Subject: RE: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry

Grant,

We are in receipt of your letter, and it is under review by our Town Attorney.

Regards,
Stacey

Stacey Bridge-Denzak
Planning Director and Zoning Administrator
Town of Carefree

Email: stacey@carefree.org
Phone: 480-488-3686 Fax: 480-488-3845
PO Box 740, 8 Sundial Circle, Carefree, AZ 85377

www.carefree.org



From: Grant Frazier <gfrazier@gb.law>
Sent: Wednesday, March 16, 2022 1:45 PM

To: Stacey Bridge-Denzak <Stacey@carefree.org>
Cc: Mike <Mike@carefree.org>; Mark Milstone <Mark@Carefree.org>; Dennis Randolph <Dennis@Carefree.org>
Subject: RE: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry

Thank you, Stacey. We are fortunate to be doing much better. I appreciate your words and the provided business license applications.

Please find the attached correspondence from Arizona Unlimited Motorsports LLC d/b/a Time to Ride regarding the compliance items that have been raised.

Thank you.

GRANT H. FRAZIER

6720 N. Scottsdale Road, Suite 305, Scottsdale, Arizona 85253
602.955.1455 | www.gb.law | [Connect on LinkedIn](#) | [Follow Galbut Beabeau](#)



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From: Stacey Bridge-Denzak <Stacey@carefree.org>
Sent: Monday, March 7, 2022 12:02 PM
To: Grant Frazier <gfrazier@gb.law>
Cc: Mike <Mike@carefree.org>; Mark Milstone <Mark@Carefree.org>; Dennis Randolph <Dennis@Carefree.org>
Subject: RE: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry

Hi Grant,

Sorry to hear about your wife and your bout with Covid. Hope you both are well into recovery. Attached are the business license applications as requested.

We need to bring these outstanding issues to a close ASAP. We have not received the sign permit as promised. Also, Mr. Awad needs to confirm that he is no longer repairing vehicles as discussed, but general maintenance is acceptable so long as it occurs all indoors. Last, I've copied Mark Milstone to confirm if he has reviewed the drain inlet per our discussions.

Please provide us with a status update on the above.

Thank you,
Stacey

Stacey Bridge-Denzak
Planning Director and Zoning Administrator
Town of Carefree

Email: stacey@carefree.org

Phone: 480-488-3686 Fax: 480-488-3845
PO Box 740, 8 Sundial Circle, Carefree, AZ 85377

www.carefree.org



From: Grant Frazier <gfrazier@gb.law>
Sent: Wednesday, March 2, 2022 2:40 PM
To: Stacey Bridge-Denzak <Stacey@carefree.org>
Subject: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ - Planning & Zoning Inquiry

Stacey:

Good afternoon, and thank you for your time last month. I apologies for the delayed follow-up. Soon after our meeting, my fiancé and I closed on our first home and then contracted COVID and had a really rough few weeks trying to recover and move at the same time. Finally have turned the corner and trying to get caught up on the work front. During our meeting, certain business applications submitted by Time to Ride AZ to the city were referenced with regard to the allowed uses of the property. You mentioned that you could secure a copy of the applications submitted to date and provide them. Will you do that? I am putting together the discussed letter on behalf of Time to Ride this week.

Thank you in advance for your time.

GRANT H. FRAZIER

6720 N. Scottsdale Road, Suite 305, Scottsdale, Arizona 85253
602.955.1455 | www.gb.law | [Connect on LinkedIn](#) | [Follow Galbut Beabeau](#)



GALBUT BEABEAU
ARIZONA ROOTED | GLOBALLY MINDED

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EXHIBIT 3



GALBUT BEABEAU

A PROFESSIONAL CORPORATION
LAWYERS & COUNSELORS

March 16, 2022

Via E-Mail

Town of Carefree

ATTN: Stacey Bridge-Denzak, Michael Tibbett, Mark Milstone & Dennis Randolph

8 Sundial Circle, P.O. Box 740

Carefree, Arizona 85377

stacey@carefree.org, Mike@carefree.org, Mark@Carefree.org, Dennis@Carefree.org

Re: Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ – Town of Carefree Zoning and Code Compliance Matters.

Dear Stacey, Michael, Mark & Dennis:

Thank you all for meeting with Josh Awad of Arizona Unlimited Motorsports LLC d/b/a Time to Ride AZ (“Time to Ride”) and me on January 26, 2022, to discuss certain zoning and code compliance items raised by the Town of Carefree (“Town”) (the “Meeting”). Josh and I greatly appreciate your time and desire to engage in a collaborative, solutions-focused discussion.

This letter is in furtherance of Time to Ride’s efforts to address the compliance items raised by the Town in its December 16, 2021, letter (the “Letter”), during the Meeting, and otherwise.

I. Wall Signage.

The Town’s Letter states that Time to Ride was not in compliance with Town Zoning Ordinance Section 8.03(8), which provides: “Wall Signs: WALL SIGNS, whether new or modified, shall require a building permit.” In the time between receipt of the Town’s Letter and the Meeting, Time to Ride made progress on identifying and securing bids from several contractors for the design, manufacture, securement of the appropriate building permit for, and installation of signage on the front wall of its storefront. Shortly after the Meeting, Time to Ride engaged Bertram Signs & Graphics to provide these services, and Bertram Signs & Graphics submitted a building permit application for the signage to the Town on March 11, 2022. It is Time to Ride’s belief that upon this application’s approval and conforming sign installation, this compliance item will be fully addressed. Please let me know if the Town disagrees, and if so, why.

Town of Carefree

ATTN: Stacey Bridge-Denzak, Michael Tibbett, Mark Milstone & Dennis Randolph

March 16, 2022

Page 2 of 5

II. Use of ATV/UTV As Outdoor Merchandise for Marketing Purposes.

The Town has expressed its position that Time to Ride may not place any of its UTVs outside of its building for marketing purposes. In a show of good faith, Time to Ride removed the UTV in question from its previous outdoors marketing position. The negative financial impact of this decision on Time to Ride's business has been considerable.

The Town's position relies upon Zoning Ordinance Sections 5.02(20) and (21), which provide:

- Section 5.02(20): All items to be rented or sold shall be placed inside a completely enclosed building or under a covered arcade. Displays of materials or goods located outside of the building shall not impede pedestrian circulation.
- Section 5.02(21): All items to be repaired shall be kept inside a completely enclosed building. Repair shop does not include servicing or repair of motor vehicles.

(emphasis added).

However, the UTV that Time to Ride was using as a form of signage before the Town's Letter was not an "item[] to be rented or sold," nor was it an "item[] to be repaired." The UTV's sole purpose was as signage to draw interest of potential customers and entice them to turn into the shopping center where Time to Ride is located. Zoning Ordinance Sections 5.02(20) & (21) are therefore inapplicable to Time to Ride's previous usage of the UTV for outdoor merchandise signage purposes.

There are, however, other applicable Zoning Ordinance sections, as was alluded to during the Meeting. Notably, Zoning Ordinance Article VIII covers different types of permitted signage, including "Outdoor Merchandise" signage. Zoning Ordinance Section 8.01 defines "Outdoor Merchandise" as "Items associated with a business use that are temporarily displayed outside the subject tenant space." The UTV Time to Ride brought out on a daily basis for display purposes outside of its building falls squarely within this definition. Zoning Ordinance Section 8.02 states "Outdoor Merchandise" signage is allowed in commercial zoning districts – such as the one in which Time to Ride's building is located – subject to certain conditions, provisions, and/or clarifications found in Zoning Ordinance Section 8.03. Section 8.03(11) relates to Outdoor Merchandise, and provides:

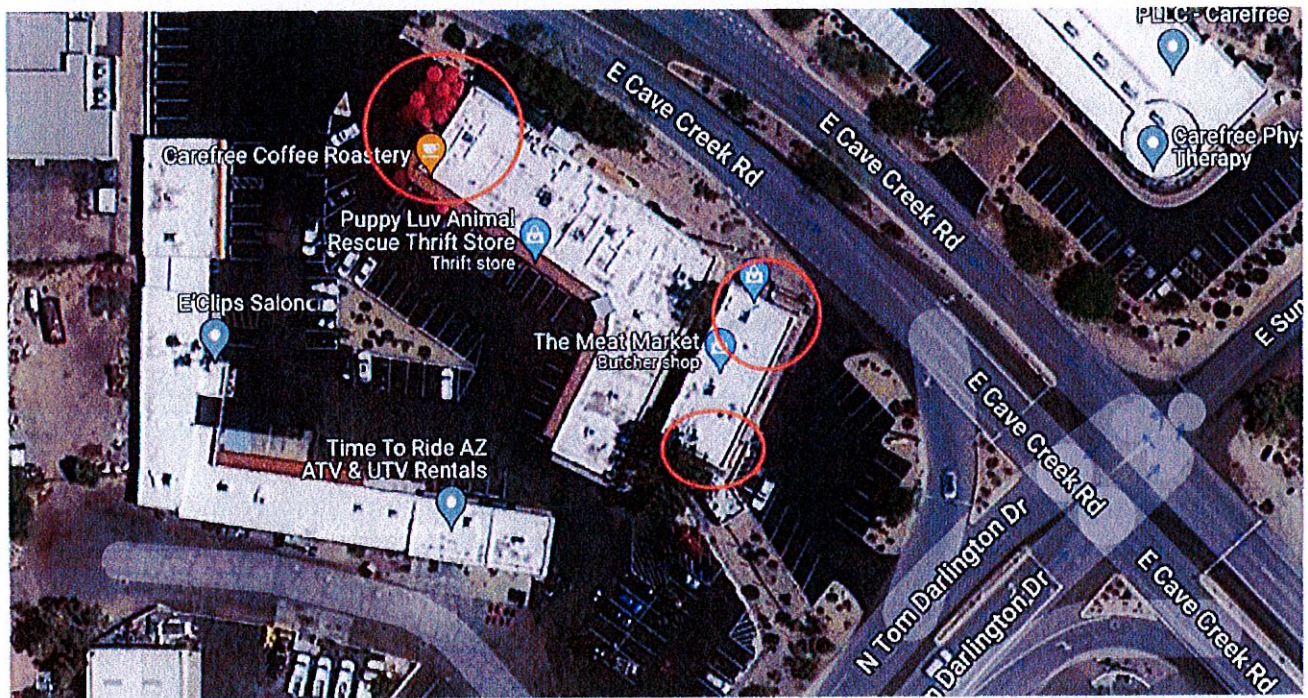
(11) OUTDOOR MERCHANDISE shall be exempt from building permit, comply with all provisions of the Zoning Ordinance, and meet the following standards:

- (A) Outdoor merchandise shall relate to the primary use of the business and shall not be considered signage as otherwise allowed in Article VIII.
- (B) Outdoor merchandise shall be located:



- (1) No further than fifteen (15) feet from the building and adjacent to an established pedestrian walkway.
- (2) Outdoor merchandise shall not extend more than fifty (50) percent along the linear length of the building façade.
- (3) So as to not obstruct pedestrian or vehicular traffic.

Keeping in mind the critical importance of Time to Ride's UTV-based Outdoor Merchandise marketing to its business success, Time to Ride explored several potential solutions since the Meeting. These include discussions with Time to Ride's landlord for additional leased space for the portions of the property identified in red in the below graphic.



Entering in such leases would enable Time to Ride to display its UTV display outdoors for marketing purposes so long as such display complies with the requirements of Zoning Ordinance Section 8.03(11)(B). We believe this lease-based solution helps facilitate Time to Ride's critical outdoor marketing efforts and complies with the Town's Zoning Ordinance. Please let me know if the Town disagrees, and if so, why.

III. Time to Ride's Third-Party ATV/UTV Parts and Service Offering

The Town has also taken the position that certain aspects of the parts and service portion of Time to Ride's business for third party ATVs and UTVs falls outside of the business description provided in Time to Ride's original business application submitted to the Town on or



Town of Carefree

ATTN: Stacey Bridge-Denzak, Michael Tibbett, Mark Milstone & Dennis Randolph

March 16, 2022

Page 4 of 5

about September 30, 2019 (the “Original Application”). See **Exhibit 1**. Time to Ride disagrees. The scope of Time to Ride’s planned business offerings and operation as stated in the Original Application includes: (1) the renting of ATVs, UTVs, dirt bikes, jet skis, and similar vehicles; (2) attendant maintenance of the aforementioned vehicles; and (3) the provision of parts and service offerings to third-party-owners with vehicles of the aforementioned nature (collectively, the “Time to Ride Business Offerings”). This is supported by the Original Application’s text and Kevin Stuckey’s – the Town’s Code Enforcement Officer at the time – understanding of the Time to Ride Business Offerings based on, *inter alia*, several conversations with Mr. Awad prior to, during, and after the Town’s consideration and approval of the Original Application.

During the Meeting, the parties talked through the Town’s view on which parts and service offerings are permissible, which included:

- Oil and filter changes
- Battery testing, cleaning, and replacement
- Testing and replacing brake pads and brake fluid
- Fixing or replacing exterior glass or plastic windshields, windows, etc. and fixing superficial damage to the exterior of the vehicle
- Analyzing engine health, including check engine lights, spark plugs, serpentine belts, and radiator hoses
- Alignments and suspension services
- Tire rotation, balancing, repair, and replacement

Please let me know if the Town disagrees with the above recollection of our conversation, and if so, in what way. Once Time to Ride has more definitive guardrails on which business practices are permissible, it can order its actions accordingly.

IV. Storm Water.

The Town raised compliance with Town Code Section 5-5-6 relating to Discharge Prohibitions as being a problem. Section 5-5-6(A) provides “No person shall throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.” Specifically, the Town’s position was that Time to Ride, in washing off its ATV and UTV after their use, violates Town Code Section 5-5-6(A) because certain alleged pollutants dirtied the ATVs and UTVs during their use, and therefore, any water used to clean said ATVs and UTVs must therefore necessarily contain those same alleged pollutants.

Time to Ride is nearing the completion of extensive research on oil interceptors for potential installation in the back of Time to Ride’s tenant space to address this compliance item. Time to Ride has identified several interceptors that are used by car washes for oil interception purposes that may work well, and has secured approval from the property’s landlord to dig a hole



Town of Carefree

ATTN: Stacey Bridge-Denzak, Michael Tibbett, Mark Milstone & Dennis Randolph

March 16, 2022

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in the ground before the storm drain at issue to install the in-ground separator. Time to Ride would like to meet with the Town in person to discuss how to acceptably proceed on this front.

V. A Path Forward.

We recognize that this letter does not finally address every compliance item raised by the Town, but we are hopeful it conveys Time to Ride's good faith efforts to find a fair and appropriate path forward on all items raised. Time to Ride enjoys operating its highly successful business in the Town and appreciates that the Town admires what Josh and his team have worked hard to build and values the tax and other positive economic benefits Time to Ride generates.

Upon receipt of the above-requested information, completion of its oil and sand interceptor research, and subsequent meeting with the Town, Time to Ride will take such additional action as may be necessary to address remaining compliance items.

I look forward to hearing from you, and to continued progress being made.

My client reserves all claims, remedies, and defenses arising out of and related to the matters referenced hereinabove.

Sincerely,

Grant H. Frazier

Grant H. Frazier



EXHIBIT 1

BUSINESS LICENSE APPLICATION

Make \$40 check payable to: Town of Carefree
 Mail to: PO Box 740
 Carefree, AZ 85377


CAREFREE
 ARIZONA

OCT - 1 2019

Town of Carefree
 Administrative Offices
 8 Sundial Circle
 Carefree, AZ 85377

Business License # BL2018/19-303

303

SECTION I. Business Information						Office Use Only	
Official Business Name <i>Arizona Unlimited Motorsports, LLC</i>		DBA (Name on Sign) <i>Time to Ride AZ</i>		State Sales Tax # (TPT) <i>ATV corp Jet Ski rentals</i>		Application Fee \$40.00	
Primary Business Type: (Check One) <input checked="" type="checkbox"/> Retail Sales		<input type="checkbox"/> Service		<input type="checkbox"/> Restaurant/Bar		<input type="checkbox"/> Construction/Contracting	
<input type="checkbox"/> Commercial Rentals (Attach list of tenant names and contact information)		<input type="checkbox"/> Residential Rentals (# of units _____)		Receipt # <i>25026</i>		Initials <i>KLS</i>	
<input checked="" type="checkbox"/> Other <i>Rentals</i>		Describe Nature of Business: <i>Bentley ATV, UTV, Dirt Bike and Jet Ski Rentals Service</i>		CHECK HERE IF THERE ARE NO CHANGES FROM LAST YEAR. FILL IN BLUE BLOCKS AND SIGN AT BOTTOM.		DHS 78	
# of Employees (including Owner) <i>2-4 Depending on season</i>		Date Business Started in Carefree <i>11/1/19</i>		Contractor's License # (if applicable)		Comments	
APPLICATION PURPOSE: (Check One) <input checked="" type="checkbox"/> New Business to Carefree		<input type="checkbox"/> License Renewal		<input type="checkbox"/> Updating Information			
Contact Name(s) <i>Josh Award</i>		Title(s) <i>Owner</i>		Business Physical Address (no PO Box) <i>7171 E Cave Creek Rd Ste 2</i>		Business Mailing Address (PO Box) Suite/Apt#	
City <i>Carefree</i>		State <i>AZ</i>		Zip Code <i>85377</i>		City State Zip Code	
Business Phone #		CEL Phone # or Additional Phone # <i>714 519 5639</i>		E-Mail <i>time torideAZoffice@gmail.com</i>		Business Website <i>timetorideAZ.com</i>	
Type of Ownership: <input checked="" type="checkbox"/> Individual		<input checked="" type="checkbox"/> LLC		<input type="checkbox"/> Corp.-State/Inc. # _____		<input type="checkbox"/> Partnership <input type="checkbox"/> Ltd. Partnership <input type="checkbox"/> Other _____	
SECTION II. Business Premises Status & Landlord/Property Manager Contact Information							
Do you own the property where your business is located? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "No" -- complete the Landlord/Property Manager contact information below:							
Landlord/Property Manager Name <i>Kim Tillery</i>		E-Mail Address <i>kim.tillery@desertcapital.com</i>		(Area Code) Telephone #			
Mailing Address <i>7171 E Cave Creek Rd</i>		Suite/Apt#		City <i>Carefree</i>		State <i>AZ</i>	
				Zip Code <i>85377</i>			
Do you rent a portion of your business premises to someone else? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Name of other Person/Entity: _____							
SECTION III. Applicant's Certification: I certify that the statements made in this application are true and complete to the best of my knowledge. I accept the license authorized and issued in response to this application with the condition that I report timely and pay any taxes due to the State of Arizona.							
NOTE: Incomplete applications may not be processed.							
Print Name(s) <i>Josh Award</i>		Signature(s) 			Date <i>9/30/19</i>		

Authorization signature for \$44.00 payment to the Town of Carefree: _____ Date: _____

IF YOU ARE PAYING BY CREDIT CARD: CARD NUMBER _____ EXPIRES ____/____/____ CCV# _____ ZIP CODE _____

IF YOU PURCHASE AN EXISTING BUSINESS - BE SURE THE FORMER OWNER HAS PAID ALL SALES TAX. BY LAW, YOU MAY BE LIABLE FOR ANY UNPAID TAX. Revised 6/1/2018

EXHIBIT 4



TOWN OF CAREFREE

8 SUNDIAL CIRCLE

PO BOX 740

CAREFREE, AZ 85377

(480) 488-3686 · FAX (480) 488-3845

March 22, 2022

Mr. Grant Frazier
Galbut Beabeau, P.C.
6720 North Scottsdale Road
Scottsdale AZ 85235

Mr. Josh Awad
A Time to Ride
7171 East Cave Creek Road
Carefree, AZ 85377

Dear Mr. Frazier and Mr. Awad,

Thank you for your letter. We have had our Town Attorney, Michael Wright, review your understanding of the original complaint and per our meeting on January 11, 2022. The following is staff's official position on these matters:

I. Wall Signage

According to the original business license, Mr. Awad has operated "A Time to Ride AZ" since November of 2019. The building permit submittal was long overdue. The Town received the required application on March 10, 2022. The permit will be reviewed by the Building and Planning & Zoning Departments, for compliance with all relevant requirements. Comments are forthcoming.

II. Use of ATV/UTV as Outdoor Merchandise for Marketing

To be clear, the Town discussed the issues with using the ATV/UTV vehicles for display as two-fold: 1) Safety; and, 2) Zoning. The main purpose of Carefree's rights-of-way is to ensure a safe and reliable means of access and movement through Town. The Town is very cautious of any impediments in its rights-of-way as Carefree could be liable for harm caused to the public by such. The Tom Darlington location was of particular concern as it presented sight line issues at Ed Everett Way that could potentially lead to vehicle conflicts.

As it pertains to Zoning, the Ordinance was established to minimize visual clutter along Carefree's roads in its commercial districts. Mr. Awad made the decision to ignore the Town's requirements (whether intentional or not) by locating his vehicles at the entrances to lower Mariachi Plaza. If this type of "marketing or "signage" was important to Mr. Awad, that aspect of the Ordinance should have been researched and/or understood

before he leased his space. The Town will not be held responsible for his alleged "negative financial impact" due to his own negligence.

Now, as stated in your letter, Mr. Awad was using the UTV solely as a form of signage, which is not permitted regardless of how staff interpreted the circumstances (although it seems odd that the vehicles on display would never be used as rentals). Now you claim the vehicles will be only for merchandise display. That being the case and as originally documented by staff, the locations as shown in the diagram do not appear to be within 15 feet of the business in question. It is not 15 feet from *a* building; it is 15 feet from *the* building.

III. Third-party ATV/UTV Repair and Maintenance Activities

As stated, staff met with Mr. Awad on several occasions prior to his business opening in Mariachi Plaza. Mike Tibbett, Chief Building Official; Kevin Stuckey, previous Code Enforcement Officer; and I, Planning Director and Zoning Administrator, each concur that we told Mr. Awad that maintenance and minor repairs may only be performed on his own fleet of vehicles. Mr. Stucky supports this assertion as per his attached affidavit requested by you. Furthermore, I have been the Town's Zoning Administrator for almost 8 years (and a city planner for almost 14 years) and am confident that I relayed the correct information to Mr. Awad: Vehicle repair is only permitted with approval of a Special Use Permit associated with a service station (gas station). We agreed to allow Mr. Awad to perform regular maintenance on his own vehicles to allow him to operate his business without a hinderance to his everyday operations.

The original business license is further evidence that the intention of the business was to service only Mr. Awad's vehicles. As per above and Mr. Kevin Stucky's email, Mr. Stucky processed the business license with the understanding that the description was in support of previous conversations and thereby applicable just to his fleet.

It was discussed on January 11th to possibly allow for general maintenance of third-party vehicles. At this time the Town can no longer agree to permit any service to third-party vehicles. This determination comes after further discussion with legal staff and upper management. And as Zoning Administrator, I'm not able to authorize these services at this location.

IV. Storm Water

Pollutants in this scenario are not alleged, they are inevitable. It is incongruous to say that water used to clean an ATV/UTV of all pollutants would not also contain said pollutants. That is the express purpose of washing down the vehicles. Compliance with MS4 requirements as explained in the Town's letter is not negotiable, it is mandatory. The Town looks forward to resolving this issue as soon as possible, Further discussion as you suggest is needed particularly as it pertains to the location of an oil separator system.

Ultimately, if you disagree with any part or all of this letter, you have the option to submit for an appeal to the Zoning Administrator's determination (with the exception of the Storm Water section) as outlined in this letter. This case would go to the Board of Adjustment for a final

decision.

If you have any questions, please feel free to contact me or Mr. Wright directly.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stacey Bridge-Denzak', with a long horizontal flourish extending to the right.

Stacey Bridge-Denzak
Planning Director and Zoning Administrator

Cc: Gary Neiss, Town Administrator
Michael Wright, Town Attorney
Mike Tibbett, Chief Building Official
Mark Milstone, Town Engineer
Dennis Randolph, Code Enforcement Officer
Kevin Stucky, Previous Code Enforcement Officer

Stacey Bridge-Denzak

From: Kevin & Kristina Stuckey <kstuckinaz@gmail.com>
Sent: Wednesday, March 16, 2022 10:30 AM
To: Time To Ride AZ
Subject: declaration
Attachments: josh2.png; josh1.png

Josh,

Attached is the declaration WITH changes. As I said when we spoke on the phone, I recall everything the way you describe it, with the exception of performing outside service. **The original business license doesn't clearly state that this was your intention** and I know it would have been an issue at the beginning if the Town had known this.

I'm neutral and wish that both sides can resolve the dispute. I will let the Town know about this as I don't want them to be caught off guard that I somehow became involved.

Let me know if I need to mail the original to you. I wish you the best!

Kevin Stuckey

