



City of La Porte Zoning Board of Adjustment Meeting Agenda

Notice is hereby given of a **Regular Meeting** of the La Porte Zoning Board of Adjustment to be held on **March 22, 2012**, at **6:00 P.M.** at City Hall Council Chambers, 604 West Fairmont Parkway, La Porte, Texas, regarding the items of business according to the agenda listed below:

1. Call to order
2. Consider approval of February 23, 2012, meeting minutes.
3. Consider Special Exception Request #12-94000001 for the property located at 106 North Forrest Avenue, further described as Lot 17, Block 10, Sylvan Beach First Subdivision, Vol.3, Page 72, Harris County Map Records, Johnson Hunter Survey, Abstract No. 35, La Porte, Harris County, Texas. The applicant seeks to construct a covered walkway in the front setback area. This exception is being sought under the terms of Section 106-191 (b) (2) (a) of the City's Code of Ordinances.
 - A. Staff Presentation
 - B. Proponents
 - C. Opponents
 - D. Proponents Rebuttal
4. Consider Appeal of Enforcement Officer's Decision #12-95000001 for the property located at 500 West Main Street, further described as Lots 21-23, Block 56, Town of La Porte, Johnson Hunter Survey, Abstract No. 35, La Porte, Harris County, Texas. The applicant appeals for a denied permit for Obsolescence of Structure, the repair costs of which exceed 50% of replacement cost of the structure. This appeal is being sought under the terms of Section 106-89 (3) of the City's Code of Ordinances.
 - A. Staff Presentation
 - B. Proponents
 - C. Opponents
 - D. Proponents Rebuttal
5. Administrative Reports
6. Board Comments on matters appearing on agenda or inquiry of staff regarding specific factual information or existing policy
7. Adjourn

A quorum of City Council members may be present and participate in discussions during this meeting; however, no action will be taken by Council.

In compliance with the Americans with Disabilities Act, the City of La Porte will provide for reasonable accommodations for persons attending public meetings. To better serve attendees, requests should be received 24 hours prior to the meetings. Please contact Patrice Fogarty, City Secretary, at 281.470.5019.

CERTIFICATION

I certify that a copy of the March 22, 2012, agenda of items to be considered by the Zoning Board of Adjustment was posted on the City Hall bulletin board on the ____ day of _____, 2012.

_____ Title: _____

Out of consideration for all attendees of the meeting, please turn off all cell phones and pagers, or place on inaudible signal. Thank you for your consideration.

**Zoning Board of Adjustment
Minutes of February 23, 2012**

Members Present: George Maltsberger, Rod Rothermel, Lawrence McNeal (Alt. No 1), and Sherman Moore (Alt. No. 2).

Members Absent: Chester Pool, Charles Schoppe, and T.J. Walker,

City Staff Present: Steve Gillett, Interim City Manager; Masood Malik, City Planner; Clark Askins, Assistant City Attorney; and Shannon Green, Planning Assistant.

1. Call to Order.

Chairman George Maltsberger called the meeting to order at 6:07p.m.

2. Consider approval of the December 29, 2011, meeting minutes.

Motion by Rod Rothermel to approve the Minutes of December 29, 2011 with the following correction: #3.C Opponents; add comments from resident at 755 S. Lobit.
Second by Lawrence McNeal. Motion carried.

Ayes: George Maltsberger, Rod Rothermel, Lawrence McNeal (Alt. No 1), and Sherman Moore (Alt. No. 2).

Nays: None

Abstain: None

3. Consider Variance Request #12-93000001 for the property located at 10 Bay Oaks Drive, further described as Lot 3, Block 14, Bay Oaks Subdivision, W. P. Harris Survey, Abstract No. 30, La Porte, Harris County, Texas. The applicant seeks to construct an accessory structure up to 20 feet high exceeding the height limit of 15', contrary to the provisions of Section 106-741 of the Code of Ordinances. The variance is being sought under the terms of Section 106-192 (b) (2) of the City's Code of Ordinances.

Chairman George Maltsberger opened the Public Hearing at 6:08pm.

A. STAFF PRESENTATION

Masood Malik, City Planner, presented staff's report. Mr. Malik informed the Board the applicant is requesting an additional height of five feet for an accessory building exceeding the maximum fifteen feet allowed per Sec. 106-741 (b) of the Code of Ordinances. The purpose is to construct an accessory structure in the rear yard.

Nine public hearing notices were mailed to property owners within 200' of the subject property. The City received no response.

Hugh McCauley, property owner of 6 Bay Oaks, called the City and responded to the public notice he received. Mr. McCauley spoke in favor of the request but he voiced his concern of the location of a fence adjacent to his lot. Staff informed him that any dispute of this nature should be resolved among the neighbors.

B. PROPONENTS

James Lattner of 10 Bay Oaks, spoke in favor of the Variance.

Raymond Willburn of 16 Bay Oaks, spoke in favor of the Variance.

C. OPPONENTS

There were none.

D. PROPONENTS REBUTTAL

There were none.

Chairman George Maltsberger closed the Public Hearing at 6:18pm.

Motion by Rod Rothermel to approve Variance Request #12-93000001 for the property located at 10 Bay Oaks Drive to construct an accessory structure up to 20 feet high exceeding the height limit of 15'. Second by Sherman Moore. Motion carried.

Ayes: George Maltsberger, Rod Rothermel, Lawrence McNeal (Alt. No 1), and Sherman Moore (Alt. No. 2).
Nays: None
Abstain: None

4. Administrative Reports

Masood Malik, City Planner addressed the Board with the following updates:

The final two chapters of the Comprehensive Plan Update were presented at the February 16, 2012, Planning & Zoning Meeting. Projected date of completion is scheduled for July 2012.

A third meeting of the Northside Neighborhood Plan Update is scheduled for March 29, 2012.

5. Board Comments

Vice Chairman Rothermel asked for an update on the Lakes at Fairmont Greens.

Masood Malik reported D.R. Horton is a prospective builder for this subdivision. The City has moved forward and approved building plans for initial homes to be built. However, delay is on the owner/developer side, as sign improvement and other cleaning efforts need to be completed at this site.

Sherman Moore inquired about the new construction at Lomax Rodeo Arena.

Steve Gillett, Interim City Manager, informed the Board the City of La Porte, the Economic Development Corporation, and the Rodeo Association is funding a design to upgrade the rodeo arena and the old Lomax City Hall structure. The design is still being finalized.

6. Adjourn

Chairman George Maltsberger adjourned the meeting at 6:36pm.

Submitted by,

Shannon Green
Secretary, Zoning Board of Adjustment

Approved on this ____ day of _____, 2012.

George Maltsberger
Chairman, Zoning Board of Adjustment

**SPECIAL EXCEPTION
#12-9400001**

106 N. Forrest Ave.

EXHIBITS:

STAFF REPORT

APPLICATION

EXHIBIT A – AREA MAP

EXHIBIT B – SURVEY PLAN

EXHIBIT C - CODE OF ORDINANCES, SECTION 106-333, TABLE B,
RESIDENTIAL AREA REQUIREMENTS,

EXHIBIT D – PUBLIC NOTICE RESPONSE

Staff Report

March 22, 2012

**Special Exception Request
#12-94000001**

Requested by: James Prestigomo Jr., property owner

Requested for: Lots 17, Block 10; Sylvan Beach First Subdivision

Location: 106 North Forest Ave.

Zoning: Low Density Residential (R-1)

Background: The property in question is zoned Low Density Residential (R-1), where a single-family dwelling is a “permitted” use in this zone. As per Harris County Appraisal District record, the single family house was built in 1956. The property is located near Bayshore Drive and proximity to the Galveston Bay. The land area is 6,250 square feet and total living area equals 900 square feet. The required front, rear, and side yard setbacks are 25’, 15’, and 5’ respectively.

The applicant has submitted a Special Exception request for a reduction in the standard front yard setback from 24’4” to 19’4” in order to build a front porch or covered walkway by an entrance door within the front setback. The applicant is requesting to place an 11’x5’ roofed-over porch area/steel cover without walls over an existing walkway. This will be attached to the house roof and lead up to the carport, a building permit for which has already been issued. A copy of the property survey and covered walkway is attached.

The abutting lot requirement as referenced in Section 106-191(b)(2)(b) of the Code of Ordinances does exist. The required front yard setback of existing homes within the same block varies, front yard carports/porches, and walkways are common in the area. Should the Board approve the applicant’s request as submitted, the covered walkway would remain consistent with the neighboring properties.

The applicant has stated that a plastic cover existed at one time; however, it was knocked down by Hurricane Ike and needs to be rebuilt. A covered walkway will protect him from rain or shine and for safe entrance to the house after setting out of the car.

The applicant further states that getting to the house from the carport has always been a problem and a covered walkway is also needed due to a medical situation of the property owner.

The applicant is asking the Zoning Board of Adjustment to consider reducing the City's standard twenty-five foot (25') front yard setback requirement to permit the front covered walkway.

This exception is being requested under the terms of Section 106-191(b)(2)(a) of the City's Code of Ordinances.

- ❖ To deviate a front yard setback requirement where the actual front yard setback of any abutting lot does not meet the front yard requirement.

Analysis:

The Code of Ordinances defines a special exception as a specified enumerated deviation from zoning regulations. The Board is empowered to grant a special exception when it finds the following:

- ❖ Granting the exception will not adversely affect the value, or use of neighboring property.
- ❖ Granting the exception will not be contrary to the best public interest.

Regarding this request, the relief being sought is similar to the circumstances outlined in the terms of the Special Exception Section.

- Allow front porch or covered walkway without walls for a single-family dwelling within a reduced front yard setback.

Staff has determined that several homes within the same block do not comply with the required twenty-five foot (25') front yard setback and that types of non-conformities exist in this area.

When considering this Special Exception request, it should be noted that the existing house currently maintains a 24'4" front yard setback, just short of min. 25'. However, the drive approach and min. distance for carport meet current City Ordinances.

The Board must consider whether decreasing the front yard setback, as requested by the applicant, will adversely impact the adjacent properties or be contrary to the best public interest.

Conclusion:

Based on the facts outlined in this report, staff feels the applicant's request deserves consideration by the Board. It does appear that the granting of the requested special exception under Section 106-191(b)(2)(a) would not be contrary to the best interest of the public and would not adversely impact the adjacent properties.

The Board may consider:

- **Approving** Special Exception and allowing the front porch/covered walkway on the subject property with a reduced front yard setback of 19'4".
- **Denying** Special Exception to uphold the provision of Section 106-333, Table B, residential area requirements.

Appeals:

As per Section 106-196 of the Code of Ordinances of the City of La Porte: Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the city may present to a court of record a petition for a writ of certiorari, as provided by V.T.C.A., Local Government Code Section 211.011, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the Board of Adjustment.

A Special Exception is a deviation from the requirements of the Zoning Ordinance. Before they grant a special exception, The Board of Adjustments must determine that the exception is not contrary to the best public interest and will not adversely affect the value or use of adjoining property.

Special exceptions may be granted for the following items only:

- 1) The reconstruction of or addition to a building occupied by a non-conforming use. Additions cannot extend past the lot occupied by the original structure or use. The reconstruction or use cannot prevent the property from returning to a conforming use.
- 2) Deviation of yard requirements under the following circumstances.
 - a) Exceptions to front yard requirements if front yard setbacks are not met on abutting pieces of property.
 - b) Exception to rear yard setbacks if any four (4) lots within a block do not meet setback requirements.
 - c) Exceptions to yard requirements on corner lots.
 - d) Exceptions to front yard requirements if existing front yard setbacks on a block are not uniform.
- 3) Waiving or reduction of off street parking and loading requirements if the Board feels they are unnecessary for the proposed use of a building or piece of property.

Please remember it is the Applicant's responsibility to prove that a Special Exception will meet the above conditions.

If there is not adequate room on the remainder of this form to list all pertinent information, please feel free to attach an additional letter or any information and exhibits you feel the Board should consider.

FACTS RELEVANT TO THIS MATTER:

I am in bad health

I going throug cancer programs

I have a bad left Hip will not operate on because of cancer

TYPE OF RELIEF BEING SOUGHT:

Getting to my house from carport is and always be a problem not just because of my health

carport connected to walk way will look better to the neighborhood.

Before I had a carport with plastic Top and it did not look good.

I don't want to put 4 poles and another plastic Top.

I am trying to do the right thing

THE GROUNDS FOR THE REQUESTS:

Getting out of the car and getting to my house without worrying about the weather.

Make the neighborhood look better

PERMIT APPLICATION
City of La Porte
 281-470-5073

DF
 2-16-12

Denied Permit



RECEIVED
 *Plumbing
 FEB 16 2012

g X Mechanical _____ *Electrical _____
 *(See back of form)

t Address: 106 N Forrest Lot: 17

ision: Sylan Beach First Block: 10

's Name: Jim Prestigamo Phone: 281 941 9283

ss: 106 N Forrest La Porte 77571
 Street City Zip

ctor: ABC Awning Phone: 713 645 428

ss: 8703 Broadway Houston 77017
 Street City Zip

ctor Email address: Sales@abcawnings.com Fax: 713 645 2646 Contact Person: Gaylan Smith

eer: Vatani Consulting

ng Use: home Sq. Footage: 55 # Stories: 1

tion: #355 Describe Work: Covered walkway

5x11=5
 Steel Cover
 PBR/ 4x4
 Sheds
 30x3 panel

A VALID PERMIT UNTIL OWNER IS NOTIFIED OF APPROVAL & ALL APPLICABLE FEES ARE PAID IN FULL.

ICANTS SIGNATURE Gaylan Smith DATE: 2-16-12

ICANTS PRINTED NAME Gaylan Smith

pancy Type R For City Use Only Flood Zone AE Class Work covered walkway Sq. Ft. NA

uction Type H Use Zone R-1 # Stories NA Parking Req 2

se of Building SFD Date use ceased: NA

mercial Buildings Plans Only-Fire Marshal Approval NA Date NA

ked/Approved for Issuance By: _____ Date _____

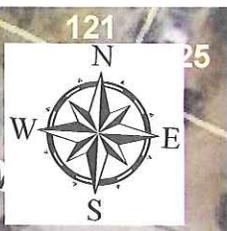
OK Special Conditions: Denied - does not meet City ordinance
106.771 setback requirements
front yard encroachment

deliv (2010) HCAD 035 210 010 0017

Residential driveway tie-in fee: NA
 Parkland(New Res. Only): Zone # NA Fee: NA
 Permit No. 12-279 Permit Fee _____ Plan Check Fee: NA

Gaylan Smith (713) 825-4805

AREA MAP

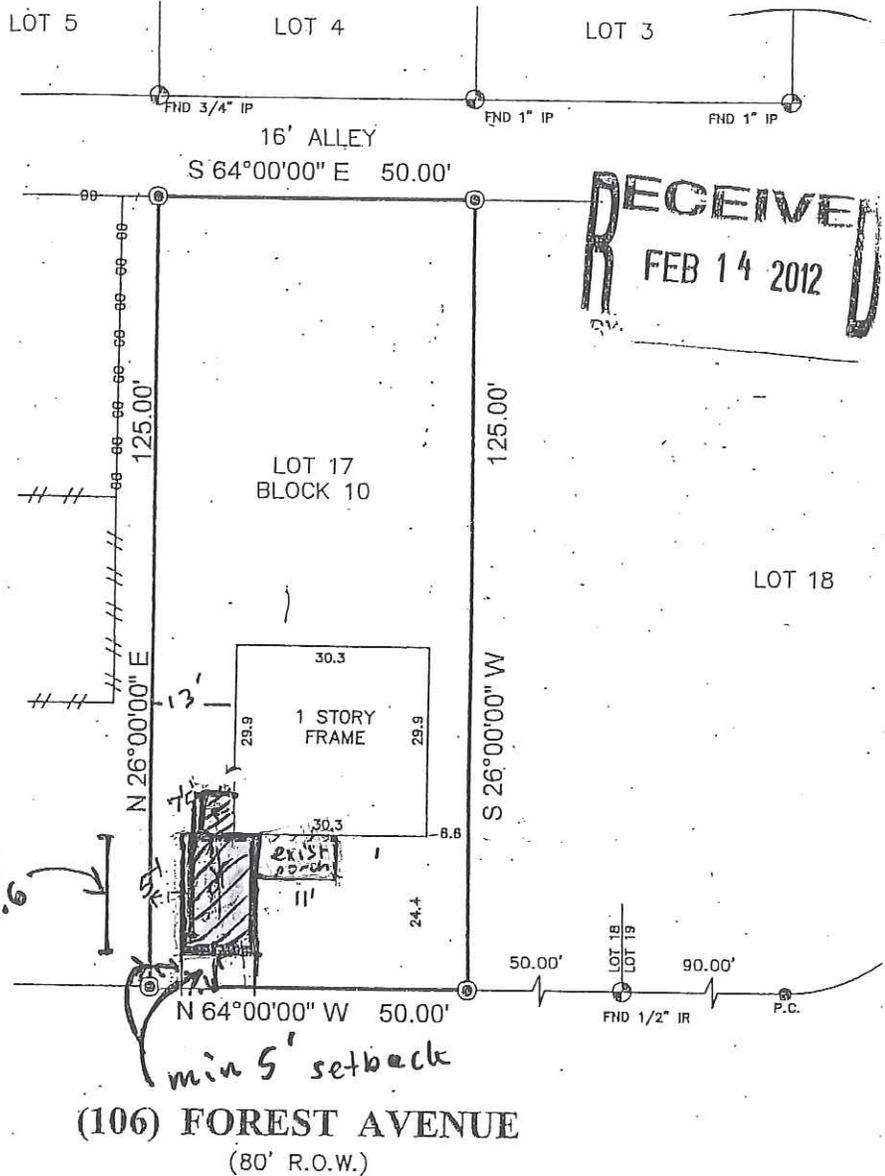


LOCATION OF PROPERTY



1 inch = 50 feet

SCALE 1" = 30'



RECEIVED
FEB 14 2012

max 19.6

min 5' setback

(106) FOREST AVENUE
(80' R.O.W.)

LEGEND

-  COVERED AREA
-  DIRT DRIVE
-  CONTROL MONUMENT
-  SET 1/2" IR CAPPED "SURVEY 1"
- FENCE**
-  4' CHAIN LINK
-  6' WOOD

CONTRACTOR COPY

NOTE: THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF INFORMATION CONTAINED IN A TITLE REPORT PER THE REQUEST OF THE BUYER.

BUYER VIVIAN SMALLEY	PROPERTY ADDRESS 106 FOREST AVENUE
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DESCRIBED PROPERTY

LOT 17, IN BLOCK 10, OF SYLVAN BEACH FIRST SUBDIVISION, AN ADDITION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 3, PAGE 72 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

EXHIBIT B

I do hereby certify that this survey was this day, made on the ground of the property legally described herein (or on the attached plat).

SUBJECT PROPERTY DOES NOT LIE IN A F.I.A. DESIGNATED FLOOD ZONE AS PER FLOOD MAP NO.

Sec. 106-333. Table B, residential area requirements.

(a) *Table B, residential area requirements.*

<i>Uses</i> ⁸	<i>Minimum Lot Area/D.U. S.F.</i>	<i>Minimum Lot Width L.F.</i>	<i>Minimum Yard Setbacks L.F. F.R.S. 2, 3, 4, 5, 6, 10, 11, 12, 13, 14, 15</i>	<i>Maximum Height</i>	<i>Minimum Site Area/Unit S.F.</i> ⁷	<i>Minimum Development Open Space/Unit S.F.</i>	<i>Maximum Lot Coverage/Minimum Landscaping Required</i> ^{9, 19}
Single-family detached	6000	50	25-15-5	35 Ft.	9100 4.8 DU/A	—	40%/N/A
Single-family large lot	43560	90	25-15-5	45 Ft.	43560 1.0 DU/A	—	40%/N/A
Single-family special lot line, 0 lot line	4500	40	20-10-0	35 Ft.	7300 6.0 DU/A	Footnote # 1	60%/N/A
Duplexes	6000	60	25-20-20	45 Ft.	8.0 DU/A	Footnote # 1	60%/N/A
Single-family converted to multifamily	6000	50	20-10-5	35 Ft.	N/A	N/A	50%/N/A
Townhouses, quadraplexes (10,000 s.f of site area 100 ft. wide)	2000	20	25-20-20	45 Ft.	4400 10.0 DU/A	Footnote # 1	75%/25%
Multifamily	20000	100	25-20-20	45 Ft.	1600 14 DU/A	Footnote # 1	60%/25%
Manufactured housing	4500	40	20-10-5	25 Ft.	7300 6.0 DU/A	Footnote # 1	60%/6%
Manufactured housing subdivision or parks (5 acre min.)		100 of front road frontage	N/A	N/A	N/A	N/A	N/A/N/A
Group care facilities (less than 6) and day care homes			25-20-10	25 Ft.	N/A	N/A	N/A/6%

A Meeting of the La Porte

Zoning Board of Adjustment

(Type of Meeting)

Scheduled for

March 22, 2012

(Date of Meeting)

to Consider

Special Exception #12-9400001

(Type of Request)



I have received notice of the above referenced public hearing.

I am in FAVOR of granting this request for the following reasons:

THE HOUSE IS WELL KEPT AND FITS INTO THE NEIGHBORHOOD

I am OPPOSED to granting this request for the following reasons:

(Empty lines for opposition reasons)

JOHN W. PULLERNE

Name (please print)

John W. Pullerne

Signature

116 SEYLVAN

Address

LA PORTE TX. 77571

City, State, Zip

EXHIBIT D

**Appeal of the Enforcement Officer's Decision
#12-9500001**

500 W. Main Street

Exhibits

Staff Report

Application w/documents

- A. Area Map**
- B. Survey Map**
- C. Sections 106-262, Code of Ordinances**
- D. Public Notice Response**

Staff Report

March 22, 2012

Appeal of the Enforcement Officer's Decision

#12-95000001

Requested by: Gilbert Diaz, Property owner

Business Name: Formerly Speedy Taco & Kings BBQ Restaurants

Requested for: Remodeling of a Substandard, Obsolete Non-Conforming Structure

Location: 500 W. Main
(Blk. 56; Lots 21-23; Town of La Porte)

Zoning: Main Street Overlay District (MSO)

Land Use Plan: Commercial

Background: The restaurant is located in the City's "old downtown" area. Structures located on this portion of West Main Street, between North/South Broadway Street and State Highway 146, were typically built without building setbacks from property lines. Harris County Appraisal District (HCAD) records show this building was constructed in 1955 with an overall building area of 1,479 square feet on a land area of 9,125 square feet.

The applicant is appealing the Enforcement Officer's decision to apply Code of Ordinances **Sec. 106-262 Nonconforming Structures** on a proposed remodel of a substandard structure. Under DIVISION 9 NONCONFORMING BUILDINGS, STRUCTURES AND USES of the Zoning Ordinance, the City has been mandated to review all nonconforming structures, uses, and lots. Section 106-261 states, "the general public, the Planning and Zoning Commission and the Zoning Board of Adjustment have been directed to take note that nonconformities in the use and development of land and buildings are to be avoided, or eliminated where now existing, wherever and whenever possible"...

The property in question currently contains several nonconforming items that include:

- Side building setback of 10' adjacent to public right-of-way
- Rear building setback of 20' adjacent to alley
- Substandard Structure

Nonconforming Issues:

On pre-existing & non-conforming structure issues, Section 106-262(d) of the City's Code of Ordinances states: "Obsolescence of Structure". *The right to operate and maintain any non-conforming structure shall terminate and shall cease to exist whenever the non-conforming structure becomes substandard under the codes and ordinances of the City, and the cost of placing such structure in lawful compliance with the applicable ordinances exceeds 50 percent of the replacement cost of such structure, as determined by a licensed appraiser, on the date that the enforcing officer determines that such structure is obsolete or substandard.*

In addition, the enforcement officer of the City shall notify the owner of such nonconforming structure, as shown on the certified tax rolls of the City, as to the date of termination of the right to operate and maintain such nonconforming structure, and as to the procedure to be followed to bring such structure into compliance with the codes and ordinances of the City. The burden of proof in showing that the structure's repair cost does not exceed 50 percent of the replacement cost of such structure rests upon the owner of such structure.

Present development regulations require the structure to be built with some building setbacks to allow for traffic visibility and landscaping. There are several aspects of the existing development that are considered nonconforming when compared to current City's development standards. These issues are as follows:

Building Setbacks: The City's Zoning Ordinance stipulates minimum setbacks for a main street overlay district as: Front - 0'; Rear - 20'; Side - 0'; 10' on Side when a corner lot. Property survey shows an existing primary structure has no 10' side setback when adjacent to public right-of-way and accessory structure is encroaching upon the rear setback.

Substandard Structure & Notification: In accordance with the City's Zoning Ordinance, Section 106-262(d), a letter dated January 30, 2012, served as a notification that the right to operate and maintain the "substandard non-conforming structure(s) is terminated. An owner or his representative seeking to provide proof that the structure's repair cost does not exceed 50 percent of the replacement cost of such structure may appeal the enforcement officer's decision to the Zoning Board of Adjustment.

Discussion:

It is assumed that the structures along this portion of West Main Street were constructed in accordance with the development standards and ordinances that were in effect at that time. Thereafter, any changes or modifications in City development standards create a situation commonly referred to as “pre-existing, nonconforming”.

At this time, the applicant is asking to remodel a substandard structure. The City has determined the primary structure is substandard and the cost of bringing it into a lawful compliance with codes and ordinances of the City will exceed 50 percent of replacement cost of such structure. The facts and considerations are as follows:

- 03/08/11 City’s receipt of remodel permit application shows a remodel valuation of \$5,000.
- 03/08/11 Exterior inspection by City staff – preliminary determination of structure obsolescence (per 2011 “Certified” Harris County Appraisal District Improvement Valuation of \$41,742)
- 03/11/11 Set up 03/17/11 meeting with the owner – discussed issues
- 03/17/11 Met with the owner; questioned remodel valuation and raised structure obsolescence issue; owner agreed to weigh demolition verses cost to have engineer review building.
- 09/27/11 Survey identifies nonconforming structure locations
- 09/28/11 Engineering letter estimates repairs to the front of the primary building to be \$25,800 plus additional costs.
- 10/07/11 Owner’s remodel permit application that reflects an estimated \$80,000 for remodel valuation.
- 12/13/11 On-site walk-thru of the building
- 01/17/12 Report – Restricted Use Appraisal estimating the replacement cost of the primary building between \$43,000 and \$58,000.
- 02/15/12 Permit application shows remodel valuation \$20,000
- 03/02/12 Manning Engineering Corp. letter claims that the building can be repaired for less than 50% of the HCAD listed appraised value. It further claims that first letter dated 09/28/11 was a summary to provide Mr. Diaz a budget number to secure funding and to compare the cost of a first class renovation versus new construction. However, necessary minimum structural repairs can be performed for less than 50% of the appraised value.

Analysis:

In describing the action of appeal, the Code of Ordinances states: In exercising the powers set forth in Section 106-88, the Board of Adjustment may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the enforcement officer from whom the appeal is taken. The Board must find the following in order to grant an appeal.

- a) *That there is a reasonable difference of interpretation as to the specific intent of the zoning regulations or zoning map, provided the interpretation of the enforcement officer is a reasonable presumption and the zoning ordinance is unreasonable.*

Current regulations are written in a clear manner which allows the enforcement officer to understand the intent of City Council as it relates to the nonconforming structure. This regulation has been in effect since the January 26, 1987 adoption of Zoning Ordinance #1501 and the regulation has not been proven to be “unreasonable”.

No reasonable difference exists regarding the interpretation of the Zoning Ordinance intent. The renovation/remodeling of existing building clearly is classified as ‘Obsolescence of Structure’ that should proceed under Sec. 106-262(d). Remedies exist for the property owner therefore the zoning ordinance cannot be construed as unreasonable.

- b) *That the resulting interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated.*

Current regulations are written in a clear manner that enables individuals to understand City Council’s intent. This enables Staff to provide the information to others and be consistent in the enforcement of this regulation. This consistency in the enforcement of the regulation ensures no “special privilege” to any one property.

The zoning ordinance objective is to eliminate and/or ameliorate nonconformities. Typically, eliminating nonconformities is addressed when property owners decide to develop, renovate or remodel their properties. Granting this request would indeed grant a special privilege to this property owner.

- c) *The decision of the Board must be in the best interest of the community and consistent with the spirit and interest of the city's zoning laws and the comprehensive plan of the city.*

Staff believes reoccupying an unsafe structure would conflict with the intent of the regulation and would not be in the best interest of the community or be consistent with the spirit of the City's Zoning Ordinance. While the property owner has presented an estimated cost to renovate the building, which is alleged to be less than 50% of the appraised value (\$41,742 Improvement value per HCAD), the Board may not grant permission to issue a permit for remodeling a nonconforming and obsolescence of structure unless the owner is able to prove that it can reasonably be done for that cost.

The general intent and purpose behind the zoning ordinance is to promote public health, safety, and welfare. This is accomplished by providing a safe transportation system, providing sufficient open spaces and landscaped areas, and preventing the overcrowding of land as well as ensuring stable structures. The zoning ordinance clearly provides for these items. Upholding the enforcement officer's decision in this case would certainly be in the best interest of the community and would be consistent with the spirit and interest of the City's zoning laws and the comprehensive plan of the city.

Conclusion:

Based on the facts and considerations noted in this report, Staff feels the enforcement officer's decision is correct.

Staff recommends that the Board deny this appeal and uphold the ordinance provisions found in Sections 106-261 and 106-262 of the City's Code of Ordinances.

Appeals:

As per Section 106-196 of the Code of Ordinances of the City of La Porte: Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the city may present to a court of record a petition for a writ of certiorari, as provided by V.T.C.A., Local Government Code Section 211.011, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the Board of Adjustment.

CITY OF LA PORTE
ZONING BOARD OF ADJUSTMENT
APPEAL OF ENFORCEMENT OFFICER'S DECISION

OFFICE USE ONLY: Fee: \$150.00 Application No.: 12-9500001
Date Received: 2-24-12

Applicant: Gilbert Diaz
Name
802 Ivy DEER PARK PH: 713-884-0816
Address

I am the owner of the herein described property. I have authorized _____
to act on my behalf in this matter.

Owner*: _____
Name
Address
PH: _____

I am appealing the decision regarding or the interpretation of Sect. _____ of
the City Zoning regulations Chapter 106 of the Code of Ordinances. I am making this
appeal in regards to the property located at:
500 WEST MAIN LOT 21-23 Block 56
Street Address Legal Description

Site Plan Minor Development Site Plan
 Major Development Site Plan General Plan

A Site Plan of the property is attached. Also, I have listed the information requested below
on the following pages of this form.
a) All facts concerning the matter that has led up to this request.
b) The type of relief I am seeking (setbacks, lot coverage, etc.).
c) The grounds upon which I am making this request.

* If applicant is NOT the owner, he must provide Authorization to act on the Owner's
behalf.
2-24-12 Gilbert Diaz
Date Applicant's Signature

OFFICE USE ONLY

Site Plan and Authorization (if applicable) attached? Yes () No ()

Date transmitted to the Board of Adjustments: _____

Meeting Date: _____ Applicant Notified of Date: _____

Board's Decision: Approved () Denied ()

Notice of Board Decision mailed to Applicant/Owner: _____

If there is not adequate room on the remainder of this form to list all pertinent information, please feel free to attach an additional letter or any information and exhibits you feel the Board should consider.

FACTS RELEVANT TO THIS MATTER:

REMODELING COST WILL BE 20,500.00 I HAVE
2 CONTRACTORS THAT WILL GIVE ME AN ESTIMATE
SHORTLY. I WILL FORWARD THESE ESTIMATES AS
I GET THEM.

TYPE OF RELIEF BEING SOUGHT:

GET PERMIT TO REMODEL building for the
USE OF AN OFFICE FOR STRAIGHT EDGE CONSTRUCTION.

GROUND FOR THE REQUEST:

I HAVE GOTTEN EVERYTHING THE INSPECTION DEPT
HAS ASKED. I HAVE TRIED TO GET SOMEONE
ELSE RATHER THEN MARK AND DWAYNE. THESE
INDIVIDUALS HAD THEIR MINDS MADE UP BEFORE
INSPECTING BUILDING. THE ESTIMATE MR MANNING
GAVE ME WAS TO REMODEL building FIRST CLASS.
I WILL SEND YOU MORE INFO IN A FEW DAYS AS WE AGREE.



DM/MH
10-10-11

PERMIT APPLICATION
City of La Porte
281-470-5073

RECEIVED
OCT 07 2011
BY: _____

Established 1892

Building Mechanical _____ *Electrical _____ *Plumbing _____
*(See back of form)

Project Address: 500 WEST MAIN Lot: 21-23

Subdivision: La Porte Block: 56

Owner's Name: GILBERT DIAZ Phone: 281-479-9821
713-884-0816

Address: 502 IVY DEER PARK 77536
Street City Zip

Contractor: STRAIGHT EDGE CONSTRUCTION Phone: 713-884-0816

Address: SAME _____
Street City Zip

Contractor Email address: _____ Fax: _____ Contact Person: GILBERT DIAZ

Engineer: MAUNING ENGINEERING CORP

Building Use: RESTAURANT Sq. Footage: _____ # Stories: 1

Valuation: \$ 80,000 Describe Work: Remodeling

NOT A VALID PERMIT UNTIL OWNER IS NOTIFIED OF APPROVAL & ALL APPLICABLE FEES ARE PAID IN FULL.

APPLICANTS SIGNATURE: Gilbert Diaz DATE: 10-9-11

APPLICANTS PRINTED NAME: GILBERT DIAZ

Occupancy Type: A-2 For City Use Only Flood Zone: X Class Work: Remodel Sq. Ft: 1479 #

Construction Type: V Use Zone: MSD0 # Stories: 1 Parking Req: NA

Last use of Building: RESTAURANT Date use ceased: _____

Commercial Buildings Plans Only-Fire Marshal Approval _____ Date _____

Checked/Approved for Issuance By: _____ Date _____

CE: Yes Special Conditions: Permit Denied Per Zoning Section 106-262 (d)

OBsolescence of structure. Building is required to be set back 10' from side property line adjacent to street right of way. Existing set back

Taxes: OK HCAD _____ Residential driveway tie-in fee: _____

Parkland(New Res. Only): Zone # _____ Fee: _____

Permit No. 11-1541 Permit Fee _____ Plan Check Fee: _____

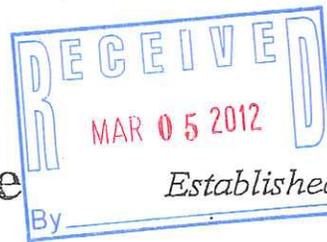
is 0-FEE. 3 Bldg cost of repairs exceed 50% of HCAD valuation.

1-1061 wwp
11-869

10/11/2011



PERMIT APPLICATION
City of La Porte
 281-470-5073



Established 1892

Building Mechanical _____ *Electrical _____ *Plumbing _____
 *(See back of form)

Project Address: 500 WEST MAIN Lot: 21-23

Subdivision: LA PORTE Block: 56

Owner's Name: GILBERT DIAZ Phone: 713-884-0816

Address: 802 LUY DEER PARK TX
 Street City Zip

Contractor: STRAIGHT EDGE CONSTRUCTION Phone: 713-884-0816

Address: 424 EAST 1ST ST DEER PARK TX
 Street City Zip

Contractor Email address: STRAIGHTEDGE CONSTRUCTION TO YAHOO.COM Contact Person: GILBERT DIAZ
 Fax

Engineer: _____

Building Use: office (for my company) Sq. Footage: _____ # Stories 1

Valuation: \$ 20,000 Describe Work: Remodeling

NOT A VALID PERMIT UNTIL OWNER IS NOTIFIED OF APPROVAL & ALL APPLICABLE FEES ARE PAID IN FULL.

APPLICANTS SIGNATURE Gilbert Diaz DATE: 2-15-12

APPLICANTS PRINTED NAME Gilbert DIAZ

Occupancy Type _____ For City Use Only Flood Zone _____ Class Work _____ Sq. Ft. _____

Construction Type _____ Use Zone _____ # Stories _____ Parking Req. _____

Last use of Building _____ Date use ceased: _____

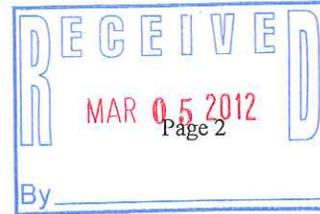
Commercial Buildings Plans Only-Fire Marshal Approval _____ Date _____

Checked/Approved for Issuance By: _____ Date _____

CE: _____ Special Conditions: _____

Taxes _____ HCAD _____ Residential driveway tie-in fee: _____

Permit No. _____ Permit Fee _____ Parkland (New Res. Only): Zone # _____ Fee: _____ Plan Check Fee: _____

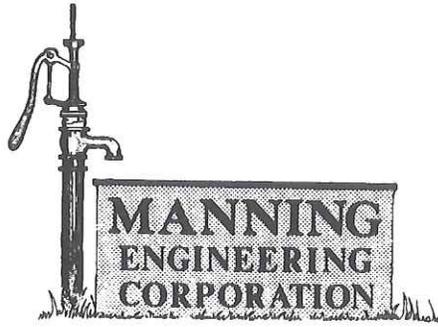


The City has determined the primary structure is substandard and the cost of bringing it into lawful compliance with codes and ordinances of the city will exceed 50 percent of replacement cost of such structure. Our determination is based on the following:

- 03/08/11 City’s receipt of remodel permit application showing a remodel valuation of \$5,000
- 03/08/11 Exterior inspection by City staff - preliminary determination of structure obsolescence (per 2011 “Certified” Harris County Appraisal District Improvement Valuation of \$41,742) *? Enclosed copies*
- 03/11/11 Set up 03/17/11 meeting with Owner – discussed issues *GAVE ME TEST I need to do NOT HAPPEN*
- 03/17/11 Met with owner; questioned remodel valuation and raised structure obsolescence issue; owner agreed to weigh demolition verses cost to have engineer review building *NOT HAPPEN*
- 09/27/11 Survey identifying nonconforming structure locations
- 09/28/11 Engineering letter estimates repairs to the front of the primary building to be \$25,800 plus additional cost *This is for REST OF building*
- 10/07/11 Owner’s remodel permit application that reflected an estimated \$80,000 for remodel valuation *This was base for First class Remodeling*
- 12/13/11 On-site walk-thru of the building - Had to go thru Debbie to make it happen
- 01/17/12 Report - Restricted Use Appraisal estimating the replacement cost of the primary building between \$43,000 and \$58,000 *Remodeling MANNING ESTIMATE 25,800 - FIRST CLASS HAVE ESTIMATES AT MORE THAN FIGURES REAL*

In accordance with City Zoning Regulation Sect. 106-262(d), this letter serves as your notification that the right to operate and maintain the “substandard non-conforming structure(s) is terminated”. An owner or his representative seeking to provide proof that the structure’s repair cost does not exceed 50 percent of the replacement cost of such structure may appeal the enforcement officer’s decision to the Zoning Board of Adjustment (ZBOA). However, the burden of proof rests with the owner of such structure(s). For your convenience, we have enclosed the appeal application should you choose to initiate the appeal process. (See attached)

If you wish to initiate the appeal process, please return the completed request form and applicable fee. It should be returned to our City Planner, Mr. Masood Malik (604 W. Fairmont Parkway – La Porte, Tx 77571), so a meeting can be scheduled. Mr. Malik can answer any questions relating to the process and can be reached at #281-470-5058. I can be reached at #281-470-5066. A scheduled ZBOA meeting will stay any municipal court action until said meeting is concluded. Thank you.



ENVIRONMENTAL ENGINEERING & CONSULTING

108 S. 2nd Street
La Porte, Texas 77571
Ph: (281) 471-7590
1-866-ENVI ENG
1-866-368-4364
Fax: (281) 470-9486

TBPE Firm Registration No. 2630

March 2, 2012

Gilbert Diaz
802 Ivy Ave
Deer Park, Texas 77536

Attn: Gilbert Diaz
Owner of Property at 500 W Main

Re: Letter Regarding Repair Costs for Minimum Required Repairs
500 West Main St, La Porte TX 77571



To Whom it may concern;

This letter is intended to serve as verification that Manning Engineering Corporation has been retained by Gilbert Diaz to evaluate and perform design services for the building located at 500 West Main Street in La Porte Texas. We initially provided Mr. Diaz with a summary of total costs for a complete renovation of the existing building including site work and contingencies. The purpose of the summary was to provide Mr. Diaz a budget number to secure funding and to compare the cost of a first class renovation versus new construction. It is our understanding that as a result of this letter, the City is now wanting Mr. Diaz to demolish his existing building.

This letter is intended to clarify the purpose of the original letter and clarify that the building can be repaired for less than 50% of the HCAD listed appraised value. The original letter was based on performing a first class renovation of the interior and exterior of the building and reopen the Speedy Taco Restaurant and was intended to secure the funding for this renovation and site work. The necessary minimum structural repairs can be performed and the front windows and framing can be replaced for less than 50% of the appraised value which is listed as \$41,742. The front windows will no longer be storefront style windows with impact rated glazing and a majority of the exterior facade work will not be done. The windows will be smaller frame mounted windows with supplemental impact protection to meet wind storm requirements. It is unfortunate that the City is not exercising the discretion it has available in order to allow Mr. Diaz to perform the complete first class renovation he had envisioned.

If you have any questions or require any additional information, please do not hesitate to contact me at your earliest convenience.

Yours truly,

William T. Manning, Jr. P.E.

William T. Manning, Jr., P.E., C.W.U.O.
President

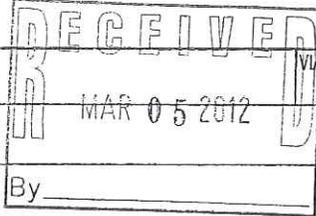


Straight Edge Construction
 Electrical/Remodeling
 Cell: 713-884-0816
 Office: 281-479-9821

TECL 26040
 Lic. # 190836

323053

Invoice



SOLD TO		SHIPPED TO	
ADDRESS 500 WEST MAIN		ADDRESS	
CITY, STATE, ZIP LA PORTE, TX 77571		CITY, STATE, ZIP	
CUSTOMER ORDER NO.	SOLD BY	TERMS	F.O.B.
			DATE

ESTIMATE TO BRING FRONT PRIMARY
 building up to code
 FRONT windows

- REMOVE EXISTING GLASS
- INSTALL NEW FRAMING AND SUPPORT FOR NEW windows
- INSTALL 8 STANDARD windows (4'x4')
- DRESS UP AREA AROUND windows WITH CEDAR ON EXTERIOR.

INTERIOR

- INSTALL TRIM AROUND windows AND doors
- INSTALL INSULATION IN CEILING
- INSTALL SHEET ROCK AND PAINT CEILING
- CLEAN FLOORS & REMOVE BAD TILE.

EXTERIOR

- REMOVE EXISTING CORRUGATED STEEL AROUND building
- PAINT

ELECTRICAL

- INSTALL 6 LIGHT FIXTURE

LABOR & MATERIAL

\$ 8,900 00

6-21-11

GIVEN TO ME by MARK

- ① ON SITE ~~EST.~~ / ~~ST~~ / Report
- ② Need plan for ^{needed} structures
- ③ install water table.
- ④ Engineer Report needs to come
(to be replaced ~~annually~~)
- ⑤ Need a survey of property
- ⑥ Need eng. plan of structural Report
- ⑦ Please Trap (need to get ~~main~~ plan)
- ⑧ Detention
Scope of Work.
 - 1.
 2. Need Survey!
 3. Need: Engineer Structural Report!
 - 4.
 - 5.
 6. @ Bill Campbell @ Auto Eng
 - 7.
 8. Mike Scanlon @ Seifrod FA

GIVEN TO ME by MARK

① Bill Campbell - PE
Action Eng.

② Mike Scanlon PE
Seabrook / Friendsworth

③ Bill MANNING PE
LA Porte

Need a Summit Company now a day!

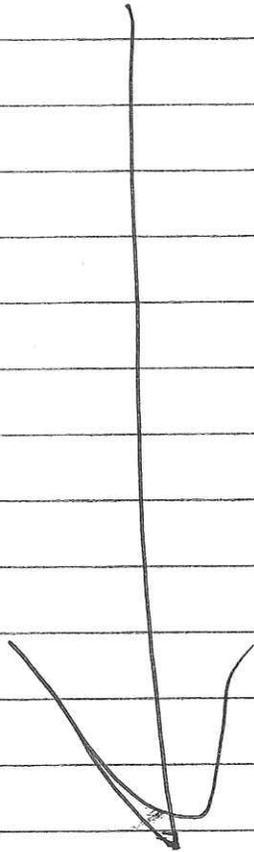
Detailed

6-21-11

Scope of Work

1.

2.



GIVEN TO ME by MARK

- 3-8-11 WAS NEVER INFORMED OF DETERMINATION OF STRUCTURE OBSOLESCENCE
- 3-11-11 Did NOT discuss ISSUES OF STRUCTURE OBSOLESCENCE AS STATED.
- 3-17-11 WAS GIVEN LIST OF TESTS NEEDED TO GET PERMIT. (SURVEY, ENERGY CHECK, ASBESTOS, ENGINEERING DRAWINGS)
- 6-21-11 MET WITH DWAYNE AND MARK
TURNED IN ENERGY AND ASBESTOS TESTS.
GAVE ME A LIST OF REMAINING PAPER WORK NEEDED AND A LIST OF ENGINEERS. PHONE NUMBERS. I ENCLOSED A COPY OF THESE PAPER WORK.
- 9-28-11 GAVE MARK AND DWAYNE PAPER WORK (SURVEY, ENGINEERING PLANS)
- 9-28-11 COST TO REPAIR FRONT OF PRIMARY building TO BE 25,800. THIS ESTIMATE WAS BASE IN DOING A FIRST CLASS JOB. I HAVE ENCLOSED ESTIMATES OF MORE TRUE FIGURES. AS OF ADDITIONAL COST AS STATED IN Debbie's LETTER, THIS WAS COST FOR THE REST OF building. I NOW INTEND TO REMODEL FRONT building ONLY.

10-11-2011 DWAYNE AND MARK DENIED PERMIT
Did NOT go to building Till 12-17-2011.

12-13-2011 DWAYNE DENIED BOARD MEETING. Told
ME I HAD NO OPTIONS BUT TO DEMOLISH
building

12-13-2011 CALLED DEBBIE AND SHE SCHULED
MARK AND DWAYNE TO MEET ME AT
500 WEST MAIN AND ARRANGE FOR
ME TO PREPARE FOR BOARD MEETING.

12-17-2011 MET WITH MARK AND DWAYNE. SAW
building for FIRST TIME. As for building,
Their minds WERE ALREADY MADE UP

12-22-11 LA PORTE FILED SUED NINE days before JURY. ^{AMOUNT \$1,050}

ON 3-8-2011 INSPECTORS (MARIO RAMOS AND WALLEY
LUCIANO) INSPECTED building AND GAVE
ME A LIST OF REPAIRS TO TAKE CARE OF. NEVER
did They SAY the building WAS NOT FIT TO REPAIR.
IT TOOK NINE MONTHS FOR DWAYNE AND MARK
TO TELL ME my building had to be DEMOLISH.
I HAVE SPEND THOUSAND OF DOLLARS TRYING
TO DO THE RIGHT THING. I KEEP GOING TO
COURT AND PAYING FINES FOR CODE VIOLATIONS,
WHEN I CAN'T EVEN GET A PERMIT. THE
INSPECTION DEPARTMENT IS DESIGNED TO
HELP PROPERTY OWNERS. WITHOUT US, THEY
WOULD NOT HAVE A JOB.

WAS Given These Copies
 ON 3-11-11. Things I NEED
 TO do TO get permit.
 4-pages

CHAPTER 4 RESIDENTIAL ENERGY EFFICIENCY

This chapter has been revised in its entirety; there will be no marginal markings.

SECTION 401 GENERAL

401.1 Scope. This chapter applies to residential buildings.

401.2 Compliance. Projects shall comply with Sections 401, 402.4, 402.5, 402.6 and 403 (referred to as the mandatory provisions) and either:

1. Sections 402.1 through 402.3 (prescriptive); or
2. Section 404 (performance).

401.3 Certificate. A permanent certificate shall be posted on or in the electrical distribution panel. The certificate shall be completed by the builder or registered design professional. The certificate shall list the predominant *R*-values of insulation installed in or on ceiling/roof, walls, foundation (slab, basement wall, crawlspace wall and/or floor) and ducts outside conditioned spaces; *U*-factors for fenestration; and the solar heat gain coefficient (SHGC) of fenestration. Where there is more than one value for each component, the certificate shall list the value covering the largest area. The certificate shall list the type and efficiency of heating, cooling and service water heating equipment.

SECTION 402 BUILDING THERMAL ENVELOPE

402.1 General. (Prescriptive).

402.1.1 Insulation and fenestration criteria. The building thermal envelope shall meet the requirements of Table 402.1.1 based on the climate zone specified in Chapter 3.

402.1.2 *R*-value computation. Insulation material used in layers, such as framing cavity insulation and insulating sheathing, shall be summed to compute the component *R*-value. The manufacturer's settled *R*-value shall be used for blown insulation. Computed *R*-values shall not include an *R*-value for other building materials or air films.

402.1.3 *U*-factor alternative. An assembly with a *U*-factor equal to or less than that specified in Table 402.1.3 shall be permitted as an alternative to the *R*-value in Table 402.1.1.

Exception: For mass walls not meeting the criterion for insulation location in Section 402.2.3, the *U*-factor shall be permitted to be:

1. *U*-factor of 0.17 in Climate Zone 1.
2. *U*-factor of 0.14 in Climate Zone 2.
3. *U*-factor of 0.12 in Climate Zone 3.

**TABLE 402.1.1
 INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT^a**

CLIMATE ZONE	FENESTRATION U-FACTOR	SKYLIGHT ^b U-FACTOR	GLAZED FENESTRATION SHGC	CEILING R-VALUE	WOOD FRAME WALL R-VALUE	MASS WALL R-VALUE	FLOOR R-VALUE	BASEMENT ^c WALL R-VALUE	SLAB ^d R-VALUE & DEPTH	CRAWL SPACE ^e WALL R-VALUE
1	1.20	0.75	0.40	30	13	3	13	0	0	0
2	0.75	0.75	0.40	30	13	4	13	0	0	0
3	0.65	0.65	0.40 ^g	30	13	5	19	0	0	5 / 13
4 except Marine	0.40	0.60	NR	38	13	5	19	10 / 13	10, 2 ft	10 / 13
5 and Marine 4	0.35	0.60	NR	38	19 or 13+5 ^g	13	30 ^f	10 / 13	10, 2 ft	10 / 13
6	0.35	0.60	NR	49	19 or 13+5 ^g	15	30 ^f	10 / 13	10, 4 ft	10 / 13
7 and 8	0.35	0.60	NR	49	21	19	30 ^f	10 / 13	10, 4 ft	10 / 13

For SI: 1 foot = 304.8 mm.

- a. *R*-values are minimums. *U*-factors and SHGC are maximums. *R*-19 shall be permitted to be compressed into a 2 × 6 cavity.
- b. The fenestration *U*-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
- c. The first *R*-value applies to continuous insulation, the second to framing cavity insulation; either insulation meets the requirement.
- d. *R*-5 shall be added to the required slab edge *R*-values for heated slabs.
- e. There are no SHGC requirements in the Marine zone.
- f. Or insulation sufficient to fill the framing cavity, *R*-19 minimum.
- g. "13+5" means *R*-13 cavity insulation plus *R*-5 insulated sheathing. If structural sheathing covers 25 percent or less of the exterior, insulating sheathing is not required where structural sheathing is used. If structural sheathing covers more than 25 percent of exterior, structural sheathing shall be supplemented with insulated sheathing of at least *R*-2.

WAS given to me
To get permit 3-11-11

RESIDENTIAL ENERGY PLAN REVIEW & INSPECTION GUIDE SHEET (FOR EXISTING RESIDENTIAL STRUCTURES)

Utilizing Chapter 4 of the State mandated Energy Conservation Code (2006 Ed.);
La Porte is located within Climate Zone 2.

New Residential and room additions require plan certification and field inspection by an approved agency or individual licensed/certified through one of the model code groups (ICBO, ICC, BOCA).

WINDOW REPLACEMENT:

_____ A building permit shall be required. Plan submittal shall include a footprint of the structure that identify the windows being replaced and a material list identifying that the "proposed" windows are: **.75 Fenestration U-Factor** and **.40 Glazed Fenestration Solar Heat Gain CoEfficient** . Footprint must show window locations near doors and stair landings to confirm safety glass locations. 2006 IRC,R308.4 Hazardous locations.

_____ Applicant shall leave window data stickers in place until a city inspection can confirm proper window type and installation. Applicant/owner shall be responsible for requesting the required inspection.

NOTE: For siding installation regulations, see separate policy/guideline. Minimum Wood Frame Wall R-Value insulation required is: R-13.

ENERGY CODE COMPLIANCE PROVIDERS

This list of providers has been compiled as a convenience to property owners, builders and developers. It is provided to assist in the transition and does not recommend any company or individual nor prohibit other qualified companies or individuals.

In some cases, the provider has already provided the City with a copy of their certification(s). Providers who have not submitted proof of their certification(s) will have to do so at the time of their submittal to the City.

RESIDENTIAL

- Bureau Veritas.....Nolan R. Mason, #877-837-8775
- Code Consultants.....Linda Taylor, #281554-4202
- Construction Code Analysis.....Joe Morales, #713-591-7343
- James Hickman Inspections.....James Hickman, #713-941-3737
Jeff Ybarra, #281-381-6441
#713-941-3737
- Mikayla Architects.....Michael Herman, #281-729-7550
- MPS Engineering Co.....J. R. Sullivan, #281-324-3852; Ext. 19
- The Nelrod Company.....Kat Cortelyou, #713-937-6060
- Victor Gomez.....Victor Gomez, #281-235-6458
- Overland Environmental ConsultingAndrew Thiess, PE, PMP 832-250-2899

1000

COMMERCIAL

- Bureau Veritas.....Robert A. Packheiser, #877-837-8775
- Code Consultants.....Linda Taylor, #281-554-4202
- Construction Code Analysis.....Joe Morales, #713-591-7343
- Mikayla Architects.....Michael Herman, #281-778-7012
- James Hickman Inspections.....James Hickman, #713-941-3737
- Winning Way.....William T. Winning, III, #281-922-0700
- JRN Inspections.....Jeff A Ybarra, #281-481-3331
- Overland Environmental ConsultingAndrew Thiess, PE, PMP 832-250-2899

1000

✓
Called

Asbestos Consultant List
(August 2009 Update)

ECS- Env. Consulting Services
5718 Westheimer Rd., Ste. 1575
Houston, Texas 77057
Attn: Sam Barbar
info@ecsus.com
Phone: 713-622-4800
Fax: 713-622-4828

Called:

Faxed:

Evergreen Env.
702 Old Underwood Rd.
La Porte, Texas 77571
Attn: Nina Parker
nparker@evergreenes.com
Phone: 281-470-1700
Fax: 281-478-5004

Called:

Faxed:

Live Oak Env. Consultants
2714 Cypress Point Dr., Ste C
Missouri City, Texas 77459
Attn: Gary Mortens
mail@lieoakenvironmental.com
Phone: 281-499-6709
Fax: 281-261-0452
Cell: 281-948-2015

Called:

Faxed:

400 + Testing

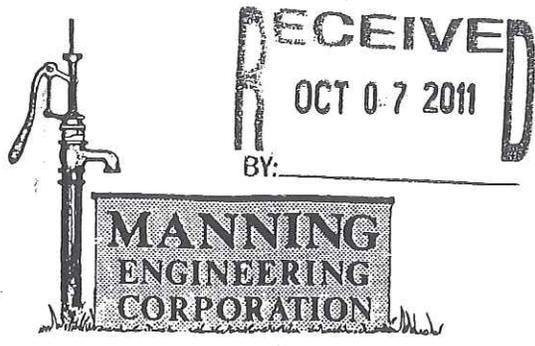
?

*PAID 400
Called*

Loflin Env. Services
2020 Montrose
Houston, Texas 77006
jmurray@loflinenvironmental.com
Attn: James Murray
Phone: 713-521-3300
Fax: 713-523-0829

Called:

Faxed:



108 S. 2nd Street
La Porte, Texas 77571
Ph: (281) 471-7590
1-866-ENVI ENG
1-866-368-4364
Fax: (281) 470-9486

September 28, 2011

TBPE Firm Registration No. 2630

ENVIRONMENTAL ENGINEERING & CONSULTING

Gilbert Diaz
802 Ivy Ave
Deer Park, Texas 77536

Attn: Gilbert Diaz
Owner of Property at 500 W Main

Re: Evaluation Summary Report
500 West Main St, La Porte TX 77571

Mr. Diaz;

We have evaluated the existing building located at 500 West Main Street in La Porte Texas. This initial evaluation was intended to determine the scope of repairs needed to the front portion of the building, the entire building and a replacement building option.

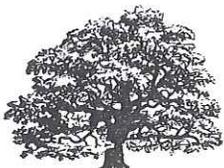
When repairs to a existing building exceed 50% of the appraised value, the entire building must be brought up to current code requirements. The Harris County Appraisal District lists the value of the Building at \$41,742 as of January 1, 2011. The required repairs to the front of the building alone are estimated to be \$25,800 and does not include the minimum required improvements to the rest of the building or site. As a result, the entire building must be brought up to the current City and building codes. This includes making the building and bathrooms ADA accessible which is going to reduce the kitchen space. The estimated cost to bring the entire existing building up to current codes, including site work is a follows:

Construction (Entire Building, Site and Utilities)		\$ 105,600
Contingencies recommended for extensive Remodels (20%)		\$ 21,120
Engineering Services	Evaluation	\$ 2,000
	Design Phase	\$ 22,300
	Construction Phase	\$ 2,500
	ESTIMATED TOTAL	\$ 153,520

*25,800 based on First class Remodel
Have Letter from Manning.
Also have Estimates*

The repair option does not include repairs to the existing building slab, only includes patching the existing parking lot, and includes removing the existing sign.

The evaluation also included looking at demolition of the existing building and construction of a new building. The new building option provides a great opportunity to improve parking and the drive through service for the building. The building option that was looked at



Live Oak Environmental Consultants

2714 CYPRESS POINT, SUITE C • MISSOURI CITY, TEXAS 77459 • (281) 499-6709 • FAX (281) 261-0452

June 14, 2011

INVOICE

Mr. Gilbert Diaz
802 Ivy Lane
Deer Park, Texas 77536
Email straightedgeconstruction7@yahoo.com

LOEC Job #11-1068
LOEC Invoice #3980

Re: Pre-Renovation Asbestos Inspection Report
Commercial Property
500 West Main Street
LaPorte, Texas

PJ
✓ #2761
6/14/11

DESCRIPTION OF SERVICES PERFORMED: AMOUNT:

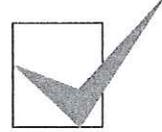
Limited Asbestos Inspection and Report \$400.00

TOTAL AMOUNT DUE: \$400.00

We appreciate the opportunity to be of service. Thank You.

Terms: Net 15
Invoices Not Paid within 30 days
will incur a 1.5 percent per month
charge.

ENERGY CHECK



IECC CERTIFICATION SERVICES
3214 Federal St. Pasadena, Texas 77504
energychecktexas@yahoo.com

SERVICES & PAYMENT STATEMENT

CUSTOMER: Gilbert Diaz
ADDRESS : 802 Ivy
CITY : Deer Park
ZIP :

Project: 500 west Main

paid clt 2773

ju
6/28/11

SERVICES RENDERED:	IECC ENERGY PLAN REVIEW	\$ 350.00
	FIELD INSPECTION	<u>INCLUDED</u>
	COVER INSPECTION	<u>INCLUDED</u>
	REINSPECTION	_____
	REINSPECTION	_____
	REINSPECTION	_____

TOTAL : \$ 350.00

MAKE CHECKS PAYABLE TO Energy Check

TOTAL SURVEYORS INC.
4301 CENTER STREET
DEER PARK, TX 77536

INVOICE

DATE	INVOICE#
9-28-11	11-274-A

BILL TO:
DIANA DIAZ 802 IVY AVE. DEER PARK, TEXAS 77536

DESCRIPTION	AMOUNT
500 W. MAIN (BNDY SURVEY)	
(1) BOUNDARY SURVEY	400.00
	AMOUNT
	400.00
	TOTAL
	400.00

TOTAL SURVEYORS INC.

Menager, Dwayne

Subject: 500 West Main
Location: Conf. Rm B
Start: Tue 10/11/2011 4:00 PM
End: Tue 10/11/2011 5:00 PM
Recurrence: (none)
Meeting Status: Meeting organizer
Organizer: Menager, Dwayne
Required Attendees: Huber, Mark

Mr. Diaz,

Will be coming in this afternoon October 11th 2011 at 4PM to discuss the engineers report dated September 28th 2011 and building permit application he submitted for review on his building 500 West Main.
713-884-0816

DM/MH

*Dwayne board decided permit to board meeting
Had to call Debbie to
ARRANGE board meeting.*

Trace Number X15141139

2011-76646 / Court: 080

72737206
CTI
Vanessa

LA PORTE INDEPENDENT SCHOOL DISTRICT
VS.
GILBERT DIAZ, ET AL

CAUSE NO. _____
____ DISTRICT COURT OF HARRIS COUNTY, TEXAS

CITATION IN DELINQUENT TAX SUIT

THE STATE OF TEXAS

TO: DIANA DIAZ
802 IVY AVENUE
DEER PARK, HARRIS County, TX 77536

Delivered this 4 day of Jan, 2011
PHIL SANDLIN, CONSTABLE
By _____

YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY. IF YOU OR YOUR ATTORNEY DO NOT FILE A WRITTEN ANSWER WITH THE CLERK WHO ISSUED THIS CITATION BY 10:00 A.M. ON THE MONDAY NEXT FOLLOWING THE EXPIRATION OF 20 DAYS AFTER YOU WERE SERVED THIS CITATION AND/OR PETITION, A DEFAULT JUDGMENT MAY BE TAKEN AGAINST YOU.

GREETINGS:

YOU ARE HEREBY COMMANDED to appear before the 80 DISTRICT COURT OF HARRIS COUNTY, TEXAS at the Courthouse at Houston, Texas, by filing a written answer with the said Court at or before 10:00 o'clock A.M. on the Monday next after the expiration of TWENTY (20) days from the date of service of this citation, then and there to answer the petition of the Plaintiffs:

CITY OF LA PORTE,
LA PORTE INDEPENDENT SCHOOL DISTRICT

as set out in the copy of said petition filed on the 22 day of Jan, 2012 against

GILBERT DIAZ
DIANA DIAZ
SAN JACINTO COMMUNITY COLLEGE DISTRICT

NOT due till
9 days
PAID 275 FOR
ATTORNEY
balance \$1050

Defendant(s), said suit being numbered above on the docket of said Court, the nature of which demand is a suit to collect ad valorem taxes on property, to wit:

The property is specifically described as follows:

Not prepared by the District Clerk.
District Clerk only certifies to the fact the case is on file in his office. The party and the pleading named are a true and correct reflection of the records on file in his office under the above captioned cause.



City of La Porte

Ph: 281-470-5071/281-470-5077
Violation of the City Code Ordinance

D.L.#/State 061067633

D.O.B: 1-27-52

Race: 0

Sex: M F ()

Warning Citation

Gilberto Guerra Diaz

NAME

402 T. L. St. Deer Park, TX

ADDRESS

712-884 0810

PHONE

WORK PHONE

500 W. Main

VIOLATION LOCATION

Type of Violation(s) Observed

BLMT - Windows, Water heater, Awning,

Plumbing, Grease Trap, Siding, Roof.

Days to Comply: 10

RECEIVED:

DELIVERED/SERVED:

Gilberto Guerra Diaz

VIOLATOR

Walter Luciani

INSPECTOR

3-8-11

DATE

3-8-11

DATE

This is issued to you as a courtesy to ask you to do your part in avoiding the need for possible court action by the city.

Insp./05-99

**ORIGINAL CORRECTIONS
NEEDED TO BE FIXED**



City of La Porte

Ph.: 281-470-5071 / ~~281-470-5077~~

Violation of the City Code of Ordinance

D.L.#/State: 06667613
Race: X

D.O.B.: 12752
Sex: M F

Warning Citation

Gilberto GUERRA DIAZ
NAME

802 Ivy Deer Park TX 7536
ADDRESS

713-884-0816 _____
PHONE WORK PHONE

500 W. Main
VIOLATION LOCATION

Type of Violation(s) Observed

① Must obtain remodel permit within 10
day from city inspection, requirements
to within 10 day of permit issuance.

Days to Comply: 10

RECEIVED:

[Signature]
VIOLATOR

DELIVERED/SERVED:

anal
INSPECTOR

6-8-11
DATE

6-8-11
DATE

This is issued to you as a courtesy to ask you to do your part in avoiding the need for possible court action by the city.

Insp./05-99

STILL trying to get
permit.

1

NOTICE

OF

ADDITIONS or CORRECTIONS DO NOT REMOVE

JOB ADDRESS	500 W. MAIN	
INSPECTION TYPE:	Courtesy	DATE: 3-8-11

THIS JOB HAS NOT BEEN COMPLETED
The following additions or corrections shall be made
before the job will be accepted

- 1 (1) Will need to Remove or Replace ~~Roof~~ ~~Roof~~
- 1 (2) Will need to Repair Paving (Parking Lot)
- 1 (3) Will need to Repair Outside Plumbing DWV & Gas Lines
- 1 (4) Water Heater Etc.
- ? (5) Bid. on the Rear Looks like it on Eastment
- 1 (6) and need to Repair siding
- 1 (7) Need to Correct Drainage in Parking Lot
- (8) Missing Vacuum Breaker on Hose bibbs
- 1 (9) Outside 2" Vents must be in the Roof

It is unlawful for any Carpenter, Contractor, Builder, or other persons, to cover or cause to be covered, any part of the work with flooring, lath, earth or other material, until the proper inspector has had ample time to approve the installation.

After additions or corrections have been made, call 281-470-5130

For additional information call 281-470-5073.

PRESS HARD - USE BALL POINT PEN

NOTICE

OF

(2)

**ADDITIONS or CORRECTIONS
DO NOT REMOVE**

JOB ADDRESS	500 W Mai	
INSPECTION TYPE:	Courtesy	DATE 3-8-11

THIS JOB HAS NOT BEEN COMPLETED
The following additions or corrections shall be made
before the job will be accepted

- (8) need ADA Parking sign on A Pole
- (9) need to add ADA Ramp IN to BID.
- (10) need Dumpster on closure
- (11) Will to Replow w/o. Light Fixtures on the outside
- (12) well need to Repair INSIDE structure, Mech. etc., + Plumbing
- (13)

It is unlawful for any Carpenter, Contractor, Builder, or other persons, to cover or cause to be covered, any part of the work with flooring, lath, earth or other material, until the proper inspector has had ample time to approve the installation.

After additions or corrections have been made, call 281-470-5130

For additional information call 281-470-5073.

PRESS HARD - USE BALL POINT PEN

PAYMENT PLAN:

STATE OF TEXAS
VS

COPY

IN THE MUNICIPAL COURT
CITY OF LA PORTE
HARRIS COUNTY, TEXAS

GILBERTO G DIAZ

The Court hereby orders that Defendant pay the assessed fines listed below to the City of La Porte Municipal Court in accordance with the **SCHEDULE OF PAYMENTS**, also listed below and is incorporated into the court judgment. All payments must be made in Cash, Credit Card, Money Order or Cashier's Check. **NO PERSONAL CHECKS are accepted.** Window payments are accepted from 8:00 am to 5:00 pm Monday thru Friday. Payments may be mailed to: La Porte Municipal Court, 3005 N. 23rd Street, Texas 77571-0705. The Municipal Court drop box is located in the Municipal Court foyer. To pay by phone with credit card, call toll free 1-877-224-6076/24 hrs/7 days a week. To pay online, visit us at www.laportetx.gov.

Dated this the 16th day of February, 2012.

Denise Mitrano

Municipal Judge – City of La Porte, Texas

Citation #	Amount	Offense
1126931-01	525.00	Building Code Violations
1126932-01	525.00	Building Code Violations
Total Amount Due:		\$1050.00

I hereby acknowledge that I have entered a plea of guilty or no contest and that I have been found guilty of the above listed charge. I understand that I must pay the fines by their respective due dates as listed on the attached schedule of payments. I have been informed of the acceptable forms of payment and acknowledge receipt of the Schedule of Payments. I understand that if I am unable to make a payment in accordance with the attached Schedule of Payments that I must appear at the Court **in person** during normal operating hours, **on or before the due date**, to inform the Court of my inability to pay. I further understand that if I fail to make a payment in accordance with the attached Schedule of payments or appear in person on or before the due date to inform the Court of my inability to pay, a warrant for my arrest may be issued.

Date: _____

GILBERTO G DIAZ

Address _____

Zip _____

Home Number _____

Cell or Work Number _____

Email Address _____

SCHEDULED PAYMENTS

PAYMENTS OF \$100.00 ARE DUE BEGINNING ON 03 /16/2012/ AND SHALL BE MADE MONTHLY ON THE SAME DATE UNTIL THE TOTAL AMOUNT OF \$ 1050.00 IS PAID IN FULL.

*Fined For Code
Violation. City will not
give me permit*

La Porte Municipal Court
3005 N. 23rd Street
La Porte, Texas 77572
(281) 471-4683

PAYMENT EXTENSION

State of Texas
VS.
GILBERTO G DIAZ

Cause #: 1126914 01
Charge: BUILDING CODE VIOLATIONS

COPY

*Have being Fined
for same offense Twice*

Amount Due \$: 500.00

The Court hereby orders that defendant pay the amount as listed above to the City of La Porte Municipal Court on or before

November 12, 2011.

All payments must be made in Cash, Credit Card, Money Order or Cashier's Check. **NO PERSONAL CHECKS are accepted.** Window payments are accepted from 8:00 am to 5:00 pm Monday thru Friday. Payments may be mailed to: La Porte Municipal Court, 3005 N. 23rd Street, La Porte, Texas 77572-0705. The Municipal Court drop box is located in the Municipal Court foyer. To pay by phone with credit card, call toll free 1-877-224-6076/24 hrs/7 days a week. To pay online, visit us at www.laportetx.gov.

****ATTENTION**** On the 31st day after the date on which the judgment was entered, a \$25.00 fee will be added to any part of the fine/court costs not paid in full. (51.921 G.C.)

Date: October 13, 2011

COPY

Denise C. Mitrano

Municipal Judge- City of La Porte, Texas

I understand that I must pay the fine by the due date as listed above and have been informed of the acceptable forms of payment. I further understand that if I fail to make a payment by the above due date or appear in person to inform the Court of my inability to pay, a warrant for my arrest may be issued.

X
Defendant's Signature

ADDRESS: _____ APT:# _____

CITY/STATE: _____ ZIP: _____

PHONE: HOME/CELL - (_____) _____

EMAIL-(_____) _____

COPIES.2

******* Warning *******

IF YOU FAIL TO APPEAR IN COURT FOR THE PROSECUTION OF THE OFFENSE OR IF YOU FAIL TO PAY OR SATISFY A JUDGMENT ORDERING THE PAYMENT OF A FINE AND COST IN THE MANNER ORDERED BY THE COURT, YOU MAY BE DENIED RENEWAL OF YOUR DRIVER'S LICENSE.

AREA MAP



**LOCATION OF
PROPERTY**



N 4TH ST

W MAIN ST

S 4TH ST

1 inch = 50 feet

EXHIBIT A

16' ALLEY WAY
VOL.8, PG.16, HCMR

GRAVEL

GRAVEL

EAST 73.00'

SET 5/8" IR
WITH CAP

SET 5/8" IR
WITH CAP

WOOD FENCE 24.00'

5.6'

5.9'

6.6'

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CITY OF LA PORTE
(BLOCK 56)
VOL.8, PG.16, HCMR

UNRESTRICTED
RESERVE "A"

LOT 20

NORTH 125.00'

LOT 21

LOT 22

LOT 23

SOUTH 125.00'

4TH STREET
(60' R.O.W.)

VOL.8, PG.16, HCMR

ASPHALT
STREET

SET 5/8" IR
WITH CAP

NAPA AUTO PARTS
LA PORTE
(BLOCK 1)
FILM CODE NO. 625070, HCMR

BUILDING

1 STORY
BRICK & WOOD
BUILDING

BUILDING ON
PROPERTY LINE

LEGEND
GM - GAS METER
CO - CLEAN OUT
TCB - TRAFFIC CONTROL BOX
SL - STREET LIGHT
TSL - TRAFFIC SIGNAL LIGHT
EM - ELECTRIC METER
PP - POWER POLE
CONC. - CONCRETE

SET "X" IN
CONC. CONCRETE

WEST 73.00'

CONC. WALK

ASPHALT
STREET

W. MAIN STREET
(85' R.O.W.)
VOL.8, PG.16, HCMR

NOTES:

1. This survey lies wholly within "Zone X" or areas determined to be outside the 500-year floodplain according to the "Flood Insurance Rate Map" (FIRM) No. 48201C0945 L, dated June 18, 2007.
2. All bearings shown hereon are based on the subdivision City of La Porte of Harris County, Texas.
3. This property is subject to any building lines, zoning and platting laws and ordinances now in force in the City of La Porte, County of Harris, Texas.
4. This survey was prepared without the benefit of a title report.

0' 20' 40' 60'



PROPERTY INFORMATION

DRAWING INFORMATION

LOT	BLOCK	SUBDIVISION
21-23	56	CITY OF LA PORTE

SCALE	1" = 20'
PROJ. #	11-274
FILE	500 W. Main.DWG

ADDRESS:	500 W. MAIN STREET LA PORTE, TEXAS 77571
PURCHASED:	

FIELD BY		DRAFTING BY	
BY	PENA	BY	D.MOON
DATE	03/11	DATE	03/11

EXHIBIT B

recommendations thereon. As necessary, the city council may from time to time on its own motion or upon cause presented by interested property owners inquire into the existence, continuation or maintenance of any nonconforming use within the city.

- (1) *Conforming use does not change to nonconforming use if adjacent property subsequently changes zoning classification.* A use that conforms to the zoning regulations on the effective date of this zoning ordinance at the time of initial development of the site shall not subsequently be deemed a nonconforming use solely because the use changes on an adjoining property.
- (2) *Accessory use of structure.* No structure that is accessory to a principal nonconforming use or a nonconforming structure shall continue after such principal use or structure has been terminated, removed or otherwise brought into compliance, unless it complies with all of the regulations of the district in which it is located.

(Ord. No. 1501-Z-1, § 5(exh. D), 2-9-98)

Sec. 106-262. Nonconforming structures.

(a) *Limitation on regulation.* No structure, otherwise in accordance with the provisions of these regulations or an amendment hereto, shall be rendered or be deemed a nonconforming structure solely for a failure to comply with provisions relating to Article V, Division 2, Accessory Buildings, Uses, and Equipment, of this chapter.

(b) *Continuance of nonconforming structures.* Subject to all limitations herein set forth, any nonconforming structure may be occupied and operated and maintained in a state of good repair, but no nonconforming structure shall be enlarged unless the enlargement is made in accordance with the provisions of section 106-262(g) of this chapter.

(c) *Accidental damage to structure.* If a building occupied by nonconforming uses is destroyed by fire or the elements, it may not be reconstructed or rebuilt unless it conforms with the provisions of this chapter. In the case of partial destruction by fire or other causes, not exceeding 50 percent of its value, as determined by a licensed appraiser, the enforcing officer of the city may issue a permit for reconstruction. If greater than 50 percent and less than total, the board may grant as a special exception a permit for repairs but not for enlargement or reconstruction of the building.

(d) *Obsolescence of structure.* The right to operate and maintain any nonconforming structure shall terminate and shall cease to exist whenever the nonconforming structure becomes substandard under the codes and ordinances of the city, and the cost of placing such structure in lawful compliance with the applicable ordinances exceeds 50 percent of the replacement cost of such structure, as determined by a licensed appraiser, on the date that the enforcing officer determines that such structure is obsolete or substandard. The enforcement officer of the city shall notify the owner of such nonconforming structure, as shown on the certified tax rolls of the city, as to the date of termination of the right to operate and maintain such nonconforming structure, and as to the procedure to be followed to bring such structure

into compliance with this chapter, or other codes and ordinances of the city. The burden of proof in showing that the structure's repair cost does not exceed 50 percent of the replacement cost of such structure rests upon the owner of such structure.

(e) *Determination of replacement cost.* In determining the replacement cost of any nonconforming structure, the cost of land or any factors other than the nonconforming structure itself, shall not be included.

(f) *Repairs and alterations.* Repairs and alterations may be made to a nonconforming building or structure; provided, that no external alterations shall be made except those required by law or ordinance, unless the building is changed to a conforming use. No additional dwelling units shall be added where the nonconforming use results from there being more dwelling units on the lot than is permissible in the district in which the building is located.

(g) *Enlargement to nonconforming structure.* A structure that is nonconforming may be altered, remodeled or otherwise improved, but not enlarged, unless the board of adjustment determines (pursuant to section 106-191) that such enlargement will not result in an increase in the degree of nonconformity with the regulations and development standards of the district in which it is located.

- (1) *Submission of schedule to eliminate nonconformity.* The applicant shall present to the board of adjustment a schedule for elimination or substantial reduction of the nonconformity over a reasonable period of time not to exceed 20 years, or setting forth the reasons why such action is not reasonably possible.
- (2) *Approval of schedule by board of adjustment.* The board of adjustment shall review and make any revisions found necessary to ensure that priority is given to elimination or reduction of those nonconformities that have significant adverse impacts on surrounding properties, and which can reasonably be ameliorated taking into account the effect of the configuration of the lot and the location of existing structures and the cost of eliminating or substantially reducing such nonconformities.

(h) *Abandonment of nonconforming use or nonconforming structure.*

- (1) A nonconforming use shall be deemed abandoned when the use ceases to be used for the nonconformity for a period of 180 consecutive calendar days. The nonconforming use, when abandoned, shall not resume.
- (2) A nonconforming structure shall be deemed abandoned when the structure ceases to be used for the nonconformity for a period of 180 consecutive calendar days. The use of the nonconforming structure, when abandoned, shall not resume.
- (3) When it has been determined by the enforcement officer that a nonconforming use or structure has been abandoned, notification shall be made by certified mail to the owner (as shown on the certified tax rolls) of the abandoned nonconforming use or structure. The owner or his representative seeking to maintain such nonconforming use or structure may appeal the enforcement officer's decision to the board of adjustment. The property owner or his representative seeking to maintain the existing nonconforming