

Development Review Committee
Staff Report
August 15, 2018



Case No:	18DEVPLAN1110
Project Name:	Restaurants at Oxmoor Center
Location:	7900 Shelbyville Road
Owner(s):	WMB 2, LLC & TWB Oxmoor 2, LLC
Applicant:	GGP, Inc.
Representative(s):	Frost Brown Todd, LLC & Sabak Wilson & Lingo, Inc.
Jurisdiction:	Louisville Metro
Council District:	18 – Marilyn Parker
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Revised Detailed District Development Plan**

CASE SUMMARY

A revised detailed district development plan for three restaurants at the Oxmoor Center shopping facility in the area of the former Sears Department store is being requested. Two of the three restaurants will be remodeled from the existing concourse of the mall and the third will be freestanding. A pedestrian plaza will integrate the uses. While this application is requesting the review of only the restaurant components, it is dependent, at this time, on final action in case no. 18ZONE1014 (Top Golf) and construction. A binding element reflecting this dependency has been included. Parking facilities and all improvements beyond the “area of revision” as shown on the proposed plan are being considered with the rezoning for Top Golf.

STAFF FINDING

The revised detailed district development plan appears to be adequately justified based on the staff analysis contained in the standard of review. The development site is located within an existing activity center in the Regional Center form district.

TECHNICAL REVIEW

- Preliminary development plan approval has been received by MSD and Transportation Planning.
- A cross access easement (DB 5424, PG 659; as amended DB 6146, PG 285; as amended DB 8501, PG 595) is in place to ensure that all parking and pedestrian facilities as shown on associated development plans serves all users and tenants of the Oxmoor Center shopping facility.
- Binding element #10 has been addressed during the review of case no. 18ZONE1014. Transportation Planning review staff (DPW) has reviewed the traffic impact study submitted on July 18, 2018 and finds the content covered to be acceptable. No recommendations for roadway improvements were made as a result. Air Pollution Control District staff reviewed the preliminary plan and requested the following note to be added to the proposed plan: *Mitigation measures for*

dust control shall be in place during construction to prevent fugitive particulate emissions from reaching existing roads and neighboring properties.

- A variance for encroachment into the protected waterway buffer is not required due to the fact that the remodel is taking place in the footprint of the existing mall and LDC, section 4.8.2 provides that an “expansion of the building footprint of a non-residential building existing on March 1, 2003 when the expansion is less than 10% of the building footprint on that date” is exempt from the buffer requirements.

INTERESTED PARTY COMMENTS

Staff has not received any objections specific to the development of restaurants at the Oxmoor Center.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: The proposal does not appear to have a significant impact on natural resource conservation as the existing footprint of the mall is being maintained in the areas of the development over the protected waterway. Other improvements are in keeping with existing impervious conditions.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as the subject site will be integrated into a system of pedestrian and vehicle connectivity as demonstrated on an associated development plan in case no. 18ZONE1014. Connectivity internally through concourses of the shopping center is also provided.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Sufficient open space is provided in the form of a pedestrian plaza and outdoor dining.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are compatible with the existing and future development of the area as the proposal will redevelop an existing regional shopping center

containing a wide variety of uses. It is also located along a commercial corridor and major arterial road with immediate access to Interstate-264.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan as the development is located within an existing activity center in the Regional Center form district. The Regional Center form district typically contains a mixture of high intensity uses including regional shopping, office, services, entertainment facilities and medium to high-density residential uses. Such Regional Centers may include a variety of stores under one roof, or may consist of freestanding structures. The amount of floor space in regional centers usually exceeds 400,000 square feet, reflecting a market area designed to serve a population of at least 100,000. Redevelopment and infill development are encouraged.

REQUIRED ACTION(S)

- **APPROVE or DENY the Revised Detailed District Development Plan** subject to proposed binding elements

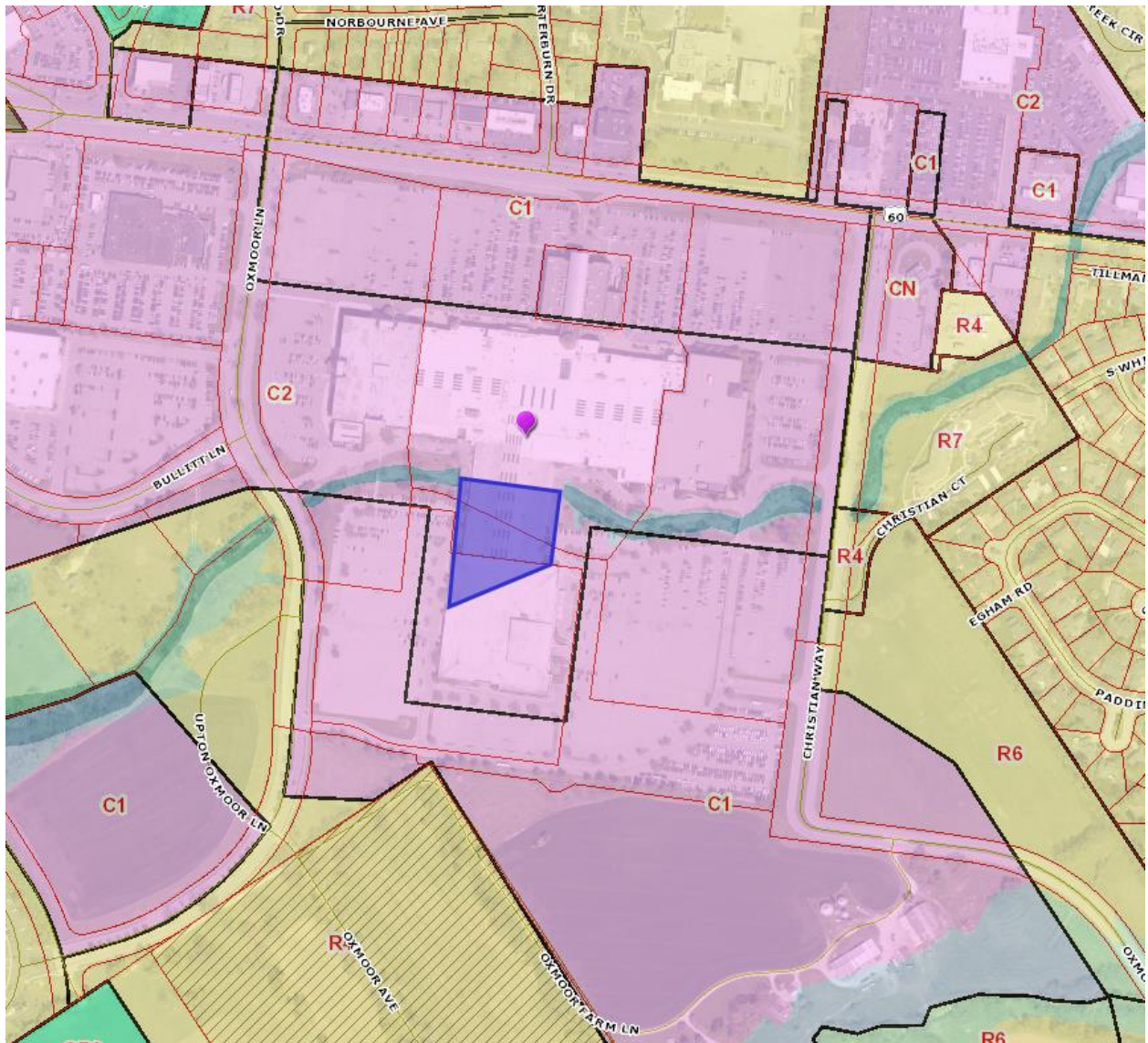
NOTIFICATION

Date	Purpose of Notice	Recipients
08/03/18	Hearing before DRC	1 st and 2 nd tier adjoining property owners Interested parties in attendance at the neighborhood meeting (case no. 18ZONE1014) Registered Neighborhood Groups in Council District 18

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Development Case History (Oxmoor Center)
4. Existing Binding Elements (9-50-80/9-49-83)
5. Proposed Binding Elements (Development site only – 18DEVPLAN1110)

1. **Zoning Map**



2. Aerial Photograph



3. **Development Case History**

- B-69-69: A parking variance to reduce parking from 3,301 to 2,939 spaces.
- B-20-76: Conditional use permit for off-street parking (note: area currently zoned C-1).
- 9-50-80: Change in zoning from R-4 to C-1 & C-2 and C-1 to C-2 for rear additions, including Sears department store (approved 11/20/1980).
- 9-49-83: Change in zoning from C-1 to C-2 to expand the perimeter of the previously approved C-2 zoning by 2.9 acres (approved 8/18/83). Binding elements carried forward from 9-50-80.
- B-7-92: attached signage variance.
- B-197-98: attached signage variance.
- B-149-00: Conditional use permit for off-street parking. This request was approved in an area to the south of the current development site. It was approved on condition that it would not be used unless an associated parking waiver was denied. It expired 1-year later.
- PW-10-00: A parking waiver & RDDDP (9-49-83 only) to reduce the required parking from 6,035 to 4,407 spaces (approved 9/7/00).
- PW-10-00/9-50-80/9-49-83: RDDDP & parking waiver to reduce parking from 4,605 to 4,330 (approved 7/21/05).

4. Existing Binding Elements (9-50-80/9-49-83)

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes, additions or alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Total building area for Oxmoor Center shall not exceed 1,171,072 square feet of gross floor area; gross leasable space shall not exceed 959,751 square feet. Additional gross building area and/or gross leasable space may be permitted if a revised district development plan is approved together with either (i) additional parking provided pursuant to LDC Article 9, or (ii) approval of an appropriate parking waiver, both of which require filing a revised development plan.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Outdoor storage is not permitted on site except as permitted by LDC Sec. 4.4.8 and as designated on an approved revised development plan.
5. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the Department of Inspections, Permits and Licenses and Transportation and the Metropolitan Sewer District
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. Crossover and parking agreements shall be obtained. A copy of the recorded instrument(s) shall be submitted to the Department of Planning and Design Services. Annual re-certification is required.
6. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees,

contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

9. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
10. The Planning Commission shall require a full traffic and air quality analysis, including an arterial analysis for Shelbyville Road, before considering any additional development of the general area known as Oxmoor Center/the Bullitt Farm. This binding element shall apply to any commercial, retail, residential or office development. The aforementioned analysis shall include expected traffic from all approved developments within the impact area, as defined by the Department of Public Works. It shall also include any proposed roadway improvements expected to be completed before completion of the proposed development. The goal of the traffic analysis is to recommend appropriate mitigation measures to accommodate expected traffic from the proposed development. Mitigation measures for traffic and air quality shall include, but not limited to, recommended signal timing adjustments along Shelbyville Road and construction of Bunsen/Bowling Parkway, in part or whole. The Developer should also furnish additional mitigation recommendations, as required, at impacted intersections.
11. No parking of vehicles in the Star Ford inventory shall take place at the parking areas subject to the Parking Waiver, unless a joint parking agreement is approved by the Planning Commission. The applicant of PW-10-00 shall provide Star Ford with the above conditions of approval and binding elements.

5. Proposed Binding Elements (Development Site only – 18DEVPLAN1110)

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes, additions or alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
- ~~2. Total building area for Oxmoor Center shall not exceed 1,171,072 square feet of gross floor area; gross leasable space shall not exceed 959,751 square feet. Additional gross building area and/or gross leasable space may be permitted if a revised district development plan is approved together with either (i) additional parking provided pursuant to LDC Article 9, or (ii) approval of an appropriate parking waiver, both of which require filing a revised development plan.~~
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
- ~~4. Outdoor storage is not permitted on site except as permitted by LDC Sec. 4.4.8 and as designated on an approved revised development plan.~~
3. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - ~~a. The development plan must receive full construction approval from the Department of Inspections, Permits and Licenses and Transportation and the Metropolitan Sewer District.~~
 - ~~b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
 - ~~c. Crossover and parking agreements shall be obtained. A copy of the recorded instrument(s) shall be submitted to the Department of Planning and Design Services. Annual re-certification is required.~~
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- ~~6. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
6. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
7. The Planning Commission shall require a full traffic and air quality analysis, including an arterial analysis for Shelbyville Road, before considering any additional development of the general area known as Oxmoor Center/the Bullitt Farm. This binding element shall apply to any commercial, retail, residential or office development. The aforementioned analysis shall include expected traffic from all approved developments within the impact area, as defined by the Department of Public Works. It shall also include any proposed roadway improvements expected to be completed before completion of the proposed development. The goal of the traffic analysis is to recommend appropriate mitigation measures to accommodate expected traffic from the proposed development. Mitigation measures for traffic and air quality shall include, but not limited to, recommended signal timing adjustments along Shelbyville Road and construction of Bunsen/Bowling Parkway, in part or whole. The Developer should also furnish additional mitigation recommendations, as required, at impacted intersections.
8. ~~No parking of vehicles in the Star Ford inventory shall take place at the parking areas subject to the Parking Waiver, unless a joint parking agreement is approved by the Planning Commission. The applicant of PW-10-00 shall provide Star Ford with the above conditions of approval and binding elements.~~
9. **The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 15, 2018 meeting of the Development Review Committee.**
10. **Renderings of the proposed freestanding restaurant shall be submitted for review and approval by Planning Commission staff prior to issuance of certificate of occupancy for freestanding restaurant only.**
11. **If a building permit for the proposed TopGolf facility (case no. 18ZONE1014) is not issued within 1-year of the date of approval of this approved development plan, any construction activity on the development site shall cease until a revised development plan is approved. In the event that no construction has begun, an extension of expiration may be granted in accordance with Land Development Code, section 1.1.9.**