

3330 Brighton Boulevard Conditions Study

February 2015



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Section 1: Study Overview

Purpose

In order to maximize the potential for remedying conditions of blight and encourage reinvestment, the Denver Urban Renewal Authority has commissioned an independent conditions Study for an industrial property located at 3330 Brighton Boulevard in the City of Denver, Colorado.

This property is vacant, but has been used for storage and more recently as a parking lot for the neighboring Source property to the northeast.

This Study will determine if the geographic area chosen for this project qualifies as “blighted” within the meaning of the Colorado Urban Renewal Law.

Methodology

The defined geographic area (“Study Area”) examined in this Conditions Study is defined by the real property boundaries as depicted in the parcel maps provided by the Denver Assessor’s Office, with the addition of the adjacent public right of way up to the centerline of Brighton Boulevard. A map depicting the boundaries of the Study Area is presented in **Section 4** of this report as **Exhibit 2: Study Area Map**.

Data collection for conditions of blight (see **Sections 2** and **3** for what constitutes conditions of blight) was accomplished through several means. A field Study was conducted in early December, 2014 for the purpose of assessing blight conditions that could be physically observed on the property. Additional analysis was conducted using aerial photography and parcel maps of the property. For those blight conditions that are not observable in the field (such as traffic data, crime statistics, etc.), blight condition data was obtained from the City of Denver and various other 3rd party sources during the same time period.

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Section 2: Colorado Urban Renewal Statutes and Blighted Areas

In the Colorado Urban Renewal Law, Colo. Rev. Stat. § 31-25-101 et seq. (the “Urban Renewal Law”), the legislature has declared that an area of blight “constitutes a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state in general and municipalities thereof; that the existence of such areas contributes substantially to the spread of disease and crime, constitutes an economic and social liability, substantially impairs or arrests the sound growth of municipalities, retards the provision of housing accommodations, aggravates traffic problems and impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of slums and blight is a matter of public policy and statewide concern...”

Under the Urban Renewal Law, the term “blighted area” describes an area with an array of urban problems, including health and social deficiencies, and physical deterioration. See Colo. Rev. Stat. § 31-25-103(2). Before remedial action can be taken, however, the Urban Renewal Law requires a finding by the appropriate governing body that an area such as the Study Area constitutes a blighted area. Colo. Rev. Stat. §31-25-107(1).

The blight finding is a legislative determination by the municipality’s governing body that, as a result of the presence of factors enumerated in the definition of “blighted area,” the area is a detriment to the health and vitality of the community requiring the use of the municipality’s urban renewal powers to correct those conditions or prevent their spread. In some cases, the factors enumerated in the definition are symptoms of decay, and in some instances, these factors are the cause of the problems. The definition requires the governing body to examine the factors and determine whether these factors indicate a deterioration that threatens the community as a whole.

For purposes of the Study, the definition of a blighted area is articulated in the Colorado Urban Renewal statute as follows:

*“Blighted area” means an area that, in its present condition and use and, by reason of the presence of at least **four** of the following factors, substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare:*

- a. Slum, deteriorated, or deteriorating structures;*
- b. Predominance of defective or inadequate street layout;*
- c. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;*
- d. Unsanitary or unsafe conditions;*
- e. Deterioration of site or other improvements;*
- f. Unusual topography or inadequate public improvements or utilities;*
- g. Defective or unusual conditions of title rendering the title non-marketable;*
- h. The existence of conditions that endanger life or property by fire or other causes;*
- i. Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities;*
- j. Environmental contamination of buildings or property; or*
- k.5. The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements”*

In addition, paragraph (l.) states, *“if there is no objection by the property owner or owners and the tenant or tenants of such owner or owners, if any, to the inclusion of such property in an urban renewal area, ‘blighted area’ also means an area that, in its present condition and use and, by reason of the presence of any **one** of the factors specified in paragraphs (a) to (k.5) of this subsection....”*

The statute also states a separate requirement for the number of blight factors that must be present if private property is to be acquired by eminent domain. At § 31-25-105.5(5), paragraph (a.) states, *“Blighted area’ shall have the same meaning as set forth in section 31-25-103 (2); except that, for purposes of this section only, ‘blighted area’ means an area that, in its present condition and use and, by reason of the presence of at least **five** of the factors specified in section 31-25-103 (2)(a) to (2)(l). . . .”*

Thus, the state statutes require, depending on the circumstances, that a minimum of either **one, four, or five** blight factors be present for an area to be considered a “blighted area.”

A couple principles have been developed by Colorado courts to guide the determination of whether an area constitutes a blighted area under the Urban Renewal Law. First, the absence of widespread violation of building and health codes does not, by itself, preclude a finding of blight. According to the courts, “the definition of ‘blighted area’ contained in [the Urban Renewal Law] is broad and encompasses not only those areas containing properties so dilapidated as to justify condemnation as nuisances, but also envisions the prevention of deterioration.”

Second, the presence of one well-maintained building does not defeat a determination that an area constitutes a blighted area. Normally, a determination of blight is based upon an area “taken as a whole,” and not on a building-by-building, parcel-by-parcel, or block-by-block basis.

Based upon the conditions identified in the Study Area, this report makes a recommendation as to whether the Study Area qualifies as a blighted area. The actual determination itself remains the responsibility of the Denver City Council.

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Section 3: Conditions Indicative of the Presence of Blight

As discussed in **Section 2**, the Colorado Urban Renewal statute provides a list of 11 factors that, through their presence, may allow an area to be declared as blighted. This section elaborates on those 11 factors by describing some of the conditions that might be found within a Study Area that would indicate the presence of those factors.

Slum, Deteriorated, or Deteriorating Structures:

Although evidence of former structures is evident at the 3330 Brighton Boulevard property, no buildings were standing on the property at the time of the field Study.

Predominance of Defective or Inadequate Street Layout:

The presence of this factor is determined through a combination of both field observation as well as an analysis of the existing transportation network and vehicular and pedestrian circulation patterns in a Study Area by persons with expertise in transportation planning and/or traffic engineering. These conditions include:

- Inadequate street or alley widths, cross-sections, or geometries
- Poor provisions or unsafe conditions for the flow of vehicular traffic
- Poor provisions or unsafe conditions for the flow of pedestrians
- Insufficient roadway capacity leading to unusual congestion of traffic
- Inadequate emergency vehicle access
- Poor vehicular/pedestrian access to buildings or sites
- Poor internal vehicular/pedestrian circulation
- Excessive curb cuts/driveways in commercial areas

These conditions can affect the adequacy or performance of the transportation system within the Study Area, creating a street layout that is defective or inadequate.

Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness:

This factor requires an analysis of the parcels within a Study Area as to their potential and usefulness as developable sites. Conditions indicative of the presence of this factor include:

- Lots that are long, narrow, or irregularly shaped
- Lots that are inadequate in size
- Lots with configurations that result in stagnant, misused, or unused land
- Lots with billboards that have active leases, making redevelopment more difficult

This analysis considers the shape, orientation, and size of undeveloped parcels within the Study Area and if these attributes would negatively impact the potential for development of the parcel. This evaluation is performed both through observation in the field and through an analysis of parcel boundary maps of the Study Area.

Unsanitary or Unsafe Conditions:

Conditions that can be observed within a Study Area that qualify under this blight factor include:

- Floodplains or flood prone areas
- Inadequate storm drainage systems/evidence of standing water
- Poor fire protection facilities
- Above average incidences of public safety responses
- Inadequate sanitation or water systems
- Existence of contaminants or hazardous conditions or materials
- High or unusual crime statistics
- Open trash dumpsters
- Severely cracked, sloped, or uneven surfaces for pedestrians
- Illegal dumping
- Vagrants/vandalism/graffiti/gang activity
- Open ditches, holes, or trenches in pedestrian areas

These represent situations in which the safety of individuals, especially pedestrians and children, may be compromised due to environmental and physical conditions considered to be unsanitary or unsafe.

Deterioration of Site or Other Improvements:

The conditions that apply to this blight factor reflect the deterioration of various improvements made on a site other than building structures. These conditions may represent a lack of general maintenance at a site, the physical degradation of specific improvements, or an improvement that was poorly planned or constructed. Overall, the presence of these conditions can reduce a site's usefulness and desirability and negatively affect nearby properties.

- Neglected properties or evidence of general site maintenance problems
- Deteriorated signage or lighting
- Deteriorated fences, walls, or gates
- Deterioration of on-site parking surfaces, curb & gutter, or sidewalks
- Poorly maintained landscaping or overgrown vegetation
- Poor parking lot/driveway layout
- Unpaved parking lot on commercial properties

Unusual Topography or Inadequate Public Improvements or Utilities:

The focus of this factor is on the presence of unusual topographical conditions that could make development prohibitive, such as steep slopes or poor load-bearing soils, as well as deficiencies in the public infrastructure system within the Study Area that could include:

- Steep slopes / rock outcroppings / poor load-bearing soils
- Deteriorated public infrastructure (street/alley pavement, curb, gutter, sidewalks, street lighting, storm drainage systems)
- Lack of public infrastructure (same as above)
- Presence of overhead utilities or billboards
- Inadequate fire protection facilities/hydrants
- Inadequate sanitation or water systems

Defective or Unusual Conditions of Title Rendering the Title Non-Marketable:

Certain properties can be difficult to market or redevelop if they have overly restrictive or prohibitive clauses in their deeds or titles, or if they involve an unusually complex or highly divided ownership arrangement. Examples include:

- Properties with covenants or other limiting clauses that significantly impair their ability to redevelop
- Properties with disputed or defective title
- Multiplicity of ownership making assemblages of land difficult or impossible

Existence of Conditions that Endanger Life or Property by Fire and Other Causes:

A finding of blight within this factor can result from the presence of the following conditions, which include both the deterioration of physical improvements that can lead to dangerous situations as well as the inability for emergency personnel or equipment to provide services to a site:

- Buildings or sites inaccessible to fire and emergency vehicles
- Blocked/poorly maintained fire and emergency access routes/frontages
- Insufficient fire and emergency vehicle turning radii
- Buildings or properties not in compliance with fire codes, building codes, or environmental regulations

Buildings that are Unsafe or Unhealthy for Persons to Live or Work In:

Some of the conditions that can contribute to this blight factor include:

- Buildings or properties not in compliance with fire codes, building codes, or environmental regulations
- Buildings with deteriorated elements that create unsafe conditions

- Buildings with inadequate or improperly installed utility components

Environmental Contamination of Buildings or Property:

This factor represents the presence of contamination in the soils, structures, water sources, or other locations within a Study Area.

- Presence of hazardous substances, liquids, or gasses

Existence of Factors Requiring High Levels of Municipal Services or Substantial Physical Underutilization or Vacancy of Sites, Buildings, or Other Improvements:

The physical conditions that would contribute to this blight factor include:

- Sites with a high incidence of fire, police, or emergency responses
- Sites adjacent to streets/alleys with a high incidence of traffic accidents
- Sites with a high incidence of code enforcement responses
- An undeveloped parcel in a generally urbanized area
- A parcel with a disproportionately small percentage of its total land area developed
- Vacant structures or vacant units in multi-unit structures

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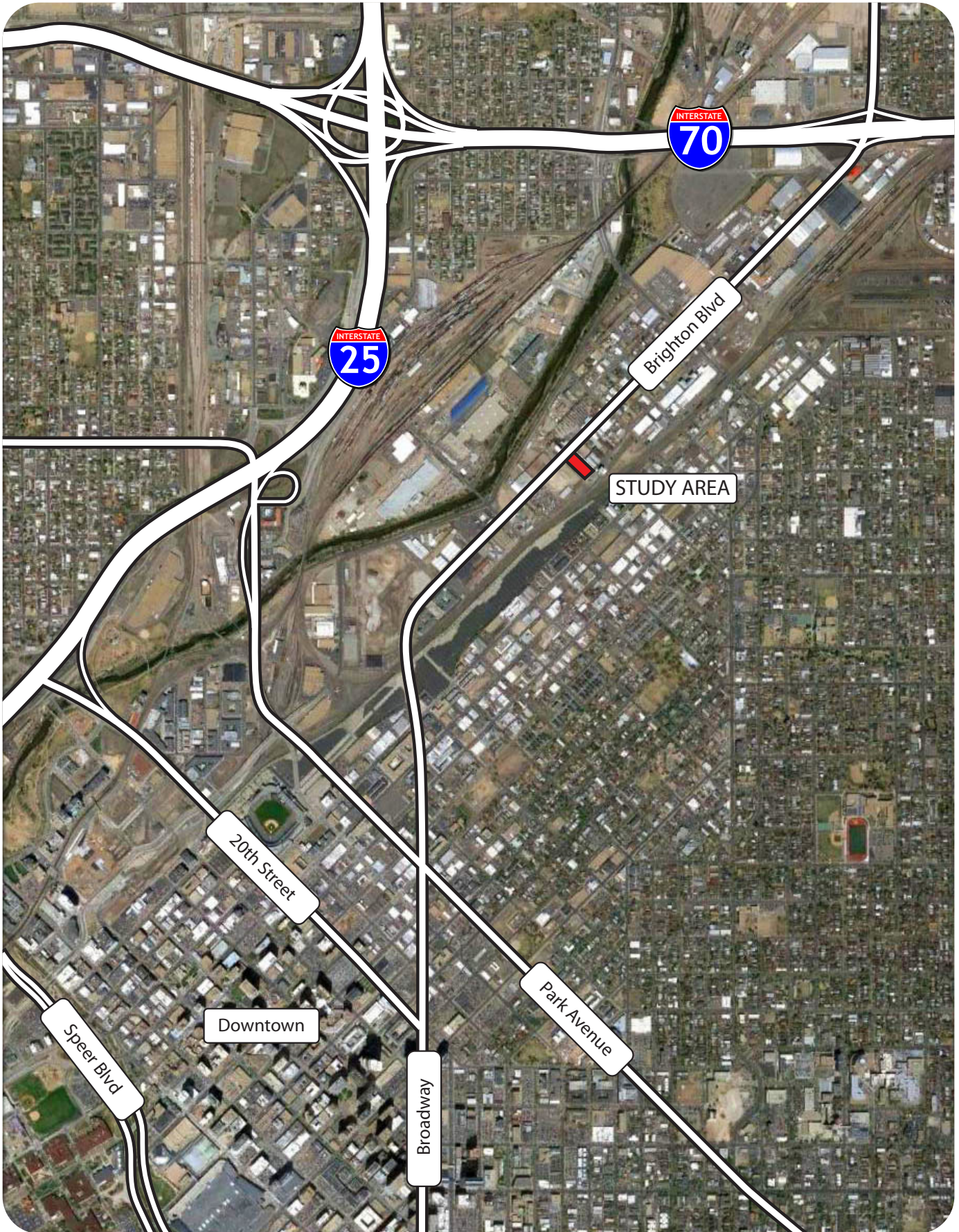
Section 4: Study Area Location, Definition, and Description

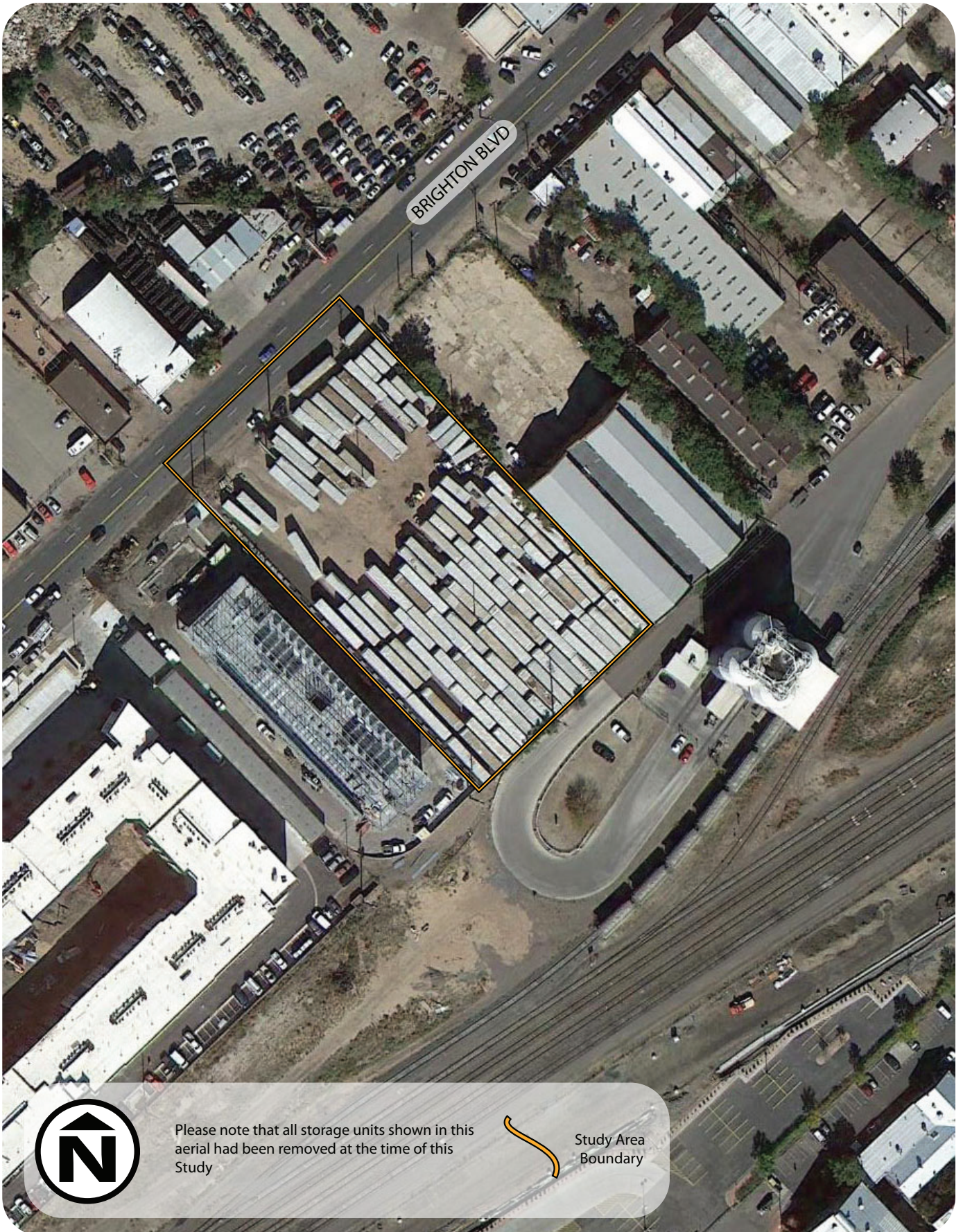
The 3330 Brighton Boulevard Conditions Study focuses on a single large parcel located on Brighton Boulevard, a corridor connecting downtown Denver with Interstate 70 that is in transition from light industrial uses to residential and commercial activities that benefit from the area's proximity to downtown.

This focused Study Area is comprised of a single large industrial parcel located on the southeast side of Brighton between 33rd and 34th Streets, along with a portion of the bordering public right-of-way. The Study Area is 70,509 square feet, according to the assessor's records, or about 1 .6 acres.

Exhibit 1: Study Area Context, shows the location of the Study Area within the context of the City of Denver and the surrounding area.

Exhibit 2: Study Area Map visually depicts the physical boundaries of the Study Area.





Please note that all storage units shown in this aerial had been removed at the time of this Study



Study Area Boundary

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Section 5: Study Findings

The overall findings of the 3330 Brighton Boulevard Conditions Study are presented below in a format that mirrors the list of factors and conditions of blight discussed in **Section 3**.

Slum, Deteriorated, or Deteriorating Structures

Since no structure remained standing on the property during the time of the field Study, this factor was not assessed and is not considered for the purposes of this Conditions Study.

This blight factor is therefore considered **not** to be present in the Study Area.

Predominance of Defective or Inadequate Street Layout

The only streets adjacent to the Study Area are Brighton Boulevard to the northwest, which serves as the primary access to the site, and a private road to the southeast, which serves a cement business.

Access to the parcel is currently provided only via Brighton Boulevard, which is not an uncommon situation in the area due to the lack of connectivity of local roads that results from the adjacent rail yards, tracks, and the South Platte River. Local traffic is therefore funneled onto Brighton Boulevard, and increasing development intensity along with the transitioning character of the corridor from industrial to mixed use is driving efforts by the City of Denver Public Works Policy and Planning to study the corridor and develop alternatives for future transportation along the corridor.

Traffic data taken by the City of Denver in late 2013 shows that 16,000 to 17,000 vehicles use Brighton Boulevard just northeast of the 3330 Brighton Boulevard property on a given weekday. This is not elevated relative to other arterial streets in Denver with similar lane configurations; therefore, the boulevard is considered to have adequate capacity for vehicular traffic.

There is a significant lack of public infrastructure including sidewalks, bike lanes, and other amenities, but this is an issue that will be covered in a different section of this report, as it is not a geometry or layout issue.

No finding of *Inadequate Street Layout* has been made.

Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness

As part of this Study, aerial parcel maps are analyzed to ensure that the 3330 Brighton Boulevard property has adequate access to the public right of way, and also that it is of sufficient size and geometry to satisfy bulk and parking requirements set forth in the current zoning ordinances in effect.

The property has direct access to Brighton Boulevard, and is relatively large, allowing it to accommodate a variety of viable uses allowed by regulation. A future easement along the southwestern boundary of the property will likely be needed to accommodate regional storm drainage infrastructure, but the easement will not likely impact the ability of the site to be redeveloped.

The Study Area is **not** considered to have *Faulty Lot Layout*.

Unsanitary or Unsafe Conditions

Records from the Denver Police Department show that over the past year, reported crimes at the 3330 Brighton Boulevard property and the immediate vicinity are lower than many surrounding properties within a one mile radius. Compared to areas farther south on Brighton Boulevard as well as the River North area as a whole, 3330 Brighton Boulevard and the surrounding vicinity is relatively safe.

Floodplain maps from the Federal Emergency Management Agency (FEMA) indicate that the Study Area is outside any areas that have a $>.02\%$ annual chance of flooding. For the purposes of this Study, there is considered to be no physical danger to visitors from flooding, although standing water can be observed on the property due to the lack of curb and gutter and presence of potholes, which will be documented in another blight category.

Fire protection facilities are adequate; a hydrant is located about 100 feet southwest of the property on Brighton Boulevard, which is more than sufficient given the parcel's current use as a parking lot.

There is a minor safety issue that arises out of the lack of sidewalk infrastructure along the public right-of-way adjacent to the property. As the Brighton Boulevard corridor continues to urbanize and absorb more mixed-use activity, pedestrians will need safer passage along Brighton Boulevard than the dirt paths that currently exist. However, since there is a sufficient buffer between pedestrian paths and traffic, this is more of an infrastructure issue than a safety issue, and will be documented under another blight category later in this report.

No finding of *Unsanitary or Unsafe Conditions* has been made.

Deterioration of Site or Other Improvements

Although most of the overgrown vegetation has been cleared since this site was last assessed in 2013 for a previous Conditions Study, it remains in a dilapidated state.

Broken, deteriorated, and uneven pavement is common throughout the property; in some areas it is lacking entirely even though the property is currently used as a commercial parking lot and experiences the associated pedestrian activity. Debris and some illegal dumping was also apparent in various places throughout the property.

The remains of the foundation of a former structure on the property are evident, as are buried tracks from a former railroad spur on the property. This suggests that the site has not been fully excavated during the demolition of the former structure, and will need to be as part of the redevelopment of the property. The amount of additional excavation work needed is unknown, but could be significant.

A finding of *Deterioration of Site or Other Improvements* has been made in the Study Area.



Deteriorated pavement



Potholes and remnants of building foundations and railroad tracks still exist in places on the uneven parking surface



Remnants of rail tracks



A portion of the property is still used for storage and has collected debris



Twisted rebar at the entrance contribute to a sense of a general lack of maintenance



The fence at the rear of the property is dilapidated and collects trash and vegetation

Unusual Topography or Inadequate Public Improvements or Utilities

The topography of the 3330 Brighton Boulevard property is relatively flat, and in no way affects the ability of the property's ability to be redeveloped or reused.

There is, however, a significant lack of public improvements throughout the property and the adjacent Brighton Boulevard right-of-way. The most notable examples are a lack of curb and gutter as well as sidewalks along the northwest boundary of the property, along Brighton Boulevard. Any pedestrians on this increasingly mixed-use corridor must navigate uneven pavement, standing water, parked cars, utility poles, and other obstacles if they wish maintain a safe distance from automobile traffic.



The Brighton Boulevard right of way provides no amenities adjacent to the property as currently configured

Additionally, there are overhead utilities along the northwestern and southeastern boundaries of the property, as well as the occasional utility pole in the property's interior. These overhead utilities are in character with much of the light industry to the northeast of the property, but not with redeveloped properties to the southwest.

The City of Denver is actively pursuing the redesign and reconstruction of Brighton Boulevard to bring it up to City standards as well as provide amenities for pedestrian and other alternative methods of transportation, but these capital improvements are currently in the planning stages, and as of the time of this report, public infrastructure along the property remains inadequate or nonexistent.

The property and most of the Brighton corridor is not within a FEMA designated floodplain, as existing development has narrowed the nearby South Platte River urban floodplain. Storm drainage in the area, however, is inadequate. The lack of curb and gutter along Brighton Boulevard results in frequent instances of standing water, and the City's 2014 Storm Drainage Master Plan identifies the area as having less than a 1-year capacity, which does not meet the City's standard of having at least a 5-year capacity in commercial areas.

Because of these problems, this factor **is** considered present in the Study Area.

Defective or Unusual Conditions of Title Rendering the Title Non-marketable

A review of public records revealed no covenants or restrictions of title that would impact the ability of the property to be redeveloped or reused.

This blight factor is considered **not** to be present in the Study Area.

Existence of Conditions that Endanger Life or Property by Fire or Other Causes

Access to the site for emergency vehicles as well as internal circulation and emergency vehicle turning radii are adequate. Fire protection facilities such as hydrants are also sufficient.

This blight factor is considered **not** to be present in the Study Area.

Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities

No structures currently exist on the 3330 Brighton Boulevard property.

Therefore, this factor is **not** present in the Study Area.

Environmental Contamination of Buildings or Property

As part of this Study, an analysis of environmental conditions was conducted by an ASTM-defined environmental professional to assess whether sufficient Recognized Environmental Conditions (RECs) exist on site to consider the property contaminated. The results of four previous studies¹ were included in the analysis, as well as a search of records by the Colorado Department of Labor and Employment Division of Oil and Public Safety.

The analysis found that Volatile Organic Compounds (VOCs) have historically been identified in groundwater collected from the subject property, although the source of the VOCs is unknown. It is suggested in past environmental reports of the property that the former building at the site razed two decades ago may be responsible for impacting groundwater at the site.

In May 2013, groundwater samples at the site found levels of Tetrachloroethane exceeding regulatory levels at the site, likely from an upgradient source area.

This groundwater contamination has the potential to complicate the redevelopment process in order to limit exposure to any potential future users of the property. At the very least, ongoing monitoring of the groundwater contamination will need to continue until the level of contamination drops below regulatory levels.

Therefore, there **is** a finding of *environmental contamination of buildings or property*.

¹ Corn & Associates Limited Phase II Environmental Assessment, 3330-3340 Brighton Boulevard, Denver, Colorado dated September 24, 2007

Corn & Associates Additional Environmental Investigations 3330-3340 Brighton Boulevard, Denver, Colorado dated November 12, 2007

Casey Resources, Inc. Additional Subsurface investigation Report for Real Property Located at 3330 to 3390 Brighton Boulevard, Denver, Colorado dated September 8, 2008

Casey Resources, Inc. Letter Report Sampling of Existing Groundwater Monitoring Wells at Property Located at 3330 Brighton Boulevard, Denver, Colorado dated May 6, 2013

The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements

A review of service calls to the Study Area over the past three calendar years did not show an elevated level of municipal service needs at the 3330 Brighton Boulevard property.

The site has remained substantially underutilized since it was razed; none of its past uses including storage and more recently parking represent anything approaching the highest and best use of the property given its context in a developing urban corridor that serves as a gateway to the heart of Denver from I-70 and the northeast metro area.

The City of Denver has designated the property with C-MX-12 zoning, which indicates the desired use and development intensity of the property. The designation is reserved for mixed use development along urban arterial streets where a “building scale of 3 to 12 stories is desired.” This represents a significant level of investment in the property needed to develop it in a manner that conforms to City regulations and goals, and further cements the idea that the current use of the property represents a substantial underutilization given the property’s zoning, location, and the context of the surrounding area.

In its current state, if the lot was not used for parking, which even now is an informal use given the unpaved or poorly paved nature of the property, it would be completely vacant except for a few remaining storage crates.

This blight factor **is** considered present in the Study Area.



The 3330 Brighton Boulevard property remains underutilized

Section 6: Study Summary and Recommendation

Within the entire Study Area, four of the eleven blight factors were identified as being present. The blight factors identified within the Study Area are:

- Deterioration of Site or Other Improvements
- Unusual Topography or Inadequate Public Utilities
- Environmental Contamination of Buildings or Property
- High Levels of Municipal Services or Underutilization or Vacancy of Sites, Buildings, or Other Improvements

Blight Study Recommendation

As discussed in **Section 2**, in order for an area to be declared blighted, a certain number of the eleven blight factors must be found within the Study Area. **Four** of the eleven factors is the required minimum, unless none of the property owners or tenants object to being included within an urban renewal area; then, the required minimum is only **one** of the eleven factors. In the event, however, that eminent domain is to be used by the Denver Urban Renewal Authority to acquire property within the urban renewal area, the required minimum is **five** of the eleven factors. Since **four** blight factors were identified within the Study Area, the threshold has been met for the property to be declared blighted, but not for DURA's use of eminent domain.

It is the recommendation of this blight Study report to the City of Denver, the Denver Urban Renewal Authority, that the Study Area, in its present condition, exhibits a sufficient level of blight to be considered a "blighted area" under the standards set forth in State Statute. Whether the blighted area *"substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare"* is a determination that must be made by the Denver City Council.