

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Community Development Director via City Manager

SUBJECT: Resolution No. 2012-20 to Set November 5, 2012 as Date for Public Hearing of Proposed Amendments to Brisbane Municipal Code Title 16, Regarding Lot Merger Procedures

DATE: September 17, 2012

City Council Goals:

To provide for effective and efficient delivery of City services (Goal #1).
To preserve and enhance livability and diversity of neighborhoods (Goal #14).

Purpose:

To update the Subdivision Ordinance's lot merger procedures to be consistent with State law.

Recommendation:

That the City Council adopt Resolution No. 2012-20, setting November 5, 2012 as the date for the public hearing of the proposed amendments to the merger ordinance.

Background:

2007-2014 Housing Element Program H.I.1.e calls for updating the merger ordinance, which is contained in Brisbane Municipal Code Sections 16.12.060-16.12.080. The intent of this program is to encourage the provision of new infill housing opportunities by reducing government constraints upon substandard lots that predate the City's minimum lot size standards.

The City's substandard lot provisions assume that adjoining substandard lots that are in common ownership will be merged together to create standard building sites. For the City to initiate such mergers, the City's merger provisions must comply with the State Subdivision Map Act (Government Code Sections 66451.10-66451.33). The City's merger provisions, adopted in 1982, allowed lots to be merged without a recorded Notice of Merger, which is no longer permitted under the Government Code. Only those

mergers for which the City gave notice to the property owners prior to January 1, 1986, are still considered valid.

To initiate lot mergers on its own, the City must adopt a new ordinance in compliance with Government Code Section 66451.11. Prior to adopting such an ordinance, Government Code Section 66451.20 requires that City Council adopt a resolution of intention at least 30 days before adopting the ordinance and fix a time and place for a public hearing on the proposed ordinance, which shall be conducted not less than 30 nor more than 60 days after adoption of the resolution.

Discussion:

As part of its recommendation of approval of Zoning Text Amendment RZ-8-11, regarding substandard lots and other matters which will come to the City Council at a subsequent public hearing, the Planning Commission reviewed the proposed merger ordinance at its March 8, 2012 meeting. By specifically setting a public hearing date in accordance with State law, the City Council may consider the proposed amendments to Brisbane Municipal Code Title 16, regarding lot merger procedures.

Fiscal Impact:

None.

Measure of Success:

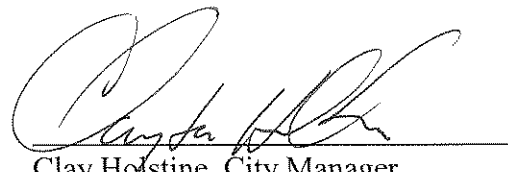
Improving the Municipal Code by eliminating conflicts with state law.

Attachments:

Resolution 2012-20
Government Code Excerpts



John Swiecki, Community Development Director



Clay Holstine, City Manager

A copy of supporting materials provided to the City Manager and City Council for this agenda item is available for public inspection and copying at 50 Park Place, City of Brisbane Community Development Department, Brisbane, CA, 94005, Telephone: (415) 508-2120.

RESOLUTION 2012-20

A RESOLUTION OF THE BRISBANE CITY COUNCIL
STATING ITS INTENTION TO AMEND THE CITY OF BRISBANE MUNICIPAL
CODE TITLE 16, SUBDIVISIONS,
REGARDING CHAPTER 16.12, TENTATIVE AND FINAL PARCEL MAPS AND
SUBDIVISION MAPS—WHERE REQUIRED (MERGER ORDINANCE)

WHEREAS, Brisbane Municipal Code Sections 16.12.060 through 16.12.080, regarding merger of parcels, were adopted by the City Council in 1982; and

WHEREAS, 2007-2014 Housing Element Program H.I.1.e calls for updating the merger ordinance; and

WHEREAS, California Government Code Section 66451.20 requires that prior to amending a merger ordinance which was in existence on January 1, 1984, in order to bring it into compliance with Section 66451.11, the legislative body of the local agency shall adopt a resolution of intention to adopt a merger ordinance and fix a time and place for a public hearing on the proposed ordinance, which shall be conducted not less than 30 nor more than 60 days after adoption of the resolution.

NOW, THEREFORE, BE IT RESOLVED, that the City of Brisbane City Council intends to consider amendments to the merger ordinance contained in Title 16, Subdivisions, of the Brisbane Municipal Code at a public hearing at 7:30 p.m. on November 5, 2012, at Brisbane City Hall, 50 Park Place, Brisbane, CA, at which all interested persons will be heard.

BE IT FURTHER RESOLVED, that the City Clerk shall have notice of the adoption of this resolution published per Government Code Section 6061 not less than 30 days prior to adoption of the amended ordinance.

CLIFFORD R. LENTZ, Mayor

I hereby certify that the foregoing Resolution 2012-20 was duly and regularly adopted at a regular meeting of the Brisbane City Council on September 17, 2012, by the following vote:

AYES:
NOES:

Sheri Marie Spediacci, City Clerk

GOVERNMENT CODE SECTIONS 66451.11, 66451.20 & 6060-6061

66451.11. A local agency may, by ordinance which conforms to and implements the procedures prescribed by this article, provide for the merger of a parcel or unit with a contiguous parcel or unit held by the same owner if any one of the contiguous parcels or units held by the same owner does not conform to standards for minimum parcel size, under the zoning ordinance of the local agency applicable to the parcels or units of land and if all of the following requirements are satisfied:

(a) 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 or unit.

(b) With respect to any affected parcel, one or more of the following conditions exists:

(1) Comprises less than 5,000 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.

The ordinance may establish the standards specified in paragraphs (3) to (7), inclusive, which shall be applicable to parcels to be merged.

This subdivision shall not apply if one of the following conditions exist:

(A) On or before July 1, 1981, one or more of the contiguous parcels or units of land is enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue and Taxation Code.

(B) On July 1, 1981, one or more of the contiguous parcels or units of land is timberland as defined in subdivision (f) of Section 51104, or is land devoted to an agricultural use as defined in subdivision (b) of Section 51201.

(C) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of the site on which an existing commercial mineral resource extraction use is being made, whether or not the extraction is being made pursuant to a use permit issued by the local agency.

(D) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral resource extraction has been issued by the local agency.

(E) Within the coastal zone, as defined in Section 30103 of the Public Resources Code, one or more of the contiguous parcels or units of land has, prior to July 1, 1981, been identified or designated as being of insufficient size to support residential development and where the identification or designation has either (i) been included in the land use plan portion of a local coastal program prepared and adopted pursuant to

the California Coastal Act of 1976 (Division 20 of the Public Resources Code), or (ii) prior to the adoption of a land use plan, been made by formal action of the California Coastal Commission pursuant to the provisions of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan pursuant to the provisions of the California Coastal Act is based.

For purposes of paragraphs (C) and (D) of this subdivision, "mineral resource extraction" means gas, oil, hydrocarbon, gravel, or sand extraction, geothermal wells, or other similar commercial mining activity.

(c) The owner of the affected parcels has been notified of the merger proposal pursuant to Section 66451.13, and is afforded the opportunity for a hearing pursuant to Section 66451.14.

For purposes of this section, when determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that notice of intention to determine status is recorded.

66451.20. Prior to amending a merger ordinance which was in existence on January 1, 1984, in order to bring it into compliance with Section 66451.11, the legislative body of the local agency shall adopt a resolution of intention and the clerk of the legislative body shall cause notice of the adoption of the resolution to be published in the manner prescribed by Section 6061. The publication shall have been completed not less than 30 days prior to adoption of the amended ordinance.

6060. Whenever any law provides that publication of notice shall be made pursuant to a designated section of this article, such notice shall be published in a newspaper of general circulation for the period prescribed, the number of times, and in the manner provided in that section. As used in this article, "notice" includes official advertising, resolutions, orders, or other matter of any nature whatsoever that are required by law to be published in a newspaper of general circulation.

6061. Publication of notice pursuant to this section shall be for one time.