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2131 THIRD AVENUE

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B-SECTION

## "A Horrendous Problem"

# Some Say Lot Merger Law Will Become A Nightmare

By THOR KAMBAN BIBERMAN  
*San Diego Daily Transcript Staff Writer*

A San Diego city ordinance requiring owners to merge their contiguous lots of less than 5,000 square feet is to take effect this week and some land surveyors, title company workers, brokers and developers are calling the new law a disaster and an administrative nightmare.

On July 10 the city council adopted the ordinance at the request of Councilwoman Abbe Wolfsheimer, who asked that the city legislation coincide with the merger of parcels section of the State Map Act.

Last June 19, the city had identified about 5,250 parcels which would be affected by the ordinance, but Michael Pallamary, president of Precision Survey and Mapping, said the figure actual figure could be as high as 50,000.

Pallamary said one client, who declined to be identified, has built on one lot with the intention to sell the adjacent lot. Now, unless it went into escrow last week, he may not be able to sell the land at all.

Pallamary said he anticipates major difficulties in the Bird Rock area (between Colima and Camino de la Costa) where many of the lots are about 4,400 square feet.

"This is a horrendous problem. If someone has plans for their properties like this, they had better do it real quick," Pallamary said. "Imagine having money placed in escrow for a lot that isn't even go-

ing to exist a couple of months from now."

Pallamary said he also is concerned about individuals who might, for example, have a 3,000-square-foot lot adjacent to a 7,000-square-foot lot.

"Can you redraw the line so you have two viable lots? The ordinance is silent on that," he said.

Councilwoman Wolfsheimer said she is confident that there will be some variances to accommodate "hardship" cases, but she was generally unsympathetic to those who are upset because the ordinance effectively restricts new building.

"My constituents were tired of bulky houses that were being built on substandard lots," Wolfsheimer said.

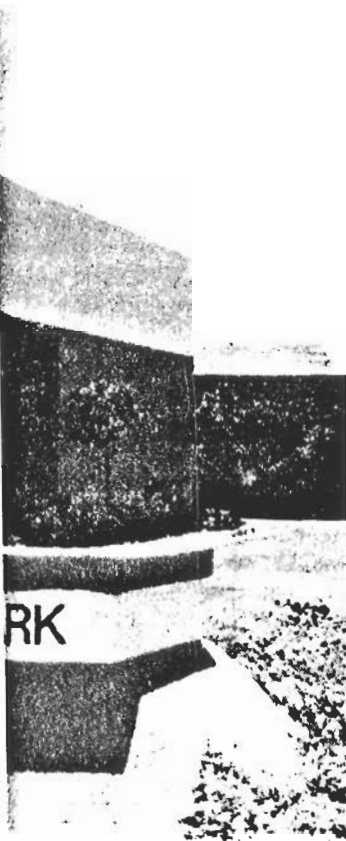
When asked if there will be major bureaucratic difficulties because of the ordinance, Wolfsheimer responded that "compliance with the law is more important than a little bit of a mess."

The State Map Act does not itself require that smaller parcels be merged, but gives local agencies the right to enact such laws if they feel they would be in the public's best interest.

Gary Triphan, an advisory title officer for Transamerica Title Co., doesn't believe the "mess" will be a small one. He foresees an administrative nightmare.

"Who are all these people who have to be identified, and what happens if you miss a parcel, are

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ership and designed by John with United Business Forms, Spectra Gases as tenants.

## Daley Corp. Wins Caltrans Contract Worth \$6.1 Million

California's Department of Transportation (Caltrans) has awarded a \$6,114,697 contract to Daley Corp. of San Diego, the first of five bidders, for construction of the second stage of the state Route 78 widening project.

Completed will be the cost of pavement rehabilitation, construction of a concrete median barrier preparation work for the final widening of SR-78 from just west of

offering several options, including a 25-year lease.

"That wouldn't have solved anything," City Council member Ned Speasmaker said. "The garage would still be theirs at the end of 25 years. They also offered to rent it to us for \$600 a month or sell it to us for \$11,500."

## Lot Merger

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they exempt from the law? This is a problem. In the title industry you have to be concerned that you are not aiding and abetting a violation of the subdivision map act," he said.

Triphan, who also believes that the number of affected parcels is significantly more than 5,250, implied that new legal battles could emerge as a result of the ordinance.

If a person who purchased a property had the right to build, but now doesn't have the right to build because of a lot merger, could that constitute a taking of the property? Attorneys may have to resolve the question.

William Luther, an associate broker with Penny Realty in Mission Beach, said he foresees many problems in his community because, he says, most of the lots are smaller than 5,000 square feet.

Luther expressed a variety of concerns. One question he asks is what constitutes a contiguous parcel.

"Are we going to have to search the title of every contiguous parcel now? Does this apply if just a piece of the properties are contiguous, and what happens if the parcels are separated by a right of way?"

"Whenever you make a sweeping land change like this, there are a million exceptions to the rules," Luther said.

With a 5,000-square-foot merger requirement, Luther warned that the accurate measurement of lots becomes especially critical.

"Just because a lot looks like a 5,000-square-foot lot doesn't mean it is," Luther said. "This lot may be measured differently because it's a parallelogram instead of a rectangle. What happens if a guy owns a lot which is one-square-foot short of 5,000 square feet, sells his house, and later the lot is discovered to be one-foot short? Who owns the house? What happens to all the people who may have bought or

ceremony in 1959.

Responding to the threat of suburban shopping centers that have sapped the life from central business districts of so many American cities, about 200 merchants formed the Downtown Kalamazoo Association and elected Dykema its first president.

sold that property in between? I hate to think of what could happen," Luther said.

The ordinance does not only apply to substandard-sized lots. It also states that parcels shall be merged if one was not created in compliance with already established laws, if it does not meet current sewage disposal and water standards, if it does not have stable slopes, is without legal access for vehicular traffic, its development would create health or safety hazards, or if it is inconsistent with the applicable general or community plan.

Many in the real estate industry may worry about the new ordinance, but Wolfsheimer claims any difficulties will be worked out.

tries sent representatives to Kalamazoo, and about 200 cities eventually built downtown pedestrian malls in the 1960s, '70s and early '80s, said Elizabeth Stabler, vice president of the International Downtown Association in Washington, D.C.

Once the novelty wore off in Kalamazoo, sales began slipping and many stores either moved to the suburbs or closed, among them such anchors as Woolworth and J.C. Penney.

"Two years ago, downtown was experiencing probably its worst year," Mayor Ed Annen said. "But things are back on track again."

The Upjohn Co., the pharmaceutical manufacturer based on the outskirts of the city, has announced plans for a \$122 million research center downtown, and Kalamazoo Community College is building a downtown campus.

Since most shoppers at the mall are downtown workers, any new growth downtown is good news for retailers. Currently, about 13,000 of the city's 80,000 residents work downtown, most within a block or two of the mall.

# EAT, DRINK, AND BE BURIED.



Go ahead. Live it up while you can. Eat anything and everything you want, from those processed meats to fatty dairy products to that extra measure of salt. But do it soon. Because poor eating habits can lead to high blood cholesterol, which can result in clogged arteries, a damaged heart, and an early death. The American Heart Association urges you to eat sensibly. Avoid food high in fat, salt and cholesterol. Avoid eating too much. It could keep you from an early grave and let you live it up a little longer.



**American Heart Association**

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