



## ENVIRONMENTAL COMMISSION MOTION 20230607-004

**Date:** June 7, 2023

**Subject:** Greystar 290 C14-85-288.79 (Restrictive Covenant Amendment)

**Motion by:** Kevin Ramberg

**Seconded by:** David Sullivan

### **RATIONALE:**

**WHEREAS**, the Environmental Commission recognizes the applicant wishes to conduct a public hearing and seeks approval of a restrictive covenant amendment on 8.62-acre property within the limited purposed jurisdiction.

**WHEREAS**, the Environmental Commission recognizes the site is within Williamson Creek Watershed, Barton Springs Zone, Drinking Water Project Zone, and Edwards Aquifer Contributing Zone.

**WHEREAS**, the Environmental Commission recognizes that Staff recommends the Restrictive Covenants amendment (with conditions) because the Restrictive Covenant Amendment provides greater overall environmental protection and achieves a higher degree of overall compliance with current regulations than would otherwise be permitted under the current Restrictive Covenant,

**THEREFORE**, the Environmental Commission recommends granting an amendment to the restrictive covenant on the property noted above with the following:

### **Staff Conditions**

1. Development associated with C14-85-288.79 (RCA), the site shall comply with the following requirements.
  - a. Bring the site into compliance with SOS non-degradation water quality treatment requirements for all impervious cover.
  - b. Provide 110% of required tree mitigation.
  - c. Comply with Dark Sky requirements for light warmth, shielding, and light trespass.

### **Environmental Commission Conditions:**

1. 56% impervious cover as limits onsite.
2. Provide 125% of required tree mitigation consistent with code.
3. Any new trees will be sourced from nurseries within 300 miles of the site to the maximum extent practicable and considered native to the Edwards Plateau or surrounding ecoregions and will be selected from the ECM Appendix N.
4. All buildings must comply with Austin Green Building 3-star rating.
5. Require all buildings to utilize bird-friendly glass and building best practices with reflectivity of 15% or less.
6. Include pollinator gardens and plants to support Monarch butterflies and other pollinators.

7. Include dog waste stations.
8. Ensure 5% of all units are considered affordable housing.
9. Recommend A/C condensation catchment system to be used for landscaping.
10. Utilize dark skies best practices for all outdoor lighting: 3000k or less; maximum 25,000 lumens/net acre for residential and 100,000 lumens/net acres for non-residential property; focus light on activity and use activity-appropriate lighting.

#### **VOTE 9-0**

For: Kevin Ramberg, Perry Bedford, Rick Brimer, Hanna Cofer, Mariana Krueger, Haris Qureshi, Melinda Schiera, Rachel Scott, David Sullivan

Against: None

Abstain: Colin Nickells

Recuse: None

Absent: Jennifer Bristol

Approved By:

A handwritten signature in dark ink that reads "KEVIN RAMBERG". The signature is written in a cursive, slightly slanted style.

Kevin Ramberg, Environmental Commission Chair



## MEMORANDUM

**TO:** Kevin Ramberg, Chair, and Members of the Environmental Commission

**FROM:** Leslie Lilly, Environmental Program Coordinator  
Watershed Protection Department

**DATE:** May 1st, 2023

**SUBJECT:** Greystar 290 Restrictive Covenant Amendment C14-85-288.79(RCA)

This summary is being provided to the Environmental Commission for the Greystar 290 Restrictive Covenant Amendment (RCA), a proposed amendment to an existing restrictive covenant from 1985.

### **History**

Restrictive Covenants are legal documents that can establish site development regulations and use limitations for certain properties. Several such Restrictive Covenants have been recorded for certain properties located within the Oak Hill Study Area. The Restrictive Covenant under consideration today includes a tract of land which is located in the limited purpose zoning jurisdiction, in the Williamson Creek Watershed, and in the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer.

Restrictive Covenants associated with the Oak Hill Study Area frequently lock in older site development regulations that predate current water quality protections for the Barton Springs Zone established by City Code 25-8, Article 13 (*Save Our Springs Initiative*). These properties could develop under the terms of the restrictive covenant without achieving compliance with the non-degradation water quality standard of the Save Our Springs Ordinance, or other environmental protections.

If the property is rezoned to allow uses or site development standards other than those allowed by the Restrictive Covenant, then the Restrictive Covenant must also be amended. Because these Restrictive Covenants entitle the properties to develop under older regulations, amending these Restrictive Covenants provides an opportunity for additional environmental protection and for development on these tracts to achieve a greater degree of compliance with current environmental regulations.

A similar case, 7715 ½ W State Highway 71 RCA (C14-85-288.23(RCA)) was heard by the Environmental Commission on April 6th, 2022, and was recommended for approval by both the Environmental Commission and Planning Commission before subsequent approval by the City Council.

### **Proposed Changes**

The current property is seeking a rezoning for the subject property to MF5-NP and LO-MU-NP from LR-NP and LO-NP (reference case number C14-2022-0160). Due to this zoning request, the applicant must also amend the existing Restrictive Covenant. As part of the Restrictive Covenant Amendment, the applicant is requesting to retain the 65% impervious cover limit currently allowed by the Restrictive Covenant but has also agreed to comply with the non-degradation water quality treatment standard of the Save Our Springs Ordinance, provide 110% mitigation for all required tree mitigation, and comply with dark skies requirements regarding light warmth, shielding, and light trespass. The tract does not have a classified waterway, Critical Water Quality Zone, Water Quality Transition Zone, or Critical Environmental Features on or within 150' of the property boundaries.

### **Staff Recommendation**

Because the Restrictive Covenant Amendment provides greater overall environmental protection and achieves a higher degree of overall compliance with current regulations than would otherwise be permitted under the current Restrictive Covenant, staff recommends this Restrictive Covenant Amendment with conditions.

### **Staff Conditions**

Development associated with C14-85-288.79(RCA), located at 8112 Scenic Brook, shall comply with the following requirements.

- a. Bring the site into compliance with SOS non-degradation water quality treatment requirements for all impervious cover.
- b. Provide 110% of required tree mitigation.
- c. Comply with Dark Sky requirements for light warmth, shielding, and light trespass.

If you have any questions about the environmental conditions of this restrictive covenant amendment, please contact Leslie Lilly in the Watershed Protection Department at [Leslie.lilly@austintexas.gov](mailto:Leslie.lilly@austintexas.gov).

**Greystar 290  
Restrictive Covenant Amendment  
&  
Scenic Brook Multifamily  
Wastewater Service Extension Request #5172**

**Environmental Commission Meeting  
June 7, 2023**

# Site Overview

- 35.72 acres
- District 8
- Limited Purpose Jurisdiction
- Williamson Creek Watershed, Barton Springs Zone
- Drinking Water Protection Zone (DWPZ)
- Edwards Aquifer Contributing Zone





THUNDERBIRD RD

26.96 acres  
(current code)

8.62 acres (RCA)

SCENIC BR

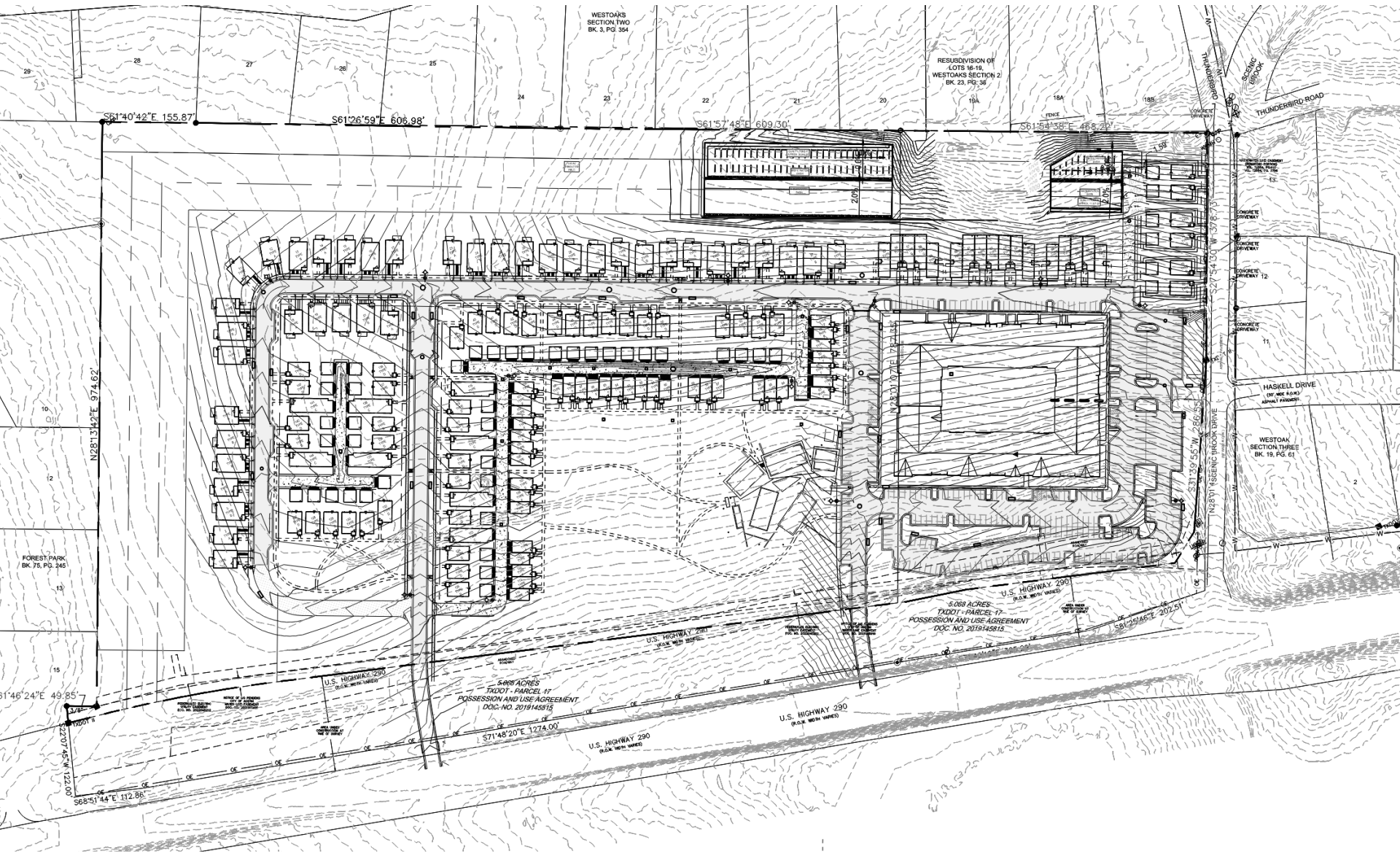
W US 290 HWY



# Request Summary

- 154 multi-family units and 253 condo units.
- Applicant is requesting a Restrictive Covenant Amendment (RCA) for 8.6149 acres of the site.
- The remaining 26.9551 (76% of property) is subject to current code and Save Our Springs Ordinance.
- Applicant is also requesting a wastewater service extension request with 235 Living Unit Equivalents (LUEs).

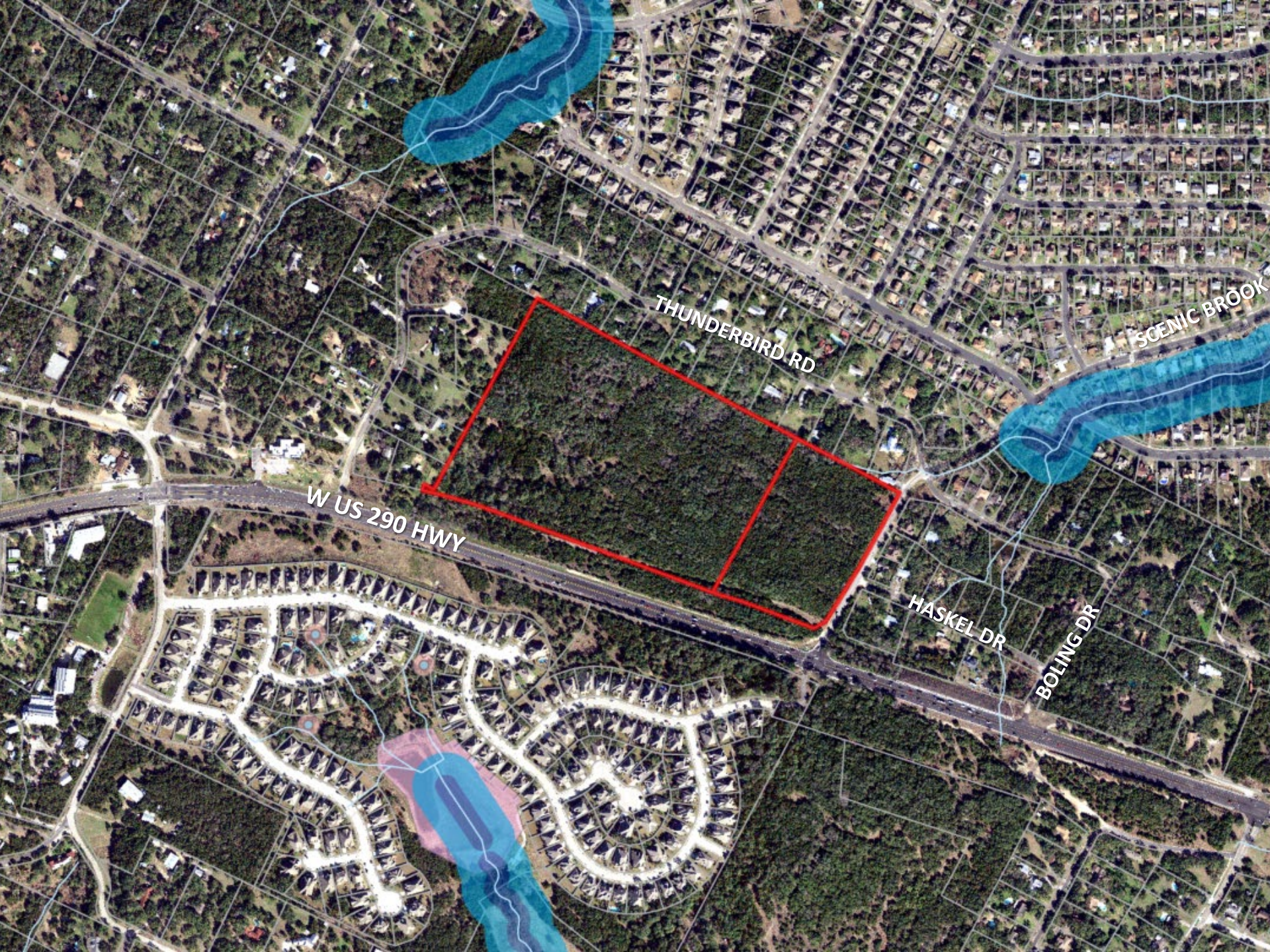




# RC Amendment Environmental Impacts

- No known Critical Environmental Features
- No Critical Water Quality Zone (CWQZ) or Water Quality Transition Zone (WQTZ) onsite
- Does not drain to occupied salamander habitat





THUNDERBIRD RD

W US 290 HWY

HASKEL DR

BOLING DR

SCENIC BROOK



# Restrictive Covenant Amendments

- Restrictive Covenants (RCs) define restrictions on properties related to zoning or other land development standards.
- RCs often set standards that are less restrictive than current code allows.
- RC established before Save Our Springs ordinance can have less restrictive impervious cover and water quality treatment in Barton Springs Zone.
- Amendments provide opportunity to request greater environmental protections than otherwise allowed.



# Save Our Springs Ordinance

- Impervious Cover limited to 25% net site area
- Non-degradation standard water quality treatment

# RC Amendment Summary

- 65% impervious cover (currently allowed in RC)
- Development complies with current code except as modified by RC
- Complies with SOS non-degradation water quality treatment
- 110% Tree mitigation
- Dark Sky requirements on light temperature, shielding, and light trespass.





THUNDERBIRD RD

26.96 acres  
(current code)

8.62 acres (RCA)

SCENIC BR

W US 290 HWY



# Staff Recommendation

## Staff recommends approval for the following reasons:

- Greater overall environmental protection and achieves a higher degree of compliance with current regulations than would otherwise be permitted
- Bring the site into compliance with SOS non-degradation water quality treatment requirements for all impervious cover.
- Provide 110% of required tree mitigation.
- Comply with Dark Sky requirements



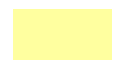
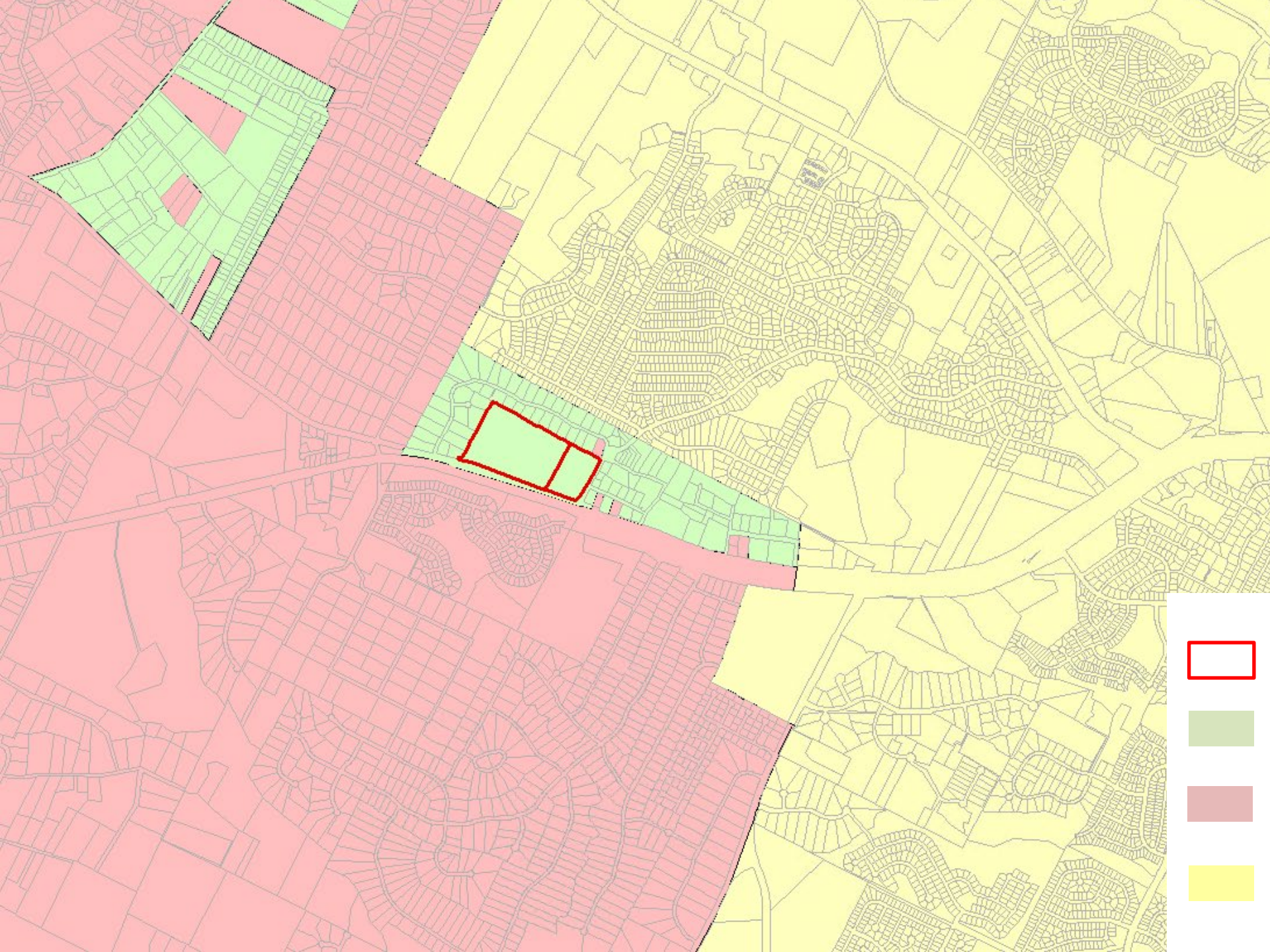
# What is an SER?

- A service extension request, or SER, is an application for City water or wastewater service from a property owner or developer.
- SERs are required when a property is located more than 100 feet from an accessible water or wastewater system, or when existing infrastructure isn't adequate for the proposed project demands.
- Service may involve the construction of a new line or an associated facility or upgrades to existing lines or facilities.
- The applicant pays for the associated infrastructure, as outlined in the SER.

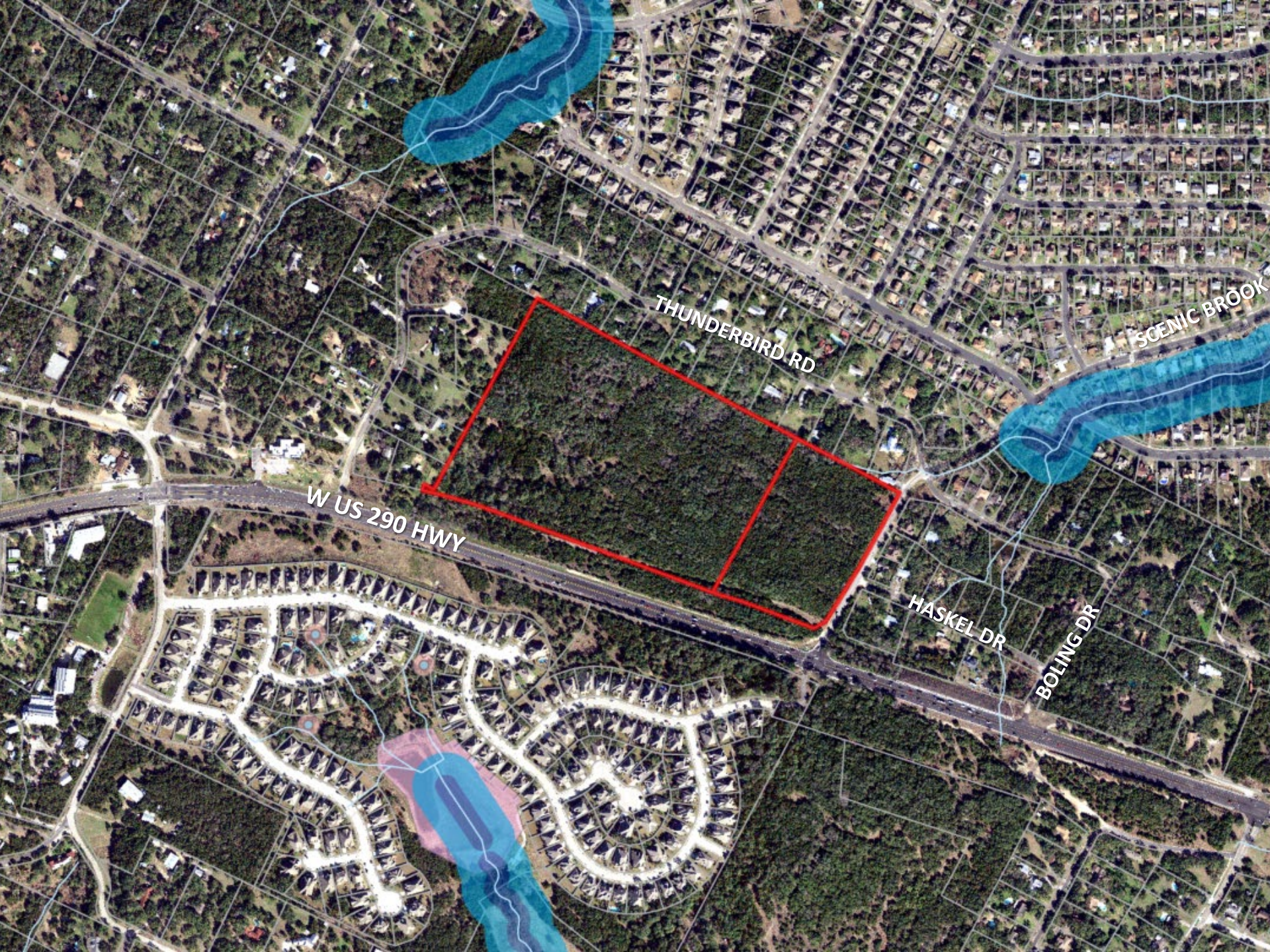
# SER Process

- Per the Land Development Code, SERs require Council approval if the property is in the Drinking Water Protection Zone and outside of the City's full purpose jurisdiction.
- Environmental Commission and Water & Wastewater Commission review and make recommendations on SERs that require Council approval.
- No conditions can be put on approval of SERs.









THUNDERBIRD RD

W US 290 HWY

HASKEL DR

BOLING DR

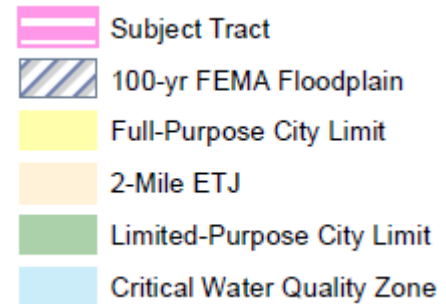
SCENIC BROOK



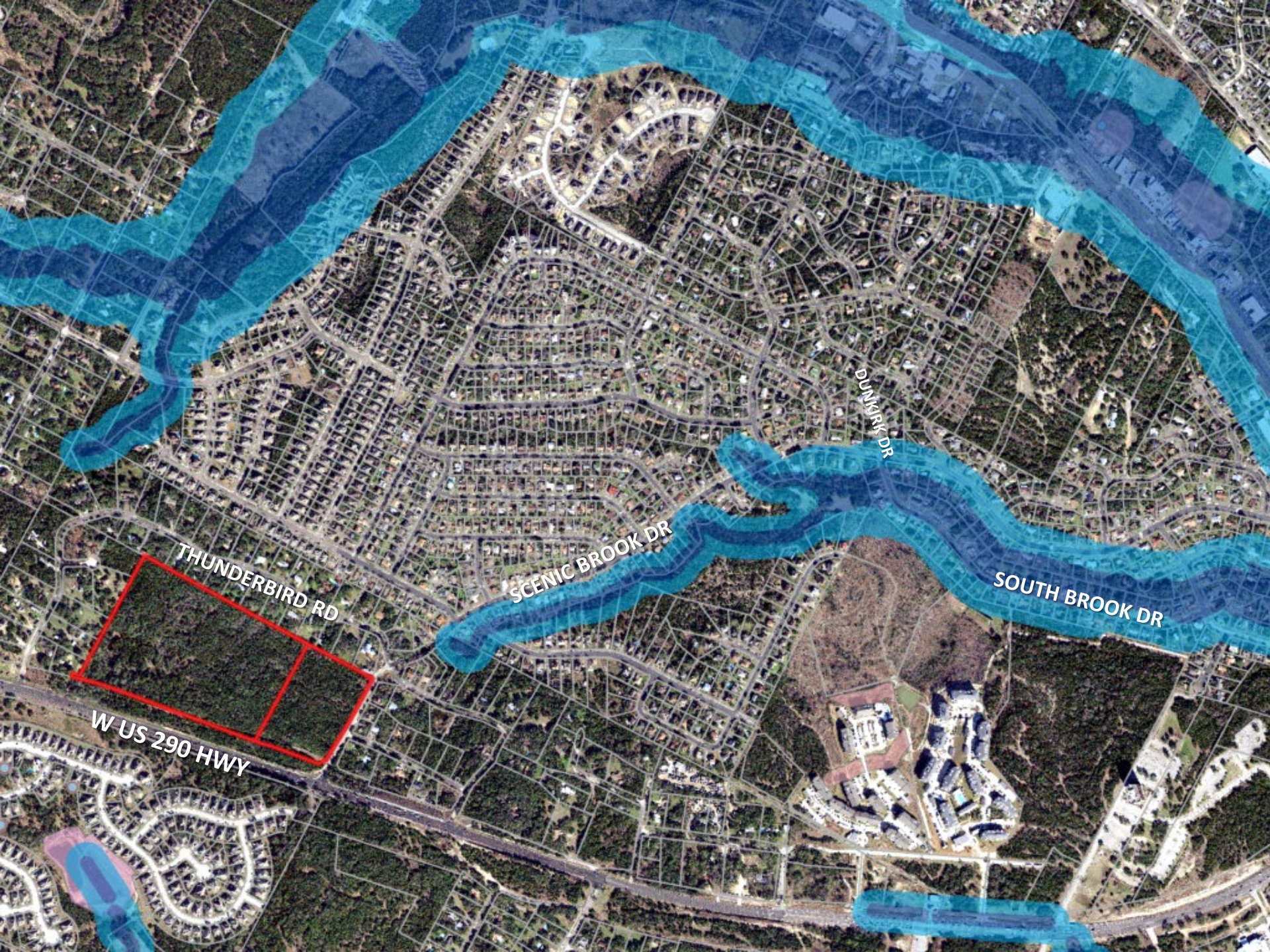
# SER #5172 Environmental Impacts

- No known Critical Environmental Features
- No Critical Water Quality Zone (CWQZ) or Water Quality Transition Zone (WQTZ) onsite
- Does not drain to occupied salamander habitat

Map provided by Austin Water







THUNDERBIRD RD

SCENIC BROOK DR

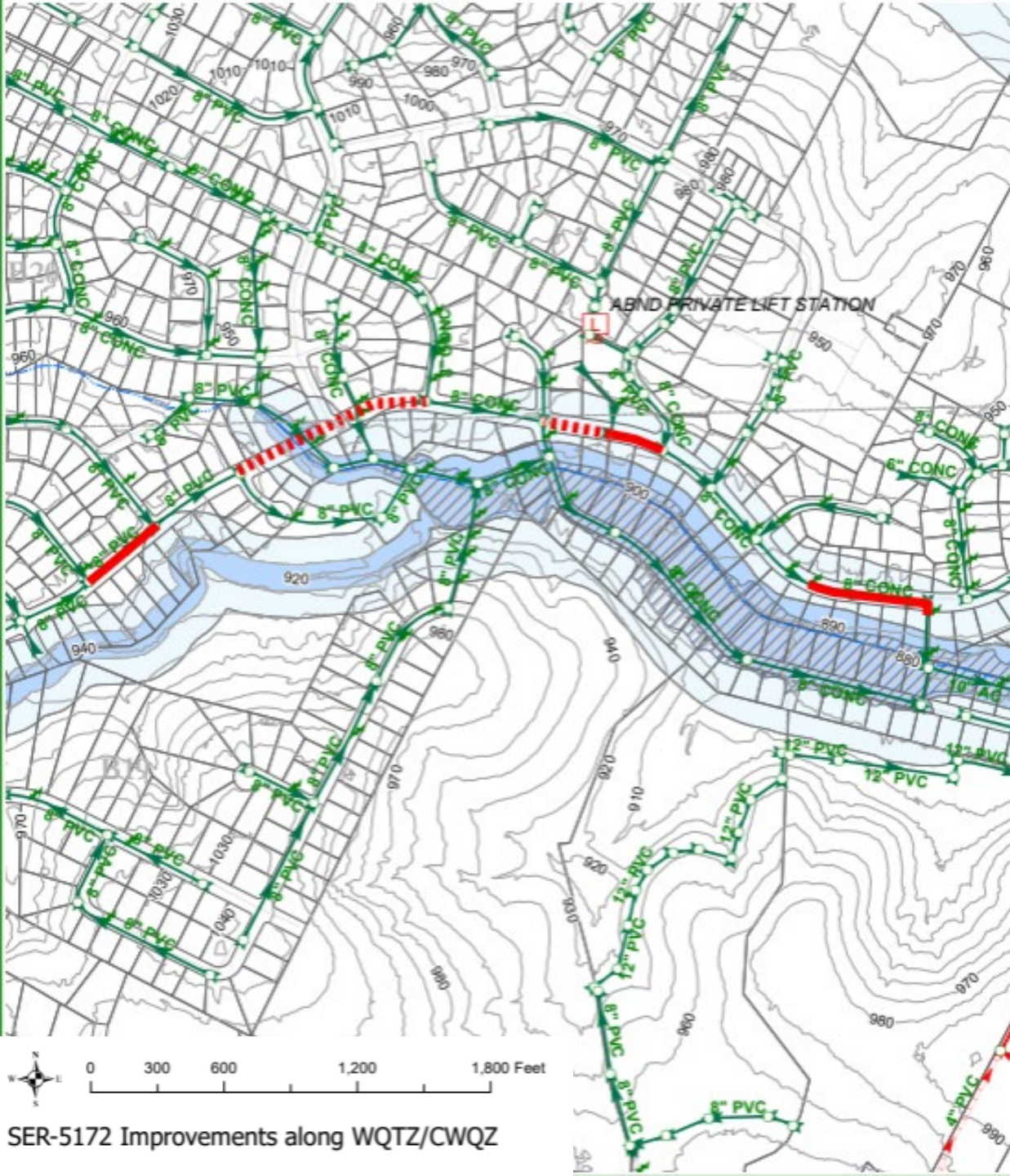
SOUTH BROOK DR






DUNKIRK DR

W US 290 HWY



# SER #5172 Wastewater improvements along WQTZ & CWQZ



-  100-yr FEMA Floodplain
-  Critical Water Quality Zone
-  Water Quality Transition Zone
-  Proposed 8-inch Main
-  Proposed 12-inch Main

SER-5172 Improvements along WQTZ/CWQZ

*Map provided by Austin Water*



# Wastewater Service

- The proposed wastewater line will require a Land Use Commission variance because a portion of the line is located within and parallel to the WQTZ for Williamson Creek.
- The wastewater line will align with Scenic Brook Drive and be built underneath the footprint of the existing road.
- A Land Use Commission Variance will be processed with the site plan associated with the wastewater line.

# Water Service

- Applicant will utilize the existing 16-inch water main in Scenic Brook Drive.
- An SER is not required because the water main is located at their site and is a suitable size to serve the proposed development.

# Alternative Wastewater Service

- If service is not extended to the site, there are two options for the proposed effluent treatment: Onsite Septic Facility (OSSF) or land application.
- Brackett soils onsite are thin and rocky, and this type of soil is not preferable for OSSFs or land application.
- Due to the allowable impervious cover and the amount of available irrigation land required for OSSFs or land application, a multifamily development with similar density would not be possible.
- Due to the proposed density of the development as well as the unsuitability of the soils, centralized wastewater is the preferred service for this site.



# Staff Recommendation

## Staff recommends approval for the following reasons:

- There are no significant environmental concerns to extend service to the property.
- Due to the proposed density of the development and the unsuitability of the soils onsite, centralized wastewater service is environmentally preferable to decentralized service.