



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 12/14/2022

ITEM NO: 5

DATE: December 9, 2022
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider Amendments to Chapter 24 (Subdivision Regulations) and Chapter 29 (Zoning Regulations) of the Town Code Regarding Town-Initiated Parcel Mergers. Town Code Amendment Application A-22-003. PROJECT LOCATION: Town Wide. APPLICANT: Town of Los Gatos.

RECOMMENDATION:

Consider amendments to Chapter 24 (Subdivision Regulations) and Chapter 29 (Zoning Regulations) of the Town Code regarding Town-initiated parcel mergers.

CEQA:

Because the proposed ordinance reflects State law, it will not result in a change in the physical environment and is not a project defined under CEQA, and no further action is required (Public Resources Code Section 21065).

FINDINGS:

- Find that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act [Section 15061 (b)(3)] (Exhibit 1).
- Find that the Town Code amendments are consistent with the General Plan.

ACTION:

Recommendation to Town Council.

PREPARED BY: Gabrielle Whelan
Town Attorney

Reviewed by: Planning Manager and Community Development Director

BACKGROUND:

Town Code Section 29.10.070 currently addresses lot mergers for lots that do not conform with the Town's requirements. Subsection (b) currently provides that "any parcels under the same or substantially the same ownership that do not meet the [Town's] criteria . . . shall be considered merged."

The State Subdivision Map Act (Map Act) governs in the area of subdivisions and preempts local ordinances with regard to lot mergers. The applicable Map Act provisions are codified in Government Code Sections 66451.10 and following. The Map Act requires the following steps before a lot merger can take effect:

- 1) The owner of the affected parcels must be notified of the lot merger proposal;
- 2) The Town must file with the County Recorder a notice of merger; and
- 3) Prior to recording the notice of merger, the Town must mail the record owner a notice of intention and give the owner an opportunity to request a hearing.

DISCUSSION:

This item relates to the merger of existing lots that do not conform with the Town's standards. Currently, the Town Code states that nonconforming lots are merged automatically. This provision conflicts with, and is preempted by, State law. Therefore, staff is proposing an ordinance to bring the Town Code into conformance with State law regarding lot merger. Staff has prepared the following revised language to be included in the ordinance with new language shown underlined and deleted language shown ~~strike-through~~:

Section 24.10.080. Town-Initiated Parcel Merger.

- (a) The Town may initiate a merger of a parcel with a contiguous parcel held by the same owner if any one of the contiguous parcels held by the same owner does not conform to standards for minimum parcel size, under the zoning ordinance applicable to the parcel and if, in accordance with Government Code Section 66451.11, all of the following requirements are satisfied:
- (1) At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel.
 - (2) With respect to any affected parcel, one or more of the following conditions exists:
 - a. Comprises less than 5,000 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 its creation;

DISCUSSION (continued):

- 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; or
 - g. Is inconsistent with the applicable general plan and any applicable specific plan, other than minimum lot size or density standards.
- (b) Before initiating a parcel merger, the Town will notify the owner of the affected parcels and provide the owner with the opportunity for a public hearing. The public hearing will be conducted by the Planning Commission. The decision of the Planning Commission may be appealed to the Town Council within ten days of the decision of the Planning Commission. The decision of the Town Council shall be final.

Sec. 29.10.070. Lot merger.

- ~~(a) A parcel of land does lawfully exist separately from other land and is a lot when the parcel meets each of the following criteria:~~
- ~~(1) Comprises at least five thousand (5,000) square feet in area.~~
 - ~~(2) Was created in compliance with applicable laws and ordinances in effect at the time of its creation.~~
 - ~~(3) Meets current standards for sewage disposal and domestic water supply.~~
 - ~~(4) Meets slope stability standards.~~
 - ~~(5) Has legal access which is adequate for vehicular and safety equipment access and maneuverability.~~
 - ~~(6) Development of the parcel would create no health or safety hazards.~~
 - ~~(7) The parcel would be consistent with the applicable general plan and any applicable specific plan, other than minimum lot size or density standards.~~
 - ~~(8) No structures are built over a common property line which is shared with another parcel under the same or substantially the same ownership.~~
- ~~(b) Any parcels under the same or substantially the same ownership that do not meet the criteria listed above shall be considered merged. In addition, no parcel shall be modified through a lot line adjustment procedure in order to meet the criteria listed above.~~

CEQA DETERMINATION:

Because the proposed ordinance reflects State law, it will not result in a change in the physical environment and is not a project defined under CEQA, and no further action is required (Public Resources Code Section 21065).

PUBLIC COMMENTS:

At the time of this report's preparation, the Town has not received any public comment.

CONCLUSION:

A. Summary

The attached amendments to Town Code Chapters 24 and 29 are recommended to bring Town Code into conformance with State law regarding lot merger.

B. Recommendation

For the reasons mentioned in this report, staff recommends that the Planning Commission forward the Draft Ordinance amendments to the Town Council with a recommendation for adoption. The Commission should also include any comments or recommended changes to the Draft Ordinance in taking the following actions:

1. Find that because the proposed ordinance reflects State law, it will not result in a change in the physical environment and is not a project defined under CEQA, and no further action is required (Public Resources Code Section 21065); and
2. Make the required finding that the Ordinance amendments are consistent with the General Plan; and
3. Forward a recommendation to the Town Council for adoption of the Ordinance amendments to the Town Code.

C. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction; or
2. Recommend the Ordinance Amendments with additional modifications; or
3. Recommend that the Town Council not adopt the Ordinance Amendments.