

June 7, 2006

Honorable Mayor and Members of the
Hermosa Beach City Council

Regular Meeting of
June 9, 2006

SUBJECT: STATUS REPORT ON AMENDMENTS TO LOT MERGER ORDINANCE

Recommendation:

Direct staff to proceed with a Municipal Code Amendment.

Background

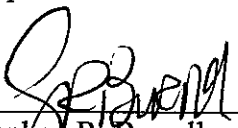
The City Council previously directed staff to identify problems with the existing code relating to lot mergers and provide a status report on revising it. The original law was adopted in 1987 as part of a citywide lot merger program.

Analysis:

The deficiencies that must be corrected in the current ordinance include:

- A clearer definition of criteria for merging lots to replace the current 80% rule which allows merger if not more than 80% of the lots on the block have already been split). The law should more clearly addresses neighborhood consistency. (Section 16.20.030)
- Require that lot mergers are mandatory if the property meets the merger requirements under the law. The current law states the Commission may merge lots if certain criteria are met.
- The lot merger guidelines are difficult to interpret and must be clarified for blocks that do not contain a uniform pattern. The current definition is basically intended to relieve the requirement for merger on blocks that already have an established character of split lots.
- The definition of a "block" must be clarified as it relates to neighborhood consistency.
- The lot merger regulations prohibiting permit issuance if merger criteria are met are unclear relative to timing. The law must be clarified to establish when this provision applies to a property since its intent is to prohibit such sales if they are intended to undermine the lot merger law. (Section 16.20.120)
- The public notification requirements should be made consistent with all public notices in the City. (Section 16.20.050).
- Eliminate duplicate and conflicting lot merger provisions in the Zoning and Subdivision Ordinances.

Staff has also commenced with a preliminary survey of properties that may qualify for lot merger under the current ordinance should the City Council wants to initiate another citywide merger program. The proposed text amendment and survey can be completed this month.



Stephen R. Burrell
City Manager

Attachment:

P:/LotMergerAmend

CITY OF
HERMOSA BEACH
MUNICIPAL CODE ON-LINE

SUBDIVISIONS

Chapter 16.20

MERGER OF PARCELS

16.20. 010 Intent and purpose.

The purpose of this section and the following sections relating to merger of parcels is to provide a procedure by which two or more contiguous parcels or units of land held by the same owner may be merged. This procedure is adopted pursuant to Sections 66541.10 through 66451.21, inclusive, of the California Government Code, and this code.

Any procedure found within this chapter which is inconsistent or not authorized under the California Government Code shall not be followed. If any such procedures conflict with or are not authorized by the Government Code, the rules and procedures established under the Government Code shall be followed when implementing this chapter. (Prior code § 29.5-19)

16.20. 020 Applicability.

A. The provisions set forth in this chapter for the merger of parcels shall be applicable to two or more contiguous parcels of land held by the same owner where:

1. The parcels were created under the provisions of this code regulating subdivisions 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.

B. Nothing in the provisions relating to merger of parcels shall be construed or interpreted to prohibit the sale, lease or financing of such contiguous parcels of land, or any of them, where the same have not been merged pursuant to the procedure set forth in this chapter. (Prior code § 29.5-20)

16.20. 030 Requirements for merger.

Any two or more contiguous parcels or units of land held by the same owner which are subject to the merger provisions set forth as provided in Section 16.20.020 may be merged if all of the following requirements are satisfied:

A. The main structure is partially sited on the contiguous parcel and not more than eighty (80) percent of the lots on the same block of the affected parcel have been

split and developed separately.

B. With respect to any affected parcel, one or more of the following conditions exists:

1. Comprises less than four thousand (4,000) square feet in area at the time of the determination of merger;
2. Was not created in compliance with applicable laws and ordinances in effect at the time of its creation;
3. Does not meet current standards for sewage disposal and domestic water supply;
4. Does not meet slope stability standards;
5. Has no legal access which is adequate for vehicular and safety equipment access and maneuverability;
6. Its development would create health or safety hazards;
7. Is inconsistent with the applicable general plan and any applicable specific plan, other than minimum lot size or density standards.

C. The requirements set forth in subsection B of this section shall not be applicable if any of the conditions set forth in Section 66451.11(b)(A) through (E) of the California Government Code exist. **D.** If the merger of parcels results in the creation of a parcel that is at least eight thousand (8,000) square feet in size, the planning commission and/or city council may, with the consent of the property owner, redivide the parcel into separate parcels that are at least four thousand (4,000) square feet in size. (Prior code § 29.5-21)

16.20. 040 Determination of ownership.

For purposes of determining whether contiguous parcels or units are held by the same owner, ownership shall be determined as of the date that notice of intention to determine status is recorded pursuant to Section 16.20.050. (Prior code § 29.5-22)

16.20. 050 Notice of intention to determine status.

Whenever the director of planning has knowledge that real property may be merged pursuant to the merger provisions of this chapter, he shall:

A. Mail by certified mail to the then current record owner of the property a notice of intention to determine status. Such notice shall state that:

1. The affected parcels may be merged pursuant to the merger provisions of Sections 16.20.010 through 16.20.100, inclusive of this chapter,
2. The owner may file a request with the planning department any time within thirty (30) days after the date the notice of intention to determine status is recorded for a hearing before the planning commission and may present evidence at the hearing that the property does not meet the requirements for merger, and
3. That the notice of intention to determine status was filed for recording with the county recorder's office on the same date such notice was mailed to the property owner;

B. File for record with the county recorder's office, on the same date that the notice is mailed to the property owner, the notice of intention to determine status. (Prior code § 29.5-23)

16.20. 060 Hearing date, fee, presentation of evidence--Planning commission determination.

A. Upon receipt of a request for a hearing on determination of status and receipt of the filing fee as set forth by resolution of the city council, the director of planning shall fix a time, date and place for a hearing to be conducted by the planning commission and shall so notify the property owner by certified mail. The hearing shall be conducted not less than thirty (30) days following the receipt of the property owner's request therefor, but may be postponed or continued with the mutual consent of the planning commission and the property owner.

B. At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property does not meet the requirements for merger as set forth in Sections 16.20.020 and 16.20.030.

C. At the conclusion of the hearing, the planning commission shall make a determination as to whether the affected parcels are to be merged and shall notify the owner of its determination as soon thereafter as practicable, but no later than five working days after the determination has been reached. If such notification cannot be made at the time of the hearing to the owner in person, the notification shall be made by certified mail. (Prior code § 29.5-24)

16.20. 070 Merger--Notice--Effective date.

A. If the planning commission or city council determines that the affected parcels are merged, the director of planning shall file for record with the county recorder's office a notice of merger specifying the names of the record owners and particularly describing the real property to be merged.

B. The notice of merger for any parcel merged by the planning commission or city council shall be filed no later than thirty (30) days after the conclusion of the final hearing on determination of status.

C. A merger of parcels becomes effective on the date the notice of merger is duly filed with the county recorder's office. (Prior code § 29.5-25)

16.20. 080 When parcels not merged--Release and clearance of notice of intention to determine status.

If the planning commission or city council determines that the affected parcels are not to be merged, the director of planning shall:

A. File for record with the county recorder's office a release of the notice of intention to determine status, recorded pursuant to Section 16.20.050, specifying the names of the record owners and particularly describing the real property to be merged; and

B. Mail a clearance letter to the then current owner of record;

C. The release and clearance letter shall be filed and mailed, respectively, within five working days of the date of the city council's determination or within five working days after the applicable ten-day appeal period has run following a determination of the planning commission. (Prior code § 29.5-26)

16.20. 090 Planning commission determination without hearing--Notice to owner.

If the property owner fails to file a request for hearing within the thirty (30) day period as provided in Section 16.20.060, the planning commission may, at any time thereafter, make a determination as to whether the affected parcels are to be merged.

A. If the planning commission makes a determination of merger, the director of planning shall file a notice of merger no later than ninety (90) days after the mailing of the notice of opportunity for hearing as provided in this section, and shall notify the property owner of such determination by certified mail.

B. If the planning commission makes a determination of nonmerger, the director of planning shall follow the procedure set forth in Section 16.20.080. (Prior code § 29.5-27)

16.20. 100 Appeal.

A. The property owners, a member of the city council or any interested person may appeal a decision of the planning commission within ten days of such decision, file an appeal with the city clerk of the city. The city council shall consider the appeal within thirty (30) days. This appeal shall be a hearing held at no cost to the appellant with notice being given pursuant to Section 16.20.060 and with additional notice to be given to the property owner. Upon conclusion of the hearing, the city council shall declare its findings at a time not later than the next regularly scheduled city council meeting after the hearing is held. The city council may sustain, modify, or reject or overrule any recommendations or rulings of the planning commission and may make such findings as are consistent with the provisions of this chapter or the state Subdivision Map Act.

B. All decisions of the planning commission regarding the merger or nonmerger of parcels shall be final, unless appealed from as prescribed in this section, or until any condition precedent to its effectiveness has been fulfilled, whichever is later in time. After final resolution of an appeal by the city council, the director of planning shall file all appropriate notices within the time limits established under Sections 16.20.070 and 16.20.080. (Prior code § 29.5-28)

16.20. 110 Industry merger.

Two or more contiguous parcels, under common ownership, may be voluntarily merged without reverting to the procedures of this chapter. Such merger requires that the recordation of an instrument evidencing the merger be made with the county recorder. (Prior code § 29.5-29)

16.20. 120 Development involving contiguous parcels.

It shall be prohibited to separately sell or separate two or more contiguous lots owned by the same person or legal entity that have an existing structure or improvements straddling their common property line. For property not owned by the same person or legal entity which has been conveyed in violation of this section, no permits for the demolition, construction or addition to the structure shall be issued by the building

department. (Prior code § 29.5-31)

