CITY OF HUTTO, TEXAS
HISTORIC PRESERVATION COMMISSION
REGULAR MEETING
Tuesday, August 27, 2019 AT 6:30 PM
CITY HALL – EXECUTIVE CONFERENCE ROOM
500 WEST LIVE OAK STREET

HISTORIC PRESERVATION COMMISSION
DeAnne Worley
Mary Belton
Curtis Orton, Vice Chairman
Robert Lykins, Chairman
Travis Allen

AGENDA

1. CALL SESSION TO ORDER
2. ROLL CALL
3. PUBLIC COMMENT

   3.A. Remarks from visitors. *(Three-minute time limit.)*

4. AGENDA ITEMS

   4.A. Consideration and possible action on the meeting minutes from the regularly scheduled Historic Preservation Commission meeting held on June 18, 2019

   4.B. Consideration and possible action on appointing the Historic Preservation Officer

   4.C. Discussion of Historic Preservation Commission Role (Note: this item is discussion only; no action will be taken)

5. ADJOURNMENT
6 CERTIFICATION

I certify that this notice of the August 27, 2019 Historic Preservation Commission meeting was posted on the City Hall bulletin board of the City of Hutto on August 23, 2019 at 2:50 p.m.

Lynn Trumbul, Senior Assistant City Secretary

The City of Hutto is committed to comply with the Americans Disability Act. The Hutto City Council Chamber is wheelchair accessible. Request for reasonable special communications or accommodations must be made 48 hours prior to the meeting. Please contact the City Secretary at (512) 758-4839 or lacie.hale@huttox.gov for assistance.

CITY OF HUTTO, TEXAS
HISTORIC PRESERVATION COMMISSION
REGULAR MEETING
JUNE 18, 2019 AT 7:00PM
CITY HALL – EXECUTIVE CONFERENCE ROOM
500 W. LIVE OAK STREET

HISTORIC PRESERVATION COMMISSION

Robert Lykins – Chairman

Curtis Orton

Mary Belton

Travis Allen

1. CALL THE MEETING TO ORDER- 7:12PM

2. ROLL CALL –

Members of the Historic Preservation Commission that were present were Chairman Lykins, Commissioner Orton and Commission Allen were all present. Commissioner Belton was absent.

Members of staff that were present were Ashley Lumpkin, Executive Director of Development Services; Ashby Grundman, Director of Development Services; John Byrum, Senior Planner; Allison Easterling, Permit Technician.

3. PUBLIC COMMENT

3A. Remarks from visitors. *(Three minute time limit)*
Will Thompson, General Contractor for the project at 203 Taylor Street, Hutto, TX. Mr. Thompson was asked by Chairman Lykins what color the deck would be as well as the color of the property. The answer on the deck was wood and the color of the home is a gray color on the approved paint list.

4. AGENDA ITEMS

4A. Consideration and possible action on the meeting minutes from the regularly scheduled Historic Preservation Commission meeting held February 19, 2018.

MOTION: Passed and motioned carried with 3 ayes and 0 nays.

4B. Consideration and possible action on a Certificate of Appropriateness for 203 Taylor Street (ADA Ramp).

Senior Planner, John Byrum advised the commissioners that the proposed ADA ramp meets code and is being built to building code. Staff recommends approval of the ramp.

MOTION: Commissioner Orton motioned for the ramp approval. Commissioner Allen seconded the motion. Motion passed and motion carried with 3 ayes and 0 nays.

4C. Discussion on an amendment in the Historic Overly District.

Executive Director, Ashley Lumpkin talked to the committee about removing the four Southern properties that are in the Historic District. Maps with all of the historic properties were shown to the committee. Both Chairman Lykins and Commissioner Allen voiced concern in removing any properties from the Historic

ADJOURNMENT

There being no further discussion, the meeting adjourned at 7:56p.m.

RESPECTFULLY SUBMITTED:

_____

Allison Easterling, Permit Technician

Historic Preservation Commission

AGENDA ITEM REPORT

To:	Historic Preservation Commission
Subject:	Appoint the Historic Preservation Officer
Meeting:	Historic Preservation Commission - 27 Aug 2019
Department:	Development Services
Staff Contact:	Ashby Grundman

BACKGROUND INFORMATION:

As per Section 10.702 of the Unified Development Code, the Historic Preservation Commission must appoint a qualified Development Services staff member to serve as Historic Preservation Officer. The Historic Preservation Officer will administer this chapter and advise the Historic Preservation Commission on submitted matters. The Historic Preservation Officer is also responsible for coordinating the city's historic preservation activities when delegated, and maintaining and updating the city's historic resources survey.

RECOMMENDATION:

Staff recommends the appointment of John Byrum, Senior Planner, to be the Historic Preservation Officer.

CITY OF HUTTO
DEVELOPMENT SERVICES

Mayor
Doug Gaul

Mayor Pro-tem
Tom Hines, Place 2

Council Members
Scott Rose, Place 1
Mike Snyder, Place 3
Peter Gordon, Place 4
Patti Martinez, Place 5
Tanner Rose, Place 6

City Manager
Odis Jones

Memo

August 22, 2019

TO: Historic Preservation Commission (HPC)
SUBJECT: Historic Preservation Officer (HPO) Appointment

The Historic Preservation Commission has the objective of upholding the history of Old Town Hutto. This is a vital role for the City and ensures that the historic nature of the City will continue to live on through new projects. It ensures that the architecture and building projections will be consistent and somewhat uniform in the Old Town area.

The UDC and the Code of Ordinances have three mentions of HPO, which are conflicting. They are shown below:

Division 6. Historic Preservation Commission

Sec. 2.02.151 Creation

(a) The historic preservation commission members shall consist of seven members that serve three-year terms. (Ordinance O-18-07-05-8B adopted 7/5/18)

(b) The city will designate a member of development services staff to act as liaison of the historic preservation commission. The liaison may in an advisory capacity participate in discussions, but has no right to vote. The liaison of the historic preservation commission will also serve as the local preservation officer and fulfill all duties as may be required under any certified local government agreement with the state historical commission.

Historic preservation officer: city staff member appointed by City Council to serve as staff liaison to the Historic Preservation Commission (HPC).

10.702 Historic preservation officer

The Historic Preservation Commission must appoint a qualified Development Services staff member to serve as Historic Preservation Officer. The Historic Preservation Officer will administer this chapter and advise the Historic Preservation Commission on submitted matters. The Historic Preservation Officer is also responsible for coordinating the city's historic preservation activities when delegated, and maintaining and updating the city's historic resources survey.

As the Director of Development Services, I recommend the HPC appoint John Byrum as the HPO. He has been fulfilling the role since he started with the City of Hutto in May of 2018, and has done a great job of upholding the historic nature of Hutto. He has upheld the HPO role by keeping the HPC apprised of anything that may impact them, or that they may need to act on, and has helped ensure that new members get appointed when there are vacancies. I believe that he is the perfect person to fulfil this role.

Sincerely,

Ashby Grundman
Director of Development Services

Historic Preservation Commission

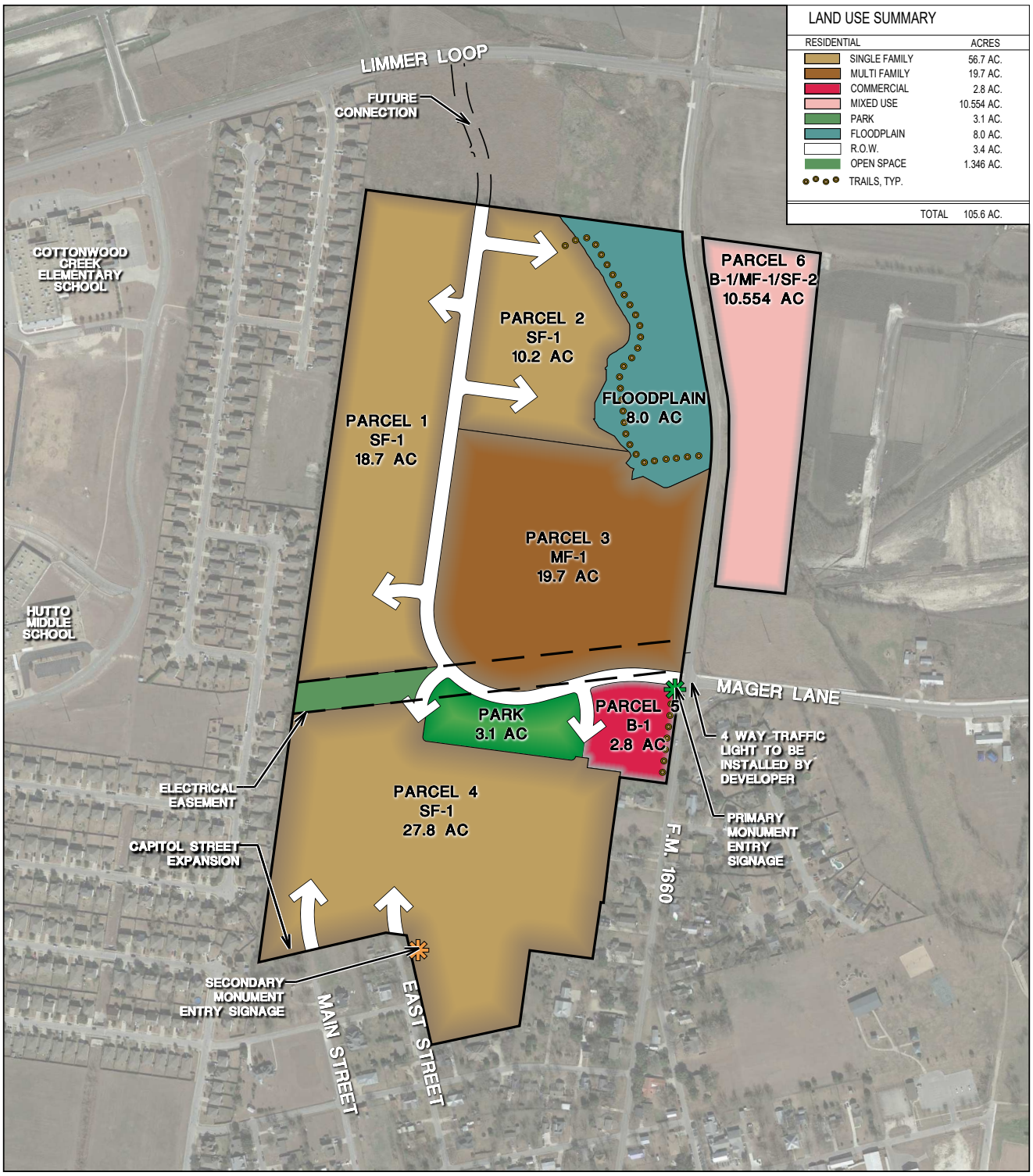
AGENDA ITEM REPORT

To:	Historic Preservation Commission
Subject:	Discussion of Historic Preservation Commission Role (Note: this item is discussion only, no action will be taken)
Meeting:	Historic Preservation Commission - 27 Aug 2019
Department:	Development Services
Staff Contact:	Ashby Grundman

BACKGROUND INFORMATION:

Discussion of Historic Preservation Commission Role Regarding:

- Durango Farms
- 203 West Street
- Roadway Reconstruction
- Legislative Update



SEC Planning, LLC
Land Planning + Landscape Architecture + Community Branding
AUSTIN, TEXAS
t 512.246.7003
www.secplanning.com + info@secplanning.com

EXHIBIT C

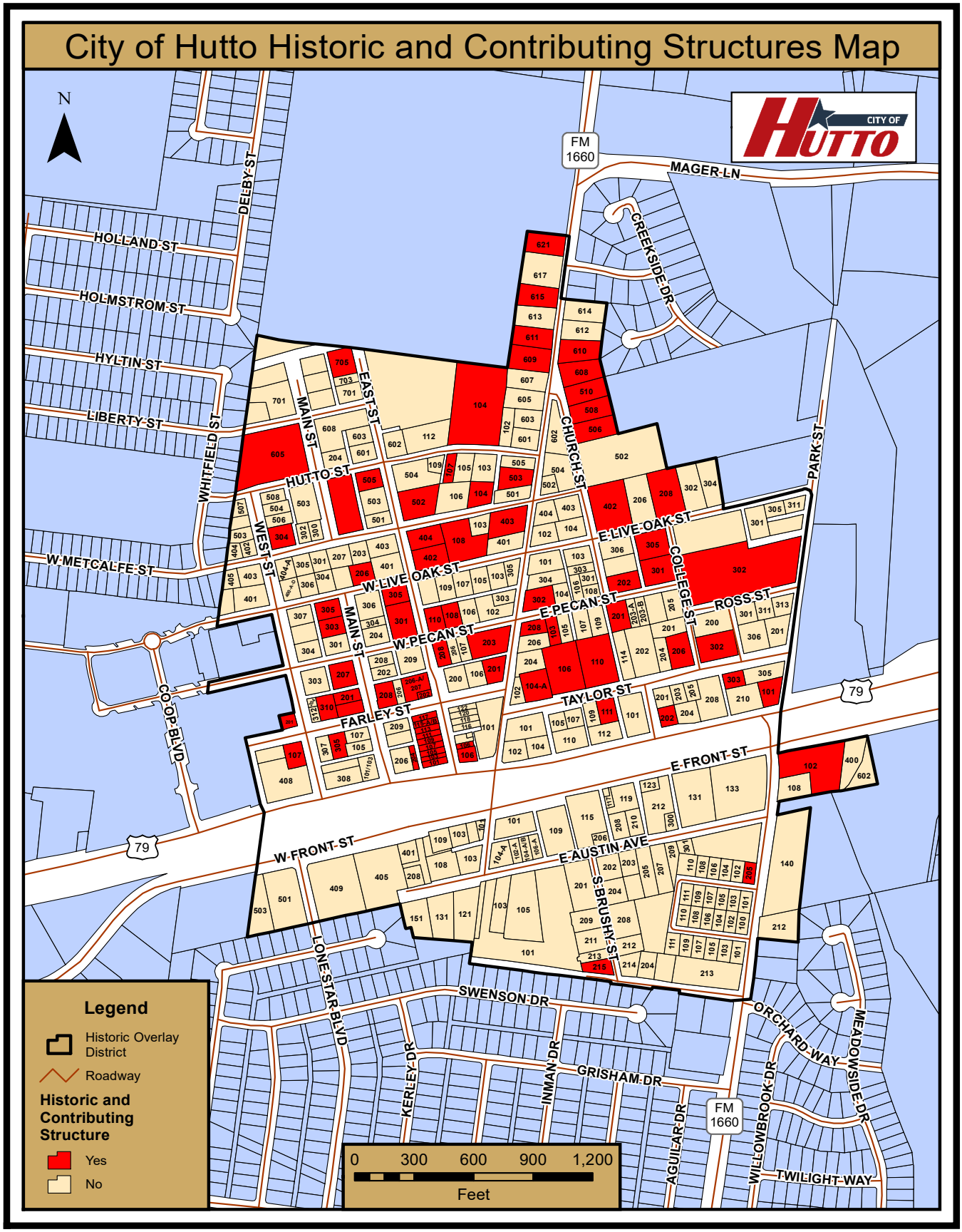
DURANGO FARMS

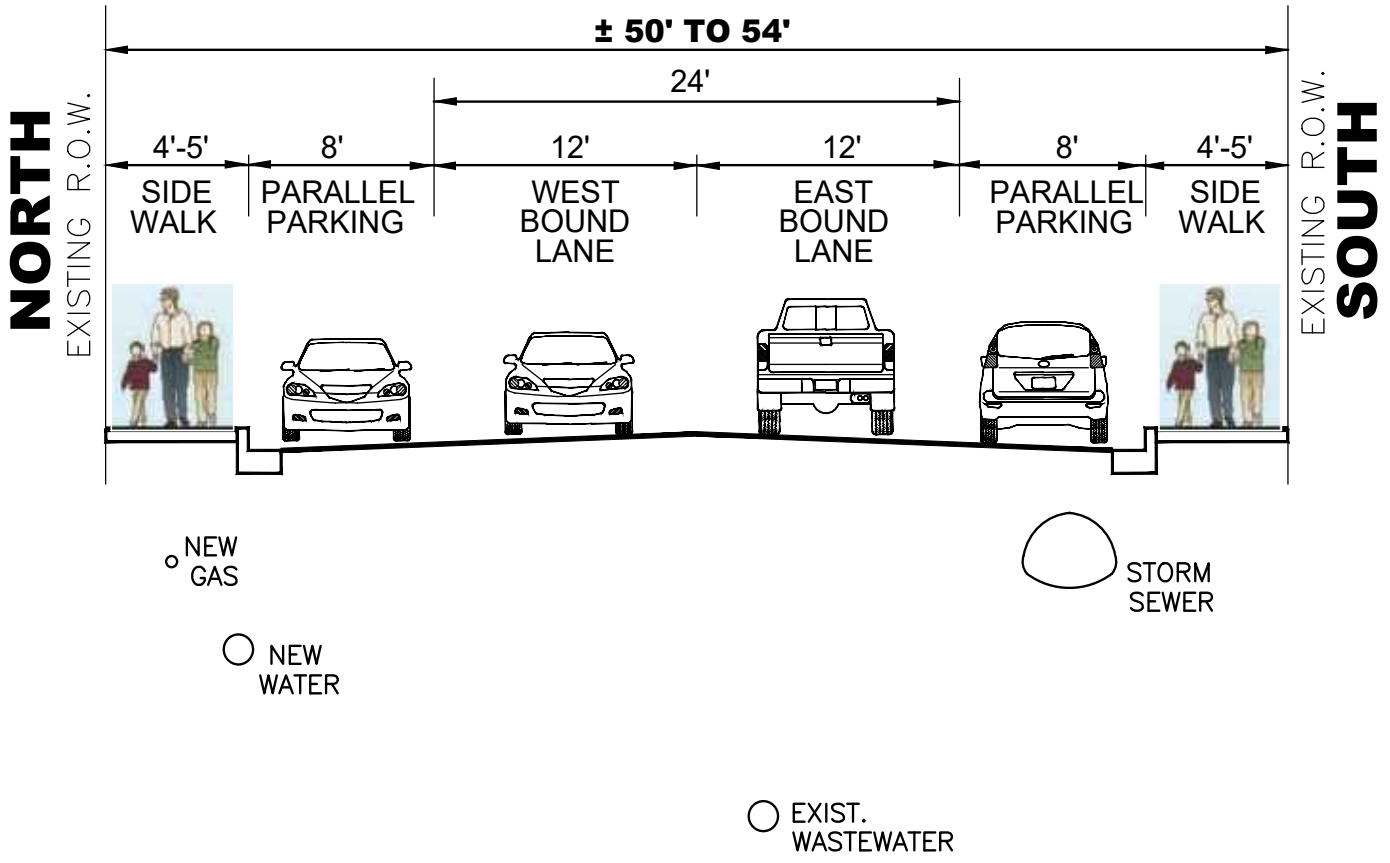
HUTTO, TEXAS

Scale: 1" = 500'
Date: August 8, 2019

SHEET FILE: S:\180117-MAGR\Cadfiles\PLANNING\Submittals\7-26-2019 1st City Comments\Exhibit C-Update.dwg

Base mapping compiled from best available information. All map data should be considered as preliminary, in need of verification, and subject to change. This land plan is conceptual in nature and does not represent any regulatory approval. Plan is subject to change.

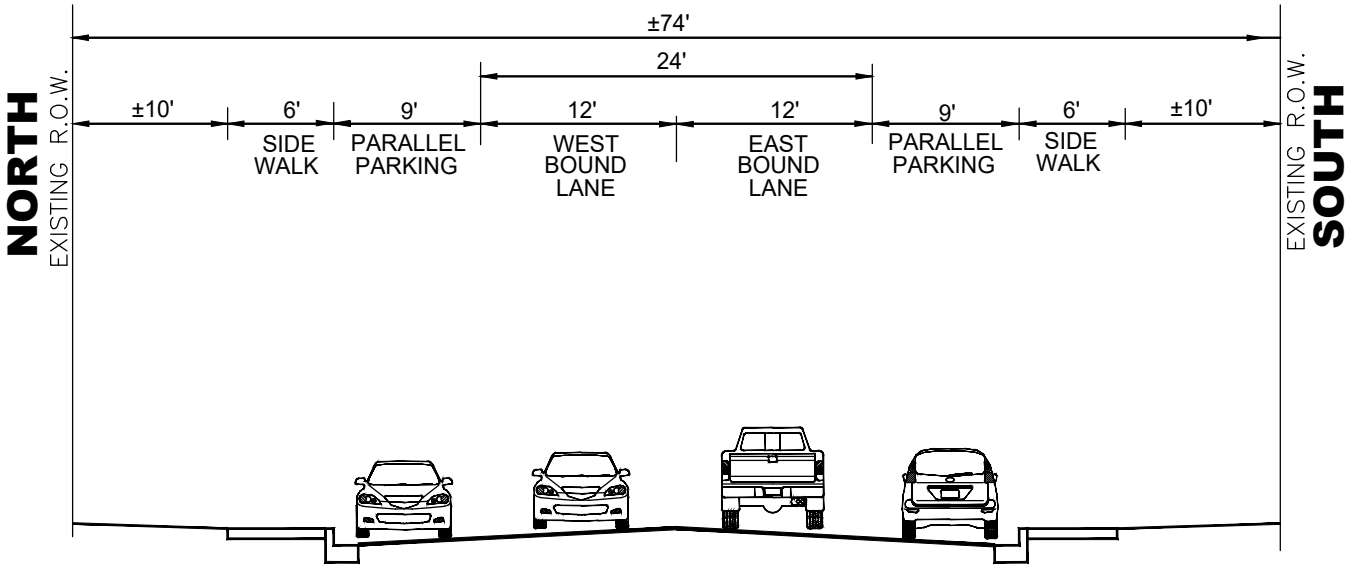

City of Hutto Historic and Contributing Structures Map
N
CITY OF HUTTO
FM 1660
MAGER LN
CREEKSIDE DR
DELBY ST
HOLLAND ST
HOLMSTROM ST
HYLTIN ST
LIBERTY ST
WHITFIELD ST
EAST ST
MAIN ST
CHURCH ST
PARK ST
HUTTO ST
WEST ST
W METCALFE ST
W LIVE OAK ST
E LIVE OAK ST
COLLEGE ST
ROSS ST
E PECAN ST
W PECAN ST
TAYLOR ST
FARLEY ST
CO-OP BLVD
79
E FRONT ST
W FRONT ST
E AUSTIN AVE
S BRUSHY ST
LONE STAR BLVD
SWENSON DR
KERLEY DR
INMAN DR
GRISHAM DR
ORCHARD WAY
MEADOWSIDE DR
WILLOWBROOK DR
AGUILAR DR
TWILIGHT WAY
Legend
Historic Overlay District
Roadway
Historic and Contributing Structure
Yes
No
0 300 600 900 1,200
Feet



LIVE OAK STREET TYPICAL SECTION

N.T.S

TYPICAL_ROAD_SECTION_2019-04-30.DWG



TAYLOR STREET OPTION 'B'

WITHOUT BIKE LANE

N.T.S

TYPICAL ROAD SECTION 2019-07-09.DWG

H.B. 2439 (2019)
Legal Q&A
Scott Houston

1. **What is H.B. 2439?**

H.B. 2439 by Representative Dade Phelan (R – Beaumont) is effective September 1, 2019, and generally provides – with some exceptions – that a governmental entity, including a city, may not adopt or enforce a rule, charter provision, ordinance, order, building code, or other regulation that: (1) prohibits or limits, directly or indirectly, the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building if the building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building; or (2) establishes a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building if the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building. *See* TEXAS GOV'T CODE Section 3000.002(a)(1) & (2).

A rule, charter provision, ordinance, order, building code, or other regulation adopted by a city that conflicts with the bill is void. 3000.002(e).

2. **Why was the bill needed?**

According to the Texas House Business and Commerce Committee Report:

> There have been concerns raised regarding the elimination of consumer and builder choice in construction through overly restrictive local municipal zoning ordinances, building codes, design guidelines, and architectural standards. Critics argue that these restrictive ordinances, codes, guidelines, and standards create monopolies, increase the cost of construction, and ultimately price thousands of Texans out of the housing market. C.S.H.B. 2439 seeks to address these concerns and eliminate the ability of a governmental entity to enact overly restrictive, vendor-driven building regulations.

In other words, the undertone was that cities were enacting ordinances that required builders to use products available from only one or a few sources to benefit those vendors. Of course, the bill goes much, much further than that. Legislators are already hearing from city officials about the bill's detrimental affects.

3. **What is meant by a city regulation that "prohibits or limits, directly or indirectly, the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building if the building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building?"**

The best way to understand this core provision of the bill is to break it down into two elements:

- The bill clearly applies only to residential or commercial "buildings." 3000.002(a)(1). Those terms are not defined, so their normal meaning applies. 311.011. That means it is safe to say that single- and multi-family homes, as well apartments, are subject to the bill's limitations. Commercial buildings typically include retail and warehouses, but not industrial or more intense uses. A city can define the terms by ordinance, but shouldn't be unreasonable. In other words, it doesn't make sense to classify a single-family home as an industrial use.

  "Construction, renovation, maintenance, or other alteration" appears to cover just about any type of change to a building.

- A "building product or material [that] is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building." 3000.002(a)(1).

  Most agree that the language above references the International Code Council model codes and a handful of others. Currently, cities should normally be operating under: (1) the International Residential Code (IRC) for residential construction; (2) the National Electrical Code (NEC) for electrical construction in both residential and commercial construction; and (3) the International Energy Conservation Code (IECC) and the International Building Code (IBC) for all construction other than single-family residential. With regard to plumbing codes, a city may be operating under the plumbing provisions of the IRC and/or either the plumbing provisions of the Uniform Plumbing Code (UPC) or International Plumbing Code (IPC). Other ICC Codes includes the International Fire Code (IFC), the International Fuel Gas Code (IFGS), the International Property Maintenance Code, and several more.

  The ICC code cycles update every three years. The last three code cycles as of 2019 are 2018, 2015, and 2012.

  Examples of materials allowed by the 2018 IRC for home exteriors include, among others: (1) concrete, stone, or masonry; (2) fiber cement siding; (3) horizontal aluminum; (4) vinyl siding; or (5) wood siding. *See* Table R703.3(1). A city that has, through an IRC amendment or any other regulation, mandated a percent masonry requirement is thus preempted. A builder can now use vinyl siding or wood siding if he or she chooses because those are a "building product or material [that] is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building."

  The bills prohibitions aren't limited to aesthetic building products or materials. Any city that has amended any ICC or other code should review those amendments with their building official and legal counsel to determine if an amendment runs afoul of the bill's prohibitions.

4. **What is meant by a city regulation that "establishes a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building if the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building?"**

Most agree that any city regulation requiring that a building look a certain way (i.e., above-and-beyond an appearance that comes about through compliance with minimum national model code standards) is prohibited. 3000.002(a)(2). Some have argued that architectural features, front elevation requirements, roof pitch, window size, and similar requirements may be preempted. Of course, those things may or may not be addressed by a base international model code. If they are not, they are not preempted. In any case, each city should consult its attorney on specifics.

5. **Can a city continue to adopt amendments to its building codes?**

Yes, but they can't conflict with the prohibitions in the bill. A city that adopts a building code governing the construction, renovation, maintenance, or other alteration of a residential or commercial building may amend a provision of the building code to conform to local concerns if the amendment does not conflict with the prohibitions discussed in questions 3 and 4, above. 3000.002(b). The prohibition against amendments that conflict with the bill overrides authority in other law to make amendments. *See, e.g.*, TEX. LOC. GOV'T CODE 214.212(c); 214.214(b); 214.216(c).

6. **May a city use private deed restrictions to require certain materials or methods?**

Probably not. State law authorizes the City of Houston and any city that doesn't have zoning to enforce certain private deed restrictions. TEX. LOC. GOV'T CODE Subchapter F. (an authorized city may enforce a deed restriction that "regulates architectural features of a structure"). However, the language in H.B. 2439 arguably preempts such a regulation because it would be "establishing a standard or limiting a product." Of course, private deed restrictions between property owners are still enforceable.

7. **Does a city have any option at all with regard to controlling building materials or construction methods?**

That's debatable, but the obvious method is by agreement. A city can enter into an agreement wherein a person voluntarily agrees to abide by certain standards. For commercial construction, the incentivizing tool would be a Local Government Code "Chapter 380 agreement." For residential and commercial, it would be a "neighborhood empowerment zone" under Chapter

378 of the Local Government Code. Property and/or sales tax abatements could be other options.

8. Are some structures exempt from the prohibitions in the bill?

Yes. The prohibitions in questions 3 and 4, above, do not apply to:

1. a program established by a state agency that requires particular standards, incentives, or financing arrangements in order to comply with requirements of a state or federal funding source or housing program;
2. a requirement for a building necessary to consider the building eligible for windstorm and hail insurance coverage;
3. an ordinance or other regulation that: (i) regulates outdoor lighting for the purpose of reducing light pollution; and (ii) is adopted by a city that is certified as a Dark Sky Community by the International Dark-Sky Association as part of the International Dark Sky Places Program;
4. an ordinance or order that: (i) regulates outdoor lighting; and (ii) is adopted under the authority of state law; or
5. a building located in a place or area designated for its historical, cultural, or architectural importance and significance that a city may regulate through zoning, if the city: (i) is a certified local government under the National Historic Preservation Act; or (ii) has an applicable landmark ordinance that meets the requirements under the certified local government program as determined by the Texas Historical Commission (a city that doesn't meet (i) or (ii) can adopt or enforce a regulation in questions 3 and 4, above, that applies to a building located in a place or area designated on or after April 1, 2019, by the city for its historical, cultural, or architectural importance and significance, if the city has the voluntary consent from the building owner);
6. a building located in a place or area designated for its historical, cultural, or architectural importance and significance by a city, if designated before April 1, 2019;
7. a building located in an area designated as a historic district on the National Register of Historic Places;
8. a building designated as a Recorded Texas Historic Landmark;
9. a building designated as a State Archeological Landmark or State Antiquities Landmark;
10. a building listed on the National Register of Historic Places or designated as a landmark by a city;
11. a building located in a World Heritage Buffer Zone; or
12. a building located in an area designated for development, restoration, or preservation in a main street city under the main street program.

3000.002(c)(1)-(12); 3000.002(d). In addition, the bill does not affect provisions regarding the installation of a fire sprinkler protection system under Section 1301.551(i), Occupations Code. 3000.004. Section 1301.551(i) provides that:

> Notwithstanding any other provision of state law, after January 1, 2009, a municipality may not enact an ordinance, bylaw, order, building code, or rule requiring the installation of a multipurpose residential fire protection sprinkler system or any other

fire sprinkler protection system in a new or existing one- or two-family dwelling. A municipality may adopt an ordinance, bylaw, order, or rule allowing a multipurpose residential fire protection sprinkler specialist or other contractor to offer, for a fee, the installation of a fire sprinkler protection system in a new one- or two-family dwelling.

9. How are the bill's prohibitions enforced?

The attorney general or an aggrieved party may file an action in district court to enjoin a violation or threatened violation of the bill. 3000.003. The attorney general may recover reasonable attorney's fees and costs incurred in bringing an action under the bill, and sovereign and governmental immunity to suit is waived and abolished to the extent necessary to enforce the bill. *Id*.