



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

I-2

For the meeting of: April 25, 2017

Date: April 10, 2017

To: Board of Supervisors

From: John H. Ford, Director of Planning and Building 

Subject: Introduction an ordinance amending Chapter 7.5, Division 2 of Title III of the Humboldt County Code relating to merger of parcels

RECOMMENDATION(S):

That the Board of Supervisors:

1. Introduce the attached Ordinance by title and waive first reading;
2. Set the Ordinance for adoption on May 9, 2017;
3. Direct the Clerk of the Board to publish the pre-adoption summary of the Ordinance and to post a certified copy of the full text of the proposed Ordinance in the office of the Clerk of the Board, both publication and posting to be done not later than May 3, 2017. [Government Code Section 25124(b)(1)]; and
4. Direct the Clerk of the Board, within 15 days after adoption of the Ordinance, to publish a post-adoption summary of the Ordinance with the names of the Supervisors voting for and against the Ordinance, and to post in the office of the Clerk of the Board a certified copy of the full text of the adopted Ordinance and amendments along with the names of those supervisors voting for and against the Ordinance. [Government Code Section 25124(b)(1)].

Prepared by Cliff Johnson, Senior Planner

CAO Approval 

REVIEW:

Auditor

County Counsel NAD

Human Resources

Other

TYPE OF ITEM:

- ☐ Consent
☒ Departmental
☐ Public Hearing
☐ Other

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Fennell Seconded by Supervisor Sundberg

Ayes Sundberg, Fennell, Bass, Bohn, Wilson

Nays

Abstain

Absent

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: Apr. 25, 2017

By: 

Kathy Hayes, Clerk of the Board

SOURCE OF FUNDING:

The ongoing implementation of this ordinance will be funded with fees collected by the Building Inspection Division and Current Planning Division with issuance of building and land use permits. The funding for the ordinance revisions have come from 1100-268.

DISCUSSION:

The Planning and Building Department is proposing minor revisions to the parcel merger section of the county Subdivision Ordinance. Chapter 7.5 of Division 2 of Title III of the Humboldt County Code allows for the voluntary merger of parcels subject to specific findings of approval. The ordinance currently defines "contiguous" as "touching or adjoining at more than one point." This prohibits landowners who have land that adjoin at a single point from voluntarily merging their parcels into a single unit of land should they desire to do so. This definition of contiguous is inconsistent with the definition in Black's Law Dictionary, which is "adjoining at a point or along a boundary." The current definition of "contiguous" is also not consistent with how adjacent parcels are treated for the purposes of legal lot determinations under Section 66499.35 of the California Government Code. For example, where a property was created by a government land patent or other conveyance, it is generally considered to be a single parcel of land if all portions adjoin at a minimum of a single point. The proposed revisions to the Subdivision Ordinance would incorporate this definition from Black's Law Dictionary and would enable landowners to voluntarily combine parcels that may adjoin only at a single point. In order to ensure that this definition does not affect involuntary parcel mergers (merger by operation of law), the definition of "contiguous" for involuntary mergers will remain "touching or adjoining at a single point." This enables the involuntary merger requirements to remain unaffected by the change to the definition of "contiguous" and that property rights are not adversely affected by the expanded definition of "contiguous."

The revised definition of "contiguous" will give greater flexibility to property owners who choose to consolidate their land holdings, and will remove the current inconsistencies between the merger ordinance and the requirements of legal lot determinations. The allowance of additional lands to qualify for merger will result in less development potential and will therefore have no possibility of having a significant effect on the environment. These proposed revisions are identified in Attachment 2 to this staff report.

CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA")

The ordinance revisions are exempt from CEQA pursuant to Section 15061(b, 3) of the CEQA Guidelines, which states that a project is not subject to CEQA where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The proposed ordinance revisions will not affect allowed uses or the development potential of any property, and can therefore be seen with certainty to have no possibility of a significant effect on the environment.

FINANCIAL IMPACT:

There is no specific budget allocation for these proposed revisions. The minor revisions to the county's Subdivision Ordinance is consistent with the Board's Strategic Framework through the Board's core roles of enforcing laws and regulations to protect residents and ensuring proper operation of markets.

OTHER AGENCY INVOLVEMENT:

None.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to adopt the Ordinance, or to request revisions to come back in front of the Board for adoption at a future date.

ATTACHMENTS:

- 1: Proposed Ordinance amending Subdivision Regulations, summary and code pages

ATTACHMENT 1

Proposed Ordinance, summary and code pages

Text deleted is shown as ~~striketrough~~

Text added is shown as underlined

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF HUMBOLDT AMENDING CHAPTER 7.5 OF DIVISION 2 OF TITLE III TO THE HUMBOLDT
COUNTY CODE RELATING TO MERGER OF CONTIGUOUS PARCELS**

The Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. Sections 327.5-2 of Division 2 of Title III is hereby amended as shown on the attached pages.

SECTION 2. This ordinance shall take effect and be in force thirty (30) days from the date of its passage. A summary shall be published at least five (5) days before the date set for adoption and again fifteen (15) days after passage of this ordinance. It shall be published once with the names of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Humboldt, State of California.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2017.

AYES: Supervisors—
NOES: Supervisors—
ABSENT: Supervisors—

Chair of the Board of Supervisors of the
County of Humboldt, State of California

(SEAL)

ATTEST:

Kathy Hayes, Clerk of the Board of Supervisors
County of Humboldt

SUMMARY FOR PUBLICATION PRIOR TO ADOPTION OF ORDINANCE

(The summary shall be published and a certified copy of the full text of the proposed ordinance shall be posted in the office of the Clerk of the Board of Supervisors at least five (5) days prior to the Board of Supervisors meeting at which the proposed ordinance is to be adopted.)

SUMMARY

On _____, 2017, at its regularly scheduled Board meeting, the Humboldt County Board of Supervisors will consider for adoption a proposed ordinance amending Section 327.5-2 of Chapter 7.5 of Division 2 of Title III of the Humboldt County Code regarding merger of contiguous parcels.

The text of the proposed ordinance is available from the Clerk of the Board, Room 111, 825 Fifth Street, Eureka, CA.

SUMMARY FOR PUBLICATION AFTER ADOPTION OF ORDINANCE

(The summary shall be published within fifteen (15) days after the adoption of the ordinance.)

SUMMARY

On _____, 2017, the Humboldt County Board of Supervisors adopted Ordinance No. _____, amending Sections 327.5-2 of Chapter 7.5 of Division 2 of Title III of the Humboldt County Code regarding merger of contiguous parcels.

A copy of the ordinance is posted in the office of the Clerk of the Board of Supervisors.

The votes were:

AYES:

NOES:

ABSENT:

327.5-1. PURPOSE.

The County of Humboldt had a merger ordinance in existence prior to January 1, 1984. This chapter is enacted for the purpose of amending the existing merger ordinance of the County of Humboldt (previously Humboldt County Code § 317-64) to bring it into compliance with Article 1.5 of Chapter 3 of Division 2 of Title

7 of the California Government Code (§§ 66451.10 et seq.); to provide for the continued merger of certain resource lands merged by operation of law prior to January 1, 1984; and to provide for voluntary merger of parcels of land. Article II of this Chapter shall only be implemented on parcels within the County which are zoned Timberland Production Zone and parcels which are enforceably restricted by a Williamson Act Contract. Article III of this chapter shall only be implemented on parcels within the County which are enforceably restricted by a Williamson Act Contract. In restricting the application of Article III of this chapter to parcels which are enforceably restricted by a Williamson Act Contract, the Board of Supervisors finds that the preservation of mergers of these resource lands which merged by operation of law prior to January 1, 1984, as provided for in Article III, is necessary to aid in preserving the integrity of the Williamson Act program in Humboldt County, to aid in the enforcement and prevention of violations of the Williamson Act (Government Code §§ 51200 et seq.) and local regulations adopted pursuant thereto. (Ord. 1762, 12/09/86)

327.5-2. DEFINITIONS.

Except as otherwise provided, when used in this chapter, the following terms shall have the following meanings: (Ord. 1762, 12/09/86)

(a) "Advisory Agency" means the Planning Commission; provided, that the Planning Commission may designate the Planning Director to act as the Advisory Agency. (Ord. 1762, 12/09/86)

(b) "Contiguous" means touching or adjoining at ~~more than one~~ a point or along a boundary. Property shall be considered contiguous even if it is separated by roads, streets, utility easements or railroad rights-of-way. As to new and continued merger of resource lands pursuant to Article II and Article III of Chapter 7.5, "contiguous" parcels shall only merge when they are touching or adjoining at more than one point. (Ord. 1762, 12/09/86, Ord. ____, ____, 2017)

(c) "Merged by operation of law" means the merger of parcels by or through the law without any direct action by the County (other than adoption of applicable ordinances) or by the property owner. As used in this section, "merged by operation of law" refers to the merger of parcels pursuant to the provisions of the Humboldt County Code and/or the State Subdivision Map Act in effect prior to January 1, 1984. The term "merged by operation of law" does not include voluntary mergers by action of the owner, or merger pursuant to the provisions of Article II of this chapter. (Ord. 1762, 12/09/86)