

# Offsite Rights for Subdivision Applications

The City of Victorville Municipal Code, Section 17.20.020 Filing of tentative map. states, in part:

*No application for a subdivision shall be accepted until the subdivider has either submitted proof of acquisition of all easements or demonstrated sufficiently to the city engineer that good faith attempts to acquire said easements by negotiation, including offer to purchase, have been unsuccessful.*

**BEFORE** the Planning Department can accept an application package for a subdivision, the applicant must first get clearance from the Engineering Department that all necessary easements exist.

The applicant will leave a copy of the tentative map with the Engineering Department for a determination that all off-site rights exist. Except for a very few “in-fill” subdivisions, most maps **WILL NOT BE SIGNED “OVER THE COUNTER”**. They must be left with the Engineering Department for review.

After reviewing the tract, the Engineering Department will contact the applicant with its' determination.

If all offsite rights are in place, the Engineering Department will sign the map and the applicant includes this signed map with the submittal of the tentative tract to the Planning Department.

If all offsite rights are NOT in place, the Engineering Department will inform the applicant of what easements or offers of dedication are missing, and will return the map to the applicant. It is then the responsibility of the applicant to make a “good faith attempt” to acquire the needed easements or offers of dedication.

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## WHAT OFFSITE RIGHTS ARE NEEDED ?

The most common easements that the Engineering Department is looking for are road rights-of-way for primary and secondary access, and access to sewer. Other easements might be required, but those would be dependant upon special conditions of the application being submitted.

Any necessary off-site rights must appear on **recorded** documents. These off-site rights must be easements or offers of dedication on **recorded** maps, or separately **recorded** easements or offers of dedication.

Rights-of-way on approved tentative maps are not acceptable, as there is no guarantee that those tentative maps will record by the time that the easement is needed for the applicant's development. Letters from property owners indicating that they are willing to sign those easements are not acceptable. **Again, only recorded rights are acceptable.**

## HOW DO I RECORD AN EASEMENT ?

If it is determined that additional off-site rights are needed, it is the applicant's responsibility, as per Section 17.20.020 of the Victorville Municipal Code, to obtain those rights. Typically, those steps would be as follows:

1. The project engineer begins by preparing the easement or offer of dedication, along with legal description and exhibit depicting the requested offer.
2. The easement or dedication is then reviewed by the Engineering Department.
3. The applicant then gets the appropriate owners to sign the offers and have the signatures notarized.

4. After the offers are signed, they are returned to the Engineering Department so that the City can attach a notice of acceptance (acknowledgment) of the easement or offer of dedication. Without this attachment, the Recorder's Office will not record the document.
5. Finally, the Engineering Department has the easement or offer of dedication recorded. It may take 4 to 8 weeks before confirmation of the recordation is returned to the Engineering Department. Until confirmation of the recordation has been received, the Engineering Department will not verify to the Planning Department that all offsite rights have been obtained.

It may be possible under some circumstances for the City to arrange for the applicant to record the documents. Check with the Engineering Department regarding this possibility.

#### **WHAT IF A PROPERTY OWNER WON'T DEDICATE THE EASEMENT ?**

If the owners are unwilling to sign, the applicant must document that "good faith attempts" to acquire the rights have been made. The applicant should submit, as a minimum

- Current appraisals of the property. (Within the last six months)
- Reasonable offers to purchase the easements. (A "reasonable" offer would be one at the appraised value or higher.)
- Rejection of the offers to purchase the easements/offers of dedication.

The City Engineer will then review this documentation and determine if a "good faith attempt" has been made, pursuant to City of Victorville Municipal Code Section 17.20.020. If the City Engineer makes that finding, the applicant will be allowed to submit the application package to the Planning Department.

The City of Victorville Municipal Code, Section 17.32.045 Final map - Acquisition of off-site rights. states, in part:

- (a) If, at the time of filing for approval of a final map, certain off-site rights required as a condition of the approved tentative map have not been acquired, pursuant to Section 17.20.020, the city shall commence proceedings to acquire said off-site rights. Within the time frame mandated by Government Code Section 66462.5, the city shall acquire, by negotiation, or commence proceedings pursuant to Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure to acquire those rights which are necessary for the public health, safety and welfare, as determined by the city engineer.*
- (b) The subdivider shall be responsible for all costs of acquiring the off-site rights. Prior to or concurrent with the filing of the final map, the subdivider shall also be required to post an initial deposit of five thousand dollars toward said costs. Subsequent deposits shall be required as deemed necessary by the city for further processing. In addition, prior to the approval of the final map, the subdivider shall be required to enter into an agreement with the city to complete the improvements required by Government Code Section 66462 at such time as the city acquires said off-site rights which will permit the improvements to be made. (Ord. 1672 § 2 (part), 1993)*

The time frame listed in Government Code Section 66462.5 state that the City shall acquire by negotiation or COMMENCE proceedings to acquire the land by condemnation within 120 after filing of the final map. So the City has 120 after the recording of the map to begin the condemnation process.

Municipal Code, Section 17.32.045 also says that the applicant shall pay for the costs of the acquiring the off-site rights, which would include the appraisal, purchase and court costs. The applicant is required to initially deposit Five Thousand Dollars (\$5,000.00) toward those costs.

#### **FOR FURTHER INFORMATION:**

Contact the Engineering Department 760-955-5158