

COUNCIL POLICY

SUBJECT: OPEN SPACE PRESERVATION AND MAINTENANCE
POLICY NO.: 600-23
EFFECTIVE DATE: December 11, 1984

BACKGROUND:

Open Space provides the citizens of San Diego with such benefits as scenic vistas, preservation of natural resources, outdoor recreation potential, and other general benefits to the public health and welfare; thus preservation of open space has been a major goal of the City for many years. In May, 1968, the City's Planning Department published a report, "Open Space for San Diego," that laid the foundation for open space preservation efforts. Subsequently, in May, 1973, the City Council adopted by Resolution R-208180 "A Plan for the Preservation of Natural Parks for San Diego" as the official Open Space Element. That Plan served as a guide for all actions involving open space until February, 1979, when the City Council adopted the current Open Space Element of the Progress Guide and General Plan for the City of San Diego (Resolution R-222918).

Also, in 1978, the citizens expressed their desire to preserve open space by approving Proposition C, which authorized the sale of \$65 million in general obligation bonds to purchase open space properties for the City. Preparatory to the passage of Proposition C, the City Council adopted an ordinance establishing the San Diego Open Space Park Facilities District 1, which has boundaries coterminous with the City limits. This district is empowered to acquire, construct, improve, maintain and operate park facilities.

PURPOSE:

The purpose of this policy is to identify the various means by which open space may be retained, acquired and preserved, and to define management and maintenance responsibilities.

DEFINITIONS:**1. Open Space - Designated**

Designated Open Space consists of a system of canyons and canyon oriented lands in the natural state that have utility for park and recreation purposes. The Designated Open Space system is identified in the Progress Guide and General Plan, in adopted Community Plans and/or in adopted Specific Plans. This system forms the basis of the City's Open Space preservation efforts.

2. Open Space - Non-Designated

Non-Designated Open Space as herein defined consists of areas adjacent to Designated Open Space that may provide visual or physical access to the Designated Open Space system or otherwise serve to enhance that system. Non-Designated Open Space may consist of natural, disturbed, or manufactured slopes.

3. Sensitive Lands

Sensitive lands as herein defined consist of areas of land or water in the natural state which because of their unique characteristics or location have significant value for preservation for environmental or historic reasons. Sensitive lands are identified as such in adopted Community Plans and/or in adopted Specific Plans and are more fully defined in the Progress Guide and General Plan.

4. Open Space Retention List

Following the passage of Proposition C in 1978, the Open Space Retention list was created and adopted by the Council. The purpose of the retention list is to assist the Council in making acquisition decisions. An updated revision to this list was approved by the City Council on November 21, 1983 (Document No. RR-259663). This list, which currently includes 141 Open Space systems within the City, is a score and category ranking of each system on the basis of 13 evaluation criteria which were approved by Council. Systems on the list include all those areas identified in Community Plans as open space as of the time of the list's preparation. This list also provides a "recommended method of retention" for each area, in that funds available are not adequate for the purchase of all systems listed. When development plans are received which include any of these areas, attempts will be made to retain as much as possible of the Designated Open Space.

It is the Council's policy that this Retention List is for planning purposes only and may be amended by Council from time to time. Persons owning property identified on the Open Space Retention List may utilize their property in conformance with Zoning and other legal requirements.

POLICY:

It is the goal of the City to preserve open space. This may be accomplished by: (1) Retention of City-owned lands; (2) Acquisition of fee title; (3) Acquisition of easements.

1. Retention of City-owned Lands

City-owned properties identified as Designated Open Space shall be retained in City ownership for Open Space purposes.

City-owned properties identified as Sensitive Lands or that satisfy the definition of Non-Designated Open Space should also be retained in City ownership for Open Space purposes, but if sold, they should be encumbered by an Open Space easement.

2. Acquisition of Fee Title

It is the goal of the City to acquire Designated Open Space. Generally this land would be acquired in fee title, although easements may be obtained in lieu of fee title under unique circumstances. This may be accomplished by: (a) Purchase; (b) Assessment District; (c) The development process; (d) Donation; (e) Property exchange.

a. Purchase

The City may from time to time acquire Designated Open Space areas through the use of Proposition C funds or other fund sources that may be available in accordance with the Open Space Retention List.

b. Assessment District

Special Assessment Districts may be formed under provisions of State Law or under provisions of the City's own procedural ordinance for the purpose of acquiring Designated Open Space properties. Assessment districts for Open Space acquisition may be initiated by either the City Council or by a petition from a community desiring acquisition. The City's policy on acquisition of Open Space by assessment district is found in Council Policy 600-31.

c. The Development Process

The City may obtain fee title to Designated Open Spaces through the development process as a condition of subdivision approval, through negotiation of a Development Agreement, or as a mitigating measure of an Environmental Impact Report. In addition, it may occasionally be in the City's interest to acquire fee title to Non-Designated Open Space or Sensitive Lands through the development process. In these cases, staff may recommend that Council accept the property because of its value to the City's Open Space preservation goals.

d. Donation

Occasionally, a citizen or group of citizens may wish to donate land to the City for preservation as Open Space. The City's policy governing the acceptances of such donations is found in Council Policy 600-31.

e. Property Exchange

The City may occasionally, acquire Open Space by means of property exchange. City policy governing property exchange is covered by Council Policy 700-10 and Municipal Code Section 22.0902.2.

3. Acquisition of Easements

In lieu of fee title, it is the policy of the City to preserve Non-Designated Open Space and Sensitive Lands through the application of easements. Easements for Open Space shall be distinguished by two categories dependent primarily on the desirability of public access and the designation of maintenance responsibilities: (a) Positive Easements; (b) Negative Easements.

a. Positive Easements

Where public access is deemed desirable, a "Positive Easement" should be obtained which provides for public use. A Positive Easement may also allow for such public improvements as

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landscaping, hiking trails, bikeways and other compatible recreational facilities. In such cases, the Open Space area should be identified as a separate parcel.

b. Negative Easements

Where public access is not deemed desirable, the City may preserve the Open Space through the acceptance of a “Negative Easement” which serves to restrict improvements on, or changes to, the character of the area. Where Open Space is to be preserved in this way, the property should be “lotted out” in such a manner as to remain a part of the contiguous legal lot in order that it can be privately-owned and maintained by each individual property owner. An exception is in the case of any planned-development where there is a property owner’s association which can own and maintain open space. In this case, it may be preferable for the Open Space area to be identified as a separate parcel.

OTHER METHODS OF PRESERVATION:

Occasionally, through the development process, the City and the developer may agree to other methods for the preservation of Non-Designated Open Space or Sensitive Land areas. This may include density transfer or a rezoning to floodway or floodplain, as appropriate, Hillside Review, agriculture, or large-lot residential land division. It is not the intent of the City however to unilaterally apply such methods solely for the purposes of preserving open space.

OPEN SPACE MANAGEMENT:

The City Manager shall keep an up-to-date inventory of all City-owned open space. A major purpose of this inventory is to guide the City’s maintenance program. Positive Open Space easements shall also be shown on this list.

MAINTENANCE:

It is the policy of the City to assume responsibility for the maintenance of City-owned Open Space as well as Open Space for public use by virtue of a Positive Easement. Maintenance may be financed with City funds, or in the case of City-owned Open Space where the community desires a higher level of maintenance, an Assessment District may be established for that purpose. Maintenance of Open Space areas subject to Negative Easements shall be the responsibility of the individual property owner or property-owners association.

Where the City has assumed responsibility for maintenance, the level of maintenance provided shall be similar to that required by law of private owners of undeveloped property, i.e., primarily litter abatement and control of fire hazards.

Litter abatement in open space will include removal of accumulation of wind blown paper, debris, discarded material and the control of illegal dumping. Fire hazard control in open space will include those measures recommended by the San Diego Fire Department that will reduce or eliminate any imminent threat to human life or property. Closure of trails or access points that allow off-road vehicle access resulting in actual or potential environmental damage will be provided. Roads, trails and paths that are considered necessary in, through, or connecting open space system areas will be

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kept clear and passable. Periodic inspection will be provided to ensure acceptable site conditions and that deficiencies are reported and corrective actions taken. All open space areas will be cleaned at least once a year.

The provisions of the above paragraph, as well as other provisions of this Council Policy, shall have the sole effect of providing guidance to the City Manager. Nothing contained in this policy shall serve to create any legal obligation which is not otherwise imposed by law on the City. By establishing this Policy, it is not the intent that the City be legally obligated to provide the above specified services. All the above services may or may not be completed and are subject to budgeting and the availability of funds.

DEDICATION FOR PARK PURPOSES:

City owned open space may be dedicated for park purposes in accordance with Section 55 of the City Charter. Dedication is intended for those areas that have been determined to fit the criteria of resource-based parks.

The City policy on dedication of Open Space lands for park purposes is covered in Council Policy 700-17.

CROSS REFERENCE:

Council Policy 700-10
Council Policy 700-17
Council Policy 600-31
City Charter Sec. 55

HISTORY:

Adopted by Resolution R-216010 05/19/1976
Amended by Resolution R-254869 08/24/1981
Amended by Resolution R-262130 12/11/1984