

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Covenants to Improve Off-Site Private Road Easements for
Minor Subdivisions

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Purpose

The purpose of this policy is to establish criteria for the approval of minor subdivisions that are required to improve off-site private road easements.

Background

Government Code Section 66411.1 authorizes the County to require reasonable off-site road improvements for parcel maps. Sometimes the off-site road improvements are proposed to be made upon a private road easement. It is often difficult to determine whether the subdivider has the legal right to (1) improve the off-site private road easement to the extent required to meet the County's construction standards, and (2) to increase the use of the off-site private road easement to meet the needs of the proposed subdivided lots. If the subdivider does not possess such rights, it is possible that lots may be created without adequate access. Therefore, in an effort to provide adequate access without unduly burdening the subdivider or subjecting the County to possible liability, this policy is adopted to harmonize interests of the future owners of the lots, the subdivider, and the County.

Policy

It is the Policy of the Board of Supervisors that whenever the subdivider of a minor subdivision proposes to provide access to any of the proposed lots by means of an off-site private road easement improved to County standards and where there is any doubt as to the subdivider's legal right to improve or increase the use of the off-site private road easement, the tentative parcel map shall not be approved unless the conditions listed in the following subparagraphs A or B are imposed:

- A. When there is any doubt as to the subdivider's legal right to improve the off-site private road easement, the following conditions shall be imposed:
 - 1. The easement must have identifiable dimensions established by a recorded instrument;
 - 2. The subdivider shall provide the County with certifications by a registered civil engineer or licensed land surveyor stating that the required improvements including any and all slopes and drainage structures can be installed entirely within the dimensions of the recorded easement.

- B. When there is any doubt as to the subdivider's legal right to increase the use of the off-site private road easement, the covenant of Improvement Requirements

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which the subdivider is required to execute pursuant to Section 81.708 of the San Diego County Code shall be in a form approved by County Counsel and shall contain, in addition to any other provisions which may be appropriate, the following specific provisions:

1. A notice to the successors in interest stating that the right to increase the use of the off-site private road easement sufficient to meet the needs of the subdivided lots has not been conclusively and authoritatively determined; and
2. A release and indemnification clause protecting the County from ensuing liability in the event access to the subdivided lots is restricted or prohibited at any time in the future.

Sunset Date

This policy will be reviewed for continuance by 12-31-2019.

Board Action

4-9-80 (17)
7-26-88 (43)
12-12-89 (49)
6-5-90 (43)
9-25-90 (41)
7-14-99 (4)
06-23-04 (12)
12-09-08 (33)
10-31-12 (4)

CAO Reference

1. Department of Planning and Development Services

2. County Counsel