



YOUR GUIDE TO BROWNFIELD DEVELOPMENTS:

What You Need to Know to Make Sure Your Investment Dollars are Well Spent



WALDEN ENVIRONMENTAL
ENGINEERING



Introduction

Understanding the Risks and Rewards of Developing a Brownfield Site

Savvy developers should know that due diligence is the critical piece of the puzzle in deciding if the risks outweigh the rewards when considering the purchase of a Brownfield site. Retaining a knowledgeable environmental consultant can arm developers with the information they need to make educated decisions and guard their investment dollars.



Chapter One

What is a Brownfield?

Many people may ask: What is a Brownfield, and why would my company consider purchasing one?

There is no shortage of public information available about Brownfields. But, put simply, the EPA defines a brownfield as “a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.” It is essential to know that just because a property or site is classified as a Brownfield does not automatically mean it is contaminated.

Determining if a site is contaminated is where site investigations come in to play. Hiring a consultant to perform Phase I and Phase II site assessments in advance of purchasing a property can help developers determine if a property is contaminated. The information gathered in these assessments can help developers understand if the risk in purchasing a site is too great, what type of contaminants are present, and a ballpark range of approximately how much it would cost them to clean up the area.

It should be noted, though, that just because a site is known or found to be contaminated does not mean that it is automatically eligible for funding under federal or local Brownfield programs. Applying to a Brownfield program is a complicated, long process, and admission is not guaranteed. Therefore, the more information a prospective buyer has about a property, the better positioned they will be to make educated decisions regarding their investment.

Brownfield properties exist all over the country. They are most often found in urban areas where there is or has been developed infrastructure. Usually, the sites were historically used as manufacturing or industrial facilities such as paper mills, steel mills, automobile manufactur-

ing, or sites that stored fuel oil or chemicals. These facilities often required the use of water for various processes, so many Brownfields are located on waterfront properties.

It is important, then, to understand why a developer would consider purchasing a Brownfield in the first place. After all, there is always some amount of uncertainty and risk in purchasing one. The answer can sometimes be as simple as property value and availability.

In a place like New York City, for example, property prices are extremely high. There is also a shortage of inventory following centuries of development and urban sprawl. So, the opportunity to purchase land at a potentially reduced price is very appealing to many developers.

Additionally, the properties tend to be close to highly desired amenities like public transit, schools, shopping, waterfront views, and highways. The location alone can increase the appeal of these properties as places to build homes, commercial buildings, or multi-use buildings, which could help developers realize a substantial return on their investment. For organizations that are not risk-averse, purchasing a Brownfield could turn into a wise investment. In the case of non-profit developers, purchasing a Brownfield for development may help them achieve several goals. Often, these organizations are based in underserved communities that may be environmentally impacted by historical usages. Not for profit development of these sites can create jobs for residents, eliminate abandoned facilities and properties from the community, promote local pride in the neighborhood, build goodwill in the community for future work, and stimulate economic development.

That being said, it is usually a private company or government agency that takes on a Brownfield development because they can more easily access capital and other resources. While all potential developers may have different motivations for purchasing a Brownfield, the ultimate goal is the same—to take a derelict or abandoned property or building and rehabilitate it so that it that can be safely used.

Private companies typically choose to develop Brownfields because the property is in an area with great potential to acquire revenue through rents, leases, or other means. In these cases, the developer is responsible for securing financing to purchase the property. They will also be responsible for performing due diligence and environmental assessments of the site. Ultimately (if necessary), the developer will be tasked with cleaning up the area under regulatory agency oversight.

When public developers (government agencies) become involved in a Brownfield, it is usu-

ally because the site has garnered little interest from private investors or the site's conditions present a public health risk. That may be because the site is thought to be too contaminated to make the investment worthwhile, or other conditions would threaten the logic of investing in the development of a site, like intense negative feedback from the community.

In some cases, it may be easier for a public organization to purchase a Brownfield. They do so in a number of ways, which include purchasing a site that is distressed in some manner, purchasing a site that has been foreclosed, or through the use of eminent domain. (The last of which can be controversial.) In any case, the government agency will either develop a Brownfield for beneficial public use (like a school or park) or sell it to a developer after having done site investigations and cleanup.

The use of public-private partnerships (PPP) is another way that Brownfields are developed. In such arrangements, each party bears the financial responsibility for a different part of the development. For example, the benefits to the private organization are that the public agency will typically perform site investigation and clean up work before a project kicks off. And for the public agency, the investment of taxpayer dollars usually ends after the site has been cleaned up. These partnerships reduce the financial burden on both parties while benefiting the community surrounding the site.

And for private developers, they benefit greatly from government agencies' involvement from the beginning of the project. Their initial involvement facilitates addressing problems or issues that may surface throughout all phases of the project.



Chapter Two

Knowing What the Condition of the Brownfield Really Is

What facts do you need to know to make an informed decision?

Before any shovels are in the ground, so to speak, developers should consider conducting environmental assessments to decide whether they should make the purchase and pursue the project. The money for these assessments must be invested upfront for due diligence without any guarantee of a return on investment, particularly if the developer should not move forward in purchasing the site. However, these costs can be incorporated into real estate dealings to reduce the risk to prospective purchasers. This phase is often called pre-development. During this phase of a project, developers will typically conduct Phase I and Phase II assessments.

WHAT ARE PHASE I AND PHASE II ENVIRONMENTAL SITE ASSESSMENTS, AND WHAT DO THEY ENTAIL?

A Phase I assessment involves performing extensive research about the site's history and current conditions, all within the parameters of standards that are specified by the American Society for Testing and Materials (ASTM) and utilizing all appropriate inquiries. This research includes reviewing various documents, including fire insurance maps, aerial photographs, phone book records, regulatory agency databases, municipal documents, and interviewing key site personnel. At this phase, the consultant will also perform a visual inspection of the site and surrounding properties. The visual inspection allows the consultant to observe current site conditions, indicating areas of concern to be further investigated. At the end of a Phase I assessment, stakeholders will have the information they need to understand if the site is associated with any Recognized Environmental Conditions (RECs).

A Phase II assessment involves further investigation of the RECs found during the Phase I study. These assessments are site-specific and vary in scope. They may include sampling soil, groundwater, subsurface soil vapors (or soil gas), sediment, on-site sanitary systems, etc. These samples may be collected using drilling technology to investigate what is going on beneath a site and then sent to independent laboratories for analysis. Depending on the property's prior uses, when it was built, and other factors, the Phase II assessment may also include testing interior structures for hazards like lead paint or asbestos.

The laboratory results are then compared to applicable local, state, and federal laws and guidelines to ascertain if the contaminants found (if any) are at an acceptable level or not. This investigation provides an initial baseline for the site, which can start to formulate the appropriate remedy or indicate if further sampling is required. Often, a larger-scale investigation is required to admit the site to a Brownfield program, so several rounds of sampling may occur.

During this phase, a qualified consultant can also tell a developer if other factors would preclude them from building on the site or renovating an existing structure. For example, if a Brownfield is in an area that is a designated wetland or if some sort of endangered species uses the area as habitat, the developer may choose to abandon the project.

Of course, this phase of due diligence is where environmental experts prove indispensable. Any developer must know if there is too much contamination to make such a venture worthwhile before investing large sums of money.

WHAT HAPPENS IF ENVIRONMENTAL ISSUES NEED TO BE ADDRESSED?

Suppose the assessments indicate that the site has environmental concerns. In that case, the site owner or purchaser's consultant will facilitate discussions with all stakeholders to determine if it makes financial sense to move into the project's actual development phase. A consultant may also communicate the findings with a regulatory agency to understand if the project would be eligible for enrollment in a Brownfield program.

The cost for cleaning up a site that is found to be contaminated can vary substantially. Numerous factors come into play, including the extent and location of contaminated material, existing site conditions, the proposed development plan, and proximity of the site to residential housing and local waterways, to name a few.

Potential buyers and other stakeholders may use information from the assessments they retain their consultant to perform to negotiate with the seller. In some cases, sellers may have environmental reports available for potential buyers to review. The information gleaned from Phase I and II assessments will also form the basis of the next phase, which is to develop a remediation plan.



Conclusion

For some developers, creating a remediation plan for their Brownfield will depend heavily on how they propose using the site in the future. For example, if a space will be used for residential purposes, the strictest cleanup standards would apply to ensure the safety of residents. If the future site use is industrial or commercial, less stringent cleanup standards may apply.

When formulating the plan, the environmental consultant will recommend steps such as soil excavation, building demolition, tank removal, capping, engineering controls, or bioremediation. In some cases, as with lead or asbestos, only specially trained individuals can perform the remediation or removal of material, which could drive up costs for cleaning up the site. Trained environmental consultants can also assist developers with obtaining necessary permits, liaising with government agencies, creating messaging for the local community, managing cleanup activities, and integrating future issues into development plans to address problems that may arise due to climate change.

If a developer succeeds in enrolling in a Brownfield program and decides to forge ahead with their

project, they may be eligible for tax credits, grants, or other forms of public financing to assist them with the process of cleaning up a site. Like Walden, some environmental consultants may even have experience successfully helping organizations apply for grant funding, tax credits, or some other incentives. But an organization must know where the money is and how to apply for it.

Also, keep in mind that the record-keeping requirements for a grant and a Brownfield site are extensive. Any organization intent on developing a Brownfield should make sure that they have an adequate number of staff to handle such responsibilities or a consultant to assist them.

Investing in a Brownfield can be a challenging process. However, with the right partner, the risks associated with purchasing a Brownfield can be mitigated by performing due diligence with a skilled environmental consultant.

Because the Brownfield program is ultimately about redevelopment and eliminating blight on communities, there are many federal, state, and local resources available to those who choose to take the risk.