

RESOLUTION No. 216010

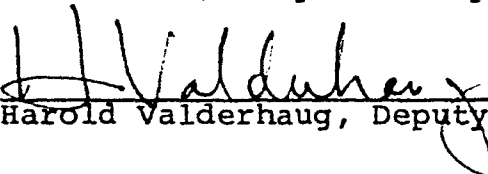
Adopted on MAY 19 1976

BE IT RESOLVED, by the Council of The City of San Diego as follows:

That Council Policy 600-23 entitled "OPEN SPACE PROVIDED THROUGH THE DEVELOPMENT PROCESS" be, and it is hereby established as set forth in the form of Council Policy filed in the office of the City Clerk as Document No. 755311.

BE IT FURTHER RESOLVED, that the City Clerk be, and he is hereby instructed to add the aforesaid to the Council Policy Manual.

APPROVED: JOHN W. WITT, City Attorney

By 
Harold Valderhaug, Deputy

HOV:n 717
5-3-76
Or. Dept. T&LU Committee

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MAY 24 1978 01267

City of San Diego, California

COUNCIL POLICY

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BACKGROUND

Over the past several years, increasing attention has been focused on preserving open space, particularly in newly developing communities. A major open space system has been outlined in a study entitled "A Plan For The Preservation of Natural Parks for San Diego" which was approved by the City Council on June 19, 1973, and which is an integral part of the General Plan. Also the various Community Plans designate areas to be preserved as open space and Council has adopted a Policy (700-31) pertaining to City participation in the acquisition of park reserve lands for open space purposes. It is noted that most open space systems delineated on the general and community plans consist largely of properties which have marginal development potential either because of topography, geologic hazards or flooding. The need exists, however, to identify the various types of ownership applicable to open space areas and to indicate when City ownership is consistent with plan designation and acceptable responsibilities on the part of the City.

PURPOSE

The purpose of this policy is to provide guidelines for determining when City ownership should be considered of open space lands created through the development process.

CATEGORIES

For the purposes of this policy the ownership categories outlined below apply in dealing with the subject of open space.

1. General

The California Government Code (Section 65560) defines "open space land" as "any parcel or area of land or water which is essentially unimproved and devoted to an open space use"; and further defines "open space

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use" as "the use of land for (1) public recreation, (2) enjoyment of scenic beauty, (3) conservation or use of natural resources, or (4) production of food or fiber." A Plan For The Preservation of Natural Parks for San Diego defines open space as "any urban land or water surface that is essentially open or natural in character, and which has appreciable utility for park and recreation purposes, conservation of land, water or other natural resources or historic or scenic purposes."

It is apparent that open space land may be in either private or public ownership while being devoted to an "open space use"; and under these generalized definitions a number of ownership categories for open space land may be identified.

2. Publicly-Owned Lands

Many publicly-owned properties meet the definition of open space. Examples of other agencies with lands that contribute to the total open space within the City are the Navy (Admiral Baker Field and the buffer lands surrounding its air stations); the Port District (Spanish Landing) and the State (parks).

City holdings which meet the definition of open space include its dedicated parks, park reserve lands, water utility properties, and parcels which have been granted to the City under terms and conditions which preserve its open space character.

In addition, there are a number of rights-of-way which effectively meet the open space definition such as dedicated but unimproved streets, utility easements and flood channels.

3. Privately-Owned Lands

A number of properties in private ownership can be classified as open space. Examples are those properties currently in agricultural use, lands subject to flood-plain management processes, and properties in very low density residential zones.

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To insure preservation of open space uses, a number of private properties have open space easements granted to the City. Examples of this are common areas in PRD's, and marginal lands within subdivisions which do not lend themselves to development.

POLICY

1. It shall be the policy of the City of San Diego to preserve open space wherever practical, consistent with Community Plans and the General Plan, community interest and maintenance capabilities of the City. In no instance, however, shall a developer or land owner be required to "offer" his property as open space to obtain approval of his subdivision.

2. The development process oftentimes leaves areas which are marginal in nature and upon which building is neither planned nor appropriate and which are not identified as a part of the adopted open space system. It is appropriate that such parcels be designated as open space through the voluntary granting of easements or fee ownership to the City. Because of possible City involvement in either the maintenance or policing of such areas, the property interest that may be conveyed to the City should be in accordance with the following criteria:
 - a. The City should accept the fee ownership for offered parcels which are contiguous and related to an open space system shown on a community plan. The City should accept a public easement for offered parcels which are contiguous and related to a street right-of-way. In these cases the adjacent land to which the offered property relates will be either in City ownership or subject to a public easement which already involves long-term City maintenance responsibility and it is appropriate that the public have access to the additional open space created. If a public easement is granted, the open space character of the land is intended to be preserved

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by prohibiting the land owner from the construction of buildings, walls, fences and other structures; the changing of surface grade; and the installation of privately owned pipelines unless written permission (encroachment permit) is first obtained from the City Engineer.

- b. Offered parcels which are unrelated to City-owned land or public easements should be covered by an open space (negative) easement granted to the City. In these instances, the property ordinarily should be lotted with the contiguous development to avoid creating unusable parcels of land. This easement would preserve the open space character of the land in the same manner as a public easement but it does not impose upon the City any responsibility for long-term maintenance and does not give the public any right of access to the property.
3. Commonly-owned areas in planned developments (PRD's and PCD's) which are maintained by property owner association have open space characteristics. The open space easement granted over these areas must give the City the right to enter onto the property so that in case the property owner association fails to adequately maintain the common area, maintenance work may be performed by the City and the cost assessed back to the owners as provided in the Municipal Code.

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Passed and adopted by the Council of The City of San Diego on _____, by the following vote:

| Councilmen | Yeas | Nays | Excused | Absent |
|---------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| Gil Johnson | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Maureen F. O'Connor | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Lee Hubbard | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Leon L. Williams | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Floyd L. Morrow | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Tom Gade | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Jim Ellis | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Jess D. Haro | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mayor Pete Wilson | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

EDWARD NIELSEN

City Clerk of The City of San Diego, California.

By *Edward J. Sutter, Jr.*, Deputy.

(Seal)

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