

Approved copies to Flood Control District, Planning Comm., Public Works Dept.

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POLICY AND GUIDELINES
FOR
DEDICATION AND RESERVATION OF
LANDS NEEDED FOR FLOOD CONTROL PURPOSES

STAFF COMMITTEE REPORT
TO THE
JOINT COMMITTEE

Board of Supervisors
Board of Directors
Planning Commission

County of Santa Clara
Santa Clara County Flood
Control and Water District
County of Santa Clara

with the addition of a 10-acre
/requirement to A Zoning
APPROVED BY THE BOARD OF SUPERVISORS
OF SANTA CLARA COUNTY March 23, 1973,
By DONALD M. RAINS, Clerk of the Board
Ray K. Burnett Deputy Clerk

Referred to staff for further review and
discussion of questions raised by Flood
Control District.

Selby Brown, Jr.
March 21, 1973

Larson
MAR 28 1973

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PROPOSED POLICY AND GUIDELINES FOR
DEDICATION AND RESERVATION OF LANDS
NEEDED FOR FLOOD CONTROL PURPOSES

RECITALS

County Land Development Regulations authorize the requirement of dedications for flood control channel facilities.

Present regulations do not set forth all the necessary criteria.

It is important for developing properties to receive flood protection commensurate with land use.

Where a change of land use adds to the need for, and benefits by, a public flood control improvement, it is deemed equitable to secure some reasonable measure of contribution to the public cost of such improvement.

Guidelines need to be established for the general public and county agencies and advisory bodies involved in regulating land development.

STATEMENT OF PURPOSE AND OBJECTIVES

The guidelines contained herein are for the purpose of fulfilling certain responsibilities of local government in helping to provide flood protection to developing properties in Santa Clara County. The primary objective is control of re-current flooding and overflow commensurate with land uses permitted under county zoning and land development regulations. Flood control measures, where necessary, shall be so planned as to preserve and enhance environmental values of the community to the

greatest extent feasible taking into consideration the public health, safety and welfare. Private loss and inconvenience created may also be taken into consideration.

Appropriate dedication in each case is a function of land use where variables can be related in terms of intensity of development and benefits derived from flood protection.

DEDICATION POLICY

As a condition of approval of division or development of land, the necessary right of way for the designated floodway (planned width) established by the Santa Clara County Flood Control and Water District may be required by dedication, reservation, or combination thereof, with exceptions and limitations as set forth herein. Where the dedicated portion is less than the right of way required for the full designated floodway, the reserved area not dedicated shall be purchased by the district at fair market value. The one-half channel requirements described below apply to each side of the channel in the land division or development which is traversed by or abuts a natural watercourse or proposed diversion facility.

DEDICATION REQUIREMENTS

Dedication on each side of the channel shall consist of such land as is needed for one-half of the total flood control right of way width for a floodway designed on the basis of a 100 year (1%) flood. The width so designated shall be measured from the center line of the planned final channel improvement to the outside line of the designated floodway.

EXCEPTIONS AND LIMITATIONS

A. "A" Districts (Exclusive Agriculture)

Property zoned "A", whether or not subject to a land conservation agreement or contract - No dedication will be required where the affected parcel after division or development is 10 acres or more.

B. Minor Land Divisions and Single Family One Parcel in A1 and R1 Zoning Districts

(1) Dedication requirements shall not exceed 15% of the gross land area before division or development.

(2) No dedication will be required where the affected parcel after division or development is 10 acres or more.

C. Flood Plain or Modified Floodplain Design

In floodplain or modified floodplain situations, or in the case of very wide natural channels, the dedication requirement shall not exceed the amount of real property needed for one-half of the total right of way on each side for a trapezoidal earth channel with levees and/or parallel maintenance roads, if required.

D. Existing Watercourses Having Adequate Capacity

In the case of an existing watercourse having reasonably narrow width, and sufficient depth and capacity without enlargement to accommodate local drainage and design flood, dedication shall consist of the area between the tops of natural banks that is needed for flood control purposes (including necessary access and maintenance roads), in which case the 15% maximum dedication provision shall be inapplicable. For watercourses located in mountainous or hilly terrain, dedication where required by the district shall consist of that area subject to

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inundation by the design flood flow (high water line) plus necessary maintenance roads and access.

E. Dedication on Both Sides of Channel

Where there is developable land within the proposed division or development on both sides of the flood control facility after all dedications, the dedication requirements specified above shall apply to each side. If there is not developable land within the proposed division or development on both sides of the channel, the dedication requirement shall apply to only one side plus that part of the natural channel on the undevelopable side of the centerline.

F. Diversion and Baylands Channels

Where a diversion or other entirely new flood control facility is planned, or where a channel is subject to backwater effect from the San Francisco Bay, the owner may be required to reserve such land as is required for flood control purposes. Dedications will not be necessary in such cases unless the flood control facility provides a drainage benefit to the owner's land reasonably commensurate with the value of any required dedication.

OTHER GUIDELINES

1. Acquisitions by the District

In situations where land has been reserved for flood control purposes as a condition of approval for division or development, the district shall purchase the reserved area as soon as possible. Such purchase may be deferred where mutually agreeable to the owner and the district.

2. Type of Dedication

Fee dedication may be required except in the following situations where the dedication shall be in easement for flood control purposes only, unless otherwise agreed to by owner: Minor land divisions and one parcel single family development where the channel is either (a) floodplain or modified floodplain, or (b) unimproved earth channel that is to remain in its natural condition, except cleaning and erosion control and/or containment by levees. In all situations where fencing is required for public safety, fee dedication may be required irrespective of the type of development.

3. Dedication Forms

Dedications shall be prepared by the district on its deed forms based on right of way calculations by the district and reasonable survey information furnished by the applicant. If the dedication pertains to a single building site proposed for development with a land use intensity of duplex or less, the district shall furnish any necessary field survey information.

4. Offsetting Density

In situations where the dedication is in easement or fee in minor land divisions for residential or agricultural purposes, density shall be computed on the basis of net area prior to deduction of flood control right of way, providing, however: (a) All parcels shall meet applicable land development regulations, and (b) the final allowed density after dedication shall be no greater than the density that would have been allowed prior to the dedication.

5. Water Rights

Dedication requirements and acquisition procedures for flood control rights of way shall to the extent reasonably possible be administered to preserve existing compatible rights to water use upon and of benefit to adjacent lands.

6. Tax Considerations

The County Assessor shall be notified by the district regarding dedications for flood control purposes in order that they may be considered in property valuations for tax purposes.

7. Floodplain Management

The Santa Clara County Flood Control and Water District shall prepare maps for all designated floodways within Santa Clara County, record the same with the County Recorder for official and public notice, and supply the same in appropriate form and scale to the County of Santa Clara as soon as possible. The county shall cooperate with the district in sound floodplain management by adopting necessary regulations and control procedures.

8. Agency Jurisdiction

The district shall have jurisdiction and responsibility for designated floodways and the watercourses tributary thereto which have a drainage area greater than 640 acres. The terminal point of jurisdiction in each case (main watercourse or tributary greater than 640 acres) shall be at the point on that watercourse where the contributing drainage area is diminished to 320 acres; or other size area when agreed upon by the Department of Public Works and the district. Natural watercourses whose total tributary area upstream from the point of confluence

with the designated floodway is 640 acres or less, and all other unincorporated land areas, shall be considered local drainage where the county shall have jurisdiction and responsibility.

9. Development Plans and Information

All proposals which affect existing or planned flood control and water utility facilities of the district including use permits, minor land divisions, subdivisions, planned developments and single site developments, shall be referred to the district for review and preparation of recommended conditions of approval pursuant to these guidelines for consideration at the first scheduled committee or advisory agency meeting after the referral.

The applicant for land division or development shall furnish on the tentative maps and development plans (if any) reasonably accurate information regarding essential land topography, existing and proposed property lines, the existing center line and high bank of the watercourse, designated floodway lines where maps have been prepared by the district, and the type, size and location of existing culverts, bridges, structures and other improvements existing or proposed on the land to be^{divided} or developed.

10. Flood Control Plans and Information

The proposed land division or development plans shall conform to the designated 100 year (1%) floodway plan. Where development is proposed in advance of the floodway map preparation, the district shall develop the one percent floodway information essential to such proposals. The district shall furnish

all necessary information relating to right of way widths, design criteria, and the type and location of interim and ultimate flood control improvements.

11. Flood Protection Improvements

In situations where property presently is subject to flooding, the district shall specify reasonable interim measures necessary to reduce potential flood damage until the full improvements by the district are completed. The district also may require the property owner to enter into a deferred improvement agreement with the district.

12. Channel Design

Designated floodway lines and the design of flood control channels and facilities shall be based upon a level of protection adequate for the one percent flood. In locations where underground storm drainage facilities could normally be expected in the course of development, the flood control channels or watercourses shall be planned for sufficient depth to facilitate installation of underground local drainage facilities in accordance with good design practice and constructed to this design as soon as practicable.

13. Channel Alignment

As far as practicable, rights of way are to be established in conformance with the alignment of existing natural channels; i.e., the center line of the final right of way shall approximate the center line of the existing creek in order that properties burdened by the natural creek will accommodate the channel improvements. In the case of artificial

channels, rights of way will normally be selected and positioned to follow property lines, where possible, to avoid or minimize property severance.

14. Setbacks

All structures or other improvements, including fencing, shall be set back an adequate distance to provide for the designated floodway (full planned width of right of way) except as may be otherwise allowed by permit from the district.

15. Joint Use of Right of Way

Use of flood control rights of way for other public or private purposes may be permitted to the extent that district property rights allow and that maintenance and operation by the district are not impaired. Where fencing of the right of way is necessary pursuant to these guidelines, joint use in conjunction with adjacent private property is not acceptable. Where fencing of the right of way line by the district or property owner is not necessary pursuant to these guidelines, private or public use for agriculture, landscaping, paving and other non-structural purposes may be permitted where plans are acceptable and proper agreements and indemnifications are executed.

16. Fencing

Fencing in accordance with district standards, or other design approved by the district and county, may be required at the time of development in situations where the right of way is dedicated in fee title (see guideline 2) or where it is needed for public safety.

17. Wells and Septic Tanks

Underground facilities such as wells and septic tank drainfields normally shall be outside the flood control facility right of way line. If a proposed right of way line for a channel that is to remain as a floodplain or a modified floodplain would render the abutting parcel undevelopable because of Health Department standards, wells and septic tank drainfields may be permitted within the right of way providing they meet Health Department regulations with respect to sanitation and setback requirements from any proposed flood control improvement, top of high bank, high water line, road or other controlling factor.

18. Existing Fixed Improvements

Existing fixed improvements such as buildings, structures and agricultural wells, within an area to be dedicated that are of substantial value to the abutting property after division or development, shall be paid for by the district or excluded from the dedication.

19. Appeals

In situations where an appeal as provided in county ordinances is made pertaining to a flood control dedication, it shall be referred to the Board of Directors of the Flood Control and Water District for review and recommendation to the appeal body (whether Planning Commission or Board of Supervisors, or both) as provided in county ordinances. Such review shall be made at a meeting at which due notice has been given to all parties to the appeal.

APPLICATION OF GUIDELINES TO DRAINAGE EASEMENTS

The guidelines contained herein pertaining to dedications to the district for flood control purposes also shall apply to dedications to the county for drainage purposes with the following exceptions and modifications:

(a) The word "flood" shall be construed to mean "drainage" and the word "District" shall be construed to mean "County".

(b) The design of drainage facilities shall be in accordance with the adopted County Drainage Manual.

(c) Appeals shall be processed in accordance with county regulations. Guideline 19 shall not apply.

(d) Guideline 7 pertaining to floodplains shall not apply.

(e) Dedications shall be taken in easement only. If the easement is for a pipe or interim watercourse improvement that benefits applicant's property, or a small watercourse where there is to be no improvement or impairment of access, the one-half channel dedication requirements specified in the guidelines shall apply to both sides of the watercourse within the applicant's property.

NOTE: Guidelines are to be implemented by ordinance changes as necessary.

DEFINITIONS

Flood - This is the selected flood against which it is reasonable and practicable to provide protection. The design flood is often described in terms of frequency of occurrence. The generally accepted design flood and the one used by the District is the one percent flood, having a flow that has a one percent chance of being equaled or exceeded in any one year. This is commonly referred to as the 100-year flood.

Natural Water Course - This is a stream, creek, river, or even a long established man-made channel in which water does or can flow. It is not necessary that the flow be continuous throughout the year. A watercourse is usually defined in the law as visibly having a bed and banks in which water may flow. Generally speaking, property through which natural watercourses traverse is impressed with the obligation to receive and discharge all of the waters naturally originating within the upstream watershed.

- This is an artificial channel which diverts runoff from a natural channel to a new point of outfall. The lands on which the diversion is constructed are not naturally impressed with any duty to transport the waters so diverted upon and across them.

- It is that area adjacent to a stream which is subject to flooding by waters of that stream. The area is typically divided into two zones, namely, the floodway zone and the fringe or "restrictive" zones. Within the floodway which is considered to include the channel or main waterway, depths and velocities of flood flows will be so great that development should be prohibited or severely restricted. While flood conditions in the fringe areas are normally less severe,

of saving lives and protecting property and is an ordinary exercise of police power.

Modified Floodplain - This is a design concept which uses limited structural measures to restrict the existing floodplain to a reasonable width. The width will be greater than required for channelization works, but by minimizing structural work the stream and adjacent floodplain areas may remain in a more natural state. Low levees are the structural measures usually required to contain the design flood flows within acceptable right of way widths.

Designated Floodway - The designated floodway is that area required to reasonably provide for the construction and maintenance of a project for passage of the design flood. The area includes the lands necessary for construction of project levees where required, and normally includes the existing stream channel and adjoining portions of the floodplain. The designated floodway therefore represents the total planned width of right of way required for the ultimate protective flood control project. Flood protection projects or activities, except in certain extreme emergencies, are not planned or conducted unless necessary property rights are vested in the District.

Designated Floodway Map - For the purpose of assisting land use planning, maps depicting the location and extent of designated floodways are being prepared for all major streams in the District. Ordinances designating the floodway as shown on such maps are adopted by the District in accordance with provisions of the Cobey-Alquist Floodplain Management Act. In order to insure general availability of the map information, the maps are recorded with the County Recorder and distributed to the County of Santa Clara and each affected City.

These are roads for heavy equipment and vehicles required for the construction and maintenance of flood control facilities. These roads are coordinated with public trafficways and provide continuous access to and along all areas under District responsibility. Roadway widths are established to allow equipment travel and operation adjacent to all facilities.