

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Open Space Easement Vacations

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Purpose

To establish a policy for reviewing and approving requests to vacate open space easements that have been granted to the County of San Diego.

Background

Open space easements acquired as a condition of approval of discretionary permits are vacated pursuant to Streets and Highways Code, Section 8300 et seq. This statute provides the procedure for vacating public service easements which by definition include open space easements.

In certain cases, the easements have proved to be overly restrictive, in the wrong location or no longer needed.

Periodically the County receives requests dealing with easements which were placed on property for a variety of reasons including:

- 1) environmental mitigation
- 2) lot size averaging/clustering projects
- 3) planned developments
- 4) substandard not a part lots
- 5) voluntary restriction of a project

The Board desires that open space easements be vacated only after careful consideration has been given to the original intent of the easement. Because of the variety of open space easements for which vacation requests could be received, the following policy has been established.

Policy

It is the policy of the Board of Supervisors that all or part of an open space easement can be vacated when all the necessary findings are made. The Director of the Department of Planning & Development Services (Director) shall review the proposed vacation and make a recommendation of approval, conditional approval or denial to the Board of Supervisors. This recommendation shall be based on the following findings:

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1. The vacation is consistent with the General Plan.
2. The easement is unnecessary for present or prospective public use as a public service easement as required by Streets and Highways Code section 8324.
3. The vacation complies with the California Environmental Quality Act and State and County Guidelines, and will not have a significant effect on the environment.

In addition to the legal findings listed above, the following criteria shall be used to evaluate proposals to vacate open space easements:

1. For easements placed on property voluntarily or placed in error (and not covered by 2 and 3 below), only the legal findings listed under 1, 2, and 3 above shall apply.
2. For easements required as part of lot size averaging/clustering projects and planned developments, a review of the file (to determine intent, developer commitments, planning group statements, etc.) and actions at prior public hearings shall be made to determine the intention of the easement and whether an open space easement vacation is necessary. In most instances, vacations of these easements will be discouraged.

A plot plan shall be submitted showing the intended use of the property that is subject to the easement that is being vacated. Further division of this property (if permitted by vacating the easement) shall not be allowed when the density will exceed original or, if subsequently changed, existing zoning and General Plan densities. Where possible, dedication of an equal amount of open space shall be required.

3. For easements placed on property for environmental mitigation, staff shall determine the original intent and need for the open space easement and shall prepare the appropriate environmental review of the proposed vacation. If the request is to vacate an easement that was dedicated in the wrong location, an easement in the correct location shall be granted. If the easement was dedicated in the correct location, an equal amount and quality of open space shall be dedicated on site or suitable mitigation shall be provided off-site, consistent with the conclusion of the environmental review. However, no substitute easement shall be required where the impact for which the open space easement was originally required has not and will not occur or where the easement area will continue to be preserved as open space by a different mechanism.

If the request is for a minor encroachment into the open space easement, refer to Board of Supervisors' Policy I-100.

Sunset Date

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This policy will be reviewed for continuance by 12-31-21.

Board Action

- 4-16-86 (3)
- 10-17-89 (54)
- 12-16-92 (7)
- 4-14-99 (11)
- 6-22-05 (21)
- 12-09-08 (33)
- 09-25-12 (11)
- 12-03-14 (4)

CAO Reference

1. Department of Planning & Development Services