

**Planning Commission**  
**Staff Report**  
October 1, 2018



<b>Case No:</b>	18ZONE1014
<b>Project Name:</b>	TopGolf at Oxmoor Center
<b>Location:</b>	7900 Shelbyville Road
<b>Owner(s):</b>	WMB 2, LLC & TWB Oxmoor 2, LLC
<b>Applicant:</b>	TopGolf USA Louisville, LLC
<b>Representative(s):</b>	Dinsmore & Shohl, LLP – Clifford Ashburner
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	18 – Marilyn Parker
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

**REQUESTS**

- **Change-in-Zoning** from C-1 to C-2, Commercial
- **Conditional Use Permit** for Golf Driving Range (LDC 4.2.58)
- **Variances**
  1. **Variance** from Land Development Code (LDC), section 5.3.3.C.2.a to allow the primary structure to exceed the maximum street side yard setback of 275' along Christian Way and Oxmoor Lane as shown on the revised detailed district development plan
  2. **Variance** from LDC, section 5.3.3.C.2.d to exceed the maximum permitted height of 150' to allow a pole height of 175' for driving range netting
  3. **Variance** from LDC, section 4.8.3 to allow for parking facility encroachments into the 100' protected waterway buffer as shown on the revised detailed district development plan
- **Waiver** of LDC, section 10.2.10 to allow for parking facility encroachments into the required 15' Vehicle Use Area Landscape Buffer Area (VUA LBA) as shown on the revised detailed district development plan
- The Planning Commission shall consider for approval or denial the Lighting Report and installation of outdoor lighting in excess of 1,800 lumens located at a height greater than 30'
- **Revised Detailed District Development Plan** for golf driving range and entertainment center

**CASE SUMMARY**

A change in zoning from C-1 to C-2, Commercial and conditional use permit to allow for a 3-story or 53' tall, 62,103 sq. ft. entertainment center and golf driving range at the Oxmoor Center shopping facility is being requested. The Oxmoor Center is located in the Regional Center form district along Shelbyville Road, a major arterial roadway with direct access to interstate-264. The site of redevelopment is located south of Beargrass Creek in the area of the former Sears department store between Oxmoor Lane and Christian Way. The primary structure will be oriented to face Oxmoor Lane and integrate with a recently approved restaurant development. The driving range bays will face Christian Way. Parking facilities will be improved to include interior landscape areas and pedestrian connections from proposed public sidewalks, along with a vehicular and pedestrian concourse from Oxmoor Lane to the primary entrance. Drive lanes along the periphery of the development site will be reconfigured to provide continued internal access from Oxmoor Lane to Christian Way.

Due to the voluntary removal of existing parking infrastructure and the scope of proposed improvements, a variance to allow encroachments into the protected waterway buffer and waiver to allow for encroachments into perimeter landscape buffers are needed. The extent of impervious

surfaces shown on the revised detailed district development appears to remain unchanged from current conditions. Poles supporting the golf driving range netting are subject to the maximum building height required for structures; thus, a height variance of 25' is being requested. The *Technical Review* of this report will provide a discussion on the lighting requirements and the action necessary of the Planning Commission per Land Development Code, section 4.1.3.

### **STAFF FINDING**

The proposed C-2, Commercial zoning district, conditional use permit for golf driving range, and revised detailed district development plan conform to the Comprehensive Plan for reasons explicitly detailed in staff's analysis for change in zoning, conditional use permit, and revised detailed district development plan, as well as the Cornerstone 2020 Staff Analysis. The proposed zoning district builds upon an existing regional shopping center within a Regional Center form district. A Regional Center form district is designed to reflect a market area serving a population of at least 100,000. The proposed district is consistent with the high intensity of uses found within the form of the redevelopment site and elsewhere in Louisville Metro. The proposal incorporates a regional attraction and destination point along an arterial roadway with direct access to an interstate. It provides a high level of pedestrian, vehicular, and transit connectivity. Lighting, traffic, noise, parking, and odors appear to be appropriately mitigated and conformance with the Comprehensive Plan has been demonstrated. Building materials increase the new development's compatibility and maintain consistency with materials found on current retail and entertainment development in the general vicinity and throughout Louisville Metro. The requested variances and waiver appear to have been adequately justified and meet the standard of review.

### **TECHNICAL REVIEW**

- Preliminary development plan approval has been received by MSD and Transportation Planning.
- **Parking:** Multiple parking waivers have been requested across the Oxmoor Center site (see *Attachment 3* for case history). The last reduction approved July 21, 2005 was from 4,605 to 4,330 spaces. The current minimum parking requirement is 3,388 parking spaces. 3,762 parking spaces are provided; therefore, no parking waiver is required and the previously approved parking waivers are no longer applicable.
- **Traffic and Air Quality:** With respect to existing binding element #10, 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. The Traffic Impact Study submitted with this application concluded, "There will be a manageable impact to the existing highway network, with Levels of Service remaining within acceptable limits. The delays experienced in the area will increase within acceptable limits, thus no improvement to the roadway system are recommended." Air Pollution Control District staff reviewed the preliminary plan and the following note was added to the revised detailed district development plan:

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

Binding element #10 is provided in full below:

*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.

- **Noise:** A sound study was provided as part of this application and can be found in the Public Hearing materials titled, "Sound Level Assessment for the proposed Topgolf at Oxmoor Center." The findings in this report concluded, "There would be no appreciable change in the sound level of existing noise environments from the implementation of the proposed project." The results of the sound level assessment indicated that during the hours of 11 PM to 1 AM a "barely perceptible" change in sound from ambient levels can be heard at the exterior of the nearest residential properties as a result of the proposal.
- **Lighting:** Land Development Code, section 4.1.3 regulates outdoor lighting, including lighting for parking lots, business signs, drive-through facilities and canopies, and recreational facilities. A golf driving range is a recreational use and provides outdoor lighting. Significant matters of compliance with this section are summarized below:
  - Part B.2.a requires lighting to be aimed, directed, or focused away from sensitive uses and that glare should not be created for those operating an automobile on public streets.
  - Part B.2.b.i provides that light fixtures emitting more than 1,800 lumens shall be mounted at a height less than 30', unless approval is received from the Planning Commission.
  - Part B.2.c requires all fixtures emitting greater than 3,500 lumens be fully shielded.
  - Part B.6.a.i states that fixtures for recreational facilities within 500 feet of any residential use shall be fully shielded or provide sharp cut-off capability.
  - Part B.6.a.ii provides that the illumination of any facility within 500 feet of a residential use shall conclude at 11 PM.
  - Part B.6.b requires the submittal of a lighting plan. The lighting plan requires approval by the Planning Commission and conditions may be imposed on the lighting plan as a result of any such approval.
  - Part B.11 provides that light trespass should be minimized when abutting residential zoning districts or uses.

The applicant has provided the following information regarding the lighting:

- The proposed outfield of the golf driving range will be illuminated by a fixture that emits 58,000 lumens. Details on the proposed fixture are provided in the Public Hearing

materials titled, "Light Fixture Technical Guide." The proposed lighting fixture will be used for the purpose of lighting the outfield of the driving range.

- The fixtures will be installed under the ceiling of the golf driving range bays at a height of 28' and 40'.
- A lighting plan was provided as part of this application and can be found in the Public Hearing materials titled, "Lighting Report: Analysis of Existing Lighting versus Proposed Lighting." The Lighting Report states on page 4, "The fixtures used in the Topgolf area are specialty LED fixtures designed for the purpose used – to light the field. The fixtures have tightly controlled optical patterns that are designed specially to light the field with a high degree of accuracy and virtually no light trespass beyond the field perimeter. After analysis of the model and calculations, it is evident that these fixtures are capable of producing the lighting necessary on the field, while maintaining a high degree of cutoff. They have built in glare control utilizing TIR (Total Internal Reflection) lens technology which allows precise lighting projection. It further summarizes, "The new system results in virtually zero FC [foot-candle] past the property boundaries and the FC at any residential area is absolutely zero for illuminance generated by the newly designed subject property."

Using the revised detailed district development plan and the intersection of the northernmost outfield pole and the side netting, it does not appear that any residential uses are present within 500' of the outfield of the golf driving range. There are two residential districts present on the east side of Christian way; one containing an access drive and the other is a recreational use. It is evident from the information provided that the proposed light fixtures are aimed and focused on the outfield of the golf driving range and light trespass is minimized. Evidence within the Lighting Report also indicates that glare from these fixtures beyond the field perimeter can be minimized. No waivers have been requested of Chapter 4.1.3 and any action of the Planning Commission absent a waiver of these guidelines does not require public notice and there is no associated standard of review. Based on the provided information and testimony at the Public Hearing, the Planning Commission must decide to approve or deny the height of the proposed field lighting and the lighting plan.

- **Hurstbourne Transportation Study and Small Area Plan:** A transportation study and small area plan was undertaken in consultation with Gresham, Smith & Partners from 2004 to 2006. The plan was not fully adopted by the legislative body; thus, it is not a guiding document under Cornerstone 2020. The adoption status was confirmed with Advanced Planning staff.

### **INTERESTED PARTY COMMENTS**

Staff has received documentation of both opposition and support for the proposed project in various formats. A petition in opposition to the request was received on May 14, 2018. A second petition in opposition was received on August 9, 2018. The City of Hurstbourne resolved to not support the project and Senator Julie Raque Adams has also provided a letter in opposition. Greater Louisville Inc. has provided a letter in support of the project. Communications have been made available online throughout the process and prior to the Public Hearing. A comprehensive record of all interested party communication is contained in the case file on record in the offices of the Louisville Metro Planning Commission. This record was made available to the Planning Commission prior to the Public Hearing.

## **STANDARD OF REVIEW FOR REZONING**

Criteria for granting the proposed form district change/rezoning: *KRS Chapter 100.213*

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

## **STAFF ANALYSIS FOR CHANGE IN ZONING**

The Following is a summary of staff's analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020:

The site is located in the Regional Center Form District

Regional Center is a development form that 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.

Integration of civic uses such as branch libraries, community centers or government offices is encouraged, and can strengthen the identity and success of the center. Regional Centers are most appropriately located on or near major arterials, state or interstate highways. Development in Regional Centers should be compact and provide for site accessibility through all means of transportation. A high level of transit access is desirable and regional centers should serve as focal points for transit from homes and workplaces. Connectivity and the capacity to handle traffic should be addressed through unified access and circulation. The site plan should encourage pedestrian activity within the Regional Center with human-scale design and by providing pedestrian amenities and pedestrian connectivity among buildings.

Landscaping, building design and unified signs in the Regional Center give character to the development, defines and reinforces identity and provides a human scale. A center may include several internal focal points. Several uses sharing a building may have separate entrances and the design of the building facades may mimic a traditional marketplace corridor or "main street." Parking in Regional Centers is provided on a shared basis to avoid excessive impervious areas, and the center is designed to encourage customers to visit several establishments without moving their vehicles.

Regional Center site design should provide screening of the parking lot and outbuildings as the site is viewed from the arterial roadway. The rear or loading area of buildings should be well screened from arterials, freeways and adjacent residential areas. Human safety or "crime prevention through environmental design" should be a factor in the design of regional centers.

The proposed zoning district builds upon an existing regional shopping center and does not entail the expansion of the current form district. The proposal is of a moderate to high intensity consistent with the

high intensity uses found in a Regional Center Form District as the C-2 zoning district allows for a wide range of regional goods and services that are not available in lower intensity zoning districts. The intensity of the proposed district is consistent with the zoning classifications found in Regional Center form districts along Outer Loop (Jefferson Mall) and the interchange of Interstate-265 and Brownsboro Road (Paddock Shops and Old Brownsboro Crossing). The proposal contributes to the identity of the regional center as a focal point for transit from homes and workplaces as the proposed C-2 zoning district allows by way of conditional use permit for the incorporation of a regional attraction and destination point for entertainment in the area of a former anchor department store.

The proposal provides for the efficient movement of pedestrians, vehicles, transit, and bicycles through and around the site and is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities. It also maintains a high level of transit access and connectivity. The proposed C-2 zoning district is located at the interchange of a major arterial and a limited access highway and allows for the provision of goods, services, and entertainment to serve a population of at least 100,000 as called for in the Regional Center form district. The subject property is served by high frequency TARC route #19 and continued internal access from Christian way to Oxmoor Lane is retained. Sidewalks along the public road frontage and connection from these sidewalks to primary building entrances and pedestrian gathering places are provided. The Traffic Impact Study concluded that there will be manageable traffic impact and no recommendations for further improvements to the existing vehicular network serving the site were made. ADA and bicycle parking spaces are provided immediately adjacent to pedestrian gathering spaces and primary building entrances. The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking. Oxmoor Center is subject to a recorded Crossover Access agreement as indicated by note #28 of the revised detailed district development plan. The proposal includes adequate parking spaces to support the use as 374 parking spaces above the minimum have been provided.

The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky as the proposed user is a recreational use and lighting is provided and necessary to light the outfield of the golf driving range in the evening. The applicant has provided evidence that demonstrates that the proposed lighting fixtures intended to light the outfield of the recreational use are aimed and focused on the outfield of the golf driving range and light trespass and glare beyond the field perimeter will be highly controlled. It has also been stated that the lighting fixtures will be installed within the golf driving range bays, not atop a roof, and these fixtures provide a high degree of cutoff; thus, limiting the impact on the night sky. Lighting within the parking lot is fully shielded. The lighting report concludes that virtually no light trespass will occur past property lines.

Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards and the proposed building materials increase the new development's compatibility. The proposed building materials are consistent with materials found on current retail and entertainment development in the general vicinity and throughout Louisville Metro. The design of the entertainment facility integrates itself with a recently approved development at the Center. The structure is being centrally located in the area of a former anchor department store and the subject property contains frontage on two public roadways. Distance from each roadway is being provided to accommodate parking and the outfield of the golf driving range. Although the height of the proposed poles supporting the netting exceeds form district standards by 25', the height requested appears to be necessary for public safety.

The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems as the extent of project improvements is consistent with the current extent and improvements do not appear to negatively impact the protected waterway that runs through

and under the Oxmoor Center. The proposal's drainage plans have been approved by MSD. The redevelopment area will maintain current VUA LBAs and all planting material and screening required will be provided. Trees will be provided as required within ILAs and minimum standards for tree canopy compliance will be met.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT**

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with the Comprehensive Plan as the proposed building materials are consistent with materials found on current retail and entertainment development in the general vicinity and throughout Louisville Metro and setbacks, lot dimensions and building heights have demonstrated compatibility with the form district and surrounding area. The proposal contributes to the identity of the regional center as a focal point for transit from homes and workplaces. Additionally, a Regional Center form district is intended to serve a market area for a population of at least 100,000 and the proposed use provides a regional attraction and destination point. Redevelopment and infill development are also encouraged within the form district. The design of the entertainment facility integrates itself with a recently approved development at the Center. The structure is being centrally located in the area of a former anchor department store and the subject property contains frontage on two public roadways. Distance from each roadway is being provided to accommodate parking and the outfield of the golf driving range. Although the height of the proposed poles supporting the netting exceeds form district standards by 25', the height requested appears to be necessary for public safety.

The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky as the proposed user is a recreational use and lighting is provided and necessary to light the outfield of the golf driving range in the evening. The applicant has provided evidence that demonstrates that the proposed lighting fixtures intended to light the outfield of the recreational use are aimed and focused on the outfield of the golf driving range and light trespass and glare beyond the field perimeter will be highly controlled. It has also been stated that the lighting fixtures will be installed within the golf driving range bays, not atop a roof, and these fixtures provide a high degree of cutoff; thus, limiting adverse impacts on the night sky

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The proposal is compatible with surrounding uses and the general character of the form district as the design of the entertainment facility integrates itself with a recently approved development at the Center. The structure is being centrally located in the area of a former anchor department store and the subject property contains frontage on two public roadways. Distance from each roadway is being provided to accommodate parking and the outfield of the golf driving range. Although the height of the proposed poles supporting the netting exceeds form district standards by 25', the height requested appears to be necessary for public safety. The Traffic Impact Study provided as part of this application concluded that impacts are manageable and made no recommendations for roadway improvements.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: Necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use will be provided.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

Golf Driving Ranges and Miniature Golf Courses may be allowed in the C-2, C-M, M-1, M-2, M-3, and EZ-1 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

A. All buildings and structures shall be at least 30 feet from any property line.

B. Protection of Adjacent Properties - Fences, plantings, or sufficient area shall be provided to insure the safety and protection of persons on all adjacent land. Any netting used for the protection of adjacent properties shall observe yard and height requirements of the district in which it is located.

C. Signs - Except in districts where signs are allowed, one non-flashing sign, not to exceed 60 square feet in area and not to exceed 10 feet in height, may be provided at the major entrance.

D. Driving Directions - All golf ball driving directions shall be away from any street, highway or residential area.

STAFF: The requested conditional use permit meets the intent of each part as all buildings and structures are 30' from the abutting right-of-way of the redevelopment area, netting has been provided to insure the safety and protection of persons within the subject area and adjacent property, signage will be compliant with Chapter 8 of the Land development Code, and while the orientation of the range faces a public street and residential area within the general vicinity, the site maintains frontage on two public roadways and sufficient distance away from these streets and all residential areas has been provided as the golf driving range is centrally located in the area of a former anchor department store. Distance from each roadway is being provided to accommodate parking and the outfield of the golf driving range.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (1)**

Variance to exceed the maximum setback of 275' along Christian Way and Oxmoor Lane

(a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the location of the primary structure is centrally located in the area of a former anchor department store and the site maintains frontage on two public roadways. The setback will not impact the safe movement of pedestrians or motorists and enables the continued movement of vehicles and transit from Oxmoor Lane to Christian Way.

(b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the primary structure is located in the area of a former anchor department store and maintains a similar setback to public roadways.



- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as sight lines for the movement of pedestrians and motorists are not impacted and the proposal calls for the redevelopment of a regional shopping center.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the location of the primary structure allows for proper vehicular circulation and spacing between public streets and residential uses within the general vicinity.

**ADDITIONAL CONSIDERATIONS:**

1. The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the subject site contains frontage on two public roadways and is a large development within the center.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the location of the primary structure is consistent with the current location of a former anchor department store and pedestrian, transit, and vehicular accommodations have been made to appropriately design the subject site and integrate into the existing center.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (2)**

Variance to exceed the maximum height of 150' to allow a pole height of 175' for driving range netting

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the height requested for the poles supporting the golf driving netting is necessary to ensure the public health, safety, and welfare of persons visiting the Oxmoor Center and passers-by on nearby roadways.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the requested variance is to exceed a maximum height of 150' and be 175'; a variance of 25'. While the netting slightly exceeds the maximum allowable height, it does not contain a mass or

bulk associated with a building of a similar height. Further, all other building materials associated with the proposed use are consistent with the development of the Oxmoor Center and design of recent development in the general vicinity or Regional Centers found elsewhere in Louisville Metro.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the netting supported by the poles are intended to prevent hazards and nuisances associated with the flight of golf balls.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the pole height appears to be necessary to ensure public safety and welfare, as well as preventing hazards and nuisances associated with flight of golf balls.

#### ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the facility requires netting to ensure public safety.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the height of poles are necessary to support netting that provides public safety and minimizes hazards associated with the flight of golf balls.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (3)**

Variance to allow for parking facility encroachments into the 100' protected waterway buffer

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as existing conditions present a similar encroachment and no greater encroachment into the area appears to be made.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the protected waterway currently flows through and under the Oxmoor Center.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as existing conditions present a similar encroachment and no greater encroachment into the area appears to be made.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as existing conditions present a similar encroachment and no greater encroachment into the area appears to be made.

#### ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the protected waterway currently flows through and under the Oxmoor Center.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the protected waterway currently flows through and under the Oxmoor Center and existing conditions present a similar encroachment and no greater encroachment into the area appears to be made.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER**

Waiver to allow for parking encroachments into the required 15' VUA LBA

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as existing conditions present a similar encroachment and no greater encroachment into the area appears to be made. All planting material and screening as required by Chapter 10 of the Land Development Code will be provided.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The existing conditions present a similar encroachment and no greater encroachment into the area appears to be made. All planting material and screening as required by Chapter 10 of the Land Development Code will be provided to ensure appropriate landscape design and protect the character of roadway corridors.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as existing conditions present a similar encroachment and no greater encroachment into the area appears to be made. All planting material and screening as required by Chapter 10 of the Land Development Code will be provided.

- (d) Either:  
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as existing conditions present a similar encroachment and no greater encroachment into the area appears to be made. All planting material and screening as required by Chapter 10 of the Land Development Code will be provided.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR DETAILED DISTRICT DEVELOPMENT PLAN**

- 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 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 will be provided. The extent of project improvements is consistent with the current extent and improvements do not appear to negatively impact the protected waterway that runs through and under the Oxmoor Center. The proposal's drainage plans have been approved by MSD. The redevelopment area will maintain current VUA LBAs and all planting material and screening required will be provided. Trees will be provided as required within ILAs and minimum standards for tree canopy compliance will be met.

- 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 are provided as the subject property is served by high frequency TARC route #19 and continued internal access from Christian way to Oxmoor

Lane is retained. Sidewalks along the public road frontage and connection from these sidewalks to primary building entrances and pedestrian gathering places are provided. The Traffic Impact Study concluded that there will be a manageable traffic impact and no recommendations for further improvements to the existing vehicular network serving the site were made. ADA and bicycle parking spaces are provided immediately adjacent to pedestrian gathering spaces and primary building entrances. The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking. Oxmoor Center is subject to a recorded Crossover Access agreement as indicated by note #28 of the revised detailed district development plan.

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

STAFF: The proposal provides open space that helps meet the needs of the proposed development and community as interior planting areas are provided and the project site integrates into a pedestrian plaza recently approved for the Oxmoor center. The project site is located in an area currently occupied by impervious surfaces.

- 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 provisions 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: Setbacks, lot dimensions and building heights are compatible with the existing and projected future development of the area as the proposed building materials increase the new development's compatibility. The proposed building materials are consistent with materials found on current retail and entertainment development in the general vicinity and throughout Louisville Metro. The design of the entertainment facility integrates itself with a recently approved development at the Center. The structure is being centrally located in the area of a former anchor department store and the subject property contains frontage on two public roadways. Distance from each roadway is being provided to accommodate parking and the outfield of the golf driving range. Although the height of the proposed poles supporting the netting exceeds form district standards by 25', the height requested appears to be necessary for public safety. All planting material, screening, and tree canopy as required by Chapter 10 of the Land Development Code will be provided

- 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 proposed development plan conforms to the Comprehensive Plan and all relief requested from the Land Development Code appears to be adequately justified. Conformance to the comprehensive plan has been thoroughly detailed in the *Cornerstone 2020 Staff Analysis* found in *Attachment 3* of this report. The proposal contributes to the identity of the regional center as a focal point for transit from homes and workplaces and provides for the incorporation

of a regional attraction and destination point for entertainment in the area of a former anchor department store. The proposal builds upon an existing regional shopping center within the current extent of the Regional Center Form District. The proposal provides for the efficient movement of pedestrians, vehicles, transit, and bicycles through and around the site and is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities. It also maintains a high level of transit access and connectivity. Adequate parking to support the use has been provided. The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky as the proposed user is a recreational use and lighting is provided and necessary to light the outfield of the golf driving range in the evening. The applicant has provided evidence that demonstrates compliance with the Comprehensive Plan. The redevelopment of the subject property allows for the continued and viable provisions of goods, service, and entertainment to a market population of greater than 100,000 as called for in the form district.

**REQUIRED ACTIONS**

- **RECOMMEND** to the Louisville Metro Council that the change in zoning from C-1, Commercial to C-2, Commercial on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the **Conditional Use Permit** for a Golf Driving Range (LDC 4.2.58)
- **APPROVE** or **DENY** the requested **Variations**:
  1. **Variance** from Land Development Code (LDC), section 5.3.3.C.2.a to allow the primary structure to exceed the maximum street side yard setback of 275’ along Christian Way and Oxmoor Lane as shown on the revised detailed district development plan
  2. **Variance** from LDC, section 5.3.3.C.2.d to exceed the maximum permitted height of 150’ to allow a pole height of 175’ for driving range netting
  3. **Variance** from LDC, section 4.8.3 to allow for parking facility encroachments into the 100’ protected waterway buffer as shown on the revised detailed district development plan
- **APPROVE** or **DENY** the **Waiver** of LDC, section 10.2.10 to allow for parking facility encroachments into the required 15’ Vehicle Use Area Landscape Buffer Area (VUA LBA) as shown on the revised detailed district development plan
- **APPROVE** or **DENY** the installation of outdoor lighting in excess of 1,800 lumens located at a height greater than 30’ and the Lighting Report
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan** for golf driving range and entertainment center subject to the deletion of existing binding elements for the redevelopment site only and proposed binding elements beginning on page 31 of the Staff Report.

**NOTIFICATION**

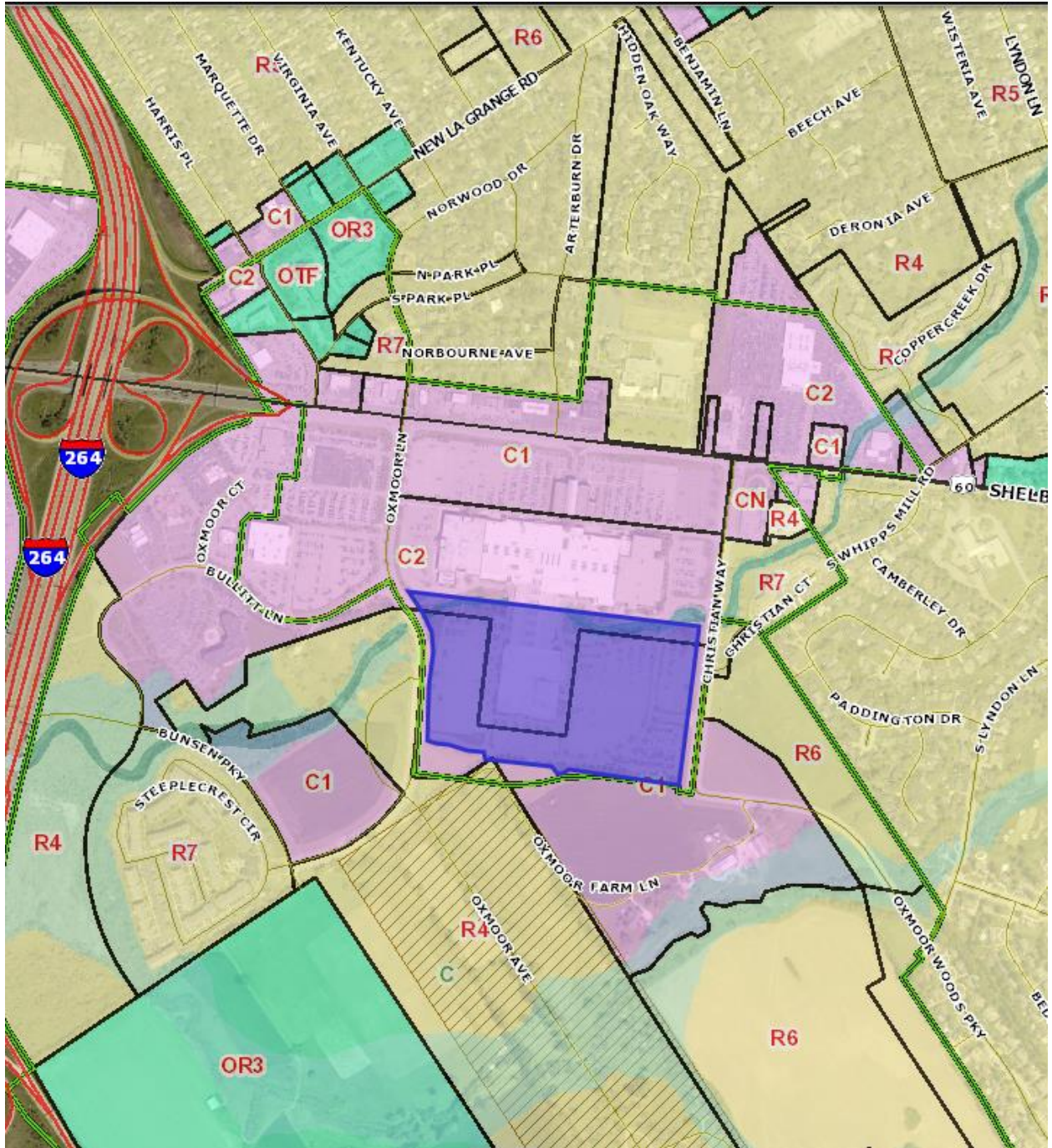
Date	Purpose of Notice	Recipients
7/26/18	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 18 Notification of Development Proposals
9/11/18	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 18 Notification of Development Proposals
8/14/18	Hearing before PC	Sign Posting on property
9/23/18	Hearing before PC	Legal Advertisement in the Courier-Journal

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Development Case History (Oxmoor Center)
4. Cornerstone 2020 Staff Analysis
5. Existing Binding Elements (PW-10-00/9-50-80/9-49-83)
6. Proposed Binding Elements (Development site only – 18ZONE1014)



1. Zoning Map





2. Aerial Photograph



### 3. Development Case History

- **9-320-65 (Pre-Plan Certain):** 'A Master Plan for the Development of the William Marshall Bullitt Trust Property' change in zoning from R-4 to R-7, R-8, R-10, C-5 (office), C-1 & C-2. Planning Commission recommends denial on June 30, 1966. Fiscal Court approves in-part and denied the requested C-2 district. Majority of present C-1 zoning district at Oxmoor Center is established.
- **9-162-68 (Pre-Plan Certain):** Change in zoning from R-4 to C-2, R-4 & C-1 to C-2, and R-4 to C-1. Planning Commission recommends denial of C-2 on the west side of Oxmoor Lane on August 8, 1968. Fiscal Court approves all requested districts. Central C-2 zoning district at Oxmoor Center is established.
- **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 is approved November 11, 1980. Expanded the C-2 zoning district established under docket 9-162-68 and created the current extent of the C-1 zoning district making up the rear of the Oxmoor Center.
- **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 is approved August 18, 1983. 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 immediate southeast of the current development site. The site of the request is now associated with docket 9-15-02 (Oxmoor farms) and is zoned C-1, Commercial. It was approved on condition that it would not be used unless an associated parking waiver (PW-10-00) was denied. B-149-00 expired 1-year later.
- **PW-10-00/9-50-80/9-49-83:** A parking waiver & revised detailed district development plan to reduce the required parking from 6,035 to 4,407 spaces at the Oxmoor Center is approved on September 7, 2000.
- **9-15-02:** Change in zoning on adjacent land containing 415 acres known as Oxmoor Farms from R-4 to R-6, OR-3 and C-1 is approved on July 23, 2002.
- **PW-10-00/9-50-80/9-49-83:** A parking waiver & revised detailed district development plan to reduce the required parking from 4,605 to 4,330 at the Oxmoor Center is approved on July 21, 2005.

**4. Cornerstone 2020 Staff Analysis**

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

**Regional Center: Non-Residential**

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
1	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal is of a moderate to high density consistent with the high intensity uses found in the Regional Center Form District.	✓	The proposal is of a moderate to high intensity consistent with the high intensity uses found in a Regional Center Form District as the C-2 zoning district allows for a wide range of regional goods and services that are not available in lower intensity zoning districts which offer neighborhood goods and services. The proposed intensity is consistent with the zoning classifications found in Regional Center form districts along Outer Loop (Jefferson Mall) and the interchange of Interstate-265 and Brownsboro Road (Paddock Shops and Old Brownsboro Crossing).
2	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal integrates civic uses such as branch libraries, community centers or government offices.	✓	The proposed zoning district builds upon an existing regional shopping center and does not proposed to expand the extent of the form district. Civic uses can be found within the form district opposite Interstate-264.
3	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal contributes to the identity of the regional center as a focal point for transit from homes and workplaces.	✓	The proposal contributes to the identity of the regional center as a focal point for transit from homes and workplaces as the proposed C-2 zoning district allows by way of conditional use permit for the incorporation of a regional attraction and destination point for entertainment in an area of current vacancy.
4	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal is compact and provides for efficient movement of pedestrians, vehicles, transit and bicycles through and around the site.	✓	The proposal is compact and provides for efficient movement of pedestrians, vehicles, transit, and bicycles through and around the site as the subject property is served by high frequency TARC route #19 and continued internal access from Christian way to Oxmoor Lane is retained. Further, sidewalks along the public road frontage and connection from these sidewalks to primary building entrances and pedestrian gathering places are provided. The Traffic Impact Study made no recommendations for further improvements to the existing vehicular network serving the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
5	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal supports a high level of transit access and connectivity.	✓	The proposal supports a high level of transit access and connectivity as the site is served by high frequency TARC route #19 and continued internal access from Christian way to Oxmoor Lane is retained as requested by TARC planning staff.
6	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal includes unified signs, and landscaping and building design that gives identity to the center and that provides a human scale, and includes an internal focal point.	✓	The proposal includes unified signs, and landscaping and building design that gives identity to the center and that provides a human scale, and includes an internal focal point as the existing Oxmoor Center includes signature entrances and the proposal will provide interior landscape areas and a pedestrian and vehicular concourse from Oxmoor Lane to the primary building entrance and a pedestrian gathering space.
7	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal provides shared parking to avoid excessive impervious surface and to encourage customers to visit several establishments without moving their vehicles.	✓	The proposal provides shared parking to avoid excessive impervious surface and to encourage customers to visit several establishments without moving their vehicles as the Oxmoor Center is a regional indoor shopping center and provides shared parking for all uses for the benefit of their customers, employees, and guests of multiple retail, entertainment, and dining establishments.
8	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Regional Center Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	✓	The proposal will not create a new center. The proposed zoning district is located within an existing Regional Center form district and allows for the construction of new attractions and destination points in a currently vacant area of a former anchor department store.
9	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	✓	The proposed C-2 zoning district is located at the interchange of a major arterial and a limited access highway and provides for the provision of goods, services, and entertainment to serve a population of at least 100,000 as called for in a Regional Center.
10	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	✓	The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment as the proposal allows for the reinvestment in a vacant anchor department store for at a regional shopping center and the proposed development plan includes shared parking, pedestrian ways, and integration with the existing shopping facility.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
11	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	✓	The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place as the subject property is served by high frequency TARC route #19 and continued internal access from Christian way to Oxmoor Lane is retained. Further, sidewalks along the public road frontage and connection from these sidewalks to primary building entrances and pedestrian gathering places are provided. The proposal allows for the redevelopment of a previously indoor shopping center for the inclusion of outdoor amusement and entertainment for a wide reaching population to gather at the shopping center.
12	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	✓	The proposed C-2 zoning district does not prevent the incorporation of future residential or offices uses. It increases the potential for high density development in conjunction with a shopping facility and high frequency transit access. Residential development is not currently proposed on the subject site, but adjacent sites are zoned appropriately for high density development.
13	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	✓	The proposed development is designed to be oriented around a central gathering space as a previously approved restaurant development near the primary building entrance provides outdoor pedestrian amenity spaces.
14	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	✓	The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns as the Oxmoor Center is subject to recorded Crossover Access agreement as indicated by note #28 of the revised detailed district development plan.
15	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	✓	The proposal is designed to share utility hookups and service entrances with adjacent developments as the existing shopping center provides utility connections.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
16	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	✓	The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities as the subject property is served by high frequency TARC route #19 and continued internal access from Christian way to Oxmoor Lane is retained. Further, sidewalks along the public road frontage and connection from these sidewalks to primary building entrances and pedestrian gathering places are provided. ADA parking spaces are provided immediately adjacent to pedestrian gathering spaces and primary building entrances.
17	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	The proposed building materials are consistent with materials found on current retail and entertainment development in the general vicinity and throughout Louisville Metro. The design of the entertainment facility integrates with recently approved development at the Center. The netting and poles of the golf driving range are necessary to maintain public safety.
18	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	The proposal does not constitute a non-residential expansion into an existing residential area as the requested change in zoning is from C-1 to C-2 within the Regional Center form district.
19	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	Noxious odors or emissions do not appear to be associated with the proposed zoning district or use beyond those expected of vehicular traffic associated with a regional shopping center.
20	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities as the Traffic Impact Study submitted with this application concluded, "There will be a manageable impact to the existing highway network, with Levels of Service remaining within acceptable limits. The delays experienced in the area will increase within acceptable limits, thus no improvement to the roadway system are recommended."



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
21	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky as the proposed user is a recreational use and lighting is provided and necessary to light the outfield of the golf driving range in the evening. The applicant has provided evidence that demonstrates that the proposed lighting fixtures intended to light the outfield of the recreational use are aimed and focused on the outfield of the golf driving range and light trespass and glare beyond the field perimeter will be highly controlled. It has also been stated that the lighting fixtures will be installed within the golf driving range bays, not atop a roof, and these fixtures provide a high degree of cutoff; thus, limiting the impact on the night sky. Lighting within the parking lot is fully shielded. The lighting report concludes that virtually no light trespass will occur past property lines.
22	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	✓	The proposal is appropriately located for its intensity and located along a transit corridor within an activity center.
23	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	✓	The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as the proposal calls for the redevelopment of an established regional shopping facility and will maintain current VUA LBAs based on the current extent of impervious surfaces. Trees will be provided as required within ILAs. The structure will be centrally located within the subject site in the area of a former anchor department store. The height of the proposed poles supporting the netting of the golf driving range are necessary to provide for public safety and the entertainment center components are consistent with materials found on current retail and entertainment development in the general vicinity and throughout Louisville Metro. The design of the entertainment facility integrates with recently approved development at the Center.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
24	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	✓	The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another as all planting material required by Chapter 10 of the land Development Code will be provided and the proposal is located within the current extent of the Regional Center form district which is intended to serve populations of 100,000 or more.
25	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards as the structure is being centrally located in the area of a former anchor department store and the subject property contains frontage on two public roadways. Distance from each roadway is being provided to accommodate parking and the outfield of the golf driving range. Although the height of the proposed poles supporting the netting exceeds form district standards by 25', the height requested appears to be necessary for public safety.
26	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	✓	Parking and loading areas are consistent with the current extent of parking improvements and all planting material will be provided. Loading areas are not adjacent to residential areas.
27	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	✓	The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots as planting and screening along the public roadways and ILAs will be provided within the parking areas.
28	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	No parking structures have been proposed
29	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Signs will be compliant with Land development Code, Chapter 8.



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
30	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	✓	The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space as interior planting areas are provided and the project site integrates into a pedestrian plaza recently approved for the Oxmoor center. The project site is located in an area currently occupied by impervious surfaces.
33	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	The extent of project improvements is consistent with the current extent and does not appear to negatively impact the protected waterway that runs through and under the Oxmoor Center.
34	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems as the extent of project improvements is consistent with the current extent and does not appear to negatively impact the protected waterway that runs through and under the Oxmoor Center.
35	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	✓	The proposal includes the adaptive reuse of an area previously used for an anchor department store.
36	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	✓	The subject site is located in an area of existing impervious surfaces. The proposal's drainage plans have been approved by MSD.
37	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	✓	The proposal is located within the current extent of regional shopping center and Regional center form district. It is supported by an arterial roadway with direct access to an interstate. Primary access will be obtained from the arterial roadway via Oxmoor Lane and Christian Way.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
48	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	✓	The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means. Public sidewalks and connectivity to these walks is provided.
39	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as the subject property is served by high frequency TARC route #19 and continued internal access from Christian way to Oxmoor Lane is retained. Further, sidewalks along the public road frontage and connection from these sidewalks to primary building entrances and pedestrian gathering places are provided.
40	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	✓	The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development and adequate street stubs as internal access from Oxmoor lane to Christian Way is being maintained an dprimary access from all direction is obtained via these roadways from Shelbyville Road. No street stub are needed as periphery streets provide adequate access.
41	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	Right-of-way dedication has not been required.
42	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	The proposal includes adequate parking spaces to support the use as 374 parking spaces above the minimum have been provided.
43	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	✓	The proposal provides for joint and cross access through the development and to connect to adjacent development sites as the shopping center shares parking among all tenants and periphery roadways provide adequate access to nearby developments.
44	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	✓	Adequate stub streets are provided as periphery roadways provide adequate access to nearby developments.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
45	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	Access to the subject site is from existing access and does not require traffic to travel through lower intensity areas. No nuisances are created by the existing access as it is from an arterial roadway with direct interstate access.
46	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	✓	The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.
47	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	✓	The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity as the subject site is within an existing Regional Center intended to serve a population of greater than 100,000 and the subject property is served by high frequency TARC route #19. Continued internal access from Christian way to Oxmoor Lane is retained. Further, sidewalks along the public road frontage and connection from these sidewalks to primary building entrances and pedestrian gathering places are provided. Bike parking is provided.
48	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	The proposal's drainage plans have been approved by MSD.
49	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.
50	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	✓	The site contains a protected waterway. The proposal does not impact this waterway beyond the current conditions.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
51	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The proposal is located in an area served by existing utilities or planned for utilities.
52	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	The proposal has access to an adequate supply of potable water and water for fire-fighting purposes
53	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

**5. Existing Binding Elements (PW-10-00/9-50-80/9-49-83)**

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.

**6. Proposed Binding Elements (Development Site only – 18ZONE1014)**

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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
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 Louisville Metro Department of Codes and Regulations Construction Permits, 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 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
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. Parking facilities as shown on the approved development plan shall be restricted to the parking of vehicles for guests, employees, and customers of the Oxmoor Center only.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 1, 2018 Planning Commission meeting