

Staff Summary Report



Hearing Officer Hearing Date: August 19, 2008

Agenda Item Number: 5

SUBJECT: This is a public hearing for a request by **BEHIND THE SCENES (PL080268)** located at 1330 West Baseline Road for one (1) use permit.

DOCUMENT NAME: 20080819dsdp02

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by **HOME DEPOT – BEHIND THE SCENES (PL080268)** (Heather Freestone, applicant; Street Eats Limited/Home Depot, property owner) located at 1330 West Baseline Road in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP08121 Use permit to allow outdoor retailing (hot dog vendor).

PREPARED BY: Derek Partridge, Planner I (480-350-8867)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

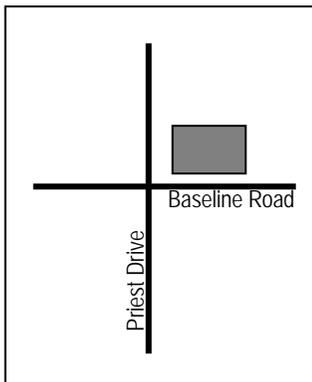
SEA

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval subject to Conditions

ADDITIONAL INFO: The applicant is requesting a use permit to allow outdoor retailing of hot dogs at the Home Depot store located at 1330 West Baseline Road in the PCC-1, Planned Commercial Center Neighborhood District. Staff recommends approval of the use permit subject to conditions. To date, no public input has been submitted for this request.



PAGES:

1. List of Attachments
2. Comments; Reasons for Approval
3. Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
- 4-5. Site plan
6. Applicant Photographs
- 7-8. Staff Photograph(s)

COMMENTS:

The applicant, Heather Seabrook with Behind the Scenes, is requesting approval of a use permit to allow outdoor retailing of hot dogs at the Home Depot store located at 1330 West Baseline Road in the PCC-1, Planned Commercial Center Neighborhood District. The request includes selling hot dogs, bratwursts, sodas, and water between the hours of 7:30 a.m. and 2:30 p.m. 7 days a week for as long as the business is successful. The vendor will have no more than 2 employees running the cart at one time and will maintain 6 feet of access in front of the cart. Home Depot and Street Eats Limited have granted permission for this location and Behind the Scenes will have access to Home Depot's restroom facilities, water supply, mop sinks and waste removal facilities. Behind the Scenes is insured, licensed and has all of the permits to conduct business at this location in Tempe. To date, no public input has been submitted for this request.

Use Permit

The Zoning and Development Code requires a use permit for outdoor retailing in the PCC-1 District.

Evaluating the use permit, the proposal meets the use permit criteria listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - The use should not create any nuisances to neighboring properties.
- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
 - The proposed development would not contribute to neighborhood deterioration or downgrade property values. This use permit request is consistent with the General Plan 2030's Land Use Element.
- d. Compatibility with surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding uses.

Conclusion

Staff recommends approval of this use permit subject to 9 conditions.

REASON(S) FOR APPROVAL:

1. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
2. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.
3. Traffic generated by this use should not be excessive.
4. The use appears to be compatible with the building, site and adjacent property.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

**CONDITION(S)
OF APPROVAL:**

1. The use permit is for Behind the Scenes/ Home Depot and may be transferable to successors with Development Services staff review.
2. Any intensification or expansion of this use shall require that a new use permit be applied for and obtained.
3. All required permits and clearances shall be obtained from the Tax and Licensing Division of the City of Tempe prior to the use permit becoming effective.
4. The proposed retail stand shall not conflict with the location of other existing vending stands authorized with valid permits.
5. A clear path for pedestrians along the sidewalk must be maintained. It shall meet the provisions of the Americans with Disabilities Act.
6. The vending area must be kept neat, clean and hazard-free during hours of operation. Vendor is responsible for the fifty (50) foot area surrounding the vending area. Vendor shall remove trash off-site.
7. Pushcarts and any other vending equipment must be removed from the property at any time when not open for sales.
8. Obtain clearance for the hot dog vending cart from the Maricopa County Health Department.
9. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
10. Outdoor retail display signage shall not exceed a total of three (3) square feet and are limited to normal hours of operation.

HISTORY & FACTS: None pertinent to this case.

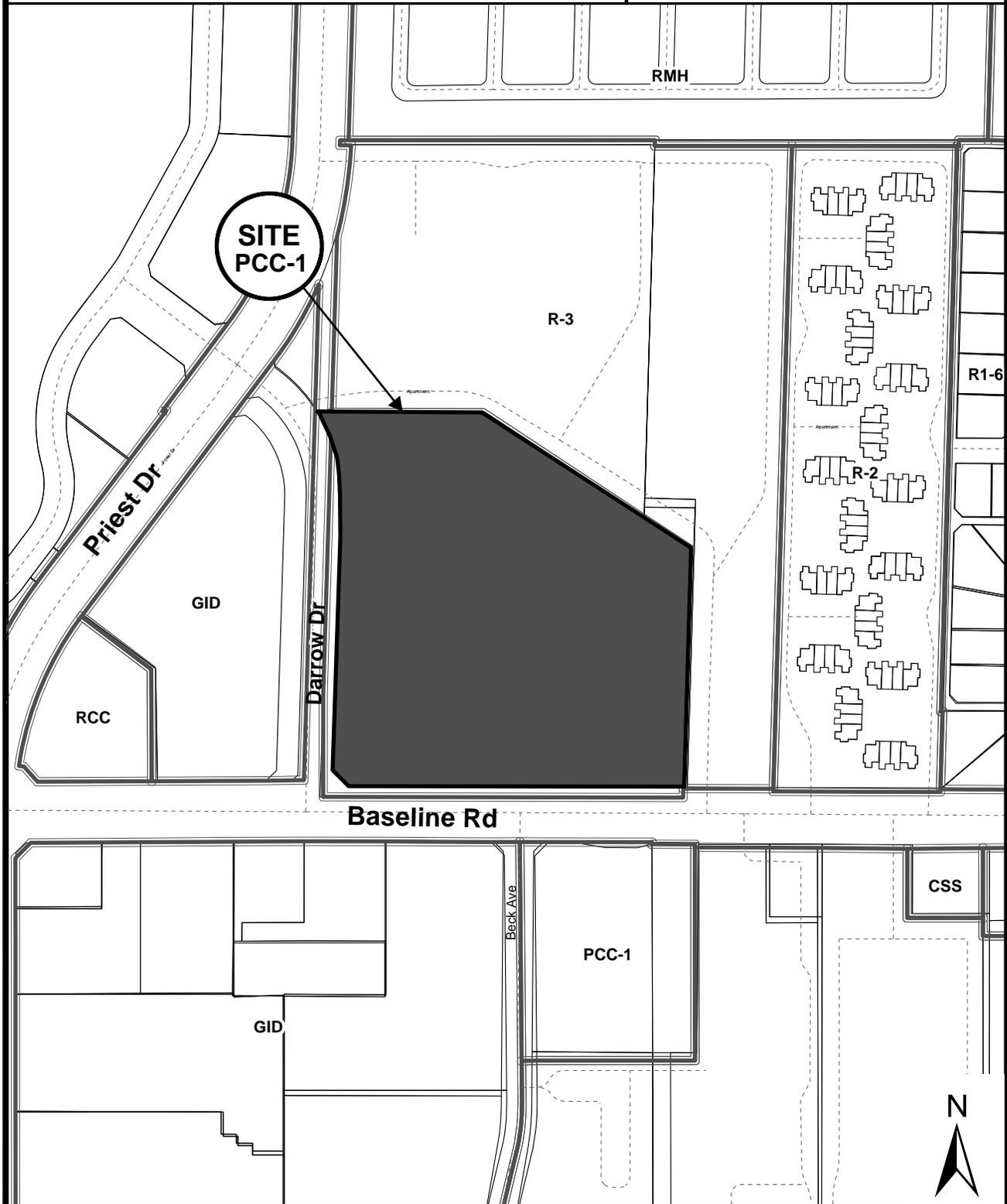
DESCRIPTION: Owner – Street Eats Limited/Home Depot
Applicant – Heather Freestone
Existing Zoning – PCC-1, Planned Commercial Center Neighborhood District

**ZONING AND
DEVELOPMENT**

CODE REFERENCE: Part 3, Chapter 2, Section 3-202A – Permitted Land Uses (R/O, CSS, CC, PCC, RCC)
Part 3, Chapter 4, Section 3-417 – Outdoor Retailing
Part 6, Chapter 3, Section 6-308 – Use Permit

**HOME DEPOT-
BEHIND THE SCENES**

PL080268



Location Map



HOME DEPOT - BEHIND THE SCENES (PL080241)

July 22, 2008

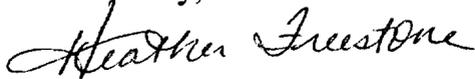
City of Tempe
31 E. Fifth St.
Tempe, AZ 85281

To Whom It May Concern:

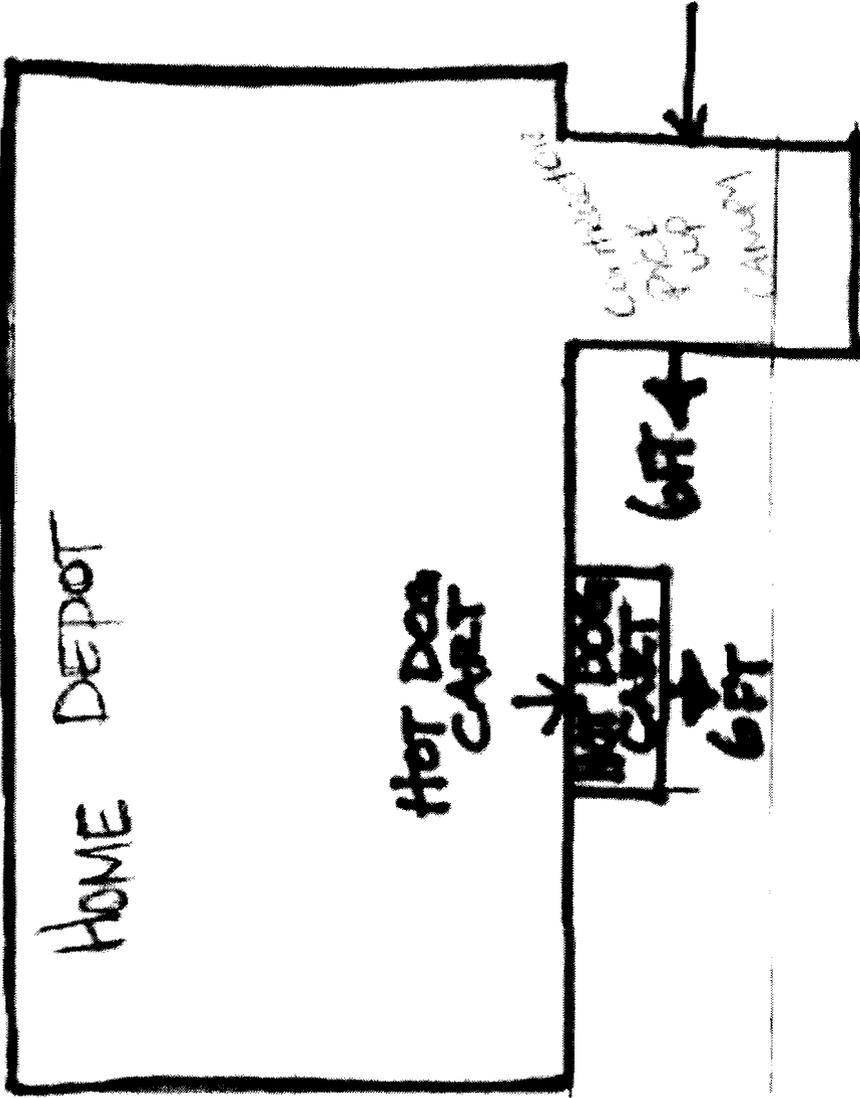
I am requesting a use permit to set up a free standing hot dog cart at the Home Depot #0489 on 1330 W Baseline in Tempe, AZ. The cart will be set up outside of the contractor pick-up area and be in operation seven days a week from 7:30a.m. to 2:30p.m. I plan on staying at this location for at least one year and longer if the business is profitable. I will have myself and one other person working these days. We will stay open later for business if the Home Depot is doing a special promotion. I will be selling Vienna beef hot dogs, polish hot dogs and bratwursts...also I will sell sodas, water and chips.

This will not affect any of the surrounding businesses or residential areas. I have the blessing of the Home Depot and Street Eats Limited/Best Vendors Management. I am insured, licensed and have all the proper permits. If you have any questions feel free to contact me at 602-524-5370 or

Sincerely,

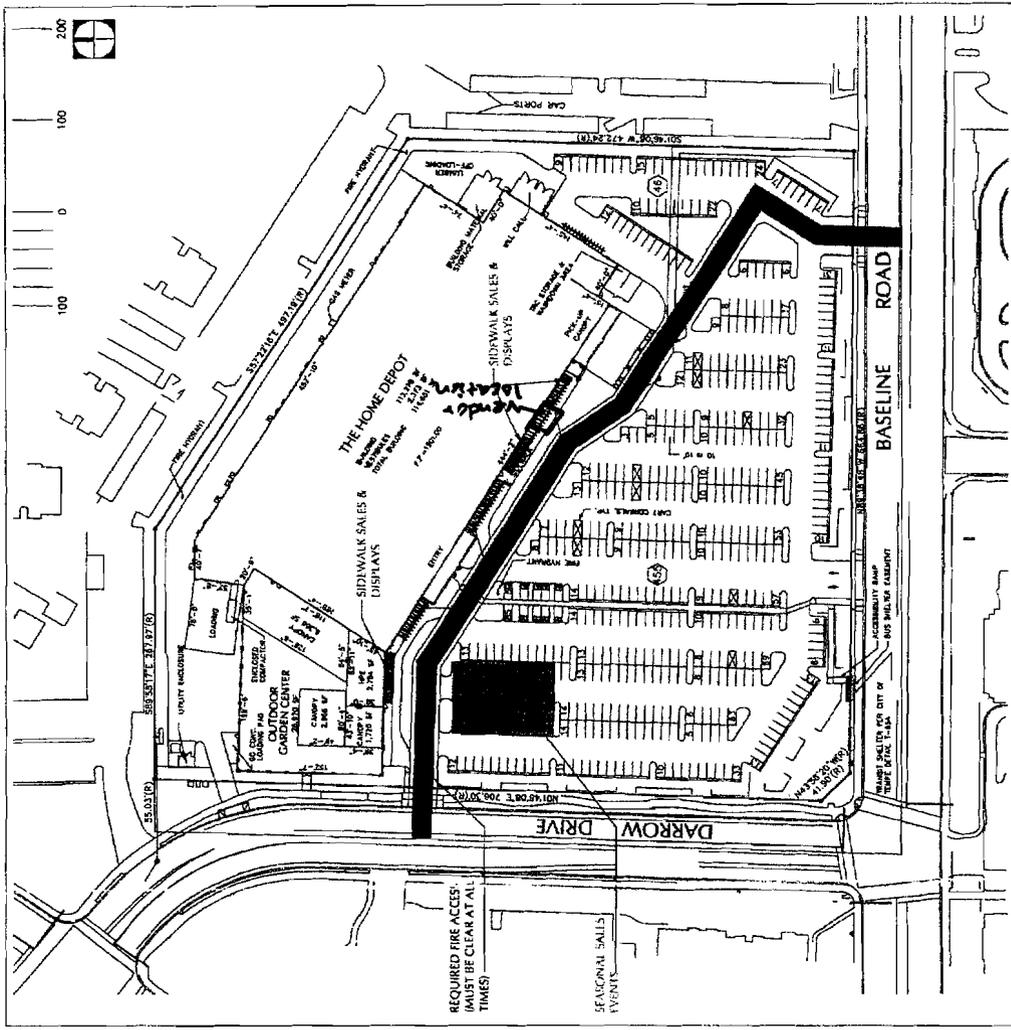


Heather Freestone
602-524-5370
Behind the Scenes
H&E Concessions, LLC
Employer Ident.#:26-2564459
LLC # L-1447585-5



* The Hot Dog Cart will have
 6 FT CLEARANCE FROM DOORWAY
 & IN FRONT OF ~~the~~ ~~sidewalk~~
 CART ON THE SIDEWALK

OPERATING RESTRICTIONS FOR THE HOME DEPOT STORE #489, TEMPE, ARIZONA



EMPLOYEE PARKING
No Restrictions

ENVIRONMENTAL
No Environmental Issues

See any other restrictions of Uniform Title as set forth in the parking lot location of the Garden Center, at shown herein.
(Approved Site Plan)

TRAFFIC & MANAGER
Traffic from the Fire Department and County is required to erect a sign having an area in excess of 200 square feet or a canopy in excess of 400 square feet.
(1997 UTC, Section 2301)

BUILDING SCREENING
Chain link fencing, razor wire, barbed wire, etc. are not permitted.
(City of Tempe DB004237, #15)

LANDSCAPE & MAINTENANCE
Home Depot must maintain all landscaping and lighting. Any plant material, lighting or other material or equipment required that does not survive, function properly or is in need of repair must be replaced within 10 days of the date of discovery.
(City of Tempe Zoning Ordinance, Section 2-104)

Landscaped areas must not be used for parking of vehicles, display of merchandise or other use detrimental to the landscaping.
(City of Tempe Zoning Ordinance, Section 2-103)

OUTDOOR EATING AREAS
A Permit from the City of Tempe is required for any type of outdoor eating area.
(City of Tempe Municipal Code, Section 2-4-6)

FOOD SERVICE AND VENDORS
A Permit from the City and Health Department is required for any type of food service or vendor.
(City of Tempe Municipal Code, Section 2-4-6 & 2-4-7)

NOISE & P.A. SYSTEMS
A Sign Permit is required from the City for all temporary signs prior to installation.
(City of Tempe Zoning Ordinance, Section 2-204)

SIGNS & BANNERS
A Sign Permit is required from the City for all temporary signs prior to installation.
(City of Tempe Zoning Ordinance, Section 2-204)

A Sign Permit is required from the City for all banners prior to installation with the following requirements:
a. A banner sign shall be limited to 2 ft by 8 ft and an area of 24 sq. ft.
b. A banner sign shall be used to reduce the visibility of the banner to follow or all.
c. The impinged copy or logo on such sign shall not exceed 70% of the banner face.
(City of Tempe Zoning Ordinance, Section 2-204)

Window signs are not permitted.
(City of Tempe Zoning Ordinance, Section 2-219)

Window signage is limited to 25% of the total window area in which it is placed.
(City of Tempe Zoning Ordinance, Section 2-216)

SALES AND DISPLAY OF HOME DEPOT TOOLS
A Sign Permit is required from the City for the sale and display of Work-Smart Tools.
(City of Tempe Municipal Code, Section 2-2)

LIGHTING & GLASS
All exterior lighting shall be directed down and screened away from adjacent properties and streets, and of a design to minimize glare.
(City of Tempe DB004237, #24)

All lighting fixtures required to illuminate the entry areas of a building shall be illuminated from dusk to dawn.
(City of Tempe DB004237, #20)

All security lighting mounted on the building and parking lot lighting shall be illuminated from dusk to dawn.
(City of Tempe DB004237, #20)

FENCE PRODUCT ON THE FACILITY
Temporary fence shall be erected around the City prior to sidewalk display.
(City of Tempe Municipal Code, Section 2-3)

Displays are permitted on the front facade of the Home Depot building as shown herein.
(Approved Site Plan)

ISSUE DATE
01/19/19

SOURCES
PRIVATE OPERATIONAL CONDITIONS
City of Tempe is required to erect a sign having an area in excess of 200 square feet or a canopy in excess of 400 square feet.
(1997 UTC, Section 2301)

CITY OPERATIONAL CONDITIONS
City Operational Conditions emanate from public agencies and are enforced by code compliance inspectors. City of Tempe Conditions of Approval DB004237, #15 and City of Tempe Municipal Code dated 2/22/03 and City of Tempe Municipal Code dated 8/03.

CITY ORDINANCES
City ordinances emanate from public agencies and are enforced by code compliance inspectors. City of Tempe Conditions of Approval DB004237, #15 and City of Tempe Municipal Code dated 2/22/03 and City of Tempe Municipal Code dated 8/03.

PREPARED BY
Michael Bennett, Consulting Fellow Architectural-Traffic (714) 239-0300

HOME DEPOT LEGAL CONTACT PHONE NUMBER
For legal questions, you may contact the Home Depot Legal Department at (714) 840-3464. If you receive a violation, please refer to 23P-05-08. If you are unsure what to do, contact Legat.

CITY CONTACT PHONE NUMBERS
Planning/Permits: 480-310-8028
Code Enforcement: 480-310-5371
Police: 480-310-2000

ZONING
FC021 Neighborhood Commercial

CONDITIONAL USES
City of Tempe Conditions of Approval DB004237, #20 & #21, dated 1/20/05
City of Tempe Conditions of Approval #205-2004, 29 dated 2/28/05.

REQUIRED PARKING
Required by City: 652 spaces
Provided: 501 spaces

REQUIRED FIRE ACCESS
Must not be less than 70 feet and must be clear at all times.
(1997 UTC, Section 2301.11)

STORE HOURS
No Restrictions

DELIVERY HOURS
No Restrictions

LOADING AREAS
No Restrictions

TRAILER AREAS
Trailer storage must be screened from view.
(City of Tempe Zoning Ordinance, Section 2-302)

OUTDOOR STORAGE AREAS
Outdoor storage is not permitted.
(City of Tempe Zoning Ordinance, Section 2-302)

TRAILER STORAGE AREA
Trailer storage must be screened from view.
(City of Tempe Zoning Ordinance, Section 2-302)

SIDEWALK SALES & DISPLAYS
A Temporary Use Permit is required from the City prior to sidewalk sales and display.
(City of Tempe Municipal Code, Section 2-2)

Signage and displays are permitted on the front facade and sidewalks of the Home Depot building as shown herein.
(Approved Site Plan)

ENVIRONMENTAL ISSUES
Temporary fence shall be erected around the City prior to sidewalk display.
(City of Tempe Municipal Code, Section 2-3)

All other required signs are set forth in 23P-05-08, as per part 20 days of duration.
(City of Tempe DB004237, #20)





HOME DEPOT – BEHIND THE SCENES

1330 WEST BASELINE ROAD

PL080268

FRONT OF BUSINESS



HOME DEPOT – BEHIND THE SCENES

1330 WEST BASELINE ROAD

PL080268

FRONT OF BUSINESS – VIEW TO NORTH