

# 550 South McCaslin Boulevard Conditions Survey



**July 2014**  
**City of Louisville, Colorado**



Urban Revitalization Consulting



## Table of Contents

Section 1: Study Overview .....	1
Section 2: Colorado Urban Renewal Statutes and Blighted Areas .....	3
Section 3: Conditions Indicative of the Presence of Blight .....	7
Section 4: Study Area Location, Definition, and Description .....	13
Section 5: Study Findings .....	17
Section 6: Study Summary and Recommendation .....	31
Exhibit 1: Study Area Context .....	14
Exhibit 2: Study Area Map .....	15

*No document content on this page*

## Section 1: Survey Overview

### Purpose

In order to maximize the potential for remedying conditions of blight and encourage reinvestment, the City of Louisville, Colorado has commissioned an independent conditions survey for a large commercial property located at 550 S McCaslin Boulevard, Louisville, Colorado, 80027.

This property was formerly occupied by a Sam's Club facility, but has remained vacant since the store's closing early in 2010, despite ongoing efforts to market the property to another tenant.

This survey will determine if the geographic area chosen for this project qualifies as "blighted" within the meaning of the Colorado Urban Renewal Law, and consequently, if there is a sufficient basis to adopt a new urban renewal plan that can more effectively stimulate focused redevelopment in this area.

### Methodology

The defined geographic area ("Survey Area") examined in this conditions inventory was determined by the City of Louisville, and lies entirely within Louisville's municipal boundaries. A map depicting the boundaries of the Survey Area is presented in **Section 4** of this report as **Exhibit 2: Survey Area Map**.

Data collection for conditions of blight (see **Sections 2** and **3** for what constitutes conditions of blight) was accomplished through several means. For those blight conditions that could be identified by visual observation and by the use of maps and aerial photography, the consultant conducted a field survey in June 2014. For those blight conditions that are not observable in the field (such as traffic data, crime statistics, etc.), blight condition data was obtained from specific City of Louisville departments during the same time period.

*No document content on this page*

## 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 Survey 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 Survey, 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 Survey Area, this report makes a recommendation as to whether the Survey Area still qualifies as a blighted area, given the time that has passed since such a determination was first made. The actual determination itself remains the responsibility of the Louisville City Council.

*No document content on this page*

## 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 Survey Area that would indicate the presence of those factors.

### **Slum, Deteriorated, or Deteriorating Structures:**

During the field reconnaissance of the Survey Area, the general condition and level of deterioration of a building is evaluated. This examination is limited to a visual inspection of the building's exterior condition and is not a detailed engineering or architectural analysis, nor does it include the building's interior. The intent is to document obvious indications of disrepair and deterioration to the exterior of a structure found within the Survey Area. Some of the exterior elements observed for signs of deterioration include:

- Primary elements (exterior walls, visible foundation, roof)
- Secondary elements (fascia/soffits, gutters/downspouts, windows/doors, façade finishes, loading docks, etc.)
- Ancillary structures (detached garages, storage buildings, etc.)

### **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 the Survey 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 Survey 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 the Survey 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 Survey 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 Survey Area.

### **Unsanitary or Unsafe Conditions:**

Conditions observed within the Survey 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 Survey 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 the Survey 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

*No document content on this page*

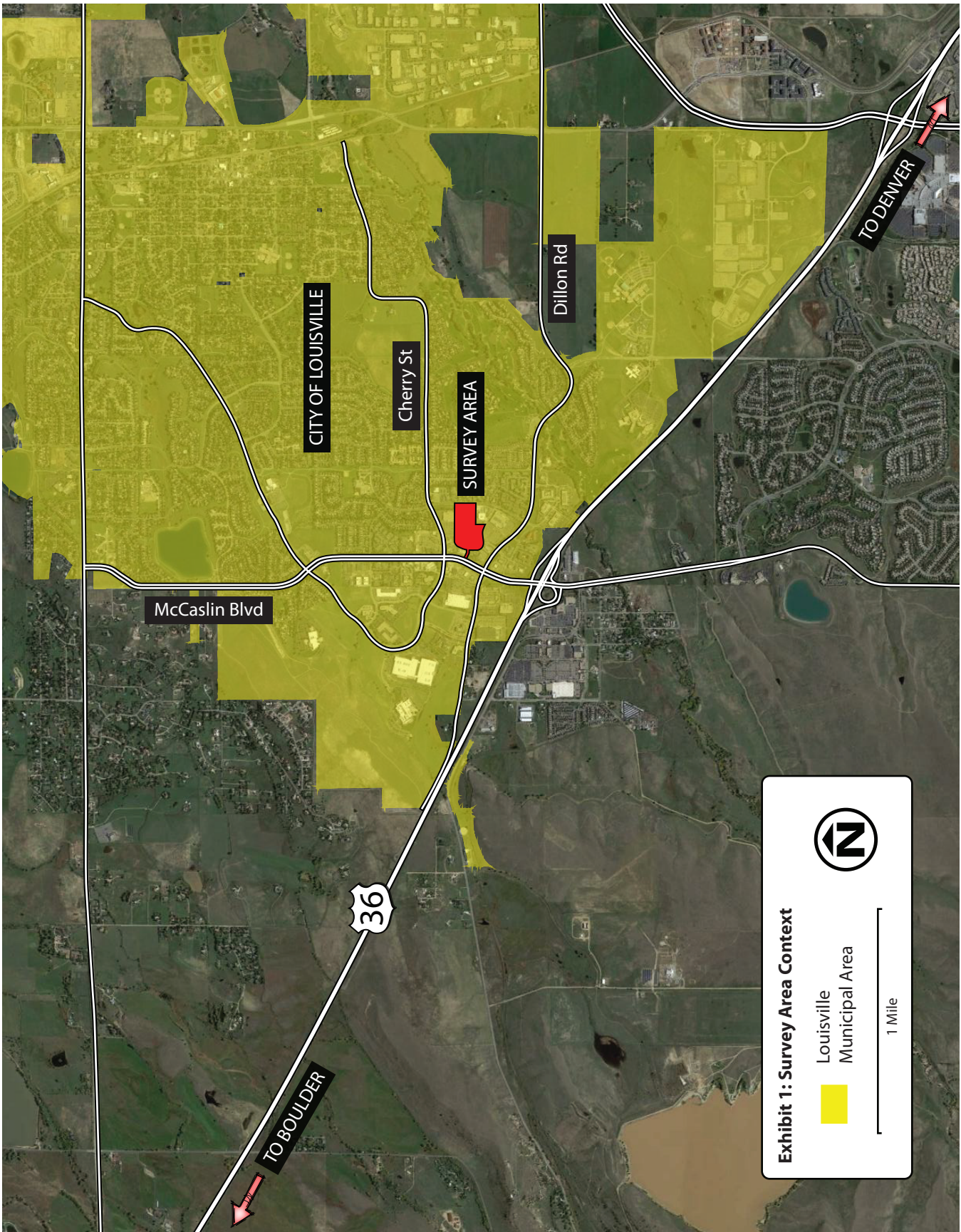


## **Section 4: Survey Area Location, Definition, and Description**

The 550 S McCaslin Boulevard Conditions Survey focuses on a single large parcel located in a retail center that is primarily accessed from McCaslin Boulevard, a major arterial street that links the City of Louisville with the Denver-Boulder Turnpike. This focused area is 13.16 acres and is defined by a single real property parcel comprising a largely vacant retail building as well as its associated parking lot. The building is 127,000 square feet, making it one of the largest retail structures in the area.

**Exhibit 1: Survey Area Context**, shows the location of the Survey Area within the context of the City of Louisville and the surrounding area.

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





*No document content on this page*

## Section 5: Survey Findings

The overall findings of the 550 S McCaslin Boulevard Conditions Survey 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

The retail structure, developed in the mid 1990s, was examined during the field survey, and remains in good condition. A few minor problems were visible on the facade of the building, such as cracked brick and mortar due to soil settling in select places, but these issues did not rise to the level necessary to make a finding of *deteriorated structures*.

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

## **Predominance of Defective or Inadequate Street Layout**

The parcel comprising the Survey Area is large—over 13 acres according to the Boulder County Assessor—and relies on internal private roads for adequate access and service, as do the surrounding retail parcels and pad sites.

Traffic count data from the Louisville Engineering Division covering the surrounding public rights of way revealed no major issues with daily traffic volumes given the design capacity of the roads.

Emergency vehicle access is well provided for: there are no portions of the building that cannot be accessed using the internal streets, and the streets are configured correctly to allow for sufficient vehicle turning radii.

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

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

The real property parcel covering the Survey Area is the result of an initial subdivision that precisely corresponds to the parcel's originally intended use containing a large discount membership warehouse and associated internal roads and parking facilities. The size of the retail structure—127,000 square feet—is considerable, even for large format retail. A typical supermarket is less than half that size; even a modern, full-featured home improvement store is usually 20% smaller.

This severely shortens the list of possible tenants for property that could fully utilize it. Adaptive reuse options including subdividing the retail building in order to create a more appropriately-sized retail spaces for potential future tenants are not feasible due to the orientation of the building. As the building stands, it is narrow and deep with respect to the front entrance, rather than shallow and wide, so any resulting spaces after partitioning the building are too narrow and deep to be suitable for efficient store layout. The cost of dividing and partitioning the building is also considerable, and would require higher rents to future tenants to offset these costs.

Finally, it is important to note that the property carries restrictive covenants that prevent many of the most viable potential reuses as it is currently configured (see the **defective title** section for more details).

Because the current layout of the property is suited to a very narrow range of uses which are either prohibited or infeasible, there is a finding of *Faulty Lot Layout* in the Survey Area.

## **Unsanitary or Unsafe Conditions**

Floodplain maps from the Federal Emergency Management Agency (FEMA) indicate that the Survey Area is outside any areas that have a  $>.02\%$  annual chance of flooding. For the purposes of this Survey, there is considered to be no physical danger to visitors from flooding.

Fire protection facilities are adequate; hydrants serve the property, the road system adequately serves emergency vehicle access to the retail structure in the event of a fire.

Finally, crime levels in the area do not rise to the levels necessary to be considered unsafe.

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



## Deterioration of Site or Other Improvements

The 550 S McCaslin property is designed for heavy-volume retail: it is a 127,000 square foot retail facility with over 600 parking spaces, located on a major arterial near a highway interchange. It is currently used only sporadically for tenants far smaller than it was designed for; consequently, it is not currently generating revenue proportional to necessary maintenance expenses. This has been the case since the property was abandoned over 4 years ago.

A lack of full maintenance of the property was evident during the field survey; the parking lot had a few potholes, including one very large one at its primary entrance with McCaslin Boulevard, and the curb and gutter in some places was cracked and deteriorated. The striping on the parking lot was found to be badly worn. The building itself was cracked in a few places in its facade, and needs minor work such as mortar repair in certain areas.

This is not to say that maintenance is completely lacking, but only that it gives the impression of being minimal. While the property is not badly deteriorated by virtue of being largely vacant for only 4 years and receiving landscaping maintenance, it is clear that it is indeed slowly deteriorating. Combined with its general underutilization (see the **underutilization or vacancy of sites** section), this is causing a general blight that affects the surrounding area.

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



*The parking had cracks and potholes in places*



*Various portions of damaged curb and gutter were found*

## **Unusual Topography or Inadequate Public Improvements or Utilities**

The 550 S McCaslin property was developed in conjunction with many surrounding commercial properties less than 2 decades ago, along with adequate utility systems to serve the properties.

Additionally, curb and gutter are present along all roadways except loading areas within the Survey Area, including private roads.

This factor is **not** considered present in the Survey Area.

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

The property at 550 S McCaslin Boulevard is subject to numerous restrictions that have the combined effect of rendering the parcel non-marketable to prospective buyers and tenants. This issue is expressed by the current co-owners, Centennial Valley Investment, LLC, and Seminole Land Holdings, LLC in a letter dated March 17, 2014 to the City of Louisville, and is confirmed by an examination of the original covenants put in place during the initial development of the property in the 1990s as well as additional restrictions applied to the property during the sale of the property from Sam's Real Estate Business Trust to its current owners in January 2014.

The original covenants dating from the 1990s, (including multiple amendments made during subsequent years), generally prohibit new uses at 550 S McCaslin Blvd that would compete with existing retailers in the same commercial center, the most notable of which is the prohibition of a grocer on the property as long as the nearby Albertsons remains in business. Other uses that do not directly compete with other tenants in the commercial center but could otherwise provide opportunities for adaptive reuse are also prohibited, including bowling alleys, billiard parlors, night clubs, recreational facilities, theaters, skating rinks, health spas, gyms, and video game parlors.

The warranty deed made between the current property owners and Sam's Real Estate Business Trust on January 30, 2014 was obtained from Boulder County Public Records, and places additional restrictions on the property over the next 25 years. These restrictions explicitly prohibit any wholesale clubs and discount department stores, which are precisely the type of use that formerly existed on the property. Pharmacies, liquor stores, bars, and grocery stores are also prohibited.

The combined effect of the various restrictions in place on the property is that the most viable uses for the property are not allowed. Any prospective tenant that could potentially utilize the 127,000 square foot facility on the property would almost certainly be prevented from doing so; the restrictions are broad enough to mandate a commercial retail use, but simultaneously prohibit the sale of almost anything "at a discount in a retail operation" and also any

entertainment venue. Even a large home improvement store or electronics could easily be interpreted as being prohibited under the broad language of the warranty deed.

Because of the lack of marketability of the 550 S McCaslin property, this factor is considered present.

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

Access to the building, emergency vehicle turning radii, and fire protection facilities such as hydrants were found to be adequate.

This blight factor is considered **not** to be present in the Survey 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 structural analysis was performed on the retail structure, and there was no evidence to suggest it was deteriorated enough to present a danger to occupants.

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

## **Environmental Contamination of Buildings or Property**

A Phase I Environmental Site Analysis (ESA) conducted in March 2010 by Environmental Restoration, LLC found no evidence of material environmental contamination in the Survey Area, and no additional testing or research was performed for the purposes of this Conditions Survey.

Therefore, there is **no** finding of *environmental contamination of buildings or property*.

**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**

The Survey Area is 13 acres, located in an urbanized area, surrounded by commercial and residential development, on a busy arterial street near a highway interchange, but is currently vastly underutilized.

Since early 2010, the site has been largely vacant, excepting a few transitional uses that do not approach the full potential of the property. Currently, the signage on the 127,000 square foot retail facility reveals that it is being used for a community church, leaving the property unused except for half a day per week.

During the field survey, conducted during regular business hours in June 2014, over four years since the closing of the former Sam's Club, the over 600 parking spaces on the property were empty, except for a few miscellaneous vehicles parked along the periphery.

This represents a substantial underutilization of the property, which contributes to a general blight in the area and a reduction in retail traffic for the surrounding area that an anchor tenant of the sort the property was designed for would provide.

This blight factor is considered present in the Survey Area.





*The vast parking area and the building lie largely vacant*



## Section 6: Survey Summary and Recommendation

Within the entire Survey Area, 4 of the 11 blight factors were identified as being present. The blight factors identified within the Survey Area are:

- Faulty Lot Layout
- Deterioration of Site or Other Improvements
- Defective or Unusual Conditions of Title Rendering the Title Non-marketable
- High Levels of Municipal Services or Underutilization or Vacancy of Sites, Buildings, or Other Improvements

### Blight Survey Recommendation

As discussed in **Section 2**, in order for an area to be declared blighted, a certain number of the 11 blight factors must be found within the Survey Area. **Four** of the 11 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 11 factors. In the event, however, that eminent domain is to be used to acquire property within the urban renewal area, the required minimum is **five** of the 11 factors. Since **four** blight factors were identified within the Survey Area, a sufficient number of blight factors exist for the area to be declared blighted; however, the Louisville Revitalization Commission may not exercise eminent domain to acquire any property in the Survey Area without the written consent of the property owners.

It is the recommendation of this blight Survey report to the City of Louisville, the Louisville Revitalization Commission, and the Louisville City Council that the Survey 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 Louisville City Council.