

June 7, 2007

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

**Regular Meeting of  
June 19, 2007**

SUBJECT: LOT MERGER HEARING  
LOCATION: 1504 PROSPECT AVENUE  
PURPOSE: TO DETERMINE WHETHER THE PROPERTY AT 1504 PROSPECT AVENUE,  
COMPRISED OF TWO LOTS, SHALL BE MERGED INTO ONE PARCEL

**Recommendation**

To not merge the subject lots and adopts the attached resolution to release the subject lots from merger.

**Background**

The subject property is a 7,920-square foot parcel, comprised of two lots from the original subdivision (lots 16 and 17, Tract 1562). The corner lot has a 35-foot wide frontage with a 4,743 square foot lot size. The interior lot has a 30.87-foot frontage with 3,177 square feet of lot area.

The property contains a single family residence which straddles between the lot lines.

Pursuant to Chapter 16.20 of the Municipal Code-Merger of Parcels, as recently revised by the City Council, the City has begun the process to determine whether these two 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. Lots may be merged when:

- The same owner holds two or more contiguous parcels of land.
- At least one of the parcels does not conform to minimum lot size requirements.
- The property is zoned R-1.
- The main structure is partially sited on the contiguous lots.

The Planning Commission holds a public hearing to determine whether or not to merge lots based on the above, and on the following criteria related to neighborhood compatibility, as set forth in Section 16.20.030:

- If the substandard lots under consideration for merger are similar or greater in size and width to more than 80% parcels fronting on the same block, inclusive of the subject parcel then the lots shall not be merged unless the integrity of the neighborhood will be harmed
- If the lots under consideration consist of not more than two parcels with a combined square footage of at least 7,000 square feet, then the contiguous parcels shall not be merged unless the integrity of the neighborhood will be harmed.

- Where the subject parcels are located on a block with 5 parcels or less, the 80% analysis above will be applied on a neighborhood rather than a block basis.

### Analysis

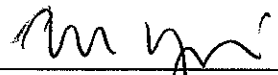
The property meets the basic criteria to be considered for merger as set forth in Section 16.20.020, since the interior lot is less than the minimum lot size of 4,000 square feet and the main structure is sited on both contiguous lots. However, pursuant to criteria related to neighborhood compatibility set forth in Section 16.20.030, the subject property shall not be merged due to its combined lots size of 7,920 square feet *unless the integrity of the neighborhood will be harmed.*


The property is located on a block where the east side is characterized by a uniform pattern of 30-foot wide lots with exception of one 36-foot wide parcel (Attachment 3). The subject parcel has a 65-foot wide frontage and an 88-foot wide rear property line. Conversely, the west side lots are mostly 40-foot wide with various depths.

The subject property is one of seventeen lots that front on Prospect Avenue between 15<sup>th</sup> Street and the Campana Street intercept. Of these seventeen parcels, nine parcels are similar in size and width to the interior lot on the subject parcel. Therefore, the smaller interior lot is greater or similar to only 52.9% of the lots on the block<sup>1</sup> as defined by the lot merger ordinance. Further, the smaller interior lot is essentially the same size and width to all the parcels on the east side of Prospect Avenue. Based on this analysis, the integrity of the neighborhood would not be harmed if these lots were separately developed in the future. In fact, merging the lots will create a parcel with a combined area of 7,920 square feet which would be the largest parcel on the block and potentially allow the development of a very large home out of character with the neighborhood.

Given the lot pattern on the block and in the neighborhood, staff does not believe separate development of these two lots will adversely impact the neighborhood integrity. Therefore, staff recommends that the lots not be merged. Furthermore, this would allow the property be developed as two equally sized parcels in the future with a Lot Line Adjustment (resulting in lots of approximately 3,960 square feet each).

CONCUR:

  
Eva Choi, Planning Assistant

  
Ken Robertson, Acting Director  
Community Development Department

#### Attachments

1. Resolution
2. Location map
3. Exhibit showing Prospect Lots
4. Aerial Photo
4. Tabulations
5. Correspondence
6. Minutes from Feb. 20, 07 P.C. Meeting

<sup>1</sup> The term "block" shall mean both sides of a street within the same zoning district uninterrupted by an intersecting or intercepting street (not including an alley)."

# 1504 Prospect Avenue

Study of properties *fronting on Prospect Avenue\** with lots that are similar or greater in in size and width.

## Book 4185

Page Number:	Total parcels*:	# of lots the subject lot (30.8'x102.9') is similar or greater than*:	# of lots the subject lot is smaller than:
10	7	0	7
19	10	9	1
<b>Total</b>	<b>17</b>	<b>9</b>	<b>8</b>

9/17 = 52.9% The subject lot is similar or greater in size and width to 52.9% of lots fronting on Prospect Avenue.

\* Similar lots include lots also 30' wide that are close in area (i.e. may not actually contain less area)

RESOLUTION NO. 07-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, TO NOT MERGE TWO CONTIGUOUS LOTS ON PROPERTY COMMONLY KNOWN AS 1504 PROSPECT AVENUE, LEGALLY DESCRIBED AS LOTS 16 AND 17, TRACT 1562.**

The Planning Commission of the City of Hermosa Beach does hereby resolve and order as follows:

**Section 1.** A public hearing was conducted, pursuant to Chapter 16.20 of the Subdivision Ordinance, to consider whether or not to merge the two lots that comprise the subject property.

**Section 2.** The Planning Commission conducted a hearing on the matter on June 19, 2007, at which testimony and evidence, both written and oral, were presented to and considered by the Planning Commission.

**Section 3.** Based on the evidence received at the public hearing, the Planning Commission makes the following findings:

1. The property is 7,920 square feet and pursuant to Section 16.20.030, it shall not be merged unless the integrity of the neighborhood will be harmed.
2. The property is located on a block where the east side is characterized by a uniform pattern of 30-foot wide lots with only one 36-foot wide parcels out of ten while the west side is comprised of lots that are 40 foot wide with various depth.
3. Given that only nine out of seventeen parcels on the block are similar in size and width to the existing lots that comprise the property, not merging the lots will not adversely impact the existing integrity of the east side of Prospect Avenue and the neighborhood.

**Section 4.** Based on the foregoing, the Planning Commission and hereby determines not to merge lots 16 and 17, Tract 1562 and directs staff to file for record with the County Recorder's office a release of the notice of intention and a notice for non-merger.

VOTE:                   AYES:  
                               NOES:  
                               ABSTAIN:  
                               ABSENT:

CERTIFICATION

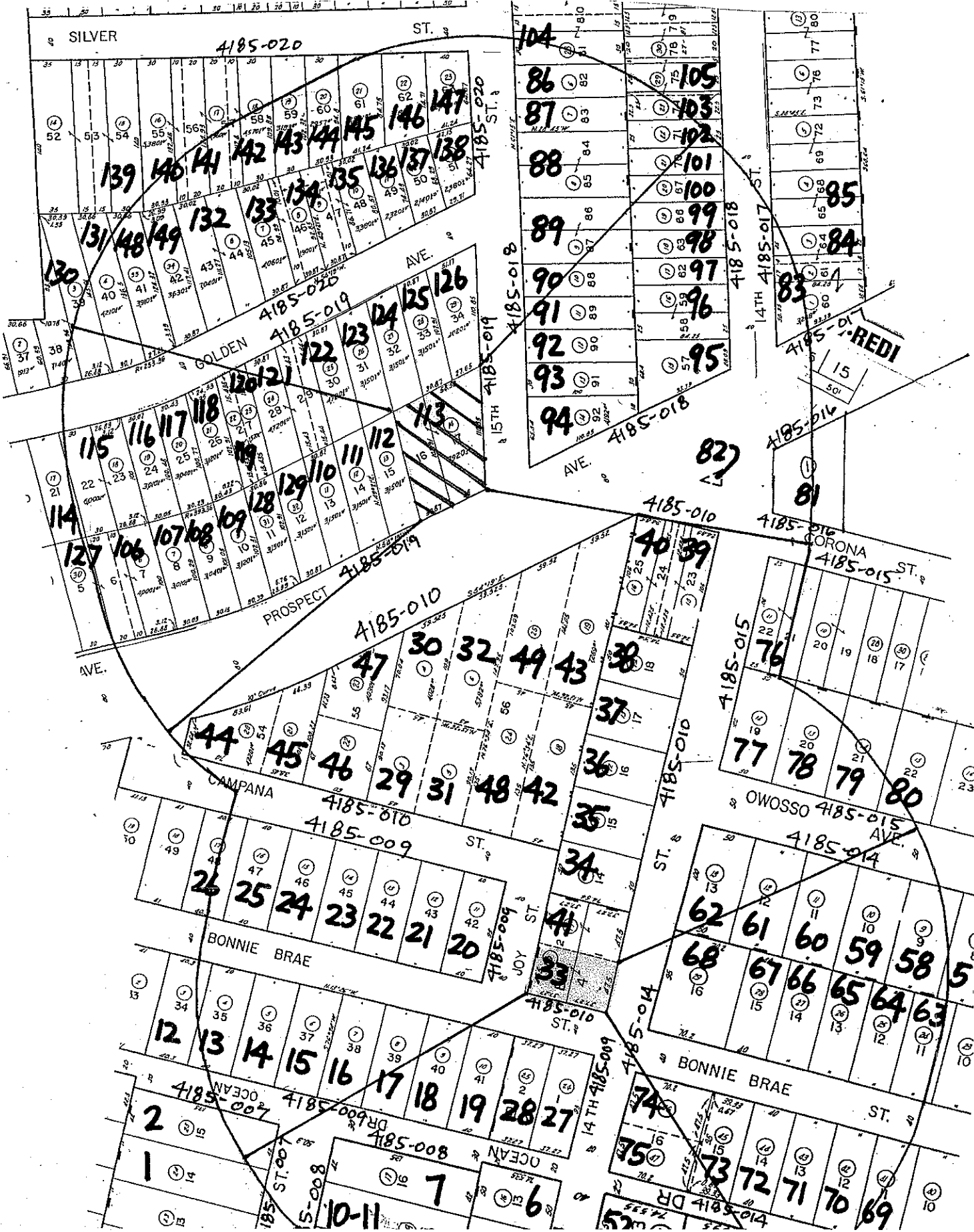
I hereby certify the foregoing Resolution P.C. No. 07- is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California at their regular meeting of June 19, 2007.

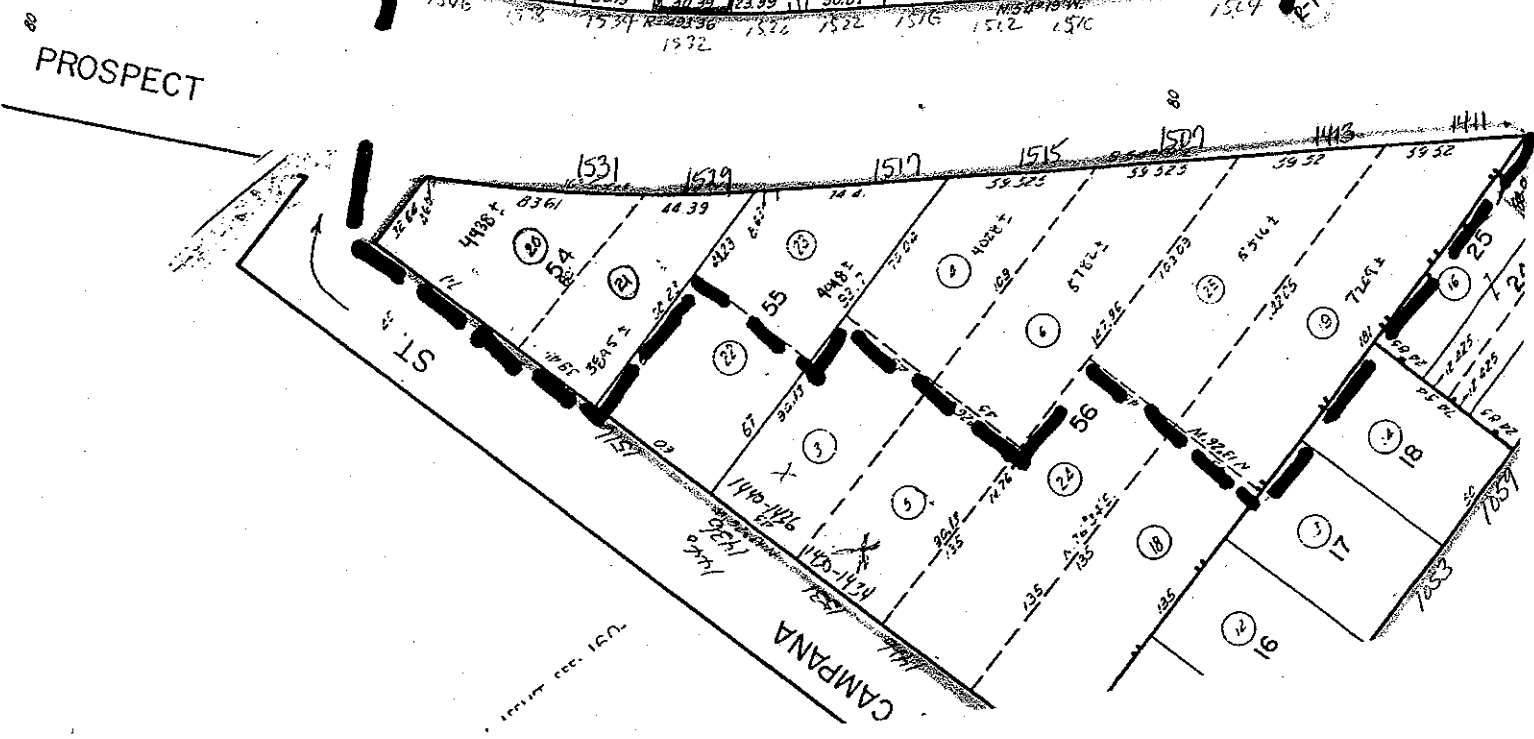
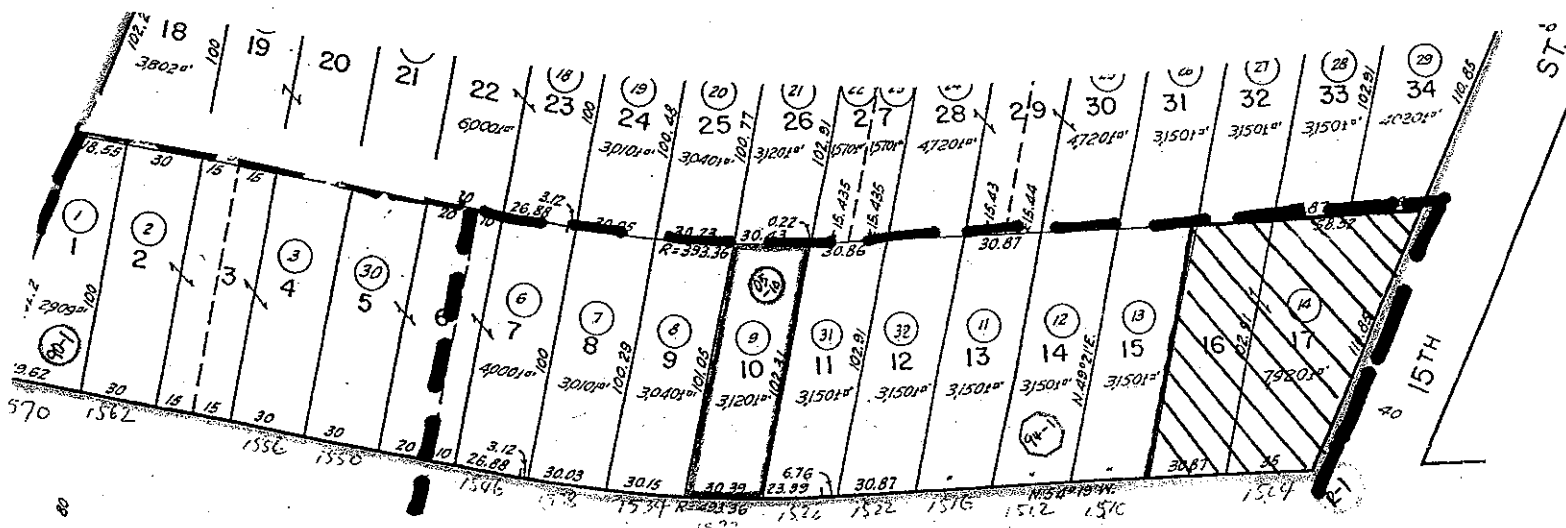
\_\_\_\_\_  
Kent Allen, Chairman

\_\_\_\_\_  
Ken Robertson, Secretary

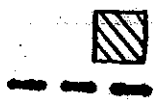
\_\_\_\_\_  
June 19, 2007

Date





1504 Prospect Avenue 4185-019-014



Property Subject To Merger  
 Block Boundary

9 of 17 Assessor's Parcels ≤ Size of Lot Subject to Merger (54%)



City of Hermosa Beach  
1504 Prospect Avenue

7

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COMMUNITY DEV. DEPT.

Facsimile (619) 231-1599

June 14, 2007

VIA FACSIMILE & U.S. MAIL

(310) 937-6235

Hermosa Beach City Hall  
Attn: Community Development Department, Planning Division  
1315 Valley Dr.  
Hermosa Beach, CA 90254

RE: Lot Merger Determination Hearing for 1504 Prospect Ave.  
Assessor Parcel No. 4185-019-014

Dear Sir or Madame:

My office has been retained to represent Sophie Janus McFarlan in regards to the above-entitled matter. Ms. McFarlan is the owner of the above-described property, which consists of Lots 16 and 17 in Tract No. 1562. Ms. McFarlan purchased the subject property in 1974 with the intention of possibly funding her retirement by selling off one or both lots that comprise her property. As stated in her correspondence of February 20, 2007, Ms. McFarlan strenuously objects to any ordinance, regulation, amendment, or other action that would result in the merger of the two sizeable lots of which the above-referenced property consists.

At the outset, it should be noted that the total size of Ms. McFarlan's two lots comprise 7,920 square feet in total. The Hermosa Beach Municipal Code Chapter 16.20 et seq. requires a merger if certain conditions are met. As set forth in the City's correspondence of May 17, 2007, Section 16.20.030 states:

- "1. If the substandard parcels under consideration for merger: (ii.) consist of not more than two parcels with a combined square footage of at least 7,000 square feet, then the contiguous parcels **shall not be merged** unless, in view of the particular factual circumstances, the integrity of the neighborhood will be harmed if the parcels are allowed to be separately developed" (**emphasis** added).



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Ms. McFarlan's two lots comprise 99% of 8,000 square feet, with 30 and 35 feet of frontage respectively. Ms. McFarlan's lots have been deemed "Large Lots" in official City of Hermosa Beach ("the City") literature regarding lot mergers. Such literature also noted that "several other lots on [Ms. McFarlan's] block also 30-feet wide." It seems quite a stretch for the City to argue that the integrity of the neighborhood will be harmed if the parcels are allowed to be separately developed.

That is the practical side of Ms. McFarlan's position. As far as the legal aspects and ramifications of the merger are concerned, Ms. McFarlan submits the following arguments:

First, in regards to Municipal Code § 16.20.030(B), it is Ms. McFarlan's position that the only condition her property meets the requirements for merger is that the individual lots are not 4,000 square feet apiece. As set forth above, the parcels together comprise 99% of 8,000 square feet, and the City acknowledges that several lots on Ms. McFarlan's block are 30-feet wide. None of the other factors in 16.20.030(B) is at issue:

1. Admitted that lots are not both 4,000 square feet or greater;
2. Ms. McFarlan's parcel was created in compliance with the applicable laws and ordinances in effect at the time of its creation;
3. Ms. McFarlan's parcel meets current standards for sewage disposal and domestic water supply;
4. Ms. McFarlan's parcel meets slope stability standards;
5. Ms. McFarlan's parcel has legal access adequate for safety equipment access and maneuverability;
6. Development of the parcel would not create health or safety hazards;
7. Ms. McFarlan's lots are not inconsistent with the applicable general plan or any applicable specific plan, other than minimum lot size were the lots to be subdivided on the parcel.

Second, Ms. McFarlan contends that the City's intended merger of the above-referenced lots fails to comply with the requirements of California Government Code §§ 66451.10-66451.21. Specifically, Ms. McFarlan contends that the City would have been required to record notice of merger for the subject parcels on or before January 1, 1990. (Cal. Govt. Code § 66451.195.) Cal. Govt. Code § 66451.195 reads as follows:

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(a) Counties more than 20,000 square miles in size shall have until January 1, 1990, to record a notice of merger for parcels of 4,000 square feet or less prior to the time of merger, which were merged prior to January 1, 1984, and for those parcels no parcel merged prior to January 1, 1984, shall be considered merged unless the notice of merger has been recorded prior to January 1, 1990. Counties recording notices of merger pursuant to this subdivision shall comply with the notice requirements of Section 66451.19.

(b) This section shall not be applicable to any parcels or units which meet the criteria of subdivision (a) but which were transferred, or for which the owner has applied for a building permit, during the period between January 1, 1986, and the effective date of this section.

As applied to the instant facts, Los Angeles County is over 20,000 square miles in size. Ms. McFarlan's parcels were merged by at least 1974. No notice of merger was recorded for the subject parcels prior to January 1, 1990. Consequently, the City's proposed action is barred.

If the City desires to merge Ms. McFarlan's lots in spite of the foregoing, Ms. McFarlan contends that so doing would constitute a violation of her due process rights. (Cal. Const., Art. I, §§ 7, 15; U.S. Const., 14<sup>th</sup> Amendment, § 1.) The due process clause focuses on the government's means and purpose, requiring the City's method to rationally further legitimate ends. (*Kavanau v. Santa Monica Rent Control Board* (1997) 16 Cal.4th 761, 770-771.) Ms. McFarlan contends that no legitimate ends are furthered in forcing the merger of two lots that comprise 99% of the City's desired standard minimum lot size. Moreover, by the City's own admission, several lots on Ms. McFarlan's block are 30 feet wide.

Along the same lines, Ms. McFarlan contends that forcing a merger of her two lots, and thus depriving her of her right to divide and sell these lots, would constitute a taking. (Cal. Const., Art. I, § 19; U.S. Const., 5<sup>th</sup> Amendment.) The takings clauses of the state and federal Constitutions guarantee property owners "just compensation" when the property "is taken for public use." (*Id.*) The takings protection focuses on the impact of the government's action: whether the City has in effect appropriated private property for its own use, rather than merely regulating a private use of the property. (*Kavanau, supra*, 16 Cal.4th at 770-771.)

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Ms. McFarlan contends that a merger of her two lots would limit her use of the property to such an extent that a taking is occurring, even though the City's action does not physically encroach upon or occupy the property. (*Penna Coal v. Mahon* (1922) 260 U.S. 393, 415.) A regulation that "denies all economically beneficial or productive use of land" constitutes a categorical taking and requires compensation under the Takings Clause. (*Lucas v. South Carolina Coastal Comm'n.* (1992) 505 U.S. 1003, 1015.) Even a regulation that does not eliminate all economically beneficial use of the land may still effect a taking "depending on a complex of factors including the regulation's economic effect on the landowner, the extent to which the regulation interferes with reasonable investment-backed expectations, and the character of the government action." (*Palazzolo v. Rhode Island* (2001) 533 U.S. 606, 617.) It seems clear under both state and federal law that the City's proposed action constitutes a taking.

Ms. McFarlan specifically reserves the right to augment or supplement these arguments at the time of the hearing of this matter. Ms. McFarlan also specifically reserves her right to pursue any and all legal recourse to preserve the integrity of her two lots. Ms. McFarlan and I would like to thank you for taking the time to consider Ms. McFarlan's unique circumstances, and we are confident that the right resolution can be reached in this matter.

Sincerely,



Leonard H. Burgess, Esq.

LHB/hh

CC: Sophia Barbara Janus McFarlan

## PUBLIC HEARING(S)

6. TEXT 06-3 -- Text Amendment regarding Lot Mergers to consider clarifications and/or modifications to the Subdivision Ordinance text (Chapter 16.20 Merger of Parcels) and definition of "block" in the Zoning Ordinance (Chapter 17) pertaining to the requirement to merge adjacent parcels under common ownership that include substandard lot sizes when an existing building straddles the property line. The majority of parcels subject to this merger requirement have already been merged (in the years 1987 – 1990), however, a limited number remain. The purpose of the amendment is to clarify the circumstances where a lot merger may be required; to consider neighborhood consistency relative to lot size and width; to expand noticing requirements; and to consider limiting the mergers to R-1 zoned properties. The general purpose of the Lot Merger Ordinance is to prevent the future development of substandard sized parcels that are not consistent with existing parcels on the same block (continued from January 16, 2007 meeting).

Staff Recommended Action: To recommend amending the Zoning and Subdivision Ordinances pertaining to the Lot Merger Ordinance.

Director Blumenfeld stated this is the second of a two-part hearing; noted the proposal is a change to Chapter 16.20 of the Municipal Code to amend the conditions relative to lot merger; advised that on August 8, 2006, City Council directed staff to revisit the Lot Merger Ordinance and to make revisions with respect to several items; advised that the items discussed in detail at the last hearing generally involved focusing on R-1 properties, a modification to the 80-percent rule that is the current standard specifying when lots are to be merged, to provide neighborhood consistency guidelines, establishment of new public hearing procedures, change the definition for "block" as it relates to the 80-percent rule, and allowing for Commission and City Council discretion on lots that are close to the 4,000-square-foot minimum lot size when two or more lots are merged. He advised that the Commission reviewed those proposed changes; and that the hearing this evening is to provide the community an opportunity to provide additional input. He pointed out that staff met with two community members who were helpful in providing input, noting that some of their comments had been incorporated in the draft before the Commission. He noted there will be a subsequent hearing at the next City Council meeting. He noted this is exclusively a change to the code with respect to the text for lot merger; that the individual lot mergers would be subject to their own review; and that if an owner requested, they would have their own hearing and provide their testimony during a separate hearing that applies exclusively to their lot.

Director Blumenfeld noted for Chairman Allen that those property owners would not have to pay for their individual hearings; and advised that all the affected owners have received notice twice, once for the first hearing and once for this evening's hearing.

Commissioner Hoffman noted the two lots he is concerned about are the ones that belong to the Hermosa Beach School District and the church; and questioned if those owners would have to come back with a subdivision plan if they were to decide to sell that property.

Director Blumenfeld noted for Commissioner Hoffman that there is enough property on those lots that they would have to come back with a new plan to divide those properties; noted that staff spoke with the representative from the Hermosa Beach School District who had concerns and disagree that the City has jurisdiction over the school district property; stated that the City Attorney will review the matter with the District's attorney.

Chairman Allen opened the public hearing.

Eric Lawrence, resident on Longfellow, noted he is one of the affected property owners; addressed his concern that he did not have an opportunity to meet with staff as did the other two residents Director Blumenfeld had mentioned, noting his preference that everyone have that same opportunity to meet with staff.

Commissioner Perrotti mentioned this is the third hearing on this matter.

Director Blumenfeld explained that this item was considered by City Council last August; that at that time, there was community input during that hearing; advised that two community members had expressed interest in working with staff on some of the ordinance issues; and that staff welcomed their input and met with them on two occasions.

Mr. Lawrence stated he did not receive any notice at that time and reiterated his concern he did not have an opportunity to provide that same level of input.


Chairman Allen pointed out that those two community members voluntarily expressed an interest in working with staff on this issue and noted that anybody else could have volunteered, whether or not their properties are affected.

Mr. Lawrence stated he could not volunteer if he did not know about that meeting.

Director Blumenfeld advised that at that hearing, it was made very clear the City wanted to get public input; and reiterated that the two property owners offered to become involved. Director Blumenfeld added that this evening's hearing has been properly noticed and that the two other hearings had been properly noticed; stated that the point of this evening's meeting is to again take public testimony; and he concluded that the public has had tremendous opportunity to provide public input during the public hearing process. He reiterated there is no other notification staff could have utilized, that every meeting was properly noticed.

Mr. Lawrence asked that his property on Longfellow be removed from the list; stated there are 17 lots on the 200 block of Longfellow, with 32 units on those 17 lots; advised that he has a lot and a half with a duplex on that lot; and expressed his belief it would not be fair to require him to merge his lots and only allow one unit if he were to reconstruct. He stated he purchased this as two lots; stated that the 200 and 300 blocks are mainly duplexes with split lots; that his property backs up to a walk street; and stated the City incorrectly put him in with the zoning for the walk street instead of being on the drive street of Longfellow. Mr. Lawrence questioned the process for getting to this point; expressed his belief his lot fits neighborhood consistency; advised that his house is built on the property line; and asked that his property be removed from the list.

Chairman Allen stated that Mr. Lawrence's lot and this map are not part of the text amendment; that his property is on a list of lots to be merged; that he will have an opportunity to separately speak about that; and explained that this evening's meeting is to discuss the proposed text amendment for the lot merger.

 Jim McFarland, resident, read into the record his wife's statement regarding the adoption of the text amendment for lot mergers, specifically her home at 1504 Prospect Avenue, Hermosa: "As the owner of the above-referenced Hermosa Beach property, I strenuously object to any ordinance, regulation, amendment or other action that would result in merging the two sizeable lots of which the property consists. One reason I purchased the property back in 1974 was the possibility I could help fund my retirement by making economic use of the fact I had purchased more than one lot. Now 33 years later, the City proposed to take away from me this potentially

important source of retirement income. Such a taking of property would not even be justified by the City's notion of minimum acceptable parcel size, which is apparently 4,000 square feet. This standard means that if two contiguous lots under one ownership do not total 8,000 square feet, then at least one of them does not deserve to stand alone. I'm not sure just where this aesthetic standard comes from or whether a reasonable person might not consider it an approximate concept of parcel beauty. What if the combination of lots fall just a little short, say 7,900 square feet, does this small variation from the standard condemn one of the lots to aesthetic unacceptability? According to City records, my property has 7,920 square feet. That's only one percent off the standard. In my opinion, the combination of my two lots substantially meets the standard for all reasonable intents and purposes. I strongly urge the City Planning Commission and City Council to reject this proposal, this proposed unreasonable merging of parcels. Very truly, Sophia Barbara Janice McFarland."

Chairman Allen explained that the proposed text amendment benefits her property and that the owner of this lot is going to have a chance to do something they currently don't have.

Director Blumenfeld explained there is a provision proposed in the text amendment to deal with large lots, lots that approximate the 8,000 square feet that one would normally have by combining two 4,000 square foot lots, and noted that staff recommended to the Commission and City Council that when two lots are combined and they comprise at least 7,000 square feet in gross area, that such lots be considered exempt from merger requirements.

Chairman Allen pointed out that as it stands today, this property owner can only build one house on that lot; that if this text amendment passes, they have the opportunity to build two houses; and added that everyone will have another opportunity to address this issue at the City Council meeting and then another opportunity to discuss each specific lot in a separate public hearing.

Director Blumenfeld advised that the Commission would also have the opportunity to consider whether or not the two lots were consistent from a neighborhood compatibility standpoint, which is the other measure for consideration regarding lot mergers; and explained that currently, if the property is held under one ownership, if there is a building straddling a common property line, if the lots in question are less than 4,000 square feet and not more than 80 percent of the lots on the same block have already been split and developed separately, the lots are subject to merger.

Mr. McFarland noted concern with taking away potential economic benefit, questioning if the proposal is considered taking of property without just compensation.

Mark Anello, 530 24<sup>th</sup> Street, noted his property is on the list for lot merger; and questioned if he would be permitted to correct the portion of the building that qualifies his property for this merger, noting part of the building is straddling a common property line.

Director Blumenfeld explained the law prohibits demolitions that are meant to circumvent the lot merger requirements.

Mr. Anello explained that his property has a small breezeway which connects the main structure to the garage that crosses the lot line; and stated the homeowner should be given an opportunity to correct this situation, if possible, and that pertinent language should be included in the text amendment to allow for a correction.

Director Blumenfeld explained that if this item came up for hearing, the Commission would look at this issue separately and decide on its merits; pointed out the Code refers to the main

structure straddling the property line; reiterated that this issue could be addressed during the property hearing. He stated that to provide the opportunity to demolish a structure without the Commission overview would defeat the ordinance; and reiterated that the Commission has the authority to look at these particular issues and make a determination on a case-by-case basis.

There being no further input, Chairman Allen closed the public hearing.

Commissioner Pizer commended staff for its writing of the amendment and noticing of these meetings.

Commissioner Hoffman further addressed the Commission's consideration of these matters on a case-by-case basis; expressed his belief there are some lots on the list that are not appropriate to merge; noted this Commission has been charged with the duty to maintain the small beach town character of the City, stating there will be some reluctance to merge lots that approach the minimum size and result in the construction of homes that are out of character with the community.

Chairman Allen stated that merging these lots will help with neighborhood consistency; and commended staff for a well written report and presentation this evening.

Vice-Chairman Kersenboom expressed his belief this will better serve the community and the Commission than the current law.

Commissioner Perrotti stated that staff has done a good job in revising the code; noted that the prior code was convoluted and that the Commission struggled with past hearings in trying to interpret what the code meant; advised that at the last meeting, some Commissioners expressed concern with noticing; that staff revised the notice to bring it more into line with a standard notice; stated this change is comprehensive; and stated that each property owner affected will have a separate chance to make their case before the Commission.

Chairman Allen reiterated that if one's lot is on this list, there will be more opportunities to address their concerns.

**MOTION** by Commissioner Perrotti, seconded by Commissioner Pizer, to **APPROVE** TEXT 06-3 -- Text Amendment to the Zoning and Subdivision Ordinance regarding lot mergers. The motion carried as follows:

AYES: Allen, Hoffman, Kersenboom, Perrotti, Pizer  
NOES: None  
ABSTAIN: None  
ABSENT: None

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7. ~~PDP 07-3/CUP 07-3/PARK 07-1/TEXT 07-1 -- Precise Development Plan for the reconstruction and expansion of a two-story building for an existing restaurant with on-sale alcohol; Conditional Use Permit to allow outdoor seating in addition to the patio within the Pier Plaza encroachment area, on both the first and second floors; Parking Plan to allow the expansion of the restaurant (an increase from approximately 3,600 to 5,600 gross square feet including outdoor seating areas) with the payment of parking in-lieu fees for required parking, and a private Text Amendment to allow payment of said in-lieu fees for all required parking rather than providing 25 percent of required parking on site at 52 Pier Avenue, Baja Sharkeez.~~