

City of San José, California

COUNCIL POLICY

TITLE USES OF PUBLIC PROPERTY	PAGE 1 of 2	POLICY NUMBER 6-16
EFFECTIVE DATE May 20, 1986	REVISED DATE	
APPROVED BY COUNCIL ACTION		May 20, 1986, Item 7c(8)

BACKGROUND

The City Council of the City of San José is concerned that any decision affecting publicly-owned property in San José be made in the light of appropriate public knowledge and participation.

PURPOSE

To establish procedures and provide opportunities for public participation in decisions affecting publicly-owned lands. One procedure would be followed for public uses and a second more elaborate procedure for private uses on public lands.

POLICY

1. Public Use of Public Land

This process should be utilized for any situation involving a clearly public use of publicly-owned property, other than public street rights-of-way. It would include buildings (libraries, fire stations), non-structural improvements (parks, parking lots), and activities by governmental agencies other than the City (pumping stations, wells, office additions).

It is the City's policy that all improvements to property in San José undergo a public hearing process to allow adequate community participation. As soon as a City Department has clearly established plans for the use of City-owned property, the Department of City Planning should be contacted. The City's policy is that a Site Development Permit should be utilized for any improvements to City-owned property, or for any expansion of an existing use. This process will include a public hearing that is noticed to property owners within 300 ft. of the site. Environmental review will be done prior to this public hearing.

2. Private Use of Public Land

This situation involves an activity conducted by a private agent on publicly-owned property. The criterion that determines which process is applicable is whether or not the activity is related to an underlying public function.

A. **Associated Use:** This category would most frequently include franchised vendors in parks, or operators of park-related activities. Qualifying factors should include the following:

- (1) Is the new use compatible with the existing or planned public use?,
- (2) Does it serve essentially the same population?,
- (3) Is it incidental to or supportive of the basic public activity?

As soon as a City Department determines to consider a private sector function on land for which it is responsible, the Department should contact the Department of City Planning. Such projects do require issuance of a Site Development Permit, after a noticed public hearing.

TITLE USES OF PUBLIC PROPERTY	PAGE 2 of 2	POLICY NUMBER 6-16
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- B. **Independent Private Use:** This category is for privately-sponsored projects or activities which have no functional or substantive connection to the planned public use. Appropriate procedure differs, depending on whether the site has actually been developed, in whole or part, with the public use. If the site already contains a public facility, the proposed addition of a private activity or structure will require, as a matter of policy, a Conditional Use Permit, after a noticed public hearing.

If the property is vacant, construction of a private facility requires rezoning, if existing zoning does not allow the proposed use. Environmental review will be done prior to any public hearing on either a conditional use permit or rezoning.