

# Interstate 25 (I-25) Area Conditions Survey

Erie, Colorado

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Prepared for:

Town of Erie Urban Renewal Authority (TOEURA)

Town of Erie Board of Trustees

Prepared by:



Ricker|Cunningham

10959 Ashurst Way

Littleton, CO 80130-6967

303.458.5800 Ph

[www.rickercunningham.com](http://www.rickercunningham.com)

# I-25 Area Conditions Survey

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# I-25 Area Conditions Survey

Town of Erie, Colorado

## 1.0 Introduction

The following report, the I-25 Area Conditions Survey (referred to herein as the "Survey") was prepared for the Town of Erie Urban Renewal Authority (herein referred to as the "Authority" and "TOEURA"), and the Town of Erie Board of Trustees (herein referred to as the "Board" or "Town Board") in early 2018 and submitted in April 2018. The purpose of this work was to analyze conditions within and surrounding parcels along Erie's eastern boundary in order to determine whether they are being adversely impacted by factors contributing to blight as defined in the Colorado Urban Renewal Law (the "Law" or "Act"); and if so, at levels sufficient to receive an urban renewal designation.

Verifying the presence of blighting conditions is the first step required by the Act, prior to consideration of an urban renewal designation by a municipality's governing body.<sup>1</sup> Subsequent phases include: preparing a plan for development, defining a financing strategy, estimating possible impacts; and sharing this information with property and business interests, as well as other partner taxing entities. Documents related to this report, including the Interstate (I-25) Area Urban Renewal Plan and I-25 Area Impact Report, may be found under separate cover.

Within an urban renewal area, resources may be available to assist private property interests and public entities with mitigating adverse conditions that are delaying or preventing investment within its boundaries. Eliminating blighting conditions and advancing development in the study area is an expressed priority in the Town's comprehensive planning document (Town of Erie Comprehensive Plan - 2015 Update).

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<sup>1</sup> In accordance with the same, all affected property owners were notified that the study was commencing.

## 2.0 Survey Area Description

As illustrated in Figure 1, properties and other improvements that were the subject of this investigation (herein referred to as the "Survey Area" or "Area") are generally located within three complete and portions of two other sections of land along Erie's eastern border. Actual boundaries include State Highway 52 (SH 52) on the north, I-25 on the east, the southern property line of parcels located adjacent to Erie Parkway on the south, and County Road 5 (CR 5) on the west. The Survey Area is comprised of 65 legal parcels and adjacent rights of way totaling approximately 2,400 acres.

### 2.1 Existing Zoning

Properties within the Area boundaries are currently zoned either AG / OS Agricultural / Open Space or PD Planned Development (referred to herein as a "Planned Unit Development" and "PUD"). A description of each classification is provided below as defined in Title 10 of the Unified Development Code, dated October 2017.

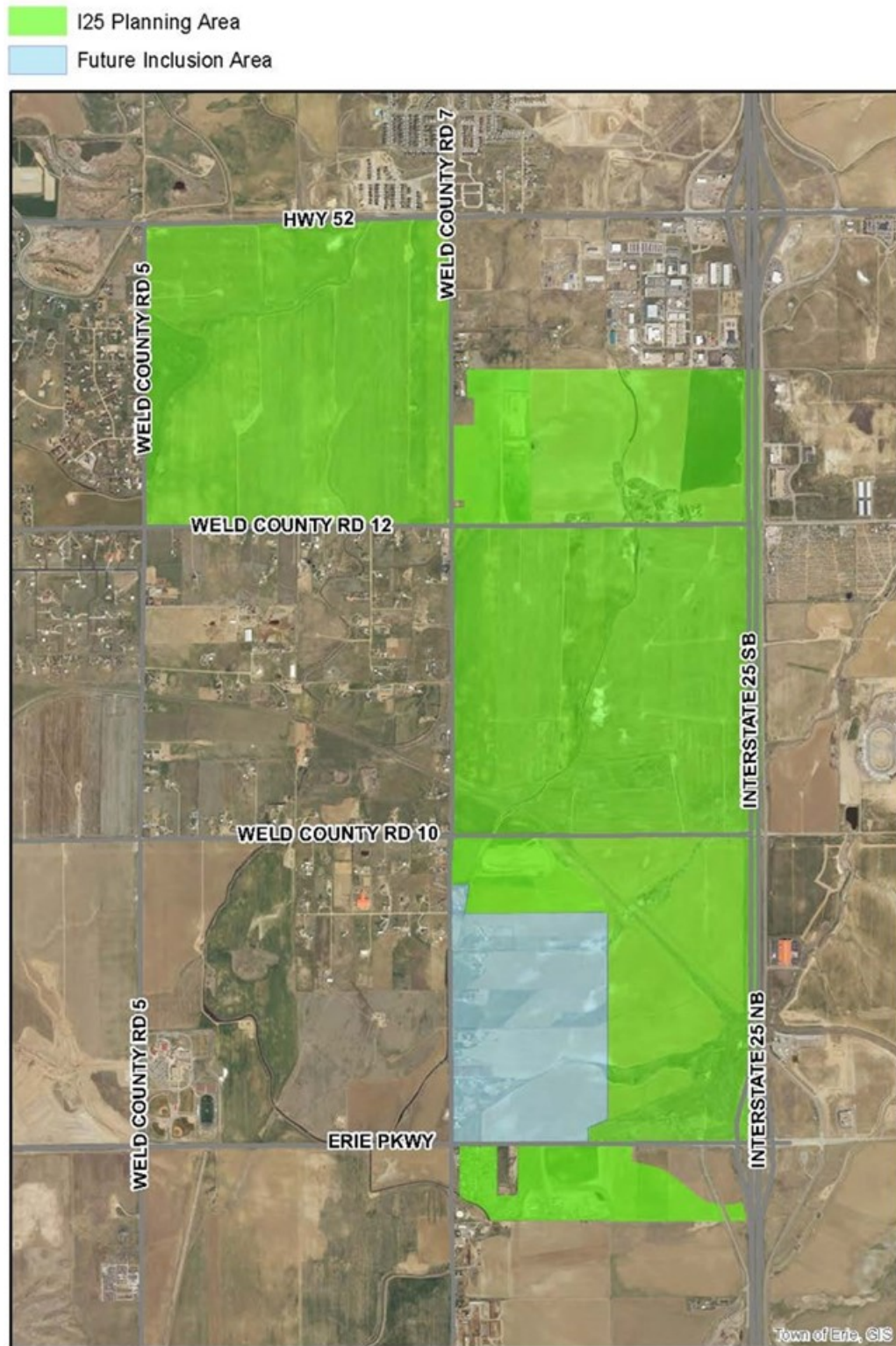
#### Agricultural Classification

Land used for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry; excluding the raising of hogs, pigs or other livestock fed for garbage or offal. Accessory uses may include: dwelling units for proprietors and employees, barns, storage for grain; and facilities for animal raising, feed preparation, and wholesale sales of products produced on-site. Specific use types include, but are not limited to: Agricultural Cultivation, Agricultural Grazing, or Produce Stand.

#### Agricultural Purpose

Land used for agricultural purposes recognizes and preserves lands suitable for: long-term production of agricultural commodities, grazing, and animal husbandry; view protection; passive and active recreation; and conservation uses.

Figure 1: Survey Area Boundary



### Open Space Purpose

Land used for open space purposes recognizes and preserves lands suitable for: preservation and maintenance of parks, open space, trails, natural areas and resources, and scenic views; as well as, the provision of access to open areas and recreational opportunities, to create public health benefits, and generally enhance the quality-of-life of residents. Particular emphasis is placed on providing a diversity of parks, trails, and open space that served residents of all ages and abilities, and that are accessible from a variety of locations within the community.

### Planned Unit Development Classification

Land used for a project of a single owner or group of owners acting jointly; involving a related group of residences, businesses, or industries and associated uses; and planned as a single entity; and therefore, subject to development and regulation as one (1) land-use unit rather than as an aggregation of individual buildings located on separate lots. Planned unit developments include: usable, functional, open space for the mutual benefit of the entire tract; and designed to provide variety and diversity through variances of normal zoning and subdivision standards so that maximum long-range benefits can be gained; and unique features of the development or site preserved and enhanced while still being in harmony with the surrounding neighborhood. Approval of a planned unit development does not eliminate the requirements of subdividing.

### Planned Unit Development (Overlay) Purpose

Land used for a PUD Overlay recognizes and preserves lands suitable for a special public interest that doesn't coincide with traditional zoning in a geographic area; yet only when an application is not able to meet the requirements of a standard zoning classification. A PUD is a mapped area with restrictions in addition to, or less than, those of the underlying traditional zone. It is "superimposed" over the traditional zone and either establishes

additional regulations, or reduces or extends existing ones. The underlying zoning informs permitted land uses, while the overlay zone dictates design restrictions (if any), additional setbacks, or other exceptions to the base regulations.

## 2.2 Future Land Uses

Future land use designations are reflected in the Town's Future Land Use Map.<sup>2</sup> The map identifies locations where different land uses may occur within Erie's Planning Area during the next 10 to 20 years, and where the Town would support the development of these uses. While any future annexations by the Town would occur within this boundary, enclaves of county land could still remain without being annexed.

Future land uses identified in the Survey Area include: NMU Neighborhood Mixed-Use, RC Regional Commercial, CC Community Commercial, LR Low Density Residential, MR Medium Density Residential, and HR High Density Residential. Properties within the Area are also designated an Area of Special Consideration. Definitions of these classifications, taken from Title 10 of the Unified Development Code, dated October 2017, are provided below along with a list of possible product types, their densities, and locational attributes.

**NMU Neighborhood Mixed-Use** – mix of civic, office, retail and services uses; designed in a traditional downtown format at a pedestrian-friendly scale;

**RC Regional Commercial** – intense concentration of retail and employment uses, region-serving, with large foot-prints; buffered from residential uses; often located along major transportation corridors;

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<sup>2</sup> The Future Land Use Map and accompanying land use category descriptions define where and how Erie will grow over the next ten to twenty years and is accompanied by a discussion of the specific land use categories that are associated with different locations or types of places within the town.

**CC Community Commercial** – general community-serving retail co-located with service providers and office users; design emphasis on convenience, access and surrounding context;

**LR Low Density Residential** – single family detached homes; attached homes including townhomes, condominiums, and patio homes; and rental housing apartments; along with supportive institutional and commercial uses; 2 to 6 dwelling units per acre; suburban style developments supported by trails and open space;

**MR Medium Density Residential** – single family detached homes; attached homes including townhomes, condominiums, and patio homes; and rental housing apartments; along with supportive institutional and commercial uses; 6 to 12 dwelling units per acre; medium density neighborhoods developed around community centers and public spaces; and

**HR High Density Residential** - single family detached homes; attached homes including townhomes, condominiums, and patio homes; and rental housing apartments; along with supportive institutional and commercial uses; 12 to 20 dwelling units per acre; high density neighborhoods located in urban areas with convenient access to centers of activity.

### Areas of Special Consideration

Three areas are identified on the Future Land Use Map as *Areas of Special Consideration*. These areas have been identified to acknowledge their importance as major community gateway locations; as well as the necessity for a heightened level of review and consideration of development proposals within them, particularly in terms of use types and design. Areas of Special Consideration include: Highway 52, Erie Parkway and County Line Road/Arapahoe Road. Parcels within the Survey Area are located within both the Highway 52 and Erie Parkway districts.



### 3.0 Definition of Blight

A determination of blight is a cumulative conclusion based on the presence of several conditions or factors (physical, market, and other) defined by state law that collectively contribute to the deterioration of an area. Taken together, and when left unattended for extended periods of time, they can adversely impact not only the economic health of properties in their general vicinity, but the community at-large. Blighting conditions have been proven to diminish the positive attributes of investment and reinvestment in land and improvements and stagnant property values. With what is often a pattern of spending at disproportionate levels in deteriorating areas, or areas experiencing delays in investment, there are fewer funds for maintenance and enhancements in other locations of the community. For the purpose of this Survey, and as set forth in the Law, the definition of a blighted area is 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. Eligible conditions (factors) identified in the Act include:*

- (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) *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;*
- (k.5) 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;*
- (l) If there is no objection of such 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 (2), 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. For purposes of this paragraph (1), the fact that an owner of an interest in such property does not object to the inclusion of such property in the urban renewal area does not mean that the owner has waived any rights of such owner in connection with laws governing condemnation.*

Source: Colorado Revised Statute 31-25-103(2).

Whereas the determination of whether an area is, or is not, "legally blighted" is one left to municipal legislative bodies (i.e., Town Board, Board of Trustees, City Council, or other); this Survey is limited to a presentation of findings and conclusions regarding the type, location and intensity of conditions identified and / or observed; but stops short of rendering an opinion about whether legislative thresholds have been achieved. Specifically, the I-25 Area Conditions Survey is intended to provide an overview of conditions within the Survey Area, along with a description of blighting factors either observed or identified as described in the Law, sufficient in detail for the Erie Town Board to make a determination of blight and the Area's eligibility for an urban renewal designation.

Since the Law neither requires that all 11 factors be present in an area of study, or that every parcel be adversely impacted by a qualifying factor, the Board will determine its edibility based on the presence of *four* or more factors a (or *five* factors in cases where the use of eminent domain is anticipated). As explained in (I) above, this threshold may be reduced to the presence of *one* blighting factor in cases where no owners of property or other business interests in the area boundaries objects to inclusion in an urban renewal area. In other words, the presence of one or more well-maintained, non-blighted buildings or parcels will not preclude a designation of blight for the larger area.

#### 4.0 Study Methodology

In mid-2017, RickerCunningham (RC), Urban Renewal Specialists, were authorized by the Erie Board of Trustees to conduct an investigation of conditions in the Survey Area, as well as to prepare a report describing their findings. RC personnel completed field investigations during October and November, with the intent of documenting observed conditions. They supplemented this work with review of: pertinent Geographic Information Systems (GIS) records, past reports, studies, other data and documents provided by Town of Erie Staff, and various other technical data sources.

As explained above, Colorado's Urban Renewal Statute does not require that every property in a potential urban renewal area be impacted by a factor of blight, nor that all 11 factors be present within its boundaries. Therefore, the investigation of conditions can be conducted on an area-wide, rather than parcel-specific basis, as was the approach used herein. Further, while the statutory threshold for an urban renewal designation requires the presence of four or more factors, or five factors when the use of eminent domain is anticipated; for the purpose of this Survey, despite no intention to authorize or use eminent domain, the higher threshold of five factors was used.

Representatives of RC that completed this work have conducted more than 75 similar analyses over the past 30 years, in more than 40 communities in Colorado and other states in the southern and western United States. Therefore, although the Urban Renewal Law contains few details or quantitative benchmarks by which to measure the intensity or impact of the

statutory factors defined therein; the experience of this Survey's authors affords them the ability to draw objective, rather than subjective, conclusions.

#### 4.1 Description of Statutory Factors

What follows is a description of each factor, along with a list or characterization of specific conditions considered in the context of each one. Actual conditions found within the Survey Area are described in *Section 5 Summary of Findings*.

##### (a) Slum, deteriorated, or deteriorating structures

This factor is said to be present when the physical condition of structures in an area pose specific life-safety concerns due to the deterioration or absence of its: roof; walls, fascia board or soffit; foundation; gutters or downspouts; exterior finish; windows or doors; stairways or fire escapes; mechanical equipment; loading areas; fences, walls or gates; or non-primary structures.

##### (b) Predominance of defective or inadequate street layout

This factor is said to be present when the layout (or non-existence) of streets or roads adversely impact either the health, safety and welfare of individuals using vehicular and non-vehicular modes of transportation; or the sound development of the area, due to inadequate: vehicular access, internal circulation, driveway definitions and curb cuts, or parking lot layout; or an elevated history of traffic accidents.

##### (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness

This factor is said to be present when a parcels size or configuration inhibits, or is likely to inhibit the development of improvements consistent with prevailing regulations (i.e., zoning); or vehicular access is either inadequate or unsafe. In this context, shared access, even among properties with the same owner, is

considered a deficiency since it could limit the redevelopment potential of one or both properties were the owner to decide to sell one or both parcels.

(d) **Unsanitary or unsafe conditions**

This factor is said to be present when there are poorly lit or unlit areas, sidewalks are cracked or uneven, drainage infrastructure is deficient, trash or mechanical equipment is unscreened, there is evidence of vandalism or vagrancy; incidents of crime are increasing or disproportionately high; there is a lack of fire protection; or hazardous contaminants, floodways and floodplains, and steep slopes threaten the health, safety and welfare of persons in an area.

(e) **Deterioration of site or other improvements**

This factor is said to be present when property, structures or public improvements have been damaged or neglected as reflected in deteriorating signs, parking surfaces, curbs, gutters, streets or landscaping; or trash, debris and weeds are visible and pervasive.

(f) **Unusual topography or inadequate public improvements or utilities**

This factor is said to be present when the topography of an area will limit the size or configuration of built structures, or require costly improvements in order to accommodate development; or infrastructure to support development and required by prevailing regulations is absent. The presence of overhead utilities is another condition considered in the context of this factor.

(g) **Defective or unusual conditions of title rendering the title non-marketable**

This factor is said to be present when development is hampered or properties are deemed unmarketable due to conditions of title (including unclear ownership). Due to the extraordinary cost of conducting a title search, this factor is only investigated if documentation describing the condition is readily available or provided by property owners or their representatives. Also considered in the context of this factor is the presence of utility, ditch and access easements which can have a similar impact on a property's potential and capacity for development.

(h) Existence of conditions that endanger life or property by fire or other causes

This factor is said to be present when property or structures are subject to threats from fire, hazardous contaminants, flooding, or criminal activity.

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

This factor is said to be present when conditions within properties or structures pose a threat to habitation or daily use resulting from contamination or a lack of safety infrastructure (i.e., fire sprinkler systems).

(j) Environmental contamination of buildings or property

This factor is said to be present when past or ongoing chemical or biological contamination of a site either poses a health hazard to users, or limits the type or magnitude of development that is either legally permitted or financeable.

(k.5) 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

This factor is said to be present when properties or structures are vacant or underutilized (as anticipated by zoning); or a disproportionate level of public services are required to address a disproportionately high frequency of crimes, fires, accidents or building code violations.

## 5.0 Summary of Findings

It is the conclusion of this I-25 Area Conditions Survey that within the Area boundaries, nine (9) of the possible 11 blight factors are present including: (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; (h) existence of conditions that endanger life or property by fire or other causes; (j); environmental contamination of buildings or property; and (k.5) substantial physical underutilization or vacancy of sites, buildings, or other improvements.

While conditions contributing to the presence of all nine factors were either observed or identified in the Area, select conditions were deemed most pervasive including: inadequate provisions for safe vehicular and non-vehicular mobility; and the presence of overhead utilities and mine-related attributes limiting parcel utilization. A description of these and other conditions are presented in the discussion that follows.

### (b) Predominance of defective or inadequate street layout

Predominance of defective or inadequate street layout can be considered present when existing roads are either absent, deteriorating, or lacking the capacity to support intended and future uses (based on prevailing zoning). Within the Survey Area there is evidence of all three circumstances including: suboptimal accommodations for both

vehicular and non-vehicular mobility within several large tracts; a range of roadway surface materials; and an absence of trunk infrastructure to support development. With the exception of county roads serving the major sections which comprise the Area, there are few internal roadways or adequate points of access (defined driveways). Further, along with a lack of internal streets, there is a lack of lighting, sidewalks, parking areas or other similar facilities.

An additional condition considered in the context of this factor is the frequency of traffic occurrences in and around an area. According to the Erie Police Department, while the total number of traffic and criminal incidents in the vicinity of the Survey Area have been declining in recent years, the percentage of those that are traffic-related has been increasing.

(c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness

Because faulty streets often give rise to faulty lots, properties within the Survey Area impacted by conditions associated with Factor (b) above, also suffer from conditions associated with this Factor (c). Faulty lots are generally those that, due to certain physical issues, lack sufficiency to accommodate development according to requirements specified by established regulations.

While sometimes less impactful in residential areas, deficient lots in commercial and industrial areas can be particularly challenging in that inadequate and ill-defined points of ingress and egress can create unsafe conditions for persons and property, and preclude the movement of goods and provision of services to residents and businesses. Further, commercial properties that lack access and visibility are at a significant competitive disadvantage, often reflected in below market values and frequent underutilization.

In addition to accessibility, other circumstances considered in the context of this Factor (c) are parcel size and shape which limit their ability to accommodate improvements compliant with municipal regulations without being part of a larger assemblage. Parcels



characterized this way are often referred to as "remnants." In the southernmost sections of the Survey Area, there are numerous instances of properties that are physically unable to host a market supportable use and associated facilities.

(d) **Unsanitary or unsafe conditions**

Conditions which lessen the safety of individuals living, working and passing through an area, and considered in the context of this Factor (d) range from a lack of infrastructure to the presence of environmental contaminants. Experience has shown that a lack of infrastructure, particularly that which supports vehicular and non-vehicular movement, not only threatens safe movement, but frequently renders properties vulnerable to unlawful activity. Infrastructure that is either absent or insufficient has been discussed previously.

In terms of environmental contamination, a review of State and Federal websites revealed the presence of a brownfield property in the vicinity of Erie Parkway and Weld County Road 7 (CR 7). A Phase II Environmental Assessment was conducted for the site, referred to as the Erie Gateway, in 2000, and to-date, no efforts have been made to commence clean-up activities.

A final potential threat investigated is associated with the frequency and severity of criminal incidents. As explained above, the Town of Erie Police Department provided figures regarding historical traffic and criminal occurrences in the vicinity of the Area. Based on that information, annual figures have been on the decline, particularly since 2015. Further, the majority of past incidents have either been traffic-related or minor or suspicious events.

In addition to unsafe conditions, this Factor (d) also considers conditions which contribute to an unsanitary environment. While not necessarily presenting a direct threat to people or property, taken together with other "blighting" conditions, these conditions can contribute to a perception of neglect or abandonment. Examples of these conditions include evidence of graffiti, vandalism, and unkempt landscaping; as

well as unscreened outdoor storage and service areas that according to the Town's Code, should be protected from adjacent properties and facilities.

(e) Deterioration of site or other improvements

Sites in the Area include a mix of vacant and unimproved tract and residential properties, along with agricultural and industrial facilities. Evidence of deterioration within properties and in public rights-of-way include the presence of damaged signs, unscreened trash and debris, crumbling and broken asphalt surfaces, and remnant infrastructure. Similar to conditions described previously, when considered independently, these may not present a significant adverse impact, but taken together they can represent a pattern of deterioration and neglect.

(f) Unusual topography or inadequate public improvements or utilities

The topography of the Survey Area is relatively flat, therefore its topography does not present a significant challenge to development. However, the absence of roadway and trunk infrastructure, and basic utilities, serves as a significant obstacle to private property investment. Descriptions of infrastructure, utilities and related improvements considered inadequate, were described in the context of conditions associated with Factors (b), (c) and (d) above. Not mentioned previously, but also considered in the context of this Factor (f), is the presence of overhead utility lines. While permissible according to prevailing regulations, overhead power lines are considered to be a visual "blight" that can contribute to a larger perception of neglect and decay. Their impact is often realized in below market values among properties located adjacent to utility corridors and their removal has been identified as an eligible expense for which urban renewal resources may be expended.

(g) Defective or unusual conditions of title rendering the title non-marketable

As explained above, this factor is associated with conditions which limit the development potential of a property due to title restrictions or the presence of easements. According to the Colorado Oil and Gas Conservation Commission, there are both active and planned oil and gas wells in all of the sections which comprise the Survey Area. In addition, facilities related to oil and gas operations including vertical shafts, rock slope entry points, air shafts, and fault lines are pervasive throughout the Area.

(h) Existence of conditions that endanger life or property by fire or other causes

Conditions posing a threat to life and property already discussed in this report generally fall into two categories – presence of hazardous contaminants and absence of infrastructure.

Another type of infrastructure often considered in this context, but not previously addressed, includes equipment and services related to fire protection. The availability of fire-related resources includes both the capacity (pressure and flow) of water systems and presence of fire suppression systems. Information provided by the Town of Erie Police Department reported five instances over the last nine years where they were involved to assist with a fire incident. Without citywide figures related to fires, it is difficult to determine whether this is a disproportionately high rate of occurrences. Regardless of whether there exist threats from deficient fire protective resources, this Factor (h) is considered present due to those conditions previously described.

(j) Environmental contamination of buildings or property

As explained in Section 4, Factor (j) is present in an area when “past or ongoing chemical or biological contamination poses a health hazard to users, or limits the type or magnitude of development that is either legally permitted or financeable.” As reported above, information available from the Environmental Protection Agency (EPA) states that a brownfield site referred to as Erie Gateway, and located along Erie

Parkway west of I-25, was investigated in 2000 and no known activities to remove or mitigate contaminants have occurred since then.

(k.5) 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

Factor (k.5) considers two relatively distinct circumstances -- properties requiring “disproportionally high levels of public service” and physical underutilization or vacancy of properties or buildings. Service levels are primarily based on a review of police, fire, and medical activity records. Information provided in the context of this Survey included a list of police-involved activities in the Area since 2009, but does not include similar figures for the community as a whole, making it difficult if not impossible to determine whether those levels are disproportionately high.

Regarding underutilization and vacancy, the majority of parcels in the Area, and majority of acres which comprise the Area, are either vacant or lacking significant improvements. While vacant tracts of land are not uncommon, particularly along the fringes of a municipality; in communities the size of Erie, with few opportunities for revenue-generating commercial operations, they pose a significant obstacle to fiscal health. Further, given the fact that several parcels located west of the area have already developed or are beginning to develop, there is obvious support for investment in the market. That similar development activity has not occurred on properties in the Survey Area, particularly given its visibility from and access to I-25, strongly suggests that the presence of those conditions considered to pose an adverse impact, are also serving as an obstacle to development and redevelopment.

## 6.0 Summary of Factors

As quantified and explained above, nine (9) of the 11 factors listed in the Act were either identified or observed at varying degrees of intensity in the Survey Area, but all at levels considered significant and adverse. Further, whereas the Act does not require that all 11 factors be present, or that every parcel possess one or more factors in order to justify a finding of “blight;” it is the

finding of this report that conditions are sufficient for the Erie Board of Trustees to consider an urban renewal designation for the Area.