

**City of La Porte, Texas  
Zoning Board of Adjustment**



## **AGENDA ITEM 5.a**

### **Special Exception #SE-2024-0002:**

The Board will hold a Public Hearing to receive input on Special Exception SE-2024-0002, a request by Preston Brown, applicant, on behalf of Waimea Investments LLC, owner; for a special exception to allow for the reconstruction of a nonconforming structure in accordance with Sec. 106-262 within the Main Street (MS) Zoning District, on an approximately 0.025 acre tract of land located at 114 S Iowa St., and legally described as Lots 20 & 21 Block 197 La Porte, Harris County, Texas.



## **Planning and Development Department Staff Report** **Special Exception – #SE-2024-0002**

---

### **DISCUSSION**

Location:

The subject property is located at 114 S Iowa St., La Porte, Texas.

Background Information:

The 0.025-acre site is currently zoned Main Street (MS) and is located within the La Porte subdivision. The applicant seeks approval of a Special Exception request #SE-2024-0002 to allow for the reconstruction of a nonconforming structure. The subject property has an existing duplex residence which was constructed in 1937 with a 19.6-foot front setback and 1.7-foot and 15-foot side setbacks. The use is nonconforming as duplexes are not permitted in MS zoning district. In addition, duplexes have a minimum front setback requirement of 25 feet and a minimum side setback requirement of 20 feet. Duplexes also have a minimum lot width requirement of 60 feet and the subject property is 59 feet.

On December 15, 2023, the Dangerous Building Inspection Board identified the subject property as a dangerous building. On March 25, 2024, the City Council motioned to postpone consideration of the findings and order the repair or demolition of the structures determined to be dangerous or substandard for six months. On June 24, 2024, a 90-day update was provided to City Council and Ordinance 2024-3972 was passed ordering the two-family residential dwelling to be condemned. The owner was granted 10 days to commence removal or demolition, and for it to be completed within 45 days. The property has since been sold to a new owner who would like to bring the structure into compliance with Building and Fire codes.

The current owner was made aware that duplexes are not permitted in the Main Street zoning district when the remodel application was denied by the Planning Division. The residential remodel permit #BLDR-2024-0861 was applied for on September 27, 2024. The current property owner purchased the property on August 1, 2024. The dwelling unit addressed as 114 S. Iowa has not had an active utility account since July 23, 2015. The second dwelling unit is addressed as 112 S. Iowa St. and has not had an active utility account since February 15, 2024.

The work being proposed on the structure is a substantial improvement, which requires the reconstruction to meet all codes and ordinances. This is determined by the tax value of the structure being \$23,426 as of January 1, 2024 (in determining the replacement cost, the cost of land or any factors other than the nonconforming structure itself, shall not be included). The valuation on the permit for reconstruction is \$70,000.

On January 17, 2025, the Deputy Building Official completed a site visit and found the structure has a new roof and siding. A stop work order was placed on the property for work without permits. A code enforcement case will be started for ongoing updates.



**Zoning Board of Adjustment**  
**January 23, 2025 – Special Exception #SE-2024-0002**

The following table summarizes the surrounding zoning and land uses:

	<b>Zoning</b>	<b>Land Use</b>
<b>North</b>	Main Street Overlay (MSO)	Vacant
<b>South</b>	Main Street (MS)	Single Family
<b>West</b>	Main Street (MS)	Single Family
<b>East</b>	Main Street (MS)	Vacant

Notification Requirements:

Staff finds that the public hearing notification requirements outlined in Section 106-194 were performed in accordance with code provisions, including the following: notice in a newspaper of general circulation at least ten (10) days prior to the hearing; written notice mailed to owners of real property within 300 feet of the site within ten (10) days of the hearing; and a sign was posted on site within ten (10) days of the hearing. In accordance with state law, a notice of the public hearing was also posted at City Hall and on the City's website.

Staff sent twenty-five (25) notices of the public hearing to all property owners within 300 feet of the site. As of the date of this writing, no notices have been returned.

Applicable Code Provisions:

Sec. 106-191. - Special exceptions:

(b) Special exceptions to be reviewed; finding of facts. The term "special exception" shall mean a deviation from the requirements of this chapter, specifically enumerated herein, which shall be granted only in the following instances, and then only when the board finds that such special exception will not adversely affect the value and use of adjacent or neighboring property or be contrary to the best public interest:

(1) To reconstruct, enlarge or extend any building (whether a primary or accessory structure) occupied by a nonconforming use on the lot or tract occupied by such building, provided that the reconstruction, extension, or enlargement does not prevent the return of the property to a conforming use.

Sec. 106-262. - Nonconforming structures:

(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



**Zoning Board of Adjustment**  
**January 23, 2025 – Special Exception #SE-2024-0002**

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. The owner may appeal to the ZBOA within 60 days of the city notification.

(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 the footprint of the building is not enlarged, 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.

(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.

**Analysis:**

The applicant seeks approval of a special exception that would allow for the reconstruction of a nonconforming structure in accordance with Sec. 106-262.

Section 106-191 of the Zoning Ordinance states that the term “special exception” represents a “deviation from the requirements of this chapter, specifically enumerated herein, which shall be granted only in the following instances, and then only when the board finds that such special exception will not adversely affect the value and use of adjacent or neighboring property or be contrary to the best public interest. The following table outlines those criteria and staff’s analysis of those criteria:

<b>Criterion:</b>	<b>Staff Finding:</b>
a. That the reconstruction, extension, or enlargement does not prevent the return of the property to a conforming use.	While the reconstruction would not prevent the return of the property to a conforming use, the existing duplex could be changed to a single-family detached residence now, which is a permitted use in the Main Street zoning district. To allow the reconstruction of the existing



**Zoning Board of Adjustment**  
**January 23, 2025 – Special Exception #SE-2024-0002**

	duplex would delay the property returning to a conforming use and structure in the current zoning designation.
b. That the accidental damage to the structure is greater than 50 percent and less than total.	The accidental damage to the structure is greater than 50 percent but not less than total. The work being proposed on the structure is a substantial improvement, which requires the reconstruction to meet all codes and ordinances. This is determined by the tax value of the structure being \$23,426 as of January 1, 2024 (in determining the replacement cost, the cost of land or any factors other than the nonconforming structure itself, shall not be included). The valuation on the permit for reconstruction is \$70,000. The cost of the damage to the structure is not less than the total value. Staff finds this requirement is not met.
c. That the granting of the special exception will not adversely affect the value and use of adjacent or neighboring property.	The granting of this special exception would not adversely affect the value and use of adjacent or neighboring property. Improving the existing structure and bringing it up to codes would most likely increase the value of neighboring properties and would not affect their use.
d. That the granting of the special exception will not be contrary to the public interest.	The granting of this special exception to the applicant would not be contrary to the public interest.
e. That by granting the special exception, the spirit of this chapter will be observed.	While the proposed reconstruction of the nonconforming structure will meet all current code requirements, based on the HCAD valuation and the valuation of work to be completed, the requirement not being met by this request is that the accidental damage to the structure is greater than 50 percent and less than total.

**RECOMMENDATION**

Based on the above analysis, staff recommends the Zoning Board of Adjustment consider to approve or deny Special Exception SE-2024-0002, for a special exception to allow for the reconstruction of a nonconforming structure in accordance with Sec. 106-262 within the Main Street (MS) Zoning District, on an approximately 0.025 acre tract of land located at 114 S Iowa St., and legally described as Lots 20 & 21 Block 197 La Porte, Harris County, Texas.

Appeal Procedure:



## Zoning Board of Adjustment

January 23, 2025 – Special Exception #SE-2024-0002

### **Sec. 106-196. - Appeals from the board of adjustment.**

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 § 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 (10) days after the filing of the decision in the office of the Board of Adjustment.

### **ATTACHMENTS**

- Exhibit A: Aerial Map
- Exhibit B: Zoning Map
- Exhibit C: FLUP Map
- Exhibit D: Notification Map
- Exhibit E: Legal Ad
- Exhibit F: Site photos
- Exhibit G: Application