# 87th Texas Legislative Session

## Text Amendments
## Unified Development Code (UDC)
## Public Hearing

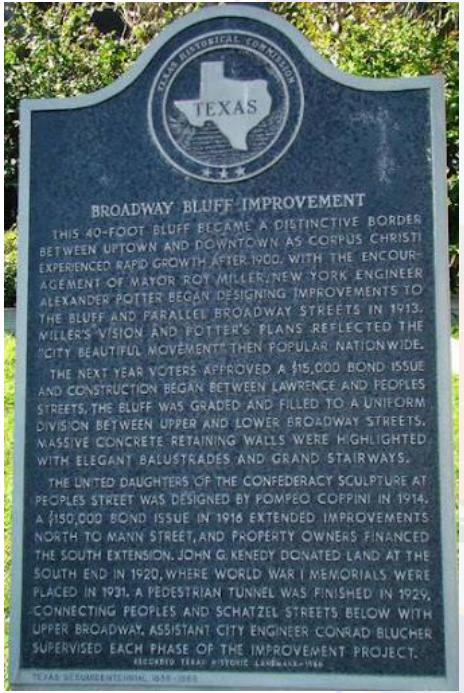
City Council
December 14, 2021

# Background

**87th Texas Legislature**

- Meets every two years
- 140-day session
- Wide range of committees
- Some bills focus on municipal issues

# Senate Bill 1585




**<u>SB 1585</u>**

- Historic Designation
  - Landmark
  - Historic District
- Property Owner Rights
  - If Opposed ¾ Vote
- Selection one Commission

# UDC Section 3.1.6.A

| Procedure | Property Owner or Designee | Floodplain Administrator | Assistant City Manager of Dev. Services | Landmark Commission | Building Code Board of Appeals | Board of Adjustment | Planning Commission | City Council |
|---|---|---|---|---|---|---|---|---|
| UDC Text Amendment | √ | √ | √ | | √ | √ | √ | √ |
| Zoning Map Amendment (Rezoning) | √ | | √ | | | | √ | √ |
| Historic Overlay district or Landmark Designation | √ | | √ | √ | | | ~~√~~ | √ |
| All other review procedures described in this Article | √ | | | | | | | |

√ = Entity may initiate application

# UDC Section 3.1.8

| Procedure | Landmark Commission | Building Code Board of Appeals | Board of Adjustment | Planning Commission | City Council |
|---|---|---|---|---|---|
| UDC Text Amendment | | | | √ | √ |
| Zoning Map Amendment (Rezoning) | | | | √ | √ |
| Area-wide Zoning Map Amendment (Rezoning) | | | | √* | √* |
| Historic Overlay District Designation | √ | | | ~~√~~ | √ |
| Planned Unit Development | | | | √ | √ |
| Special Permit | | | | √ | √ |
| Special Use Exception | | | √ | | |
| Dune Protection Permit (Kleberg County) | | | | √ | |
| Beachfront Construction Certificate | | | | √ | |
| Certificate of Appropriateness for Demolition | √ | | | | |
| Variance | | | √ | | |
| Floodplain Variance | | √ | | | |
| Appeal of Administrative Decision | | | √ | | |
| √ = Hearing required | | | | | |
| * Requires joint hearing | | | | | |

# UDC Section 3.4.2.A

**3.4.2.A Staff Review**

1. The Assistant City Manager of Development Services shall notify the owner of such property of the proposed designation and shall secure an affidavit from the owner, stating their consent to the proposed designation. If the property is owned by an organization that qualifies as a religious organization, the City may only designate the property as a historic landmark or apply the Historic Overlay District if the religious organization consents. The property owner may withdraw consent at any time during the designation process.

2. If the property owner does not consent to the proposed designation or inclusion of the owner's property into a historic district, a three-fourths vote of approval is required by the Landmark Commission~~, Planning Commission~~ and the City Council.

# UDC Section 3.4.2.B

**3.4.2.B Landmark Commission Review**

1. Following notice in accordance with Subsection 3.1.7, the Landmark Commission shall hold a public hearing and make a recommendation to the City Council.
2. The Landmark Commission shall hold a public hearing on a historic overlay zoning district or landmark designation within 45 days from the date the application is deemed complete.
3. The Landmark Commission shall make a recommendation on all historic overlay zoning district or landmark designation applications within six months from the date of the initial ~~Planning~~ Landmark Commission public hearing.
4. In the event an agreement on a recommendation cannot be reached by a majority or the Landmark Commission fails to take action on an application within the time limits prescribed in subparagraphs 3.4.2.B.2 and 3.4.2.B.3 above, the proposed amendment shall be forwarded to the City Council with a recommendation of denial.

# UDC Section 3.4.2.C

**~~3.4.2.C Planning Commission Review~~**

1. ~~Following notice in accordance with Subsection 3.1.7, the Planning Commission shall hold a public hearing and make a recommendation to the City Council~~
2. ~~The Planning Commission shall hold a public hearing on the historic overlay zoning district or landmark designation within 45 days from the date the application is deemed complete.~~
3. ~~The Planning Commission shall make a recommendation on all historic overlay zoning district or landmark designation applications within six months from the date of the initial Planning Commission public hearing.~~
4. ~~In the event an agreement on a recommendation cannot be reached by a majority of the Planning Commission present and voting or if the Planning Commission fails to take action on an application within the time limits prescribed in paragraphs 3.4.2.C.2 and 3.4.2.C.3 above, the application shall be forwarded to the City Council with a recommendation of denial.~~

# House Bill 1475

**HB 1475**

- Board of Adjustment
- Required Findings
- Hardships when considering a variance to a structure

# UDC Section 3.25.3.B

**3.25.3.B Insufficient Findings**

The following types of findings do not constitute sufficient grounds for granting a variance.

1. The property cannot be used for its highest and best use.
2. ~~There is a financial or economic hardship.~~
3. 2. There is a self-created hardship by the property owner or its agent.
4. 3. The development objectives of the property owner are or will be frustrated.

# UDC Section 3.25.3.E

**3.25.3.E Considerations on Variances for Structures**

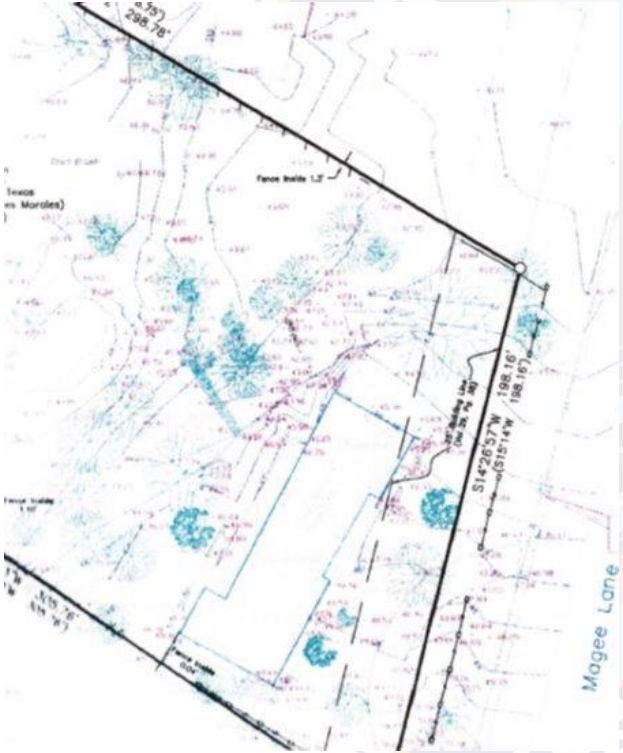
In exercising its authority, the Board may consider the following as grounds to determine whether compliance with the UDC as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

1. The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the Nueces County Appraisal District;
2. Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
3. Compliance would result in the structure not being in compliance with a requirement of a UDC, Municipal Code, building code, or other requirement;
4. Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
5. The City considers the structure to be a nonconforming structure.

# Planning Commission and Staff Recommendation

**<u>Approval</u>** of the proposed text amendments to the UDC

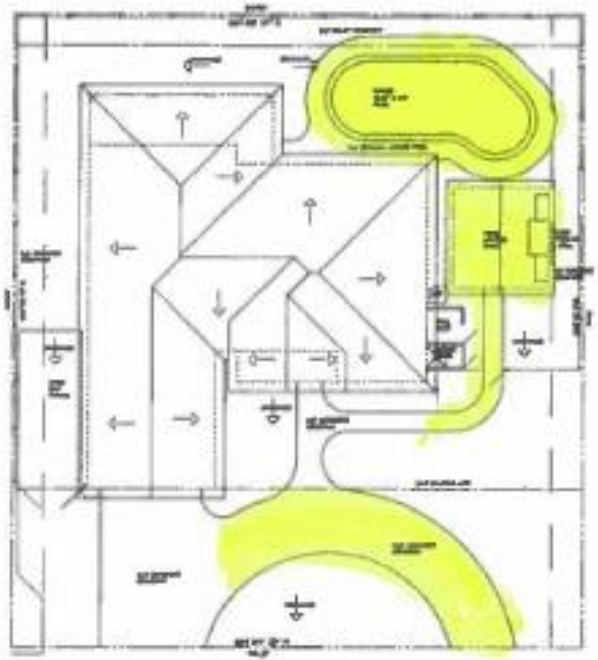
# BOA Examples




**Scenario #1**

The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the Nueces County Appraisal District

# BOA Examples



**Scenario #2**

Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;