

MERGER BY CONTIGUITY

1.1. PURPOSE

The purpose of this procedure is to provide a consistent framework by which all mergers by contiguity are processed, reviewed, and approved.

1.2. BACKGROUND

Merger by contiguity is the process whereby nonconforming substandard-sized lots or parcels can be combined to create a lot or parcel (i.e., zoning lot) that more closely approximates the lot size requirements of the applicable zoning district to provide for building permit issuance for new construction or habitable additions in conformance with the provisions of the LDC without necessitating a replat or variance. Merger by contiguity is a form of subdivision exemption that can be processed administratively. Merger by contiguity may only be applied to any contiguous nonconforming lots or parcels of land where:

- Not more than one principle dwelling is located on the lots or parcels to be combined;
- The lots or parcels to be combined are located within the same zoning district; and
- The lots or parcels are owned in common ownership by the same person, persons or entity.

Merger by contiguity is governed by State statutes. C.R.S. §30-28-139(4) allows a property owner to voluntarily request a Merger.

1.3. APPLICABLE STATUTES AND REGULATIONS

C.R.S. §§30-28-101, et seq. allows the BoCC to grant exemptions from the definition of the term "subdivision" for any division of land the BoCC determines is not within the purposes of this statute.

C.R.S. §30-28-139(4) provides that Mergers may be sought by the owners of the property.

Section 2.1.2 of the LDC provides the authority for the PCD Director to establish standards for processing development applications.

Section 2.2.4 of the LDC establishes the authorities of the PCD Director.

Section 7.2.2(E)(2) of the LDC governs the Merger of nonconforming lots or parcels.

Section 5.6.7(C) of the LDC governs the conditions under which Merger by Contiguity may be required.

1.4. RESOURCES

Not applicable

1.5. GENERAL SUBMITTAL LIST

The applicant wishing to execute a Merger by Contiguity Agreement in accordance with the requirements of Section 5.6.7(C) and Section 7.2.2(E)(2) of the LDC and the merger allowance provided by C.R.S. §30-28-139(4) in order to bring their property into conformance with the LDC and in order to obtain approval of a development application or building permit shall submit the following:

- Completed Merger by Contiguity form
- Merger by contiguity exhibit

- Any other additional items as required by the PCD Director deemed necessary to ensure compliance with the requirements of the LDC.

1.6. STEP BY STEP REVIEW PROCEDURE

1.6.1. Summary of Steps

- (A) Step 1 Early Assistance Meeting (optional)**
- (B) Step 2 Neighborhood Meeting**
Not Applicable
- (C) Step 3 Application Submitted**
- (D) Step 4 Determination of Completeness**
- (E) Step 5 Resubmission of application (if required)**
- (F) Step 6 Application Referral (if required)**
- (G) Step 7 Consolidation of Comments and Request to Applicant (if required)**
- (H) Step 8 Applicant Submits Information Requested (if required)**
- (I) Step 9 Staff Report and Recommended Action**
The PCD planner performs a final review of conformance of the Merger by Contiguity with the criteria for approval and prepares the Merger by Contiguity for review by the PCD Director, and Step 13 is initiated.
- (J) Step 10 Hearing Scheduled**
Not Applicable
- (K) Step 11 Notice of Hearing**
Not Applicable
- (L) Step 12 Hearing Held**
Not Applicable
- (M) Step 13 Decision Concerning Development Permit**
- (N) Step 14 Development Permit Closeout**
The PCD Director signs the approved Merger Agreement and the PCD planner files the executed Merger Agreement for recording with the El Paso County Clerk and Recorder. A copy of original recorded merger by contiguity is uploaded to EDARP and the file is closed. If denied, the applicant is provided a letter of denial which is uploaded to EDARP.

1.6.2. Criteria for Consideration

The merger by contiguity may only be applied to any contiguous nonconforming lots or parcels of land.

1.6.3. Criteria for Approval

Section 7.2.2 of the LDC provides the approval criteria for a merger by contiguity.

1.7. REVIEW PERIOD

A merger by contiguity is classified as a Type C Development Application. The timeline for reviewing a Type C Development Applications is dependent upon several factors, including, but not limited to, staffing, workload, project size and/or complexity, and quality and completeness of submittal materials.

1.8. NOTICE

Not Applicable

1.9. FORM OF ACTION

A merger by contiguity shall be considered complete and in effect as of the date of filing of an approved and executed Merger agreement in the Office of the El Paso County Clerk and Recorder.

1.10. EXPIRATION (IF APPLICABLE)

1.10.1. Development Application and Conditional Development Permit Approval

If at any time the applicant fails to provide requested materials or information within 60 days of the PCD project manager's request for information or documentation necessary to process the development application or closeout the development permit, the development application or permit shall be deemed to have expired and a new development application must then be submitted for consideration. If the applicant needs an extension of time to provide the requested materials or information, the applicant may request in writing and receive an additional 60 days to meet the requirements from the PCD planner. Only one such extension shall be granted.

1.10.2. Development Permit

No expiration

1.11. SIMILAR PROCEDURES

Not applicable

1.12. TECHNICAL GUIDANCE

1.12.1. Other Processes Provided for Dealing with Reconfiguring Lot Lines and Combining Parcels

Several provisions of the LDC allow for the combination or merger of contiguous parcels of land or modification of lot or parcel boundaries in order to bring lots or parcels into conformance with or into closer conformance with zoning requirements or to allow a group of lots or parcels to be recognized as a zoning lot for purposes of the application of the zoning provisions contained in the LDC.

Where the conditions required to invoke a merger by contiguity are not met, a different procedure may be applicable. Alternative related procedures are identified in Section 1.11. of this resource guidance.