

PLANNING DIVISION STAFF REPORT

February 24, 2014



PREPARED FOR THE PLAN COMMISSION

Project Address: 4550 Verona Road
Application Type: Conditional Use
Legistar File ID # [32925](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted.

Summary

Applicant: Lindsey Duncan; The Home Depot; 4550 Verona Road; Madison
Contact: Todd Mosher, Atwell, LLC; 1245 E. Diehl Road, Suite 100; Naperville, Illinois
Property Owner: Home Depot USA, Inc.; 2455 Paces Ferry Road NW; Atlanta, Georgia

Requested Action: Approval of a conditional use to allow for new and expanded outdoor display, outdoor storage, and temporary outdoor events areas for an existing home improvement store at 4550 Verona Road.

Proposal Summary: The applicant proposes to formally expand their outdoor display and outdoor event areas. There would be 5 areas generally along the front of the building and 2 in a plaza south of the store. An existing display area within the parking lot is also proposed to be used for seasonal sales events. The applicant is also seeking approval of a permanent outdoor storage area at the rear of the store.

Applicable Regulations & Standards: Table 28D-2 in Section 28.061 identifies outdoor display and outdoor storage as conditional accessory uses in the CC (Commercial Center) zoning district. Temporary outdoor events, defined as "a seasonal or occasional event held on the sidewalk or other location outside a building, where the principal use is non-residential", which last for more than 45 days, require conditional use approval in the CC district. Section 28.183 of the Zoning Code provides the process and standards for the approval of conditional use permits. Alterations to large format retail establishments are also subject to the Large Retail Development standards in Section 33.24(4)(f) of the Urban Design Commission ordinance.

Review Required By: Plan Commission. The Secretary of the Urban Design Commission has reviewed the proposed areas and approved them on behalf of the Commission on the basis that no permanent physical changes are proposed.

Summary Recommendation: The Planning Division recommends that the Plan Commission find the standards met and **approve** conditional uses for outdoor display, outdoor storage, and temporary outdoor event areas at 4550 Verona Road subject to input at the public hearing and the conditions from reviewing agencies beginning on page 4 of this report.

Background Information

Parcel Location: The subject site is a 9.3-acre parcel located on the north and west sides of the Verona Road frontage Road at Summit Street, a local access road that crosses the Verona Road expressway east of the site. The site is zoned CC (Commercial Center District).

Existing Conditions and Land Use: The existing one-story Home Depot store includes approximately 117,000 square feet of retail floor area, including a partially enclosed permanent outdoor sales area located adjacent to

the southerly wall of the store. The store is part of a larger retail planned multi-use site that also includes MC Sports, Staples and Goodwill extending to the north towards Hammersley Road.

Surrounding Land Use and Zoning:

North: MC Sports, Staples and Goodwill, zoned CC (Commercial Center District);

South: U-Haul on west side of frontage road, zoned PD; Gino's Deli, Marathon gas station, zoned CC across frontage road;

West: Brunsell Lumber, zoned IL (Industrial-Limited District);

East: Subway restaurant, Nakoma Auto Repair, Feiler's restaurant, University Book Store, zoned CC.

Adopted Land Use Plans: The Comprehensive Plan recommends the subject site and surrounding properties generally east of the Southwest Bike Path for General Commercial uses.

Zoning Summary: The property is zoned CC (Commercial Center District).

Requirements	Required	Proposed
Lot Width	100’ maximum	Existing
Side Yard	One-story: 5’ Two-story or taller: 6’	Existing
Rear Yard	Lesser of 20% lot depth or 20’	Greater than 20’
Maximum Lot Coverage (all bldgs.)	85%	Existing, Less than 85%
Maximum Building Height	5 stories/ 68’	Existing
Building Form	Free-standing commercial building	Meets building form
Automobile Parking	No minimum	Existing
Accessible Parking	N/A	Existing
Bicycle Parking	1 per 2,000 sq. ft. of retail floor area	Existing
Other Critical Zoning Items		
Yes:	Urban Design (planned multi-use site with large retail), Barrier Free, Utility Easements	
No:	Wellhead Protection, Floodplain, Landmarks, Waterfront Development	
Prepared by: Planning and Zoning staff		

Environmental Corridor Status: The property is not located within a mapped environmental corridor (Map C10).

Public Utilities and Services: The site is served by a full range of urban services, including Metro Transit service located nearby.

Project Description, Analysis and Conclusion

The applicant, The Home Depot, requests conditional use approval to formally allow for new and expanded areas for outdoor display, outdoor storage, and temporary outdoor events for their existing west side store located at 4550 Verona Road.

Staff understands that the submitted plans generally reflect how the applicant has been operating their outdoor sales and storage activities for several years. According to the Zoning Administrator, such operations do not comply with the approved conditional use site plans that govern their property, and that enforcement actions

have been taken. In response, the applicant is seeking compliance by requesting approval of the expanded "outdoor display," "outdoor storage" and "temporary outdoor events" areas shown on the attached plans.

The Zoning Code lists temporary outdoor events, outdoor storage and outdoor display as individual accessory uses in the CC-Commercial Center zoning district. Temporary outdoor events are defined as "a seasonal or occasional event held on the sidewalk or other location outside a building, where the principal use is non-residential." This includes large events such as seasonal parking lot sales (pumpkin or Christmas tree sales, etc.) or community events. For such events, the code requires that there be no permanent alterations to the site, that no single event last for more than 180 days per calendar year, and that any event lasting for 45 days receives conditional use approval. The code does not require these sales or display areas to be brought inside the principal structure nightly.

Outdoor display areas are defined as "the display of goods for sale or rental outside of an enclosed building on a permanent or recurring basis." The supplemental regulations in Section 28.151 require that all products on display shall also be sold in the principal retail use and that outdoor display shall not exceed 16 hours per day.

Outdoor storage is defined as the "permanent storage of goods, materials, equipment, or service vehicles outside of an enclosed building." Off-street parking is not considered "outdoor storage." The supplemental regulations in Section 28.151 require that outdoor storage be located outside of the front yard setback and not be placed between the principal building and the abutting street. In the CC district, outdoor storage shall be completely screened from any adjacent street, sidewalk, public walkway, public park, and be screened from abutting residential uses with a building wall or solid, commercial-grade fencing, wall, evergreen hedge, or equivalent material at least 6 feet and no more than 7 feet in height; screening along district boundaries, where present, may provide all or part of the required screening.

The existing conditional use site plan, approved under the 1966 Zoning Code, now identifies one area for outdoor display located between the two store entrances along the front wall of the building. Under the 1966 code, outdoor display was permitted with no restrictions on when or how long items could be displayed. The applicant is requesting to retain this display area while seeking approval of additional areas for temporary outdoor events and outdoor display along the front and southerly side walls of the store, and an outdoor storage area at the rear of the store. A long-existing parking lot display area adjacent to the Verona Road frontage road would be seasonally expanded as a temporary outdoor event area.

A summary of the proposed activities follows:

- At the southern end of the parking lot, adjacent to the frontage road, and directly in front of the store's permanent outdoor sales floor area, a temporary outdoor event area that will be used from March 15 to August 1 annually. This area has been used in the past as a seasonal garden goods sales area and will be enclosed with a temporary chain link fence. This area will occupy 38 parking stalls located between a driveway from the frontage road and the front wall of the store.
- A temporary outdoor event area from March 15 until August 1 at the southernmost tip of the site between the permanent outdoor sales area and the property line shared with the U-Haul facility to the south **and** a temporary outdoor event area in the same area but adjacent to the fence of the permanent sales area, which is proposed for use from March 15 until August 1 and from September 1 until January 1. This area, which is a plaza feature of the store, has historically been used by the applicant as outdoor storage of retail goods.

- A grouping of 6 small areas located at the entrance to the permanent outdoor sales floor area and along the front of the southern entrance to the full store, which are proposed as temporary outdoor event areas from March 15 until August 1 and from September 1 until January 1 and as an outdoor display area otherwise.
- Two temporary outdoor areas proposed for use from March 15 until August 1 and from September 1 until January 1 that will be located along the front wall of the northern store entrance and between that entry and the “contractors” entrance and covered pickup area further along the north wall.
- A temporary outdoor display area located adjacent to the tool rental section of the store. The plans submitted show a second area nearby that is not classified but which has been used in the past for tool display related to the rental section of the store; the plans should be clarified to define this area.
- A permanent, year-round outdoor storage area at the northwestern corner of the store, which will measure 36 feet long and 12 feet deep and be enclosed with a 10-foot tall chain link fence.

The existing store was approved prior to the Large Retail Development standards in Section 33.24(4)(f) being created. However, subsequent site plan alterations such as the proposed, shall comply with the requirements to the “extent possible” as stated in that ordinance. As proposed, the event/display areas adjacent to the building do not conform to the pedestrian circulation standards, which require that “sidewalks at least 8 feet in width shall be provided along the full length of the building façade featuring a customer entrance and along any façade abutting parking areas and shall provide at least 8 feet in width clear from any merchandise, vending or other obstructions.” While the front of the building now includes an area that is part painted asphalt and concrete walk, some of the proposed customer display areas directly abut the customer drop-off lane and leave no clear zone to walk or look at display items. However, the ordinance allows the Plan Commission to waive this requirement if it determines that unique or unusual circumstances warrant special consideration to achieve a superior design solution.

No permanent physical changes to the site are proposed other than the fence at the rear of the store for the outdoor storage area. As no permanent physical changes are proposed, the Urban Design Commission (UDC) Secretary reviewed the Plans on behalf of the UDC. His recommendation was that the plans comply with the Large Retail Standards, specifically, the standard related to maintaining an 8-foot clear path.

With adjustments to the plans to provide for additional clear zones for better pedestrian circulation, the Planning Division believes the conditional use standards can be met. The conditional use requests for the various areas largely represent the formalization of longstanding outdoor sales and storage areas that have been used by the applicant for a number of years, and will provide Zoning staff with contemporary plans to enforce going forward if needed. At the time of report writing, staff was not aware of any objections to this proposal.

Recommendation

Planning Division Recommendation (Contact Timothy M. Parks, 261-9632)

The Planning Division recommends that the Plan Commission find the standards met and **approve** conditional uses for outdoor display, outdoor storage, and temporary outdoor event areas at 4550 Verona Road subject to input at the public hearing and the following conditions:

1. That the approximate exterior dimensions of each of the outdoor areas be shown on the plan per the approval of Planning and Zoning staff prior to final sign off and commencing use of the approved areas.
2. That the "approved display area" adjacent to the front of the store be revised to reflect the existing site plan. The approved plan provides just over 5 feet of clear sidewalk between the edge of the display area and the edge of the "customer drop-off lane."
3. That the plans be revised and the temporary outdoor event and outdoor display areas be revised to comply with MGO Section 33.34(4)(f)7, which requires an 8-foot wide clear path along the length of the front of the building. This excludes the existing display area that was previously approved with a 5-foot clear path. Per Section 33.24(4)(f)(2)c, the Plan Commission may waive or modify this condition if it determines that unique or unusual circumstances warrant special consideration to achieve a superior design solution. Details shall be approved by Planning, Zoning, and the Traffic Engineering staff prior to final sign off and commencing use of the approved areas.
4. That the plans be revised to define the area at the northeastern corner of the store near the tool rental section subject to final approval by the Planning Division and Zoning Administrator.
5. That the details of any temporary fencing and any fabric screening inserts for a fence enclosure of the parking lot outdoor event area be approved by the Planning Division prior to installation/ use.

Recommended Conditions of Approval: Major/Non-Standard Conditions are Shaded

City Engineering Division (Contact Janet Dailey, 261-9688)

This agency submitted a report with no recommended conditions of approval.

Traffic Engineering Division (Contact Eric Halvorson, 266-6527)

6. The applicant shall submit one contiguous plan for approval. The plan drawing shall be scaled to 1" = 20' and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; pavement markings; signing; building placement; items in the terrace such as signs, street light poles, hydrants; surface types such as asphalt, concrete, grass, sidewalk; driveway approaches, including those adjacent to and across street from the project lot location; parking stall dimensions, including 2 feet of vehicle overhang; drive aisle dimensions; semitrailer movement and vehicle routes; dimensions of radii; and percent of slope.
7. The applicant shall maintain 10-foot vision triangle at all ingress and egresses.
8. All parking facility design shall conform to the standards in MGO Section 10.08(6).

Zoning Administrator (Contact Pat Anderson, 266-5978)

9. A temporary use permit shall be required for each event. Work with Pat Anderson in Zoning for application requirements.
10. Previous approved plans provided outdoor display without limitation on time of display (24 hours per day was allowed). Section 28.151 of the current Zoning Code limits outdoor display not to exceed 16 hours per day. Existing outdoor display areas approved under the 1999 site plan may remain without a daily time limit.

Any new outdoor display areas shall be limited to display for no more than 16 hours per day. Clearly identify pre-existing outdoor display areas (no time limit) and proposed new outdoor display areas limited to 16 hours per day on the final submitted site plan.

11. No material or items, including sheds, trailers or similar items for sale and or display, shall be placed in the parking lot outside of designated outdoor display or temporary outdoor event areas.
12. Meet all Supplemental Regulations pursuant to Section 28.151 for outdoor display, outdoor storage and temporary outdoor events.
13. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with Chapter 31 Sign Codes of the Madison General Ordinances prior to sign installations. Banners, pennants, temporary signs, portable signs etc. are not approved as a part of this project.
14. Exterior lighting provided shall be in accordance with MGO Section 10.085. Provide an exterior lighting plan and fixture cut sheets, with the final plan submittal.

Fire Department (Contact Bill Sullivan, 261-9658)

15. Develop an annual training program that requires store managers and assistant managers to review permitted storage locations and arrangements based on approved documents for both exterior and interior operations.

Water Utility (Contact Dennis Cawley, 261-9243)

16. Note: All operating private wells shall be identified and permitted and any unused private wells shall be abandoned by the Madison Water Utility in accordance with MGO Section 13.21.

Parks Division (Contact Kay Rutledge, 266-4714)

This agency did not provide comments for this request.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not provide comments for this request.