

Section 20 – Property Merger

(orig. 7-17-18)

A. Intent and Purpose

This process was created to allow contiguous properties to be merged or combined, pursuant to Section 30-28-139, C.R.S. The process outlines time frames and expectations that should provide the applicant with a clear understanding of the steps involved prior to final determination by the Director of Planning and Zoning or a hearing before the Board of County Commissioners. The Director of Planning and Zoning may waive the time frames included in this process depending on Planning and Zoning staffing levels and the complexity of the proposal. Nothing in this Section shall be construed to abrogate or otherwise diminish or expand any rights a landowner may have under article 68 of title 24, C.R.S., pertaining to vested property rights. (orig. 7-17-18)

B. Requirements

1. A Property Merger can be processed by Planning and Zoning when a property owner: (orig. 7-17-18)
 - a. Requests in writing that parcels be merged and each owner of the parcels executes a Property Merger Agreement, as approved by the County Attorney's Office; or (orig. 7-17-18)
 - b. Requests a hearing before the Board of County Commissioners to merge parcels, pursuant to Section 30-28-139(1) and (2), C.R.S. (orig. 7-17-18)
2. All Property Mergers must comply with the following: (orig. 7-17-18)
 - a. The exterior boundary of any lot or parcel after the merger is complete must be a proper division of land. (orig. 7-17-18)
 - b. All lots or parcels proposed to be merged must have the same ownership, including tenancy. (orig. 7-17-18)
 - c. All lots or parcels proposed to be merged must have the same zoning. (orig. 7-17-18)
 - d. The lots or parcels proposed to be merged must have at least 20 feet of contiguity. (orig. 7-17-18)
 - e. The owners of all affected parcels must consent in writing to the merger. (orig. 7-17-18)
 - f. The lots or parcels proposed to be merged must be current on taxes and have no back taxes owed. (orig. 7-17-18)
 - g. If one or more easements are located between the parcels being merged, all property owners of the parcels being merged must execute an Affidavit of Understanding acknowledging that the merger will not extinguish the easements. (orig. 7-17-18)
3. A nonrefundable processing fee in the amount established by the Board of County Commissioners is required for this process. (orig. 7-17-18)
4. Termination (or amendment) of a Property Merger: (orig. 12-17-19)
 - a. Property Mergers that cannot be terminated or amended: (orig. 12-17-19)
 - (1) If a Property Merger was required for the issuance of any permit or pursuant to a court order, then the merged parcel cannot be separated into its original configuration without being subdivided through the appropriate County subdivision process. Examples of when a subdivision process would be required include, but are not limited to, the following:
 - (a) When the Property Merger was required to meet the minimum lot size requirement for an Onsite Wastewater Treatment System. (orig. 12.17.19)
 - (b) When the Property Merger was required to meet the minimum lot size requirement for the applicable zone district. (orig. 12-17-19)
 - (c) When the Property Merger was required for a structure to meet the setback requirements of the underlying zone district. (orig. 12-17-19)
 - b. Property Mergers that can be terminated or amended:
 - (1) If a Property Merger was required in order to maintain legal access to the subject parcels as a result of Vacation of Right-of-Way process, then the Director of Planning and Zoning may reverse or terminate or amend the Property Merger if another means of legal access has been established for the parcel(s). (orig. 12-17-19)

- (2) If a Property Merger was completed because it was the desire of the property owner to merge the properties and the merger was not required for the issuance of any permits by the County, then the Director of Planning and Zoning may terminate or amend the Property Merger. (orig. 12-17-19)
- c. The termination or amendment of a Property Merger does not change the disposition of the original parcels, thus the un-merged parcels must meet all other regulatory requirements to be considered buildable. (orig. 12-17-19)

C. Procedure:

The following is an example of the typical processing steps and timeframes for a Property Merger and a Termination (or Amendment) to a Property Merger. If the applicant complies with all given time frames, submits a complete application and complies with all requirements of this Regulation, the estimated time to reach the determination phase of the process is 45 calendar days from the date of first referral. (orig. 7-17-18; am. 12-17-19)

| Process Steps | | Processing Time Frames | |
|---|--|---|--|
| Steps prior to 1st Referral | | | |
| Formal Application/Sufficiency Review or Deficiency Response | 5 calendar days | | |
| Process from 1st Referral to Determination | | | |
| Staff Draft of Agreement and 1 st Referral with Staff Response | 21 calendar days (7 days to draft Agreement, 7 days for referral, 7 days for Staff response) | 45 days to determination if processing time frames are met. | |
| Applicant's Response to 1 st Referral | Varies, 14 calendar days used for example timeframe | | |
| Execution of Documents | 7 calendar days | | |
| Determination Preparation | 3 calendar days | | |
| Determination | | | |
| Determination and Recording | | | |

Steps Prior to Staff Draft of Agreement and 1st Referral

1. Sufficiency Review:

The applicant shall electronically submit all documents as identified in the Submittal Requirements Section of this Regulation for review by Staff. (orig. 7-17-18)

The Case Manager shall have 5 calendar days to review the submittal and either accept the application or respond to the applicant explaining any deficiencies in the submittal documents. A submittal that is not complete in terms of the type of documents required will not move forward in the process. (orig. 7-17-18; am. 12-17-19)

Resubmittal Sufficiency Review (if required): The Case Manager shall have 5 calendar days to review the resubmittal and accept the application or respond to the applicant explaining any deficiencies in the submittal documents. (orig. 7-17-18; am. 12-17-19)

If the application and sufficiency review are complete Staff will begin preparation of the agreement. (orig. 7-17-18; am. 12-17-19)

Process from Drafting the Agreement to Determination

2. Drafting the Agreement, 1st Referral and Staff Response:

Staff will have 7 days to draft the Property Merger Agreement or the Termination (or Amendment) of Property Merger Agreement and send out the agreement on 1st Referral. (orig. 12-17-19)

Once drafted and sent on referral, the referral agencies shall have 7 calendar days to respond in writing to the application. An extension of no more than 30 days may be agreed to by the applicant. (orig. 7-17-18; am. 12-17-19)

The Case Manager shall have 7 calendar days, after the end of the referral period, to provide the applicant with a Staff response inclusive of other referral responses. (orig. 7-17-18; am. 12-17-19)

3. Applicant's Response to 1st Referral:

Regardless of the example timeframe, the applicant shall have a maximum of 180 calendar days to respond to the referral comments and resubmit, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fees and documents. The Director of

Planning and Zoning may extend this 180-calendar day maximum response deadline for one additional 180 calendar day period if, in his/her opinion, the delay in response is for good cause. (orig. 7-17-18)

4. Execution of Property Merger Agreement:

The Case Manager will mail (e-mail if possible) the reviewed Property Merger Agreement or Termination (or Amendment) of Property Merger Agreement and the Affidavit of Understanding, as applicable, to the applicant. For the purpose of the example timeframe, the applicant will have 7 calendar days to return the fully executed documents. The documents must be signed by all property owners and be notarized, and the original documents returned to the Case Manager. (orig. 7-17-18; am. 12-17-19)

The applicant shall have a maximum of 180 calendar days to resubmit the executed documents, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fees and documents. The Director of Planning and Zoning may extend this 180-calendar day maximum response deadline for one additional 180 calendar day period if, in his/her opinion, the delay in response is for good cause. (orig. 12-17-19)

5. Determination Preparation:

Upon receipt of the fully executed original documents, the Case Manager shall have 3 calendar days to review the documents for completeness and prepare them for Determination. (orig. 7-17-18; am. 12-17-19x)

Determination and Recording

6. The Director of Planning and Zoning shall review the request and, if acceptable sign the Property Merger Agreement or the Termination (or Amendment) of Property Merger Agreement. Upon signature of the agreement, the Case Manager shall file the approved agreement with the Clerk and Recorder. (orig. 7-17-18; am. 12-17-19)

D. Procedure – Board of County Commissioners Hearing:

If the applicant requests a hearing before the Board of County Commissioners to appeal a determination on a Property Merger Agreement or the Termination (or Amendment) of Property Merger Agreement, the timeframes, notice requirements, and pre-hearing and hearing procedures shall be pursuant to Section 30-28-139(1) and (2), C.R.S. The appeal must be submitted in writing to the Case Manager within 30 days of the determination. (orig. 7-17-18; am. 12-17-19)

F. Format

The format of the Property Merger Agreement shall be as approved by the County Attorney's Office. (orig. 7-17-18)