

# *The Retail Apocalypse - Fact or Fiction?*

*October 29, 2019*

# *Panel Introductions*

- Moderator:
  - Manuel Farach, Member, McGlinchey Stafford
- Panelists:
  - Sarah Lemke, Vice President, Project Development, New England Development
  - Matt Epstein, Director, Goulston & Storrs, P.C.



# *Agenda*

- Current State of Retail
- Is It Really an Apocalypse?
- Strategies for the New Future of Retail
- Conclusion and Q&A

# Current State of Retail- Store Closures Abound

- Over 12,000 stores closed in 2018
- Over 5,800 stores have already announced closures planned for 2019, including:
  - Payless- 2,500 stores
  - Gymboree- 805 stores
  - Family Dollar- 390 stores
  - Shopko- 371 stores
  - Gap- 230 stores
  - Sears- 70 stores
  - Victoria's Secret- 53 stores
  - Abercrombie & Fitch- 40 stores
- Other retailers closing: Aerosoles, American Apparel, BCBG, Bon-Ton, Children's Place, CVS, Dollar Tree, Foot Locker, Guess, JC Penney, Limited, Macy's, Michael Kors, Toys R Us, Victoria's Secret, Wet Seal

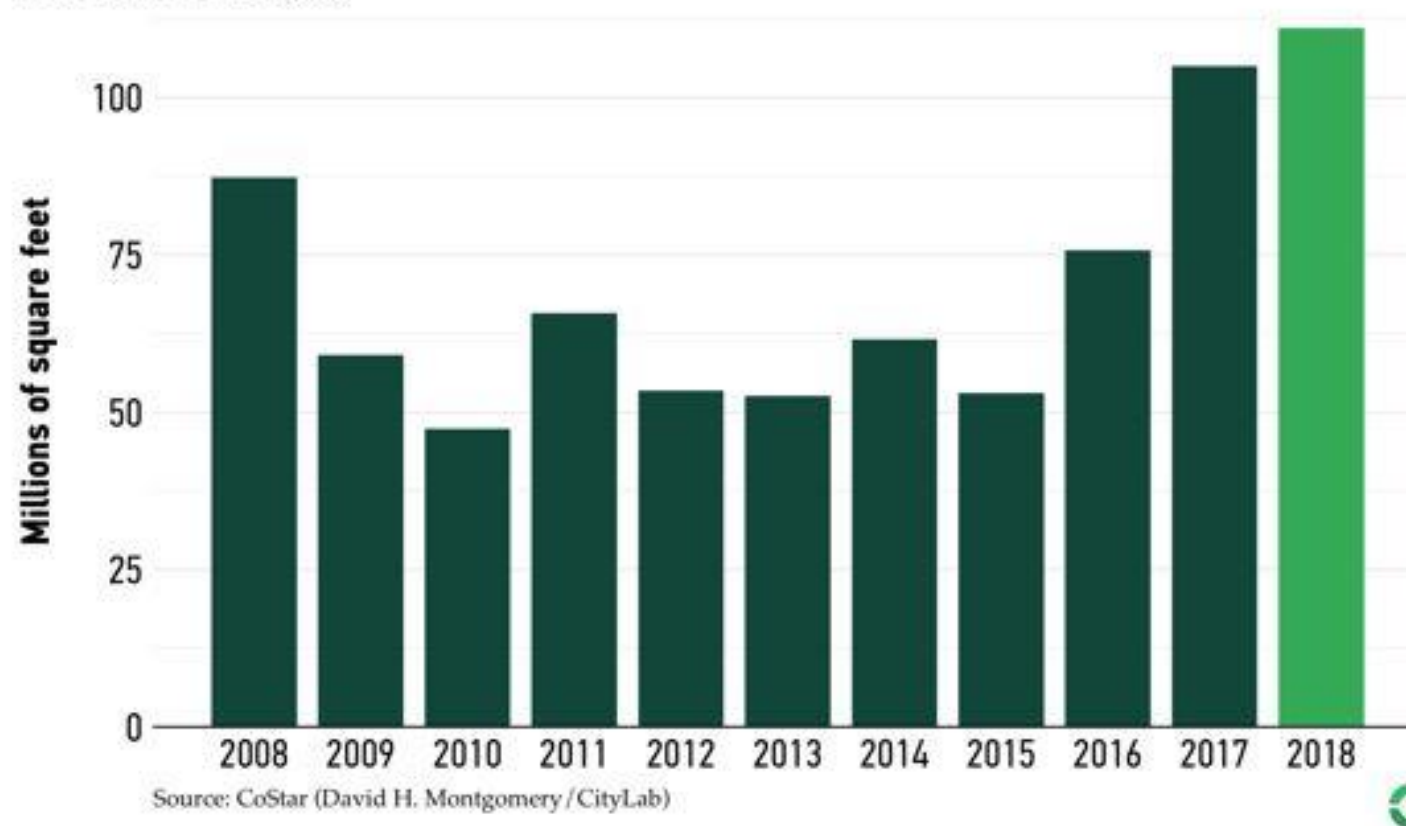




# Current State of Retail - Store Closures Abound

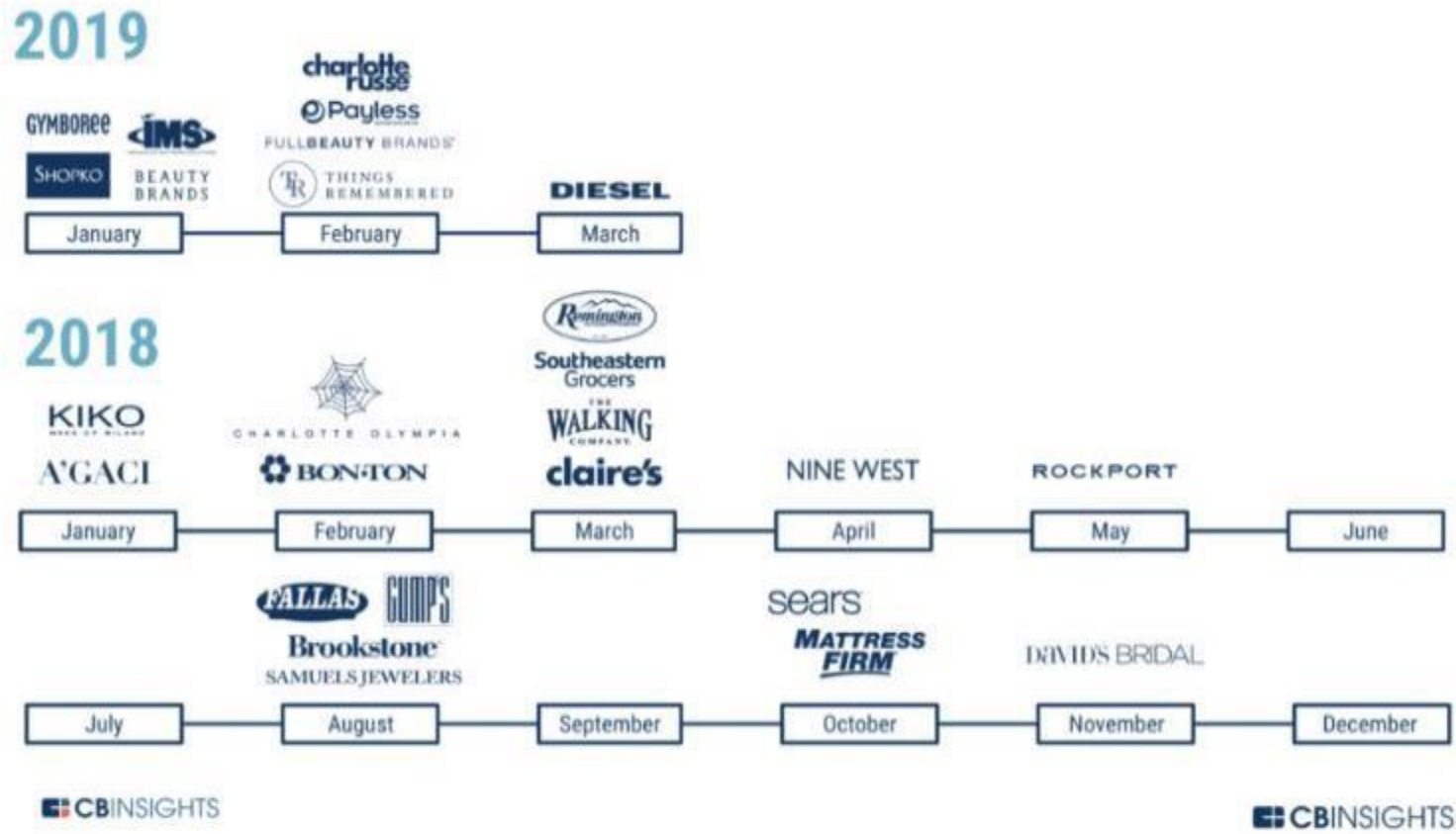
## Announced retail closures by square footage

2018 data as of August.



In 2018, over 145 million square feet of retail closed

# Current State of Retail - Bankruptcies Continue

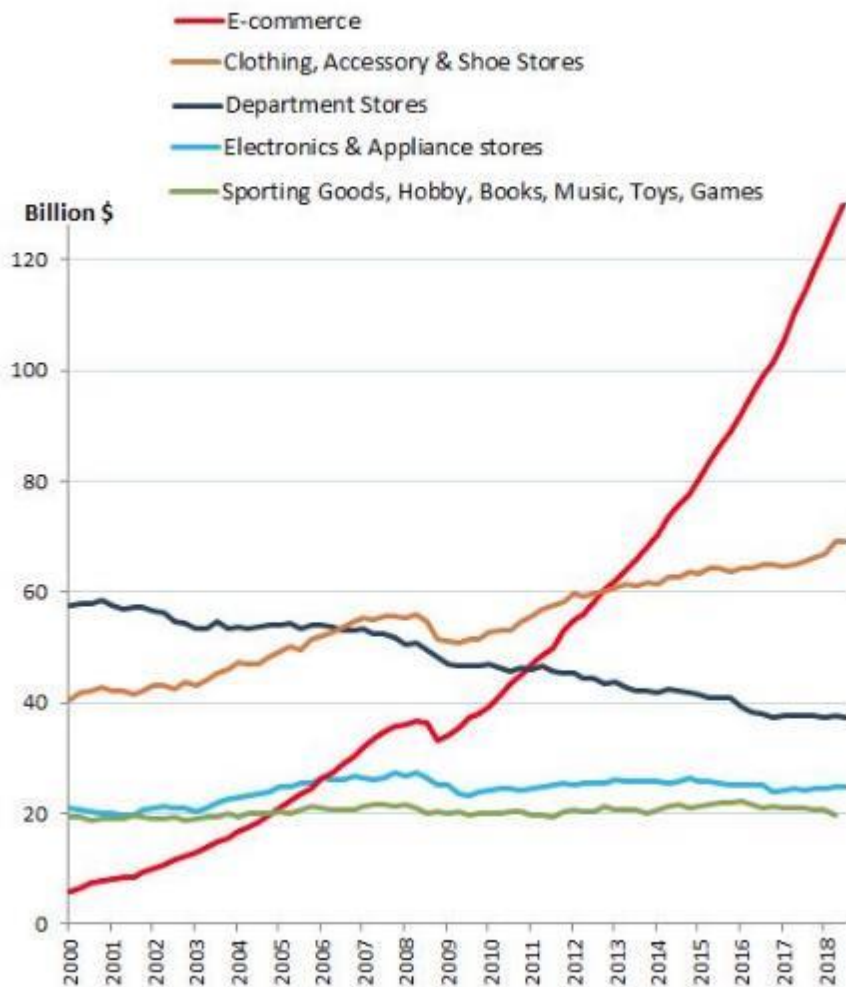


# *What's Causing Widespread Closures and Bankruptcies?*

- Retailers facing massive debt from private equity financings
- E-Commerce and the “Amazon Effect”
- “Over-Retailing”/Saturation of the Market
- Changing Consumer Demands
- Inability to Adapt

# E-Commerce - Part of the Problem

## E-Commerce v. Mall Store Sales



Source of data: Commerce Dept

WOLFSTREET.com

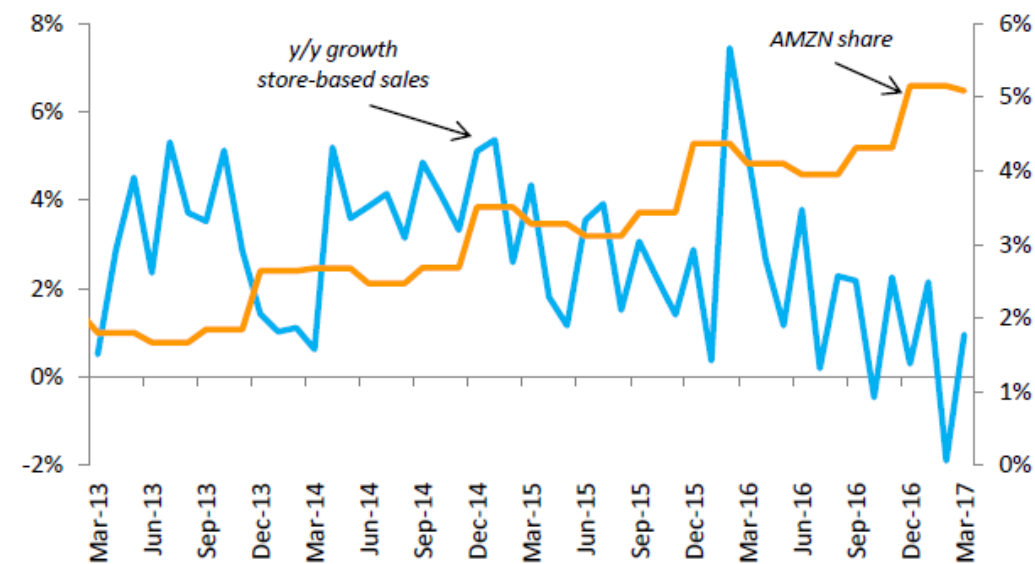
E-commerce continues to gain steam- growing 15% in 2018, totaling \$517.36 billion of sales- 15% of all sales- 79% of Americans were shopping online in 2015

In 2018, e-commerce sales represented more than half (51.9%), of all retail sales growth

Amazon alone now comprises 5% of all retail sales- and half of all US households are Amazon Prime subscribers

## Growth in Store-based Sales vs. Amazon.com Share

(Amazon retail categories served, excluding food stores)



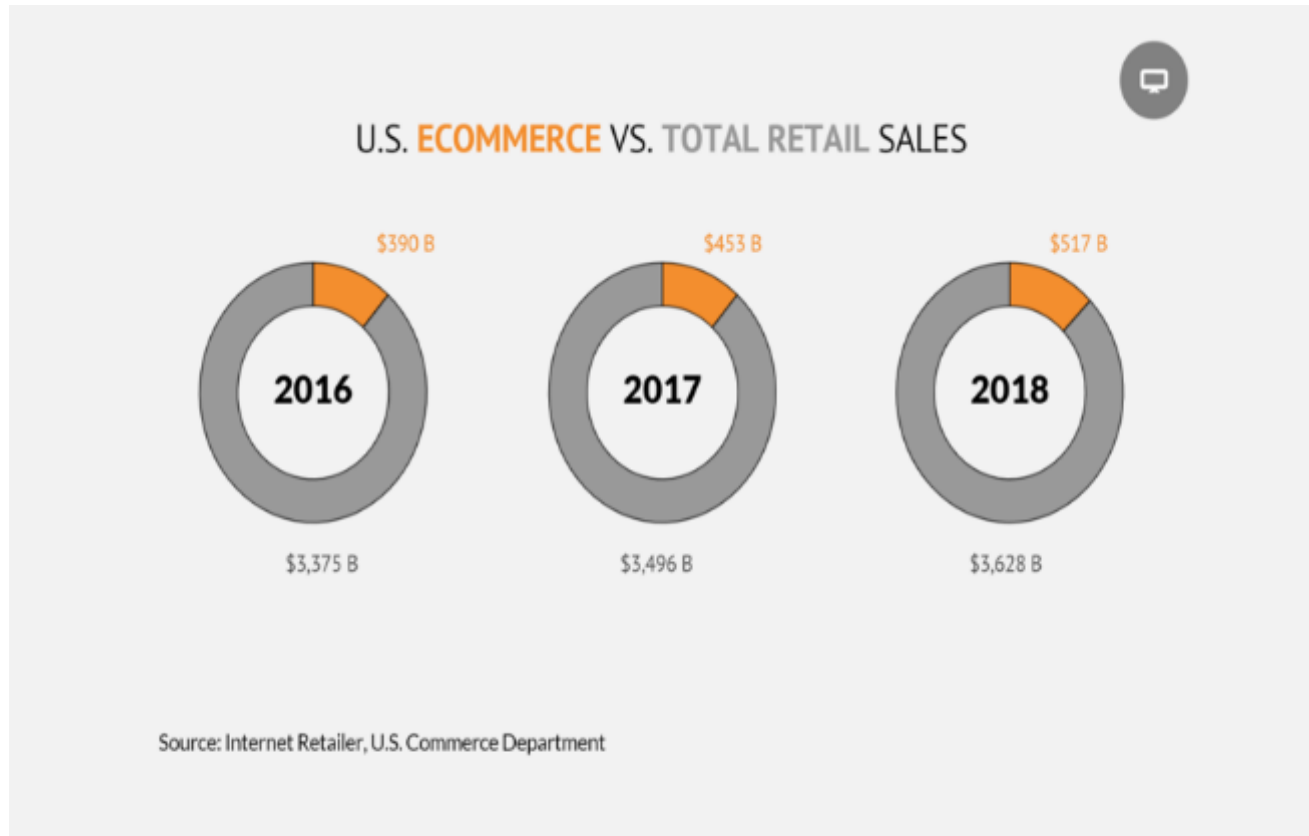
Left axis = y/y growth for store-based sales

Right axis = Amazon share of categories served

Source: U.S. Census, company reports, MKM estimates



# *E-Commerce - But not the whole problem*



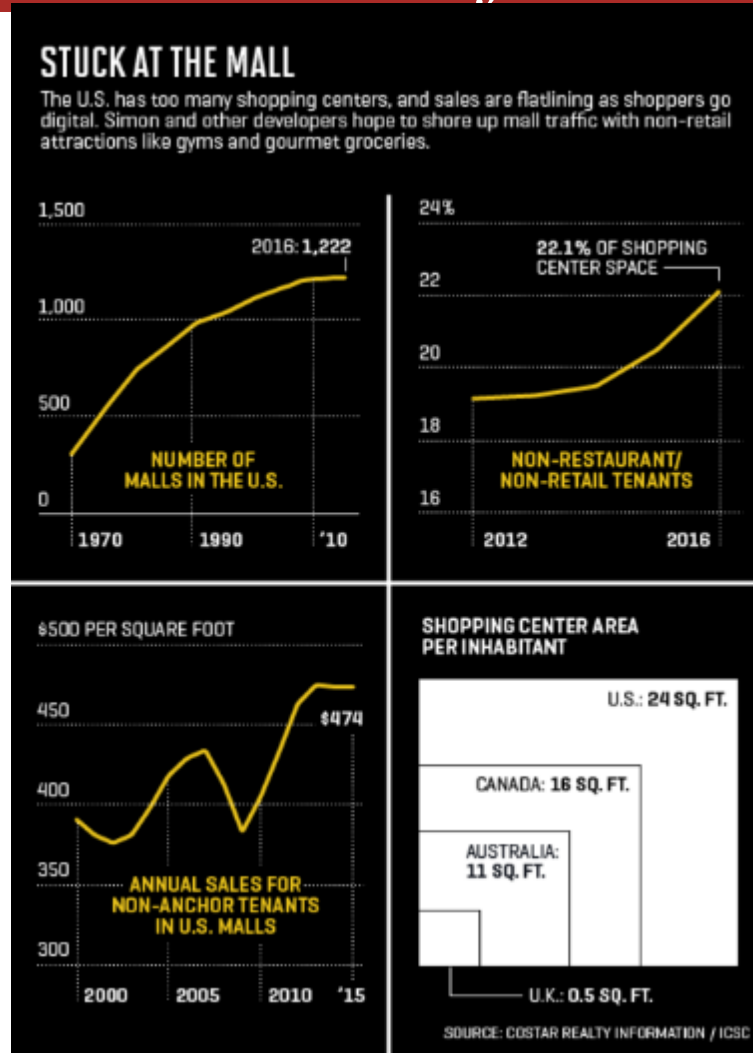
But e-commerce is only a fraction of overall sales- currently around 15%

The vast majority of retail sales continue to be in brick and mortar stores

Most consumers still prefer to buy products in a physical store according to a recent survey completed by Market Track

# Over-Retailing and the Saturation of the Market

- ❑ Retailers opened too many stores- oversaturating the market and cannibalizing sales between stores
- ❑ Keeping pace with retailers desires to continue to expand, over 1,000 malls were built in the U.S. between 1950 and 2000.
- ❑ US is over-retailed- 25 sf per capita compared to 4.6 sf per capita in UK and 16 sf in Canada
- ❑ Visits to US shopping malls declined by 50% between 2010 and 2013 (Cushman & Wakefield)
- ❑ 25% of the remaining 1,100 malls in the US are at risk of closure in the next five years, according to Credit Suisse- 3/4ths of mall revenues come from just 20% of US malls (CNBC)



# *Changing Demographics*

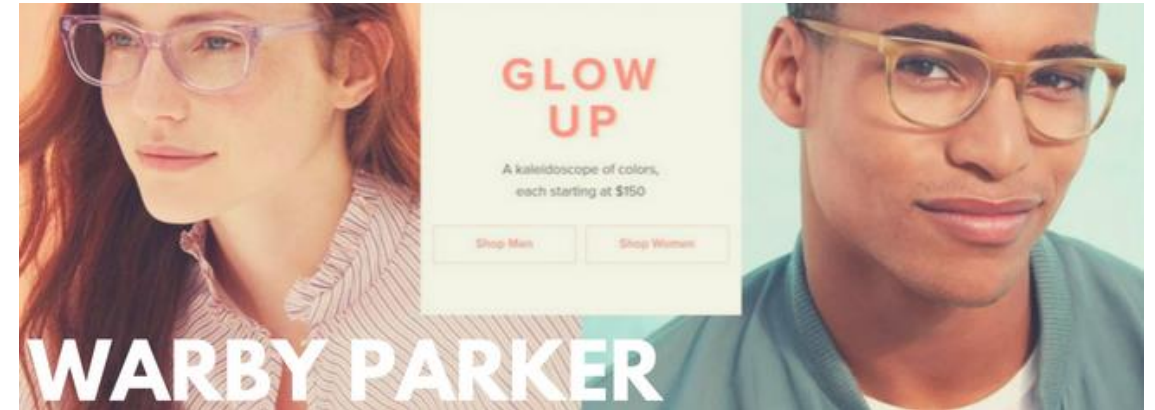
- ❑ Consumer preferences
  - ❑ Consumers are more likely to research a purchase prior to going to the store to purchase- reducing impulse and other “drive-by” purchases.
  - ❑ Many consumers prefer the convenience of shopping online and find more competitive pricing
  - ❑ Consumers, including millennials, are more focused on corporate responsibility and brands that “do good”
  - ❑ Consumers are looking for more out of their retail experience- the ability to dine, play, exercise, socialize (in person and through social media), in addition to shop



# *The Importance of Experiential Retail*



# *Socially-Conscious Consuming*



According to a report from Nielsen, 66% of consumers are willing to spend more on a product if it comes from a sustainable brand (73% of millennials).





## *But Is There Really a “Coming Apocalypse”?*

- ❑ It's a disruption, a market correction, a “transformation” – not an apocalypse
  - ❑ Retail sales continue to grow- 1-2% growth according to Forbes.
  - ❑ Roughly 4,100 new stores opened in 2017, according to Cambridge Associates, and 2,800 fast food and formal restaurants.
  - ❑ 2,400 new stores are already slated for opening 2019 (Forbes), including Sephora with plans to open 35 stores in 2019 and Ulta with plans to open 75 stores in next three years.
  - ❑ Online sales still only account for 15% of all sales, although their proportion of all sales is on the rise.
  - ❑ Consumer confidence in health of the economy is at a 20 year high giving consumers confidence in increased spending- but spending is targeted and intentional.
  - ❑ Americans are now spending more money in restaurants and bars than on groceries (The Atlantic).

## *Online Retailers Understand the Importance of Brick and Mortar*



According to JLL Retail, the top 100 digital-native brands have announced plans for at least 850 stores over the next five years.

After all, 85% of all retail sales are made in physical stores.

## *Adapt or Perish - Survival of the Fittest*

- ❑ Retailers must adapt to the changing demands of their consumers
- ❑ Landlords must also adapt and rethink the purpose of retail stores and shopping centers-
  - ❑ Clicks to Bricks- welcoming online retailers
  - ❑ Convertible space- CambridgeSide 3<sup>rd</sup> floor
  - ❑ Introduce variety and offer experience and convenience
- ❑ Everyone must incorporate technology into the way they do business

# *The Death of Mediocre Retail*

***“We don’t think retail is dead. We think mediocre retail is dead.”***

Dave Gilboa, Co-CEO of Warby Parker



# Embrace Social Media



•According to a recent study by Dana Rebecca Designs- 72% of Instagram users surveyed said they have made fashion, beauty or style-related purchases after seeing something on Instagram, with the most-purchased categories being clothing, makeup, shoes and jewelry.

According to a Forrester Report, \$1.26 trillion worth of offline retail sales were influenced by digital media in some way. The same report estimates that number would be \$1.4 trillion in three more years.



CandlePower Pop-Up, NYC

“Grammable” - something that’s worth of being photographed and posted online via Instagram (Macmillian Dictionary)



# *The Importance of Omni-Channel Retailing and AI*



The most successful retailers are harnessing available customer data to transform shopper experiences and predict consumer behavior and shopping patterns.

According to a report from Navidar, more than 50% of Amazon sales are the result of Amazon's recommendation engines.

# *Nordstrom Local - A Case Study in Transformation*



Nordstrom Local, a clothing store with no dedicated inventory. Customers can pick up their online orders and make returns, as well as meet with a personal shopper.

- provides “experiential” retail consumers crave
- minimizes store size without undue inventory loads (2% of the size of an average Nordstrom store)
- integrates physical and online stores into one process

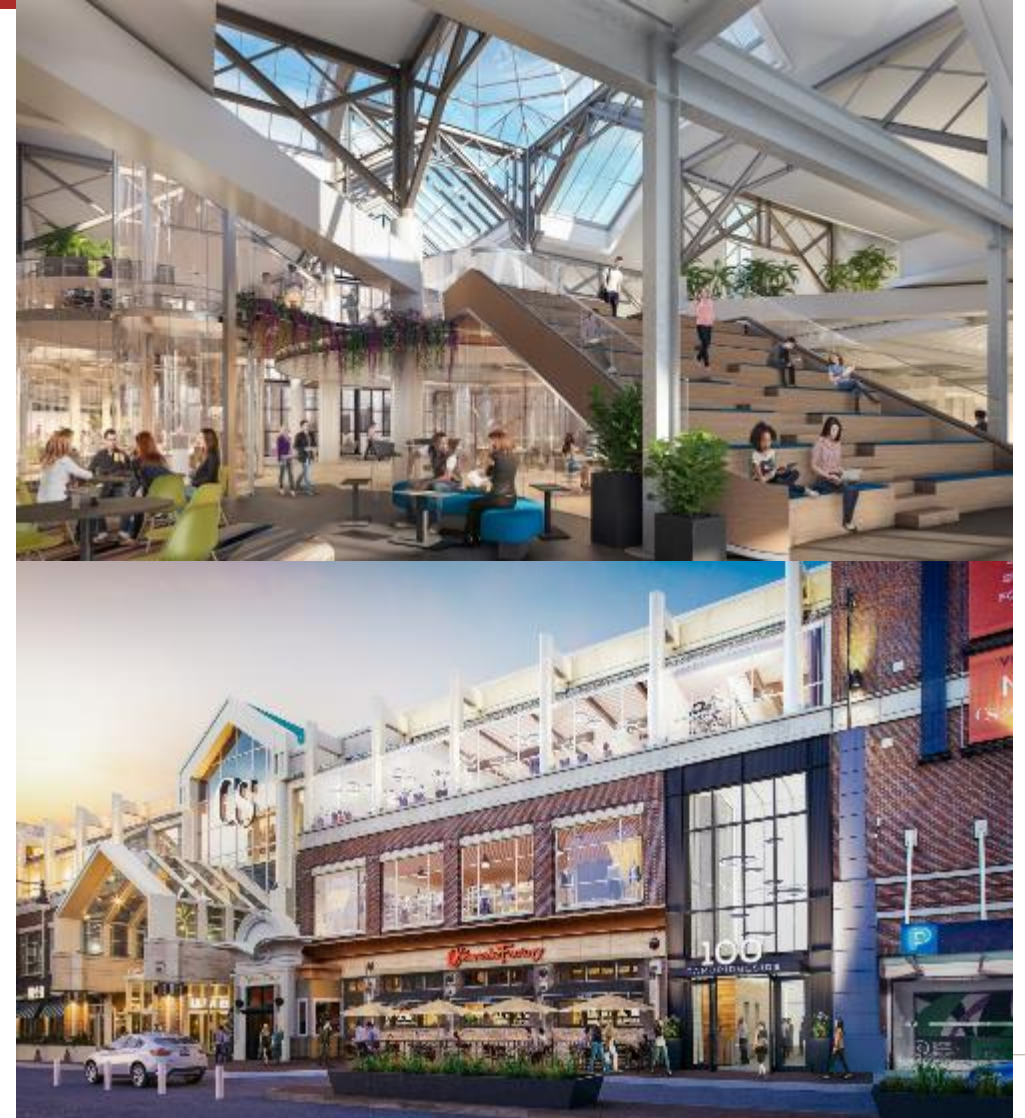


# *CambridgeSide 3<sup>rd</sup> Floor - Market Demands Flexibility*



Conversion of approximately 140,000 sf of retail on 3<sup>rd</sup> floor of existing mall to office space.

© New England Development



# *Strategies for Dealing with the Apocalypse*

## ❑ The Battle for Flexibility and the Lawyer's Role is Drafting for the Future

### ❑ The Tenant's Perspective:

- ❑ Broad use clause to accommodate change
- ❑ Shorter term deals
- ❑ Creative rent structures while testing the market
  - ❑ Showroom concept
- ❑ Increased use of AI in customer support and sizing
- ❑ Do you encourage non-retail uses?
- ❑ The retail store as a marketing play
- ❑ Be expansive in evaluating brick and mortar success
- ❑ Focus on design to encourage customer engagement
- ❑ Invest in people
  - ❑ Competent store managers increase store performance by 20-30%



# *Strategies for Dealing with the Apocalypse*

## **❑ The Battle for Flexibility and the Lawyer's Role is Drafting for the Future**

### **❑ The Landlord's Perspective:**

- ❑ Fight tenant demands for site use restrictions
- ❑ Creative deal structuring
- ❑ Don't squeeze the last ounce of retail space where open, inviting space can be created
- ❑ Adopt a living/working/playing/shopping mentality
- ❑ Develop strategic partnerships with relevant specialists
  - ❑ (residential, office, entertainment)
- ❑ Consider side investments in retailers
- ❑ Work with the omni-channel concept (to help your clients succeed)
- ❑ Differentiate your product
- ❑ Understand your tenant's business
- ❑ Explore international markets for the next great idea





# *Strategies for Dealing with the Apocalypse*

## ☐ **The Battle for Flexibility and the Lawyer's Role in Drafting for the Future**

### ☐ **The Lawyer's Perspective:**

- ☐ Now more than ever, know your client's business—and the other side's as well
- ☐ Given the opportunity, represent both tenants and landlords
- ☐ Take the lead from your client and not from your ego
- ☐ Develop reasonable compromises for the thorniest issues
  - ☐ (e.g. percentage rent)
- ☐ For short term deals, speed counts
  - ☐ (avoid three week negotiations of eminent domain clauses)
- ☐ Be on top of industry trends
- ☐ Counsel your client on applicable risks
  - ☐ (e.g. is an SNDA necessary?)
- ☐ Outsource your weaknesses (insurance clauses? construction details?)



# *Send Lawyers, Guns and Money: Conclusion and Q & A*

- ❑ There is no “Coming Retail Apocalypse”-- just a period of evolution
- ❑ Adapt or perish (both clients and lawyers)
- ❑ Use technology to your advantage

