

November 29, 2005

**Honorable Chairman and Members of the
Hermosa Beach Planning Commission**

**Regular Meeting of
December 7, 2005**

SUBJECT: LOT MERGER – REQUEST FOR HEARING
838 PROSPECT AVENUE RONALD VOLMER, APPLICANT

PURPOSE: TO DETERMINE WHETHER THE PROPERTY AT 838 PROSPECT,
COMPRISED OF THREE LOTS, SHALL BE MERGED INTO ONE PARCEL

Recommendation

To release the subject lots from the merger requirement, allowing the development of the three existing lots.

ALTERNATIVE: To merge the property into one parcel, which would allow the owner to request a subdivision and Variance application to re-divide the property into two lots of over 4,000 square feet with less than a 40-foot lot width.

Background

The subject property is currently one large parcel containing 8,380 square feet, comprised of three lots from the original subdivision (lots 2,3, and 4, Block 143, Redondo Villa Tract). Each lot is 25-foot wide with varying depths, measuring with lot sizes ranging from approximately 2,590 square feet to 3,012 square feet. The property contains a single dwelling that is sited on all three contiguous lots.

Pursuant to Chapter 16.20 of the Municipal Code, pertaining to Merger of Parcels, the City has begun the process to determine whether these three lots that comprise the subject property will be merged. The Planning Commission is responsible for determining if the property shall be merged according to Sections 16.20.010 through 16.20.100 of the Hermosa Beach Municipal Code.

When two or more lots merge, they become a single parcel to be developed, sold, leased, or financed together. Sections 16.20.020 and 16.20.030 allow lots to be merged if the same owner holds two or more contiguous parcels of land where the following conditions exist:

1. The parcels were created under the provisions the City's Subdivision Ordinance or any prior state law or ordinance regulating the division of land, or which were not subject to any prior law regulating the division of land.
2. At least one of the contiguous parcels or units of land held by the same owner does not conform to standards for minimum parcel size to permit use or development under the City's Zoning and/or Subdivision Ordinance.
3. The main structure is partially sited on the contiguous parcel and not more than 80% of the lots on the same block of the affected parcel have been split and developed separately.

4. One or more of the following conditions exist with respect to one or more of the contiguous parcels:
 - a. Comprises less than 4,000 square feet in area at the time of the determination of merger.
 - b. Was not created in compliance with applicable laws and ordinances in effect at the time of the creation.
 - c. Does not meet current standards for sewage disposal and domestic water supply.
 - d. Does not meet slope stability standards.
 - e. Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.
 - f. Its development would create health or safety hazards.
 - g. Is inconsistent with the applicable General Plan and any applicable specific plan, other than minimum lot size or density standards.

Staff determined that the subject property meets the above criteria for merger as each one of the contiguous lots contains less than 4000 square feet and the existing structure is sited on all three contiguous lots. Also, while two of the three lots on the block under consideration have already been “split” into 25-foot wide lots, this calculates as 66%, so “not more than 80% have been split and developed separately.” Therefore, pursuant to Section 16.20.050, the City mailed a Notice of Intention to Determine Status to the property owner on November 2, 2005, and the Notice of Intention was recorded with the L.A. County Recorder.

The lot merger program operating between 1987 and 1990 established a mandatory review of substandard lots on a citywide basis consistent with the requirements of the lot merger ordinance. Based upon the assumption that the lot merger program had addressed all substandard lots, staff determined initially that the property at 838 Prospect Avenue was not subject to the lot merger ordinance. However, since staff originally communicated with the owner in 2000, the City Attorney has advised that any lots that meet the merger criteria that were not merged from 1987 to 1990 should still be considered for merger when a parcel meets the merger criteria.

Lot Merger Ordinance Background

Chapter 16.20 establishing the process for merging sub-standard lots was adopted into the Municipal Code in 1986. The ordinance was adopted in response to State Legislation of 1984, which completely overhauled the provisions of the Subdivision Map Act with respect to merging contiguous parcels under common ownership¹. The City determined that it was in the public interest to preserve the character of existing neighborhoods, and the concern was largely in response to a recent trend in the development of 50-foot wide parcels into two 25-foot wide parcels with a home on each lot. The lots were in blocks concentrated in areas east of Prospect Avenue, but also included R-1 areas between 16th Street and Artesia Blvd/Gould Avenue, both east and west of P.C.H., and west of P.C.H. at 30th Street and Longfellow Ave².

Based on the Resolution of the City Council, City staff implemented the ordinance in the years 1987 through 1990, by geographical areas known as lot merger groups. Staff attempted to identify all properties eligible for merger, began the notification process, and the Planning Commission took final action to merge the lots by lot merger group. Notices of Lot Mergers were then recorded with the affected properties. If a hearing was requested by the affected

property owner the Planning Commission conducted the hearing, and either confirmed the merger, or in some cases unmerged the lots when evidence was provided to demonstrate the proposed merged did not meet the requirements of the merger ordinance.

By 1990 the City merged nearly 700 parcels pursuant to these provisions, including several on the streets east of Prospect Avenue. Approximately 300 of the parcels merged were 50-foot wide parcels that contained two 25-foot wide lots located in the R-1 areas around Prospect Avenue noted above, while the remaining involved the combining of remnant sub-standard parcels located throughout the City. The City keeps a record of lots merged and recorded pursuant to these provisions, both on file, and referenced in City parcel maps. The lots merged on the blocks located east of Prospect Avenue are all lots that front on one of side streets perpendicular to Prospect Avenue, and none of the lots that front on Prospect Avenue were included in the lot mergers. It is not clear whether this may have been an oversight, or if the staff at the time considered these lots for potential merger, but determined that for some reason they did not to meet the criteria for merger.

Analysis

The applicant has requested a hearing, pursuant to Section 16.20.060, to be given the opportunity to present evidence that the lots do not meet the requirements for merger. The applicant has not provided any specific evidence that the property does not meet the requirements for merger although they will have the opportunity to present this evidence at the hearing.

As noted above, staff has determined that the property meets the criteria for merger as set forth in Section 16.20.020 and 16.20.030. The lots clearly meet the rule of not meeting the minimum lot size (all three are less than 4,000 square feet) and the rule that the main structure is sited on all three contiguous lots.

Staff also determined that the lots are consistent with the rule that requires that “not more than 80% of the lots on the same block of the affected parcel have been split and developed separately.” This rule, which is difficult to interpret for blocks that do not contain a uniform pattern, is basically intended to relieve the requirement for merger on blocks that already have an established character of split lots. In this case, staff made this determination based on the specific definition of what constitutes a *block* for lot merger determination, as contained in the Zoning Ordinance, which defines *block* as: “all lots facing a common street on both sides of said street, except where residential zoned lot do not exist, or are not within city limits, and said lots are between intersecting streets....”.

The lots facing Prospect Avenue between 8th and 9th Street only consists of three lots, the subject parcel and two 25-foot wide lots on either side of the subject lot (staff assumed that facing a common street means those lots that front on Prospect, i.e. contain their narrowest frontage on Prospect Avenue). Since two of these three lots (at 828 and 854 Prospect Avenue) have been “split” into 25-foot wide lots, this calculates as two out of three lots, or 66%. In making this 66% calculation staff assumed that the affected lot (the subject property) is included in the calculation. The difficulty with the 80% rule, as written, is that it is not clear if the affected lot should be included when calculating the percentage. If the subject is not included, 100% of the *other* lots on the block have been split.

In summary, applying this 80% rule on blocks like this requires making some assumptions as to what is considered facing a common street, what is considered a “split” lot, and what lots contribute to the 80% calculation. Also, when the area for consideration includes so few lots based on the explicit definition block, it does not seem to be an effective method for meeting the intent of the merger ordinance, which is to merge lots to maintain neighborhood character. Therefore, to determine whether merging these lots is the appropriate decision staff also has looked beyond just the subject block and made the following findings:

1. Between 8th and 10th Street, 5 of the 7 parcels fronting on Prospect Avenue, have already been split (71%).
2. Between 3rd Street and 10th Street there are now 26 parcels comprised of original 25-foot wide lots, that are either split or combined lots from the original subdivision, that front on Prospect Avenue within the R-1 zone as shown on the attached exhibit. (The only lots that front on Prospect Avenue on its west side, are in the R-2B Zone). Nineteen (19) of these 26 parcels have already been “split” and developed as 25-foot wide lots, which calculates to be 73%.
3. Seven of these 19 parcels that have been “split” and developed separately have been developed since 1995. The seven developed new homes are located between Massey Avenue and Hollowell Avenue (4 homes at 320-326 Prospect Avenue built in 2002—three 25-foot wide lots and one 35-foot wide) and 3 homes at 510-522 Prospect Avenue (built in 1998). These properties could have been subject to merger but the City was not imposing mergers at that time. Another two new homes on a 50-foot wide parcel that has not yet been “split” (726 Prospect Avenue) have been through plan check, but now will potentially subject to merger.

Also, it should be noted, pursuant to Section 16.20.030 D, where the merger results in the creation of a parcel that is greater than 8,000 square feet, the Planning Commission may, with consent of the property owner, re-divide the property into separate parcels that are at least 4,000 square feet in size. While in this case, given the total square footage of 8,380 it may seem reasonable to re-divide the property into two lots of at least 4000 square feet, the lots would not meet the minimum lot width requirement of 40-feet. Further, the City Attorney has advised that while this sub-section envisions a short cut for re-dividing lots, it does not provide a mechanism for subdividing property. Therefore, if the Commission feels the land use objectives of the City would better be served by re-dividing the property into two lots, it would take two steps. The first step involves the Commission merging the lots into one parcel, and the second step would involve the applicant filing a subdivision and Variance (for less than 40-foot lot width) that can be approved by the Commission after public hearing providing the mandatory findings are made.

In response to the Commission’s previous questions about the process of re-dividing the lots pursuant to Section 16.20.030 D, and the applicability of Section 16.20.120 the City Attorney’s office prepared a detailed response when the Commission was considering the lot merger at 550 21st Street.

In conclusion, the Commission has the authority to merge the lots if it desires the property to be one larger parcel of 8,380 square feet, or if it desires to have the owner process a parcel map to subdivide the property into two lots of over 4,000 square feet. However, the Commission is not compelled to

merge the lots. While staff has found the lots to meet the criteria of Section 16.20.020 and 16.20.030, the subject block only meets the 80% rule because of the small number of lots in the block (the majority, 2 out of 3 parcels, have been “split” into 25-foot lots, which calculates as 66% which meets the “not more than 80%” rule). Also, the block would not meet the 80% rule if a method of calculation were used that excluded the subject property. Also, in looking beyond just the limits of the subject block, at past lot splits and the general character of the lots that do front on Prospect Avenue, the development of this property with three homes on 25-foot wide lots would not be out of character with the established pattern of development along Prospect Avenue (as 73% of the parcels between 3rd Street and 10th Street have been split into similar narrow lots). Therefore, because of the ambiguity of the merger ordinance, and the history of lot splits in this area (including recent developments), staff believes merging these lot does not meet the intent of the lot merger ordinance, and recommends releasing the lots from the requirement for merger.

CONCUR:

Ken Robertson
Senior Planner

Sol Blumenfeld, Director
Community Development Department

Attachments

1. Exhibit showing Prospect Lots
2. Location Map, and Area Zoning Map
3. City Attorney response (re: lot merger at 5555 21st St.)

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¹ The new state law required cities to adopt ordinances and set up a due process to merge such properties, and eliminated previous laws whereby local governments were allowed to automatically merge lots. Therefore, in response to these new laws the City determined that it was in the public interest to preserve the character of existing neighborhoods and adopted the merger provisions in accordance with State legislation. The City first adopted an emergency interim ordinance in 1984, to address the threat to the public welfare of the proposed development of substandard lots due to the “cumulative effect of increased traffic, density, traffic congestion, and reduction of available street parking...”

² A memorandum to the Planning Commission in 1984 described that in the period between 1981 and 1984 there were 16 developments of these 50-foot wide lots resulting in 32 new single-family homes being built on “substandard” 25-foot wide lots. The 1984 emergency measure, however, was not extended and the splitting of lots continued in 1985 and 1986. The City Council revisited the issue in 1986, and adopted most of the provisions found in the current lot merger ordinance in August of 1986 (Ordinance 86-851). An emergency ordinance was subsequently adopted in September to place a moratorium on the issuance of demolition permits on lots subject to the merger ordinance. In December 1986 the City adopted a resolution to establish the procedures for implementing the lot merger ordinance. The ordinance was subsequently amended for clarification, and to add the provisions regarding re-dividing a merged lot that is greater than 8,000 square feet (now Section 16.20.030D), and prohibiting separate sale of contiguous parcels with a structure straddling the property line (now Section 16.20.120).