

DENVER BUSINESS JOURNAL

VOL. 58, NO. 26

DECEMBER 22-28, 2006

All retail space is not created equal

Retail spaces come in more shapes, sizes and types than any other commercial real estate product. And they're probably used by the widest range of commercial tenants and buyers. It's not in the least uncommon to find a "retail" strip populated by any number of non-retail users. Why? Because location is everything.

Business owners know that location can affect the success or failure of a new venture more than any other single component. And retail space by its very nature is adaptable to a wide range of commercial uses. It is precisely this flexibility which makes it so attractive. But all retail space is not created equal. The same factors that make it so attractive can also account for special challenges not found in other commercial products, especially if the user is crossing over from retail use to some other application.

Unfortunately, not all tenants and owners are aware of this before undertaking the design and construction process. And it's not always about bricks and mortar. Any number of factors could derail a retail project well before construction ever begins.

Consider permit and zoning issues, for example. These are critical elements in the construction timeline that are frequently overlooked. Let's say a tenant finds an ideal fit in a retail strip for its gift card store. The square footage is right, the location is perfect, and the lease terms are favorable. But what about the zoning status? If a dental or medical tenant had previously occupied the space, it would have to be re-zoned for retail use.

While that may certainly be an easy fix, it could take two weeks or longer to accomplish. That may not seem like a big deal, but considering that most retail build-outs take four to six weeks to complete, a two-week delay could spell disaster, especially if the tenant's business is seasonal in nature.

That greeting-card tenant may depend on the holiday season for half its annual revenue. A two-week delay at the wrong time could shut off the company's revenue stream when it matters most. Surprisingly, this sort of thing happens frequently, and a



NATHAN
MENDEL

good number of small, private businesses never recover from such a preventable lapse. Similarly, both tenants and owners should always be aware of permit schedules. Every metro-area building department has its own guidelines and schedules for issuing permits. Some can take up to six weeks or longer to get a plan reviewed.

Again, it doesn't take a genius to figure out what would happen if, say, a restaurant occupancy deadline of four weeks comes and goes with the permit still in review after six weeks. Sometimes landlords will stipulate that any given retail tenant must meet an occupancy schedule or lose its lease.

On the flip side, sometimes a tenant may have the option of nullifying its lease and going elsewhere if the landlord is not able to deliver the property for occupancy by a specific date.

Neither of these choices is desirable given the associated costs that each party would likely incur. The best-case scenario is to deal with as many construction-related issues on the front end as possible. And there are always issues. Granted, many of these problems could apply to office or industrial space. But retail has its own special challenges, the least of which is that so many users are new to its particular nuances and make assumptions they shouldn't.

For example, one tenant in a newly constructed retail strip found its space among the last to be built out. Although the space did not require any special needs, the landlord had stipulated in the lease that construction rules would change as each new tenant finished its build-out and opened for business. Almost overnight, the last tenant with its space still under construction was subject to a number of unforeseen restrictions.

Deliveries of construction materials could no longer be made to the same place during the same hours. Construction noise

was prohibited during certain hours. More stringent ventilation rules for flooring and carpet adhesives were put into effect.

Storage areas for construction materials could not conflict with the curb appeal of other tenants or impede access at any time. Suddenly, this tenant was faced with a number of restrictions along with the resulting construction delays, none of which it had even known about, let alone planned for.

In another instance, a beauty salon relocated to a new retail location but failed to investigate rules for water usage. The tenant just assumed it could tap into the building's main water source as it always had in the past. The salon discovered only after the build-out was complete that it would have to pay the landlord significant monthly overage fees for extra water.

Adequate power sources can present some challenges for tenants, as well, especially in strip centers. Suppose a tenant in a new retail development is five or six spaces away from the main electrical distribution panel. Will the adjoining tenant allow the contractor access to hook power into that new space? Is it even stipulated in the lease that the neighbor is required to extend this courtesy? If so, is it required that this be done within a reasonable amount of time?

Who is responsible for any demo or damage that might occur? Questions like these should be addressed well before any construction begins, but that doesn't always happen. Due diligence should be the first rule of thumb when dealing with any kind of retail construction. There are simply too many variations of the retail product to make any assumptions about any particular space.

Owners and tenants must take careful stock of not only the physical characteristics of the spaces they wish to develop, but the inevitable rules and regulations that govern the construction process.

NATHAN MENDEL is founder and president of Mendel and Company Construction, a Denver-based general contractor specializing in tenant finish and medical and dental construction. He can be reached at nathan@mendelandcompany.com.