

**ZONING CHANGE REVIEW SHEET****CASE:** C14-2019-0138 – Block 190**DISTRICT:** 9**ZONING FROM:** CBD-CURE**TO:** CBD-CURE with a change to a condition of zoning.**ADDRESS:** 97 Red River; 604 Driskill Street;  
701, 705 East Cesar Chavez Street**SITE AREA:** 1.3968 acres**PROPERTY OWNER:**Waller Creek Owners, LLC  
(Tony Curp)**AGENT:**Armbrust & Brown, PLLC  
(Richard T. Suttle, Jr.)**CASE MANAGER:** Mark Graham 512-974-3574, [mark.graham@austintexas.gov](mailto:mark.graham@austintexas.gov)**STAFF RECOMMENDATION:**

**The Staff recommendation is to grant central business district-central urban redevelopment (CBD-CURE) combining district with a change in a condition of zoning. The change is to clarify that the subject property is eligible to apply for the Downtown Density Bonus Program (DDBP) for a Floor to Area Ratio (FAR) exceeding 10:1. For a summary of the basis of staff's recommendation, see case manager comments below.**

**Small Area Planning Joint Committee**

February 19, 2020

**PLANNING COMMISSION ACTION / RECOMMENDATION:**

February 25, 2020

**CITY COUNCIL ACTION:**

March 12, 2020

**ORDINANCE NUMBER:****ISSUES**

No issues have been identified for this request.

**CASE MANAGER COMMENTS**

While the subject 1.4 acre (60,844 square foot) tract, locally known as 97 Red River Street, currently provides parking in the Rainey Street District, the applicant seeks zoning for an office or hotel building that with density bonuses could exceed 900,000 square feet. The rezoning application also lists a mix of accessory uses including a grocery and other retail and restaurant tenants.

Although the current zoning on the property provides Floor to Area Ratio (FAR) of 10:1, the owner requests the right to seek the 15:1 FAR. The higher limit is available in the Rainy Street District of the Waterfront Overlay through the Downtown Density Bonus Program. The proposed rezoning is intended to clarify that the property owner could seek increased Floor Area Ratios up to the 15:1 limit. The applicant requests keeping the existing CURE entitlements including a 10:1 FAR, and adding the option, clearly stated in the ordinance, to apply for more FAR through the Downtown Business Development Program.

### **Background**

In the year 2000, when the CBD-CURE zoning was granted for the subject tract, the CBD base zone district permitted 8:1 FAR by right. Through the CURE combining district the property was awarded an additional 2 FAR for a total of 10:1 FAR. The CBD-CURE ordinance (001214-104) Part 2 number 1 contains the statement: ***“Development of the Property may not exceed a Floor to Area Ratio (FAR) of 10:1.”*** The current rezoning request is to remove the language that currently prohibits the property owner from seeking additional FAR.

In 2013 City Council approved changing the process for increasing FAR through CURE to the Downtown Density Bonus Program (DDBP) (Ordinance 20130627105). With approval of the request, the property owner would have the option to develop with either the 10:1 FAR entitlement from the 2000 rezoning case or to participate in the DDBP and earn the 8:1 FAR by meeting the Gatekeeper requirements and request additional FAR up to the 15:1 limit of the district by meeting the requirements of that program.

### **Downtown Density Bonus Program**

(25-2-586) (B) (1) The downtown district boundaries for DDBP are shown on the attached Downtown District Map (Figure 2, Page 1). The amounts of density bonus and height that may be available for properties in **Rainey Street** under this section are shown on the Eligibility, Floor-to-Area Ratio and Height Maps. Figure 2, Page 2. The map indicates a limit of 15:1 FAR and no height limit for the subject property.

25-2-739 (C) (3) For residential or mixed use buildings the height limit is 40 feet unless the applicant meets requirements under 25-2-739 (C) (4).

*Properties in the Rainey Street Subdistrict of the Waterfront Overlay must obtain a floor-to-area ratio (FAR) of up to 8:1 by meeting the requirements of Section 25-2-739 of the City Code. FAR exceeding 8:1 may be obtained through the Downtown Density Bonus Program, as described in Section 25-2-586 of the City Code.*

25-2-739 Part (C) applies if a property in the Rainey Street Subdistrict is rezoned CBD after April 17, 2005.

*Any rezoning will trigger this provision.*

**BASIS OF RECOMMENDATION:**

1. *The proposed zoning should be consistent with the purpose statement of the district.*

**CBD – Central Business District** is intended for the commercial core area of Austin, permitting a wide variety of office, commercial, residential, and civic activities commensurate with the regional and statewide significance of downtown Austin and the adjacent State Capitol.

The applicant is proposing 875,000 square feet of office, 27,500 square feet of grocery, 4,000 square feet of restaurant and 4,500 square feet of retail. This scale and intensity of project is appropriate for the Central Business District. The maximum Floor to Area Ratio (FAR) currently available in the Rainey Street District of the Waterfront Overlay is 15:1 which would permit a 912,660 square foot building. The current entitlement is for 608,440 square feet.

**CURE – Central Urban Redevelopment Combining District** is intended for combination with all base districts within specific central urban areas, in order to modify base district provisions as necessary to allow for appropriate uses.

CURE provided a way for the property to obtain 2 additional FAR in addition to the 8:1 FAR from the CBD base zone district for a total of 10:1 FAR when the property was rezoned in 2000. The applicant requests that the limit of 10:1 Floor-to-Area Ratio imposed by the CURE be removed from the zoning.

If the current request is granted, the property owner would be allowed to participate in the Downtown Density Bonus Program. By meeting the Gateway Requirements to get an 8:1 FAR, the property owner would be eligible to request up to the current maximum of 15:1 FAR available to properties in the Rainey Street District of the Waterfront Overlay.

2. *Zoning should not constitute a grant of special privilege to an individual owner: Granting of the request should result in an equal treatment of similarly situated properties.*

The north shore of Austin's Lady Bird Lake includes many tall buildings, several in and near the Rainey Street District, including: 37 story Fairmont Austin Hotel at 101 Red River (across the street); 32 Story Four Seasons Residences (about 2 blocks west); 37 floor -70 Rainey Condos (4 blocks south); 31 floor Hilton Austin Hotel (4 blocks north across the Austin Convention Center). The downtown is intended to be the location for many of the most intensive land uses including large hotels, condominiums, offices and civic uses like the convention center that benefit from access to transportation, entertainment and employment options.

3. *Zoning changes should promote compatibility with adjacent and nearby uses.*

Choosing the option to participate in the Downtown Density Bonus Program, ensures that the property owner is committed to building “Great Streets.” Building a network of Great Streets with wide sidewalks, street furniture, lighting and landscaping would make the subject site much more compatible with the other properties that built similar amenities. Austin becomes more walkable and more connected to features along Lady Bird Lake waterfront and Waller Creek. The required street trees provide shade for walking during Austin’s hot summer days and streetlights enhance safety after dark for people walking to the nearby Mexican American Cultural Center, live music venues, or bars and restaurants in Rainey Street District.

**EXISTING ZONING AND LAND USES:**

	Zoning	Land Uses
Site	CBD-CURE	parking
North	CBD-CURE; GR-H	Fairmont Austin Hotel; Travis County Health & Human Services; Palm Square Community Center
South	CBD	Camden Rainey Street Apartments; Rainey Street Bars; Restaurants
East	CBD, Across I-35 CS-MU-V-CO-NP; SF-3-NP	IHOP Restaurant; I-35
West	CBD-CURE, CS	Vacant, foundations

**NEIGHBORHOOD PLANNING AREA:** Downtown Austin Plan: Rainey Street District.

**TIA:** A traffic impact analysis has been deferred to the site plan stage, as staff would know the proposed land uses and intensities. Additional right of way dedication will be required at the time of site plan. The adjacent street characteristics are provided in the table below:

**WATERSHED:** Waller Creek - Urban

The allowed impervious cover in CBD is 100%.

**OVERLAYS:** Convention Center Overlay, Downtown Austin Plan: Waller Creek, Downtown Density Bonus, Green Building Mandatory, Waterfront Overlay: Rainey Street

**SCHOOLS:**

Mathews Elementary

O. Henry Middle

Austin High

**NEIGHBORHOOD ORGANIZATIONS**

Austin Independent School District  
 Austin Lost and Found Pets,  
 Austin Neighborhoods Council  
 Bike Austin,  
 City of Austin Downtown Commission  
 Downtown Austin Alliance  
 Downtown Austin Neighborhood Assn.  
 (DANA)  
 El Concilio Mexican-American  
 Neighborhoods  
 Friends of Austin Neighborhoods  
 Friends of the Emma Barrientos MACC  
 Greater East Austin Neighborhood  
 Association

Homeless Neighborhood Association  
 Neighborhood Empowerment Foundation  
 Preservation Austin  
 Rainey Neighbors Association, Inc.  
 SEL Texas  
 Sierra Club  
 Austin Regional Group  
 Tejano Town  
 The Shore Condominium Association, Inc.,  
 Town Lake Neighborhood Association  
 Waller District Staff Liaison  
 Waterloo Greenway

**AREA CASE HISTORIES:**

Number	Request	Commission	City Council
C14-04-0080 707 Cesar Chavez St.	Rainey Street Neighborhood Rezoning Tract "C" From GR-CO to CBD	To Grant	Apvd 04/07/2005
C14-04-0079 93 Red River	Rainey Street Neighborhood Rezoning-Tract "B" From SF-3 and CS to CBD	To Grant	Apvd 04/07/2005
C14-00-2195	GR and CBD to CBD- CURE	To Grant	Apvd. 11/14/2004
C14-00-2196	CS to CBD-CURE	To Grant	Apvd. 12/14/2000
C14H-2009-0002 1001 Willow St.	SF-3-NP to SF-3-H-NP, The Frank and Martha Jones House	To Grant	Apvd. 04/23/2009
C14-04-0081	SF-3, GR, CS-1 and CS to CBD. Rezoning Tract D	To Grant	Apvd. 04/07/2019
C14-2011-0006	GO & GR to CBD-CO Rezoning 701 & 711 West 7 <sup>th</sup> Street	To Grant with CO: Maximum height 375 feet; >50% of net square feet for residential uses; parking facility must include 1 floor of underground parking;<2000 trips/day for	Apvd. 08/25/2011

Number	Request	Commission	City Council
		all uses cumulatively; no activities that require sound amplification permit under City Code; Prohibited uses: automotive rentals, automotive repair services, automotive sales, automotive washing (any type), bail bond services carriage stable, convention center, pawn shop services.	

**RELATED CASES:**

C14-00-2197 Block 190 - Waller Creek Zoning: Approved CBD-CURE subject to the following CURE standards: the FAR of the property is limited to 10:1; personal services, personal improvement services, restaurant (fast food), and financial services are conditional uses; drive in service as an accessory use is prohibited; 50% of the street frontage along Cesar Chavez and Red River Street shall be for pedestrian oriented uses; no pedestrian oriented uses are required along Driskill Street. The calculation of street frontage shall not include lobbies or garage entrances.

Restrictive Covenant Travis County Document #2001007404

1. Hours limited for amplified music.
2. Owner shall apply for license agreement with City of Austin to provide streetscape enhancements for Cesar Chavez street frontage. The enhancements may include special paving, lighting, benches and landscaping.

Zoning Ordinance 001214-104 Master Development Agreement with Vignette Corp.

**Legal Description:**

Lots 1-6, Outlot 190, Division E Original City, in the City of Austin, Travis County, Texas according to the map or plat on file at the General Land Office of the State of Texas.

**OTHER STAFF COMMENTS:**

**Downtown Austin Plan**

The property is located in the Waller Creek District of the Downtown Austin Plan (DAP). The applicant is proposing to modify the CURE ordinance associated with the site to participate in

the Downtown Density Bonus to exceed its allowed FAR. The applicant proposes over 900,000 square feet of office and other commercial uses and no residential units.

- A Waller Creek district-specific goal is to encourage development that promotes the area as a diverse and affordable mixed-use district with a distinctly local feel. (p.54)
- Great Streets improvements are a public improvement priority for this district (p.54)

The proposed development is located adjacent to a local transit line and within a ½ mile of high-frequency transit. The site is near the Austin Convention Center and surrounded by residential uses. By participating in the Density Bonus Program the project will be required to upgrade the streetscapes to improve the pedestrian environment and public realm.

The site is also situated within the Waller Creek Tax Increment Financing Reinvestment Zone (TIRZ) No. 17 which financed the Waller Creek Tunnel Project and projects including parks, stream and trail improvements, and related infrastructure to enhance the developed land in the Waller Creek District.

The following DAP goals are relevant to this case:

- AU-5.1: Provide incentives for Downtown office and employment use. (p.22)
- DD-1.3: Employ additional density incentives to achieve specific community objectives. (p.23)
- PR-3.2: Require all new development to build Great Streets sidewalks or contribute to the Great Streets Development Program fund. (p.24)
- TP-1.1: Improve pedestrian facilities in all streets and implement the Great Streets Master Plan

### **Imagine Austin Plan**

The proposed use will serve the region and is located with a Regional Center as defined in the Imagine Austin Growth Concept Map. A Regional Center is the most urban and dense of the activity center types and is intended to be a retail, cultural, recreation, and entertainment destination in central Texas. These are also the places where the greatest density of people and jobs and the tallest buildings in the region will be located.

The site is adjacent to a local transit corridor and within a 0.7 miles of a MetroRapid bus route and thus will be highly accessible to people across the region. Additionally, because this project is seeking a density bonus, the proposed project will implement many urban design goals in the plan. The proposed development supports the key themes of the plan – Grow as a compact, connected city. Encouraging dense, mixed-use development is vital to curbing sprawl and supporting transit use.

Additionally, the following IACP policies are applicable to this case:

LUT P1: Align land use and transportation planning and decision-making to achieve a compact and connected city in line with the Growth Concept Map. (p.118)

LUT P3: Promote development in compact centers, communities or along corridors that are connected by roads and transit, are designed to encourage walking and bicycling, and reduce healthcare, housing and transportation costs. (p.118)

LUT P7: Encourage infill and redevelopment opportunities that place residential, work, and retail land uses in proximity to each other to maximize walking, bicycling, and transit opportunities. (p.118)

LUT P32: Assure that new development is walkable and bikable and preserves the positive characteristics of existing pedestrian friendly environments. (p.121)

E P7: Promote Downtown as the premier business district in the region. (p.144)

Based on the information above, Staff believes that the proposed zoning change is supported by the Downtown Austin Plan the Imagine Austin Comprehensive Plan.

### **Environmental**

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Waller Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
2. Zoning district impervious cover limits apply in the Urban Watershed classification.
3. According to floodplain maps there is a floodplain within or adjacent to the project location. Based upon the location of the floodplain, offsite drainage should be calculated to determine whether a Critical Water Quality Zone exists within the project location.
4. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
5. At this time, site specific information is unavailable regarding vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.
6. This site is required to provide on-site water quality controls (or payment in lieu of) for all development and/or redevelopment when 8,000 s.f. cumulative is exceeded, and on site control for the two-year storm.

### **Site Plan**

1. Site plans will be required for any new development other than single-family or duplex residential.

2. Any development which occurs in an SF-6 or less restrictive zoning district which is located 540 feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.
3. Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

### **Overlays**

1. FYI – This site is located within the Waterfront Overlay, the Convention Center Conditional Overlay, and The Downtown Neighborhood Planning Area. Additional comments may be generated during the site plan review process.

### **Existing Street Characteristics:**

<b>Name</b>	<b>ROW</b>	<b>Pavement</b>	<b>Classification</b>	<b>Sidewalks</b>	<b>Bicycle Route</b>	<b>Capital Metro (within ¼ mile)</b>
RED RIVER ST.	60'	40'	ASMP level 3	yes	yes	yes
Cesar Chavez	80''	50'	ASMP level 3	yes	yes	yes
DRISKILL ST.	60'	30'	ASMP level 2	yes	no	yes
Rainey St.	60' (south side)	34'	ASMP level 2	yes	no	yes

### **Austin Water Utility**

WW1. The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance.

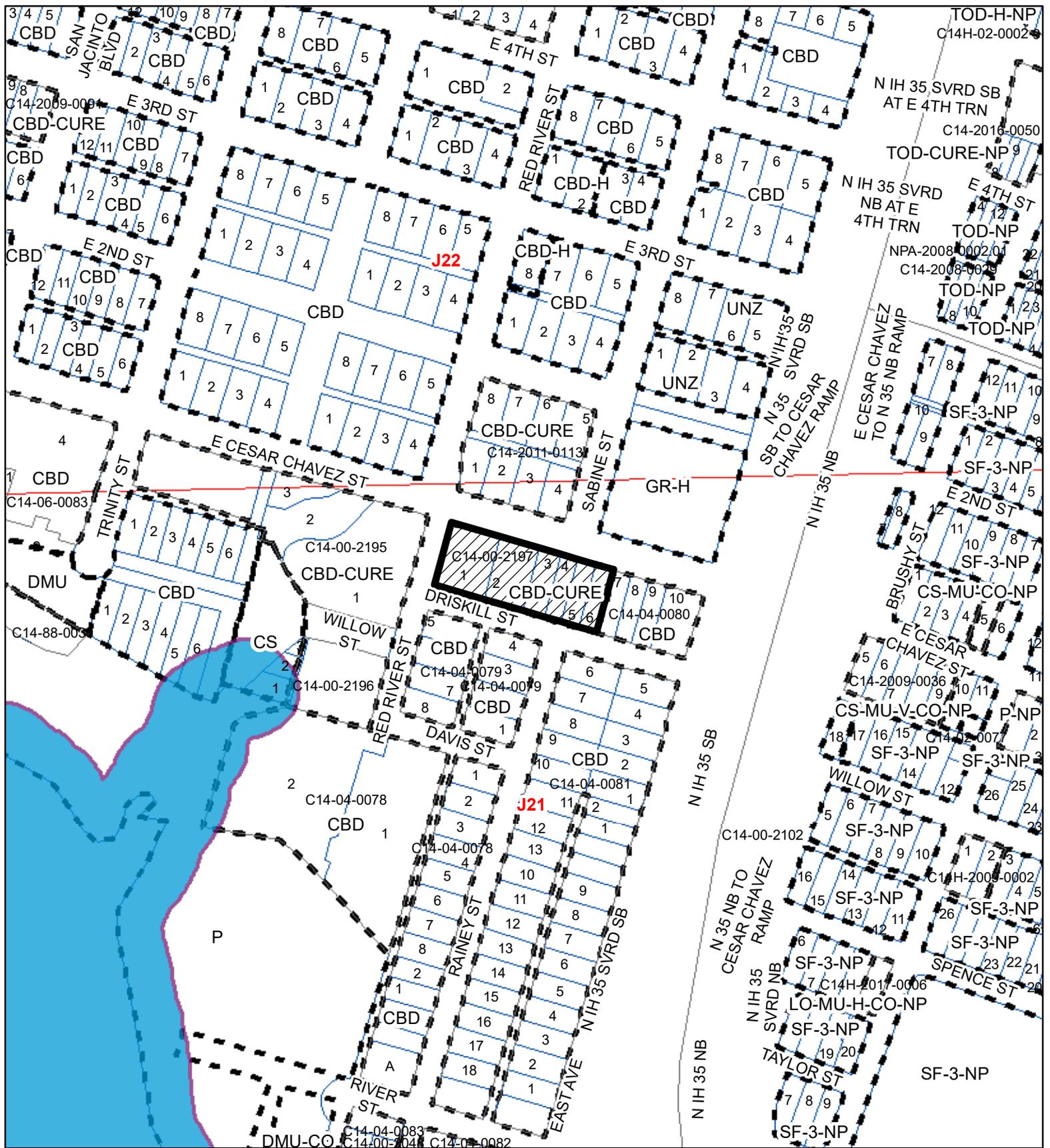
Based on current public infrastructure configurations, it appears that service extension requests (SER) will be required to provide wastewater service to this lot. Depending on the development plans submitted, water SER may be required. All water and wastewater construction must be inspected by the City of Austin. For more information pertaining to the Service Extension Request process and submittal requirements contact Alberto Ramirez with Austin Water, Utility Development Services at 625 E. 10th St., 7th floor. Ph: 512-972-0211.

The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

**INDEX OF EXHIBITS TO FOLLOW:**

Exhibit A: Zoning Map

Exhibit B: Aerial Map



**BLOCK 190**

**EXHIBIT A**

ZONING CASE#: C14-2019-0138  
 LOCATION: 97 RED RIVER ST., 604 DRISKILL ST.  
 701-705 E. CESAR CHAVEZ ST.  
 SUBJECT AREA: 1.4 ACRES  
 GRID: J21  
 MANAGER: MARK GRAHAM

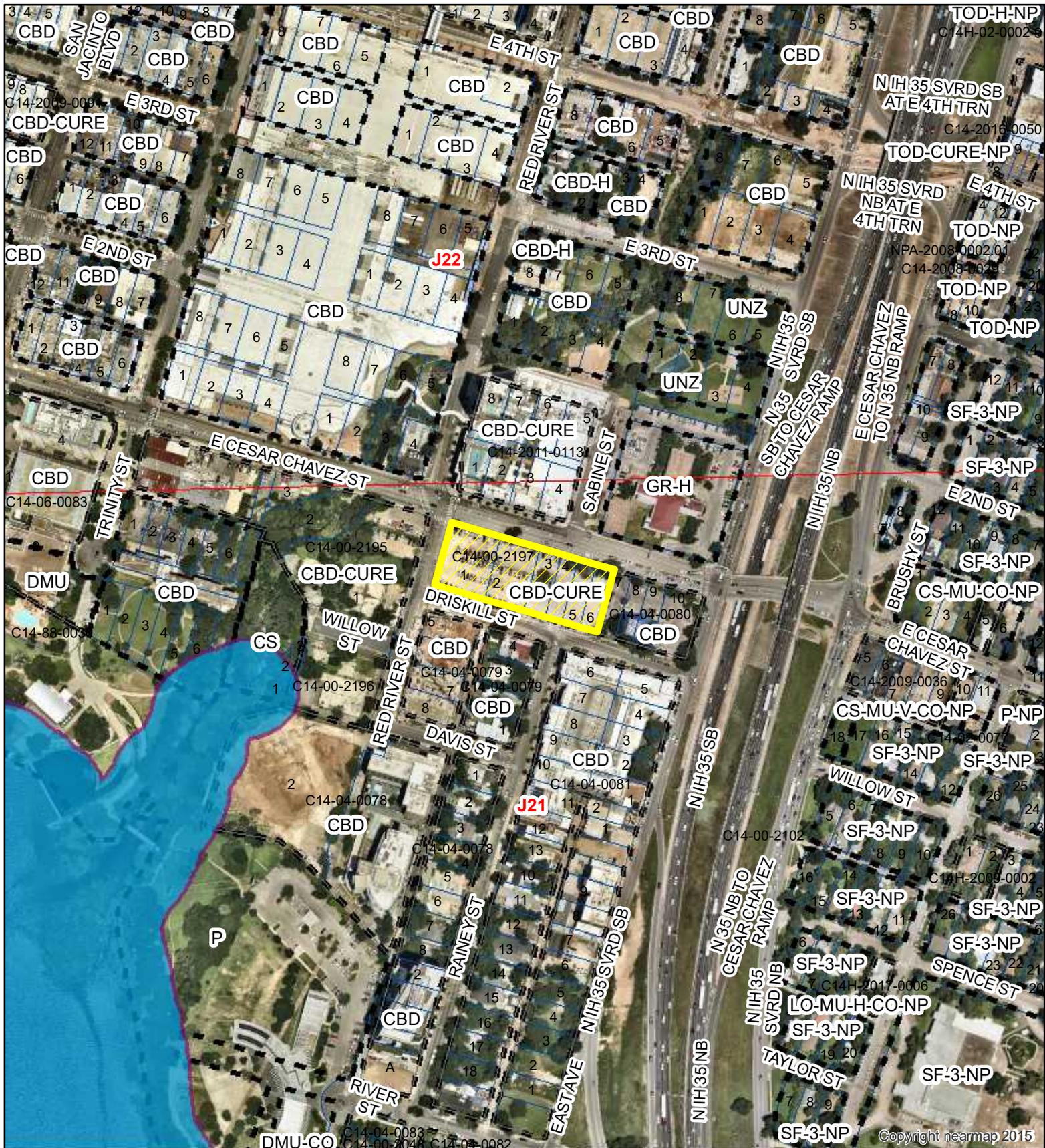
-  SUBJECT TRACT
-  ZONING BOUNDARY
-  PENDING CASE
-  CREEK BUFFER



1" = 300'



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



1" = 300'

-  SUBJECT TRACT
-  ZONING BOUNDARY
-  PENDING CASE
-  CREEK BUFFER

**BLOCK 190**

**EXHIBIT B**

ZONING CASE#: C14-2019-0138  
 LOCATION: 97 RED RIVER ST., 604 DRISKILL ST.  
 701-705 E. CESAR CHAVEZ ST.  
 SUBJECT AREA: 1.4 ACRES  
 GRID: J21  
 MANAGER: MARK GRAHAM



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.