



Difficulties in the dirt

Shifting soils at FlatIron Crossing's village cause struggles, closures

By Greg Avery
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BROOMFIELD — Shoppers strolling the paver-stone walkways between the shops of the pedestrian village at FlatIron Crossing mall may hardly notice the empty spaces at one end of the bustling shops.

But there are hints of problems at the Village at FlatIron Crossing in Broomfield. They help explain why two eateries closed up shop this fall and a real estate office jumped from one location in the village to another.

Expansive soils run through the dirt beneath part of the center, as it does throughout the Broomfield and Superior area. The soil expands unpredictably as it absorbs rain, snowmelt and moisture from drains, pushing up floors and bending walls.

The evidence of damage from those soils can be found all over the village, including: Uneven concrete in shop floors; cracks running across the drywall above a restaurant fireplace; a small fissure spreading up the exterior wall of a restaurant.

Damage from shifting soils has increasingly frustrated tenants at the 6-year-old center, owned by the Macerich Co. A number of tenants are in legal negotiations with the mall's management about the costs of continually repairing damage.

"People had to spend a lot of time thinking about the conditions of the building — trip-and-fall hazards for employees and customers — instead of delivering good product," said Jesse Witt, a lawyer who represented the Il Fornaio restaurant in negotiations with the mall before it decided to leave the village. "We were always trying to stay a step ahead of the damage so no one got hurt and could turn around and say we were being negligent."

The village buildings are structurally safe; the damage simply is cosmetic if it's addressed fast enough, said Hugh Crawford, FlatIron Crossing's general manager. The mall also is trying to work with tenants to fix the drainage problems believed to be causing the soil swelling, he said.

"It's something we're aware of," he said. "We're addressing it on an ongoing basis."

The issue seemed like largely a nagging cosmetic headache until early August.

Damage closed the Chipotle Mexican Grill in building 300, which faces the parking lot east of the village, and forced Brass Key Property Brokers LLC, located next door, to move to the interior of the village.

On Aug. 15, four days after Chipotle suddenly closed, popping noises could be heard coming from the ceiling, said Brass Key owner Andrew Batson.

The mall told Batson that Brass Key had to move at the end of August, abandoning a space it spent \$30,000 to design so that it would look like a high-end home.

FlatIron Crossing gave Brass Key three months of free rent to offset the cost of the move. But its new location, previously occupied by a health spa, lacks a sign and isn't nearly as visible to daytime customers as it had been next to Chipotle, Batson said.

"People wonder what happened to us," he said.

FlatIron Crossing said the former Chipotle and Brass Key spaces will be repaired, and that examinations have shown the overall structures to be safe.

North Metro Fire District Deputy Fire Marshal Steve Gosselin, no stranger to the consequences of shifting and corrosive soils in the Broomfield area, said the scene at the Chipotle was memorable.

The restaurant's back wall looked like something had crashed into it, buckling the steel studs.

"It was pretty striking, the amount of movement that had taken place," Gosselin said.

Officials didn't declare the restaurant space a hazard because the damage was localized to the one interior wall. Chipotle already had decided to permanently shut down there and the mall planned repairs before another tenant moved in, Gosselin said.

Chipotle would have preferred to stay, but decided not to, given the mall's response, said Chris Arnold, spokesman for the Denver-based fast-casual restaurant chain.

"They opted not to fix the things in our space and instead let us out of our lease," Arnold said. "It's unfortunate because we liked that location."

The nearby Italian restaurant Il Fornaio closed in October regarding similar problems, hanging a sign in its window saying it left due to issues beyond its control.

Floor-heaving of 5 inches or 6 inches, expensive repairs and difficulty with mall management about how to address the problems persuaded the chain to leave a location it wanted to keep open, said Witt, the Benson & Associates attorney who represented the restaurant in unsuccessful negotiations with Macerich.

Crawford, the FlatIron Crossing manager, told the Daily Camera in October that Il Fornaio's closure was partly due to its business underperforming.

That comment angered Witt.

The Corte Madera, Calif.-based chain initially agreed to stay quiet about the expansive soils problems at the request of mall management, Witt said, but Crawford's comments were inaccurate about Il Fornaio's closure.

"The reason the place closed was a soils problem," Witt said.

Heaving of its expensive marble floors presented tripping hazards and movement of the walls raised concerns that pieces of Il Fornaio's stonewall paneling eventually would fall off, Witt said.

Il Fornaio understood when it committed to the village that some floor movement was possible. It tried to account for it in its interior designs, Witt said.

But some areas of its marble floors shifted nearly six inches, he said, and Il Fornaio had no idea there was a risk of that happening when it signed its lease.

Witt also represented Canyon Café, another village tenant, in negotiations with the mall about shifting soil damage at that restaurant. It reached a confidential settlement with FlatIron Crossing, Witt said.

Swamp thing

Expansive soils are holdovers from thousands of years ago, when Colorado's climate resembled the verdant bayous of Louisiana, said David Noe, senior engineering advisor and expansive soils expert with the Colorado Geological Survey.

In places where rivers and streams slowed and pooled, mud collected. Those soils shrank when the region's climate dried out, but the deposits remained, ready to absorb whatever moisture came their way.

Nearby sandy deposits, in places where water flow had been faster, don't share the same swelling potential, explaining why soil expansion can be a problem under one part of a FlatIron Crossing building but not an issue just a few feet away.

No problems have been reported at the main indoor mall to the north of the village. The indoor mall was built on a massive structural floor that raises the building a few feet off the ground. That allows room for soil to swell and shrink without coming into contact with the mall's floors.

In the village, though, shop floors were poured directly on top of the dirt.

Attorneys for the restaurants contend that pre-construction reports recommended Westcor, the Macerich subsidiary that built the mall, dig out 12 feet of soil in the village and replace it with a controlled mix of unexpansive dirt. The mall's builders not only failed to do that, the lawyers allege, but they also never told tenants it wasn't done.

Mall management disputes that.

Crawford, the mall's general manager, said some tenants failed to finish their interiors with the kind of ground movement tolerances they'd been told to expect.

"The ones that didn't do that are seeing more serious damage," he said.

The problems have been most acute for the village's restaurants, which, unlike other retail spaces, installed their own floors originally so they could choose where to locate drains.

The mall is exploring whether the regular hosing and mopping of the restaurant spaces contributes to the problem, Crawford said.

Shifting soils are a fact of life that FlatIron Crossing constantly will address, Crawford said.

Macerich dug out the village's walkways in 2004 and 2005. In some places, four feet of new soil and gravel was put in atop a new underground drainage system and a protective membrane. The system is meant to move seeping water away from structures and swelling soils.

But the problems at the village's north end didn't stop, and wall movement reached a crescendo after late summer rains. Soon after, Chipotle and Il Fornaio decided it was time to get out.

Spreading unhappiness

The Village Tavern restaurant, located across from Il Fornaio's former space, has been negotiating for months with the mall about how to address drywall cracks, buckling wall surfaces and heaving floors, among other things, said David Arkell, a Faegre & Benson attorney representing Village Tavern.

The eatery's carpeted floors and lighter-weight wall finishes have made the damage easier to disguise than at Il Fornaio, but issues are no less serious, Arkell said.

Its walls shifted enough at one point to cause its exterior back door to wedge open, and the eatery had to scramble to fix it before it presented a health hazard that let in mice from the tavern's nearby trash area, he said.

The structure is safe, according to the restaurant's engineers, but the building's aesthetics are important to the business and the damage caused by swelling soils is a serious problem it wants the mall to address.

"We're not happy," Arkell said. He's not sure what his client ultimately will do, but its patience may be wearing thin.

Crawford said the mall's experts say the soils and drainage will reach equilibrium, and the soils — like a sponge that has been soaked and dried repeatedly — will lose its elasticity and eventually stay still.

That's a long shot, said Noe, the state's soil expert.

As long as moisture levels in the ground change, the soils will expand and contract unpredictably, he said. Old Denver houses that hadn't moved in 80 years suddenly started shifting during the drought summer of 2002, and then again when the wetness returned, Noe said.

"You're never quite out of it with these soils," he added.

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