

Development Review Committee

Staff Report

August 4, 2021



Case No:	21-EXTENSION-0009
Project Name:	Restaurants at Oxmoor Center
Location:	7900 Shelbyville Road
Owner(s):	WMB 2, LLC
Applicant:	Brookfield Properties Retail, Inc. (formerly GGP, Inc.)
Representative(s):	Frost Brown Todd, LLC – Tim Martin
Jurisdiction:	Louisville Metro
Council District:	18 – Marilyn Parker
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- Extension of Expiration

CASE SUMMARY

A revised detailed district development plan for three restaurants at the Oxmoor Center shopping mall in the area of the former Sears Department store was approved by the Development Review Committee on August 15, 2018, case 18DEVPLAN1110. 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 these uses and connect with the proposed TopGolf, case 18ZONE1014.

Binding element #10 was placed on the approved development plan for the restaurants and states as follows:

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.

No construction has begun. A first extension was granted in 2019 to extend the expiration to August 15, 2021. This extension was granted by staff in accordance with LDC 1.1.9. A second extension requires committee review. The applicant has requested that the expiration be extended to August 15, 2023. Building permits for TopGolf are currently under review by Louisville Metro's division of Construction Review.

STAFF FINDING

The extension of expiration is in order and the applicant has demonstrated "good cause" to extend the expiration date to August 15, 2023. The approved development plan is a companion case with 18ZONE1014 which was appealed, and the appeal concluded on January 19, 2021. Building permits for TopGolf are currently under review by Louisville Metro's division of Construction Review.

REQUIRED ACTION(S)

- **APPROVE or DENY the Extension of Expiration** to extend the expiration of case 18DEVPLAN1110 to August 15, 2023

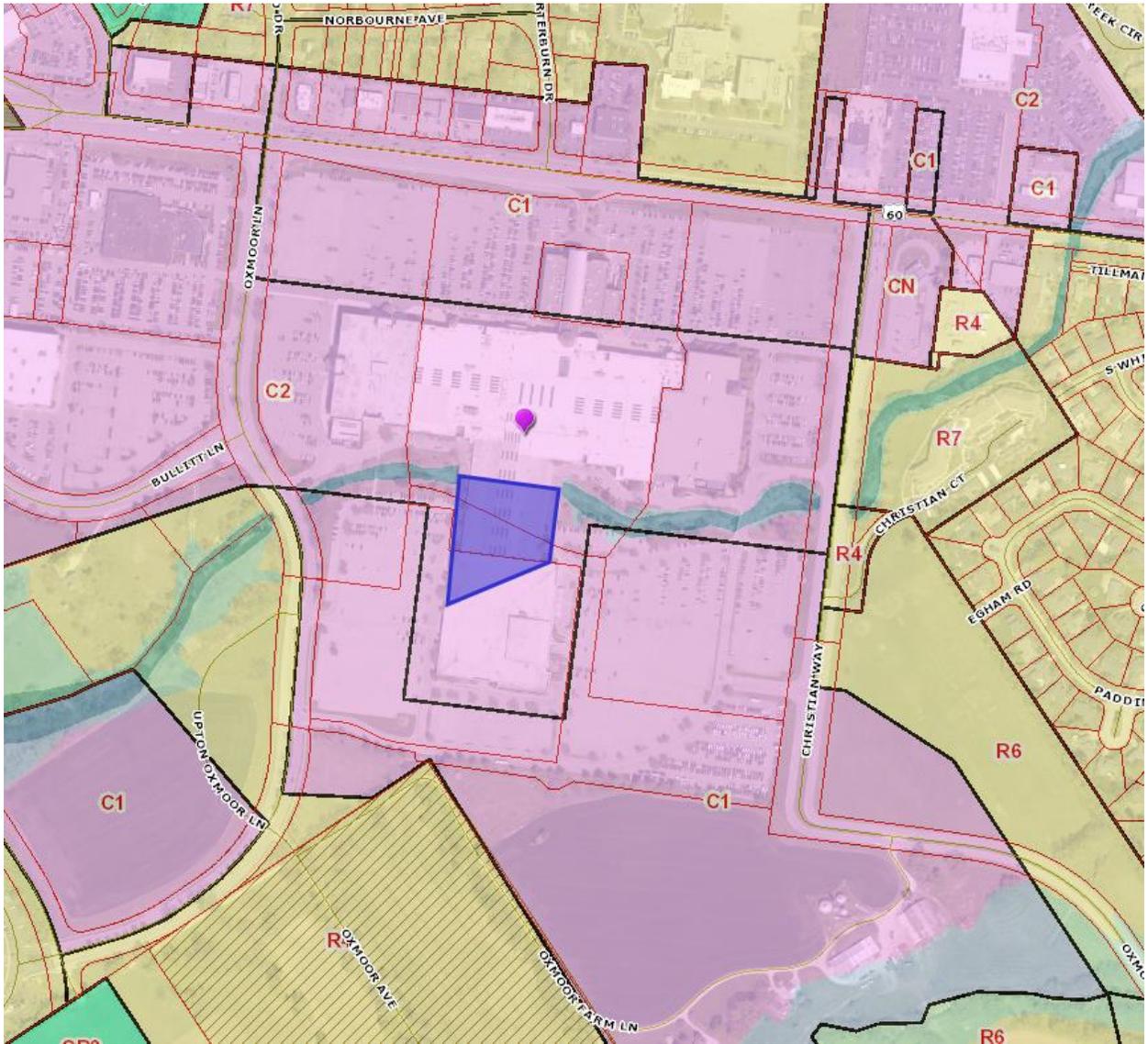
NOTIFICATION

Date	Purpose of Notice	Recipients
07/19/21	Hearing before DRC	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 18 1,108 mailing labels/notices provided

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Development Case History (Oxmoor Center)
4. Existing 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).
- **18DEVPLAN1110:** RDDDP for restaurants and plaza/outdoor dining areas between the central mall building and TopGolf (case 18ZONE1014)
- **18ZONE1014:** TopGolf change in zoning from C-1 to C-2 commercial and conditional use permit for golf driving range approved by the Planning Commission October 18, 2018 and Metro Council on November 29, 2018. Appeal concluded January 19, 2021. Plan expires January 19, 2023.

4. Existing 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. 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 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.
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.

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.