Selling an Outparcel or Pad Site? Six Ways to Protect Your Shopping Center



By Richard R. Capote, Paul F. Wells

November 17, 2026 | **ARTICLES**

Key Takeaways:

- Before selling an outparcel or pad site, owners should review title, particularly any declarations or reciprocal easement agreements, tenant exclusives, and parking and access rights.
- A mortgaged center needs a lender partial release and CMBS servicer approvals can take months.
- Recorded restrictive covenants or a ground lease can protect the rest of the shopping center after the deal closes.

Quick-service restaurants, coffee drive-thrus, banks, medical users, and car washes continue to compete for pad sites. As a result, many shopping center owners are selling outparcels to create liquidity or reduce debt. But an outparcel, a separate pad site carved out of a shopping center, is rarely a stand-alone asset. Sell it without the right protections, and a landlord can end up in breach of its leases, in default under its loan, or with less control over its own center. Before an outparcel goes to market, consider the following six steps:

Attorney advertising: Prior results do not guarantee a similar outcome.

What Should Shopping Center Owners Review Before Selling an Outparcel?

1. **Review the Reciprocal Easement Agreement (REA)** . A reciprocal easement agreement is a recorded agreement that sets shared rights and obligations, such as access, parking, maintenance obligations, and use restrictions, among the parcels in a shopping center. Most shopping centers are governed by a recorded REA or declaration, often negotiated with the center's anchor tenants. Confirm consent rights, building envelopes, use restrictions, parking rights and obligations, and CAM sharing. If there is no REA, or it does not address the outparcel, record one before closing. Once the parcel is sold, an owner's leverage is gone.
2. **Check tenant exclusives and site plan protection** . Lease protections, such as exclusive use clauses and site plan restrictions, often continue to burden the outparcel after it is sold. A competing drive-thru or a building that blocks an anchor tenant's sightline can trigger rent abatement, co-tenancy, or termination rights, so the buyer and its tenants should be bound by them. Many anchor tenant leases also require the anchor's consent to outparcel development, and skipping that step can lead to an injunction, a claim for damages, or the loss of the tenant.
3. **Protect parking and access** . Outparcels are often carved out of the center's parking field, so check zoning, the REA, and lease parking ratios before the parcel is created. Make sure the center keeps access and cross-access easements for roads, curb cuts, and utilities and controls key access points and critical drive lanes that benefit the outparcel and the balance of the center. Also, plan drive-thru stacking on the outparcel carefully, since a line of cars backing into the center's drive aisles is a problem tenants will notice.

How Do Lenders Approve a Partial Release for an Outparcel Sale?

1. **Bring your lender in early** . Selling an outparcel from a mortgaged shopping center requires a partial release of the mortgage, which often comes with release prices, loan-to-value (LTV) and debt service coverage ratio (DSCR) tests, and lender sign-off on new restrictions. If the loan documents did not contemplate an outparcel sale, the lender may refuse consent altogether. Even where partial releases are permitted, servicer approvals on a CMBS loan can take months. As such, do not let the buyer's timeline get ahead of the release.

Which Restrictive Covenants Should Bind the Outparcel Buyer?

1. **Build in lasting controls.** Permitted use limits, design approval, signage rights, maintenance standards with self-help rights, a right of first refusal on future sales, and a repurchase right if the buyer fails to build, all help protect the shopping center. Record them at closing, typically as restrictive covenants, and draft them to be enforceable under local law so they bind future owners of the outparcel. The outparcel owner (or its tenant) should also pay a share of common area maintenance (CAM) charges for the common areas of the center that it relies on for its use and operation, including roadways, detention ponds, common utilities, signage, and landscaping. The outparcel owner should also be required to maintain liability insurance benefiting the shopping center owner.

Ground Lease vs. Sale: Which Is Better for a Shopping Center Pad Site?

1. **Consider a ground lease instead of a fee sale** . In a ground lease, instead of selling the land constituting the outparcel to a purchaser, the owner enters in to a long term lease with the tenant so that it can develop and operate the outparcel. A ground lease lets the owner keep control over the outparcel's use, design, and maintenance. A fee sale delivers immediate liquidity, but the owner then has to rely on recorded covenants to

Attorney advertising: Prior results do not guarantee a similar outcome.

protect its shopping center. Talk to your tax advisors, including whether a Section 1031 exchange is available to defer tax on the sale, before deciding.

Why Bring in a Commercial Real Estate Attorney Early?

Handled well, an outparcel sale can bring in real value without hurting the rest of the center. Handled poorly, it can cost an owner an anchor tenant, create problems with its lender, or weaken its control of the property. Most of these issues are much easier to address before the outparcel deal is signed. Bring in an experienced commercial real estate attorney before the parcel goes to market. At Lippes Mathias LLP, our real estate team has spent years representing developers, shopping center owners, REITs, family offices, and independent sponsors across the country on all aspects of real estate, including the development and sale of outparcels. If you are thinking about an outparcel sale, we would be glad to talk it through.

If you have questions related to any of the topics discussed in this article, please feel free to contact partner and real estate team practice team leader Paul F. Wells at pwells@lippes.com or real estate team partner Richard R. Capote at rcapote@lippes.com.

Attorney advertising: Prior results do not guarantee a similar outcome.