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**MICROFILM LOCATION**

Cartridge No. ....

Frame No. ....

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File No. 7945  
February 9, 1988

## Agenda Item

DATE: February 9, 1988  
 TO: Board of Supervisors  
 FROM: Richard D. Welton, Director *Richard D. Welton*  
 Public Works & Development Services Department  
 SUBJECT: Scheduling Workshop on Private Roads

### RECOMMENDED ACTION:

Schedule workshop for 9:00 a.m., February 22, 1988, to discuss private road requirements.

### FISCAL IMPACT:

Staff time required to prepare report estimated to be approximately \$1,000.

### DISCUSSION:

The continued subdivision and development of new and existing parcels which are served by private road easements has brought to focus several possible problem areas. The issues include, but are not limited to, lack of all-weather access (residential and emergencies), adequacy of standards, and maintenance of constructed road improvements.

On December 1, 1987, your Board received a report from the Public Works & Development Services Department and held a public meeting regarding private roads and fire protection requirements. At this meeting your Board tabled discussion regarding fire protection until State regulations are developed and authorized a workshop on road requirements to be held in February, 1988.

It is recommended that the workshop be scheduled for February 22, 1988, at 9:00 a.m.

RDW:JS:jw  
5079K

ADMINISTRATIVE OFFICE REVIEW *Robert J. Pugh*

BOARD ACTION: DATE 2-9-88

APPROVED AS RECOMMENDED

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Page 1 of 1

OTHER



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COUNTY CLERK

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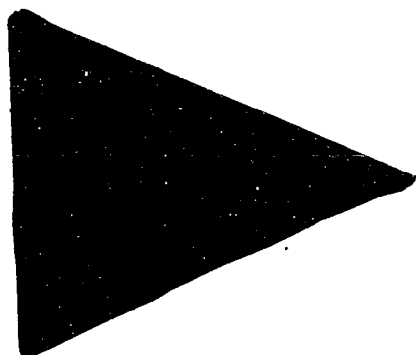
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## Agenda Item

DATE: February 22, 1988  
TO: Board of Supervisors  
FROM: Richard D. Welton, Director *Richard D. Welton*  
Public Works & Development Services Department  
SUBJECT: Workshop on Private Roads

### RECOMMENDED ACTION:

1. Direct staff to prepare amendments to the Ordinance Code pursuant to the issues stated herein related to road requirements.
2. Adopt resolution requesting LAFCO to expand the sphere of influence of County Services Area No. 35 to include all of Fresno County and waive the LAFCO fees.
3. Direct staff to initiate a comprehensive annexation of the sphere of influence of County Service No. 35 to the service area and authorize waiver of individual noticing in lieu of broad-scale public notice.

### FISCAL IMPACT:

Staff time required to prepare Ordinance amendments is estimated to be approximately \$2,500. Additionally, if the Board should choose to fund the cost of expanding the boundaries of County Service Area No. 35 as outlined in the discussion, an expenditure of approximately \$30,000 would also be required.

Initially, this cost would require funding by the General Fund as has been done with Improvement Districts formed to convert local streets from private to publicly maintained facilities.

Reimbursement of the initial expenditure would occur as the individual improvement areas are established and each parcel is assessed a proportionate share of the cost. It should be recognized that the General Fund may not be reimbursed for several years if improvement areas are slow in forming.

If the Board authorizes the comprehensive annexation to County Service Area No. 35 as recommended, it will be necessary to approve the \$30,000 from the General Fund for inclusion in the 1988-89 Budget.

ADMINISTRATIVE OFFICE REVIEW *E. J. Pauline*  
BOARD ACTION: DATE February 22, 1988 APPROVED AS RECOMMENDED ☒ OTHER ☒ Page 1 of 2

UPON BOARD ORDER: Workshop - HELD



Official Action of  
Board of Supervisors

- a. ----- APPROVED AS RECOMMENDED.
- b. ----- DIRECTED STAFF TO PREPARE RESOLUTION.
- c. ----- APPROVED AS RECOMMENDED.

UNANIMOUS *[Signature]* ANDREAN CONRAD KOLIGIAN LEVY RAMACHER

*m1*

DISCUSSION:

The continued subdivision and development of new and existing parcels which are served by private road easements has brought to focus several possible problem areas. The issues include, but are not limited to, lack of all-weather access (residential and emergencies), adequacy of standards, and maintenance of constructed road improvements.

On December 1, 1987, your Board received a report from the Public Works & Development Services Department and held a public meeting regarding private roads and fire protection requirements. At this meeting, your Board tabled discussion regarding fire protection until State regulations are developed and authorized a workshop on road requirements to be held in February, 1988.

Based on where activities are occurring, the primary area of concern is within that portion of the County lying east of the Friant-Kern Canal. The development standards for this area were adopted on March 25, 1975, and are inadequate to meet today's needs. Many of the problems could be resolved with incorporation of Ordinance amendments addressing the following issues:

1. Provisions for incremental improvement of the easement by each parcel using it to a defined standard acceptable to the fire agency together with a covenant for maintenance and/or future improvement of the easement.
2. Requirements for the subdivider to maintain public and A-15 private roads against any defective work or defective materials furnished in the construction of the road.
3. Establishment of a County Service Area for maintenance of local public roads and private roads constructed to the A-15 Standard.
4. Waiver certificates for Parcel Map Waivers with conditions for improvements normally required of parcel maps.
5. Certificate of Compliance for gift parcels with conditions for improvements normally required of parcel maps.

Staff has prepared the attached report which more fully discusses these issues. The report will be discussed in detail at the workshop.

RECOMMENDATION:

If it is the Board's desire to revise the road requirements, it is recommended that staff be directed to prepare Ordinance amendments for your consideration.

If your Board desires to facilitate formation of zones of benefit to provide for improvement and maintenance of roads, it is recommended that staff also be directed to file an application with LAFCO to expand the sphere of influence of County Service Area No. 35 to include the entire County and to initiate annexation of the Sphere of Influence to County Service Area No. 35.

RDW:JS:jw  
522LK

#794/5

REPORT  
ON  
REQUIREMENTS FOR NEW ROADS  
IN  
FRESNO COUNTY

PREPARED BY  
DEPARTMENT OF PUBLIC WORKS & DEVELOPMENT SERVICES

RICHARD D. WELTON, DIRECTOR  
February 1988

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## I. BACKGROUND

The continued subdivision and development of new and existing parcels which are served by private road easements has brought to focus several possible problem areas. The issues include, but are not limited to, lack of all-weather access (residential and emergencies), adequacy of standards, maintenance of constructed road improvements, and potential increased fire protection problems from the inventory of existing and additional lots/parcels that may be created.

As a result of concerns expressed by some property owners living in the Sierra North regional plan foothills, a public information meeting was scheduled by Supervisor Andreen on January 21, 1987, at Sierra Joint Union High School to discuss concerns about private roads and fire protection; particularly existing private roads. After the information meeting, staff reviewed current policies and a workshop was conducted for your Board on January 27, 1987. Issues discussed included existing private road standards and maintenance provisions; changes to private road standards; changes required for gift deeds; and County maintenance of public roads.

Staff received direction from your Board to review standards in these areas, prepare recommendations, and discuss them with industry and property owners. Your Board was also concerned that adequate notice of your Board's concerns be given for new subdivision proposals. A condition has been imposed on all approvals that all conditions relating to access requirements, resulting from the current studies initiated by the Board of Supervisors shall be met at the time of recordation of the Parcel Map, unless waived or modified by the Board of Supervisors. Also, where new public roads have been proposed the subdivider has been put on notice that your Board may not accept the maintenance of the roads and in that event an appropriate maintenance organization will be required to maintain the roads.

On December 1, 1987, your Board received a report from the Public Works & Development Services Department and held a public meeting regarding private roads and fire protection requirements. At this meeting your Board tabled discussion regarding fire protection until State regulations are developed and authorized a workshop on road requirements to be held in February, 1988.

## II. DISCUSSION

Based on the location activities are occurring, the primary area of concern with private roads is within that portion of the County lying east of the Friant-Kern Canal. The development standards for this area were adopted on March 25, 1975.

Concerns that have been raised by Board members and residents of affected areas include, but are not limited to, private roads for public use, lack of all-weather access, adequacy of standards and maintenance of constructed road improvements. The issues have been organized into several categories and will be discussed in detail in the following order:

- A. Access Easements
- B. County Private Road Standard
- C. Improvement of Private Roads in Tracts
- D. Improvement of Easements for Parcel Maps
- E. Subdivider's Security for Maintenance of  
Public and County Standard Private Roads
- F. Maintenance of Public Roads
- G. Maintenance Agencies
- H. Parcel Map Waivers
- I. Gift Deeds

A. Access Easements

Where parcels are approved for the purpose of sale, lease or financing it is the responsibility of the approving agency to prevent the creation of land locked parcels.

The existing requirements for subdivision maps include providing a 60-foot non-exclusive access easement lying between an existing public maintained road and the parcels being created together with an irrevocable offer for dedication to the County for future public road purposes coterminous with said easement.

At the last hearing the necessity for a sixty-foot easement was raised. The sixty feet is not the required width of the improved roadway; it is the width of the easement limits. Staff has found sixty feet necessary to accommodate the roadway, shoulders, drainage and cut and fill conditions. In some cases where cut and fills are excessive, additional slope easements are required outside of the sixty foot easement.

1. Non-exclusive Easement:

An easement is an interest in land of another, entitling the holder thereof to a limited use or enjoyment of the land in which the interest exists. An easement is said to be appurtenant to land when it is created to benefit and when it does benefit the owner of a parcel of land in his/her use and enjoyment of such land. Being non-exclusive simply means the owner of the underlying fee title of the easement retains the right to further grant the right of use of the easement to others. The right of use of the easement belongs only to those parties it is granted to. Creation of a non-exclusive easement does not create a right for the general public to use the easement.

2. Certification of Private Road for Public Use:

Since a subdivider can not grant himself an easement the current procedure to create the easement on the land being subdivided is to certify it for its intended use.

The certification of a private road for public use on the map by the subdivider creates a common-law, non-exclusive easement in favor of the public to use the private road through the subdivision. The subdivider has granted the public a non-exclusive easement to travel over his land via the private road. This procedure provides adjacent properties which may later be subdivided an access easement.

The property owners on this type of easement have expressed concerns about the problems caused by the public's right to use the private easement without any control by the owner or those required to maintain it.

3. Irrevocable Offer:

An irrevocable offer to convey an easement for public road purposes, in effect constitutes a continuous offer to the County of Fresno. It may be accepted at any time at the exclusive discretion of the County. This offer cannot be withdrawn or revoked by the offeror thereof, it is deemed to be "irrevocable". As such, it does place an encumbrance upon the land. The County does not acquire an easement therein for public road purposes until such time as it accepts the offer. This does not grant the public the right of use, until acceptance by your Board.

The reason for the requirement of an irrevocable offer is to enable the County to accept such easement at an undetermined future date if and when the access easement is constructed by the users to a public road standard, enabling it to become a public road.

RECOMMENDATIONS

1. Non-exclusive Easements:

Maintain the current requirement that a 60-foot non-exclusive private road easement be provided to each parcel being created. Legally, this requirement is necessary to prevent the creation of land locked parcels.

2. Certified for Public Use:

Staff recommends that we continue with the certification of the private easements for public use. This type of certification facilitates further division of property by avoiding the necessity of owners to get access approval from other owners.

An alternative would be to certify and grant the easement for private road purposes serving the parcels shown on the map and any subsequent subdivision thereof. This type of certification increases the potential for future conflict among the users of the easement as to the easement's intended usage. It also results in problems for adjacent lands. The owner of adjacent land would have to acquire access rights from each parcel created by the subdivision in order to subdivide his/her land.

As a second alternative, the subdivider could be required to certify and grant the easement for private road purposes serving the parcels on the map and also identified adjacent properties that will need to use the access easement for future subdivision. However, in many cases it would be difficult to determine all the lands the easement might be necessary to serve.

When these conflicts occur, affected parties often construe the problems as having been created by the County in allowing parcelization to develop without adequate access and often expect the County to resolve the matter, especially when expensive litigation is required to reach a solution.

3. Irrevocable Offer of Dedication:

Eliminate the current requirement of the irrevocable offer of dedication of the easement to the County for future public roads.

The public need to provide provisions for an easement to become a public road does not appear to exist.

In the future, if the majority of users of the easement want the easement to become a public road, individual grants of the easement to the County for public road purposes would be required from all owners of underlying fee title to the easement. If all owners don't agree, this could result in the need for eminent domain and increased costs for development of the public road.

B. County Private Road Standard

1. History

Prior to 1967 there were no requirements for private roads. In 1967 the A-15 Improvement Standard was developed. From 1967 to 1971, the A-15 private road was required to be designed and inspected by the subdivider's engineer. Surfacing of the road was a minimum requirement of two inches road-mix surfacing of native material. Upon completion of these roads the subdivider's engineer certified to the County that the roads had been constructed in accordance with the plans previously submitted by him/her.

Because of complaints concerning steepness of roads, drainage from roadways causing soil erosions on lots, non-compacted fills eroding and silting natural drainage channels, failures of roadway surfacing and other concerns expressed by property owners in several large subdivisions in the Squaw Valley area, the Public Works Department personnel began to periodically monitor the construction of these private roads. As complaints increased, Public Works Department personnel were spending more and more time investigating these complaints.

It was evident that the arrangement whereby the developer hires the engineer for the preparation of the construction plans and also certifying its proper construction completion was not working as originally contemplated. Too many changes were being made during construction without the knowledge or approval of the County.

In 1971, together with an increase in the construction requirements of the A-15 Standard, the Public Works Department also began the construction inspection of the A-15 private roads. The A-15 Standard as well as its inspection have not changed since 1971.

2. Current A-15 Standard

a. Geometric Section-

- (1) Current A-15 Improvement Standard allows pavement width of 18 feet when the number of lots served is less than 11. When the number of lots served or proposed to be served is between 11 and 60, the pavement width is required to be 20 feet. When more than 60 lots are to be served public road construction is required and the road(s) placed in the maintained road system. (Public road requirement - 24 feet minimum).
- (2) The maximum grade permitted for the A-15 road is 20 percent. (Public road requirement - 15 percent).

It was suggested at the last hearing that the allowable maximum grade of 20 percent be reduced to 15 percent.

Normally, the terrain dictates the grade of the road. A lesser grade will generate more drainage and maintenance problems due to larger cut conditions. In most cases the steeper grade exists for a couple of hundred feet which is acceptable to the fire district and is considered to be traversable when paved.

- (3) The minimum design speed for vertical and horizontal curves is 20 miles per hour. (Public road requirement - 25 miles per hour).

b. Structural Section-

The current A-15 Improvement Standard requires the road pavement to be designed in the same method and procedure used to design a public road. Public road design is based upon the anticipated volume of traffic and the quality of the soil the roadway will be built upon. The three exceptions from the public road requirements are:

- (1) In lieu of the 95 percent relative compaction requirements for a public road the A-15 road may have a 90 percent relative compaction;
- (2) The A-15 road pavement surfacing may be road mixed in lieu of the public road plant mixed surfacing laid with a paving machine;
- (3) The A-15 road structural section requirement may be reduced by the equivalent of 0.13 of a foot thickness of asphalt concrete. In general this would reduce the A-15 structural section to about one-half the public road requirement.

c. Drainage Requirements-

All public and A-15 roads and lots are required to be protected from natural drainage channels passing through the development from the following design storm:

- (1) 100-year storm for watershed areas larger than four square miles;
- (2) 25-year storm for watershed areas between one and four square miles;
- (3) 10-year storm for watershed areas less than one square mile;

On A-15 roads where fills are greater than five feet high the headwater depth for the design storm may be one-half of the height of the fill if the fill slope is protected.

d. Bridge Standards-

Bridge requirements under A-15 roads are the same as required for a public road except for the following:

- (1) The width of the bridge is based upon the more narrow A-15 Standard;

- (2) The headwater depth is based upon drainage requirements for the A-15 road.

Improvement plans using the standards designated above prepared by the subdivider's registered civil engineer are reviewed and approved by this Department for each project. Additionally, inspection and testing of the construction is performed by Department personnel to insure that standards are met.

Since the ordinance change in 1971 the present A-15 standard process has been used for tract maps with private roads and also parcel maps where more than twenty undeveloped or ten developed parcels are served. The facilities built using the present A-15 standard have for the most part been adequate and have not required extensive repair providing adequate and timely maintenance was provided.

#### RECOMMENDATIONS

1. Change maximum allowable grade to 15 percent where eleven or more lots are served and continue to allow maximum grade of 20 percent where less than eleven lots are served.
2. Maintain the current improvement standards except as changed above.

Reducing the grade will improve access to the lots for fire and accessibility. Frequency of traffic on the easement for less than eleven lots does not warrant a change where the terrain could make it difficult to serve such a small number with the lesser grade.

#### C. Improvement of Private Roads in Tracts

The Subdivision Ordinance currently requires proposed private roads to be constructed to the County's private road standard (A-15). Planned unit developments and condominium projects also construct private roads for circulation. At the last hearing there was discussion that all tract roads should be constructed to a public road standard.

In a relatively flat terrain, the cost involved would be the grading width from the minimum 18 feet to 24 feet or an increase of 33-1/3 percent. All culverts under the roadways would also require lengthening to the same increase as the grading or 33-1/3 percent.

The addition of a thicker structural section would increase the construction cost by approximately 50 to 60 percent. Construction cost of private roads in a steep terrain would increase significantly. The construction cost in these areas could increase by several hundred percent. This is due mainly to the larger cuts and fills required to meet the increase in the design speed from 20 miles per hour to 25 miles per hour and the maximum slope of the

roadway being reduced to 15 percent from 20 percent. Larger cuts to meet the new design requirements also increase the possibility of encountering granite or blasting granite to a greater depth. Larger cuts and fills also require more maintenance because of greater bared surface areas.

Staff has reviewed three recent typical tract projects for construction cost comparison from private to public road standards.

The first, located west of Morgan Canyon Road north of Millerton Road, created twelve five acre lots. The private road was virtually built to a public road standard with the exception that the width of pavement was twenty feet in lieu of twenty-four feet. The average private road costs per lot was estimated to be \$8,600. Had the road been constructed to public road standards the approximate cost per lot would be \$9,800. A difference of \$1,200 per lot.

In the second tract, located east of Morgan Canyon Road north of Millerton Road, fifty-eight five acre lots were created and the existing traversable easements improved to the County's private road standard (A-15) at an estimated cost of \$3,600 per lot. Upgrading to public road standards, the approximate cost per lot would have been \$6,500. A difference of \$2,900 per lot.

The third tract, located north of Lodge Road west of State Highway No. 168, created thirty-nine five acre lots. This is the most representative of private versus public road construction costs. The average private road costs per lot was estimated to be \$5,700. Constructed to public road standards, the approximate cost per lot would be \$10,300. A difference of \$4,600.

Concerns were also voiced by residents in the Squaw Valley area that completion of improvements should be required prior to lot/parcel sale. This may have presented some problems years ago. However staff has not received complaints from purchasers of lots/parcels or have knowledge of any problems under the current subdivision agreement process.

Current State statutes and local ordinances allow the County to accept a subdivision agreement and the posting of securities by the subdivider to guarantee completion of the required improvements when not completed at the time of filing of the map.

Taking into consideration the time of year and the size of the project, a realistic time schedule is developed and made a part of the subdivision agreement. The goal is to have the improvements constructed as soon as it is practical to do so.

The subdivision agreement also requires that an all weather access be maintained to all lots/parcels which have been issued a building permit.

A subdivider usually elects to enter into a subdivision agreement for several reasons.

1. Funding of the construction loan is contingent on the recordation of the map.
2. Weather does not permit or has delayed construction.
3. Application for the final subdivision report from the Department of Real Estate can not be made until the final map is recorded.

Once the subdivision map is recorded, the lots/parcels may be sold, leased or financed without any further approval of the local agency. Therefore, if improvements were to be constructed prior to sale it would in effect require improvements to be completed prior to filing of the map. Considering the problem in obtaining financing prior to recordation of the map, it would be difficult to require the improvements prior to sale of lots.

#### RECOMMENDATION

Maintain the current ordinance requirements.

The current ordinance requirements have been acceptable to subdividers and lot purchasers. Staff is not aware of problems with the present procedures.

#### D. Improvement of Easements for Parcel Maps

The current parcel map ordinance requires the road easement(s) lying between the existing public maintained road and the parcels being created shall:

1. Be improved to a condition which meets the vehicular needs of the present users and the future owners of the divisions shown on the parcel map,
2. Provide for a road alignment and grades as required by the County of Fresno's Parcel Map Ordinance,
3. Have adequate sight distance provided for both ingress and egress to and from the County maintained road, and
4. Provide for the necessary grading and erosion controls to prevent sedimentation or damage to off-site property arising out of the use of the easement.

The requirements stated above are required to be certified by the subdivider's civil engineer.

The easement certifications are reviewed in the field by the Department's Development Engineering Section.

Where the easement serves twenty undeveloped or ten developed parcels, having a lot area of less than 20 acres, the easement must also be improved to the County's private road standard (A-15). The standard requires the road pavement to be designed with the same methods and procedures used to design a public road, and is based upon the anticipated volume of traffic and the quality of the soil the roadway will be built upon. The structural section requirement is reduced by the equivalent of 0.13 of a foot thickness of asphalt concrete for the road. This reduction is approximately equal to a structural adequacy of one-half of a public road requirement. The construction is inspected by County staff.

#### RECOMMENDATIONS

1. Valley floor between Friant-Kern Canal and I-5:

Maintain the current requirement that the private road to parcels of less than 20 acres be improved to the County's private road standard (A-15).

2. East of the Friant-Kern Canal and west of I-5 change the requirements as follows:

- a. Private roads shall be improved for a distance determined by the director based on either the number of parcels on the private road or the length of private road on the parcel being divided to the following standard:

- (1) Where less than 60 parcels are served by the easement and have

10% + grades - paved road in accordance with proposed standard A-15-B and C

7 to 10% grades - crushed rock in accordance with proposed standard A-15-B and C

less than 7% - gravel in accordance with proposed standard A-15-C

NOTE: Proposed standard A-15-B and C are included within this report.

- (2) County's private road standard (A-15) for 60 or more parcels served by the easement.

Briefly discussed at the last hearing was whether 60 lots was too many to be served without the requirements of pavement.

Public hearings on tentative parcel maps have been called for by adjacent owners to protest the County's requirement for pavement of their roads where the easement will serve twenty undeveloped or ten developed parcels.

The general consensus of parties maintaining their access easements is that they don't want them paved. It's harder for them to maintain. The proposed standards have been acceptable in the past when new users are being added to an existing easement.

The traffic generated by 60 parcels should adequately be accommodated by the proposed standards with proper maintenance of the road.

- b. The balance of the easement shall be certified by a registered civil engineer as to adequacy for passenger cars and certified by the fire district serving the area as being adequate for fire apparatus.
- c. The subdivider shall execute a covenant running with the land agreeing that they will contribute their proportionate share toward the improvement and/or maintenance of the private road to a standard determined adequate by the users of said private road, through a district, agency or other entity, whether public or private, for the improvement and/or maintenance of said private road.

These procedures make provisions for incremental improvement of the easement by each parcel using it to a defined standard acceptable to the fire agency and a commitment for maintenance and/or future improvement of the easement.

E. Subdivider's Security for Maintenance of Public and County Standard Private Roads

The Subdivision Ordinance presently requires the subdivider of a tract to provide a one year maintenance period after the construction of a private road to the County's private road standard against any defective work or labor done, or defective materials furnished in the construction of the road. The subdivider is required to post with the County security in the amount of 100 percent of the estimated costs of the improvement to guarantee the maintenance period. The parcel map ordinance does not currently provide for a maintenance period.

Current County policy does not require a maintenance period for roads built to public road standards. In the canvass of the counties of Madera, Monterey, Kern, Kings, Merced, Tulare, and Inyo only Kings and Tulare required no maintenance period. The cities of Fresno and Clovis both require a one year maintenance period.

#### RECOMMENDATIONS

Maintenance of roads is the major concern of all, whether public or private. In order to have assurance that the roads are warranted as to their construction the subdivider needs to be held responsible for any defective work or labor done, or defective materials furnished in the construction of the road.

The following shall apply to both tract and parcel maps.

1. Improvement security shall be provided to secure the maintenance of a public or private road after the acceptance of work thereof against any defective work or labor done or defective material furnished in the construction of the road or insufficient drainage facilities for a period of two years for developments above 600 foot elevation or one year for developments below 600 foot elevation.

The security shall be in the following amount:

a. First Year.

Thirty percent of the first \$300,000 of estimated construction cost (\$10,000 minimum) plus 20 percent of the amount over \$300,000.

b. Second Year.

Upon completion of the corrections of failures, security may be reduced to 50 percent of the first year amount.

Based upon previous experience, the reduction in the security amount from 100 percent should be sufficient to adequately cover any repairs and maintenance costs that could arise.

The major expense in the foothills and mountainous areas is the excavation and grading of the roadways. Failure of the road can occur in areas such as slopes, pavement and drainage. However, these failures are a relatively small portion of the entire work.

A two year maintenance period should provide for adequate testing of the completed roadway. An argument can be made that the longer the maintenance period the better. While this may be true, experience indicates if failures are to occur it most often happens within the first year. With the recommendation of an additional year's maintenance responsibility, staff believes most deficiencies will be corrected.

F. Maintenance of Public Roads

The taking of new roads into the maintained road system creates a need to maintain without a source of revenue.

Due to the inability of the County to adequately maintain the existing roads in the system it was suggested by your Board that no more roads should be added to the system and directed staff to review this issue.

In a canvass of the counties of Madera, Monterey, Kern, Kings, Merced, Tulare, and Inyo and the cities of Fresno and Clovis, Madera and Monterey Counties were the only two that do not accept local roads into their maintained road system. In these two Counties, major roads such as collectors and arterials required to be constructed by a development are considered for County maintenance on an individual basis.

Madera accepts the dedication of right-of-way and considers all roads to be public. Maintenance is provided by maintenance districts or county service areas. Monterey rejects the dedication of right-of-way and considers all roads to be private. Maintenance is provided by homeowners associations.

In general Fresno County's ordinances refer to "public road" or "dedicated and improved road". In order to comply with the ordinances the acceptance of dedication of right-of-way by the Board would be necessary and the roads continue to be built to County public road standards. However, acceptance of right-of-way does not include or imply acceptance of maintenance. Acceptance of a road into the maintained road system requires a resolution of the Board of Supervisors separate from accepting the dedication.

It is the opinion of the County Counsel's office that the County does not have liability where roads, even though built to County standards, have not been accepted into the County maintained system and the offer of dedication has not been accepted by the County. However, where the offer of dedication has been accepted by the County, the County may have some risk of liability for a dangerous condition to that road under the provisions of Government Code Section 835, although the risk may be low.

Your Board's past policy has been acceptance of roads into the County maintained road system when dedicated and constructed to public road standards. In 1987, 1.24 miles of new local roads were added to the system and in 1986, 2.35 miles.

The level of road maintenance for Fresno County is dependent upon funds made available from various sources for road construction and maintenance. Currently, these funds are not keeping pace with the maintenance needs on existing roads within the County's maintained system. As of October, 1987, the Department has determined that the

annual shortfall for maintenance on existing roads is approximately \$6,000,000. Since there is essentially no increase in funds received for adding road miles to the maintained system, based on current funding apportionment formulas, the addition of road mileage to the system will only result in the continued dilution of road maintenance services for the County local road system until major changes are made in gas tax distribution formulas.

#### RECOMMENDATION

The County will continue to accept the offer of dedication and not accept new local public roads into the County maintained road system. Collector and higher classification roads and extensions of existing maintained roads will continue to be public roads maintained by the County as these types of roads are used by the public at large and are not serving a localized need.

Roads required to be built to public road standards for inclusion into the maintained road system by prior tentative subdivision approvals will continue to be accepted. The Subdivision Map Act (Government Code Section 66474.1) states "A legislative body shall not deny approval of a final or parcel map if it has previously approved a tentative map for the proposed subdivision and if it finds that the final or parcel map is in substantial compliance with the previously approved tentative map".

Where an extension of time is applied for and granted for those prior tentative approvals, the new maintenance provisions will be applied.

#### G. Maintenance Agencies

Recapping our current requirements for maintenance:

1. Parcel map private easement roads.
  - a. Certified easement - recorded covenant for maintenance which is enforceable by the fire district.
  - b. County private road improvement - no requirements for maintenance.
2. Tract map with County private road improvement.
  - a. One year maintenance period provided by the subdivider.
  - b. Homeowners association provides maintenance afterward.

Adequate and timely maintenance has proven to be the biggest contributor to the access problem. Existing maintenance provisions are inadequate and requirements should be amended to improve the process to assure positive results in the future. Alternatives that are available:

1. Voluntary Assessment
2. Assessment District
3. Community Services District
4. Permanent Road Division
5. Recorded Maintenance Agreements
6. County Service Areas.

At the direction of your Board and at the request of the Public Works & Development Services Department, the County Counsel's office have reviewed various types of public financing mechanisms available which could possibly be used to maintain private roads. By "private roads", we refer to those roads which have not been accepted into the County-maintained road system. The primary focus of review was on four types of districts: community facilities districts, community services districts, permanent road divisions, and county service areas.

#### Community Facilities Districts

A community facilities district (C.F.D.) may be formed pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 et seq.). As you are aware, there is presently one such district in the Shaver Lake area. The Legislature has give broad powers to such districts in the types of facilities which a C.F.D. may construct and maintain. Although the maintenance of private roads is not directly addressed by the Act, it is certainly implied in Section 53313.5(f) which confers on the district the power to do anything that the governing body which formed the district may by law do.

If a C.F.D. were formed, the source of funding to maintain the private roads would be from a special tax. The major drawback to this type of funding is, of course, that a two-thirds vote majority is required before such a tax can be imposed. Additionally, if at anytime in the future it became necessary to increase the amount of the tax, a further election, requiring two-thirds majority approval, would be required.

#### Community Services Districts

A community services district (C.S.D.) can be formed pursuant to Government Code Section 61000 et seq. A C.S.D. may have its own elected governing body or the Board of Supervisors may be the governing body of such a district. A C.S.D. may form an improvement district to maintain private roads, may prescribe and collect charges for such maintenance, or may, with voter approval, levy a tax for such improvements.

The creation of or annexation to a C.S.D. requires L.A.F.C.O. approval. The Fresno County L.A.F.C.O. currently has a policy which disfavors the creation of large regional multi-purpose C.S.D.'s. Therefore, it might be difficult to establish such a district.

Additionally, as noted in the discussion of a C.F.D., should the C.S.D. determine that the appropriate means of financing is through the levying of a tax, two-thirds voter approval would be required. However, since the district also has the authority to impose charges or to form improvement districts, it remains a viable mechanism for maintaining private roads.

#### Permanent Road Divisions

A permanent road division (P.R.D.) may be formed pursuant to Streets and Highways Code Sections 1160 et seq. A P.R.D. can only be initiated by a petition signed by at least a majority of the landowners or by owners of more than 50 percent of the assessed valuation in the proposed division. There is no L.A.F.C.O. involvement in the formation of a P.R.D.

The roadwork may be funded through the use of "parcel charges" based on benefit and no voter approval is required for these charges. The work can also be funded through a special tax which would, of course, require two-thirds voter approval. Voter approval would also be necessary prior to issuing any bonds.

Because a P.R.D. may be formed without L.A.F.C.O. involvement and without an election, the formation process is less cumbersome than that of some other types of districts. However, the requirement of obtaining the signatures of at least 50 percent of the landowners as noted above, could result in the creation of many very small P.R.D.'s throughout the County which may not be the most efficient way to perform the work.

#### County Service Areas

A County Service Area (C.S.A.) may be formed pursuant to Government Code Section 25210.1 et seq. One of the services authorized to be performed by a C.S.A. is road maintenance. (Section 25210.4(a)). Several California counties have established C.S.A.'s for maintenance of private roads and at least one, Santa Cruz County, has formed a County-wide C.S.A. to maintain roads in that county. Although the Board of Supervisors would be the governing body of the C.S.A., the act of maintaining the private roads would not bring the roads into the County-maintained system unless and until the Board, by resolution, officially accepted the roads pursuant to Streets and Highways Code Section 941.

A service area can be initiated by petition of registered voters or by the Board of Supervisors. L.A.F.C.O. approval is required. Improvements can be financed by charges imposed by the Board based on the benefit to each parcel.

In summary, it appears that a county service area may be more viable than the other three types of districts.

County Service Area No. 35 was recently formed at the request of property owners in the area of Ruth Hill and Dunlap Roads in order to maintain private roads. Only road maintenance is authorized for the district. Formation of zones of benefit "B" and "C" located in the Squaw Valley and Dunlap areas of the Sierra foothills were before your Board on November 24, 1987. Petitions

for future Zones "D" and "F" are being circulated for signatures at this time and the petitions for Zone "E" and "G" have been returned to L.A.F.C.U. for processing.

Formation of a zone of benefit is a voluntary request by the property owners in a given area seeking in these cases, the maintenance of their private roads. Subject to Board approval the level of service for each zone is determined by the property owners in that zone. In accordance with County procedures that level of service must meet at least minimum safety standards. Each zone of benefit is separately run and has its own budget. Equitable distribution of costs is spread among all benefiting parties in a particular zone of benefit.

On October 15, 1987, the Fresno Local Agency Formation Commission adopted the sphere of influence of County Service Area No. 35 to include all that area east of the Friant-Kern Canal in the County of Fresno. Additional service areas will be needed to provide for maintenance of roads throughout the balance of the County or the sphere of influence of County Service Area No. 35 expanded to encompass the entire County. Individual annexations could continue to take place or a blanket annexation of the entire sphere of influence could be initiated by your Board. There would be no assessments or charges levied against a property until a zone of benefit was formed at the request of the property owners.

Currently, individual annexations to County Service Area No. 35 together with zone formation are processed at the request of property owners.

Examples of estimated costs for typical individual annexation and zone formation are as follows:

| ITEM                                                    | 20 LOTS    | 500 LOTS     |
|---------------------------------------------------------|------------|--------------|
|                                                         | 100 ACS    | 2,500 ACS    |
| 1. <u>C.S.A. Annexation</u>                             |            |              |
| A. L.A.F.C.U. Fees                                      | \$1,200    | \$1,500      |
| B. State Fees                                           | 350        | 900          |
| C. Staff Time (maps, legal descriptions, budgets, etc.) | <u>665</u> | <u>4,750</u> |
|                                                         | \$2,215    | \$7,150      |
| 2. <u>Zone Formation</u>                                |            |              |
| A. State Fees                                           | \$ 350     | \$ 900       |
| B. Staff Time (maps, legal descriptions, budgets, etc.) | <u>550</u> | <u>4,150</u> |
|                                                         | \$ 900     | \$5,050      |

Your Board could consider the comprehensive annexation to accommodate the request, rather than annexation tract by tract or road by road. Some savings in time and money would result. Zones would be formed later within the C.S.A. as petitions are made. Each zone would be a separate budget unit within the C.S.A. The County would hold community meetings and public hearing, and make necessary filing with the state to form each zone.

Estimated costs for a blanket annexation of a County-wide sphere of influence would be as follows:

|    |                                            |          |
|----|--------------------------------------------|----------|
| A. | L.A.F.C.O. Fees                            | \$ 3,000 |
| B. | State Fees                                 | 1,750    |
| C. | Staff Time (maps, legal description, etc.) | 25,250   |
|    | TOTAL                                      | \$30,000 |

With a blanket annexation the costs could be absorbed by the County, allowing property owners to pay zone formation costs only; or the initial costs expended by the County could be reimbursed to the County on a proportional basis by the property owners as zones of benefit are formed.

#### RECOMMENDATIONS

1. Maintenance of local public roads and private roads constructed to the A-15 County standard shall be provided by a county service area.
2. Adopt resolution requesting L.A.F.C.O. to expand the sphere of influence of County Service Area No. 35 to include all of Fresno County and waive the L.A.F.C.O. fees.
3. Direct staff to initiate a comprehensive annexation of the sphere of influence of County Service Area No. 35 to the service area and authorize waiver of individual noticing in lieu of broad scale public notice.
4. Maintenance of common areas in a condominium or planned unit development may be provided by a homeowners association.

#### H. Parcel Map Waivers

Tentative Parcel Map Waivers are currently processed for the creation of parcels having a minimum lot area of 20-acres on the Valley Floor, 40-acres elsewhere throughout the County, and for the creation of two to five-acre parcels for financing the owners residence. Recorded access easements and improvement of private roads are not required for these waivers. This can result in the creation of parcels without adequate access. Another problem associated with this type of application is the lack of a recorded document authorizing the creation of the parcels. Department records are the only source of information, for title companies and the public to determine whether the parcels were legally created.

#### RECOMMENDATION

Waiver certificates shall be recorded for all approved waiver applications after conditions of approval are met.

Waivers, for the creation of parcels, will be reviewed the same as tentative parcel maps related to access, improvements, fire

protection and Health Department requirements. Where the easement traverses only the project being divided, it shall be certified by a registered civil engineer as to adequacy for passenger cars and certified by the fire district serving the area as being adequate for fire apparatus. This would insure accessibility to the parcels being created and minimize costs when the increase in traffic does not affect other properties. The recordation of the certificate will assure conditions of approval have been met and is in compliance with local ordinance.

I. Gift Deeds

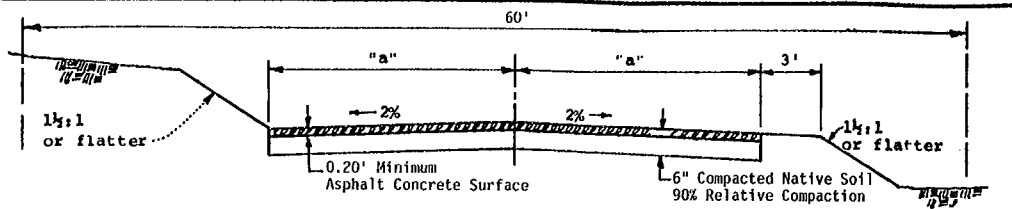
Numerous parcels are being created by gift deeds throughout the County without review. The parcels may be created without access to public roads or without a review of impacts on existing private roads. In addition, parcels are being created that may be unbuildable due to limitations for wells and septic systems.

RECOMMENDATIONS

1. A pre-application for certificate of compliance shall be filed prior to the creation of any parcel by gift deed.
2. Conditions may be imposed, for the creation of gifts, related to access, fire protection, and Health Department requirements.  
  
The degree of improvements will be directly related to the number and size of the parcels being created.
3. After approval of a pre-application and recordation of a gift deed, a certificate of compliance shall be filed.

This procedure will allow review of gift deeds in the same manner as other divisions of land. It is more economical than filing a parcel map as a survey and filing of a map is not required.

1601Q



- a = 9' Ultimate lots served, less than 11
- a = 10' Ultimate lots served, 11 to 60
- a = 12' Ultimate lots served, 60 or more

Structural section shall be determined from the A-10 and A-11 Improvement Standards. When aggregate base is determined necessary it may be Class 3 meeting the requirements indicated on Improvement Standard A-15-A. From the total Gravel Equivalent structural section determined above the Gravel Equivalent of 0.13' for asphalt concrete may be deducted for the required structural section. This structural section shall be not less than that shown on the above drawing. The 0.13' asphalt concrete pavement will be added as a second stage of construction in the future by the maintaining agency when traffic and road conditions warrant.

Alternate engineered design and material specifications may be approved by the Director of Public Works & Development Services.

The County will review the plans for private roads built to this standard and will inspect their construction.

Materials Specifications (See A-15-A).

Private roads shall meet all of the County of Fresno improvement standards except as modified by this A-15 standard.

#### PRIVATE ROAD

|                             |                      |
|-----------------------------|----------------------|
| COUNTY OF FRESNO-CALIFORNIA |                      |
| DEPARTMENT OF PUBLIC WORKS  |                      |
| REVISED                     | IMPROVEMENT STANDARD |
| DATE                        |                      |
| A-15                        |                      |
| DATE 12/87                  |                      |

Class 3 Aggregate Base

| <u>Test</u>                | <u>Requirements</u> | <u>Test Method</u>               |
|----------------------------|---------------------|----------------------------------|
| Resistance<br>(R-Value)    | 70 Min.             | No. Calif. 301                   |
| Sand Equivalent<br>Grading | 20 Min.             | No. Calif. 217<br>No. Calif. 202 |

| <u>Sieve Sizes</u> | <u>Percent Passing</u> |
|--------------------|------------------------|
| 3/4                | 100                    |
| No. 4              | 50-100                 |
| No. 200            | 5-15                   |

Gravel Equivalent Factor - 1.0

Road Mixed Asphalt Surfacing

| <u>Test</u>                      | <u>Requirements</u>                                   | <u>Test Method</u>               |
|----------------------------------|-------------------------------------------------------|----------------------------------|
| Stabilometer<br>Value            | 25 Min.                                               | No. Calif. 304                   |
| Moisture Vapor<br>Susceptibility | 20 Min.                                               | No. Calif. 307<br>No. Calif. 303 |
| CKE<br>Aggregate                 | - Same requirement as for Class 3 Agg.<br>Regate Base |                                  |

Liquid Asphalt Grade - SC-800 or

As specified by the Director.

Gravel Equivalent Factor RHAS-----1.2

Plant Mixed Asphalt Surfacing

Aggregate Grading Requirements  
1/2" Maximum Medium

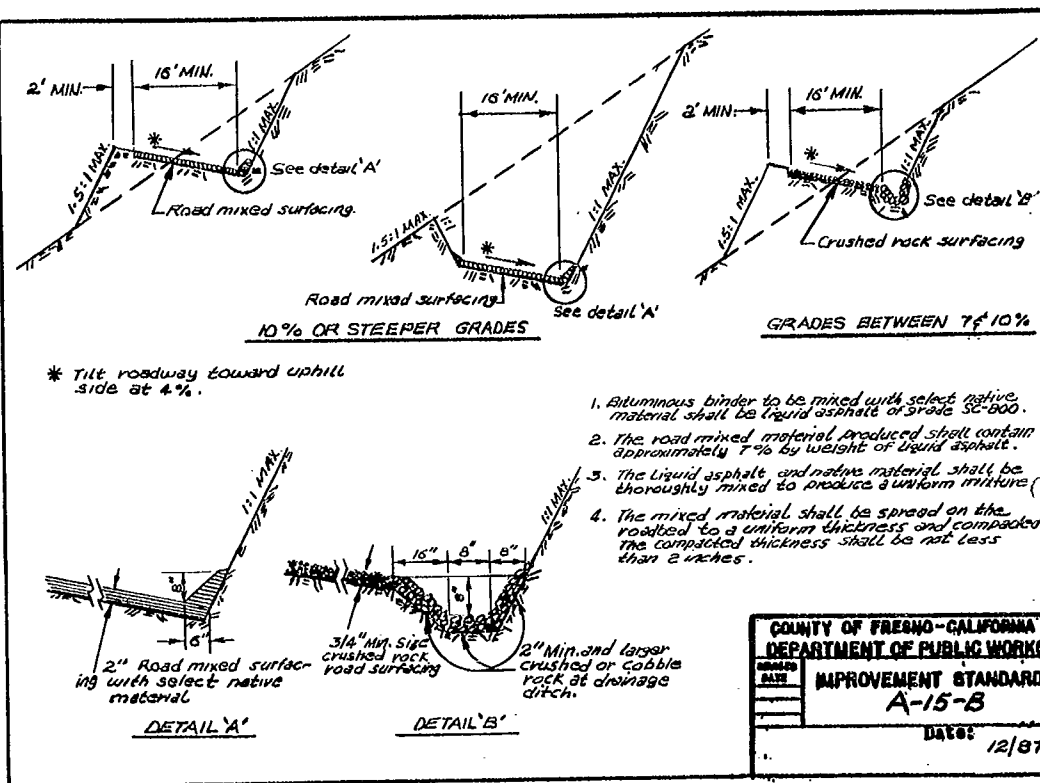
| <u>Sieve Sizes</u> | <u>Percent Passing</u> |
|--------------------|------------------------|
| 3/4"               | 100                    |
| 1/2"               | 89-100                 |
| 3/8"               | 75-100                 |
| No. 4              | 51-74                  |
| No. 8              | 35-57                  |
| No. 30             | 14-35                  |
| No. 200            | 0-11                   |

| <u>Test</u>                      | <u>Requirements</u> | <u>Test Method</u> |
|----------------------------------|---------------------|--------------------|
| Moisture Vapor<br>Susceptibility | 25                  | No. Calif. 307     |
| Stabilometer<br>Value            | 30                  | No. Calif. 304     |

Gravel Equivalent Factor---See Improvement  
Standards A-10 and A-11.

Asphalt binder to be mixed with aggregate shall  
be liquid asphalt Grade SC-800.

|                             |                      |
|-----------------------------|----------------------|
| COUNTY OF FRESNO-CALIFORNIA |                      |
| DEPARTMENT OF PUBLIC WORKS  |                      |
| REVIEWED<br>DATE            | IMPROVEMENT STANDARD |
|                             | A-15-A               |
| DATE 12/87                  |                      |



-24-

#### GRAVEL SURFACING REQUIREMENTS

Gravel surfacing shall meet the following requirements.

| <u>Sieve Sizes</u> | <u>Percent Passing</u> |
|--------------------|------------------------|
| 2"                 | 100                    |
| 1-1/2"             | 90-100                 |
| 3/4"               | 25-50                  |
| No. 4              | 0-5                    |

As an alternative decomposed granite may be substituted for gravel meeting the following definitions and requirements.

| <u>Definition</u> | <u>Sizes</u> | <u>Percent Passing</u> |
|-------------------|--------------|------------------------|
| Silt & Sand       | No. 4        | 100                    |
|                   | No. 200      | 70-50                  |
|                   | 5 <i>✓</i>   | 20-0                   |
| Silty Sand        | No. 4        | 100                    |
|                   | No. 200      | 50-30                  |
|                   | 5 <i>✓</i>   | 20-0                   |
| Sandy Silt        | No. 4        | 100                    |
|                   | No. 200      | 90-50                  |
|                   | 5 <i>✓</i>   | 20-0                   |

Gravel and decomposed granite shall have a minimum Sand Equivalent value of 20 determined in accordance with California Test 217.

#### CRUSHED ROCK SURFACING REQUIREMENTS

Crushed rock surfacing shall be 3/4 inches meeting the following requirements.

Percentage of crushed aggregate shall be not less than 90 percent in accordance with California Test 205.

The combined aggregate shall conform to the following sieve analysis.

| <u>Sieve Sizes</u> | <u>Percent Passing</u> |
|--------------------|------------------------|
| 3/4"               | 10-25                  |
| No. 4              | 25-50                  |
| No. 8              | 0-15                   |

The Sand Equivalent value shall be a minimum of 22 in accordance with California Test 217.

|                         |                               |
|-------------------------|-------------------------------|
| DESIGNED<br>DATE        | COUNTY OF FRESNO - CALIFORNIA |
|                         | PUBLIC WORKS & DEVELOPMENT    |
|                         | SERVICES DEPARTMENT           |
| IMPROVEMENT STANDARD    |                               |
| A-15-C      Date: 12/87 |                               |

#1794/5

A SUMMARY OF ALTERNATIVES TO  
DRAFT REQUIREMENTS FOR NEW ROADS  
FEBRUARY 1988

County of Fresno  
The Honorable Board of Supervisors  
Department of Public Works and Development Services  
Hall of Records  
2818 Tulare Street  
Fresno, California 93721

These brief alternatives are outlined in response to Public Works & Development Services' February 1988 Draft Report on Requirements for New Roads in Fresno County. Explanations, reasons, and evidence are attached.

The reason we are so concerned in the South Sierra is that our area has been adversely impacted by substandard "private roads for public use." We do not want to see anyone suffer the way our area has suffered. We also do not want our area further burdened with substandard roads that are unsafe, impossible to maintain properly, and an encumbrance and liability for homeowners.

Attached hereto are copies of evidentiary material documenting the adverse impact of private roads in our area. Further evidence is presented to support our alternatives. Further evidence is forthcoming.

We clearly protested these standards in a Board of Supervisors meeting held December 1, 1988. At that time, Public Works and Development Services Staff was directed by the Board to rework the requirements and to hold another public workshop.

We are very dismayed to see that almost nothing was changed from the previous draft report, and that which has been changed appears to be even worse. Therefore, we again contest the proposed standards for new roads in Fresno County, and we would like to see some real work done to improve the proposed standards.

Thank you for your careful consideration of these alternatives.

Sincerely,

*Sandra L. Brock*

Sandra L. Brock

EXECUTIVE SUMMARY: SHORT LIST OF RECOMMENDED ALTERNATIVES  
TO PUBLIC WORKS' FEBRUARY 1988 DRAFT REPORT

1. DO NOT ATTEMPT TO HAVE "CERTIFICATION" BY THE DEVELOPER AS THE ONLY LEGITIMIZATION OF THE PUBLIC'S RIGHT TO ACCESS NEW ROADS OR EASEMENTS. (See pp. 3 to 4 of attached.)
2. CONTINUE TO REQUIRE THE ORIGINAL SUBDIVIDER TO MAKE AN IRREVOCABLE OFFER OF DEDICATION [OF LAND FOR PUBLIC RIGHT OF WAY]. (See p. 4 and Exhibit A, Excerpt from West's Annotated California Codes)
3. ACCEPT THE OFFER OF DEDICATION. SINCE ROAD MAINTENANCE FUNDING IS SUCH A FINANCIAL PROBLEM, ASSESS EVERYONE COUNTY-WIDE FOR THIS-- NOT JUST RESIDENTS OF NEW ROADS, OR RESIDENTS IN CERTAIN GEOGRAPHIC AREAS OF THE COUNTY. BUILD ALL ROADS FOR PUBLIC USE UP TO PUBLIC STANDARD. (See pp. 4, 7, and 9; also Exhibits B and C on land valuation.)
4. STOP THE PURGING AND/OR DESTRUCTION OF TRACT FILES. THESE FILES CONTAIN DETAILED RECORDS OF PROPERTY IMPROVEMENTS, PLANNING COMMISSION ACTIVITY, BOARD ACTIVITY, AND ADMINISTRATIVE DECISIONS. TRACT MAPS DO NOT "STAND ON THEIR OWN"--THEY DO NOT CONTAIN THIS INFORMATION. THE FILES ARE NEEDED. (See p. 5).
5. REQUIRE THAT THE ENTIRE ROAD BE PAVED, NOT "JUST THE STEEP PARTS."
6. REDUCE ALLOWABLE GRADES TO 15%, TO ALLOW FOR SNOWPLOWING AS NEEDED.
7. REQUIRE DEVELOPER TO POST SPEED LIMITS WITHIN DESIGN SPEED LIMITS.
8. REQUIRE PAVEMENT WIDTH TO BE AT LEAST 20', ALLOWING TWO PICKUP TRUCKS WITH MIRRORS TO PASS EACH OTHER. (See p. 5.)
9. REQUIRE 95% COMPACTION OF ROAD BED MATERIALS UNDER THE PAVING.
10. REQUIRE THE SUBDIVIDER TO COMPLETE PAVING--DO NOT EXPECT HOMEOWNERS TO FINISH THE ORIGINAL REQUIRED PAVING JOB WITH THEIR "MAINTENANCE" DISTRICT MONEY.
11. REQUIRE A MINIMUM WIDTH OF 24' ON ALL BRIDGES. (IF IT'S WORTH DOING, IT'S WORTH DOING RIGHT.) (See p. 6.)
12. ENSURE THAT ALL IMPROVEMENTS ARE MADE AS PER APPROVED PLANS AND AGREEMENTS BEFORE ANY LOTS ARE SOLD IN THE SUBDIVISION. (See p. 7)
13. DO NOT ALLOW "INCREMENTAL IMPROVEMENTS" TO BE PAID FOR BY LOT PURCHASERS. SUBDIVIDER SHOULD PUT IN ALL IMPROVEMENTS--HE IS THE ONE WHO MADE THE AGREEMENT TO DO THEM; HE SHOULD PAY FOR THEM. (See p. 8.)
14. MAINTAIN CURRENT EASEMENT IMPROVEMENT REQUIREMENTS FOR ALL PARTS OF THE COUNTY. HAVE ONE STANDARD, NOT TWO SEPARATE BUT UNEQUAL STANDARDS.
15. ALLOW NO MORE THAN 20 UNDEVELOPED LOTS ON A DIRT ROAD. (See p. 7 and Exhibit D on comparative rainfall data for valley and hills)
16. DO NOT ALLOW THE SUBDIVIDER'S ENGINEER TO "CERTIFY" ANYTHING. HAVE COUNTY INSPECTORS AND ENGINEERS DO ALL THE PLAN CHECKING AND INSPECTING. [You don't allow the architect who designed a house sign off the building permits, do you? Tract roads are even more important than single home construction.] (See p. 8.)

A LITTLE MORE...

EXECUTIVE SUMMARY: SHORT LIST OF RECOMMENDED ALTERNATIVES (cont'd.)

17. CONTINUE TO REQUIRE THE SUBDIVIDER TO POST A BOND FOR AT LEAST 100% OF THE PROJECTED COST OF IMPROVEMENTS, SINCE CONSTRUCTION COSTS FOR ROADS ALWAYS RISE. HE'LL GET HIS BOND BACK IF HE BUILT GOOD ROADS.
18. REQUIRE A TWO-YEAR MAINTENANCE PERIOD BETWEEN I-5 AND THE FRIANT-KERN CANAL, AND A THREE-YEAR MAINTENANCE PERIOD IN OTHER PARTS OF THE COUNTY.
19. HAVE COUNTY INSPECTORS REVIEW THE CONDITION OF TRACT IMPROVEMENTS AFTER EACH YEAR OF THE REQUIRED MAINTENANCE PERIOD.  
(See p. 8.)
20. PROVIDE COMPLETE INFORMATION TO AFFECTED RESIDENTS ON ALL THE OPTIONS FOR ROAD MAINTENANCE, INCLUDING VOLUNTARY ASSESSMENT DISTRICTS AND PERMANENT ROAD DIVISIONS.  
(See p. 9 and Streets and Highways Code, Division 4, Section 2800 et seq.)

THAT'S ALL,  
JUST TWENTY LITTLE RECOMMENDATIONS  
ON AN OTHERWISE GREAT REPORT  
BY PUBLIC WORKS!

QUESTIONS:

1. What is the source of the definition given for "non-exclusive easement"?
2. What is the difference in intent and outcome between the following ?
  - a. Accepting a subdivider's "certification" of roads for public use;  
or
  - b. Accepting a subdivider's offer of dedication of roads for public right of way.

## I. BACKGROUND

Subdivisions initiated in the South Sierra during the late 1960's have been beset with infrastructure problems. Required fire protection improvements were not installed or were only partially installed. A new category of road was created (without benefit of Resolution or Ordinance), "private road for public use." Not only were homeowners burdened with all the liability for these roads and all the maintenance responsibility, the roads themselves were beset with physical problems such as grades too steep, pavement too thin, aggregate base not installed or not compacted, absent or inadequate drainage, and unstable hillside locations.

For the last twenty years, these roads have been an unending source of problems for the residents of the area and for the County. Several lawsuits were initiated and several attempts were made to rebuild or repair these roads. Because the standards for their construction were inadequate to begin with, and because the engineering of them was poor, deterioration of these roads has continued and even repaired sections have again collapsed or sloughed off hillsides.

Public Works and Development Services conducted a workshop for the Board on January 27, 1987. At that workshop, slides were shown by Public Works of badly damaged roads in the North Sierra area of the County. The worst damage shown was on dirt ("gravel") roads. Several South Sierra residents appeared and testified at the January 27th workshop, pointing out the disadvantages of private roads for public use and supporting the County's effort to strengthen subdivision and road construction ordinances.

At the public meeting held in Dunlap on November 5, 1987, the residents reviewed the draft of these changes and pointed out several deficiencies and problems. Over 50 residents attended that meeting.

At the December 1, 1987 Board of Supervisors meeting, over 150 area residents made the round trip of some 100 miles to protest both the subdivision/road requirements drafted, and the fire protection measures proposed. (There had been virtually no changes from the Nov. 5th draft.)

The draft before you again today is again virtually unchanged. This report and protests by several area citizens is another attempt to have the County improve its subdivision and road construction ordinances.

WE ARE HERE BECAUSE WE DO NOT WANT TO SEE OTHER PEOPLE SUFFER  
WHAT THE PEOPLE IN OUR AREA HAVE SUFFERED DUE TO BAD TRACT ROADS.

## II. DISCUSSION

Subdivision activities are occurring County-wide, not just east of the Friant-Kern Canal. In fact, there is a moratorium on subdivisions of less than 160 acres in the South Sierra Planning Area of Fresno County; this moratorium was approved by the Board of Supervisors and is to be in force until at least 1994.

The subdivisions that have occurred since the late 1960's have posed so many problems for the South Sierra that these tracts are still at only some 30% build-out. Residents of the South Sierra welcomed the efforts of the County to strengthen the subdivision ordinance so that future homeowners in Fresno County will not have to go through the same miseries.

Because Public Works and Development Services' report is organized along the following table, this list of alternatives will also follow:

- A. Access easements
- B. County Private Road Standard
- C. Improvements of Private Roads in Tracts
- D. Improvement of Easements for Parcel Maps
- E. Subdivider's Security for Maintenance of Public and County-Standard Private Roads
- F. Maintenance of Public Roads
- G. Maintenance Agencies
- H. Parcel Map Waivers
- I. Gift Deeds

### A. ACCESS EASEMENTS

Prevention of landlocked parcels--GOOD IDEA!

Minimum 60-foot wide non-exclusive access easement--OK IDEA

1. Definition of "Non-Exclusive Easement"--WHAT IS YOUR SOURCE FOR THIS?

### 2. Certification of Private Road for Public Use [Oh-oh; here's trouble!]

Land is not usually "certified" for an intended use, it is dedicated for that use. We find no widespread use of this so-called "common law" procedure of certifying easements. In fact, we find no enabling legislation.

Giving the public the right to use an access easement on private property creates an encumbrance on that land. This encumbrance reduces the effective size of the parcel, since it takes away some land that ordinarily would be usable to the homeowner. It further encumbers the land with liability.

## Cross References

Advisory agency, defined, see § 66115.  
 Subdivider, defined, see § 66123.

## Law Review Commentaries

Land development and the environment:  
 Subdivision Map Act. (1971) 6 Pacific  
 L.J. 55.

## Article 3

## DEDICATIONS

Sec.

- 66475. Public easements.
- 66475.1. Bicycle paths.
- 66475.2. Local transit facilities; requirements.
- 66475.3. Solar easements for solar energy systems; ordinance; contents.
- 66476. Waiver of direct access rights.
- 66477. Park and recreational purposes.
- 66477.1. Acceptance or rejection of offers of dedication.
- 66477.2. Offer of dedication; continuation after rejection; termination.
- 66477.3. Time of passing title.
- 66477.5. Interest on accumulated in-lieu fees; use; duration of section.
- 66478. School purposes.

Article 3 was added by Stats.1974, c. 1536, p. 3485, § 4,  
 operative March 1, 1975.

## Law Review Commentaries

When governments become land develop-  
 ers. George Lefcoe (1978) 51 So. Cal. L.J.  
 165.

## § 66475. Public easements

There may be imposed by local ordinance a requirement of dedi-  
 cation or irrevocable offer of dedication of real property within the  
 subdivision for streets, alleys, including access rights and abutter's  
 rights, drainage, public utility easements and other public easements.  
 Such irrevocable offers may be terminated as provided in subdivisions  
 (c) and (d) of Section 66477.2.

(Added by Stats.1974, c. 1536, p. 3485, § 4, operative March 1, 1975.)

## Historical Note

Derivation: Bus. & Prof.C. former § 1507, c. 1030, p. 2273, § 1; Stats.1959, c.  
 11325, added by Stats.1943, c. 125, p. 367, 390, p. 2215, § 2; Stats.1961, c. 2060, p.  
 § 1, amended by Stats.1913, c. 608, p. 4287, § 1; Stats.1983, c. 1531, p. 3130, §  
 2123, § 1; Stats.1917, c. 229, p. 322, § 1; 1; Stats.1965, c. 1150, p. 2884, § 7;  
 Stats.1953, c. 1014, p. 1921, § 3; Stats. Stats.1967, c. 727, p. 2009, § 3; Stats.

JEC C-11

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## § 66475

## SUBDIVISIONS

## Title 7

1967, c. 850, p. 2292, § 1; Stats.1968, c.  
 209, p. 601, § 2; Stats.1968, c. 331, p.  
 718, § 1; Stats.1968, c. 520, p. 1161, § 3;  
 Stats.1970, c. 500, p. 653, § 1; Stats.1971,  
 c. 358, p. 710, § 1; Stats.1971, c. 1310, p.  
 2534, § 5; Stats.1972, c. 700, p. 1267, § 2.

Stats.1937, c. 670, p. 1564, § 2.  
 Stats.1941, c. 637, p. 1857, § 1.

## Cross References

Local ordinance, defined, see § 66121.

Subdivision, defined, regulation of transactions in subdivided lands, see Business and  
 Professions Code § 11000.

## Law Review Commentaries

Forced dedications as a condition to  
 subdivision approval. (1971) 9 San Diego  
 L.Rev. 112.

## Library References

Dedication C-30.  
 Municipal Corporations C-43.  
 Zoning and Planning C-215.

C.J.S. Dedication § 38.  
 C.J.S. Municipal Corporations § 63, 81.  
 C.J.S. Zoning and Land Planning § 21.

## Notes of Decisions

In general 1  
 Implied dedication 2

highway construction standards and be-  
 come part of the county highway system.  
 61 Ops.Atty Gen. 400, 11-3-78.

## 1. In general

A city has no authority to require sub-  
 dividers, as a condition of approving sub-  
 division maps, to pay money into a fund  
 to be used to install traffic signals at ma-  
 jor intersections within the general area  
 but outside the boundaries of the subdivi-  
 sion. 63 Ops.Atty.Gen. 61, 1-20-80.

As a condition of approval of a subdivi-  
 sion, a county may require that the asso-  
 ciation of the subdivision parcel owners  
 maintain the subdivision roads dedicated  
 for public use until the roads meet county

## 2. Implied dedication

A non-exclusive easement for road and  
 utility purposes obtained by a private in-  
 dividuum and appurtenant to his land may  
 generally not be dedicated to a county for  
 public use in the absence of express lan-  
 guage in the original grant of the easement  
 indicating that it is for public use;  
 such an easement may be dedicated to the  
 county for public use if the original grant  
 to the subdivider was for "public road and  
 utility purposes" or "public and private  
 purposes." 61 Ops.Atty.Gen. 400, 11-3-  
 78.

EXHIBIT A

As owner of the land being subdivided, the subdivider can pretty much do as he pleases because he, after all, owns it. However, once that land changes hands, the subsequent owners are encumbered with this easement.

Because the entire "certification" issue is so legally unclear, and because there exists no mechanism for recording these "certificates" (?) on the deeds of the lots created, we recommend an:

- RECOMMENDATION: \*
- \* ALTERNATIVE: DO NOT ATTEMPT TO HAVE "CERTIFICATION"
  - \* STAND ALONE AS THE ONLY LEGITIMIZATION OF THE PUBLIC'S
  - \* RIGHT TO ACCESS NEW ROADS IN FRESNO COUNTY.

3. Irrevocable Offer [of Dedication]

This offer, when made by a subdivider, is also a form of encumbrance almost identical to the "certification" above. However, this one at least appears on all legal descriptions (deeds) and title reports. This gives fair warning to prospective land buyers that there is a public access easement on their property.

The irrevocable offer also provides for the County or City or some municipality to accept the road and maintain it at some future date. Without this irrevocable offer by the original subdivider, future acquisition of the road is all but impossible, as per California State Attorney General Ruling (61 Ops.Atty.Gen. 466, 11-3-78). A copy of the pertinent Government Code Section and accompanying Notes of Decisions from West's Annotated is attached.

- RECOMMENDATION: \*
- \* CONTINUE TO REQUIRE THE ORIGINAL SUBDIVIDER TO MAKE AN
  - \* IRREVOCABLE OFFER OF DEDICATION.

NOTE: If the easement is given to the public through a "certification" process, and subsequent landowners must spend money to maintain this easement, it might be construed as an unconstitutional taking of property (land or money) for the public, without just compensation. There was an analogous case about public access to beachfront property, and the landowner won in Supreme Court.

NOTE: If the irrevocable offer is discontinued, and if the existence of public access easements are therefore not documented on deed (legal description) or on maps, as well as all implications and requirements for the potential land buyer, this idea runs seriously afoul of State Real Estate Disclosure Laws.

- RECOMMENDATION: \*
- \* HAVE THE COUNTY ACCEPT OFFERS OF DEDICATION, AND IF ADDITIONAL
  - \* ROAD FUNDS ARE NEEDED TO MAINTAIN COUNTY ROADS, ASSESS
  - \* EVERY SINGLE COUNTY RESIDENT (OUTSIDE OF INCORPORATED CITIES,
  - \* WHICH DO THEIR OWN ROAD MAINTENANCE). DO NOT SINGLE OUT
  - \* THE FOOTHILLS FOR ALL THESE BRIGHT IDEAS.

B. COUNTY PRIVATE ROAD STANDARD

1. History

From the perspective of foothill residents, Fresno County does not have a proud history of foothill subdivision improvement. The deterioration of private roads so soon after their completion (within 3 years of being "certified" by the developers' engineers) does not speak well of either the standards set, nor the inspection capabilities of County Public Works and Development Services.

In order to protect itself and to document its efforts to maintain standards, the County should keep good permanent records of tract road engineering plan checks and tract road construction inspections.

RECOMMENDATION: \* STOP THE PURGING AND/OR DESTRUCTION OF TRACT FILES.  
\* TRACT MAPS DO NOT "STAND ON THEIR OWN." THE FILES  
\* ALSO CONTAIN DETAILED IMPROVEMENT RECORDS FOR TRACT  
\* INFRASTRUCTURE, ANALOGOUS TO A BUILDING PERMIT FILE  
\* FOR A HOME--WHICH IS A REQUIRED PERMANENT PUBLIC RECORD.

2. Current A-15 Standard

a. Geometric Section

- (1) Whether a street has 11 or 60 lots does not change the width of the cars people drive.

RECOMMENDATION: \* PAVEMENT WIDTH A MINIMUM OF 20 FEET FOR UP TO 60 LOTS.

- (2) Public Works' report implies that only the steeper parts of steep roads will have to be paved, not the entire road. This is a disaster, leading to rapid deterioration of the paved portion.

A 20% grade is very dangerous. County Public Works will not attempt to even snowplow a County road with this grade. Even if only "a couple of hundred feet" are that steep, that is still an unsafe section.

Public Works feels that additional cuts and fills to reduce grade create more erosion--what about the erosion caused by water running down the "chute" of a 20% grade road? Erosion on cuts and fills is never supposed to occur, as per the new grading permit requirements for mulching and reseeded.

Since design speed is something the public should know about for safety, the subdivider should post it.

RECOMMENDATIONS: \* PAVE AN ENTIRE ROAD, NOT ONLY "THE STEEP PARTS."  
\* REDUCE GRADES TO 15% OR LESS, CONTROLLING EROSION ON CUTS AND FILLS AS PER COUNTY GRADING PERMIT PROCEDURES.  
\* REQUIRE DEVELOPER TO POST SPEED LIMITS FOR SAFETY.

b. Structural Section-

A-15 Private Roads in the South Sierra have already collapsed from beneath, due in part to inadequate compaction.

Cold road mix fails to bond properly with underlying road base, resulting in faster deterioration.

We note that the developer will only have to put a very thin layer of asphalt/concrete over the road, and "The 0.13' asphalt concrete pavement will be added as a second stage of construction in the future by the maintaining agency when traffic and road conditions warrant." THIS STINKS.

- RECOMMENDATIONS: \*
- REQUIRE 95% RELATIVE COMPACTION FOR ALL ROADS.
  - REQUIRE SUBDIVIDER TO COMPLETE PAVING--DO NOT EXPECT HOMEOWNERS TO FINISH THE ORIGINAL PAVING JOB WITH THEIR "MAINTENANCE" DISTRICT MONEY.

c. Drainage Requirements:

How can a fill slope be protected from a raging flood half as high as the slope? Foothill soil is highly erodible, even if vegetated (as we note from the new County grading permit requirements).

d. Bridge Standards:

An 18' bridge is entirely too narrow, and is very dangerous. Since a bridge is tremendously expensive and difficult to remove and redo, it should be done right at the outset.

- RECOMMENDATION: \*
- MINIMUM WIDTH OF ALL BRIDGES TO BE 24'.

NOTE: If the Tract roads in Squaw Valley were rebuilt according to the 1971 A-15 standard (and we understand they were), this standard may not be adequate, since these roads have since again deteriorated.

C. IMPROVEMENT OF PRIVATE ROADS IN TRACTS

The increase in cost of making a better road is not 33-1/3%, as Public Works maintains.

First of all, not all roads will be widened from 18' to 24'. Some would only have to be widened from 20' to 24', a 20% increase.

Second, Many of the costs of road improvement have to do with getting men, supplies, and equipment to the job, insuring the job, and so forth. These are fixed costs for the job, and are not greatly affected by whether you pave ten feet or a hundred. The only additional incremental cost for widening a road will be an increase in materials and some increase in labor and machine time. This incremental increase will hardly be "33-1/3%."

The increase in cost due to increases in cuts and fills is valid. However, if there is no shoulder on a road, the road is not safe. And if there is a shoulder, you might as well pave it to protect it.

The data developed for the three tracts is only estimated, not actual. Nonetheless, it supports our contention for good public road construction.

Our tracts' raw land values are enhanced at least \$2,200 by being on a public road. I will come up with an exact figure when I have reviewed all the five-acre lots' assessed valuations in all the Squaw Valley tracts. So, if a developer needs to spend another \$2,000 per lot to come up to public road standards, he can have every expectation of making his money back (see attached chart).

Next, even the most expensive 5-acre lots cited in the example have a cost per lot of \$10,300. Considering this land is usually acquired very cheaply, and a five-acre lot on a public road will at least sell for \$18,000 in today's market, the developer could still make a lot of profit even if he had to put in a county public road.

Completion of improvements must be required prior to sale, or else there is very little incentive for the developer to make the improvements. Face it--at its best, the required bond is trivial when compared with the money to be made from selling lots. In our experience, "all-weather access" isn't. There have been, and will continue to be, complaints about lots sold but inaccessible due to lack of improvements.

Furthermore, fire protection improvements will likely also be required of the subdivider. These cannot be delayed.

We have no problem with the lots being used for financing. This is not the same as a sale of real estate to the public.

The map can be filed, with a subdivision agreement, before improvements are installed. However, sale of lots can and should be delayed until the tract is improved as per the agreement.

RECOMMENDATION: \* ENSURE THAT ALL IMPROVEMENTS ARE MADE AS PER PLANS BEFORE ALLOWING THE SALE OF ANY LOTS IN THE TRACT.

D. IMPROVEMENT OF EASEMENTS FOR PARCEL MAPS

There should not be a "relaxed" standard for foothill roads, due to rainfall, erosion, gophers, and lack of law enforcement staff. SIXTY HOMES ON DIRT ("GRAVEL") ROADS IS FAR TOO MANY HOMES TO DEPEND ON THIS POOR A TYPE OF ROAD.

RECOMMENDATION: \* MAINTAIN THE CURRENT REQUIREMENTS FOR ALL PARTS OF THE COUNTY.  
\* NO MORE THAN 20 UNDEVELOPED LOTS ON A DIRT ROAD.

The current requirements are easy, fair, and useful in protecting public safety and land values. There is no reason to make it more complicated or more of a mess. The reason for protests on tentative parcel maps is likely that owners on existing dirt roads could not afford mandatory upgrading. I don't think they would like another 40 or 50 parcels using their dirt road, either. If dirt roads are preferred for "privacy," putting 59 homes on them ruins it.

EXHIBIT B  
(NOT YET COMPLETE)

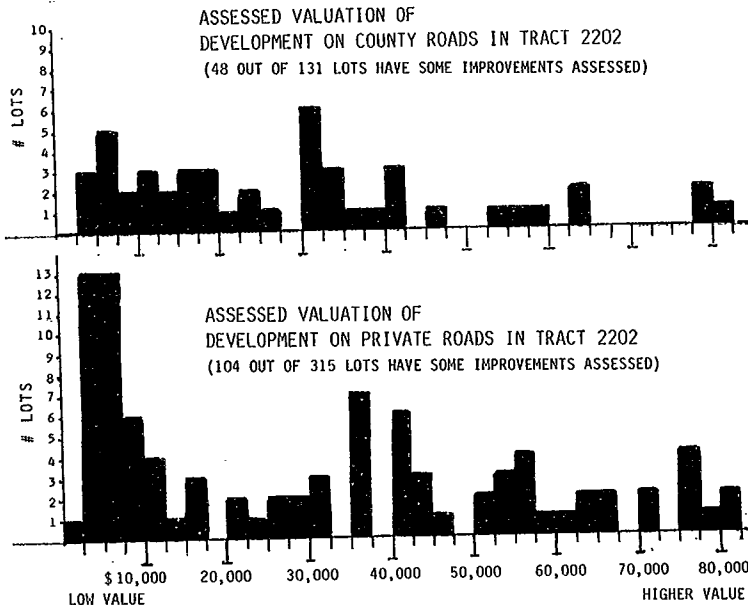
**RAW LAND VALUE**  
**County vs. Private Roads**

|                                           | <u>5 AC LOTS ON<br/>COUNTY ROADS</u> | <u>5 AC LOTS ON<br/>PRIVATE ROADS</u> |
|-------------------------------------------|--------------------------------------|---------------------------------------|
| TRACT 2157<br>SQUAW VALLEY RANCHOS # 1    |                                      |                                       |
| TRACT 2175<br>SQUAW VALLEY RANCHOS # 2    |                                      |                                       |
| TRACT 2180<br>SQUAW VALLEY RANCHOS # 3    | <b>16,800</b>                        | <b>none</b>                           |
| TRACT 2181<br>SQUAW VALLEY RANCHOS # 4    |                                      |                                       |
| TRACT 2202<br>SQUAW VALLEY RANCHOS # 5    | <b>15,300</b>                        | <b>12,800</b>                         |
| TRACT 2240<br>BONNADELLE SIERRA HIGHLANDS |                                      |                                       |
| TRACT 2279<br>CALIF. SIERRA HIGHLANDS # 3 |                                      |                                       |
| AVERAGE OF ALL TRACTS                     |                                      |                                       |

# EXHIBIT C

## VALUE OF DEVELOPMENT ON COUNTY v. PRIVATE ROADS

(Data from 6/19/87 Assessed Valuation rolls.)



NOTE THAT DEVELOPMENT ON PRIVATE ROADS IS OFTEN CONFINED TO DRILLING A WELL (APPROXIMATE COST \$3,000 TO \$10,000). THIS TRACT WAS CREATED IN THE LATE 1960's, SO THERE HAS BEEN MUCH MORE THAN AMPLE TIME FOR BUILD-OUT BEYOND WERE WATER WELLS. ALSO PLEASE NOTE THAT THERE ARE 4 COUNTY ROADS IN THIS TRACT (AND 131 FIVE-ACRE LOTS ON THEM AND 22 PRIVATE ROADS (315 FIVE-ACRE LOTS).

Dirt roads are inherently unstable in rainfall. They have no aggregate base and no water-impervious covering (like, asphalt). Thus, the road bed is subject to massive erosion and sloughing. You can do all the "proper maintenance" you want, but when the big storm comes, and the road falls off the side of the mountain overnight, what are you left with?

b. We have gone over this before, and it was even mentioned in the preamble of Public Works' report:

RECOMMENDATION: \* DO NOT ALLOW THE SUBDIVIDER'S ENGINEER TO CERTIFY ANYTHING. HAVE COUNTY ROADS PLAN-CHECKED AND INSPECTED BY COUNTY INSPECTORS OR ENGINEERS--LIKE ANY OTHER TYPE OF CONSTRUCTION.

c. The covenant is a good idea, even though ultimate enforcement may depend on a civil suit.

As discussed in the December hearing, incremental improvement is a crock. The man at the end of the cul-de-sac should not have to improve the entire road simply because he gets ready to build before everyone else.

RECOMMENDATION: \* NO "INCREMENTAL IMPROVEMENTS" PAID FOR BY LOT PURCHASERS. SUBDIVIDER SHOULD PUT ALL IMPROVEMENTS IN BEFORE SALE OF LOTS.

#### E. SUBDIVIDERS SECURITY FOR ROADS

This was discussed at length on December 1st. Because of ALL the problems with poorly-done tract roads, there is absolutely no basis or reason for reducing the amount of bond from that currently required. In fact, since the County is not immune from getting rooked on a poorly-built road, there should also be security for any County public roads required to be constructed in a tract.

The attached rainfall records show that there are frequently "dry years" in the foothills. Although the foothills tend to get twice as much rain as the valley floor, there may be periods of over a year where only light storms occur. Therefore, a longer maintenance period is very useful.

RECOMMENDATIONS: \* CONTINUE TO REQUIRE 100% BOND, SINCE CONSTRUCTION COSTS FOR ROADS ALWAYS RISE  
\* REQUIRE A TWO YEAR MAINTENANCE PERIOD ON THE VALLEY FLOOR AND THREE YEARS IN THE FOOTHILLS.  
\* STATE IN THE ORDINANCE THAT COUNTY INSPECTORS WILL REVIEW THE CONDITION OF SUBDIVISION ROADS AFTER EACH YEAR OF THE REQUIRED MAINTENANCE PERIOD.

F. MAINTENANCE OF PUBLIC ROADS

Contrary to what Public Works says, taking new roads into the County-maintained road system does provide a source of revenue.

The initial act of subdividing land into smaller parcels causes the land to increase in value and to be re-assessed. Subsequent sales of the land lead to higher assessed valuations. Development of the land brings in fees and even more assessed valuation. The following chart shows that more valuable improvements occur on County roads than on private roads.

Furthermore, \$56 per mile is given for public roads, and the travel of new residents to and from the area creates more gas tax revenues and more  $\frac{1}{2}$  sales tax revenues.

What is the practical difference, and the difference in intent, whether the County accepts the dedication of a road for public use, or the subdivider's "certification" of the road for public use? I see no difference. A good lawyer could make a case that, if the County accepts a developer's "certification" of the road for public use, Section 835 comes into play.

RECOMMENDATION: IF SOME PUBLIC ROADS ARE TO BE REFUSED COUNTY MAINTENANCE, THEN ALL COUNTY ROADS MUST BE TREATED THE SAME. PUT EVERYONE INTO A GIANT ROAD MAINTENANCE DISTRICT--NOT JUST THE FOOTHILLS

G. MAINTENANCE AGENCIES

"Adequate and timely maintenance" has NOT proven to be "the biggest contributor to the access problem." THIS IS NONSENSE. Improper and inadequate initial construction has killed the Squaw Valley roads. As we have been maintaining all along, if you don't set high standards to begin with, and see that they are upheld, you will have a mess. "You cannot build a strong house upon shifting sands."

We feel as though we have been "rushed into" the County Service Area, while other options have not been clearly explained. A voluntary assessment district (organized under Division 4 of the Streets and Highways Code) could be easily organized, more cheaply than a CSA (with all its new, higher LAFCO fees).

RECOMMENDATION: \* PROVIDE COMPLETE INFORMATION TO PEOPLE ON ALL THE OPTIONS, INCLUDING VOLUNTARY ASSESSMENT DISTRICTS AND PERMANENT ROAD DIVISIONS, FOR ROAD MAINTENANCE.

I find no evidence that assessment districts or road divisions have to be intrinsically "less efficient." I also am suspicious of the big push for "County Service Areas," since these entities can be used to "load" special fees for police, etc, etc. etc..

H. & I. PARCEL MAP WAIVERS AND GIFT DEEDS -- OK to treat them like any other subdivision under this Code.

DATE: April 22, 1988  
TO: Board of Supervisors  
FROM: Richard D. Welton, Director   
Public Works & Development Services Department  
SUBJECT: Acceptance of Public Roads into County-Maintained Road System

ISSUE SUMMARY:

Your Board has expressed concerns and directed that no new local public roads are to be accepted into the County-maintained road system. There are, however, several subdivisions that have been required as a condition of tentative approval to build public roads for inclusion within the system.

HISTORY/STATUS:

On February 22, 1988, your Board held a workshop on private roads. At that time, staff was directed to prepare amendments to the Ordinance Code pursuant to the issues discussed related to road requirements. This included that no new local public roads would be accepted into the County-maintained road system. Collector and higher classification roads and extensions of existing maintained roads would continue to be public roads maintained by the County as these types of roads are used by the public at large and are not serving a localized need. The Ordinance changes are scheduled to be brought to your Board in May, 1988.

In addition, there are two situations whereby your Board has already approved conditions for subdivisions which require previously approved roads to be placed in the system involving 0.98 mile of roads. First, there are three subdivisions (Tract Nos. 3337, 3766, and 3828) that proposed new local roads and received tentative approval with a condition that the proposed road be built to a public road standard for inclusion into the maintained road system (see Attachment "A"). If the subdivision is filed with your Board within the existing tentative approval period, the road will need to be accepted into the maintained road system. State law does not allow changes to conditions of approval once they have been given. The Subdivision Map Act (Government Code Section 66474.1) states "A legislative body shall not deny approval of a final or parcel map if it has previously approved a tentative map for the proposed subdivision and if it finds that the final or parcel map is in substantial compliance with the previously approved tentative map." These three tracts would add a total of .63 mile of road to the existing system.

In the event the final map is not recorded during the existing tentative approval period and an extension of time is requested by the subdivider, the new road requirements imposed would no longer require acceptance into the maintained system.

Second, there are two recorded subdivisions (Tract Nos. 3059 and 3716) which are under subdivision agreement with your Board to build .35 mile of road for inclusion into the maintained road system (see Attachment "A").

Extensions of existing classified roads will continue to be brought to your Board for acceptance into the maintained road system. Presently, there are three subdivisions (Tract Nos. 3608, 3749, and 3982) that fall in this category; adding .66 mile of road to the system (see Attachment "A").

FISCAL IMPLICATIONS:

There will be a small increase in road maintenance costs over the years as the increased mileage requires some level of maintenance.

CONTACT PERSONS:

Jerry K. Boren, Development Services Manager at extension 5055, or Joy Snively, Supervising Engineer at extension 5115 in the Public Works & Development Services Department.

JKB:JS:jw  
5690K

ATTACHMENT "A"

PUBLIC MAINTAINED ROADS  
SUBDIVISION APPROVALS

| <u>Tract No.</u> | <u>Tentative<br/>Expiration<br/>Date</u> | <u>Location/Name</u>                                  | <u>Mile of<br/>Road</u> | <u>Comments</u>                      |
|------------------|------------------------------------------|-------------------------------------------------------|-------------------------|--------------------------------------|
| 3766             | 2-89                                     | Village of<br>Shaver Falls                            | .10                     |                                      |
| 3828             | 10-88                                    | Bretz Mountain<br>Village                             | .09                     |                                      |
| 3337             | 3-89                                     | N/S Shaw between<br>Marjan & Highland                 | .44                     |                                      |
| 3716             | —                                        | Shaver Lake<br>Forest No. 14                          | .18                     | Final map recorded                   |
| 3059             | —                                        | SE corner Belmont<br>& Temperance                     | .17                     | Final map recorded                   |
| 3608             | 2-89                                     | NE corner Mt. Whitney<br>& Dennis, Laton              | .28                     | Extension of existing<br>road system |
| 3749             | 7-88                                     | N/S Teague between<br>Fowler & Linda Lane             | .29                     | Completion of existing<br>loop road  |
| 3982             | 1-90                                     | S/S Converse between<br>Parker & Burroughs,<br>Friant | .09                     | Cul-de-sac of existing<br>road       |

JS:jb  
1888Q