

**CITY OF REDDING, CALIFORNIA
COUNCIL POLICY**

SUBJECT	RESOLUTION NUMBER	POLICY NUMBER	EFFECTIVE DATE	PAGE
EMINENT DOMAIN FOR OFF-SITE STREETS FOR ACCESS TO SUBDNS	90-598	1703	12/4/90	1

BACKGROUND

Section 66462.5 of the Government Code basically provides that when a City requires the dedication of right-of-way in conjunction with the approval of a tentative subdivision map, it may have to use its power of eminent domain if at the time of recording of a final or parcel map the subdivider has not acquired the right-of-way. Generally, it has been the position of the City that only the City Council could exercise the power of eminent domain; however, the approval, conditional approval, and denial of tentative maps is delegated to the Planning Commission absent an appeal. Also involved are the time limits under State law for the processing of tentative subdivision maps.

PURPOSE

It is the purpose of this policy to clarify the role of the Planning Commission related to conditioning tentative subdivision maps for off-site dedications and improvements.

POLICY

The Planning Commission shall continue to review and consider subdivision requests as provided for in the City Code to implement the standards of the Subdivision Ordinance and to further the implementation of the City General Plan, zoning, or plan lines adopted by the Redding City Council.

When, in the opinion of the Planning Commission, it is necessary to condition a subdivision to obtain off-site right-of-way for the safety of the traveling public, to minimize congestion, to protect the carrying capacity of arterials, to provide adequate sight distance, to maintain intersection spacing along arterials, to minimize traffic signals, or to provide paved public access to a project, the Planning Commission shall make such requirements subject to the following:

1. The dedication requirement will be consistent with the Redding General Plan, the Subdivision Ordinance, and any plan line or site-plan-review criteria adopted by ordinance of the Redding City Council.
2. The dedication requirement is necessary to accomplish one or more of the following:
 - a. To mitigate the environmental impacts of the project as identified in any final environmental impact report.

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EMINENT DOMAIN FOR OFF-SITE STREETS FOR ACCESS TO SUBDNS	90-598	1703	12/4/90	2

- b. To achieve consistency with the Circulation Element of the General Plan and any standards, policies, or street plans contained in the document.
 - c. The dedication requirement is necessary to ensure safe and adequate access to the project and the traveling public.
 - d. The dedication requirement is necessary to maintain and protect the integrity of the City's arterial street system.
 - e. That the need for dedication requirement and resultant street improvement is caused by the project, either by itself or in conjunction with other projects in the immediate area, and that failure to make the dedication requirement will result in the City's having to spend public dollars to mitigate the access and safety aspects of the project that are the responsibility of the developer.
3. When an off-site-dedication requirement is imposed, a report of the subdivision approval and any condition of approval shall be filed with the City Council. On its own motion, the City Council may set a hearing to consider an off-site-dedication requirement imposed by the Commission at the time a report of the Commission's action is made to the City Council. If Council sets a hearing, it shall be limited to considering only the off-site requirements. If the Council does not set a hearing when the report is filed, the tentative map will stand as approved. Any appeal by either the developer, the property owner, or an affected party shall be processed as provided for in the City Code or the Subdivision Map Act.
 4. All costs to acquire right-of-way for off-site dedication shall be paid for by the subdivider.
 5. At the time of recording a final or a parcel map that requires the off-site acquisition of right-of-way and the subdivider has not acquired the right-of-way, the subdivider shall post a bond, enter into an agreement, or post security in an amount estimated to pay for any improvements in the area to be acquired and to pay for the acquisition of the right-of-way.
 6. If, when a final or parcel map is recorded, a legal and improved public access to the subdivision does not exist at a

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EMINENT DOMAIN FOR OFF-SITE STREETS FOR ACCESS TO SUBDNS	90-598	1703	12/4/90	3

location(s) approved by the Planning Commission, building permits shall not be issued for development of more than one lot in the subdivision. If right-of-way has been acquired after the recording of a final or parcel map, but the off-site improvements have not been made, not more than 10 percent of the lots in the project may be issued building permits. In this event, the subdivider shall be responsible for keeping all public streets used for access to the project free and clear of mud and other debris.