

# RETAIL

Second-generation space

## All that glitters is not gold

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Many seemingly attractive real estate redevelopment opportunities continue to surface as numerous national and regional chains continue to close single or multiple locations.



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While there may be an abundance of attractively-priced "second-generation" spaces ripe for the picking, not everything that glitters is gold. Caution should prevail; it's imperative to uncover potential liabilities prior to committing to purchase agreements.

In addition to considering the standard items that need to be addressed during the due diligence phase of the project prior to purchase, it's critical to include items specific to second-generation space conversions as well. Often overlooked considerations should include, but are not limited to, environmental, building-related code violations and accessibility.

### Environmental factors

Vacant buildings that have been sitting empty for months without air conditioning, particularly in warm, humid climates such as the Southeast coast of the U.S., are particularly vulnerable to the development of mold. If this issue is not addressed, it's only a matter of time before the building begins exhibiting sick building syndrome symptoms.

### GUEST COLUMN

#### Building-related code violations

Typically, second-generation retail spaces are relatively new and, as a result, give the appearance that the facilities are code compliant. However, appearances may be deceiving. It's important that the design team perform a physical inspection to uncover any potential building and fire code violations or prior health department citations (restaurants only), prior to a new tenant/owner taking occupancy.

Additionally, the team should conduct an interview with the authority having jurisdiction to identify any previously issued citations for violations. If these necessary precautions are in place, surprises will be minimized during the permitting phase of the proposed project. Code violations could include everything from easy fixes such as the addition of fire extinguishers or replacement of exit lighting to high-dollar cost corrections such as failed fire sprinkler components or failed elevator inspections to the mezzanine's office space.

#### Accessibility compliance

In more recent times, accessibility has been in the forefront of design, therefore more than likely the larger accessibility considerations have already been addressed with the initial construction. However, small accessibility items are still pertinent, and can lead to lawsuits. A filed

lawsuit might result in substantial legal fees, in addition to costs for required renovations. Developers and tenants can avoid these problems by having a thorough understanding of legal obligations and being proactive relevant to acting on modifications that will ensure compliance.

#### Multitenant conversions

In the case where a medium box retail space is subdivided, or a strip center is further subdivided, developer guidelines and the potential costs associated with building upgrades need to be considered prior to purchase. Additional factors that would impact critical decisions relevant to real estate purchases are applicable when a restaurant is integrated into a retail center.

#### Developer design guidelines

If the property in question is within a larger development, more than likely development guidelines that provide specifications for design standards will be in place. This typically addresses permissible building materials, building elevation design criteria (in the case of storefront modifications), as well as signage restrictions and other more technical criteria.

For example, buyers should be aware of costs associated with modifications to exterior walls to provide egress for each tenant. These changes must be carefully evaluated so structural integrity

is maintained in these load-bearing walls; the same is true for storefront modifications. While glass storefronts are attractive for tenants for enhanced customer visibility, the cost to accomplish the modifications could be significant.

#### Code upgrades

The design team should assess a building with an on-site inspection as it relates to potential requirements for code upgrades. In the case where subdivision of space is involved, the electrical, HVAC and plumbing systems will require segmenting the services for each tenant bay, which can have a potentially significant impact on the cost of the project. The separation of the utilities could trigger upgrades to the existing systems, depending on the extent of the modifications.

#### Retail-to-restaurant considerations

Additional changes could be required if a restaurant is brought into one of the multitenant bays. Particular attention should be paid to design and construction costs associated with the conversion of a retail space to a restaurant. Potential use restrictions may also apply for the master development, which may include non-compete clauses for restaurants with similar menus within the same development. Impact and capacity fees may also increase significantly for a restaurant replacing a retail use.

#### Consult the experts

Make certain not to fall into

any traps in this particularly uncertain real estate environment when evaluating a second-generation retail site for potential purchase. This can be accomplished by addressing all relevant considerations with your team of experts early in the process. The prescribed formula for implementing the due diligence process will not be sufficient because additional considerations must be identified based on usage.

In the case where subdivision of space is involved or a restaurant is integrated into a retail location, costs can add up quickly; additional rules apply that cannot be overlooked with code requirements among one of the most expensive line items. There are certainly other areas that need exploration beyond design considerations such as lease issues that would require legal support.

Since there are so many critical factors involved in ensuring that the best real estate decisions are made, it's best to cover all bases. All relevant considerations should be thoroughly addressed early in the process in order to protect equity and purchase the ideal site.

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