



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/07/2022

ITEM NO: 13

DATE: February 2, 2022
TO: Mayor and Town Council
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Introduce a Proposed Ordinance Amending Chapter 24 (Subdivision Regulations) and Chapter 29 (Zoning Regulations) of the Town Code Regarding Town-Initiated Parcel Mergers

RECOMMENDATION:

Introduce a proposed Ordinance amending Chapter 24 (Subdivision Regulations) and Chapter 29 (Zoning Regulations) of the Town Code regarding Town-initiated parcel mergers.

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.

PREPARED BY: Bridgette Falconio
Administrative Technician

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Director

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.

The proposed amendments were reviewed by the Planning Commission on December 12, 2022, and referred to Council by unanimous vote (Attachments 2 and 3). 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;
- 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.

DISCUSSION (continued):

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.~~

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 mergers.

B. Recommendation

For the reasons mentioned in this report, staff recommends that the Town Council introduce the proposed Ordinance. The Council should also include any comments or recommended changes to the proposed Ordinance. Once introduced, the Ordinance will return to the Town Council for adoption on February 21, 2023.

COORDINATION:

The Town Attorney's Office, Town Manager's Office, and the Community Development Department coordinated this report.

FISCAL IMPACT:

The proposed Ordinance will not affect the Town's Budget.

PAGE 4 OF 4

SUBJECT: Town Code Amendment Regarding Town-Initiated Parcel Mergers/A-22-003

DATE: February 2, 2023

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Lot Merger Ordinance
2. December 14, 2022, Planning Commission Staff Report
3. December 14, 2022, Planning Commission Verbatim Minutes