

38th & Huron Conditions Study

February 2023



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Section 1: Study Overview

Purpose

This Conditions Study (“Study”) is an examination of existing conditions in an area that covers a single real property parcel located in the Globeville neighborhood in the City and County of Denver, Colorado (“City”), as well as the adjacent public rights-of-way up to their centerlines.

The purpose of this Study is to determine if the necessary conditions exist within the geographic area chosen for this Study to utilize the tools provided by the urban renewal process under Colorado State Statute. These tools can be used to close funding gaps and encourage investment in the property and ensure that it contributes positively to the surrounding neighborhood and its residents, business owners, and other stakeholders.

Methodology

The defined geographic area (“Study Area”) examined in this Conditions Study was determined by the Denver Urban Renewal Authority. 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 survey was originally conducted in September 2021 covering an area with wider geographic boundaries than the Study Area as currently chosen. This survey was for the purpose of assessing blight conditions that could be physically observed. Additional analysis was conducted using aerial photography and parcel maps. For those blight conditions that are not observable in the field (such as traffic data, crime statistics, etc.), relevant data was obtained from the City and various other 3rd party sources during the following two months. This collected data was then revised in October 2022 to include only findings from the smaller, more narrowly-defined Study Area now considered for this Study. Finally, a second field survey was conducted on the revised, focused Study Area in February 2023 to collect updated photography and other information about the Study Area’s physical condition.

Finally, the *Environmental Contamination of Buildings or Property* factor is assessed by a certified Environmental Scientist with extensive experience conducting environmental site assessments. The process involves searching for and providing an opinion on the existence of Recognized Environmental Conditions (RECs) as defined by the American Society of Testing and Materials. This includes searching available environmental records maintained by various federal, state, and local entities for records of contamination, but does not include any new sampling or information not already contained in existing environmental records.

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 of 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. 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:

During the field reconnaissance of the Study 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 Study 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 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

Section 4: Study Area Location, Definition, and Description

The 38th & Huron Study Area is located in north central Denver, Colorado. It is in the statistical neighborhood of Globeville, and is located northwest of the I-25/38th Avenue/Fox Street interchange. The property is roughly between the Galapago and Huron Street alignments to the east and west, respectively; although the only public street constructed along the property is Galapago Street, which forms a cul-de-sac along a portion of the eastern boundary.

Currently, the site is accessed from West 39th Avenue just west of its intersection with Fox Street, along with a second point of ingress/egress just south of the Galapago Street cul-de-sac through the parking lot of another private parcel.

The Study Area was formerly used as a heavy equipment rental and storage facility until mid-2020, when the location closed down. Prior to that, the site was part of a petroleum bulk plant operated by Texaco (now Chevron). Currently, the site is vacant and unused.

The entire Study Area including the adjacent public rights-of-way up their centerlines is roughly 3.3 acres. The real property parcel by itself is 2.89 acres, according to the Denver Assessor's Office.

The area within a quarter mile radius of the Study Area is a mix of light industrial and commercial uses. To the immediate north of the Study Area is 41st & Fox Station, a transit station on two commuter rail lines serving Denver's northern suburbs.

Exhibit 1: Study Area Context on the following page shows the location of the Study Area within the context of central Denver. A aerial view of the Study Area and its boundaries are shown in **Exhibit 2: Study Area Map**.





**Exhibit 2:
Study Area Map**



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Section 5: Study Findings

The overall findings of the 38th & Huron 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

The three structures that formerly existed in 2022 in the Study Area were found to have been completely razed at the time of the most recent field survey in February 2023. The satellite imagery used in **Exhibit 1** is not recent enough to reflect this.

Since no structures exist any longer in the Study Area, there **is no finding of Slum, Deteriorated, or Deteriorating Structures**.



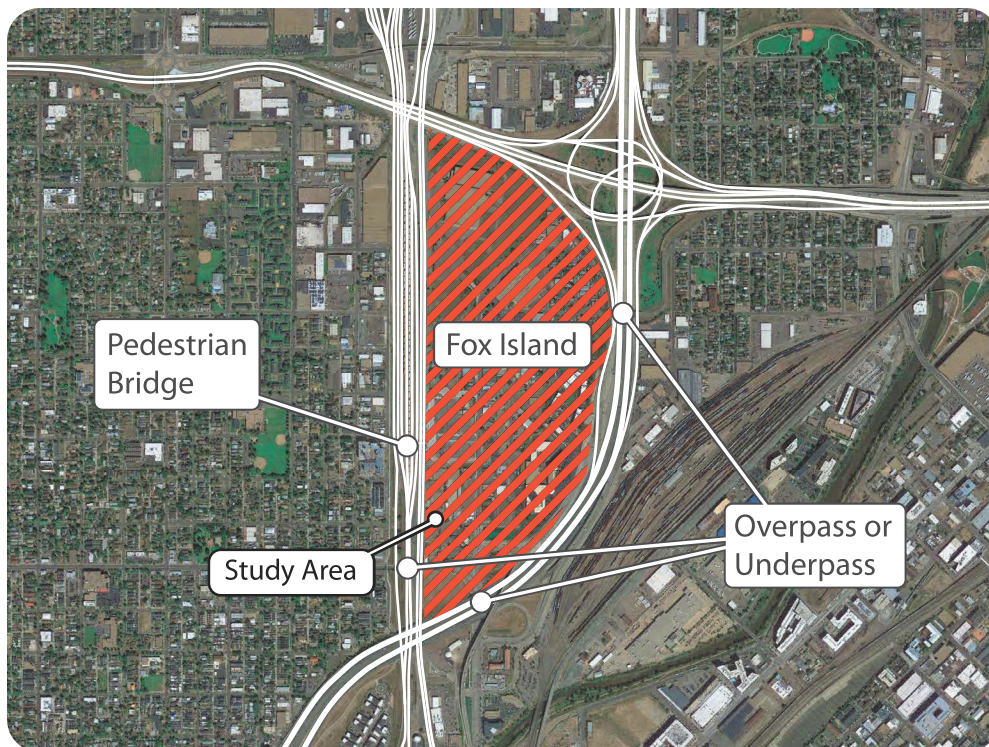
The Study Area contains no vertical development

Predominance of Defective or Inadequate Street Layout

The 38th & Huron Study Area is located in the physically separate urban “island” (Fox Island) created by two interstate highways and a rail corridor. This area only has two places of ingress/egress by automobile, the 44th Avenue bridge over I-25 to the east and the 38th Street/Park Avenue interchange with I-25 at the southern end.

More recently, a pedestrian bridge was constructed as part of the 41st and Fox commuter rail station that provides pedestrian access to the Sunnyside neighborhood to the west. Nevertheless, the physical, grade-separated barriers that surround the urban island restrict the circulation of vehicles and especially pedestrians to and from areas outside the island.

Access to other parts of Globeville to the north is particularly poor, as there are no crossings of Interstate 70 nearby.



The Study Area is located in a physically isolated “urban island”

Local planning initiatives covering “Fox Island”, including the 2014 *Globeville Neighborhood Plan* and the 2009 *41st and Fox Station Area Plan*, (SAP), have recognized that highway and rail infrastructure have partitioned and isolated it from the surrounding area. Moreover, the SAP recognized that implementing the significant increases in development intensity envisioned for the area surrounding the rail station would result in a travel demand in and out of the urban island that far exceeds the capacity of the existing infrastructure.

Historical imagery that predates the construction of the interstate highways in the area show that the land that now comprises the Study Area had a street network that had many more local connections to the rest of Globeville and central Denver, including connections to the west on 45th, 44th, and 43rd Avenues, as well as connections to downtown via 31st Street and another via Fox Street. Additionally, automobile bridges across the rail yards existed on 43rd and 38th Avenues. Since then, the connection to downtown across the 31st Street rail yard has been removed, as has the crossing to the west across the BNSF tracks. Likewise, the former crossings at 45th and 43rd Avenues also no longer exist and instead are blocked by I-25.

The SAP presented a few alternatives for improving road connections to and from the urban island, which were further studied in the 2021 *Next Steps Study* for the area. Notably, both documents recommend the implementation of new connections to the east and west across Interstate 25 and the rail corridor, respectively. These infrastructure improvements don’t exist but could restore the former circulation that existed in the area prior to the interstate system.

Due to the limited ingress/egress points to and from the urban island, the City has implemented a *Transportation Demand Management* (TDM) program, which requires either the private financing of additional ingress/egress to the Study Area through a right-in-right-out intersection at 38th Avenue & Galapago Street, or an allotment of multimodal “trips” from a finite pool covering all of Fox Island, tracked by the City. Without either of those, the City will not allow new projects to move to the Site Development Plan phase in the Study Area. This is discussed further in a later subsection of this chapter.

Because of these issues, there **is** a finding of *Defective or Inadequate Street Layout*.

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

The single parcel in the Study Area is fairly large given its nearly 3-acre size in an urban context. It has a zoning designation of C-MX-20, or Urban Center Mixed-Use with 3-20 stories as the target development intensity. According to the description of the designation in Denver's zoning code, "Mixed use buildings have a shallow front setback range. The build-to requirements are high."

Setbacks requirements are up to 10 feet for certain types of uses, but are often zero.

There are no issues with the lot being too small, narrow, or awkwardly-shaped to redevelop; on the contrary, it is large enough to potentially require additional internal circulation and/or subdivision in order to redevelop to its full potential. Access is provided to the parcel from the public right-of-way.

There is **no finding** of *Faulty Lot Layout* in the Study Area.

Unsanitary or Unsafe Conditions

Unsanitary Conditions

No examples of unsanitary conditions were found during the field survey in the Study Area.

Unsafe Conditions

Data collected in December 2021 from the Denver Police Department show that only a single criminal incident has been filed in the previous five calendar years in the Study Area, a theft from one of the buildings in 2018.

Graffiti on the former buildings in the Study Area noted in the initial 2021 field survey suggest trespassing has occurred since the property became vacant, but these incidents are nonviolent in nature.

If crimes recorded at businesses or in the public right of way along the 3900 block Fox Street are included, then the number of incidents increases to 75, including 15 counts of violent crime. However, these statistics compare favorably with the City as a whole, and are in line with the rest of Globeville, which has a low crime rate overall relative to other Denver statistical neighborhoods.

Much of the land in the Study Area is concrete or pavement that is uneven and in poor condition, but the Study Area is fenced-off to the public, which is enough to adequately prevent accidents by pedestrians.

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

Deterioration of Site or Other Improvements

This subsection focuses on the existing conditions of the non-building improvements in the Study Area, as well as the general maintenance of the property itself.

During the 2023 field survey, the Study Area was found to be characterized by uneven grading, especially at locations where buildings formerly stood, slabs of concrete, and cracked asphalt. Occasional deteriorated signs and light poles were also noted.

Galapago Street along the property was found to contain trash and overgrown vegetation, as were various locations in the interior of the property.

These issues cover the majority of the Study Area, and therefore there **is a finding** of *Deterioration of Site or Other Improvements*.



The Galapago Street right-of-way adjacent to the Study Area



Concrete slabs with uneven grading



The entrance to the Study Area



Deteriorated signage

Unusual Topography or Inadequate Public Improvements or Utilities

Topography

No portion of the Study Area has severe grading or other natural features that significantly impact its redevelopment potential.

Public Improvements

Galapago Street along the eastern boundary of the Study Area lacks sidewalks, curb, and gutter. The adjacent property to the east does have this infrastructure along its borders, which results in a sidewalk along the cul-de-sac that abruptly ends on the western side.



The cul-de-sac

As noted in an earlier subsection of this report, the Study Area also lacks adequate connections to surrounding neighborhoods and even other parts of the same neighborhood due to the physical barriers created by regional highways and rail infrastructure. The 2019 opening of the RTD commuter rail station and associated pedestrian bridge has helped mitigate this issue somewhat, but nonetheless, new travel trips in and out of the urban island in

which the Study Area is located are limited by the travel demand management program implemented by the City in the area as a result of recommendations put forth in the *41st and Fox Station Area Plan*.

Specific to the Study Area, new vertical development generating up to 4600 daily trips requires the development of a new right-in-right-out intersection at 38th & Galapago Street, as well as the associated extension of Galapago Street itself. Otherwise, redevelopment proposals on any parcel in Fox Island, including the Study area, require an associated traffic impact study to determine the number of daily vehicle trips needed, and these “trips” must be reserved from a limited pool tracked by the City as a precondition for moving to the Site Development Plan phase of the entitlement process.

Based on initial traffic impact studies conducted prior to the adoption of the rules and regulations, the infrastructure serving the urban island can handle 25,000 daily trips, of which 11,300 trips remained after subtracting out existing traffic demand plus demand due to the 41st & Fox Rail Station. According to tracking data compiled by the City, as of February 1 2023, 2,218 trips remained unclaimed for future development proposals inside the urban island.

Projected additional trip generation as a result of the redevelopment of property in the Study Area must be offset through improvements to the transportation network. The aforementioned intersection at 38th & Galapago Street that allows for right-in-right-out access to the Study Area from West 38th Avenue is proposed as a means to generate additional trip capacity needed to allow for redevelopment, but this public improvement will require significant capital expenditure.

Public Utilities

The 2019 *Globeville Stormwater Systems Study* as well as the 2021 *41st & Fox Next Steps Study* discuss issues with the Globeville drainage basin, which has stormwater runoff flows that travel from the high point of the basin to the west to the low point at the South Platte River on the east side of the basin due to the natural topography of the basin. The Globeville basin does not have a formal drainage channel to convey this runoff, and instead relies on underground pipes to carry it.

While Fox Island is generally safe from flooding events due to the same artificial barriers that negatively impact traffic circulation, both studies point out that the 38th Avenue / Park Avenue / Interstate 25 underpass adjacent to the southern end of the Study Area is prone to flooding during major storm events as stormwater exceeds the capacity of existing drainage pipes and flows overland southward on the west side of the rail corridor, ending up at the interchange.

The two studies both focus on a long-term solution to the flooding problem at the underpass that was first proposed in the 2012 *Northwest Area Drainage and Transportation Study* that includes an 18x9 foot box culvert under Jason Street to convey runoff directly into the South Platte River from the Sunnyside neighborhood. The *41st & Fox Next Steps Study* estimates the cost of this infrastructure to range from \$30 million to \$37 million.

The issues noted in this subsection are sufficient for a **positive finding** of *Unusual Topography or Inadequate Public Improvements*.

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

As detailed in a following subsection, the land in the Study Area was once part of a Texaco Bulk Plant that is now subject to an environmental covenant¹ prohibiting groundwater removal. However, this covenant does not appear to apply to the southern portion of the former Plant that is within the Study Area boundaries. Furthermore, this limitation does not meet the bar necessary to consider property as “non-marketable”.

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

While emergency vehicle access is mentioned as a concern for the area due to the limited points of ingress/egress in the SAP as well as the *Next Steps* Study, the issue is not severe enough for this factor to be considered positive. Fire hydrants were noted along the western boundary of the Study Area, although this system would need to be expanded with higher development intensity.

This blight factor is **not** 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 detailed structural analysis was performed on any of the structures in the Study Area, and none were visually dilapidated to the degree necessary to suggest safety problems.

This factor is **not** present in the Study Area.

¹ State of Colorado, Colorado Department of Public Health and Environment. Covenant Information: Environmental Covenant ID HMC0V00049. Texaco Bulk Plant Site. Covenant Date: June 3, 2008

Environmental Contamination of Buildings or Property

As part of this Conditions Assessment, Matrix Environmental, LLC conducted a search for Recognized Environmental Conditions (RECs) in the Study Area, including potential impacts from surrounding properties. An REC, as defined by the American Society of Testing and Materials (ASTM) Practice E1527-13, means:

[T]he presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment.

RECs fall in to one of three categories:

- **Active RECs** are confirmed releases or contamination that are ongoing or have not been mitigated
- **Potential RECs** consist of unconfirmed or potential releases or contamination
- **Historical RECs** are confirmed releases that have since been cleaned up or mitigated to meet applicable environmental standards

Only *active* RECs are considered grounds for a finding of *Environmental Contamination of Buildings or Property*.

Active RECs

In 2021, 38th and Huron Development II applied for the CDPHE's Voluntary Cleanup and Redevelopment Program for the property in the Study Area, which provides resources to assist in environmental cleanup as well as assurances against regulatory enforcement in exchange for the implementation of an approved remedial action plan.

Potential RECs

In June 2008, as part of a corrective action plan between Chevron and the Colorado Department of Health and the Environment (CDPHE) implemented in 2006 due to lead and PCB contamination, Chevron granted an environmental covenant prohibiting the removal or use of groundwater from land between the Study Area's northern border and the centerline of 40th Avenue extended westerly². This area, combined with land in the Study Area, was formerly a part of a bulk petroleum storage facility, although the covenant appears to only apply to the land immediately north of the Study Area. This agreement also prohibited any non-industrial use of the property, although this restriction was removed in a subsequent amended covenant dated February 26th, 2016.³

Since the land in the Study Area was once part of the former Texaco Bulk Plant, but does not appear to be directly limited by the 2106 environmental covenant, this issue is listed as a potential REC.

The Study Area is included in the 456-acre Vasquez Boulevard and I-70 National Priorities List (NPL) Site. The Vasquez Boulevard and I-70 NPL Site contains soil and groundwater contaminated with metals from historic smelting operations and buried smelting waste. From the 1870's through the 1950's, three smelting plants, Omaha-Grant, Argo and Globe, operated in this area, refining gold, silver, copper, lead and zinc. As a result of historic smelting operations, soils in the area contain elevated concentrations of arsenic, cadmium and lead.

The Study Area is within the a subsection (OU1) of the Vasquez Boulevard and I-70 Superfund Site. In 2019, the EPA deleted OU1 from the Superfund site following determination that all appropriate response actions, other than operation, maintenance and reviews, have been completed; but commercial properties were not included in EPA's historic sampling of OU1. Therefore, site soils associated with OU1 at the Study Area remain a potential REC.

Because of the presence of an active REC in the Study Area, there **is a finding of Environmental Contamination of Buildings or Property.**

2 Recorded with the Denver Clerk & Recorder, Reception No. 2008150962

3 Recorded with the Denver Clerk & Recorder, Reception No. 2016031398

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

Municipal Services

No evidence of elevated service calls or other City services was found for the Study Area.

Vacancy or Underutilization

The Study Area's former use as a construction equipment storage, maintenance, and rental facility ceased in 2020, and the site has sat vacant since. The lack of use or activity in the Study Area is compounded by its location immediately south of the 41st and Fox commuter rail station, the first stop out of downtown on RTD's B and G lines.

Planning documents developed and adopted for the area set the framework for a high intensity, mixed use development in the vicinity of 41st & Fox Station:

- The C-MX-20 zoning designation applied to the Study Area envisions a high-intensity mixed-use environment with buildings that “activate the public street edge” up to 20 stories high, depending on use.
- Similarly, the *41st & Fox Station Area Plan*, using guidance from the City's *Transportation Oriented Development Strategic Plan*, envisioned the area to evolve into an “Urban Center” typology, with mixed-use development as high as 20 stories.
- The *Globeville Neighborhood Plan*, adopted 5 years later, reiterates the high-intensity vision for the area described in the SAP. This plan proposes to “accommodate mid-to-high rise redevelopment in the 41st and Fox Station Area consistent with the recommendations of the 41st and Fox Station Area Plan.”
- The updated 2019 *Blueprint Denver* identifies the Study Area as being of the “Urban Center” neighborhood context. Such areas are high-intensity and mixed-use with access to multimodal, high-capacity transportation.

In short, visioning and planning efforts thus far see a potential for the Study Area to contain far higher development intensity than exists today, a vacant 3-acre lot.

There **is a finding** of *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 2021 aerial centered on the Study Area

Section 6: Study Summary and Recommendation

Within the entire Study Area, 5 of the 11 blight factors were identified as being present. The blight factors identified within the Study Area are:

- Predominance of Defective or Inadequate Street Layout
- Deterioration of Site or Other Improvements
- Unusual Topography or Inadequate Public Improvements or Utilities
- 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

Conditions Study 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 Study 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. Since **five** blight factors were identified within the Study Area, the threshold has been to move forward with the urban renewal process.

It is the recommendation of this Conditions Study report to the City of Denver and 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.