LECTURE NOTES

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URBAN LAND READJUSTMENT

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GEO421- URBAN LAND READJUSTMENT

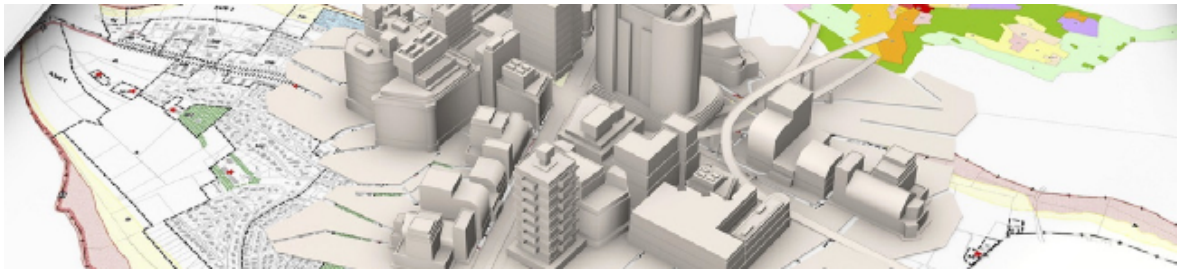
PRELIMINARY INFORMATION

In this course, urban-development and land management relations, urban regulations, urbanization and zoning regulations, development plans and plan implementation methods will be dealt with urban development and property relations.

The aim of this course for the students is to provide a point of view of sustainable land management, the legal infrastructure related to urban regulations interpreting the conceptual and technical methods without neglecting application skills.

Weekly course plan

1) The objectives and basic principles of public land arrangements.
2) Urban planning and local government units. Planning approaches.
3) Land development planning phases. Environment-land use-zoning plan development and implementation processes.
4) Overview of urban land management tools. Types of land development plan implementation in Turkey. Plan applications for subdivision process.
5) Introduction to expropriation. Zoning application by land expropriation.
6) Land development plan applications by land compensation techniques.
7) Midterm exam
8) Introduction to land readjustment, and legislation bases. Land readjustment applications in Turkey and the Worldwide.
9) Land sharing and distribution rates calculations in land readjustment process.
10) Zoning regulations: Land-zoning applications with land readjustment.
11) Zoning regulations: Land-zoning applications with land readjustment.
12) Land Improvement and Development applications. Purpose and implementation of urban regeneration projects.
13) The Condominium concept, legislation, and practices.
14) The Coastal Code: Coastal usage. Shoreline detection, coastal-plan relationships.



1 INTRODUCTION

1.1 Human-Land Relationships

Land is the mother. Although the human-land relationship has become more visible with the residence-to-residence life, in fact it begins with the moment when the relationship with the land begins to exist. Human is dependent on the land to survive. Almost all of the activities are based on land. Land is the place where we can firmly stand our feet. It gives life to plants and animals. The plants grow on the ground. Animals are fed with these plants that grow in the land. Since human beings first existed, they are fed with plants and animals. Again, life for man comes from the land. It makes things from the land. It makes garments from plants that are obtained from the land. It makes art from the land. The pictures that people made using land Even in 7000 years the walls of the houses were decorated. Çatalhöyük, one of the first settlements, has these unique examples. Again, the pot and clay pots found in the excavation areas show the variety of man's relation to the land.

Even holy books emphasize the importance of the relationship between man and land. The first man is derived from the Hebrew name Adam, the word for the man who means land. The name of the wife of Adam is Eve, the translation of the word of the air that comes to life in Hebrew. That is, this union of life and landforms the foundation of the creation story described in the Holy Books. In the book "Soil" given to Turkish by the TEMA Foundation, this is described by Montgomery as follows: 'God created the earth (Adam) and his life (Eve) from his ribs flushed from this land. The “homo” word, which means Latin man, is also taken from the word humus which means "living in Latin".

The first murder in the world was done in the name of land and property ...!

The fourth chapter of the first book of Moses (Torah) tells this tale: There was a wealthy and vast land of Babylon representing the city. But he was talking about being richer, and therefore landowner. Their boundaries rested on the rural land of Habil. At this point, property and border conflicts have begun. And ultimately, this conflict resulted in the killing of Kabul.

The relation of man to the land is handled with more agriculture. People have been living their lives for a long time as a hunter-collector, moving here and there. At the end of the last glacial period 11,000 years ago, important parts of the earth had long dry seasons with the change of climate. These conditions provided a suitable environment for seedy and tuberous annual plants. These plants have helped to provide much more energy available by producing seeds. These nutrients that can be stored

in some areas firstly changed the structure of the hunter-gatherer society and the first settlements emerged as villagers. Thus, agricultural societies began to form. In other words, it is in fact a behavioral adjustment process that the inhabitants begin to deal with agriculture. Nevertheless, the soil began to deteriorate due to the increasing need for the land along with the increasing population and misapplication to overcome this need. (*Source: Toprak, 2010, David R. Montgomery, Publications of the ISE Business Bank)*.

As it can be seen, human-land relationships have always been important throughout the civilizations. Especially land is the basic place of human activities. For this reason, human has always been in contact with land since he was there. The human-land relationship, which has a dynamic structure with the influence of life-long developments, has always been maintained in different forms in different periods of history.

1.2 Overview of property land ownership

Property right: (law) A right that gives the widest possible savings on an item, as limited by law or other regulatory rules. A person with a property owns the authority to use something that is in his possession, to transfer it to others, to take advantage of the product of this thing. In the broadest sense, property right; refers to the right granted to persons on movable or immovable properties.

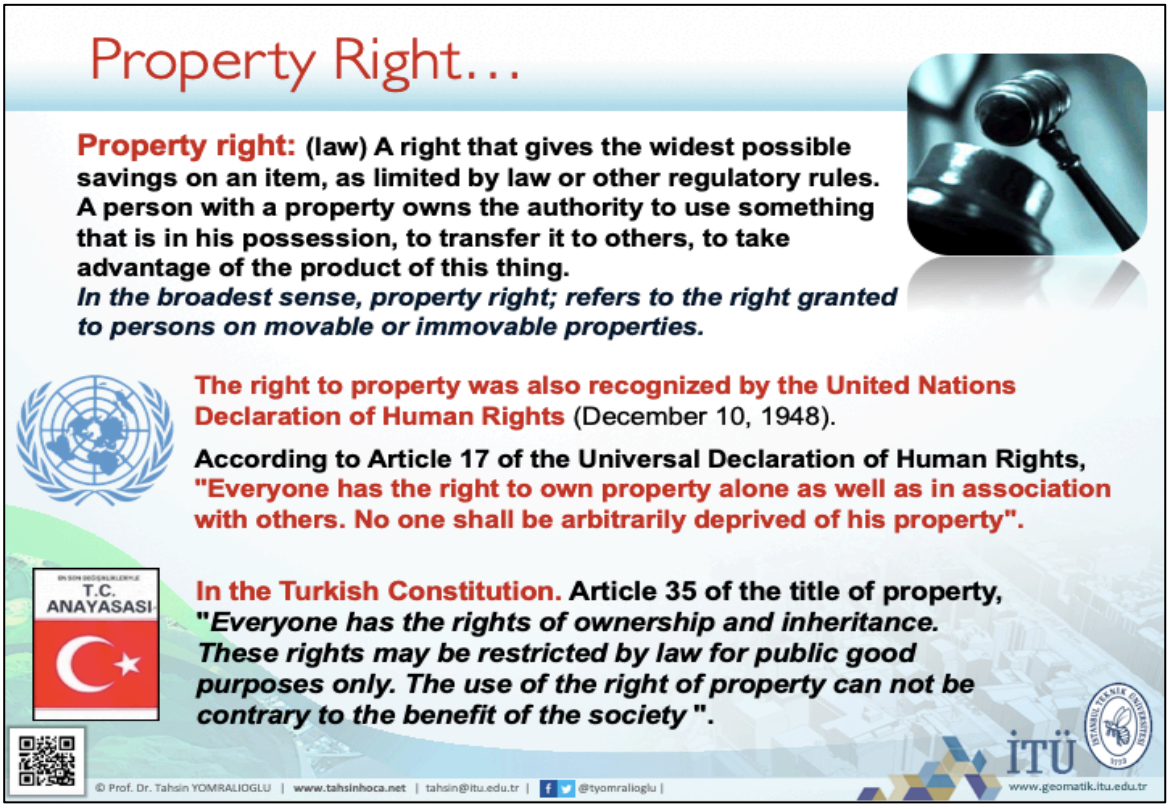


Fig. Property right overviews

Real or legal persons with private property will also be able to benefit from these opportunities, as they have the right to own, use and enjoy the right to property. This theoretically correct point has lost its "absolute" meaning in practice over time. As a matter of fact, in the constitution of many countries, the right of property ownership is seen to be limited in favor of the public good.

The right to property was also recognized by the United Nations Declaration of Human Rights. According to Article 17 of the Universal Declaration of Human Rights, "***Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property***".

1.3 Property components and "3R" rule…

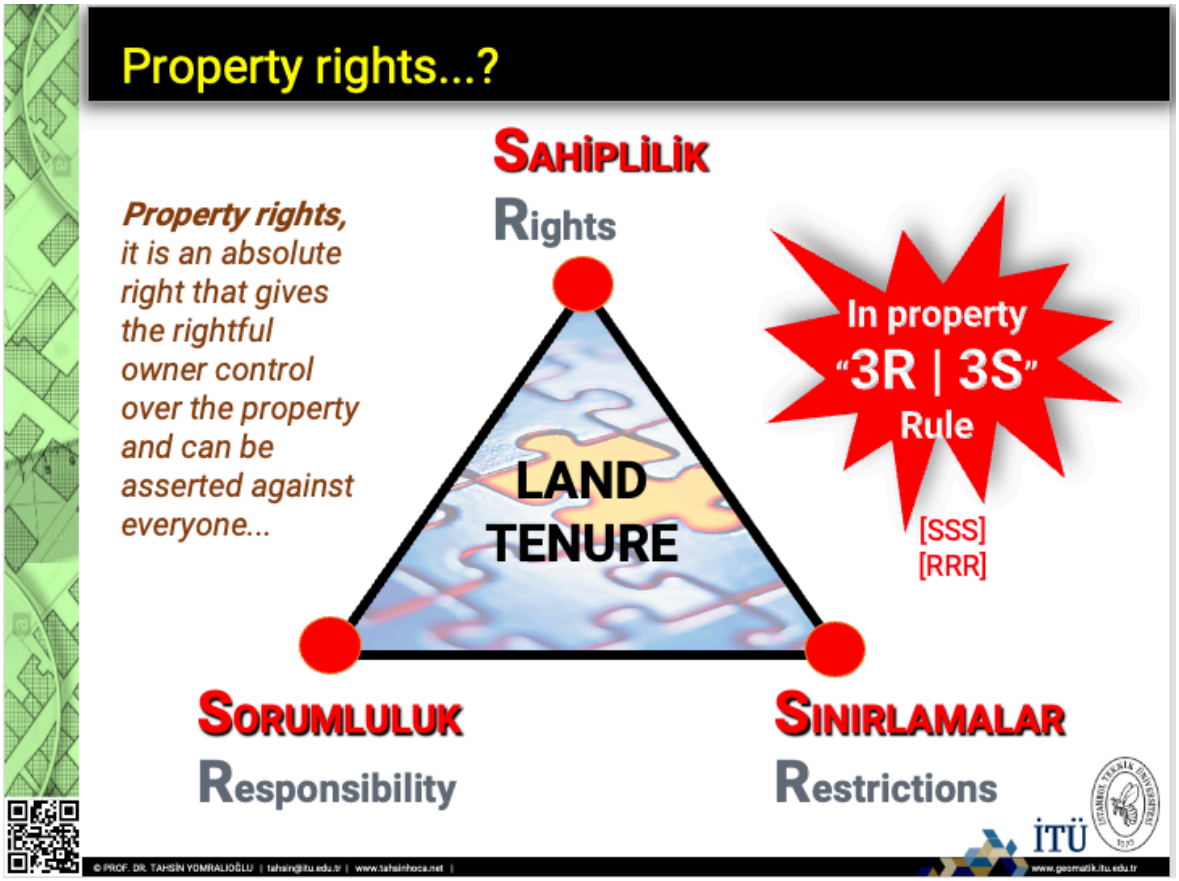
In addition to the above-mentioned concerns on property, rights in land property mainly consists of three main components. These; ***a) Rights, b) Responsibilities, and c) Restrictions.*** These basic principles can only be referred to as "Land Tenure" for an immovable when used together. The coexistence of these basic principles is known as "**3R-Rule**" in property. According to this;

The principle of "**rights**" emphasizes that everyone can have the right to ownership on a stand-alone or joint (common) immovable property, and to save and use the immovable property as he wishes. T. C. Article 35 of the Constitution points directly to the existence of the right to property. The immovable property may have the right to share property with others in a consensual manner, to inherit property, and to exercise commercial rights according to all kinds of supply and demand procedures in immovable property.

However, even if the immovable owners have the right to own property, some "**responsibilities**" arising from these rights must also be fulfilled. For example, the most important responsibility for immovables is the fulfillment of the "estate tax" or other tax duties arising from the immovable property. In addition, elements such as the liabilities arising from land use plans, the use of the property in accordance with the purposes of the owned properties, the respect for the general life rights of the neighboring immovable owners and the community, and the lack of such rights shall be included in the scope of the "responsibility" evaluated.

Another fundamental principle of property is "**restrictions**" and should be known that the right of property is infinite and not limitless. It is also possible to limit or otherwise restrict the right of land ownership. These restrictions may sometimes be through direct legislation or through schemes. As a matter of fact, Article 35 of the Constitution points out that the right of property can be restricted when public benefit is concerned. Especially in terms of immovables, while the rights on the land are

determined by parcel borders, underground and aboveground rights can also be restricted by zoning plans and laws. For example, while the permitted number of floors for a parcel with the zoning plan limits the right to use for that parcel, the number of basements allowed also sets the floor depth limit. Sometimes it limits these rights directly to the law. For example, laws such as "mine law", "zoning law", "coastal law", "forest law", "expropriation" etc. can directly limit the right to property.



2 IMPORTANCE OF LAND AND ITS ROLE IN DEVELOPMENT

2.1 What is land?

The term "**land**" is a term with many meanings. For physical geographers it is a piece of earth that is a product of geological and geomorphological processes. For economists, it is a resource that is operated or protected to provide economic production and development. For lawyers, it is a volumetric field that has conceptual rights ranging from the center of the world to the infinity of the sky and the different rights that determine what can be done with it. For many, it is simply a field for human activities, where many different forms of land use are reflected.

In the present case, the land covers everything that is directly integrated with things on the earth's surface, including water-covered areas. The land includes many physical and abstract attributes, from the right to take light or the right to build on land, to the right to use and operate ground water and minerals. The land contains all the biological, chemical, and chemical factors that surround the human being and form a complex ecological system and are called the biosphere. Therefore land; "The air we breathe; the water we drink and the environment we enjoy; the land we use, the mines we use and the buildings we build on; an increasing number of crowded cities; and today is the natural environment we seek to have fun and protect for future generations."

2.2 The Place of Land in The Process of Civilization

In the beginning, the land used for housing and nutrition purposes was first used to meet the food needs of the inhabitants. Particularly in the "**agriculture society**" process, land has been used as a platform for farming and nutrition purposes so that people can live their lives. Then, along with the growing population, more land was needed, and on the other hand the "**industrial society**" with the new discoveries of mankind went on. Thus, the human power used at the beginning has left its place in the machine power. In this process, mechanization in agriculture has begun, while at the same time, land has become a sign of strength and wealth for humanity.

More individuals and countries with more land were seen as stronger and richer. With the emergence of information technologies, the process of civilization development has shifted from the industrial society to the "**information society**" process.

Again, in this process the land has become more important with preserving its importance as the first time and even more efficient use. In this process, land has now become an important investment source for individuals and societies as an economic investment instrument.

Given all of the above explanations, the following summary can be made for ***land in the human-land relationship context***. These;

1. Land is a physical reality: land is a piece of land that we live on, where it interacts with society, providing food, shelter and resources for all living things ...

2. Land is an economic asset: land is the base of economic production, the main asset of development and wealth. In addition to the products obtained locally, the land is a commercial value through market ...

3. Land is a legal infrastructure: Land is constructed in accordance with the legal structure that establishes the basis for the rule of securing the right of ownership and determines how the land is used.

4. Land is a cultural asset: Land is a non-recyclable asset that cannot be transported and destroyed. It creates space for many mobile values of society and individuals ...

2.3 Strategic Role of Land

From the earliest times of human settlements until the end of the 1700's, he represented land, wealth and power. With the living industrial revolution, the rise of the capital has transformed the land into a commodity that has been removed from being the main source of wealth, moreover, can be bought and sold.

The reconstruction studies after World War II and the population explosion in this period revealed the necessity of effective spatial planning especially in urban areas and started to be regarded as a scarce resource. When it came to the 1970s, inadequate food production and resource shortage became evident, so that there was a need to effectively manage rural land use, not just urban.

As a result, the need to see land as a "***social scarce resource***" and to effectively manage this resource has begun to be widespread on the international scene. In this context, gatherings and events were organized by many global organizations, especially the United Nations (UN) and the European Union (EU).

Sustainable development, defined in the "Brundtland Report" published by the World Commission on Environment and Development in 1987 and described as "***meeting today's needs without ignoring the needs of future generations***" approach is widely accepted throughout the world.

The use of land with a sustainable development approach is only possible with the presence of an effective land management and management system. Healthy land policy is needed for effective land administration and management. One of the pre-conditions for the development of land policies in a suitable structure is to have knowledge of the quality of land.

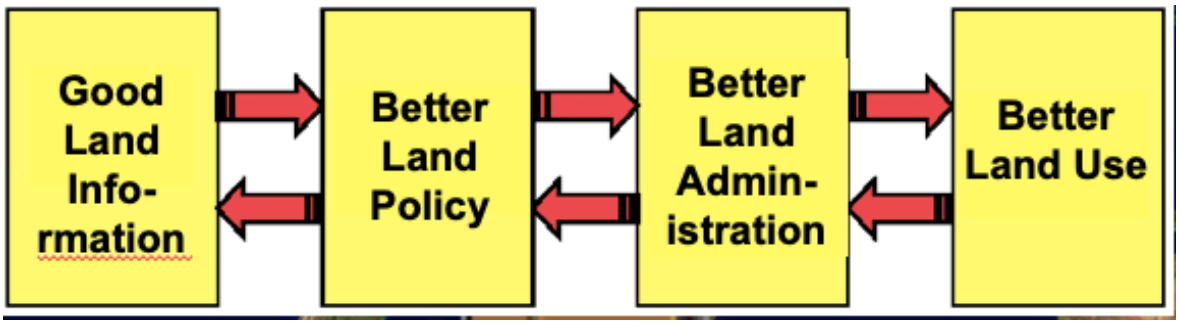
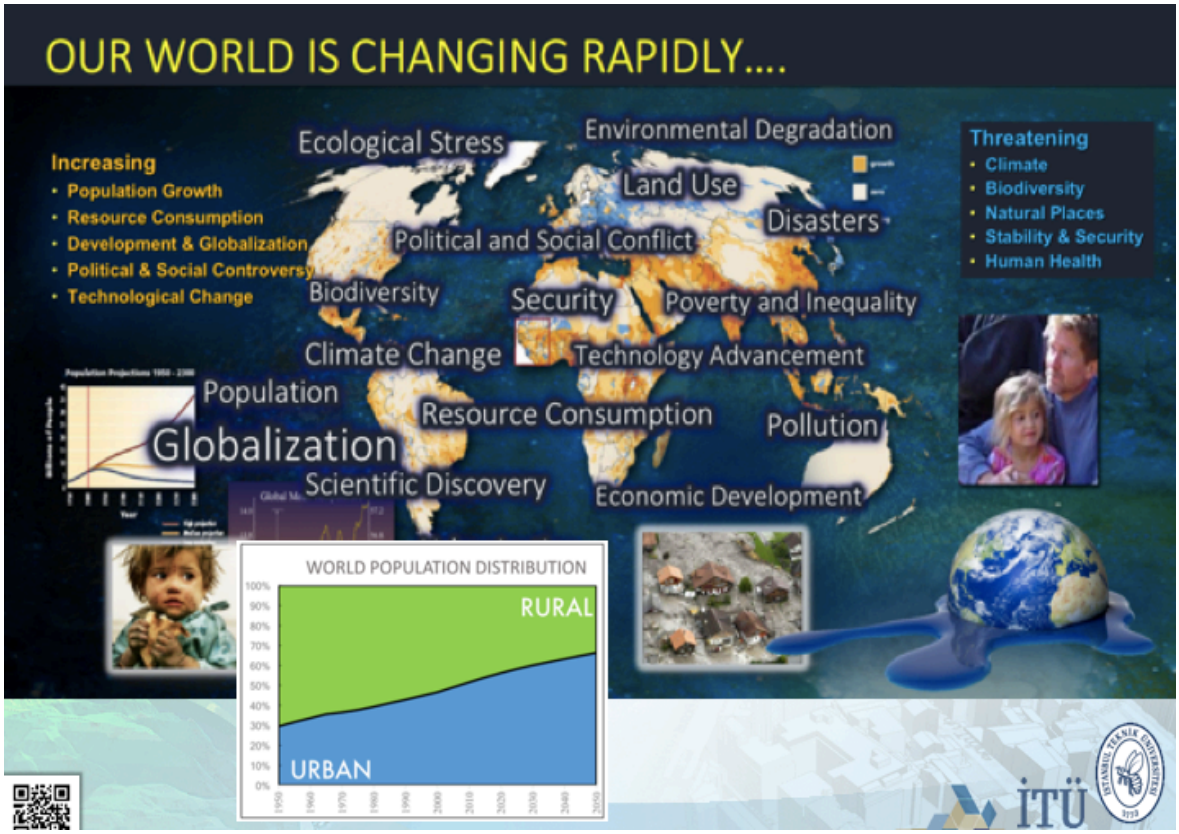


Fig. Effective land management strategy

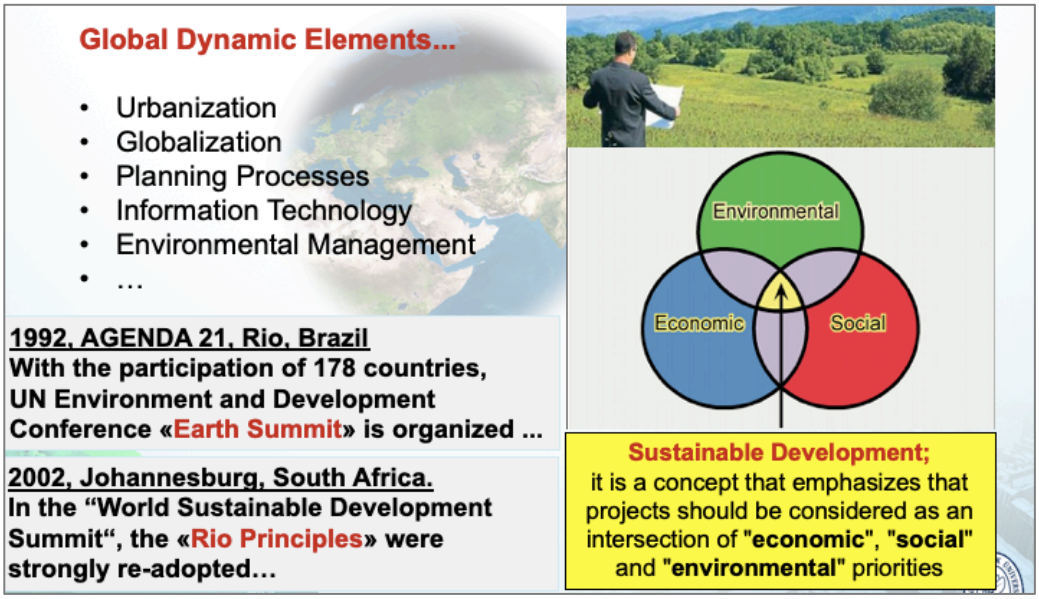
This relationship between land information, policy, management, administration and use has a dynamic structure as in human-land relations. In order to keep up with this dynamism, countries need to review their land information, land policies, land management and administration systems and land uses at certain intervals.



2.4 Sustainable Development

In 1853, according to Duwarmish Indian President Seattle, *"... these lands we have lived on are not inherited to us by our ancestors, but relics left to be passed on to future generations ..."*. Essentially, this is an important forward-looking statement that emphasizes how land use and resources should be looked at. Today, "***land is not recycled and cannot be re-produced as a scarce resource***" has been adopted. Because the pressures arising from rapid urbanization, globalization trends, planning processes, environmental management, and rapid developments in information technology, which have begun to be seen together with rapid population growth in the world, have become a threat to world life. Because of that reason, the management of the environment, and therefore the land, has become a necessity for the continuation of mankind today. As a matter of fact, as the land resources are decreasing day by day and threatening the vital activities in the world, the countries of the world came together and started to search for solutions.

For this purpose, a "Summit of the Earth" was organized in 1992 under the "United Nations Conference on Environment and Development-Agenda 21" with the participation of 178 countries in the Rio city of Brazil. The most important result of this summit is that all the nations for the protection of the environment have met with the concept of "Sustainable Development" and this concept has become official. Thus, binding decisions and responsibilities have been introduced on behalf of all countries in order to use and manage world resources according to the principles of sustainability. Again in 2002, the "Rio Principles" were reaffirmed strongly in the "World Sustainable Development Summit" in Johannesburg, South Africa. **Sustainable Development;** it is a concept that emphasizes that projects should be considered as an intersection of "***economic***", "***social***" and "***environmental***" priorities.



2.5 Land policies

Land Policy; "It is the complex socio-economic and legal regulations that determine how to allocate the benefits gets from land and land itself." In other words, land policy; "It is a policy that covers all of the land-related activities of public authorities, and is the conscious action carried out in relation to the optimal use of land in the context of spatial planning principles and objectives, as well as the socially fair distribution of land ownership and income from land, in the context of the distribution of private land ownership."

Land policy is a part of national policy in the development of targets such as economic development, social justice, equality and political determination. These policies include; the measures of land, security, land markets, real estate taxation, land use, natural resources and the sustainable management and control of the environment, the provision of land to the poor family, ethnic minorities and women and prevention of land speculation and management of land disputes.

Two of the important features that should be included in the land policies; integrated view and sustainability. The idea that social policies and long-term sustainable development will be put at risk in the event of neglecting land policies involving comprehensive perspectives is increasingly accepted. However, on the other hand, one of the most important problems of the land policies in many parts of the world is that they are not yet created as a result of extensive research and analysis to implement.

In order to achieve sustainable development at a necessary level, a balance between the operation, use and protection of land as a scarce resource is required. Questions related to the effectiveness of land policies to be developed in this context are listed in UNECE (1996) as follows:

- ✓ Which ministries are responsible for establishing land policies?
- ✓ Which ministries and units are involved in the implementation of land policies?
- ✓ What are the current policies and are they being implemented?
- ✓ Which mechanisms exist for the implementation of land policies and monitoring of its results?
- ✓ Do urban and rural policies have an integrated structure?
- ✓ Which ministries are responsible for registering land ownership and registering and controlling land use rights?

2.6 Land management

Land Management, land management is the process by which land resources are made useful. In other words; land management, decision on land and implementation of decisions. Decisions can be taken by individually or jointly by a group. This concerns the management of land both for present and for future generations.

According to Dale and McLaughlin (1988); "land management is the decision-making process in which land resources are allocated in accordance with the needs and desires of human beings within the framework of political and social institutions and legal and administrative regulations."

According to FIG (1995); "land management is the process in which the use and development of land resources are managed". According to the statements of UN and FIG (1999) and UNECE (2004); "land management is a resource for the management of land from both the environmental and economic perspective in the context of sustainable development."

As can be seen from the definitions and the equivalence of the ***administration*** and ***management*** words in the dictionary of Turkish Language Institution (TDK); It is the management process in which land policies are implemented in order to ensure that land management and resources are used within the framework of the principles of Sustainable Development by human beings by means of physical city and rural planning and land laws and institutions. Besides, ***land administration*** is the process of providing the property, value and land use data required in this process.

3 LAND MANAGEMENT IN TURKEY

3.1 Problems concerning land management in Turkey

Rapid population growth, unconscious industrialization, irregular urbanization, unconscious use of natural resources, floods, forest destruction and avalanches are negative effects on the natural equilibrium and are caused by human pollution, which leads to environmental pollution, i.e. degradation of ecosystems. Forests are destroyed due to forest fires, negligence, carelessness, illegal construction and unconscious cutting of trees to open land. As a result, the natural balance of ecosystems deteriorates, the species living in the forest and the habitats of these species disappear, and the richness of soil is lost.

Waste of industrial enterprises, population, urbanization, maritime transport and accidents, acid rain, septic tanks, landfills, drugs used in agriculture, natural and artificial fertilizers cause water pollution. Marine pollution is also important since our country is surrounded by seas. In this context, the main problems encountered as a result of misuse or misuse of lands in our country can be grouped under three main headings. These;

i) Problems in the use of environmental and natural resources.
ii) Problems in the use of rural and agricultural land.
iii) Problems in the use of urban land.

Problems in the use of environmental and natural resources

Natural resources are the basic assets taken from nature where the raw materials required for life are obtained, such as mine, oil, water, forest, agriculture and livestock land, which have played the most important role in the development of societies throughout history.

Air, Water and Soil are the three main natural resource groups, which contain the gas, liquid and solid chemicals required for living things to survive. Water and land have always been of strategic importance in terms of gaining power and superiority to others, in conflicts of interest arising from the transition from individuality to society. This issue is still valid today.

The rapid growth of the world population and the increase in the diversity and quantity of the needs of the societies also increased the demand for natural resources in water and soil. Natural resource use is a very important point of human life today. Natural resources, which are very important in the absence of environmentally sensitive projects, are lost without considering the spatial effects of technological facilities.

The unequivocal use of natural resources by people, the unconscious consumption of resources, the loss of the balance between nature and life that has been continuing since the past has caused a rapid deterioration. Factors such as rapid population growth, irregular urbanization, tourism and industrialization cause natural resources to not be used in a healthy way and this leads to the loss of environmental awareness. As a result, various environmental problems arise.

Natural resources, which are very important in the absence of environmentally sensitive projects, are lost without considering the spatial effects of technological facilities. The unequivocal use of natural resources by people, the unconscious consumption of resources, the loss of the balance between nature and life that has been continuing since the past has caused a rapid deterioration. Factors such as rapid population growth, irregular urbanization, tourism and industrialization lead to the inability of natural resources to be used in a healthy way, which leads to the loss of environmental awareness. As a result, various environmental problems arise.

The environmental management approach, which aims to ensure that all living things can survive with natural resources in a healthy and balanced environment, emphasizes that the resources on the earth are limited and irreversibly damaged, and that economic development can be maintained by preserving the ecological balance.

Economic development and conservation of natural resources should be considered together. As an example of changes in people's natural environment, dams built on rivers can be given. If the dams are designed and developed according to the geographical conditions and developed by using strategies; to obtain energy from the renewable waterpower, to prevent from floods, to make social, cultural and sportive activities, increase agricultural production, irrigation and so on. advantages are obtained. However, if the dams are projected without considering geographical conditions; flooding of many settlements, displacement of people, damage of plant and animal species in the geographical environment, salinization and salinity of agricultural land, spread of various diseases etc. disadvantages can be seen.

One of the most important natural resources is forests. In addition to producing carbon dioxide and producing oxygen, forests are important in terms of accommodating many animals and plants and meeting the needs of people. However, the distribution of forests to the earth is not stable, but it differs more by climatic conditions. Forest areas are constantly decreasing for different reasons. While the forests were being destroyed and used in the past, it is tried to be utilized by taking into consideration the sustainable methods. In order to sustain forests, forest areas that have been destroyed must be protected and afforested.

The ability to operate a natural resource depends primarily on its potential. The potential of a natural resource determines the efficiency and reserve. While natural resources with high potential are used, natural resources with low potential are not opened for operation. Therefore, first of all, a healthy natural resource inventory is needed.

Environmental Impacts of Land Use

The realization of the mutual relations between nature and human beings by planning will reduce the problems. In order for the planning to be successful, every stage of a long process should be examined.

The fertile land is decreasing in the face of the continuous increase in the population. Therefore, it is necessary to make various plans in order to get the most benefit from the scarce natural resources.

The main features that should be considered in order to achieve the right results in land planning are:

- ✓ The purpose of the land should be determined.
- ✓ Topography, vegetation, settlement, soil, water condition maps should be prepared.
- ✓ Studies on land skill classification should be carried out.
- ✓ Risks related to natural and human structures should be taken into consideration and these risks should be reduced.
- ✓ Local and regional needs should be considered.
- ✓ Projects to obtain the highest level of land should be developed.
- ✓ The positive or negative effects of the project to be implemented on the people of the region should be determined and alternative solutions should be produced for them.
- ✓ Solutions should be produced to minimize the negative impacts of the projects on the environment.
- ✓ Implementation phase should be started.

All of the above issues are made possible by a good land management policy and implementation. For this reason, first of all, the existing status of the land, remote sensing techniques and geographic information systems, such as information technologies, taking advantage of high-scale (e.g. 1 / 25.000) master maps should be produced and linked databases should be created.

Problems in the use of rural and agricultural lands

Today, the world population has increased to 7 billion. In spite of this rapid increase in population, soils on the earth's surface remain the same;

Considering the fact that there is still a hunger problem on the world, it can be said that the population, which is growing rapidly, is one of the most important and serious problems of the world in terms of meeting the food needs.

At this stage, the situation is not different from the world in Turkey. Moreover, considering that the population growth rate in our country is higher than the world average, it is a necessity to use our existing agricultural lands effectively in order to meet the food needs of our rapidly growing country population.

When we look at the agricultural areas in our country, there are two main problems in general. These;

- ✓ *Use of agricultural land in non-agricultural areas,*
- ✓ *It is a fragmented and scattered structure in a way to prevent yield.*

Problems: in rural areas & agriculture ..?

Rates of Farm Size in Turkey and some EU countries

İşletme büyüklüğü (hk) / Ülke	0,1 – 4,9	5,0 – 9,9	10,0 – 19,9	20,0 – 49,9	50,0 >
Almanya	% 5,0	% 8,3	% 20,3	% 43,8	% 22,7
Belçika	% 4,5	% 8,6	% 23,1	% 41,1	% 22,6
Danimarka	% 0,2	% 4,5	% 13,7	% 41,7	% 39,8
Fransa	% 1,9	% 3,7	% 11,2	% 37,2	% 46,1
Hollanda	% 3,9	% 8,9	% 24,7	% 46,3	% 16,3
İngiltere	% 0,5	% 1,3	% 3,3	% 12,7	% 82,2
İrlanda	% 1,9	% 5,1	% 18,8	% 41,0	% 33,1
İtalya	% 19,6	% 14,5	% 14,8	% 16,8	% 34,3
Lüksembourg	% 1,7	% 2,3	% 7,1	% 41,0	% 47,9
Yunanistan	% 39,1	% 29,3	% 17,8	% 9,9	% 3,9
AB	% 6,6	% 7,0	% 12,8	% 29,4	% 44,1
Türkiye	% 22,1	% 20,0	% 21,0	% 19,8	% 17,1

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Problems: in rural areas & agriculture ..?

Land Consolidation…

To prevent the degradation and fragmentation of lands by natural and artificial effects, and to create new parcels of economic, ecological and socially functional new parcels by combining more than one piece of land by considering natural properties, usage integrity and property rights in the fragmented lands and to determine the usage patterns by evaluating the land properties and area of these parcels, village and land development services. (5403 no. SOIL PROTECTION AND LAND LAW, 2005)

Planning of Village Resettlement Areas? *In the 45th article of the Unplanned Areas Reconstruction Regulation, the size of the parcels to be formed in and around the settled areas of villages and hamlets was determined*

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Problems in the use of urban land

Urbanization is described as the development of urban lifestyles. In other words, large population accumulation in a narrow area is defined as the new physical and social formation, a complex network of relationships, the differentiation of branches of business and the emergence of a unique cultural system. Urbanization constitutes the process of change of the population who migrated to the city or the population residing in the city and it is handled with its social, cultural and economic characteristics. While urbanization is carried out with the adoption of the attitude and behavior specific to the city in social terms, the people living in rural areas have a different economic and socio-cultural lifestyle.

In the 19th century, the industrialization movement in the west started the process of urbanization. Nowadays, the number of people living in urban areas is increasing in the majority of countries in the world. The real development of the cities was after the industrial revolution. The industrial revolution is an important stage affecting the development of the urbanization process. The industrial revolution has an important place in the development and growth of cities, becoming the major industrial centers.

The emergence of new inventions in the industrial field in the UK The advances in agriculture and new developments in ownership have led the peasants to migrate to industrial zones. The industrialization movements that started in the UK soon spread to other European countries such as Germany, France, Switzerland and Belgium. The change created by the industrial revolution in the city also influenced the physical planning of the city and formed new settlement areas outside or outside the city.

After the Second World War, Turkey has entered into a major process of change. After the 1940s, the city and urbanization problems was continuously occupied an important place in Turkey's agenda. The urbanization movement, which takes its origin from the rural population through internal migration, is not only a demographic event but also a process of change.

The population of the city increased very slowly until the 1950s. Since the growth in agriculture is not at the same rate as the population growth rate, migration from rural to urban areas has become very important for economic reasons. That is why a population boom occurred in those years. The migration of this population from the countryside to the city began with the economic and social change seen in rural areas of the country in the 1950s. In general, the mechanization of accelerating agriculture in social formations in Turkey with the world system and its modernization, changes in traditional land ownership regime in agriculture, low productivity, insufficient agricultural income, loosing land or soil collected in certain hands, living in rural areas by factors such as improvements in transport conditions towards the population in urban areas It is rapidly moving.

Between 1960 and 1980, the increase of rural-urban income differences, the economic and social rise of cities, the development of transportation and communication, and the increasing internal migration movements have increased the urban population. 1980 in Turkey, especially in large cities, including economic, social and physical problems brought about. Turkey's economic and social structure of this urbanization process cannot remove this migration "excessive urbanization," "unhealthy urbanization", "urban sprawl" is expressed through concepts such. People who came with immigration also built squatter neighborhoods around urban centers and started to live with problems such as economic, housing, health, education and social welfare.

In the post-1980 period, it was understood that the general population had gradually increased and the ratio of the population in the cities was higher than the rate in the past. The reasons for the transformation of internal migration from this period into a city centered structure are; The fact that education organization is predominantly included in urban areas has led to the emergence of intermediate barriers between the city and the beginning of phased migration due to the policies encouraging economic policies and investment of the public sector.

The urbanization rate in Turkey, although low compared to industrialized countries, the urbanization rate is extremely high. In 1950, 30% of the world's population lived in urban areas, while in 2010 this rate exceeded 50%. In the same year in Turkey, 15% of the population lived in the city and 85% of the population lived in rural areas. According to the Address Based Population Registration System of 2009, 75.5% of the population lives in urban areas and 24.5% of them live in rural areas. The city is the place where physiological, economic, social and cultural needs are met at a certain level in terms of human relations. In other words, cities have better education, health, etc. The service has been the settlement center for people who want to increase their jobs, who want more income, more beautiful and good housing. Due to these opportunities, it has become a center of attraction.

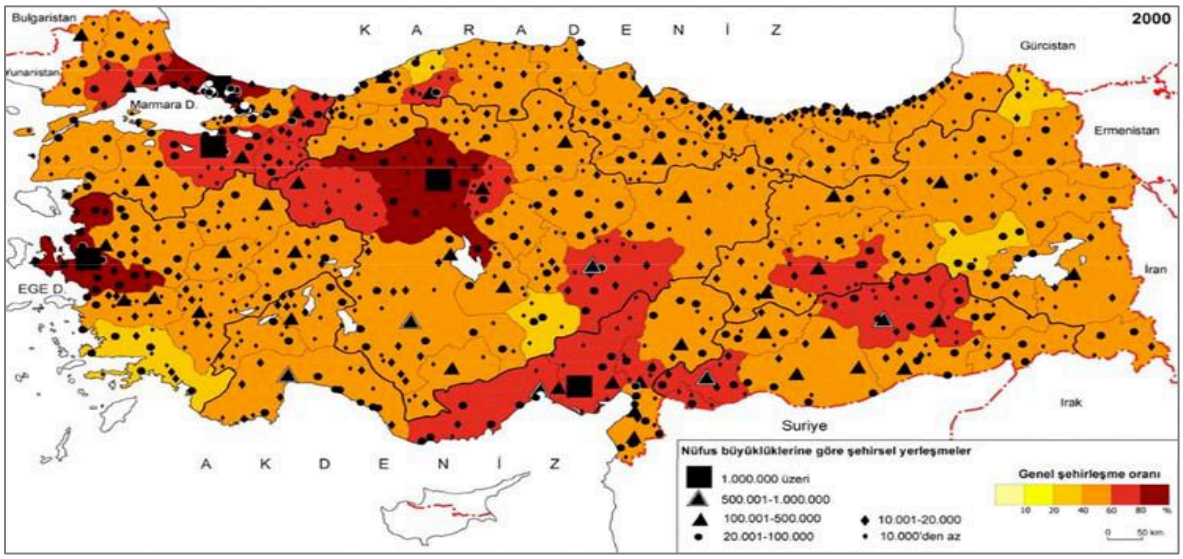


Fig. The distribution of the urbanization level in Turkey (2000)

Urbanization in Turkey has gained momentum especially since the beginning of 1950s with the migration from the village to the city and this movement is still up to date. In particular, in the immigration process leading to industrial cities, local governments failed to provide adequate land supply and infrastructure investments. This has led to unplanned urbanization and rapid urbanization in particular in large cities.

While the shanty case was originally intended as a shelter, over time, this phenomenon has become a means of rent. Almost all of them are on public lands. Especially with the laws issued as amnesty, new expectations have emerged and the problem of slum has become inextricable.

Today's cities are growing mostly unplanned and unhealthy. Cities lack many technical and social basic infrastructure and cause environmental problems. Especially with unhealthy urbanization; urban life is at risk, forest areas, water basins, agricultural areas, sites, green and historical textures are destroyed.

After all; there is a need for an effective LAND MANAGEMENT in order to prevent similar cases from re-occurring and to transform cities into contemporary and livable spaces.

3.2 Land Management Applications in Turkey

For human activities which are the source of personal property and wealth, and which increase with the growing population; more land acquisition, use, change, conversion and demand emerged. Public and local administrators want to obtain more land to meet increasing public services. Rapid urbanization, taking all kinds of disaster measures including earthquake, necessity of balanced and effective use of natural resources, necessity of clean environment necessitates planned use of land. Especially in our country, one-way and continuous migrations from rural to urban; it has increased the need for land use for urban purposes, and this has made terrain and land values extremely expensive and valuable. Here are all of these are in the world as it is in Turkey also make mandatory the rational use of land and managed.

Planned urbanization, urban transformation, land sale to foreigners, erosion studies, protection of watersheds, flood-landslide prevention, real estate valuation, use of areas that lose the character of the forest in the last quarter of the last quarter of the year, where local and central administrators are constantly looking for solutions, effective land management and land-based issues. On the other hand, Geographical / Land Information Systems, which appear parallel to the development of information technologies, are also an important tool in ensuring the land management, feasibility and sustainability. In order to adapt to the European Union Common Agricultural Policy in Turkey "Restructuring and Reform Project in Agriculture" it was introduced. However, since the spatial data / information infrastructure is not at the desired level in our country, the expected benefits of such projects have not been achieved.

Managing and eliminating all these issues and related problems; It is possible with the correct "Land Management Model" systematic. But how can a manageable, unique model be realized? This model; technical, economic and social dimensions, with which administrative institutions and in what way; the questions that need to be eliminated; responses and solutions should be discussed. In this sense, for a sustainable land management in our country; the process of producing a model was introduced by putting forward the technical, legal, economic and social dimensions of the subject and this workshop was organized for this purpose (www.ayop.info).

Land management issues in Turkey; technical, economic and social aspects of the relevant experts, scientists, politicians, representatives of public and local administrations, and representatives of the professionals came together to evaluate the following results are determined.

1 *Since land is the main place of human activities, it has an important place both in individual and social life. In addition, the land is a source of wealth for individuals, as well as an important financial value for countries, even an important part of the social and political phenomenon that strengthens societies. However, "land", which has an important place in the life of individuals and societies, is also a consumable, finite resource.*

2. *Therefore, sustainable management of the land is needed. Sustainable land management (SAY) will only be possible with the existence of a healthy land policy which has been developed with long-term thinking. It is an accepted view that urban development is gaining momentum and it is possible to gain healthier environment and living spaces for future generations. This is due to the fact that the land has a multi-player user base. In this context, sustainable management of the land stands out.*

3. *The most striking feature of the land administration laws in our country is that they have a multi-part structure. A significant portion of the laws on land administration are far from being able to meet the needs of developing and changing countries. Some activities related to land are regulated by more than one legislation. One activity can be carried out by more than one institution and repetitive jobs are emerging due to the lack of coordination. This means wasting both national resources and labor. This leads to confusion and injustice in practice. In particular, the European Court of Human Rights (ECtHR), our country is undergoing significant economic losses.*

4. *In the new constitution works to be revised, with a human-oriented approach, the sections related to "land" should be organized in the context of SAY and should be organized by very participatory actors. In particular, the immovable property should include trust. Legal arrangements should be included in order to prevent the payment of the fee or the use of private / public real estates with the aim of rent. In order to encourage investment in the real estate market, the state should establish mechanisms in which the land markets can be operated effectively and effectively.*

5. *It is known that there are important deficiencies in the land registry in our country. Some kind of deed records are "dead", so they are not up to date. A deed reform is needed in our country. The existing Land Registry and Cadastre system should be designed to be able to integrate with the national GIS and present statistical information. TKGM should publish regular alerts in certain processes based on the information it possesses (eg property acquisition of mortgages, mortgage facility rates, purchase-sale transactions, etc.).*

6. *Multi-piece land management needs to be integrated. For this purpose, there is a need for an institutional restructuring such as effective and effective, coordinating, umbrella organization and Land Administration. This institution should be able to regulate the real estate-based legislation and prevent and manage conflicts, register the immovable values and work effectively with other institutions.*

7. *KBS is one of the most important tools to accelerate land management. For the national geographic database, the infrastructure of national geographic information systems should be established by the leading institution. In this context, the creation of orthophoto maps Turkey will make significant contributions to the actors in the context of land management. In this context, it is useful to measure the sub-parcel boundaries of the immovable in the determination of the type of the parcels.*

8. *Urban regeneration projects, which are one of the implementation tools, should be arranged in a way to include the owners and immovable fair values of the project, as well as the economic contribution of the project owners to the immovable owners and the regulation and valuation models. The Urban Development Strategy (KENTGES), which targets the year 2023, should be followed and necessary updates should be made.*

9. *Immediately reviewing international valuation standards, standards and parameters should be determined, and an information management system needs to be developed that can analyse this structure as a whole.*

10. *The purpose of land management is to protect the land, to improve it, to maximize its benefits and to ensure its sustainability. In the context of urban land management and rural land management, we have to consider two main headings. Rural areas should be re-planned together with village areas. In urban areas, the applicability of land consolidation should be investigated in the Agricultural Conservation Areas (TNKA) defined in the zoning plans.*

11. *A new legal work on public property and non-owned areas should be carried out. Current areas should not be completed with cadastre and renewal 22 / A. These areas should be managed in the context of sustainable land management. Especially in the 22 / A applications made in the areas of consolidation should be considered together with the consolidation.*

12. *In order to prevent migration to developed cities, treasury lands in rural areas should be directed to industrial workforce and contribution should be made to urban development. The coastal plans should be reviewed and Coastal Edge Line*

measurements should be made for all parts of the country and studies based on integrated coastal planning approach should not be performed.

13. *The priority values of 2 / B areas should be determined. Legal regulations should be introduced to prevent such areas from occurring again. In the forest law, parcel registration must be made in the case of the "Special Forest", which may be owned by private citizens.*

14. *The transition from mining sites, virtual mining licenses (exploration licenses) to real mining licenses (operating license) should be provided. Specifically, by the forest ministry, which forest areas will not be licensed is defined as positional and should be presented to users. After mining activities, projects to evaluate these areas should be developed and necessary legal arrangements should be made. New approaches to immovable property for mining sites, in other words, new approaches other than expropriation should be investigated.*

All the above description in the context of Turkey is clear that a wide variety of land management practices. However, considering the definition of land management and the provisions of the general legislation, especially the constitution, the most common of the applications; ***natural resources, rural areas and urban areas***.

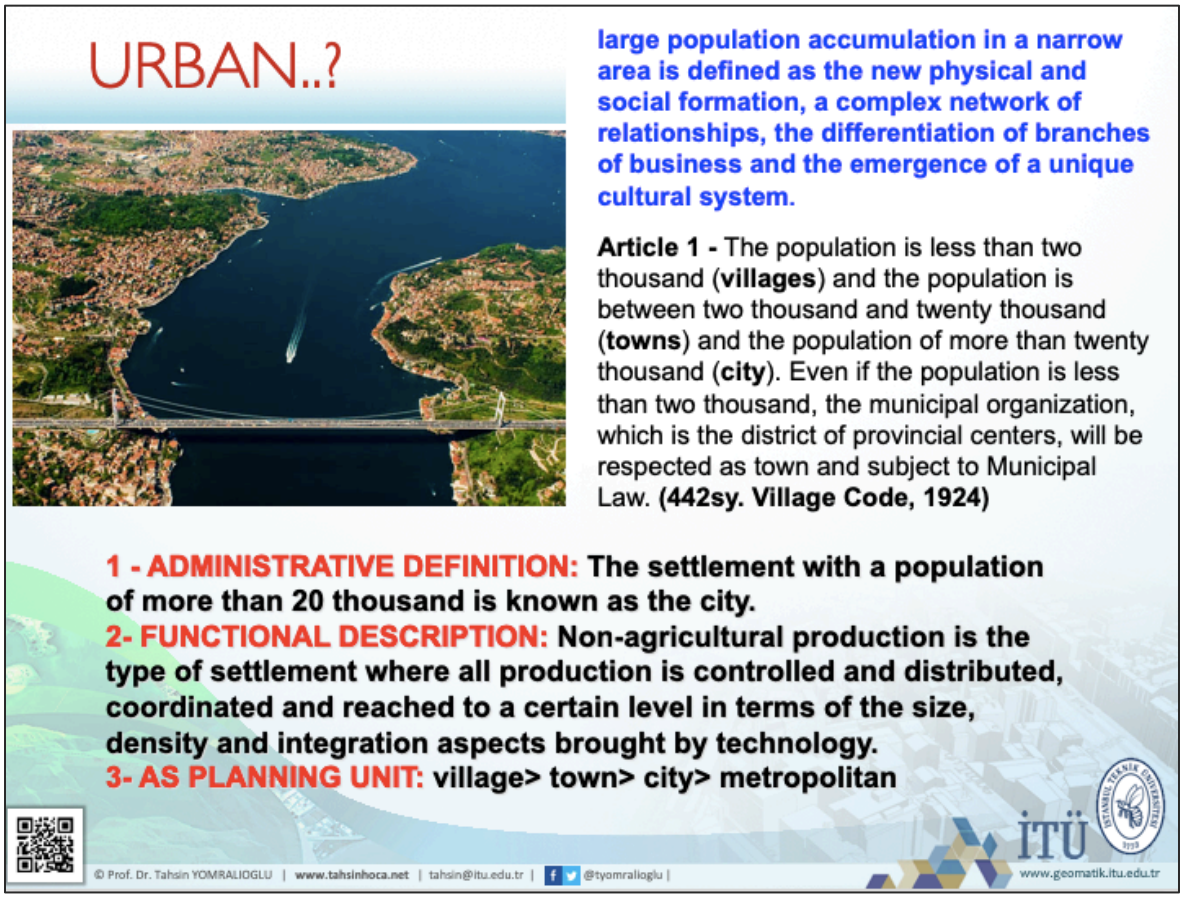
In this context; ***land management, land resources, cultural and natural assets, mines, agriculture, pasture areas, coasts, cities and all their ownership conditions such as land registry, cadastre, real estate appraisal, land, geographic and urban information system for the establishment of technological infrastructure. application areas.***

In the following sections, land management practices are discussed in more detail.

4 LAND MANAGEMENT IN URBAN AREAS

4.1 Urbanization and planning process

What is urban?



"LIFE FUNCTIONS" IN PHYSICAL PLANNING

1- HOUSING. (housing according to family texture ..)

2- WORKING. (workplace in various sectors)

3- INFRASTRUCTURE AND EQUIPMENT. (public administration, cultural, religious, health, technical and social facilities)

4- EDUCATION. (schools, vocational and art schools, theater, cultural centers, concert halls, etc.)

5- RESTING. (forest, park, sports, navigation areas)

6- TRANSPORTATION. (urban and non-urban, near and far transportation facilities)

7- COMMUNICATION. (intercity, international communication)

Zoning statutes

Quote: An overview of the zoning legislation through the eyes of a city planner

CITY PLANNING- *In planning, we need to see everything as planning as a general concept rather than planning the place where we live directly. First of all, we can plan our time and use our cities as long as you can use them properly. This city can extend from planning, management to the company or a small trade unit within its own functioning scheme. The most fundamental feature of planning is that it is a systematic whole. It is to inform each other and to the next data and to provide mutual interaction. In the integrity of the planning, if the connections between these inputs cannot be established, the system will collapse.*

SETTLEMENT- *The phenomenon called settlement is theoretically a whole of housing, working surfaces, open spaces, educational and cultural facilities and transportation channels, but these four cases are never seen separately. These phenomena are intertwined in the neighbourhoods where we live, mainly consisting of these functions. The main task of the planners is to ensure that people can live happily in this city since the birth of cities. Our main task is to add value to people's parcels or real estates or to expand the way ahead of them to provide a habitable environment. People are happy if they can easily reach from one place to another and this is the plus value of planning. If we are not approaching the right data, analyses and syntheses in a city in the growth process as urban planners, we succeed in killing cities before natural disasters.*

Our settlement and plan worth the first plan is the zoning plan. This is located near the end or even near the end. The 5-year development plan has targets determined only by sector. Regional plans should be prepared in line with these objectives. Regional plans, Turkey's highest scale are planned. Regional plans are environmental plans that concern the decisions taken by the plans. The common scale is 1 / 25,000. After the plans of the landscaping plans, 1 / 5,000 zoning plans, 1 / 1,000 zoning plans and the zoning plans come. We can reach building densities with various global methods in master development plans. However, we should see the structure intensities, the element we need to use, zoning plans and plans must be 1 / 1.000 scale. If the regional plans have forbidden the construction of industry in one place, the environmental plan cannot bring industry here. If it is due to a number of obligations, these should be shown in a higher scale plan as required by law. This interaction is for each one. The basic requirement of the zoning plan for us is the elements that contain a legal limitation area that specifies the building rights in the region.

WHAT ARE THE FEATURES OF THE ZONING PLAN? *Fundamentally, the objectives of the zoning plan are to prepare the most appropriate conditions for people to live. It is to enable the distrust of the country in the context of social-economic developments. To protect the public interest and to provide the logic of it. To protect the public interest and to establish the logic of this, to ensure a balanced distribution.*

The first needs of people come to the city. While the urban settlement area is so rural and there are agricultural areas around it, agricultural land gradually decreases. The fact that agricultural lands go out of agriculture, enter into the boundaries of the development plan, in this context outside the length of the right, the right to have the construction we call the 3-dimensional, a change in the zoning law brings with the team and now takes the name of urban land, not agricultural land.

As far as the development of this is concerned, very fundamentally, the first planning approach in the world is the sole objective of the classical urban planning approach; it is also beautiful cities. Classic urban planning approach in Turkey is an approach applied to the 1956 period. by most of the foreign experts of the largest cities in Turkey, we need socio-economic features of our plans are made known. The projection period of these plans is 20-30 years. When the projection period was over, those that were far above the planner's suggestion became very populist. So classic urban planning approach, he could not catch the dynamism of the cities in Turkey during this period. Later in the world this approach was abandoned. It re-examines the history of today's settlement and today's analytical values in a wide range of planning approaches. There is a planning hierarchy in a comprehensive planning approach. This hierarchy was greatly paid attention.

Principles of urban planning

- ✓ *Protection of **natural, historical and cultural** values*
- ✓ *Reduction of **disaster damages***
- ✓ *Ensuring efficiency, efficiency and transparency **in public benefit** and resource utilization*
- ✓ *Distribution of infrastructure, service and production activities in accordance with development policies to cover all urban and rural areas*
- ✓ *Preparation with participatory processes*
- ✓ *Preparation in a multi-disciplinary structure*
- ✓ *Establishment of complementarity and totality between sectoral priorities*
- ✓ *Making spatial arrangements to create an innovative, flexible and competitive economic structure*
- ✓ *Adaptation to changing conditions*
- ✓ *Observing spatial cohesion*
- ✓ *Improving the quality of life*
- ✓ *Strengthening spatial relations between urban and rural areas*
- ✓ *Preparation based on scientific research and data is essential*

Five-year development plans

The Five-Year Development Plan has been implemented since the establishment of the State Planning Organization. Within the framework of economic philosophies and approaches of the plans; Plans before 1960 plans: partial, 1960-1980 plans: mixed economy, holistic, 1980-2000 plans: liberal, can be described as strategic. Before 1980, "import substitution policies" in industrialization and "transition to open economy" became the guide after 1980.

Turkey, entering the planned period in 1963, to assess the socio-economic potential, and the potential for this country to be able to steer you in the best way with plans in the medium term, purpose and has felt the need to prepare a 15-year perspective plan which determines the priorities of the target.

Turkey takes into account the perspective of the Five-Year Development Plan put forward by changing the approach of the era as the economic and social development priorities and policies prepared in order to create the necessary infrastructure to prepare the 2000s.

For preparation of Turkey to 21st century, covering the years 2001-2023 plans prepared in order to create the necessary infrastructure to prepare century perspective reveals the Long-Term Development Strategy takes into account the changing economic and social development of the era as priorities and policies.

The main purpose of the Long Term Development Strategy; In line with the target to surpass the level of contemporary civilization, Turkey's 21st-century culture and producing the civilization reached its most advanced stage of world standards, revenue fair sharing of human rights and which secures their responsibility, the rule of law, participatory democracy, secularism, performing at the highest level of religion and freedom of conscience is an effective world state at a global level. The transformation of the information society into a higher proportion of the world's output, raising the quality of life of the society, contributing to science and civilization, and effective territorial control at regional and global levels constitute the objective objectives of the long-term development strategy. To take its place among the world's top ten economies in 2020, Turkey's economy is predicted.

The Long-Term Development Strategy will play an important role in directing economic and social transformations, taking into account the comprehensive and rapid change in the world. Intended more compatible format conversion and the efficient use of resources, the realization of Turkey's plan to meet the needs will be an important contribution.

The steps in urban planning…
UPPER SCALED PLANS
LOWER SCALED PLANS
FIVE YEARS OF DEVELOPMENT PLANS: SPATIAL STRATEGIES
STRATEJİ VE BÜTÇE BAŞKANLIĞI
TÜRKİYE PLANI
ON BİRİNCİ KALKINMA PLANI (2019-2023)
REGION-ENVIRONMENTAL PLAN (1:100B - 25B)
TÜRKİYE CUMHURİYETİ ÇEVRE VE ŞEHİRCİLİK BAKANLIĞI
LAND-USE MASTER PLANS (1:5000)
ZONING APLICATION PLANS (1:1000)
ALIŞVERİŞ MERKEZİ
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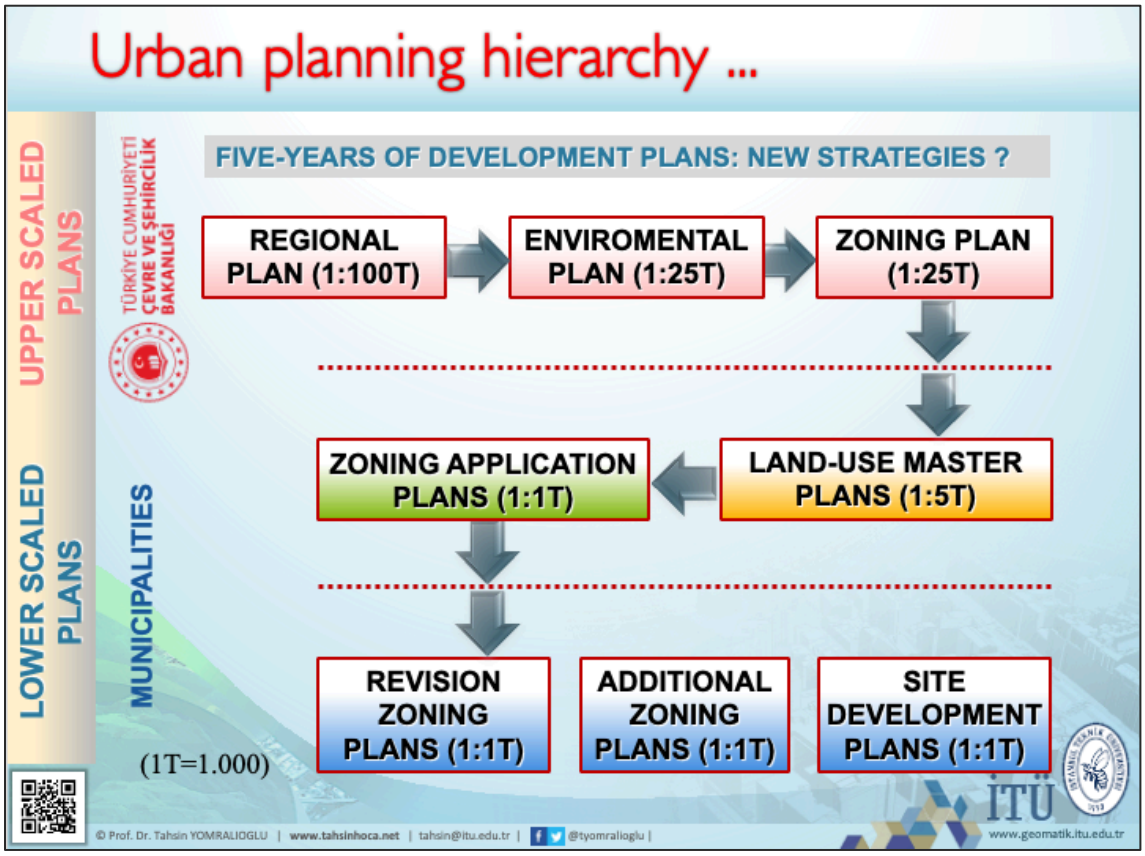
Urban planning hierarchy …
UPPER SCALED PLANS
LOWER SCALED PLANS
TÜRKİYE CUMHURİYETİ ÇEVRE VE ŞEHİRCİLİK BAKANLIĞI
MUNICIPALITIES
FIVE-YEARS OF DEVELOPMENT PLANS: NEW STRATEGIES ?
REGIONAL PLAN (1:100T)
ENVIROMENTAL PLAN (1:25T)
ZONING PLAN (1:25T)
LAND-USE MASTER PLANS (1:5T)
ZONING APPLICATION PLANS (1:1T)
REVISION ZONING PLANS (1:1T)
ADDITIONAL ZONING PLANS (1:1T)
SITE DEVELOPMENT PLANS (1:1T)
(1T=1.000)
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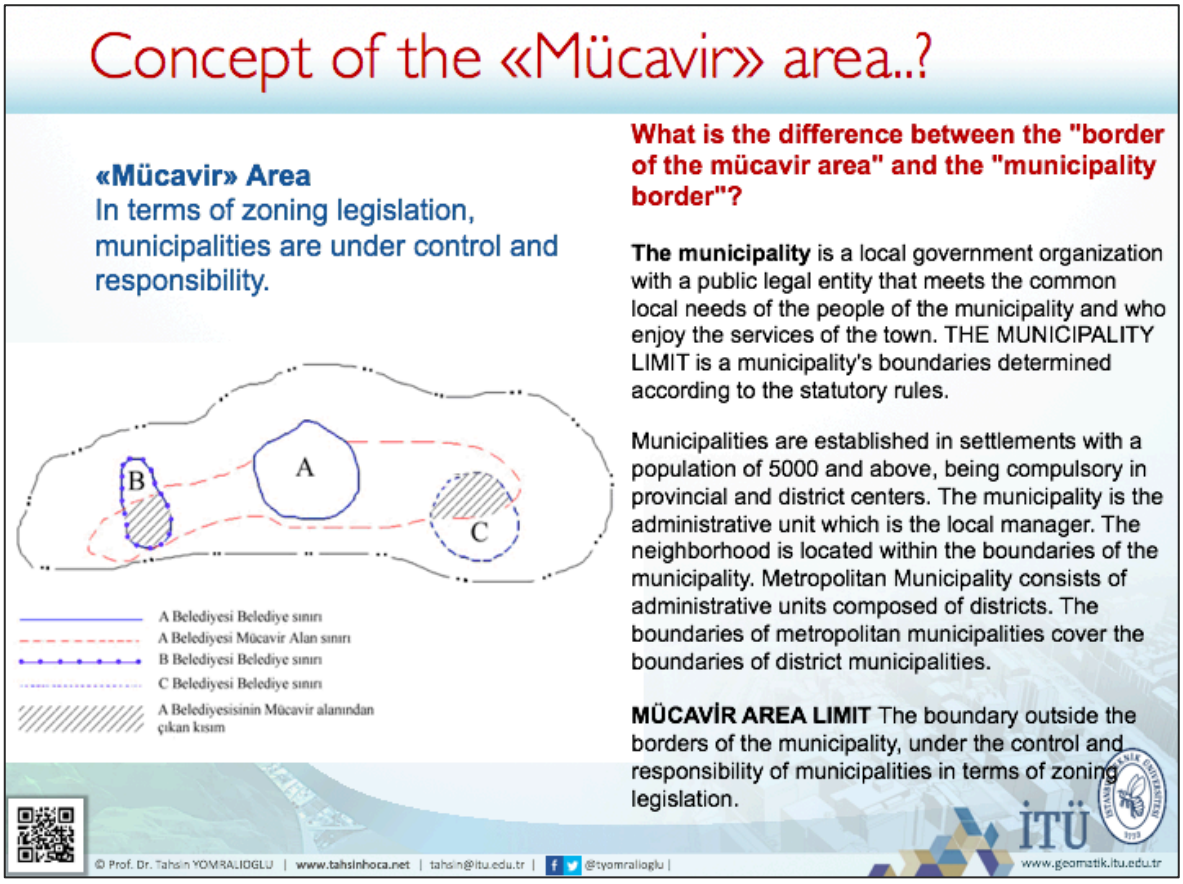
Concept of “Mücavir” area

The **municipality** is a local government organization with a public legal entity that meets the common local needs of the people of the municipality and who enjoy the services of the town. "Municipal Boundaries" are the limits of a municipality determined in accordance with the Law. Municipalities are established in settlements with a population of 5000 and above, being compulsory in provincial and district centers. The municipality is the administrative unit which is the local manager. The municipalities are governed by a municipal council elected by the people of the environment and a mayor. It is both an administrative and financially independent entity.

The **village** has a legal entity with the smallest settlement of the local administration organization and the headman. The boundary of the contiguous area is the limit given to the municipalities for the control and accountability of the municipalities. **Municipal or provincial, district and village borders are administrative boundaries. "Mücavir" area is not an administrative border**. For example, the establishment of a municipality in an area and the arrival of elected bodies of the municipality lead to the end of the administrative existence and legal personality of the villages within this area. However, the fact that a village is taken to the "mücavir" area does not mean that the administrative and legal personality of the village is over.



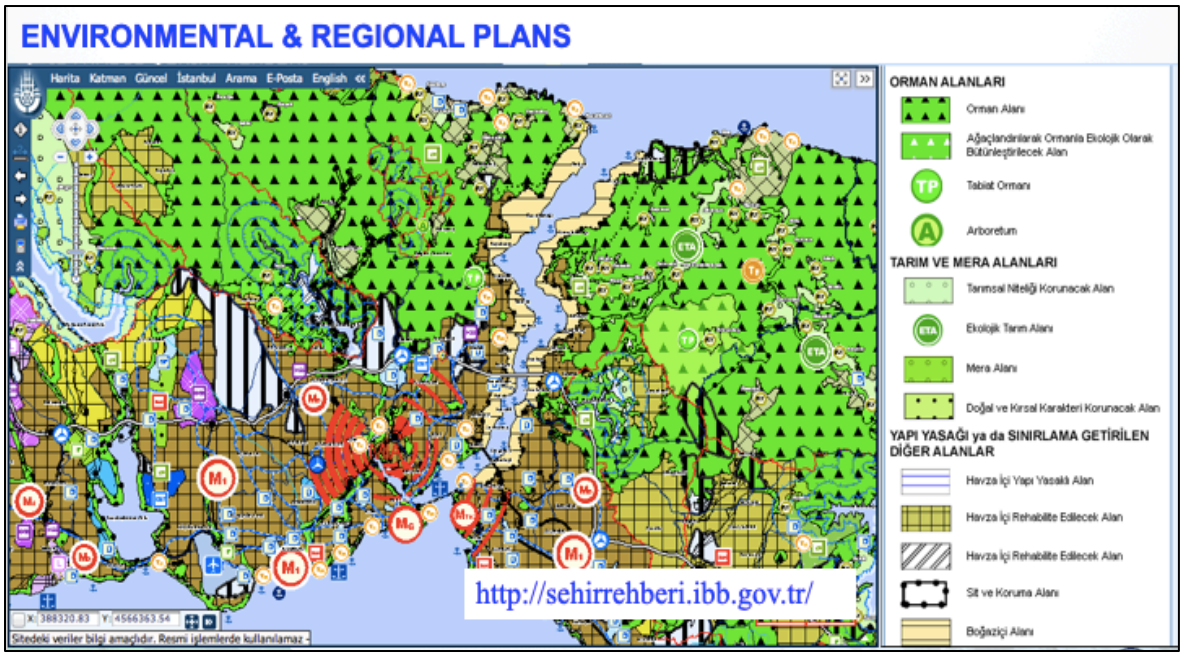
Spatial strategy plans

Spatial Strategy Plan; economic, social policies and environmental policies and strategies associated with the place of physical development and sectoral decisions, directing the country and the regions considered necessary, the report is complete with the plan. Spatial plans, in accordance with their Spatial Strategy Plans in terms of their scope and objectives; "Environmental Plans" and "Development Plans". Development plans are prepared as master plan and application zoning plan. Each plan is prepared in accordance with the plan at an upper level.

In spatial strategy plans; the development plan and the targets set out in the regional plans, regional development strategies and other strategy documents, if any, are taken into account. The fact that 1/25.000 scale master development plan is made in metropolitan cities is not an obstacle for making 1/5.000 scale master development plans in the regions deemed necessary.

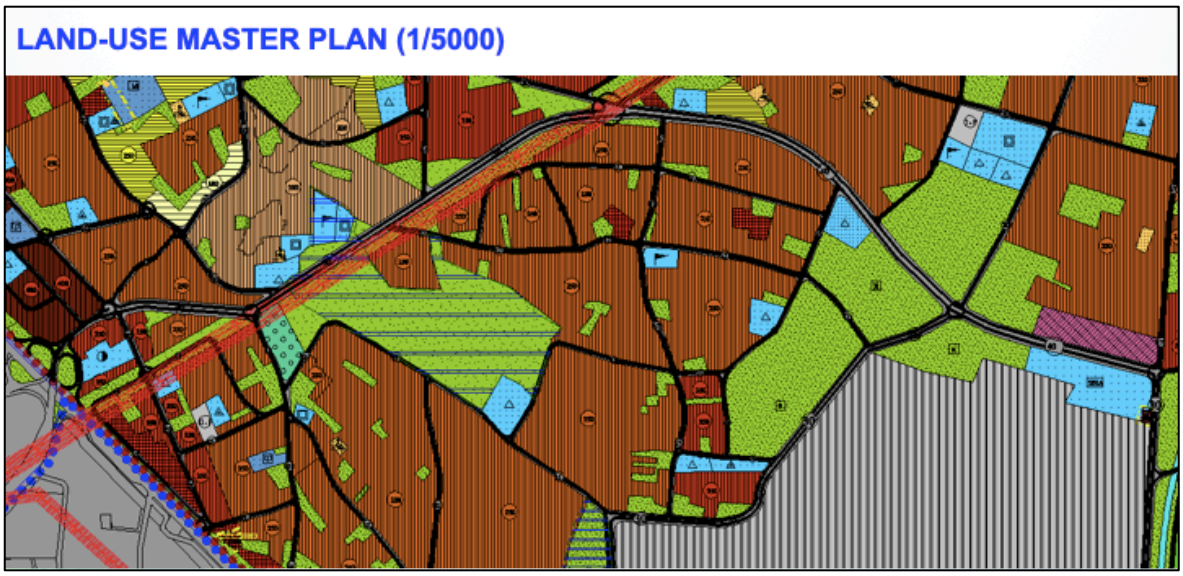
Environmental Plans

Environmental Plan: Determines the settlement and land use decisions, such as housing, industry, agriculture, tourism, transportation and land use decisions in accordance with the Country and Regional plan decisions, and is available on a scale of 1/25.000, 1/50.000, 1/100.000 or smaller plan. Environmental Plan; The plan, which sets out the principles and criteria within the framework of general land-use decisions that direct the sub-plans of the settlement, development areas and sectors in accordance with the objectives and strategies of the spatial strategy plans, is a whole prepared with the plan provisions and report prepared in the region, basin or province.



Master Plans

The Master Plan, if any, shall be prepared on the existing maps in accordance with the regional or environmental plans; 1/2000 – 1/5000 scale, which aims to show general usage forms, major types of regions, future population densities of regions, density of buildings when necessary, direction and magnitude of development of various settlement areas, principles of transportation systems and problems, and preparation of implementation zoning plans. It is a complete and detailed with report.



Zoning application plans

Zoning Application Plan; approved maps which are prepared according to the principles of master zoning plan and their cadastral status, if any, and the intensity and order of the various regions, their roads and their implementation, and the implementation steps to be based on the zoning implementation programs.

Article 7/3914 - The following points shall be complied with in the preparation of the current map and zoning plans.

a) The existing maps of settlements with no existing maps are made or built by the municipalities or governorships. A certified copy of these maps shall be submitted to the Ministry and a copy shall be sent to the relevant land registry office.

b) In the last census, it is obligatory to make the zoning plans of the settlements with a population exceeding 10,000.

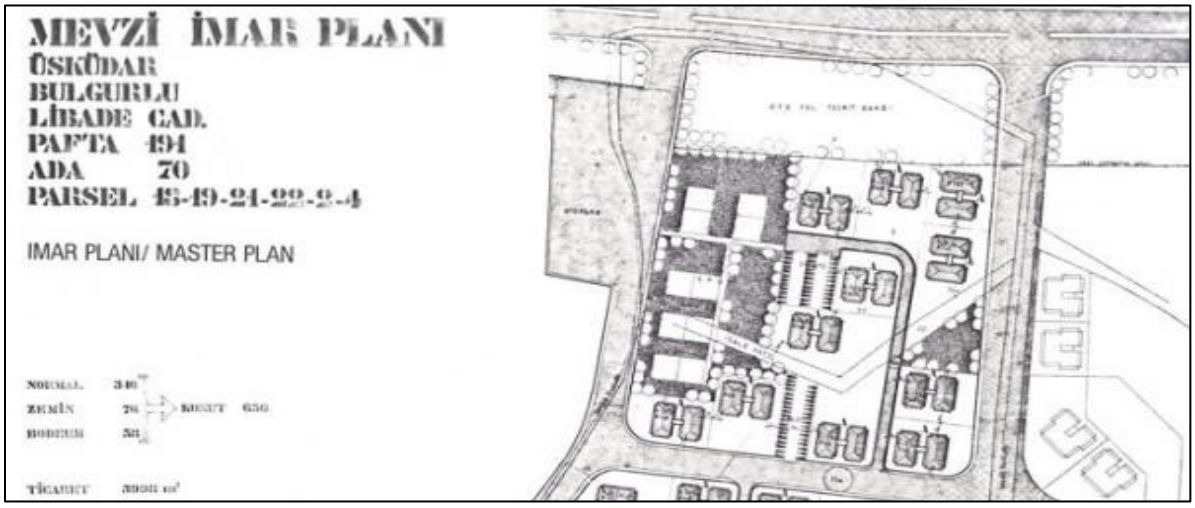
c) In order to ensure that the existing plans are insufficient for the settled population or that new settlements are opened for immediate use; It shall be implemented according to the regulations which will be prepared by the Ministry in the places which do not have zoning plans or development plans to be made by municipalities or governorships.

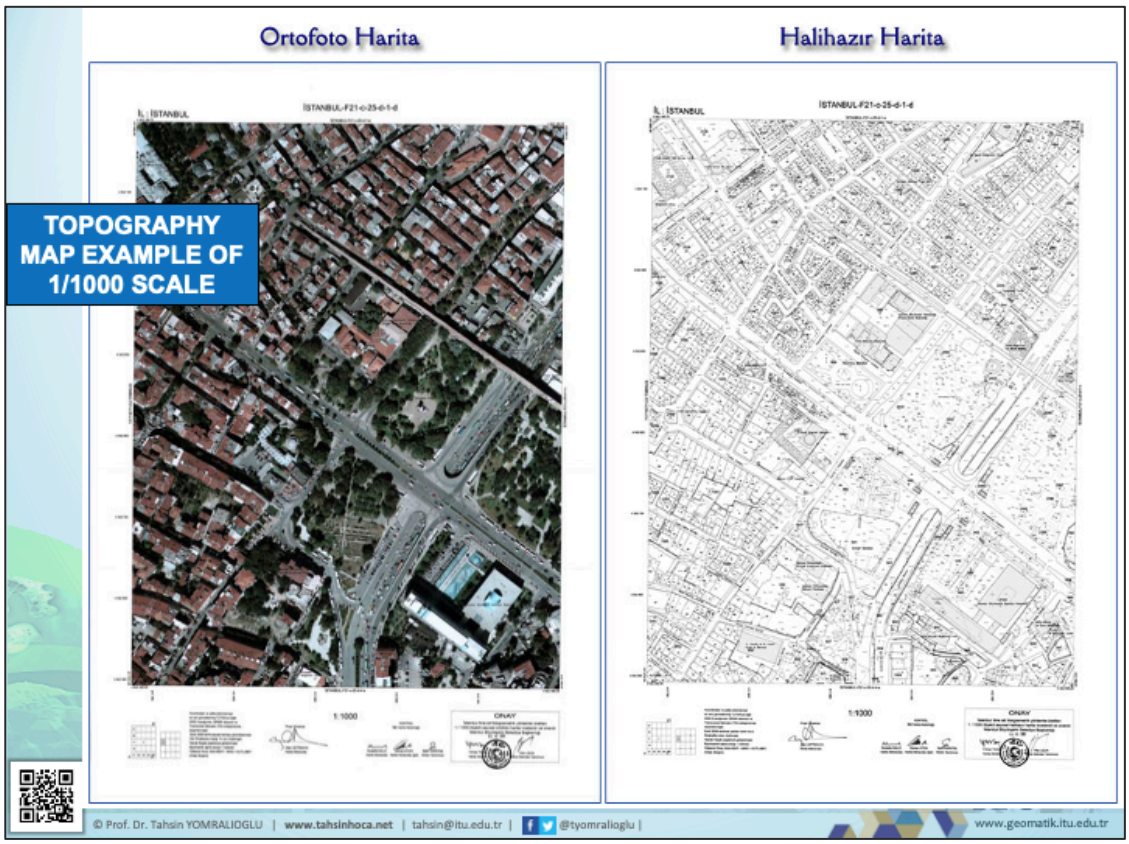
Implementation zoning plans can be in three ways. These;

Revision zoning plan (revizyon imar planı); it is defined as the plan obtained by the renewal of the plan or a part of the plan that will affect the plan's main decisions in order to ensure compliance with the upper scale plan decisions and the situations where all types and sizes of the plan do not respond to the need or cannot be applied or cause problems.

Additional zoning plan (İlave imar planı); In case the existing zoning plan does not respond to the needs in terms of development areas, it is called an additional zoning plan, which is adjacent to the existing zoning plan and consistent with the general land use decisions of the existing zoning plan and which are prepared in a way to ensure integrity and harmony with the existing zoning plan and transportation. In areas where planning is insufficient and, in the areas, adjacent to the existing planning limit, the Council of State has the authority to approve the Additional Plan, which can be prepared as 1 / 25.000, 1/5000 and 1/1000 scale, provided that it is integrated with the main plan decisions. The preparation and approval process is the same as the Implementation Zoning Plan.

Location zoning plan (Mevzi imar planı); if the existing plans are insufficient for the settled population or the need to open new settlements and the boundaries are determined by the relevant administration, the social and technical infrastructure needs, which are not integrated into the plan, are not integrated within the scope of the plan limits, zoning plan, which provides a whole with its report.





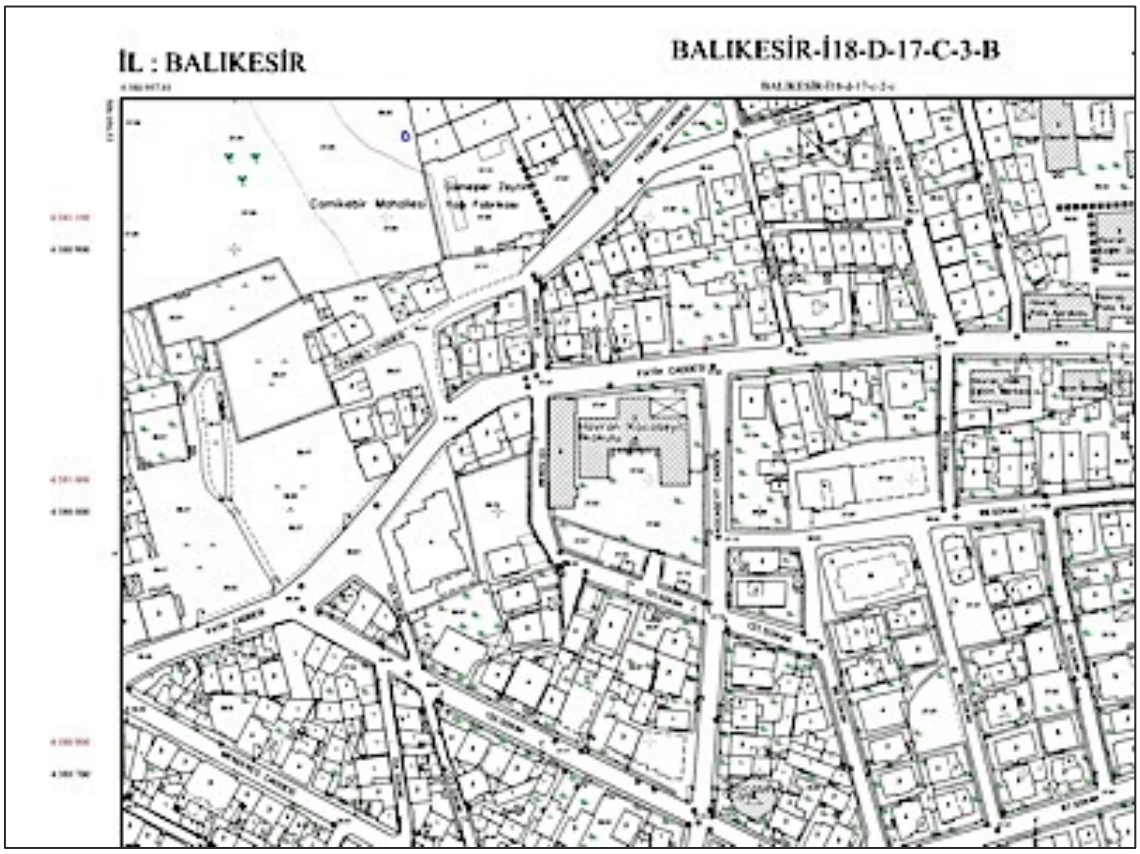
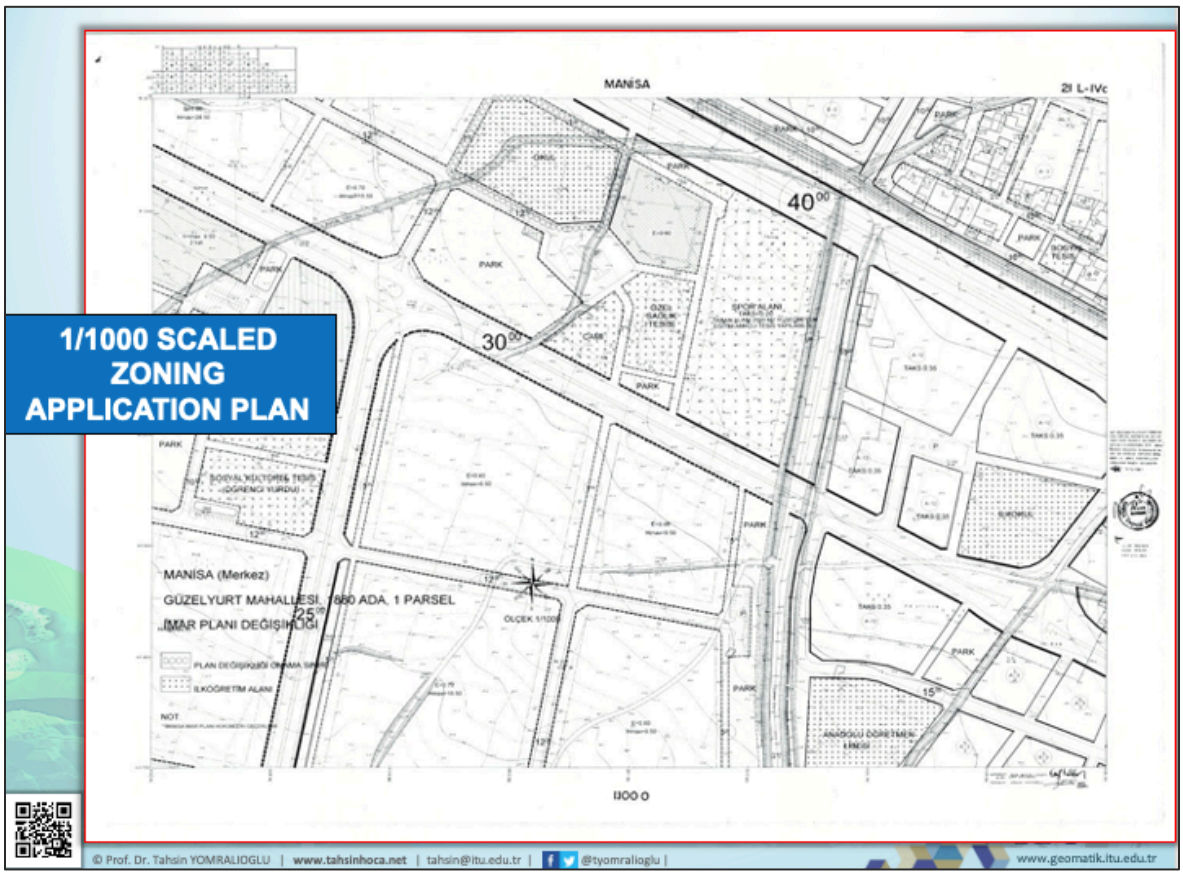


Fig x. Large scale topographical map examples



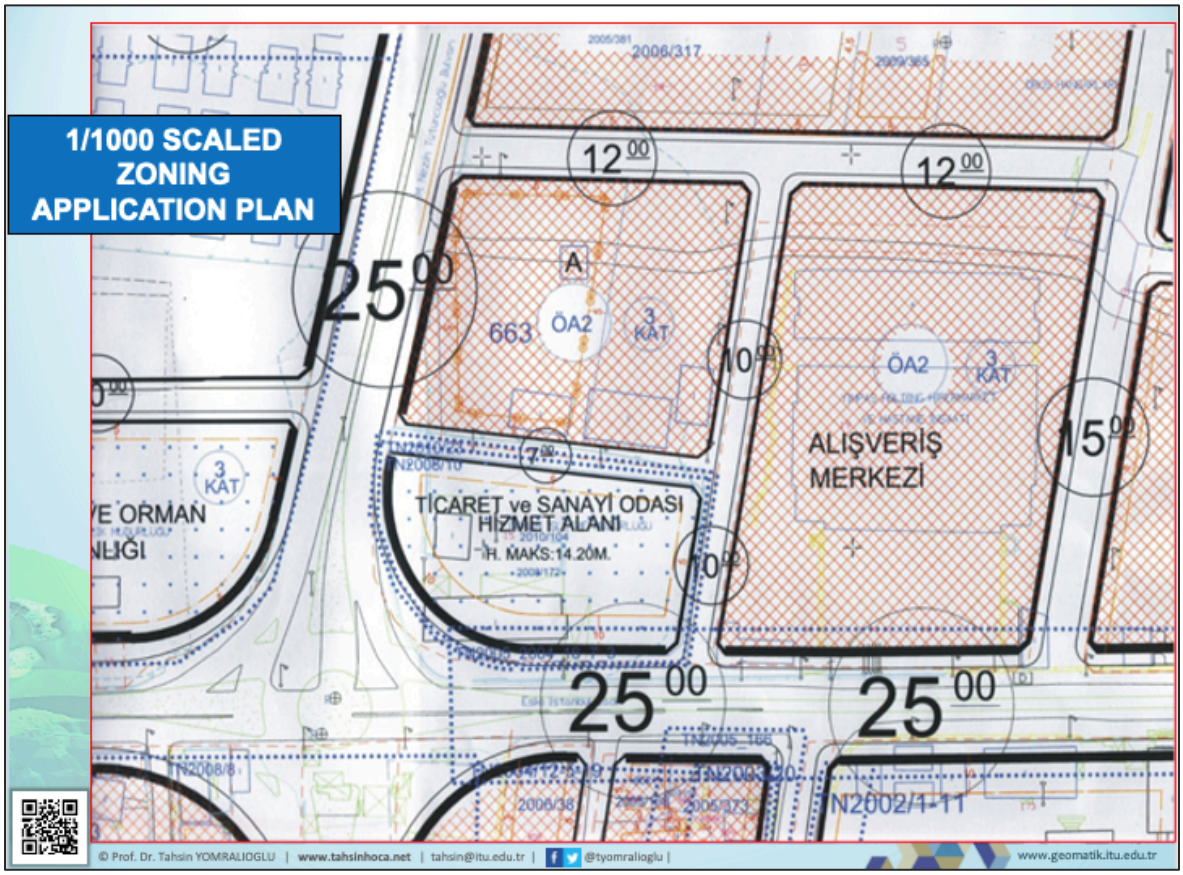


Fig x. Zoning plan samples

4.2 Applications of zoning plans

Following the approval of the zoning plans in urban areas, these plans should be reflected to the land in the foreseen form as soon as possible and the plan should be realized. Zoning plans, which are one of the basic tools of regular urbanization and land use decisions defined according to these plans are reflected to the property, to ensure that the reinforcement areas are taken into the hands of the public and to contribute to the healthy development of the region socially and economically are covered by the zoning plan applications.

Therefore, the main objective of the zoning plan applications is to reshape the existing property structure existing in the urban area in accordance with the land use decisions defined in the zoning plan and to transform it into a new ownership structure by registering with the title deed.

In this way, new residential areas suitable for reconstruction are created on the one hand with zoning practices, on the other hand, the need of the area subject to implementation (health facility, cultural and social facility, educational institutions, road, square, parking, parking, children's playground, sports areas, market place, the necessary reinforcement areas for public services such as places of worship and police station are also provided.

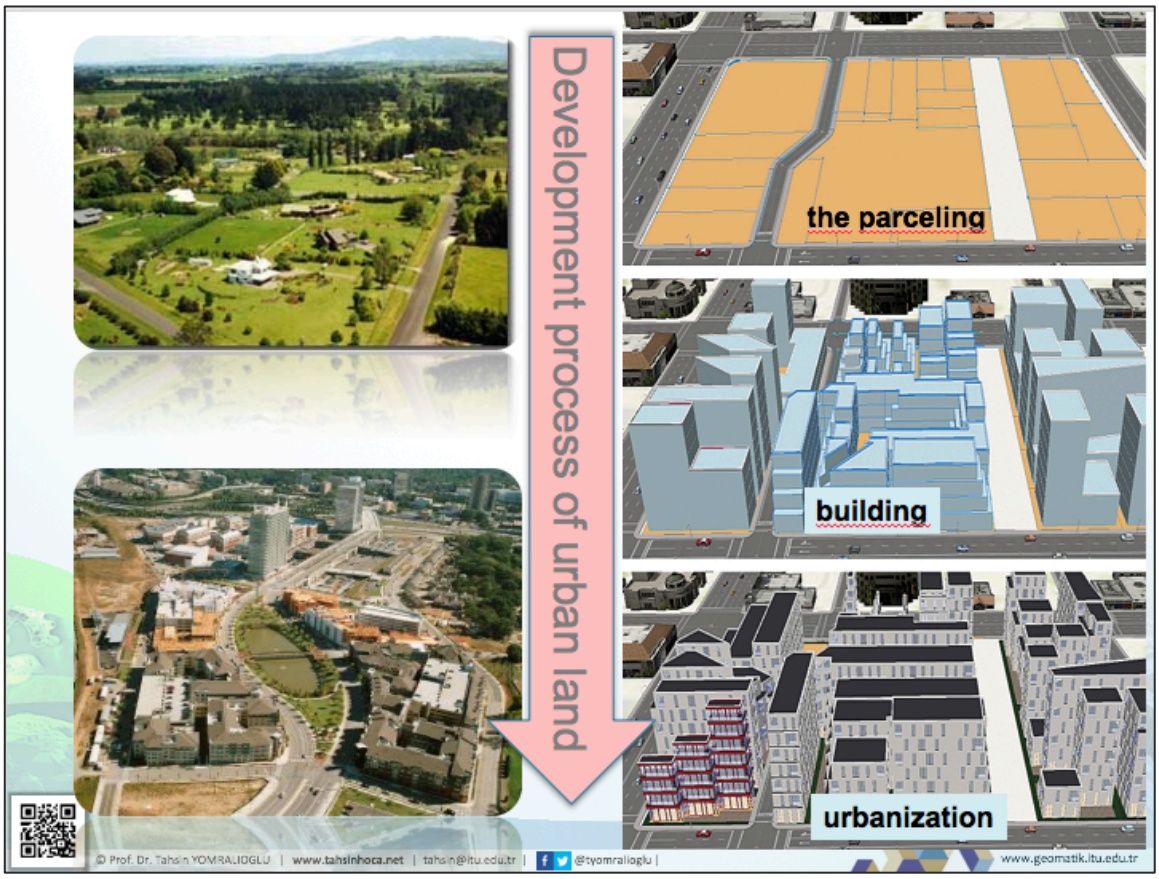


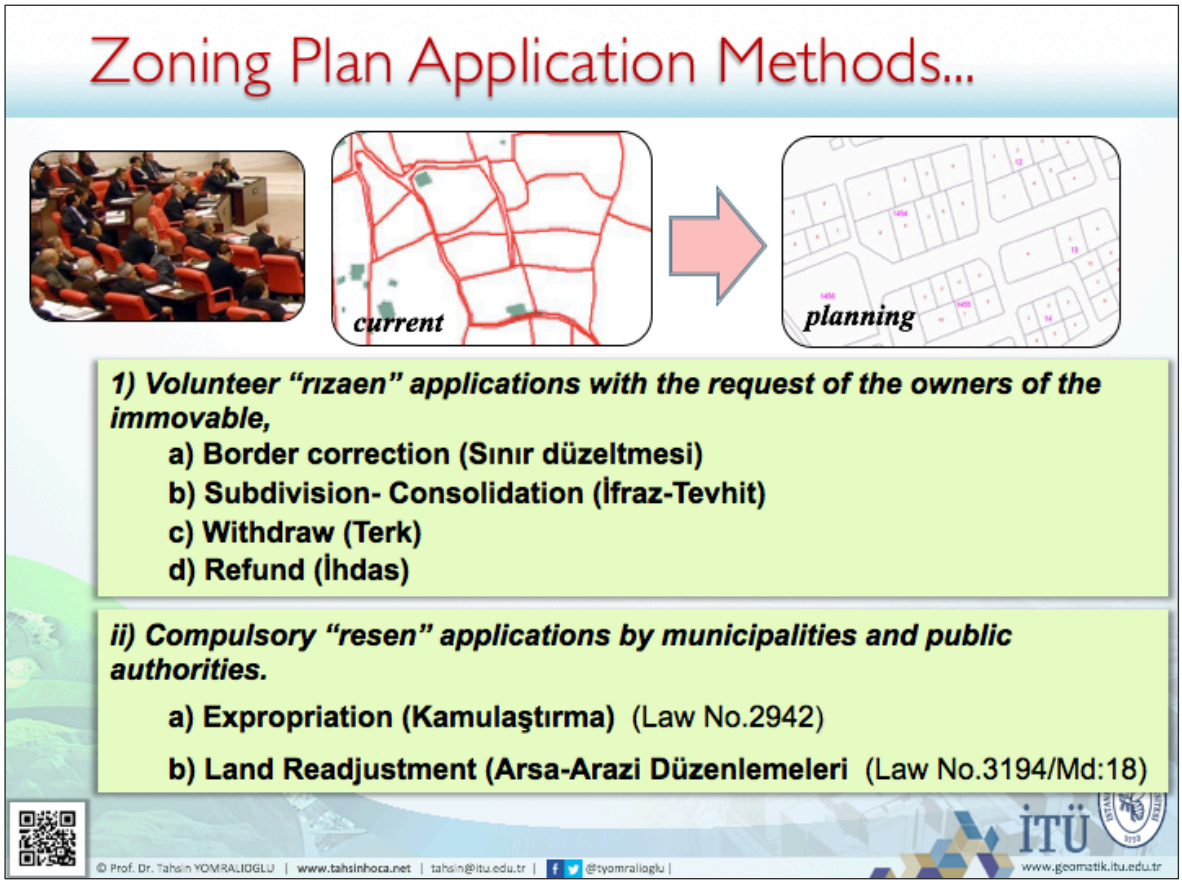
Figure x. Cadastre and zoning plan relations

In this context, property arrangements are carried out in accordance with the provisions of Article 11, 15, 16 and 18 of the Zoning Law numbered 3194. The essence of zoning is the desire to conclude that the existing property is registered with its new geometry in accordance with the zoning plan. For this purpose, zoning plan applications in our country are generally two ways;

i) ***Volunteer "rızaen"*** *applications with the request of the owners of the immovable,*
ii) ***Compulsory "resen"*** *applications by municipalities and public authorities.*

Volunteer (Rızaen) is the application made by the request of the owners of the real estate; According to the provisions of Articles 11, 15 and 16 of the Zoning Law No. 3194, it is composed of the relinquishment, expulsion and abandonment procedures in accordance with the land use decisions specified in the current zoning plans and the registration of the property made depending on the will of the person concerned.

Compulsory (Resen) applications are applications by municipalities and public authorities. These applications are done according to the **Expropriation** (*Kamulaştırma- İstimlak*) Law No. 2942 and the provisions of Article 18 of the Zoning Law No. 3194 by "**Land Readjustment** (*Arsa ve Arazi Düzenlemeleri*)". The approval, announcement and registration procedures of the Land Arrangement in accordance with the provisions of Article 19 of 3194.



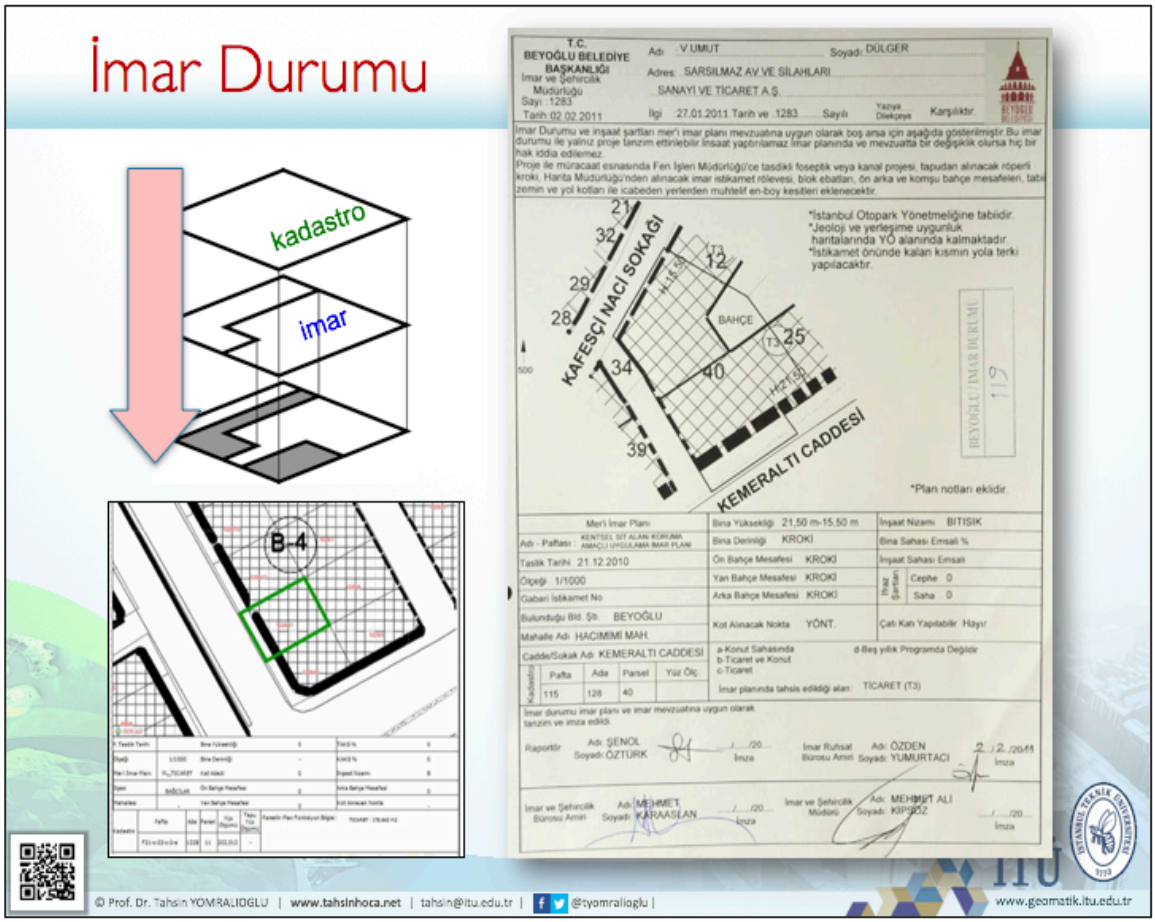
Information: zoning status document?

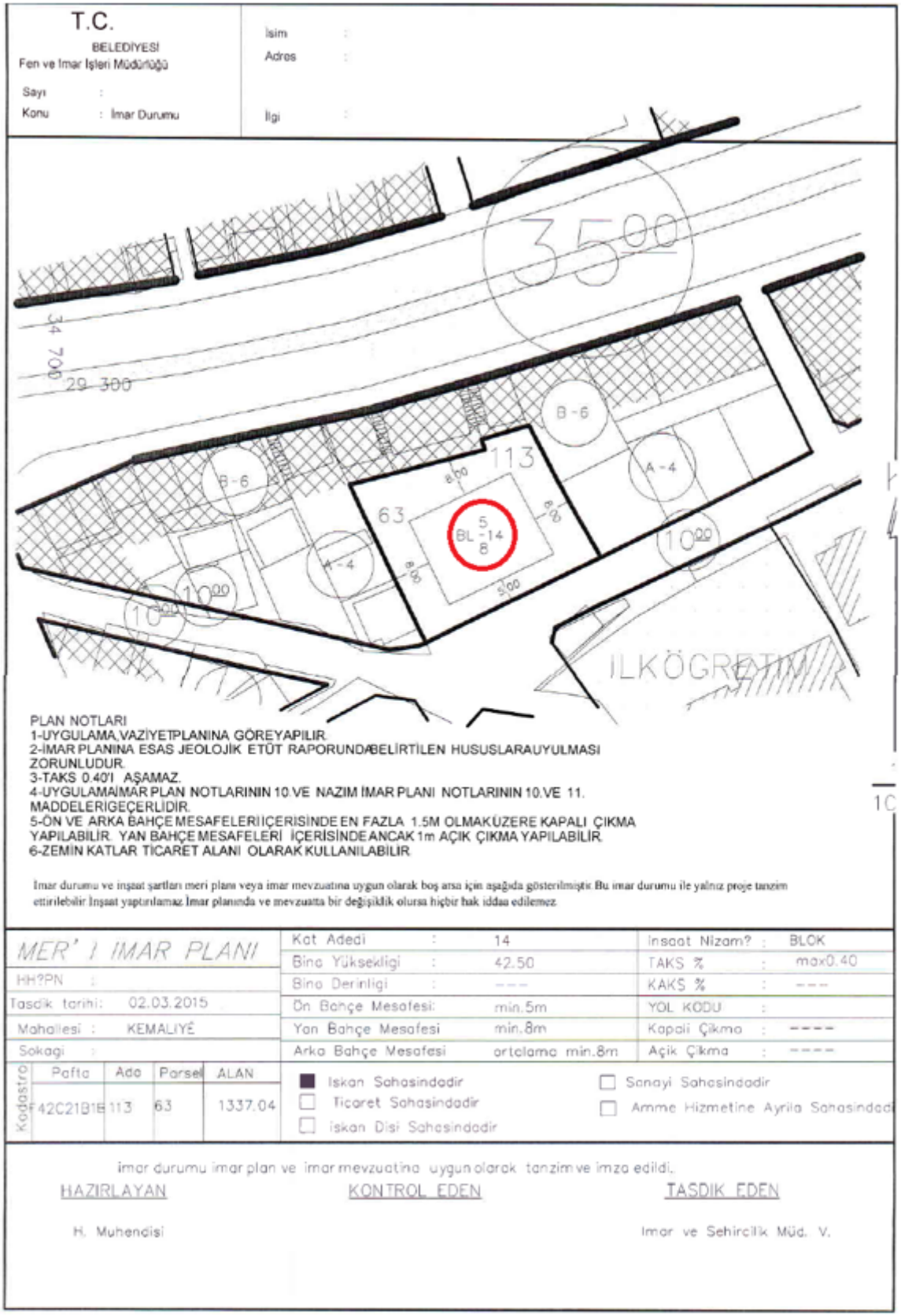
The official document prepared by the Reconstruction and Urbanization units of the municipalities, showing the construction conditions on the cadastral parcel of land, according to the zoning implementation plan, is called the "***zoning status (imar durumu)***". The zoning status document is a scaled and approved document containing both geometric and textual information, which is formed by overlapping the cadastral and zoning plan sheets in the same coordinate system. It is also called as "***zoning diameter (imar çapı)***".

What is the Use of Zoning Status? The zoning status document, which shows the dimensions of the building that can be built on the land, the height of the floors, the drawing distances, and the quality of the building, is an official obligation to be obtained in order to construct. A construction permit cannot be obtained without a zoning status document.

Documents Required to Obtain Zoning Status:

- Development Status Application Form
- Copy of Identity Card
- Land Registry
- Diameter (Çap) (Taken from Cadastre)





T.C.
BELEDİYESİ
Fen ve İmar İşleri Müdürlüğü

Sayı :
Konu : İmar Durumu

İsim :
Adres :
İlgi :

PLAN NOTLARI
1-UYGULAMA,VAZİYETPLANINA GÖREYAPILIR.
2-İMAR PLANINA ESAS JEOLOJİK ETÜT RAPORUNDABELİRTİLEN HUSUSLARAUYULMASI ZORUNLUDUR.
3-TAKS 0.40'I AŞAMAZ.
4-UYGULAMAİMAR PLAN NOTLARININ 10.VE NAZIM İMAR PLANI NOTLARININ 10.VE 11. MADDELERİGEÇERLİDİR.
5-ÖN VE ARKA BAHÇE MESAFELERİİÇERİSİNDE EN FAZLA 1.5M OLMAKÜZERE KAPALI ÇIKMA YAPILABİLİR. YAN BAHÇE MESAFELERİ İÇERİSİNDE ANCAK 1m AÇIK ÇIKMA YAPILABİLİR.
6-ZEMİN KATLAR TİCARET ALANI OLARAK KULLANILABİLİR.

İmar durumu ve inşaat şartları meri planı veya imar mevzuatına uygun olarak boş arsa için aşağıda gösterilmiştir. Bu imar durumu ile yalnız proje tanzim ettirilebilir. İnşaat yaptırılamaz. İmar planında ve mevzuatta bir değişiklik olursa hiçbir hak iddaa edilemez.

MER' I IMAR PLANI
HH?PN :
Tasdik tarihi: 02.03.2015
Mahallesi : KEMALİYE
Sokagi :

Kadastro	Pafta	Ada	Parsel	ALAN
	F42C21B1B	113	63	1337.04

Kat Adedi	14	Insaat Nizam?	BLOK
Bina Yüksekligi	42.50	TAKS %	max0.40
Bina Derinligi	---	KAKS %	---
Ön Bahçe Mesafesi:	min.5m	YOL KODU	
Yan Bahçe Mesafesi	min.8m	Kapali Çikma	----
Arka Bahçe Mesafesi	ortalama min.8m	Açik Çikma	----

■ Iskan Sahasindadir
☐ Ticaret Sahasindadir
☐ Iskan Disi Sahasindadir
☐ Sanayi Sahasindadir
☐ Amme Hizmetine Ayrila Sahasindad

imar durumu imar plan ve imar mevzuatina uygun olarak tanzim ve imza edildi.

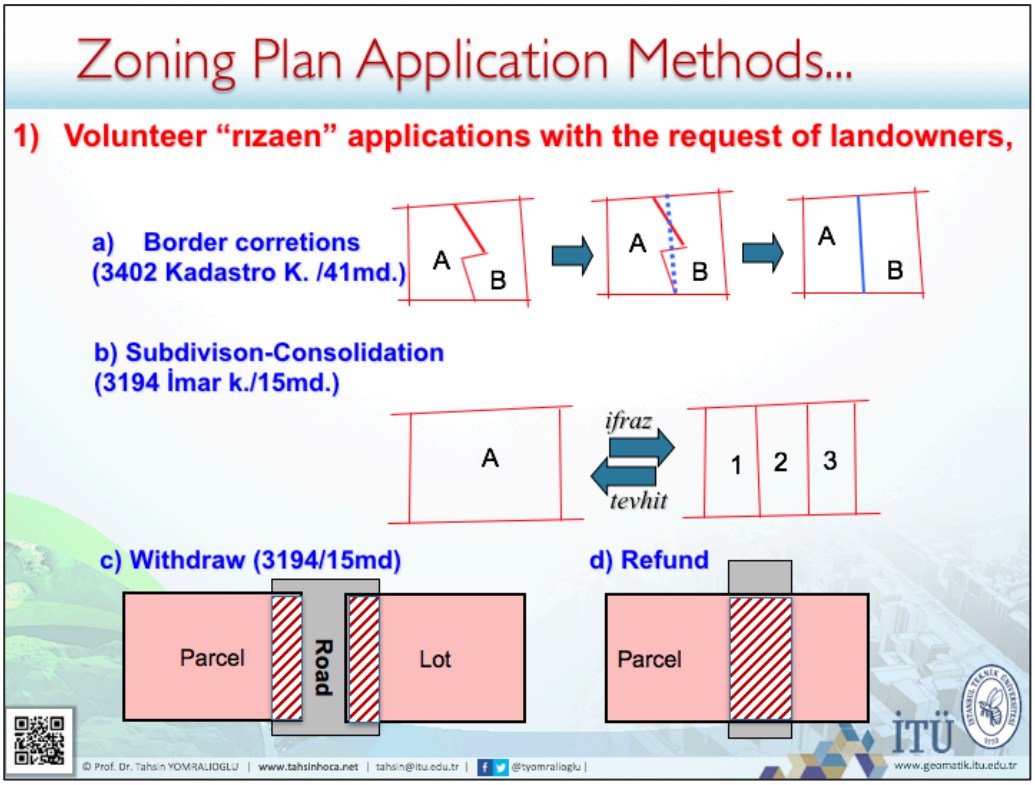
HAZIRLAYAN — H. Muhendisi
KONTROL EDEN
TASDIK EDEN — Imar ve Sehircilik Müd. V.

Figure.x A sample zoning status document

4.3 Volunteer applications with the request of the landowners

If the public does not produce or produce deeply rooted solutions to the zoning, the landlords are obliged to produce solutions in order to use their land appropriately. Since they have nothing else to do, they must seek solutions. Some may find a solution for a small concession because of the advantage provided by the zoning plan, while others are in a state of great sacrifice. The volunteer applications (*rızaen*) made by the owners of the real estate are as follows;

a) Border correction (*Sınır düzeltmesi*)
b) Subdivision- Consolidation (*İfraz-Tevhit*)
c) Withdraw (*Terk*)
d) Refund (*İhdas*)



Border correction

The existence of a broken border between two parcels can create difficulties in using the real estate. For example, an immovable land may have some geometrical formations in the placement of the building. In such cases, the boundary breaks between two **neighboring** parcel owners can be corrected. The parcel size is not changed after the boundary correction of the **neighboring** two parcels is done.

Subdivision-Consolidation processing

In urban areas, when the owners of the immovable properties want to build buildings on their land, first of all, the appropriateness of the existing cadastral parcel shape should be investigated. This situation occurs when the zoning plan and the cadastral sheet are overlaid in the same coordinate system. For a cadastral parcel, according to the "zoning status" document to be obtained from the municipality, the parcel is examined geometrically according to the existing zoning plan. The parcel should not hit a public area like road, square, park and so on, its geometric shape should be suitable for building construction and there should not be any obstacle for the development rights for neighbouring parcels. Therefore, taking into account the zoning status document, the parcel alone or in combination with its neighbouring parcels is subjected to a series of ***"subdivision-consolidation"*** processes in order to convert the existing cadastral parcel into the zoning plan.

In this context, the zoning law shall decide on the following matters depending on the wish of the owners of the immovable.

İrtifak hakları:

3194 sayılı İmar Kanunu, Madde 14 – Belediye veya valilikler, imar planlarının uygulanması sırasında, bir gayrimenkulün tamamını kamulaştırmadan o yerin muayyen saha, yükseklikte ve derinliğindeki kısmı üzerinde kamu yararı amacıyla irtifak hakkı tesis edebilir. Belediyeler veya valilikler, mümkün olan yer ve hallerde mal sahibinin muvafakatiyle, bedelsiz irtifak hakkı verme karşılığında, bedelsiz irtifak hakkı tesis edebilir.

İfraz ve tevhid:

3194 sayılı İmar Kanunu, Madde 15 – İmar planı bulunan alanlarda, uygulama imar planına uygun olarak öncelikle parselasyon planının yapılması esastır. İmar planı bulunan alanlarda, ifraz ve tevhit işlemleri, parselasyon planı tescil edilmiş alanlarda yapılabilir. Parselasyon planı tescil edilmiş yerlerde yapılacak ifraz veya tevhidin imar planlarına ve imar mevzuatına uygun olması şarttır.

Mevcut hâliyle yapılaşmaya elverişli olmayan imar parsellerinde; maliklerden birinin talebi üzerine veya doğrudan, parsel maliklerine kendi aralarında anlaşmaları için yapacağı tebliğden itibaren üç ay içerisinde maliklerce anlaşma sağlanamaması hâlinde, resen tevhit ve fiilî duruma göre ifraz yoluyla işlem yapmaya ilgili idare yetkilidir.

İmar planlarında parsel cepheleri tayin edilmeyen yerlerde yapılacak ifrazların, asgari cephe genişlikleri ve büyüklükleri yönetmelikte belirtilen esaslara göre tespit edilir. İmar planı dışında kalan alanlarda yönetmeliklerinde tayin edilecek miktarlardan küçük ifrazlara izin verilmez.

İfraz işlemi için gerekli belgeler: *Dilekçe, Tapu belgesi, Kadastro çapı (Koordinatlı aplikasyonlu harita planı), Kurum görüşü, (İl Tarım Müdürlüğü / İlçe Tarım Müdürlüğü) Dosya ve muhteviyatının incelenmesinden sonra uygun bulunanlar İl Encümenince karara bağlanıp; Harçları yatırılır İfrazı yapılır.*

Tevhit işlemi için gerekli belgeler: *Dilekçe, Tapu belgesi, Kadastro çapı (Koordinatlı aplikasyonlu harita planı), Kurum görüşü, (İl Tarım Müdürlüğü / İlçe Tarım Müdürlüğü) Dosya ve muhteviyatının incelenmesinden sonra uygun bulunanlar İl Encümenince karara bağlanıp; Harçları yatırılır Tevhidi yapılır.*

Things to be followed in consolidation procedures…

- The parcels to be acquired by allotment must have a frontage to a public road, which is on the cadastral or land registry map. A road cannot be created by leaving the parcel. Parcels with fronts to dead-end streets cannot be allocated. A dead-end street cannot be created by allotment.
- The width of the parcel cannot be less than (15.00) m and the depth of the parcel cannot be less than (20.00) m. A maximum of five parcels can be obtained by allotment, parcels obtained by plowing cannot be subdivided for the second time.
- Each parcel to be obtained after the allotments to be made in non-residential areas without an upper scale plan cannot be smaller than (5000) m2 in the planted lands. It cannot be smaller than 20.000 m2 in marginal agricultural lands and empty lands. At least (25.00) m. to a road in the hands of the public on the cadastral or land registry map of these parcels. front is required. A road cannot be created by leaving the parcel. Allotment cannot be made for the purpose of creating a new settlement area.
- Within the scope of the Agricultural Settlement Projects prepared in accordance with the Settlement Law No. 2510, the condition of fronting the road is not sought for agriculturally-purposed allotments that do not have the purpose of settlement.
- **Allotment in areas with zoning plans: According to the zoning plans, it is not allowed to allocate or unify these parts of the real estates that coincide with the places reserved for public services such as roads, squares, green fields, parks and parking lots.**

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The working steps in consolidation procedures…

1. The person or institution applies to the Land Registry Office and the title deed information is obtained.
2. The petition of the owners of the parcels being traded, the signature of the shareholders in the registered deed, and the power of attorney if someone else is following the business other than the property in the personal title deeds.
3. It is given to the map office with the title deed information.
4. The map bureau applies to the Land Registry Office for the cadastral diameter.
5. Field work is done, measurement sketch detail and polygon point output, if necessary, conversion calculation output, area calculation, polar application value, current polygon values are prepared as a file by map bureaus.
6. The institution or person applies to the Directorate of Zoning and Urbanization of the municipality in the adjacent area.
7. Technical file control is done; As a result of whether it is suitable according to the façade depth measurement control, the allotment process is continued.
8. After the technical file is completed, it is submitted to the committee.
9. According to the decision of the committee, the allotment is approved or the person or institution is notified of the cancellation of the allotment by an official letter.
10. The approved allotment file is notified to the relevant person or institution, and it is directed to the Financial Services Directorate for fee depositing according to the area information.
11. The technical file is sent to the Cadastre Directorate with a cover letter.

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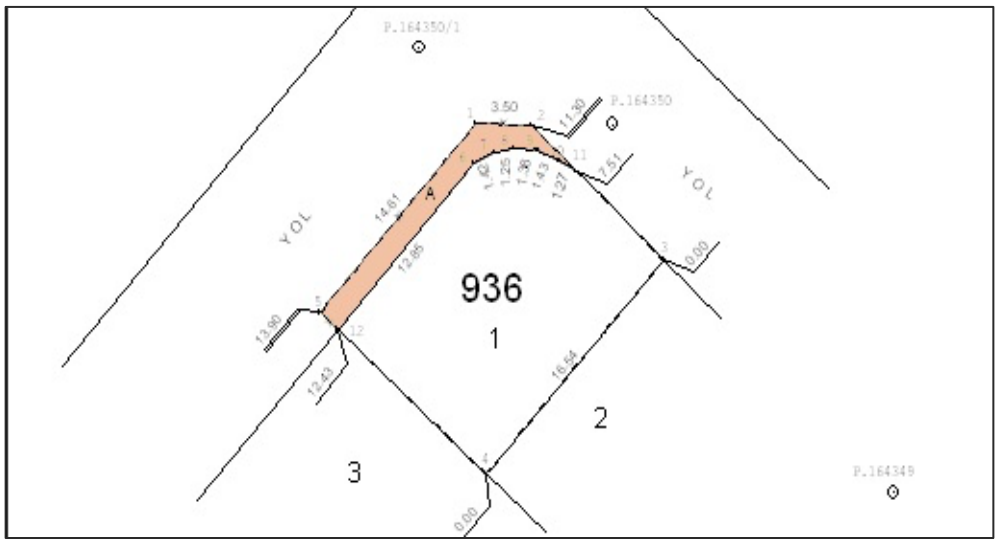
Withdraw procedures

It is known as the "withdrawal" procedure that the owners of the immovable property have left the property in part or completely to the public interest by means of a zoning application. These practices are more common in the implementation of zoning plans. A withdrawal can be paid or free of charge. For example; the municipality may request a paid or unpaid real estate owner to extend a road in a road extension. Paid demand is a matter of expropriation. The issue of withdrawal is often a matter of confrontation with municipalities and owners of real estates. Because municipalities, although they do not have the authority to receive the property free of charge. However, if the owners of the immovable property will carry out a zoning operation on their parcels, the owners may be forced to withdraw from the construction permit against technical permission.

With the withdrawal application, it is stated on the request of the person concerned that the immovable registered in the relevant page of the land registry book is to leave a part of this parcel in accordance with Article 15 of the Zoning Law no.3914. The process is shown in the sheet and the size of the part that is withdrawn is deducted from the book. The areas included in the leave are also included in the public areas due to the zoning plan. The expression of leaving the road also applies to public services such as green space, park, car park, square, children's playground and mosque.

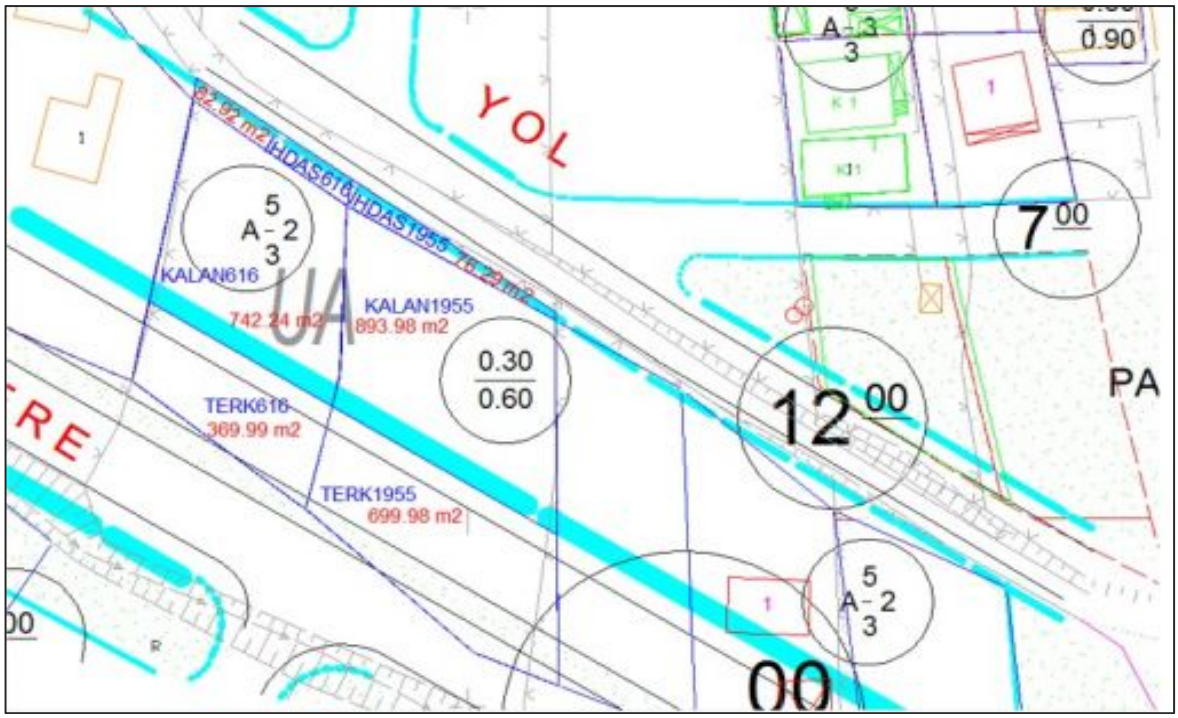
The withdrawal is essentially a special form of the parcelling process. In the construction of the withdrawal maps, the mapping rules with the nature of parcelling are applied. Since the processed parcel number has not been changed, a new page will not be opened in the deed register. The area of the land left to the public is reduced from the land registry. If layouts are created for parcelling-like operations, the changes are processed on the same sheet.



Refund procedures

Refund, word meaning, to bring back to re-establish. During the arrangement of land or land in the area, some unregistered cadastral roads may lose this qualification together with the development plan. Therefore, the part of the public space that was previously a road and similar can gain a new skill by hitting a reconstruction island this time. If this re-occurring area does not hit a public space, it may be subject to private property. The process of registering such areas as a new parcel and registering it to the deed is known as "refund."

3914 numbered zoning law in accordance with article 17 revision of the zoning plan after the closed road, such as parking areas can be returned. After the decision is made for the process as a basis for the zoning plan and the decision of the council is taken, the file is checked by the municipalities and sent to the registry. When returning, it is necessary to look before the road or park which is closed. If the return is an immovable property of the treasury, it must be registered on behalf of the treasury. In the registration of the return transactions, Article 21 of the Land Registry Law No. 2644 shall be taken as the basis.



4.4 Compulsory applications by municipalities and public authorities.

Land expropriation

The ownership of the land on which the public will be used, such as roads, parks, children's playgrounds, schools, hospitals, etc., will be owned by private persons. In order to use such places, they must first pass their ownership to the relevant public institution. The process of transferring ownership to the public without permission of its owners is known as ***expropriation (kamulaştırma- istimlak).*** Expropriation shall be applied in accordance with the provisions of *"Expropriation Law" dated 04/11/1983 and numbered 2942. With the law no. 4650 dated 05/05/2001, some provisions of the law have been amended.*

At first glance this law can be seen as a law that damages the right to property. However, for the benefit of society, one's rights must be waived. As a matter of fact, **Article 46 of the 1982 Turkish Constitution** covers the provisions related to expropriation and in the first paragraph: *"State and public legal entities are authorized to expropriate and establish administrative easement on all or part of immovable property found in private ownership, in accordance with the principles and procedures stipulated by law, provided that public benefits require it to be paid, if required by public benefits".* The elements of expropriation can be listed according to the relevant articles of the constitution and expropriation law. Accordingly, in order to realize an expropriation process;

1. Public interest should be found.
2. The expropriation decision must be approved by the official authorities (Art.5-6).
3. The price of the expropriated property must be paid in advance (Art. 3).
4. It should be used for the purpose of expropriation (Art. 23).
5. The expropriated real estate must be owned by private persons (Art. 30).

In other words, public legal entities and institutions, to be used in public works for the benefit of the public, regardless of the property of the private property and resources, regardless of the request of the competent authorities by the decision made by the competent bodies and wages in advance (except for some privileges), the acquisition of property is called "expropriation".

Expropriation Practice in Municipalities

Municipalities: they prepare 5-year zoning programs in order to implement this plan within 3 months after the zoning plans come into force. During the discussion of the five-year zoning programs, the relevant investor participates in the Assembly meeting to take the views of the public institutions. These programs are finalized after being accepted in the municipal council.

The areas allocated to public institutions within this program are notified to the relevant public institutions. The public institutions that are allocated to the public service facilities in the areas within the boundaries of the five-year zoning programs expropriate within this program period. For this purpose, the necessary appropriation is placed in the annual budgets of public institutions.

In zoning programs, the rights reserved for public services and the rights granted by other laws regarding these places continue until the immovable properties which are restricted by special laws are expropriated or projects related to public services are realized.

2942 Sayılı Kamulaştırma Kanunu

Amaç ve kapsam (Kabul Tarihi: 04/11/1983)

Madde 1 - Bu Kanun; **kamu yararının gerektirdiği hallerde gerçek ve özel hukuk tüzel kişilerinin mülkiyetinde bulunan taşınmaz malların,** Devlet ve kamu tüzelkişilerince kamulaştırılmasında yapılacak işlemleri, kamulaştırma bedelinin hesaplanmasını, taşınmaz malın ve irtifak hakkının idare adına tescilini, kullanılmayan taşınmaz malın geri alınmasını, idareler arasında taşınmaz malların devir işlemlerini, karşılıklı hak ve yükümlülükler ile bunlara dayalı uyuşmazlıkların çözüm usul ve yöntemlerini düzenler.

Kamulaştırma şartları

Madde 3 – İdareler, kanunlarla ve Cumhurbaşkanlığı kararnameleriyle yapmak yükümlülüğünde bulundukları kamu hizmetlerinin veya teşebbüslerinin yürütülmesi için gerekli olan taşınmaz malları, kaynakları ve irtifak haklarını; **bedellerini nakden ve peşin olarak** veya aşağıda belirtilen hallerde eşit taksitlerle ödemek suretiyle kamulaştırma yapabilirler.

Cumhurbaşkanınca kabul olunan, büyük enerji ve sulama projeleri ile iskân projelerinin gerçekleştirilmesi, yeni ormanların yetiştirilmesi, kıyıların korunması ve turizm

amacıyla yapılacak kamulaştırmalarda, bir gerçek veya özel hukuk tüzel kişisine ödenecek kamulaştırma bedelinin o yıl Genel Bütçe Kanununda gösterilen miktarı, nakden ve peşin olarak ödenir. (Ek fıkra: 24/04/2001 - 4650/1. md.) İdarelerce yeterli ödenek temin edilmeden kamulaştırma işlemlerine başlanılamaz.

Kamu yararı kararı verecek merciler (Madde 5)

a) Kamu idareleri ve kamu tüzelkişileri;

1. 3/2'üncü maddede sayılan amaçlarla için kamulaştırmalarda ilgili bakanlık,
2. Köy yararına kamulaştırmalarda köy ihtiyar kurulu,
3. Belediye yararına kamulaştırmalarda belediye encümeni,
4. İl özel idaresi yararına kamulaştırmalarda il daimî encümeni,
5. Devlet yararına kamulaştırmalarda il idare kurulu,
6. Yükseköğretim Kurulu yararına kamulaştırmalarda Yükseköğretim Kurulu,
7. Üniversite, Türkiye Radyo- Televizyon Kurumu, Atatürk Kültür, Dil ve Tarih Yüksek Kurumu yararına kamulaştırmalarda yönetim kurulları,

….

b) Kamu kurumları yararına kamulaştırmalarda yönetim kurulu veya idare meclisi, bunların olmaması halinde yetkili idare organları,

c) Gerçek kişiler yararına kamulaştırmalarda bu kişilerin, özel hukuk tüzelkişileri yararına kamulaştırmalarda ise; yönetim kurulları veya idare meclislerinin, yoksa yetkili yönetim organlarının başvuruları üzerine gördükleri hizmet bakımından denetimine bağlı oldukları köy, belediye, özel idare veya bakanlık.

Kamulaştırma bedelinin tespiti esasları (Madde 11)

15 inci madde uyarınca oluşturulacak bilirkişi kurulu, kamulaştırılacak taşınmaz mal veya kaynağın bulunduğu yere mahkeme heyeti ile birlikte giderek, hazır bulunan ilgilileri de dinledikten sonra taşınmaz mal veya kaynağın;

a) Cins ve nev'ini,

b) Yüzölçümünü.

c) Kıymetini etkileyebilecek bütün nitelik ve unsurlarını ve her unsurun ayrı değerini,

d) Varsa vergi beyanını,

e) Kamulaştırma tarihindeki resmi makamlarca yapılmış kıymet takdirlerini,

f) Arazilerde, taşınmaz mal veya kaynağın (…)[(2)] mevkii ve şartlarına göre ve olduğu gibi kullanılması halinde getireceği net gelirini.[(2)]

g) Arsalarda, kamulaştırılma gününden önceki özel amacı olmayan emsal satışlara göre satış değerini,

h) Yapılarda resmi birim fiyatları ve yapı maliyet hesaplarını ve yıpranma payını)

i) Bu fıkrada belirtilen unsurlara göre tespit edilen arazi bedelinin yarısını geçmemek ve her bir ölçünün etkisi açıklanmak kaydıyla bedelin tespitinde etkili olacak diğer objektif ölçüleri,

Esas tutarak düzenleyecekleri raporda bütün bu unsurların cevaplarını ayrı ayrı belirtmek suretiyle ve ilgililerin beyanını da dikkate alarak Sermaye Piyasası Kurulu tarafından kabul edilen değerleme standartlarına uygun, gerekçeli bir değerlendirme raporuna dayalı olarak taşınmaz malın değerini tespit ederler.

Taşınmaz malın değerinin tespitinde, kamulaştırmayı gerektiren imar ve hizmet teşebbüsünün sebep olacağı değer artışları ile ilerisi için düşünülen kullanma şekillerine göre getireceği kâr dikkate alınmaz.

Kamulaştırma yoluyla irtifak hakkı tesisinde, bu kamulaştırma sebebiyle taşınmaz mal veya kaynakta meydana gelecek kıymet düşüklüğü gerekçeleriyle belirtilir. Bu kıymet düşüklüğü kamulaştırma bedelidir.

Kısmen kamulaştırma ve Dava hakkı

Madde 12 – Kısmen kamulaştırılan taşınmaz malın değeri;

Kamulaştırılmayan kısmın değerinde, kamulaştırma sebebiyle bir değişiklik olmadığı takdirde, o malın 11 inci maddede belirtilen esaslara göre takdir edilen bedelinden kamulaştırılan kısma düşen miktarıdır.

Kamulaştırma dışında kalan kısmın kıymetinde, kamulaştırma nedeniyle eksilme meydana geldiği takdirde; bu eksilen değer miktarı tespit edilerek, kamulaştırılan kısmın (a) bendinde belirtilen esaslar dairesinde tayin olunan kamulaştırma bedeline eksilen değerin eklenmesiyle bulunan miktardır.

Kamulaştırma dışında kalan kısmın bedelinde kamulaştırma nedeniyle artış meydana geldiği takdirde ise, artış miktarı tespit edilerek, kamulaştırılan kısmın (a) bendinde belirtilen esaslar dairesinde tayin edilen bedelinden artan değerin çıkarılmasıyla bulunan miktardır.

Şu kadar ki, (c) bendi gereğince yapılacak indirme, kamulaştırma bedelinin yüzde ellisinden fazla olamaz. (b) ve (c) bentlerinde sözü edilen bedelin düşüş ve artış miktarları, 11 inci maddede belirtilen esaslara göre bedel takdiri suretiyle tespit olunur.

Kamulaştırma dışında kalan kısım, imar mevzuatına göre yararlanmaya elverişli olduğu takdirde; kesilen bina, ihata duvarı, kanalizasyon, su, elektrik, havagazı kanalları, makine gibi tesislerden mal sahiplerine kalacak olanlarının eski nitelikleri dairesinde kullanılabilecek duruma getirilebilmeleri için gereken gider ve bedel, belirlenerek kamulaştırma bedeline ilave olunur. Bu masraf ve bedeller (b) bendinde yazılı kıymet düşüklüğü miktarının belirlenmesinde göz önünde tutulmaz.

Bir kısmı kamulaştırılan taşınmaz maldan artan kısmı yararlanmaya elverişli bir durumda değil ise, kamulaştırma işlemine karşı idari yargıda dava açılmayan hallerde mal sahibinin en geç kamulaştırma kararının tebliğinden itibaren otuz gün içinde yazılı başvurusu üzerine, bu kısmın da kamulaştırılması zorunludur.

Madde 14 – Kamulaştırmaya konu taşınmaz malın maliki tarafından mahkemece yapılan tebligat gününden, kendilerine tebligat yapılamayanlara tebligat yerine geçmek üzere mahkemece gazete ile yapılan ilan tarihinden itibaren otuz gün içinde, kamulaştırma işlemine karşı idari yargıda iptal ve maddi hatalara karşı da adli yargıda düzeltim davası açılabilir. İdari yargıda açılan davalar öncelikle görülür.

Acele kamulaştırma

2942 sayılı Kamulaştırma Kanunu'nun "acele kamulaştırma" başlıklı 27. maddesinde düzenlenmiştir. 27. maddede; acele kamulaştırmanın şartları, şartların varlığı halinde mahkemece taşınmazın değerinin tespit ettirilmesi, kamulaştırma bedeli karşılığı tespit edilecek meblağın bankaya yatırılması ve böylece idarece taşınmaza el konulmasına ilişkin hususlar düzenlenmiştir.

Madde 27 – 3634 sayılı Milli Müdafaa Mükellefiyeti Kanununun uygulanmasında yurt savunması ihtiyacına veya acilliğine Bakanlar Kurulunca karar alınacak hallerde veya özel kanunlarla öngörülen olağanüstü durumlarda gerekli olan taşınmaz malların kamulaştırılmasında kıymet takdiri dışındaki işlemler sonradan tamamlanmak üzere ilgili idarenin istemi ile mahkemece yedi gün içinde o taşınmaz malın seçilecek bilirkişilerce tespit edilecek değeri, idare tarafından mal sahibi adına bankaya yatırılarak o taşınmaz mala el konulabilir.

Mahkemece yaptırılan değer tespitinde belirlenen bedel idarece bankaya yatırılıp, makbuzunun mahkemeye sunulmasından sonra acele el koyma kararı verilir ve karar taşınmaz sahibine tebliğ edilir. Yapılan bu tebligattan sonra taşınmaz sahibi tapuda ferağ vererek, bankada adına yatırılan parayı alırsa, işlem kesinleşir. Taşınmaz sahibi tapuda ferağ vermezse, idarece 2942 sayılı Kanunun ilgili hükümlerine göre kamulaştırma bedelinin tespiti ve tescil davası açılır.

Acele kamulaştırma, olağan kamulaştırmadan farklı olarak, kıymet takdiri dışındaki işlemler daha sonradan tamamlanmak üzere, öngörülen usul ve şekilde taşınmaza el konma şeklidir. Acele Kamulaştırma/El Koyma davası bir nevi delil tespiti davasıdır. Davanın kabulü ile idare orada kamu yararı olan işlemi yapabilecektir. Tıpkı normal kamulaştırma sürecindeki gibi işlemler aynen yapılacaktır. İdare öncelikle malın sahibi ile anlaşma yoluyla satın almayı deneyecektir. Bu işlemde uzlaşma olursa belirlenen bedel ödenerek kamulaştırma işlemi sonlandırılacaktır.

5 LAND READJUSTMENT APPLICATIONS

Land Readjustment (LR) ***(Arsa ve Arazi Düzenlemesi (AAD)),*** *is a planning tool that provides the transformation of cadastral parcels which are useless in terms of urban planning to a more economical usable structure in accordance with the zoning plan principles.* The basic principle is to ensure that the existing cadastral parcels in a regulation region are transformed into a single mass, then planed as new zoning plots and returned to the owners, as well as providing public services to the public service.

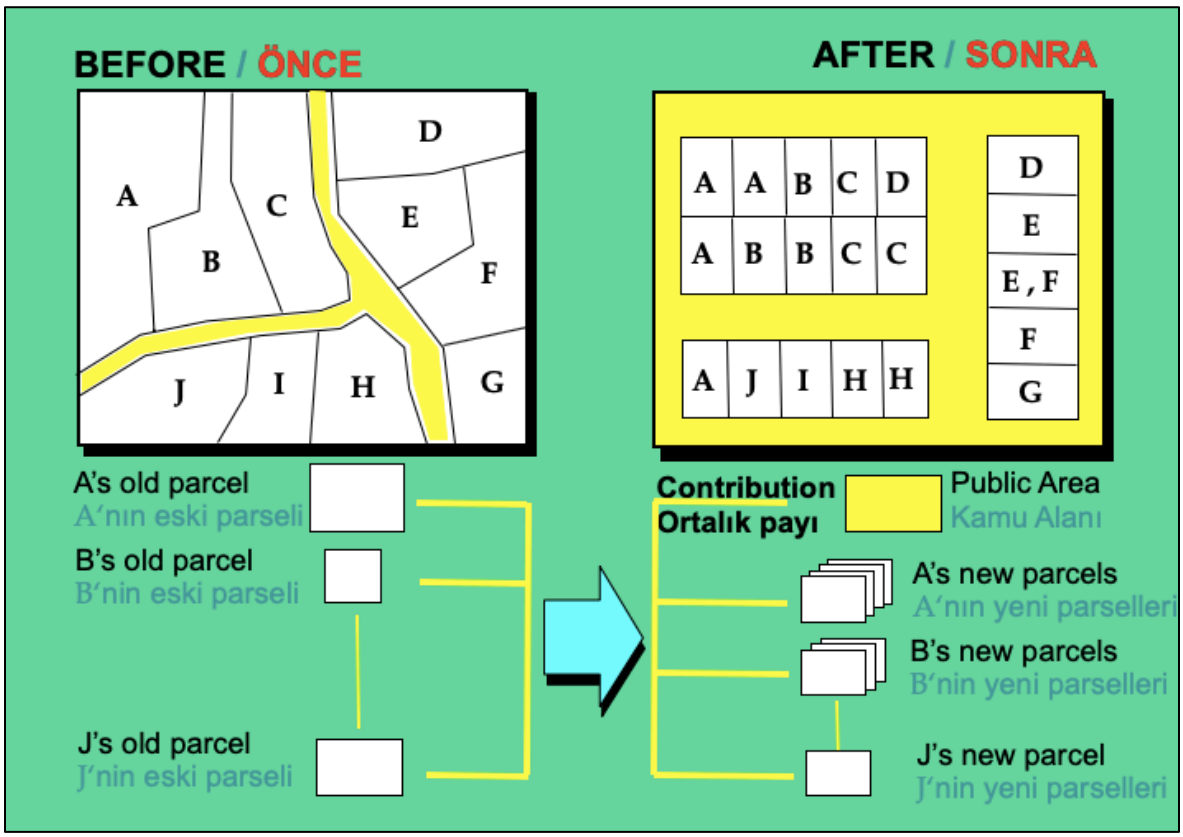


Figure x. General operation structure of land readjustment

With the LR applications in our country, the zoning implementation plans were reflected to the land within a short period of time and the new construction parcels suitable for the construction were intended to be produced. The current laws and regulations that are applied in the LR studies conducted throughout the country allow for this purpose and it is seen that there are still serious problems in the regulation studies. Especially in the applications, the redistribution of the parcels, the failure to evaluate the parcels according to objective criteria, the lack of project planning, the inadequacy of use of technology and the practices which are sometimes negatively affected.

In Turkey, the Land Readjustment, distribution is done by making cuts commensurate with the only areas of cadastral parcels. However, the values of the cadastral parcels before the land and land arrangement are not the same, and the values of the parcels formed after the arrangement are different from each other. Cadastral parcels adapted to zoning plan; They have different values due to factors such as their location, distance from social facilities, and criteria for making use of public structures. In order for the cadastral parcels to benefit equally from the increase in value after the zoning plan implementation, it is necessary to implement the equivalence-based distribution instead of the co-distribution. The purpose of land and land arrangement based on equivalence is the fact that the cadastral parcels are equal before and after the regulation. In order to achieve this, it is necessary to determine the values of the cadastral parcels and the post-regulation parcels before the regulation and distribution according to the value change. But this approach is not yet implemented in Turkey.

The AAD actually forces the existing cadastral structure in any region to change with the zoning plan. Because, with the application, not only the boundaries of the cadastral parcels within the region, but also the existing economic values of the property change. In particular, the arrival of the zoning plan in the region has a positive impact on the current economic values of the cadastral parcels in the region, but this effect may not be the same for all parcels. Therefore, the owners often complain about the practices. However, the main benefits of land arrangement can be summarized as follows;

a) AAD complies with the principles of social justice. The positive and negative effects brought by the plan by making an equal number of cuts are distributed to the owners at the size of their immovables.

b) AAD is economic. By regulation, municipalities can transfer these areas to public ownership without making any payment for public spaces such as roads, squares, parks and parking. As the application covers a wide range of areas, the construction of infrastructure facilities is facilitated and the costs are reduced.

c) AAD also provides great benefits in terms of technical aspects. First of all, the plan has the opportunity to be applied as a whole without damaging the principles. Since at least one zoning island is handled as a unit in practice, it is no longer necessary to solve the problem of particulate solutions and regulations.

d) AAD produces a large number of lands in practice. Thus, supply-demand balance is established in the land market and hence land speculation can be prevented to some extent.

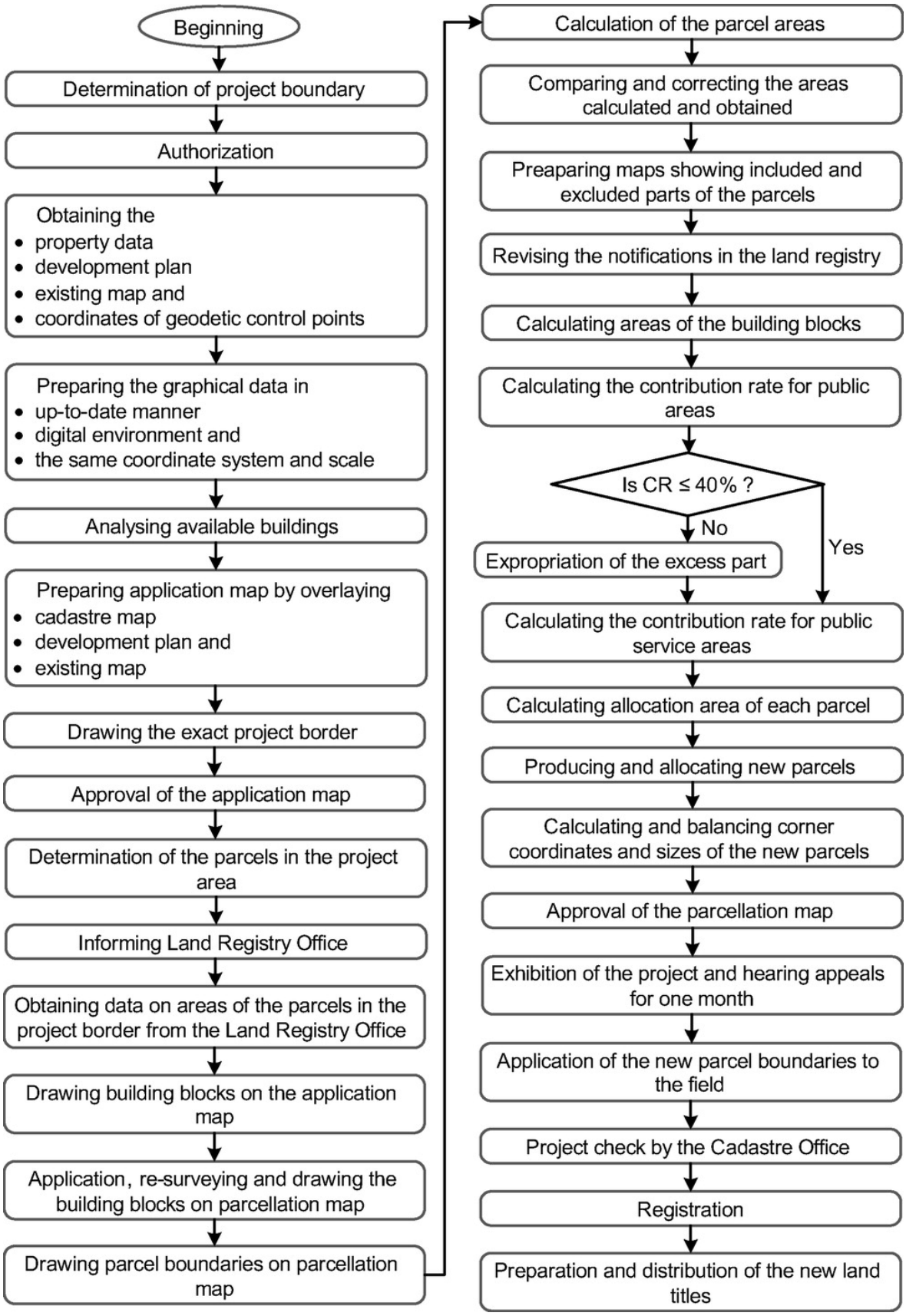


Figure x. Process flow in a plot and land readjustment

▲ Figure 3.6. Original cadastral map before the land readjustment implementation (2000)

▼ Figure 3.7. Subdivision map after the land readjustment implementation (2002)

▼ Figure 3.43. District of Toklu-Besirli before the project and cadastral land parcel distribution (1985)

▼ Figure 3.44. District of Toklu-Besirli and the proposed replotted new land parcels (1987)

▼ Figure 3.45. District of Toklu-Besirli after the project implementation (2002)

5.1 3194 Sayılı İmar Kanunu'nun 18. maddesi

İmar Kanunun (Kabul Tarihi: 03/05/1985) "Arazi ve Arsa Düzenlemesi" başlıklı 18. Maddesi ne göre;

"3194/Madde 18- İmar hududu içinde bulunan binalı ve binasız arsa ve arazileri malikleri ve diğer **hak sahiplerinin muvafakati aranmaksızın**, birbirleri ile, yol fazlaları ile, kamu kurumlarına veya belediyelere ait bulunan yerlerle birleştirmeye, **bunları yeniden imar planına uygun ada veya parsellere ayırmaya, müstakil, hisseli veya kat mülkiyeti esaslarına göre hak sahiplerine dağıtmaya** ve **re'sen tescil** işlemlerini yaptırmaya **belediyeler yetkilidir**." Sözü edilen yerler belediye ve mücavir alan dışında ise yukarıda belirtilen yetkiler valilikçe kullanılır.

Belediyeler veya valiliklerce düzenlemeye tabi tutulan arazi ve arsaların dağıtımı sırasında bunların yüzölçümlerinden yeteri kadar saha, düzenleme alanındaki nüfusun kentsel faaliyetlerini sürdürebilmeleri için gerekli olan umumi hizmet alanlarının tesis edilmesi ve düzenleme dolayısıyla meydana gelen değer artışları karşılığında **"düzenleme ortaklık payı (DOP)"** olarak düşülebilir. Ancak, bu maddeye göre alınacak düzenleme ortaklık payları, düzenlemeye tabi tutulan arazi ve arsaların düzenlemeden önceki **yüzölçümlerinin yüzde kırk beşini (%45) geçemez.**

Düzenleme ortaklık payları (DOP), düzenlemeye tabi tutulan yerler ile bölgenin ihtiyacı olan **yol, meydan, park, otopark, çocuk bahçesi, yeşil saha, ibadet yeri ve karakol, Milli Eğitim Bakanlığına bağlı öğretime yönelik eğitim tesis alanları, Sağlık Bakanlığına bağlı sağlık tesis alanları, pazar yeri, semt spor alanı, toplu taşıma istasyonları ve durakları, otoyol hariç erişme kontrolünün uygulandığı yol, su yolu, resmî kurum alanı, mezarlık alanı, belediye hizmet alanı, sosyal ve kültürel tesis alanı, özel tesis yapılmasına konu olmayan ağaçlandırılacak alan, rekreasyonalanı olarak ayrılan parseller ve mesire alanları gibi umumi hizmet alanlarından oluşur** ve bu hizmetlerle ilgili tesislerden başka maksatlarla kullanılamaz. Kapanan imar ve kadastro yollarının öncelikle düzenleme ortaklık payına ayrılan toplam alandan düşülmesi esastır.

DOP toplamı, yukarıdaki fıkrada sözü geçen umumi hizmetler için, yeniden ayrılması gereken yerlerin alanları toplamından az olduğu takdirde, eksik kalan miktar belediye veya valilikçe kamulaştırma yolu ile tamamlanır. Bu fıkraya göre, **herhangi bir parselden bir defadan fazla düzenleme ortaklık payı alınmaz.** Ancak, bu hüküm o parselde imar planı ile yeniden bir düzenleme yapılmasına mâni teşkil etmez.

Düzenleme sırasında, plan ve mevzuata göre muhafazasında mahzur bulunmayan bir yapı, ancak bir imar parseli içinde bırakılabilir. Hisseli bir veya birkaç parsel üzerinde kalan yapıların bedelleri, ilgili parsel sahiplerince yapı sahibine ödenmedikçe ve aralarında başka bir anlaşma temin edilmedikçe veya şüyuu giderilmedikçe bu yapıların eski sahipleri tarafından kullanılmasına devam olunur.

3194 sayılı İmar Kanunu'nun 18 inci maddesine göre yapılacak arazi ve arsa düzenlemesinin nerelerde ve ne şekilde tatbik edileceği ve bununla ilgili diğer teknik ve genel hususlara açıklık getirmek üzere **yönetmelik hükümleri uygulanır**.

5.2 Arazi ve Arsa Düzenlenmeleri Hakkında Yönetmelik

Düzenleme sahalarının tespiti esasları

MADDE 9 – (1) Belediye ve mücavir alan sınırları içinde belediyeler, belediye encümeni kararı ile; dışında ise valilikler, il idare kurulu kararı ile 5 yıllık imar programlarına öncelik tanımak ve beldenin inkişaf ve ihtiyaç durumuna göre, imar planları ile getirilen tüm kullanım alanlarını hazır bulunduracak şekilde düzenleme sahalarını tespit etmek ve kesinleşen uygulama imar planlarına göre parselasyon planlarını yaparak yeterli miktarda parseli oluşturmak mecburiyetindedir.

(2) 10/7/2019 tarihinden sonra yapılan imar planlarında kesinleşme tarihinden itibaren 5 yıl içerisinde, 10/7/2019 tarihinden önce yapılmış imar planlarında 10/7/2019 tarihinden itibaren 5 yıl içerisinde; düzenleme sahalarının tespit edilerek, parselasyon planlarının yapılması ve onaylanması esastır.

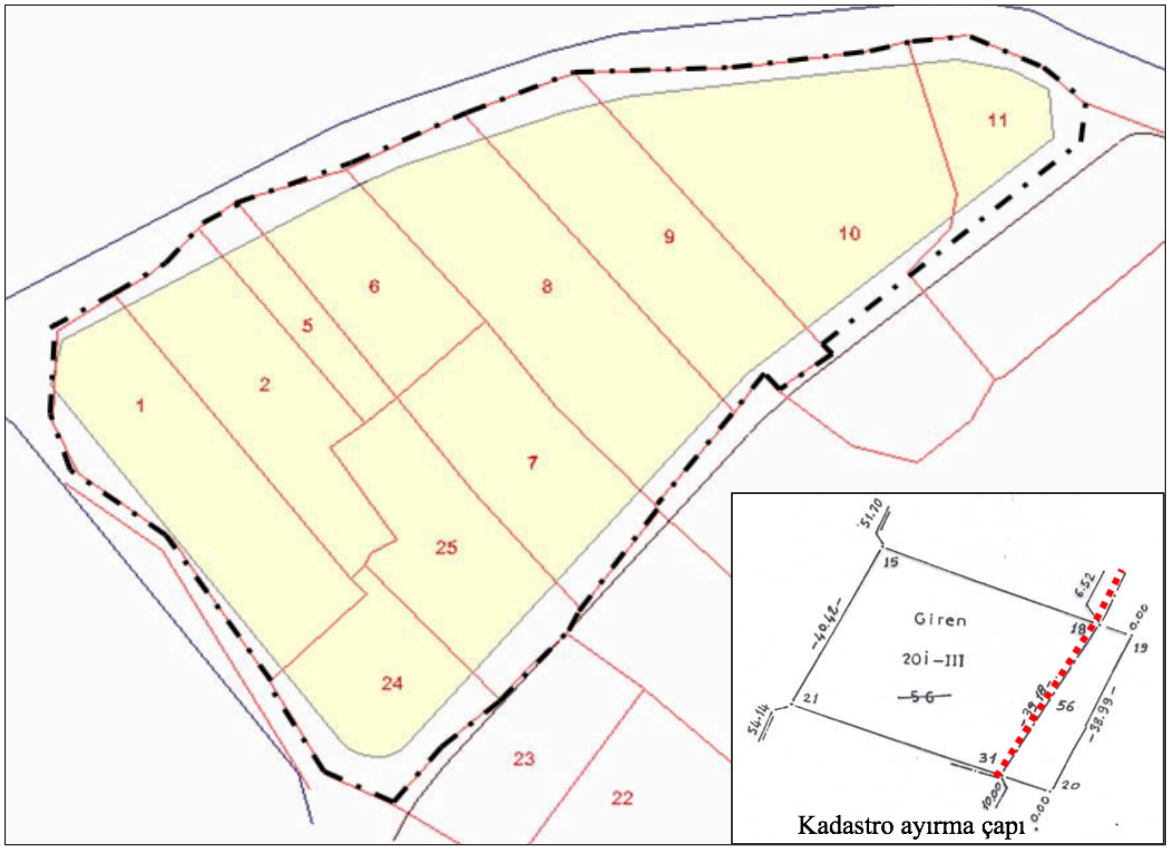
(3) İmar planı içerisinde düzenleme sahaları tespit edilirken, düzenleme sahalarındaki Düzenleme Ortaklık Payı oranlarının mümkün mertebe dengeli olmasına dikkat edilir.

(4) Kamunun mülkiyeti ile Kamu Malî Yönetimi ve Kontrol Kanununda belirtilen merkezi yönetim kapsamındaki kamu idareleri yetkisi içindeki kamu yatırımlarının bulunduğu alanlar hariç olmak üzere, belirlenen düzenleme sahası bir müstakil imar adasından daha küçük olamaz.

(5) Ancak, imar adasının bir kısmının imar mevzuatına uygun bir şekilde teşekkül etmiş olması nedeniyle, yeniden düzenlemesine ihtiyaç bulunmaması halinde adanın geri kalan kadastro parselleri müstakil bir imar düzenlenmesine konu teşkil edebilir.

Düzenleme sınırının geçirilmesi

MADDE 10 – (1) İmar plânlarında gösterilmiş düzenleme sınırları varsa bu durum dikkate alınır.
(2) İmar planlarında düzenleme sınırı ile ilgili herhangi bir belirtme olmaması durumunda, düzenleme sınırı;
a) İskân sahasının bittiği yerlerde iskân sınırlarından,
b) Yola cephesi olmayan parsel oluşturmamak kaydıyla iskân sahası içindeki yollardan,
c) Düzenleme sınırının herhangi bir parseli iki veya daha fazla parçaya bölmesi halinde, imar planlarında gösterilmiş düzenleme sınırları olsa dahi; sınır, bu parçalardan düzenleme sahası dışında kalıpta başka bir imar adasına girmeyenleri varsa bunları da içine alacak şekilde,
ç) Park, meydan, yeşil alan, rekreasyon alanı, ağaçlandırılacak alan, mezarlık ve otopark alanlarının düzenleme ortaklık payı oranına göre uygun görülecek yerinden, geçirilir.
(3) Düzenleme sınırı; gerek görülmesi halinde kentsel dönüşüm alanı, orman, mera ve sit alanı gibi özel kanunlarla korunan alanların dış sınırından ve kıyı kenar çizgisinden geçirilebilir.
(4) Düzenleme ortaklık payı oranını aşmamak kaydı ile düzenleme sahasına bitişik ancak başkaca bir düzenleme sahasına dâhil edilmesi ya da müstakil bir düzenleme sahası oluşturması mümkün olmayan parsel ya da parseller, imar planında düzenleme sınırı bulunsa dahi, imar planı varsa düzenleme sahası dışında bırakılamaz.



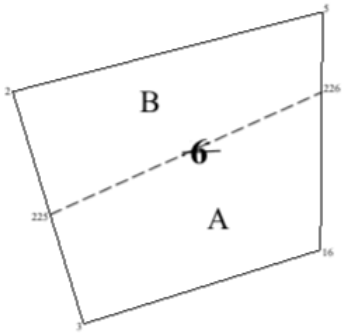
Şekil x. Düzenleme sınırı geçirilmesine ilişkin örnekler

T.C.	**Kayseri**	BELEDİYESİ	**2**	Nolu Düzenleme Bölgesi

KADASTRO AYIRMA ÇAPI

Kad. Pafta No:	-
Kad. Ada No:	-
Kad. Parsel No:	6
Düzenlemeye giren(A)	964.92
Düzanlameye girmeyen(B)	850.88
Senet alanı	1815.80

Nokta No	Y	X
2	384749.865	4560156.668
5	384801.290	4560169.736
226	384801.183	4560156.611
16	384801.036	4560130.854
3	384761.626	4560118.727
225	384756.078	4560136.625



N

1/1000

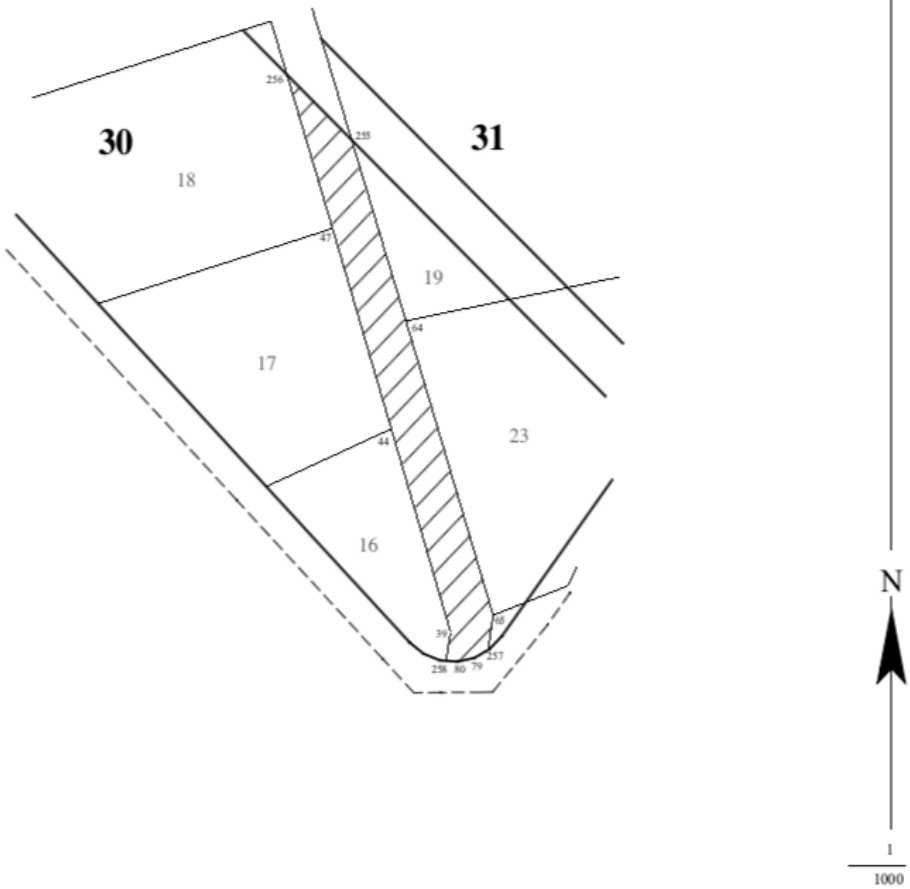
DÜZENLEYEN		KONTROL EDEN		Encümen Karar No:
İSİM				
TARİH				Tarih:
İMZA				

Şekil x. Kadastro ayırma çapı örneği

T.C.	**Kayseri**	BELEDİYESİ	**2**	Nolu Düzenleme Bölgesi

İHDAS FÖLYESİ

KROKİ YERİ



HESAP YERİ	N.NO	Y	X	N.NO	Y	X
Yoldan ihdas alani	**256**	**384803.659**	**4560122.426**	**80**	**384831.760**	**4560029.883**
659.22	**255**	**384814.318**	**4560112.140**	**258**	**384829.892**	**4560030.032**
	64	**384823.283**	**4560083.601**	**39**	**384830.657**	**4560034.524**
	65	**384837.712**	**4560037.194**	**44**	**384820.865**	**4560066.570**
	257	**384836.830**	**4560031.713**	**47**	**384811.209**	**4560098.168**
	79	**384834.585**	**4560030.486**			

Şekil x. Yoldan ihdas fölye örneği

Düzenleme Ortaklık Payı Oranına Ait Esaslar

Düzenleme ortaklık payı (DOP): Düzenleme alanındaki ve bölgedeki yaşayanların kentsel faaliyetlerini sürdürebilmeleri için gerekli olan umumi hizmet ve kamu hizmet alanlarını elde etmek ve/veya düzenleme dolayısıyla meydana gelen değer artışları karşılığında; düzenlemeye tâbi tutulan arazi ve arsaların, düzenlemeden önceki yüzölçümlerinden, imar planındaki kullanım kararlarına göre yüzde kırk beşe (%45) kadar düşülebilen miktardır. Düzenleme ortaklık payı, düzenlemeye tabi tutulan yerler ile bölgede yaşayanların ihtiyacı olan ve herkesin ortak kullanabileceği, kamusal alanı ifade eder ve bölgede yaşayan insanların ortak kullanımı dışında hiçbir fonksiyon için kullanılamaz.

Düzenleme ortaklık payı oranı (DOPO): Bir düzenleme sahasındaki toplam düzenleme ortaklık payı miktarının, bu saha içinde düzenlemeye giren kadastro veya imar parsellerinin toplam yüzölçümü miktarına oranıdır. *Düzenleme ortaklık payı oranı, virgülden sonra yedi basamak olarak hesaplanır.*

Kadastral parsel: Herhangi bir imar düzenlemesi yapılmamış, kadastro mevzuatı uyarınca oluşarak tescil edilmiş parsellerdir.

İmar parseli: İmar adaları içerisindeki kadastro parsellerinin İmar Kanunu, imar planı ve bu Yönetmelik esaslarına göre düzenlenmiş şeklidir.

MADDE 14 – (1) Düzenlemeye tabi tutulan yerler ile bölgenin ihtiyacı olan umumi ve kamu hizmet alanları için, İmar Kanunu'nun 18 inci maddesine göre alınacak düzenleme ortaklık payları, düzenlemeye tabi tutulan arazi ve arsaların düzenlemeden önceki yüzölçümlerinin yüzde kırk beşini (%45) geçemez.

(2) Düzenleme ortaklık paylarının aşağıdaki öncelik sırasına göre alınması esastır:

a) Yol, su yolu, meydan, park, otopark, çocuk bahçesi/parkı ve yeşil alan. b) İbadet yeri, karakol ve Millî Eğitim Bakanlığına bağlı öğretime yönelik eğitim tesis alanları, kamuya ait kreş alanları. c) Pazar yeri, semt spor alanı ve şehir içi toplu taşıma istasyonları ve durakları. ç) Sağlık Bakanlığına bağlı sağlık tesis alanları. d) Otoyol hariç erişme kontrolünün uygulandığı yol. e) Kent meydanı, kent parkı, spor alanı. f) Belediye hizmet alanı, sosyal ve kültürel tesis alanı. g) Teknik altyapı alanı, kamuya ait trafo alanı. ğ) Rekreasyon alanı, mesire alanları ve özel tesis yapılmasına konu olmayan ağaçlandırılacak alan. h) Resmî kurum alanı. ı) Diğer umumi ve kamu hizmet alanları. i) Mezarlık, otogar alanı.

İmar planı bulunan ve arazi ve arsa düzenlemesi yapılacak alanlarda; kadastro yollarının imar adasına denk gelen kısımları, alan kazanmak amacıyla, parselasyon planı yapılmadan önce 22/12/1934 tarihli ve 2644 sayılı Tapu Kanunu'nun 21 inci maddesi uyarınca ihdas edilemez ya da parselasyon planı ile belediye/köy tüzel kişiliği/Hazine adına ihdas edilerek parselasyon planına alınamaz. **Düzenleme sahası içerisindeki kapanan imar ve kadastro yolları varsa, parselasyon planı sırasında toplam düzenleme ortaklık payından düşülerek düzenleme ortaklık payı oranı hesaplanır.**

Parselasyon planı yapılmadan ifraz, tevhit ve terk yoluyla; düzenleme ortaklık payına konu alanlara terk edilen ya da bağışlanan alan miktarının, uygulama sahasındaki düzenleme ortaklık payı oranına göre kesilecek alandan az olması durumunda, parselasyon planı sırasında düzenleme ortaklık payına tamamlayan fark kadar düzenleme ortaklık payı kesintisi yapılır.

Düzenleme Ortaklık Payı Oranı (DOPO) ve Kamulaştırılacak Alanın Hesabı

Düzenleme ortaklık payı oranı ve kamulaştırılacak alan tutarı şu şekilde hesaplanır; Düzenleme ortaklık payı oranı, umumi hizmetlere ayrılan miktarın, düzenleme ortaklık payı alınacak parsellerin düzenlemeye giren miktarları toplamına bölünmek suretiyle bulunur. Düzenlemeye giren miktar, bu parsellerin tapu senedi alanında düzenlemeye girmeyen ve bağışlanan alanların çıkarılması ile bulunur.

Bu oran %45'den fazla çıktığı takdirde; kamulaştırılması gereken alan, umumi hizmetlere ayrılan alandan, düzenlemeye giren parsel alanları toplamının %45`ini çıkarılması ile bulunan farkın 100 ile çarpılıp 55'e bölünmesiyle bulunur.

Örnek 1: DOPO (Düzenleme ortaklık payı oranı) hesaplama:

Bir düzenleme bölgesinde, düzenlemeye giren kadastro parsel alanları toplamı (katılım kütlesi) [KPA] = 100.000 m^2 ve düzenleme sonunda dağıtıma esas olacak, imar parsellerine tahsis edilen toplam alan (imar kütlesi) [İAA] = 55.000 m^2 ise; Buna göre DOPO hesabı şu şekilde olacaktır.

Düzenleme Ortaklı Payı [DOP] = [KPA] – [İAA] = 100.000 – 55.000 = 45.000 m^2

[DOPO] = [DOP] / [KPA] = 45.000 / 100.000 = 0,45 (%45)'dır.

Bunun anlamı, düzenleme giren her bir kadastro parselinden %45'lik bir DOP kesintisi yapılırken, geri kalan %55'lik alan yeni bir imar alanı olarak parsele tahsis edilecektir. Dolayısıyla; 1- [DOPO] katsayısı her bir kadastro parsel alanı ile çarpılarak, parsellerin düzenleme sonrası dağıtımla alacakları tahsis alanları hesaplanmış olur.

Örneğin 1.000 m^2'lik bir parselden (1.000 x 0,45) = 450 m^2'lik DOP kesintisi yapılacaktır. Geri kalan (1.000 – 450) = 550 m^2'lik alan ise ilgili parsele tahsis edilecektir. Diğer bir ifadeyle 550 m^2'lik alan, düzenleme sonrası yeniden dağıtım aşamasında parsele geri verilecek ve tapuda tescile esas olacak alandır.

Örnek 2: DOPO > %45 halinde toplam Kamulaştırma Alanı **[KAM]** hesabı

Bir düzenleme sahasında düzenlemeye giren parsellerin toplam yüzölçümü 100.000 m^2, bu sahada kamu hizmetleri için ayrılan alan 47.750 m^2 olsun. Bu uygulama alanında yapılacak kamulaştırma miktarı şu şekilde hesaplanır;

Düzenleme sahası 100.000 m^2 dir. Bu sahada %45 DOP kesintisi yapıldığında kamu için ayrılabilecek alan 45.000 m^2 olur. Oysa kamuya ayrılan alanlar için 47.750 m^2'ye ihtiyaç vardır. 47.750 – 45.000 = 2.750 m^2'lik bir fark bulunur. Bu fark, 2.750 m^2 100 ile çarpılıp, 55'e bölündüğünde ihtiyaç duyulan kamulaştırma miktarı bulunmuş olur. Bu da 2.750 x (100 / 55) = 5.000 m^2 olarak hesaplanır.

Yapılan işlemin doğruluğunu saptamak için; düzenleme sahasında [KPA] = 100.000 m^2, umuma ait tesisler için gerekli miktar [KPA] – [İAA] = 47.750 m^2, kamulaştırma miktar 5.000 m^2 ise; kamulaştırılan bu alandan DOP kesilemeyeceğinden DOP kesilebilecek alan 95.000 m^2'ye düşecektir. Diğer taraftan kamu alanları için gerekli olan 47.750 m^2'nin, 5.000 m^2'si kamulaştırma ile elde edildiğine göre, artık 42.750 m^2'ye ihtiyaç kalmış olacaktır. Bu bilgilerden sonra, eldeki verilerle DOPO yeniden hesaplanacak olursa; 42.750 / 95.000 = 0,45 bulunur. Bu durumda düzenleme bölgesinde 5.000 m^2'lik bir alan kamulaştırıldığında doğru sonuca varılacaktır.

DOPO > %40 halinde toplam Kamulaştırma Alanı için **[KAM]** formülasyonu:

Bir düzenleme bölgesinde, düzenlemeye giren Toplam Kadastro Parsel Alanları = [KPA] ve Toplam İmar Ada Alanları = [İAA] ise;

Amaç → { [KPA] – [İAA] – [KAM] } / { [KPA] – [KAM] } = 45 / 100 olmalıdır.

Buna göre eşitlik açılır ise;

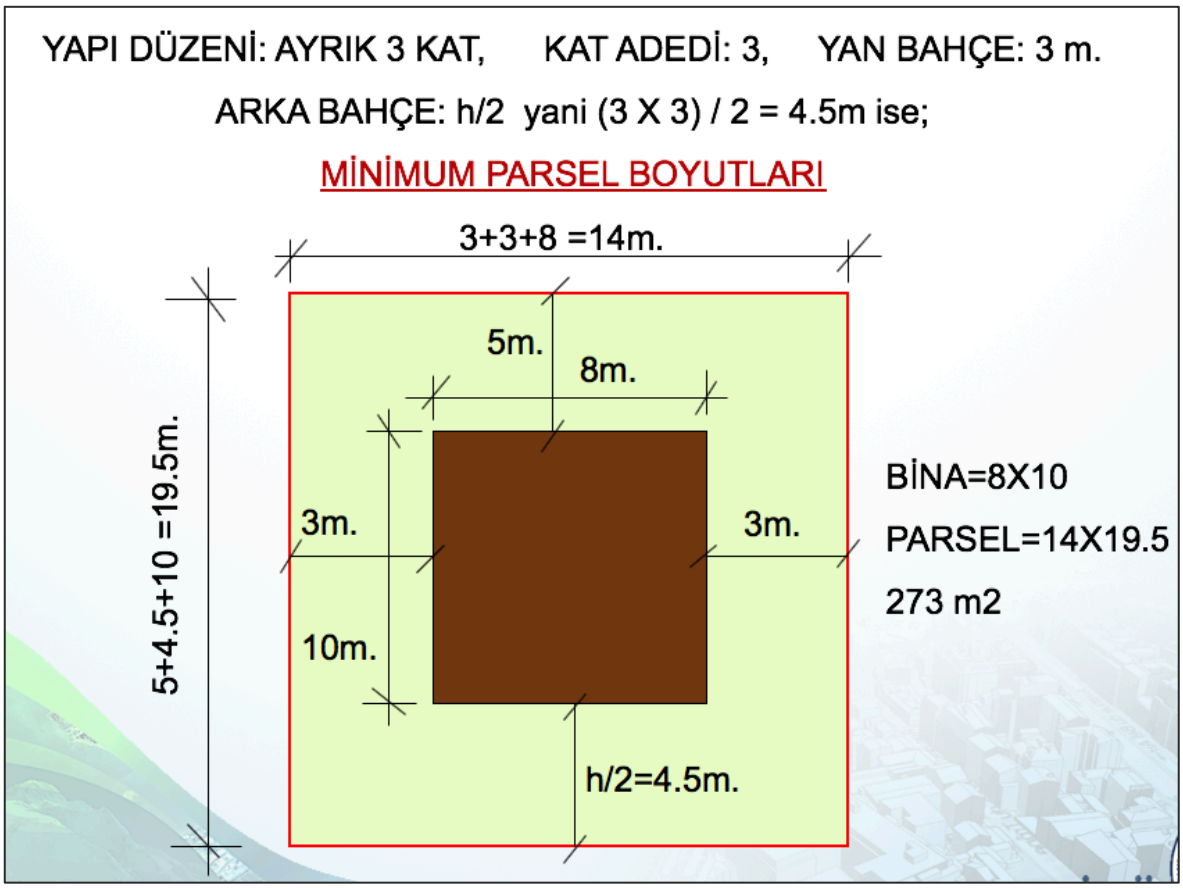
100 x [KPA] – 100 x [İAA] – 100 x [KAM] = 45 x [KPA] – 45 x [KAM]

55 x [KPA] – 55 x [KAM] = 100 x [İAA]

55 ([KPA] – [KAM]) = 100 x [İAA]

[KPA] – [KAM] = (100 / 55) x [İAA]

[KAM] = [KPA] – (100 / 55) x [İAA] olur.



Parselasyon planlarının yapımı ve dağıtım esasları

MADDE 17 – (1) İmar parsellerinin oluşturulması ve dağıtımında aşağıdaki esaslar dikkate alınır:

a) Düzenlemeye giren parsellerin tahsisi, uygulama sonucunda mümkün olduğunca düzenleme öncesi parselin bulunduğu yerden yapılır. Düzenlemeye alınan parsellerin imar planında umumi ve kamu hizmet alanlarına denk gelmesi halinde ise, diğer parsellerin bulunduğu yerden tahsisinin yapılmasından sonra, teknik zorunluluklar da dikkate alınarak en yakın ve tahsise uygun olabilecek imar parsellerine tahsisi sağlanır.

b) Parselasyon planıyla; imar planına, imar planında aksine bir hüküm yoksa, imar mevzuatında belirtilen minimum parsel büyüklüklerinin altında parsel oluşturulamaz.

c) İmar plânı ve mevzuata göre korunması mümkün olan yapıların, asgari parsel büyüklüğünü sağlaması kaydıyla, tam ve hissesiz bir imar parseline denk gelmesi sağlanır. Asgari parsel büyüklüğünün sağlanamaması halinde, 16'ncı maddede belirtilen hükümlere göre tahsis ve bedele dönüştürme işlemleri yapılabilir.

ç) Kamu yatırımlarının yürütülmesi amacıyla, kamu kurumlarına ait taşınmazdaki hisseler müstakil bir imar parselinde toplanabilir.

d) Düzenleme sahasında kalan hisseli arazi ve arsalar, hisse sahiplerinin muvafakatı halinde veya ilgili idarece arazideki fiili kullanım durumunun tespit edilmesi halinde muvafakat aranmaksızın; imar planında aksine bir hüküm yoksa imar mevzuatında belirtilen asgari parsel büyüklüğünü sağlamak kaydıyla müstakil hale getirilebilir. İlgili idarece fiili durumun

oluştuğuna dair mahallinde yapılan tespit, özel parselasyon krokileri, emlak vergisi kayıtları, belediyesince hazırlanmış çap ve benzeri diğer belgelerin değerlendirilmesiyle hazırlanan ve imza altına alınan tutanak belediyesinde belediye başkanınca, diğer yerlerde ilgili birim amirince onaylanır. Bu durumun belediye encümen kararı, il idare kurulu kararı veya ilgili idare onayında belirtilmesi durumunda, müstakil parseller oluşturulabilir.

e) Taşınmaz sahibine tahsis edilen miktarın asgari imar parsel alanından küçük olması veya diğer teknik ve hukuki nedenlerle müstakil imar parseli verilememesi halinde, bu miktar mümkün mertebe tek bir imar parseline hisselendirilir.

f) İmar planına ve mevzuatına uygun olması kaydıyla arazideki mevcut yapılaşmalar dikkate alınarak imar parselleri oluşturulur.

(2) Düzenlemeye tâbi tutulması gerektiği halde, 7 nci maddenin ikinci fıkrasının (b) ve (c) bentlerinde belirtilen istisnalardan dolayı İmar Kanununun 18 inci maddesinin uygulanmasının mümkün olmadığı hallerde veya 7 nci maddenin ikinci fıkrasının (a) ve (ç) bentlerine istinaden İmar Kanunu ve bu Yönetmelik hükümlerine göre ifraz, tevhit ve cins değişikliği yoluyla; imar planına uygun, müstakil ve inşaata elverişli hale getirilen parsellere inşaat ruhsatı verilebilir.

(3) 10/7/2019 tarihinden önce imar planında kamu kullanımına ayrılıp da, tescil olan parselasyon planında kamu ortaklık payı hisselendirmesiyle oluşan kamulaştırmaya konu parsellerin bulunduğu alanlarda, yeniden parselasyon planı yapılması durumunda; bu alanlar imar planında yine kamu kullanımına ayrılan yerlere, herhangi bir kesinti yapılmadan tahsis edilir ve eski statülerini devam ettirerek kamulaştırılmak üzere mevcut hissedarları adına tescil olunur. Ancak imar plan değişikliği ya da revizyonu ile kamu ortaklık payı hisselendirmesi ile oluşan alanlarda bir azalma olduğu takdirde; azalan miktar kadar alan özel mülkiyete konu alanlara tahsis edilir.

(4) Belediye hizmet alanı, semt spor alanı, belediye kreş alanı, pazar yeri, şehir içi toplu taşıma istasyonları ve durakları, tescile konu otoparklar, ağaçlandırılacak alan, rekreasyon alanı, mesire alanı, mezarlık alanı ve belediyelerin hizmet verdiği diğer alanlar belediyesi adına, kalan alanlar Hazine adına tescil edilir. Belediyesi adına tescil edilecek alanların büyükşehir belediyesi sınırları içerisinde kalması halinde, Büyükşehir Belediyesi Kanununda belirtilen; büyükşehir belediyelerinin görev ve yetki sahaları içerisinde kalan alanlarla, şehrin bütününe hizmet eden sosyal donatı alanları büyükşehir belediyesi adına, diğer alanlar ilçe belediyeleri adına tescil olunur.

(5) Spor alanı, teknik altyapı alanı, sosyal ve kültürel tesis alanı gibi hem belediyenin hem de diğer kamu kurumlarının kullanımında olabilecek alanlar Hazine adına imar planındaki kullanım vasfıyla tescil edilir. Bu alanlar Hazine tarafından, imar planındaki kullanım amacında kullanılması şartıyla, belediyesince hizmet verilmesinin planlanması halinde belediyeye devir veya tahsis, diğer kamu kurumlarınca hizmet verilmesinin planlanması halinde ise, hizmeti verecek kamu kurumuna tahsis edilir.

(6) Kamuya ait mülkiyetlerde; düzenleme ortaklık payı, terk veya bağış yolu ile umumi ve kamu hizmet alanlarına bırakılan alanların, imar planı değişikliği ile umumi ve kamu hizmet alanları dışında başka bir kullanıma konu edilmesi halinde, bu alanlar kesinti, terk ya da bağış yapılan taşınmazın sahibi kamu kurumu adına tescil edilir.

(7) 21/6/1987 tarihli ve 3402 sayılı Kadastro Kanunu kapsamında ilgili kadastro müdürlüğünce yüzölçümü düzeltmesi yapılan parsellerde, bu düzeltmeye karşı dava açılmış olsa

dahi, düzeltilmiş yüzölçümlerine göre uygulama yapılır. Parselasyon planının tesciline kadar geçen süreçte davanın sonuçlanmaması halinde; yüzölçümü düzeltmesi yapılarak tahsis ve tescil edilen imar parselinin tapu kaydına, "Düzeltme işleminin davalı olduğu ve düzeltilmiş yüzölçümüne göre imar uygulaması yapıldığı" şerh düşülür.

Parselasyon paftalarının hazırlanması ve parsellerinin numaralandırılması

MADDE 20 – (1) Paftalar, uygulama imar planlarına uygun olarak, 30/4/2018 tarihli ve 2018/11962 sayılı Bakanlar Kurulu Kararıyla yürürlüğe konulan Büyük Ölçekli Harita ve Harita Bilgileri Üretim Yönetmeliğine göre açılır ve 1/1000 ölçeğinde çizilir. İmar yollarının dengelemeleri imar planında gösterilen genişliklere göre yapılır. Kesik çizgiler ile gösterilen kadastro parselleri ile imar ada ve parselleri, ada/parsel numaraları, düzenleme sınırı, imar planındaki kullanım kararları, yol genişlikleri gösterilir.

MADDE 21 – (1) Hazırlanan parselasyon planındaki imar adalarına, ilgili kadastro müdürlüğünden alınan ada numaralarına göre, düzenleme sahasının kuzey batısından itibaren saat ibresi yönünde birbirini izleyen ada numarası verilir. Ada numaraları, mahallesinde verilen son imar adası numarasından gelmek üzere başlatılır. Bir imar adasına verilen ada numarası, aynı mahallede bir başka adaya verilemez.

(2) Bir imar adası tek bir imar parselinden oluşabilir.

(3) Ada numaraları, sadece sayıdan ibaret olup, harfli, romen rakamlı ve taksimli olamaz.

(4) İmar adası içerisindeki imar parsellerine, 1'den ve kuzey batıdan başlanarak saat ibresi yönünde parsel numarası verilir.

Parselasyon planı dosyasında bulunması gereken bilgi ve belgeler

MADDE 22 – (1) Parselasyon planları aşağıdaki hesap ve belgelerle birlikte kontrol edilmek ve onaylanmak üzere ilgili idareye sunulur:

a) Parselasyon planı açıklama raporu.
b) Değişiklik haritaları yapım ve kontrol bilgileri formu.
c) 1/1000 ölçekli aslı gibidir onaylı uygulama imar planı ve sayısal verileri.
ç) Son 6 ay içinde alınmış takyidatlı tapu kayıtları.
d) İlgili kadastro müdürlüğünden 11 inci maddeye göre alınan onaylı mülkiyet raporu ve ekleri.
e) Uygulamanın talep üzerine yapılması durumunda;
1) Özel ve tüzel hukuk kişileri tarafından talep ediliyorsa, taşınmaz sahipleri tarafından uygulamayı yapan harita mühendisine verilmiş vekâletname/sözleşme.
2) Kamu kurumları tarafından yüklenici firmalara yaptırılıyorsa, yüklenici firmanın yetkilendirme yazısı veya aralarındaki sözleşme.
f) Düzenleme sınır krokisi.
g) Ada bölüm krokisi.
ğ) Düzenlemeye kısmen giren parseller varsa ayırma çapı ve tescil bildirimi.
h) Varsa ihdas krokisi ve koordinatları.
ı) Düzenleme ortaklık payı oranı (DOPO) hesabı.
i) Özet cetveli (Ek-1).
j) Mal sahipleri araştırma ve özet formu (Ek-2).
k) Tescile esas dağıtım cetveli (Ek-3).
l) Tescil sayfası (Ek-4).

m) Alan hesapları ve dengelemeleri.
n) Ada röleve krokileri.
o) Parselasyon planı paftası.
ö) Parselasyon planının sayısal verileri.
p) İmar planında hüküm bulunması veya sit alanları, orman, mera ve benzeri konularda özel kanunlarla korunacak alanların bulunması durumunda, ilgili kurum/kurul görüşleri.
(2) Parselasyon planını onaylamaya yetkili idare, birinci fıkrada belirtilen dokümanlar dışında başka açıklayıcı bilgi ve belge isteyebilir.

Parselasyon planı açıklama raporu

MADDE 23 – (1) Parselasyon planı açıklama raporuna ilişkin esaslar şunlardır:

a) Mülkiyet durumu ile ilgili; düzenlemeye giren parsellerin sayısı ve toplam alanı, özel kanunlarla korunan parsellerin bulunup bulunmadığı ve adedi, ayırma çapı sayısı, daha öncesinde İmar Kanunu'nun 15 inci 16 ncı ya da 18 inci maddeye göre uygulaması yapılmış parseller ve terk oranları, bağışlanan ve kamulaştırılan alanlar ile arazideki fiili durum,

b) İmar planı ile ilgili; parselasyon planının dayanağı olan uygulama imar planının onay ve kesinleşme tarihleri, aslı ya da aslı gibidir onaylı imar planı ve plan notları,

c) Düzenleme ortaklık payı oranı ile ilgili; düzenleme sınırının geçirilmesiyle ilgili açıklamalar, umumi ve kamu hizmet alanlarıyla, tahsis alanlarının miktarı, düzenleme ortaklık payı oranı, düzenleme ortaklık payı kesintisi yapılmayan parseller ve bu parsellerden neden kesinti yapılamadığı,

ç) Dağıtımla ilgili; tahsis yapılırken nelere dikkat edildiği, dağıtımın düzenlemeye giren parselin bulunduğu yere yapılıp yapılmadığı, yapılamayanlar varsa gerekçeleri, hisse çözümü yapılmış ise dayanağı,

d) Uygulama sonrası oluşan durum ile ilgili; düzenleme sınırı ve imar ada sınırlarını gösteren uydu görüntüsü, toplam imar ada ve parsel sayısı ile imar planındaki tüm kullanım alanlarının sayısı, uygulamayı açıklayan teknik raporda belirtilir.

Parselasyon planlarının kontrolü ve onayı

MADDE 24 – (1) Parselasyon planlarının imar planlarına uygunluğu, düzenleme sınırının geçirilmesi, düzenleme ortaklık payına ilişkin ve düzenlemeye giren parsellerin dağıtımı ile ilgili hususlar 25 inci maddede belirtilen parselasyon planını onaylamaya yetkili idareler tarafından imar mevzuatına göre kontrol edilir.

(2) Parselasyon plânları ve eklerinin kadastro tekniğine uygunluğu, mülkiyet sınırları ve tapu kayıtları açısından incelenmesi, ilgili kadastro ve tapu müdürlükleri tarafından, kadastro ve tapu mevzuatına göre kontrol edilir.

MADDE 25 – (1) İdare ya da taşınmaz sahipleri tarafından yetkilendirilen harita mühendisi tarafından hazırlanan ve imzalanan dokümanları içeren parselasyon planları, onamaya yetkili idareye sunulur. Parselasyon planlarının idarece uygun bulunması durumunda, idarenin görevlendirdiği onaya yetkili harita mühendisleri tarafından imzalanır. DOPO hesabı ve tescile esas dağıtım cetveli onay yapacak idarenin birim amiri tarafından ayrıca onaylanır ve idarenin yetkili amiri tarafından imzalanarak onamaya yetkili karar organına sevk edilir.

(2) Parselasyon planları, parselasyon planına ait belgelerle beraber; büyükşehirlerde, Büyükşehir Belediyesi Kanunu kapsamında parselasyon planlarının büyükşehir belediyesince yapılması halinde büyükşehir belediyesi encümeni kararı ile; parselasyon planlarının ilçe belediyesince yapılması halinde, ilçe belediye encümeni kararı ve büyükşehir belediyesi encümeni kararı ile; diğer belediyelerde, belediye ve mücavir alan içinde belediye encümeni kararı; dışında ise il idare kurulu kararı veya parselasyon planlarını onaylamaya yetkili idarenin onayından sonra yürürlüğe girer.

(3) Parselasyon planları bir ay müddetle onaylayan idaresine göre belediyede ya da valilikte askıya çıkarılır ve eş zamanlı olarak internet sitesinde yayımlanır. Ayrıca belediye duyurusu, gazete ve benzeri mutat vasıtalarla da duyurulabilir.

(4) Üçüncü fıkrada belirtilen sürenin sonunda itiraz olmaması durumunda parselasyon planları kesinleşir. İtiraz olması durumunda ise itirazlar ilgili idare tarafından değerlendirilir. İtirazların uygun bulunmaması durumunda, gerekçelerin belirtildiği ilgili idare kararıyla parselasyon planları kesinleşir. İtirazların uygun bulunması durumunda, gerekli düzenlemeler yapıldıktan sonra tekrar hazırlanan parselasyon planı, ilgili idare tarafından onaylanarak askı ve kesinleşme süreci yeniden başlatılır. Parselasyon planında, herhangi bir sebeple değişiklik olması durumunda, bu süreçler tekrarlanır.

(5) Düzenleme sahasındaki maliklerin detaylı bilgilendirilmesi amacıyla, üçüncü fıkrada belirtilen askı işlemi öncesinde uygun bulunacak sürelerde ve yerlerde idarece ön askı işlemi ya da işlemleri yapılabilir. Bu işlem zorunlu olmayıp, idarenin gerek görmesi halinde bilgilendirme ve hizmet kalitesini artırmak amacıyla uygulanabilir.

(6) İlgili idare onayı/kararı ve askı işlemlerinden sonra kesinleşen parselasyon planı, tapu ve kadastro mevzuatına göre; ilgili kadastro müdürlüğünce kontrol edilerek onaylanır ve tapu müdürlüklerince tescil edilir.

Parselasyon planlarının tebliği

MADDE 26 – (1) Düzenleme alanının büyüklüğü, parsel maliki ve parsellerdeki hissedar sayısının çokluğu, bu kişilerin bulundukları yer itibarıyla birebir tebligat yapılamaması ya da adres kayıt sisteminde kayıtlı olduğu yerde bulunmaması gibi nedenlerle karşılaşılacak zorluklar dikkate alınarak parselasyon planlarının bir ay müddetle ilgili belediyede ya da valilikte askıya çıkarılması, internet sitesinde yayımlanması, belediye duyurusu, gazete ve benzeri mutat vasıtalarla da duyurulması ile düzenleme sahasındaki taşınmaz maliklerine tebliğ edilmiş sayılır.

Kadastro kontrolleri ve koordinat birliğinin sağlanması

MADDE 28 – (1) Parselasyon planlarının ilgili kadastro müdürlüğünce büro kontrollerinin yapılmasına müteakip, düzenleme alanına giren bütün ada ve parseller ile umumi hizmetlere ayrılan alanlar, parselasyon planındaki köşe noktalarına ait koordinatlarına göre sorumlu mühendisi tarafından araziye aplike edilir. Arazi kontrollerinin ilgili kadastro müdürlüğünce kontrol edilerek herhangi bir hata ve eksiklik tespit edilmemesi halinde parselasyon planları kontrol ve tescil işlemleri için ilgili tapu müdürlüğüne sevk edilir. Kadastro kontrollerinde istenen bilgi ve belgeler

MADDE 29 – (1) Kesinleşen parselasyon planlarının kontrol ve tescili için, ilgili kadastro müdürlüğüne aşağıdaki bilgi ve belgelerin gönderilmesi gerekir:

a) Parselasyon planı dosyasında bulunması gereken dokümanlar.
b) Bakanlık, yetkili idare, belediye veya il encümenince parselasyon planının onayına ilişkin kararın/onayın onaylı örneği.
c) İşlemin yüklenici serbest çalışan mühendis tarafından yapılması halinde; büro tescil belgesi, tip sözleşme, sözleşmeye ilişkin damga vergisinin ödendiğine dair belge.
ç) Global Navigasyon Uydu Sistemi (GNSS) ve Gerçek Zamanlı Kinematik (GZK) ölçmelerinde orijinal veri kayıt dosyası ve çizelge.
d) Parselasyon planı paftası.
e) Yeni üretilen yer kontrol noktalarının; ölçü ve koordinat hesapları, koordinat özet çizelgesi ve röper krokileri.
f) Yer kontrol noktaları ve parselasyon detay noktaları koordinatlarıyla Tapu ve Kadastro Bilgi Sistemine uyumlu Bilgisayar Destekli Tasarım (CAD) tabanlı parselasyon planının bulunduğu cd.
g) Yapı-muhdesat bulunan parsellerde yapı-muhdesat cetveli (Ek-5).
ğ) İrtifak hakkının geçtiği parsellerde irtifak hakkı cetveli (Ek-6).
h) Fen klasörü.
ı) Tapu ve Kadastro mevzuatı uyarınca istenilecek diğer belgeler.

MADDE 30 – (1) Düzenleme sahasındaki uygulamaya tabi parsellerin, Büyük Ölçekli Harita ve Harita Bilgileri Üretim Yönetmeliğine göre üretilen veya dönüştürülen koordinatları ilgili kadastro müdürlüğünden temin edilir. Kadastro paftası, uygulama imar planı ve parselasyon plânı arasında koordinat birliği bulunmuyorsa; varsa dönüşüm parametreleri ile yoksa arazide ölçüm yaparak dönüşüm parametrelerini elde etmek yoluyla, kadastro ve imar planı koordinatları parselasyon plânı koordinatlarına dönüştürülür.

(2) Düzenleme sahasında uygulamaya tabi parsellerde düzeltme işlemi yapılması gerekiyorsa, tapu ve kadastro mevzuatına göre düzeltilmiş verilere göre uygulama yapılır.

Düzenleme sahasına giren parsellerin yüzölçümü kontrolü

MADDE 31 – (1) Arazi ve arsa düzenlemesi yapılacak alan içerisinde kalan kadastro parsellerinin yüzölçümleri koordinatlarına göre hesaplanır ve tescilli yüzölçümleriyle karşılaştırılır. Yüzölçümü farkı; yanılma sınırları içerisinde ise tescilli yüzölçümleri esas alınarak, yanılma sınırları dışında ise tescile konu harita ve planların kontrolüne ilişkin mevzuatınca düzeltilmiş yüzölçümleri esas alınarak uygulama yapılır.

(2) Düzenleme sahasına kısmen giren parsellerde, düzenlemeye giren kısmının hesaplanan yüzölçümüne göre uygulama yapılır. Kısmen düzenlemeye giren parseldeki yüzölçümü hatası parselin uygulama dışında kalan kısmında bırakılır.

(3) Yüzölçümü kontrolünde yanılma sınırı miktarının belirlenmesinde, aşağıdaki bağıntılar kullanılır:

F: m2 cinsinden parsel yüzölçümü,
M: parselin bulunduğu paftanın ölçek paydası,
Yapılaşmanın olduğu Köy içinde veya Mahallede: $f = 0.013 \times \sqrt{M} \times F + 0.0003 \times F$
Diğer yerlerde: $f = 0.0004 \times M \times \sqrt{F} + 0.0003 \times F$

Hisse hesabı ve tapuya beyan ve tescil

MADDE 32 – (1) Muhtelif parsellerden hisselendirme suretiyle teşekkül eden imar parselinin tescili yapılırken, hissenin umumi paydasında parselin yüzölçümü esas alınır. Ancak payın tam sayı çıkmaması durumunda, pay tam sayı çıkacak şekilde payda hesaplanır.

MADDE 33 – (1) Tescil işlemi için tapu müdürlüklerine gönderilen parselasyon planlarındaki dağıtım cetvellerine uygun olarak, tapu sicilinde, tescili yapılan parsellerin cinsine; özel kullanım alanı olanlara arsa, umumi ve kamu hizmetlerine ayrılan alanlara imar planındaki kullanım kararı yazılır.

(2) Düzenlemeye giren parseller üzerindeki irtifak hakkı, geçit hakkı ve benzeri ayni haklar ve korunması gerekli yapıların bulunduğu alanlar, parselasyon planında bulunduğu yere üzerindeki şerhler ve beyanlar ile birlikte ilgili kurum adına aktarılır ve tahsis edilir. Bu alanların imar planında yol, park, meydan gibi tescile konu olmayan umumi hizmet alanlarına denk gelmesi halinde; ayni haklar ve korunması gerekli yapının bulunduğuna dair şerhler/beyanlar taşınarak, bu haklar ile şerhe/beyana konu olan alanlar imar planındaki vasfıyla tescil edilir.

(3) Tescile tabi olmadığı halde, imar mevzuatı gereği yapılaşma hakkı verilen, ruhsata tabi yapıların yapılabileceği umumi ve kamu hizmet alanları imar planındaki vasfıyla tescil edilir. Bu alanlar ve üzerindeki yapılar, bölgede yaşayan insanların ortak kullanımı dışında hiçbir fonksiyon için kullanılamaz özel mülkiyete konu edilemez.

(4) Tapu Kanununun 21 inci maddesi hükümlerine göre kapanan imar ve kadastro yolları nedeniyle imar mevzuatına uygun müstakil imar parseli oluşturulabilen alanlar ve plan gereği umumi ve kamu hizmet alanlarına terk edilen alanlardan belediye adına tescil edilebilecek diğer alanların tescil işlemi; bu alanların cephe aldığı yol da dikkate alınarak, Belediye Kanunu, Büyükşehir Belediyesi Kanunu ve bu kanunlar uyarınca alınmış düzenleyici meclis kararlarına göre sorumluluk verildiği belediye adına gerçekleştirilir. Bu alanlara hiçbir şekilde imar plan değişikliği ile özel mülkiyete konu fonksiyon getirilemez. Umumi ve kamu hizmet fonksiyonu dışında kullanılamayacağı, tapu kütüğünün beyanlar hanesine belirtme yapılır.

Düzenleme sahasındaki tescil harici alanlar

MADDE 34 – (1) Düzenlemeye giren tescil harici arazilerin tescili, parselasyon planı ile birlikte aynı anda yapılabilir. İmar planı onayı sürecinde ilgili kurumlardan uygun görüş alınması halinde, kurumlardan tekrar görüş alınmaksızın, parselasyon planıyla birlikte bu arazilerin tescili de Hazine adına gerçekleştirilir. Parselasyon planı ile birlikte tescil harici alanların Hazine adına tescil edilmesi durumunda, parselasyon planının onaylanarak askı işlemlerine başlandığına dair Milli Emlak Genel Müdürlüğüne bilgi verilir.

Parselasyon planlarının hukuki geçerliliği

MADDE 35 – (1) Parselasyon plânları, tescilden sonra 22/11/2001 tarihli ve 4721 sayılı Türk Medeni Kanunu'nda ve 22/7/2013 tarihli ve 2013/5150 sayılı Bakanlar Kurulu Kararıyla yürürlüğe konulan Tapu Sicili Tüzüğünde belirtilen plan yerine geçer.

(2) Mülkiyete ilişkin sınır gösterme işlemleri, 16/6/2005 tarihli ve 5368 sayılı Lisanslı Harita Kadastro Mühendisleri ve Büroları Hakkında Kanun kapsamında faaliyette bulunan lisanslı bürolarca, bu büroların faaliyette bulunmadığı yerlerde ilgili kadastro müdürlüğünce bu planlara göre yapılır.

Hisseli arazi ve arsa satışı

MADDE 36 – (1) Nazım ve uygulama imar plânı olmayan yerlerde, imar planı bulunmakla beraber imar uygulaması sonucunda maksimum düzenleme ortaklık payı kesilmesi halinde parsel hissedarlarına yapılaşmaya uygun tahsis yapılamayacak arazilerde, her türlü yapılaşma amacıyla arsa ve parselleri hisselere ayıracak resmî geçerliliği olmayan özel parselasyon plânları, satış vaadi sözleşmeleri yapılamaz. Veraset yolu ile intikal eden, İmar Kanunu hükümlerine göre hisselendirilen, Kat Mülkiyeti Kanunu uygulanması, tarım ve hayvancılık, turizm, sanayi ve depolama amacı için yapılan hisselendirmeler ile cebri icra yolu ile satılanlar istisnadır.

Mahkeme kararıyla iptal edilen parselasyon planları

MADDE 37 – (1) Mahkeme kararında parsel bazlı iptal kararı varsa; mevcut imar parselleri üzerinden yapılabiliyorsa sadece o parsel ya da parsellere yönelik düzeltme yapılır. İptal kararına konu parselde, uygulama alanındaki diğer parsellerde etkilendiğinden düzeltme yapılamıyorsa; etkilenen diğer parseller de dikkate alınarak veya uygulama alanının tamamında yeni bir parselasyon planı yapılır.

(2) Mahkeme kararıyla parselasyon planının, parselasyon planını onaylayan encümen kararının ya da ilgili kurum onayının iptal edilmesi halinde; geri dönüşüm işlemlerinin yapılarak parselasyon planından önceki kök parsellere dönülmesi gerekmektedir.

Ancak uygulama sahasında iptal edilen parselasyon planı sonucunda oluşan imar parselleri üzerinde; ihdasen oluşan taşınmazların satışı, yapı ruhsatı, kat irtifakı, kat mülkiyeti gibi tasarruflarda bulunulması halinde, bu tasarruflar ve mahkemenin iptal gerekçeleri de dikkate alınarak geri dönüşüm işlemleri ile birlikte aynı anda yeni bir parselasyon planının yapılması zorunludur.

(3) Mahkeme kararında sadece eksik ya da hatalı görülen parselasyon planının düzeltilmesi isteniyorsa ve mevcut tescilli imar parselleri üzerinden yapılacak yeni bir uygulama ile mahkeme kararı gerekçeleri yerine getirilebiliyorsa, tescilli imar parselleri üzerinden yeni bir parselasyon planı yapılabilir.

(4) Mahkeme kararı ile iptal edilen imar uygulamalarında, bedele dönüştürme işlemi var ise, geri dönüşüm işlemi ile birlikte alınan bedel, yapı sahibine değerleme oranına göre yeniden hesaplanarak iade edilir ya da yapılacak yeni parselasyon planında çıkacak değer üzerinden mahsuplaşılır.

(5) Daha önce yapılmış ancak mahkeme kararı ile iptal olmuş imar uygulamaları nedeniyle geri dönüşüm işlemleri yapılarak kök parsele dönülmesi sonucunda, iptal edilen imar uygulamasına göre tahsis edilmiş ve üzerinde yapı bulunan imar parsellerinin, yeni yapılan parselasyon planında kök parselinin bulunduğu yer veya en yakın yerden tahsis edilememesi nedeniyle, burada bulunan bina ve müştemilatların bulunduğu parselin, bina sahipleri adına tescil edilememesi durumunun ortaya çıkması veya davaya konu parselin imar planında umumi ve kamu hizmetlerine ayrılan alanlara denk gelmesi ve benzeri hukuki veya fiili imkânsızlıklar nedeniyle geri dönüşüm işlemleri yapılamaması halinde;

a) Parselasyon planlarını onaylayan idarenin yetkili birimlerince geri dönüşüm işlemlerinin yapılamamasının gerekçelerini açıklayan ayrıntılı bir teknik rapor hazırlanır ve bu durum belediye encümen kararı, il encümeni kararı veya ilgili idare onayında belirtilir.

b) Hak sahiplerinin muvafakatinin alınması kaydıyla, davaya konu parsel uygulama sahası içerisinde idarece uygun görülen bir yere tahsis edilir.

c) Yapı ve parsel sahibinin farklı kişilerden oluşması durumunu ortadan kaldırabilmek ve hukuki durumu düzenleyebilmek amacıyla, üzerinde yapı bulunan parselle, yapı sahibine tahsis edilen parsel, taşınmaz sahiplerinin muvafakatiyle takasa konu edilebilir.

ç) Muvafakat olmaması veya yeni yapılacak imar uygulamasında davaya konu parselin imar planında umumi ve kamu hizmetlerine ayrılan alanlara denk gelmesi sebebiyle bulunduğu yerden veya teknik nedenlerden dolayı yakınından tahsis edilememesi halinde; uygulamayı yapan idare tarafından yapının bulunduğu parsel ya da yerinden tahsis edilemeyen parsel kamulaştırılabilir. Kamulaştırılacak parsel maliklerine varsa, öncelikle aynı alan içerisinden olmak üzere, uygulamayı yapan idareye ait parseller teklif edilerek kamulaştırma bedeli trampa yoluyla karşılanabilir.

d) Yapının bulunduğu parselin uygulamayı yapan idarenin mülkiyetine geçmesi sonrası, bu parsel yeni uygulamada yapı sahibine tahsis edilen parsel ile trampaya ya da satışa konu edilebilir.

e) Trampa işlemleri, parsellerin rayiç bedelinin SPK lisanslı gayrimenkul değerleme uzmanları ya da idarenin kıymet takdir komisyonu tarafından belirlenen değerler üzerinden yapılır. Parseller arasında değer farkı oluşması halinde ilgili idare ve yapı sahibi tarafından mahsuplaşılır.

(6) Bu maddeye göre yapılacak kamulaştırma işlemlerinde 2942 sayılı Kanun hükümleri uygulanır.

Hatalı parselasyon planları

MADDE 38 – (1) Tescil edilen parselasyon planlarının bulunduğu alanda, aşağıdaki maddi hataların belgelerle tespit edilmesi durumunda, bu hatalar mevcut tescilli parselasyon planı üzerinden giderilemiyorsa, idarece sadece hatanın giderilmesine yönelik; geri dönüşüm işlemleri ile birlikte aynı anda yeni bir imar uygulaması işlemi 25 inci maddede belirtilen usullere göre gerçekleştirilebilir.

a) Düzenleme sahasında bulunan parsel ya da parsellerin uygulamaya alınmaması.

b) Orman, mera, askeri yasak ve özel güvenlik alanları gibi özel kanunlarla korunan alanların ilgili kurumun uygun görüşü olmadan uygulamaya alınmış olması.

c) Parsel yüzölçümünün yanlış girilmesi.

ç) Kamulaştırma kararı alan kurumun kamulaştırma amacı dışında kullanılabileceğine dair görüşü olmadan, kamulaştırmadan arta kalan kısımlar hariç olmak üzere kamulaştırılan ya da kamulaştırma işlemi devam eden taşınmazların yerinde korunmaması ve düzenleme ortaklık payı kesilmesi.

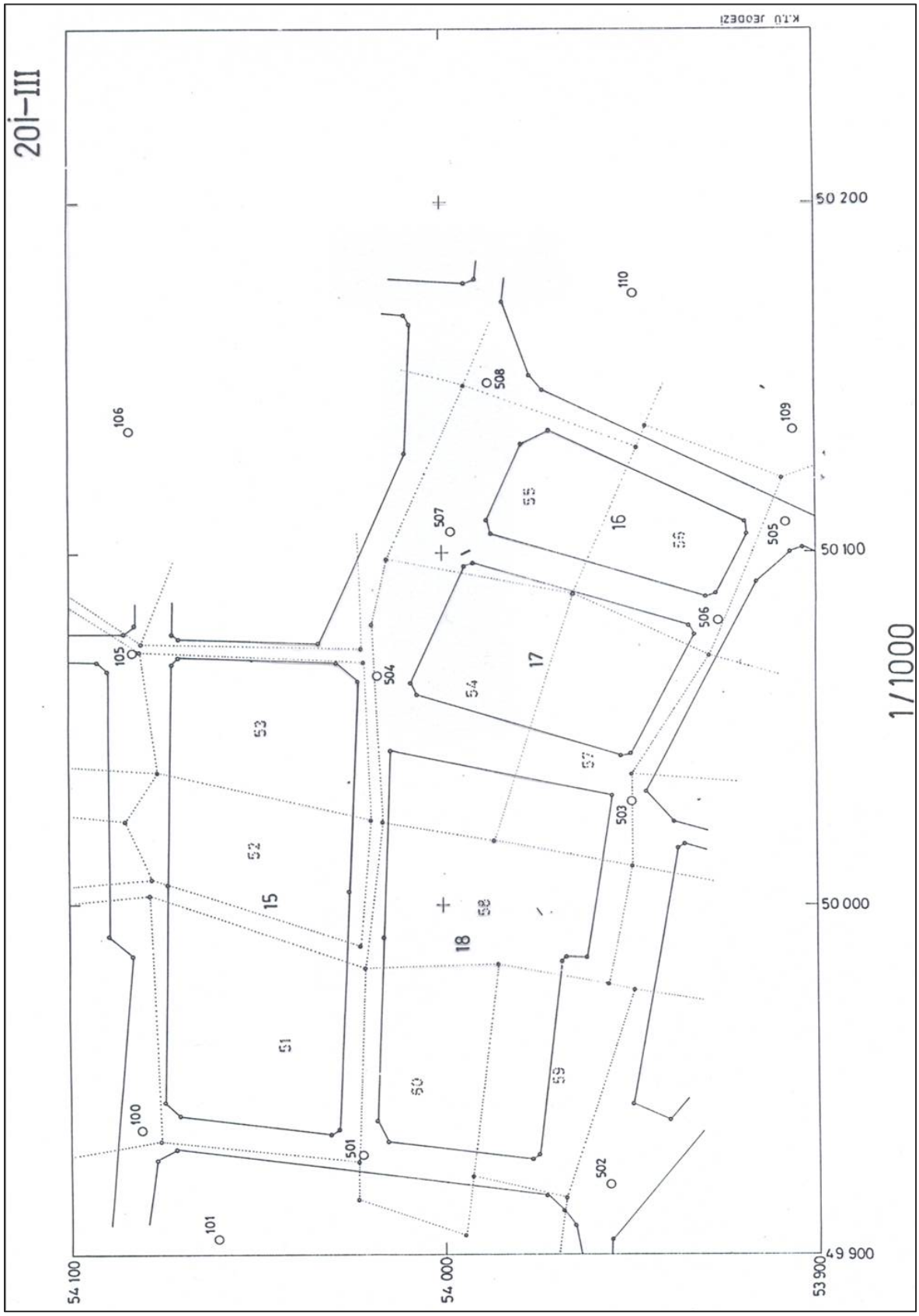
d) Tescilli kültür varlıklarının korunmaması.

e) Düzenleme ortaklık payının yanlış hesaplanması.

KADASTRAL PARSEL BİLGİ FİŞİ

Pafta No	Ada No	Parsel No	Yüzölçümü	Malik	Hissesi	Cinsi	Tapu Yüzölçümü	Fark	Tecviz $(m)^2$
	30	5	1294.30	Ahmet Sezer	Tam	Arazi	1295.05	0.75	15.11
	30	6	1815.80	İrem Derekil	Tam	Arazi	1815.00	0.80	17.90
	31	7	1349.19	Canberk Kalan	Tam	Arazi	1348.20	0.99	15.43
	31	8	2185.18	Betül Kırık	Tam	Arazi	2180.55	4.63	19.63
	31	9	2665.98	Mehmet Yolan	Tam	Arazi	2667.50	1.52	21.69
	34	10	1579.69	Sedat Görgülü	Tam	Arazi	1577.78	1.91	16.69
	34	11	2117.67	Ahmet Aracigil	Tam	Arazi	2116.50	1.17	19.33
	34	12	2261.74	Meltem Özmaden	Tam	Arazi	2263.24	1.50	19.97
	34	13	2595.32	Kamu	Tam	Arazi	2593.23	2.09	21.40
	30	14	891.26	Silan Dere	Tam	Arazi	890.20	1.06	12.54
	30	15	841.95	Ayşe Irmak	Tam	Arazi	842.60	0.65	12.19
	30	16	1926.03	Mine Öztürk	Tam	Arazi	1925.46	0.57	18.43
	30	17	2280.83	Mustafa Yılmaz	Tam	Arazi	2276.50	4.33	20.06
	30	18	2173.37	Ceren Su	Tam	Arazi	2176.30	2.93	19.58
	30-31	19	1706.25	Hayri Getiren	Tam	Arazi	1707.00	0.75	17.35
	31	20	1136.25	Ersin Bayraktar	Tam	Arazi	1134.56	1.69	14.16
	31-34	21	2293.81	İremsu Alev	Tam	Arazi	2290.56	3.25	20.12
	31-34	22	2786.62	Bilgin Özçalkan	Tam	Arazi	2785.62	1.00	22.17
	30-31-34	23	1617.79	Yunus Özyavuz	Tam	Arazi	1618.23	0.44	16.89
		Toplam	**35519.03**						

Parsel Alanında Farkın Giderilmesi : $df = 0.00042 * M * \sqrt{F}$ Tecviz sınırı



Şekil x. Uygulama haritası örneği

Şekil x. Parselasyon haritası örneği

T.C. Kayseri BELEDİYESİ ……1……NOLU DÜZENLEME BÖLGESİ

NUMARALI İMAR ADASI DAĞITIM CETVELİ

KADASTRO	PAFTA														İMAR
	ADA	30													PARSEL
	PARSEL	5	6	14	15	16	17	18	19	23	IHD_1	IHD_2			ALANI
İMAR PARSELİ															
1			709.21												**709.21**
2								310.00							**310.00**
3									700.00						**700.00**
4										702.03					**702.03**
5											81.93	484.53			**566.46**
6										487.04					**487.04**
7				72.57	45.20	480.48									**598.25**
8							438.39								**438.39**
9								475.76							**475.76**
10								588.12							**588.12**
11		306.25													**306.25**
Bu Adada İmar Parseline		**306.25**	**709.21**	**72.57**	**45.20**	**480.48**	**438.39**	**1373.88**	**700.00**	**1189.07**	**81.93**	**484.53**			**5881.51**
Diğer Adalarda							**513.50**		**554.09**						
İmar Parsel Toplamı		**306.25**	**709.21**	**72.57**	**45.20**	**480.48**	**951.89**	**1373.88**	**1254.09**	**1189.07**	**81.93**	**484.53**			

DÜZENLEYEN			KONTROL EDEN			ONAYLAYAN		
İSİM	TARİH	İMZA	İSİM	TARİH	İMZA	İSİM	TARİH	İMZA

	İMAR PLANININ ONAYI	PARSELASYON HARİTASININ ONAYI	İLANIN TAHTAYA	
	BELEDİYE MECLİSİ	BELEDİYE ENCÜMENİ	ASILMASI	İNDİRİLMESİ
TARİH				
SAYI				

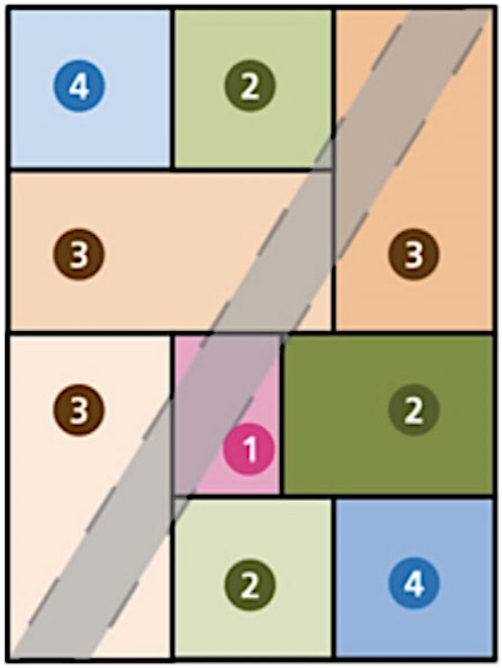
Şekil x. Dağıtım cetveli örneği

LR Benefits for the government

- ✓ The expanded urban land project areas can be achieved rapidly using LR,
- ✓ Compensation expenses are greatly reduced. This positively affects the use of the municipality budget in other land development activities,
- ✓ Provision of public land is accomplished economically,
- ✓ A zoning plan is realized in a short time,
- ✓ The existing cadastral records are updated, reorganized and cadastral administration is improved,
- ✓ A regular land development process is provided.

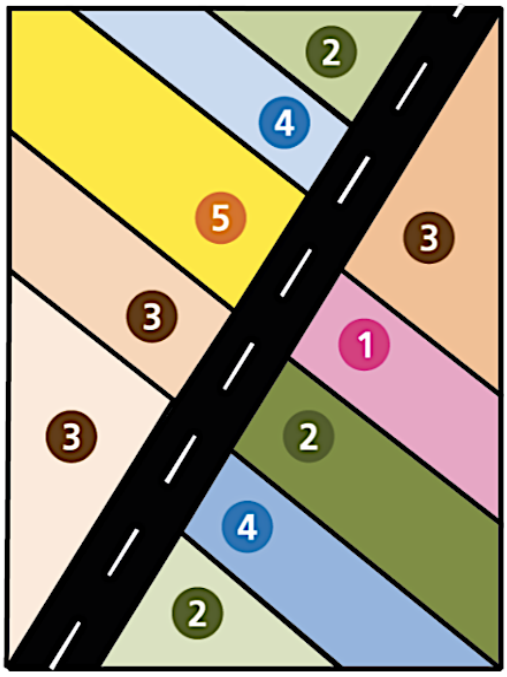
LR Benefits for landowners

- ✓ After the project, land values increase very rapidly and land becomes more valuable. This provides an economical gain to the landowners,
- ✓ A cadastral parcel is re-shaped and transformed into a sufficient site lot that can be used in an economic way,
- ✓ Because of LR project affects landowners in the same way, disputes about land planning are reduced, so that the problems which are created by the zoning plan are eliminated,
- ✓ Boundary conflicts are also minimized between landowners, due to re-organization of land parcel boundaries,
- ✓ Fragmented small parcels are consolidated into a new housing parcel. Landowners, therefore, can get an opportunity to use of their land more actively,
- ✓ At the end of the project, basic public services are supplied to new lots by municipalities, therefore LR project brings new social services to the project area,
- ✓ There is no extra charge to landowners for the project expenses, except that they forfeit part of their land. All project expenses are met by the municipalities.



Outcomes of parcels for planning needs

- ***Landholders I*** *will lose out: their land will be purchased at a price determined by the city (or a court), with not enough left for a viable plot. They will be displaced.*
- ***Landholders 2*** *will lose a small part of their land and be left with some frontage on the road — enough for access, raising considerably the value of their remaining plots*
- ***Landholders 3*** *lose a larger chunk of land to compulsory acquisition but are left with larger road frontages.*
- ***Landholders 4*** *do not benefit at all: left without road access.*



Outcomes through land readjustment

- *After a land readjustment process, with new land allocations, each landholder gets a smaller, but more valuable plot with road frontage.*
- *No one is displaced, and the costs and benefits are shared.*
- *Rather than a few landholders giving up all their land, all give up a little, creating the public space required for the road.*
- *In addition to the road itself, the municipality is allocated plot 5, which it can use for public space or sell to cover the cost of providing the infrastructure.*

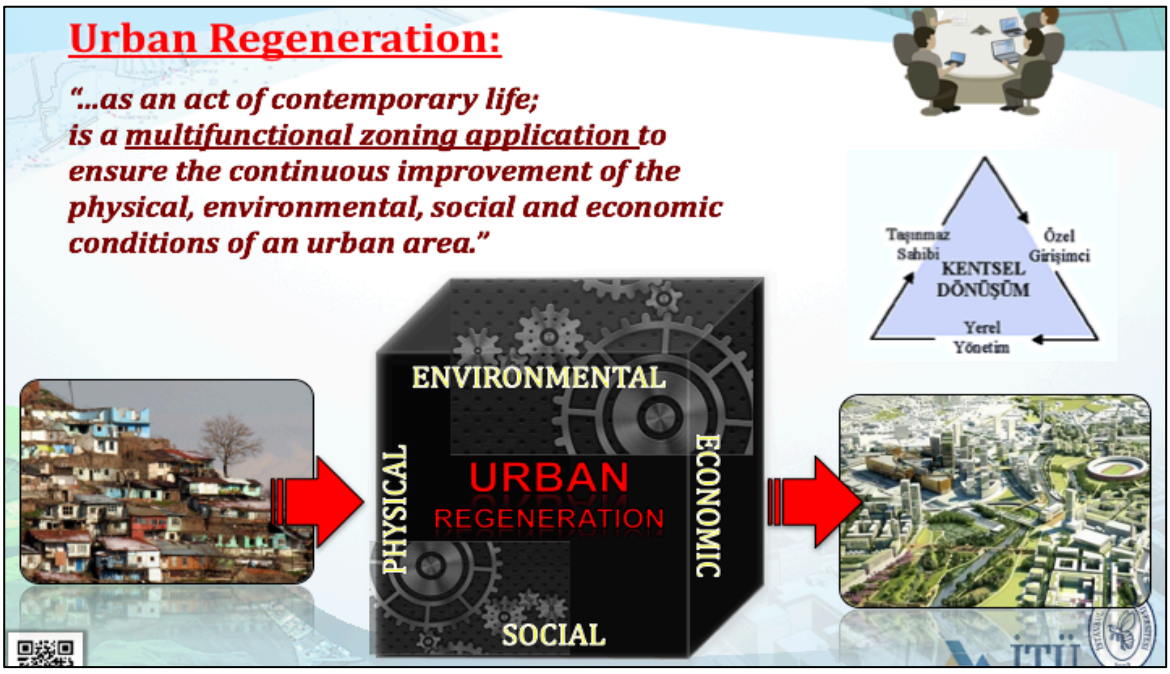
6 URBAN REGENERATION APPLICATIONS

"**Urban Regeneration (UR)"** is a reconstruction application for reorganization of the property in accordance with the planning needs in the densely built areas of the city. Urban regeneration is a reorganization of the property in accordance with the zoning data of the property in areas that are distorted, drenched, ruthless, sensitive to disasters and urban risks, inadequate infrastructure and unqualified, densely structured, legally or immediately. Briefly, it is defined as the renewal of a certain part of the city and it is the applications made to change the region to have more favourable living conditions.

In particular, after the industrial development, the urban areas of the city, which are moved out of the city, port and shipyards in the development of urban areas to provide the development of the urban areas of the historical buildings to be renewed, in addition to the renewal, public-private sector-non-governmental organizations and local people. The aim of the project is to carry out works that will be implemented together.

In addition, even though land properties are registered in land registry in urban areas, squatter and illegal buildings are formed due to the emergence of public immovable properties such as municipalities, finance, foundations and governorships. Over time, the living conditions in such areas develop quite far from the phenomenon of urbanization.

Other reasons for urban regeneration applications are the transformation of unlicensed construction areas and shanty areas, which necessitate the implementation of structures which are obligatory to be recycled as a result of natural disasters.



"KED-BULUTU"
KENTSEL-DÖNÜŞÜM
KENTLEŞME
MÜLKİYET
Mülkiyeti
Kadastro
imar
Tapu
Kredi
İpotek
Kadastro
plan
Tescil
Kat-Mülkiyeti
Kira
Malik
Kıyı
Mevzuat
Kamulaştırma
Plan
Tapu
Sistem
Sözleşme
Vergi
Yatırım
TOKİ
Yeşil
Bakanlık
Afet
Alan
Anlaşma
ARSA
Çevre
Değer
Belediyeler
İlan
Finans
Hukuk
İMAR
İnşaat
Gayrimenkul
ipotek
ilgi
Devir
Harita
Kayıt
Yaşam
Altyapı
Park
Çevresel
Dağıtım
Ekonomik
Sosyal-Tesis
Ulaşım
Fiziksel
Üstyapı
Konfor
krediKonut
Mimar
Park
Paydaş
Proje
Risk
Şehircilik
Taşınmaz
Takas
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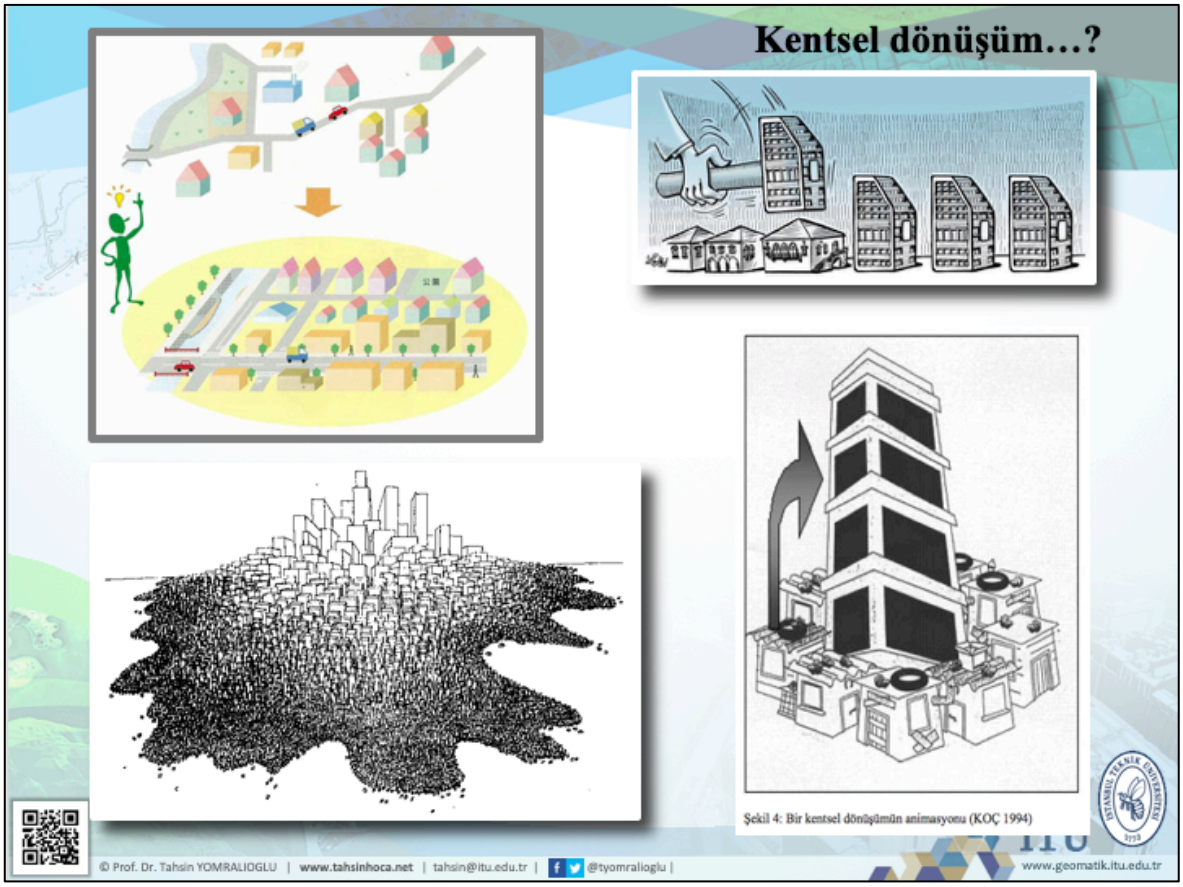
Kentsel dönüşüm…?
Şekil 4: Bir kentsel dönüşümün animasyonu (KOÇ 1994)
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Urban regeneration: Development in the world

- *Urban transformation applications first emerged as a result of the urban growth movements of Europe in the 19th century.*
- *In this period, the urban regeneration processes realized with the leadership model of the public sector are based on two different foundations. These are the House Law enacted in the UK in 1851 and the Haussmann operations that carried out developmental interventions for the city of Paris between 1851 and 1873 in Paris.*
- *After the Industrial Revolution, the inhuman conditions of the working class in the big cities of Europe influenced many thinkers and planners and accelerated the emergence of the first urban regeneration idea.*
- *Over time, the political and economic structure of the urban regeneration process has shifted from the national development to the goal of global integration and changed the urban planning process. For this reason, it is seen that different approaches are observed in different periods in urban regeneration practices in the world.*

URBANREGENERATION

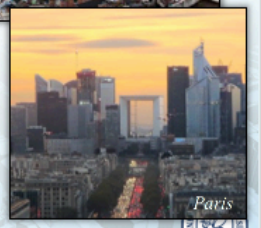
- Yenileme (renewal)
- Sağlıklaştırma (rehabilitation)
- Koruma (conservation)
- Yeniden canlandırma (revitalization)
- Yeniden geliştirme (redevelopment)
- Düzenleme (improvement)
- Temizleme (clearance)
- Boşlukları doldurup geliştirme (infill development)
- Tazeleme-parlatma (refurbishment)

İTÜ

Urban regeneration: in the World ...

URBANREGENERATION

- Hiroshima - Urban Regeneration Project of Danbara City (Japan) 1973-1995
- London-Trafalgar Square Urban Regeneration Project (UK) 1996
- Berlin-Postdam Square Urban Transformation Project (Germany)
- Paris-La Defense Urban Regeneration Project (France)
- Guangzhou Pearl River Urban Regeneration Project (China)
- Rio City Slum Rejuvenation Program (Brazil) 1994-1998
- Barcelona (Spain) - 2008



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6.1 Urban regeneration in Turkey

Urban regeneration: with numbers..

RENEWAL COST ESTIMATION	TOTAL	PER YEAR
No of Units ('000)	6,684	334
Renewal Cost (TL, billion)	884.3	44.2
Renewal Cost (US$, billion)	465.4	23.3

SOURCE: Data compiled from TURKSTAT

In generally;

- ✓ There are about 19 million houses in our country.
- ✓ Approximately 25% of these are made after 2000 and are technically more resistant to earthquakes.
- ✓ Therefore, the amount of construction that should be re-examined in terms of disaster risk is 75%.
- ✓ And about 40% of these structures are considered to be at risk.
- ✓ One in every three buildings; is insufficient in terms of earthquake and material resistance and needs to be renewed and strengthened in terms of engineering service.
- ✓ period prescribed for the conversion of existing risk structure in Turkey for 20 years. The budget is about $ 500 billion.
- ✓ According to TUIK figures, 2.5 million additional houses are still needed in the country.

Budget resources

- It is foreseen that the law can be transferred to the conversion account of up to 90% of the revenues of 2D forest lands.
- 50% of environmental penalties,
- 5% of the municipal investment budgets and 50% of the tuition income,
- 50% of the Bank's profits from certain activities and
- The funds to be transferred by the Ministry of Finance will be used.

The president of Istanbul BB stated that the urban regeneration project planned to be carried out in Istanbul could exceed 100 billion dollars.

İTÜ

Objectives in Urban Regeneration ...

Law No. 6306 OBJECTIVE: Areas under risk of disaster and areas other than those areas where risky buildings and lands; to form healthy and safe living environments

improvement> liquidation> renovation the procedures and principles for renewals.

- ❖ Purification of cities from the elements that threaten the environment and human health,
- ❖ Developing and improving the preservation of nature, culture and historical values,
- ❖ Establishment of brand cities with high quality of life with sustainable development,
- ❖ Establishing cities with aesthetic and visual value with urban design projects,
- ❖ Establishing healthy and safe living spaces in every aspect,

İTÜ

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6.2 Legislation process in urban regeneration

Türkiye'de ilk olarak, **5393 sayılı Belediye Yasası'nın 73. Maddesi'nde** (Değişik: 17/6/2010-5998/1 md.) kentsel dönüşüm ve gelişim alanları hakkında açıklamalar yapılmıştır. Buna göre;

Madde 73- *Belediye, belediye meclisi kararıyla; konut alanları, sanayi alanları, ticaret alanları, teknoloji parkları, kamu hizmeti alanları, rekreasyon alanları ve her türlü sosyal donatı alanları oluşturmak, eskiyen kent kısımlarını yeniden inşa ve restore etmek, kentin tarihi ve kültürel dokusunu korumak veya deprem riskine karşı tedbirler almak amacıyla* ***kentsel dönüşüm*** *ve gelişim projeleri uygulayabilir. Bir alanın kentsel dönüşüm ve gelişim alanı olarak ilan edilebilmesi için yukarıda sayılan hususlardan birinin veya birkaçının gerçekleşmesi ve bu alanın belediye veya mücavir alan sınırları içerisinde bulunması şarttır. Ancak, kamunun mülkiyetinde veya kullanımında olan yerlerde kentsel dönüşüm ve gelişim proje alanı ilan edilebilmesi ve uygulama yapılabilmesi için ilgili belediyenin talebi ve Çevre ve Şehircilik Bakanlığının teklifi üzerine Bakanlar Kurulunca bu yönde karar alınması şarttır.*

Kentsel dönüşüm ve gelişim proje alanı olarak ilan edilecek alanın; üzerinde yapı olan veya olmayan imarlı veya imarsız alanlar olması, yapı yükseklik ve yoğunluğunun belirlenmesi, alanın büyüklüğünün en az 5 en çok 500 hektar arasında olması, etaplar halinde yapılabilmesi hususlarının takdiri münhasıran belediye meclisinin

yetkisindedir. Toplamı 5 hektardan az olmamak kaydı ile proje alanı ile ilişkili birden fazla yer tek bir dönüşüm alanı olarak belirlenebilir.

Büyükşehir belediye ve mücavir alan sınırları içinde kentsel dönüşüm ve gelişim projesi alanı ilan etmeye büyükşehir belediyeleri yetkilidir. Büyükşehir belediye meclisince uygun görülmesi halinde ilçe belediyeleri kendi sınırları içinde kentsel dönüşüm ve gelişim projeleri uygulayabilir.

Kanun ile belirtilen kentsel dönüşüm ve gelişim projelerinin büyükşehir belediye meclisinin onayı ile uygulanacağı, büyükşehir belediye ve mücavir alan içerisindeki alanlarının kentsel dönüşüm bölgesi olarak ilan edilmesi de büyükşehir belediyeleri tarafından yapılacağı ve kamu mülkiyetinde bulunan yerlerin ise proje alanı olarak belirlenmesi Bakanlar Kurulu tarafından belirleneceği açıklanmıştır.

6306 sayılı Afet Riski Altındaki Alanların Dönüştürülmesi Hakkında Yasa'nın 6. Maddesinde uygulamaların hangi kurum tarafından yetkilendirileceği açıkça belirtilmiştir.

Madde 6- (1) (Değişik: 14/4/2016- 6704/23 Md.) Üzerindeki bina yıkılarak arsa hâline gelen taşınmazlarda daha önce kurulmuş olan kat irtifakı veya kat mülkiyeti, ilgililerin muvafakatleri aranmaksızın Bakanlığın talebi üzerine ilgili tapu müdürlüğünce resen terkin edilerek, önceki vasfı ile değerlemede bulunularak veya malik ile yapılan anlaşmanın şartları tapu kütüğünde belirtilerek malikleri adına payları oranında tescil edilir. Taşınmazların niteliği resen mevcut duruma göre tescil edilir. Bu taşınmazların sicilinde bulunan ayni ve şahsi haklar ile temlik hakkını kısıtlayan veya yasaklayan her türlü şerh, hisseler üzerinde devam eder. Belirtilen haklar ve şerhler, tapuda; tevhit, ifraz, terk, tescil, kat irtifakı ve kat mülkiyeti tesisine ilişkin işlemlerin yapılmasına engel teşkil etmez ve bu işlemlerde muvafakat aranmaz. Bu şekilde belirlenen uygulama alanında cins değişikliği, tevhit, ifraz, terk, ihdas ve tescil işlemleri muvafakat aranmaksızın Bakanlık, TOKİ veya İdare tarafından resen yapılır veya yaptırılır. Söz konusu madde ile taşınmaz değerleme faaliyetlerinde yetkili olan kurumlar açıkça belirtilmiştir.

Kentsel dönüşüm kapsamında çıkarılan 5366 ve 6306 sayılı yasa kapsamında yapılacak kamulaştırmaların, "2942 sayılı Kamulaştırma Yasası'nın 3. Maddesinin ikinci fıkrasındaki iskan projelerinin gerçekleştirilmesi amaçlı kamulaştırma sayılır" kamulaştırma bedellerinin 5 yıl içerisinde 6 eşit taksitte ödenmesine yasal dayanak oluşturulmuş buna ek olarak, Bakanlık, TOKİ veya İdarenin tarafından acele kamulaştırma yoluna gidilmesi durumunda 04.11.1983 tarihli ve 2942 sayılı Kamulaştırma Yasası'nın 3. maddesinin 2. fıkrasının iskan projelerinin gerçekleştirilmesi amaçlı kamulaştırma yapılması ve değerin tespit edilmesi açıklanmıştır.

6.3 Basic principles urban regeneration

Basic Principles of Urban Regeneration

- A detailed analysis of the relevant area should be made in the process of urban regeneration.
- Simultaneous adaptation of the physical, economic, social and environmental characteristics of the relevant area should be ensured.
- The field should have a comprehensive and integrated strategy.
- In the process of urban regeneration, the objectives of the concept of sustainability should be taken into account.
- In addition to human resources, economic and natural resources should be used in the most efficient way.
- In the process of urban regeneration, the participation and consensus of all groups affected by the transformation should be ensured.
- In the process of urban regeneration, the importance of the measurement process should be understood and changes should be monitored.
- The principles to be applied in the process of urban regeneration should be revised according to changing requirements and changing conditions.

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Areas of Urban Regeneration

- Geological condition and soil characteristics are not suitable for building areas.
- Natural disasters and places to stop (earthquake, landslide, flood, fire, etc.).
- In the past, where unplanned and uncontrolled building, insufficient infrastructure and living conditions are insufficient.
- In areas where historical structures are heavily damaged and under threat of destruction.
- In areas where social equipment and infrastructure services are insufficient.

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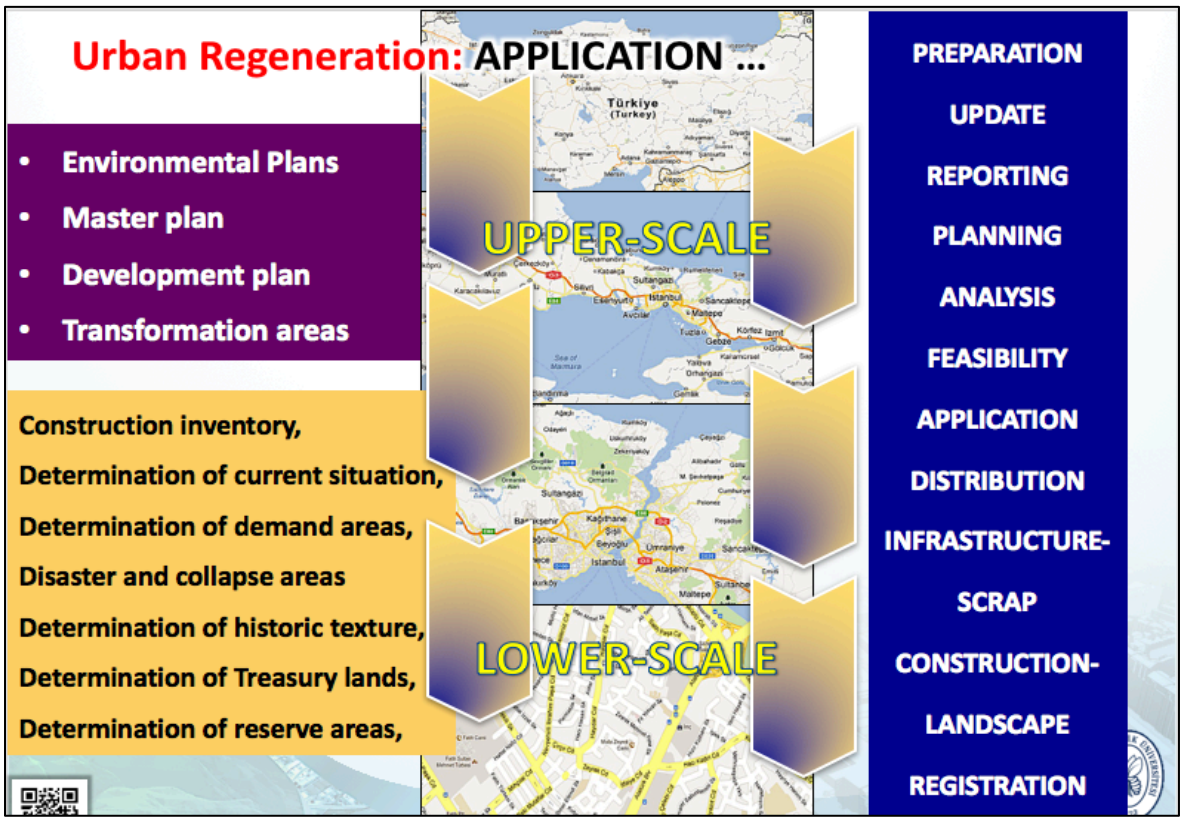
6.4 Steps in urban regeneration

- Identifying and Declaring Transformation Areas,
- Determination of the Current Situations of Real Estate,
- Determination of Participation Value and Determination of Entitlement,
- Preparation of Urban Design Projects and Reconstruction Plan,
- Technical Infrastructure Project,
- Architectural Application Project,
- Preliminary for the feasibility analysis of the project value for distribution,
- Feasibility Analysis of the Project,
- Finalization of Regeneration Development Plan,
- Project - Finalization of Distribution Value
- Distribution,
- Implementation of Regeneration Development Plan,
- Approval of the Assembly / Council,
- Registration to the Land Registry,
- Removal of demolitions and debris,
- Construction.

6.5 Applications and approaches in urban regeneration



Urban Regeneration: APPLICATION ...

- Dönüşüm (Uygulama) Alanlarının Belirlenmesi ve İlan Edilmesi
- Bölgeye Ait Halihazır Bilgilerinin Güncellenmesi (Halihazır Harita)
- Mülkiyet Analizi (Taşınmazların Mevcut Yasal Durumların Tespiti)
- Bina-Bağımsız Bölümlerinin Mevcut Kullanım Durumlarının Tespiti
- Proje Hakkında Bilgilendirme ve Koordinasyon Çalışmaları
- Demografik, Sosyal ve Ekonomik Yapının Tespit ve Analiz Çalışmaları
- Taşınmaz Değerlemesi ve Değerleme Raporlarının Düzenlenmesi
- Hak Sahipliğinin Belirlenmesi ve Projeye Katılım Değerinin Tespiti
- Dönüşüm-Projelendirme ve İmar Uygulama Planın Hazırlanması
- Mimari Uygulama Projesinin Hazırlanması
- Teknik Altyapı-Ulaşım Projesinin Hazırlanması
- Proje Dağıtım Değerinin, Yapılabilirlik Analizi İçin Ön Hesaplamalar
- Projenin Yapılabilirlik (Fizibilite) Analizi
- Dönüşüm Amaçlı İmar Uygulama Planının Kesinleştirilmesi
- Proje Dağıtım Değerinin Kesinleşmesi ve Mülkiyet Dağıtım İşlemleri
- Dönüşüm Amaçlı İmar Planın Araziye Uygulanması (Aplikasyon)
- Kamulaştırma İşlemleri
- Parselasyon Planlarının Hazırlanması, Onayı ve Tapu Kütüğüne Tescil
- Yıkım-Yapım ve İnşaat İşlerine Başlama, Plankote, Bina Aplikasyonu
- Kat Mülkiyetinin Kurulması ve Proje Onayı

Urban Regeneration: Application approaches ...

Looking at the practices in the world, there are two different approaches to urban transformation. These;

1) «On-site transformation» the demolition and reconstruction of a particular region of the city step by step.

2) «Transfer» transfer of a part of the city to another location (reserve area), demolition of the vacated spaces and construction of new ones.

Since urban transformation practices in developed countries are human-oriented, on-site transformation is preferred to satisfy the participants.

6.6 Urban regeneration stages for buildings in risk areas

1. Providing legal information to the public authorities in charge of urban transformation in the risky area and in the negotiations between the floor owners or landowners; to provide legal support in contract negotiations with the contractor / construction company; The municipality shall be understood by TOKI in the process of rebuilding, in the process of risk report in the Ministry and the provincial directorate and by a lawyer or law office to assist in its appeal.

2. Municipalities, special provincial administrations, owners or areas demanded by TOKI; Upon the approval of the Ministry of Environment and Urbanization, the Council of Ministers declares a risky area.

3. Risky structures in risky areas are determined according to the provisions of the Regulation on Buildings to be Constructed in Earthquake Region.

4. Risky structure detection;

• It is done by the building owners or legal representatives (with their own expenses), by the photocopy of the title deed and the identity document.

• The Ministry may be granted a period of time from the owners or legal representatives. If no risky structure is determined within the given period, it shall be made or built by the Ministry of Environment and Urbanization or by the administration.

• The Ministry of Environment and Urbanization may request the municipality and special provincial administration to determine the risky structures in the determined areas.

5. The sample of the report regarding the risky structure determination shall be sent to the Directorate of Infrastructure and Urban Transformation in the province where the structure of the structure is located within 7 days at the latest after the date determined by the risk assessment institution.

6. If there is not any deficiency in the risk assessment report, the report will be notified to the relevant title deed by the Directorate of Infrastructure and Urban Transformation within 10 working days and the Ministry of Environment and Urbanization will be informed.

7. The notifications made to the land registry are notified to the same and personal rights holders by the title deed office. (In the Communiqué, it is stated that within 15 days from the date of notification, the object can be objected, otherwise the structure must be demolished / evacuated within the period not less than 60 days after the notification date.)

8. In-kind and personal rights holders may object to the risk assessment report communicated to them within 15 days as stated above.

9. Against the report and the decision to appeal, other owners may file a lawsuit in the administrative court for the cancellation of the decision or the Report. If a cancellation decision is made, the status is notified and processed.

10. If the risky structure is not demolished / evacuated by the proprietors within the given period, it shall be determined on-site by the Directorate of Infrastructure and Urban Transformation and shall be annulled by the administrative authorities and shall be given an additional period of not less than 30 days.

11. The buildings not destroyed in the additional period shall be burned or demolished by the local authorities and the local authorities. The Ministry, if necessary, can carry out the evacuation and demolition operations by itself.

12. In the field of urban transformation application; either the municipalities, the special provincial administration or the re-construction work by TOKI or the re-construction process is carried out by the owners.

a) Reconstruction work by municipalities, special provincial administration/ TOKI:

• The related institution (municipality, special provincial administration, TOKI) makes the owners, properties, value of the immovable and expropriation maps if necessary.

• It makes sharing agreements with real estate owners and right holders in buildings in accordance with re-construction agreements. If necessary, the relevant institution may purchase or expropriate immovable property instead of sharing a property with the owners.

• The relevant institution makes construction and investment companies and floor or revenue shared construction contracts for the project to be carried out in the risky area.

• Ministry of Environment and Urbanization conducts land arrangements, purchase agreements, zoning rights to other areas, transfer of investment properties to land, determination of land shares, sharing according to the ownership of the land within the scope of the agreements made by the owners.

• The title deeds of the new immovables discovered in accordance with the agreements with the owners shall be distributed to the owners.

• If the housing is left in the hands of the relevant institution after the distribution, the contractor can be contracted to give the tenants, the immovable property expropriated and other rights holders housing and workplace.

b) The reconstruction process of the building by the owners:

In risky areas and risky structures, it is essential to implement the practices primarily.

• If the floor owners board is convened within 60 days following the notification of the risk assessment report in kind and to the personal rights holders, a Building Partner Decision shall be signed with the unanimous or at least 2/3 majority of the building owners in line with the agreement made with the contractor. The agreement includes decisions on how to demolish the building, how to share it in the new construction against the land shares, how to do the construction, and how to share it with the contractor.

• It is notified to those who do not participate in the Building Partner Decision and who are not in the meeting and 15 days are allowed to participate in this decision.

• The Building Partner Decision shall be submitted to the Ministry of Environment and Urbanization, Directorate of Infrastructure and Urban Transformation.

• A similar process will be applied to the side parcels if the application will be done by combining the neighboring land and parcels next to the risky building or on the basis of zoning island.

• After the building is demolished, the condominium is removed with the request of the owners or the Ministry of Environment and Urbanization. According to the agreement made land arrangement is made.

• The land shares of the independent parts of the independent decision, if any, shall be determined by the Ministry of Environment and Urbanization, and shall be sold to the other stakeholders, which are not less than this value, on the basis of each parcel. If the sale is not realized to the stakeholders, these shares are transferred to the Ministry, TOKI or the administration.

• Contractor with contractor license in accordance with the Common Decision and Contract for Construction and Sales Promise with Floor shall be made at a notary public.

13. If no agreement is reached with at least two-thirds majority within 30 days following the notification to inform the owners about the land on which the building has been demolished, real estate or private property owned by the civil servants can be expedited by the Ministry, TOKI or the administration.

14. All projects are prepared by the Contractor for the construction of the building again or in accordance with the project and the related municipality is licensed.

15. If there is risk-free structure in the risky area, this structure can be excluded from the application or taken into the project by agreement, purchase or expropriation.

16. The construction process begins.

RISK BUILDING DETECTION
How is Risky STRUCTURE Determined?
that most of the buildings are unlicensed and illegal, or they have not received engineering services during the project and implementation phase. The inadequacy of the transport network and infrastructure resulting from the construction.
RISK STRUCTURE?
Structure within or outside a risky area, based on scientific and technical data that has completed its economic life or is at risk of collapse or severe damage.
Riskli Yapı Tespiti Lisans Belgesi
3. HAVALİMANI
Tayakadın
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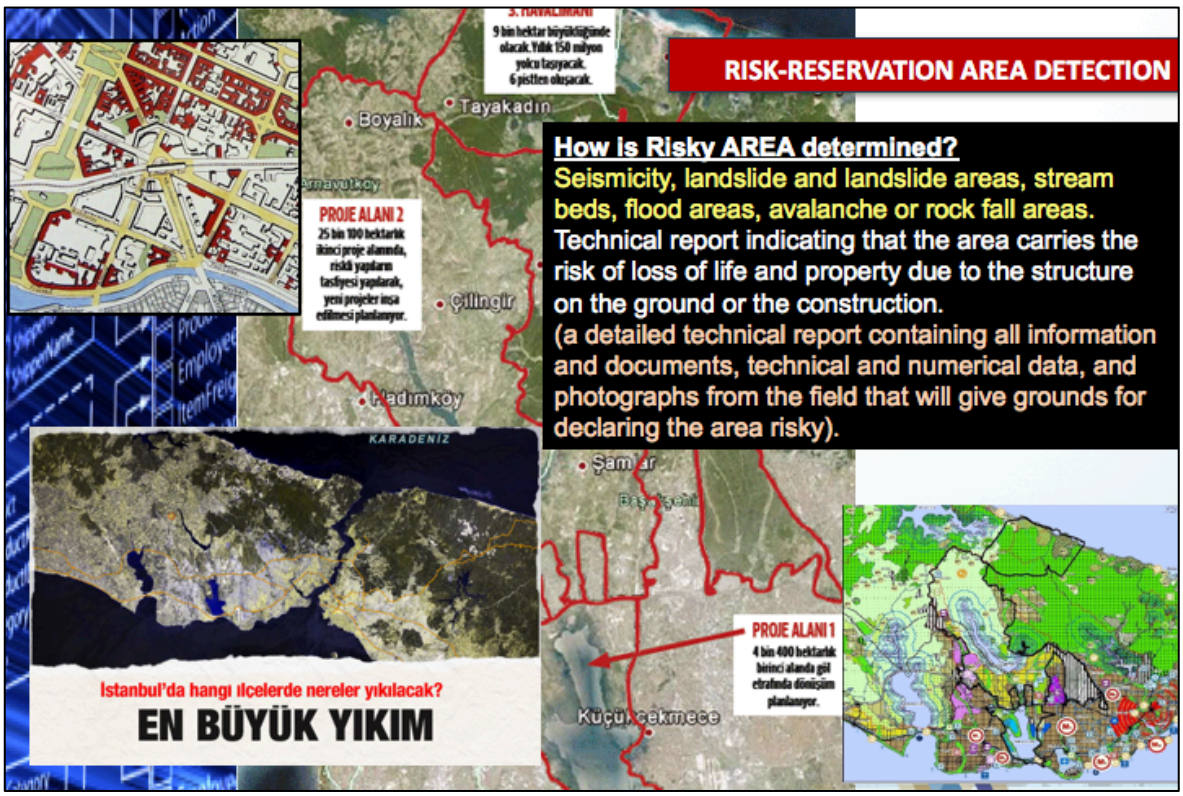
RISK-RESERVATION AREA DETECTION
How is Risky AREA determined?
Seismicity, landslide and landslide areas, stream beds, flood areas, avalanche or rock fall areas.
Technical report indicating that the area carries the risk of loss of life and property due to the structure on the ground or the construction.
(a detailed technical report containing all information and documents, technical and numerical data, and photographs from the field that will give grounds for declaring the area risky).
PROJE ALANI 2
25 bin 100 hektarlık ikinci proje alanında, riskli yapıların tasfiyesi yapılarak, yeni projeler inşa edilmesi planlanıyor.
PROJE ALANI 1
4 bin 400 hektarlık birinci alanda gül etrafında dönüşüm planlanıyor.
Tayakadın
Boyalık
Çilingir
KARADENİZ
İstanbul'da hangi ilçelerde nereler yıkılacak?
EN BÜYÜK YIKIM

Urban Regeneration: APPLICATION ...
SAHA İŞLEMLERİ
Risky area announcement
Establishment of Field Offices
Organization of Field Team
Distribution of Invitation Letters
Information and Document Collection
Reconciliation Talks
Protocol
Evacuation and Demolition
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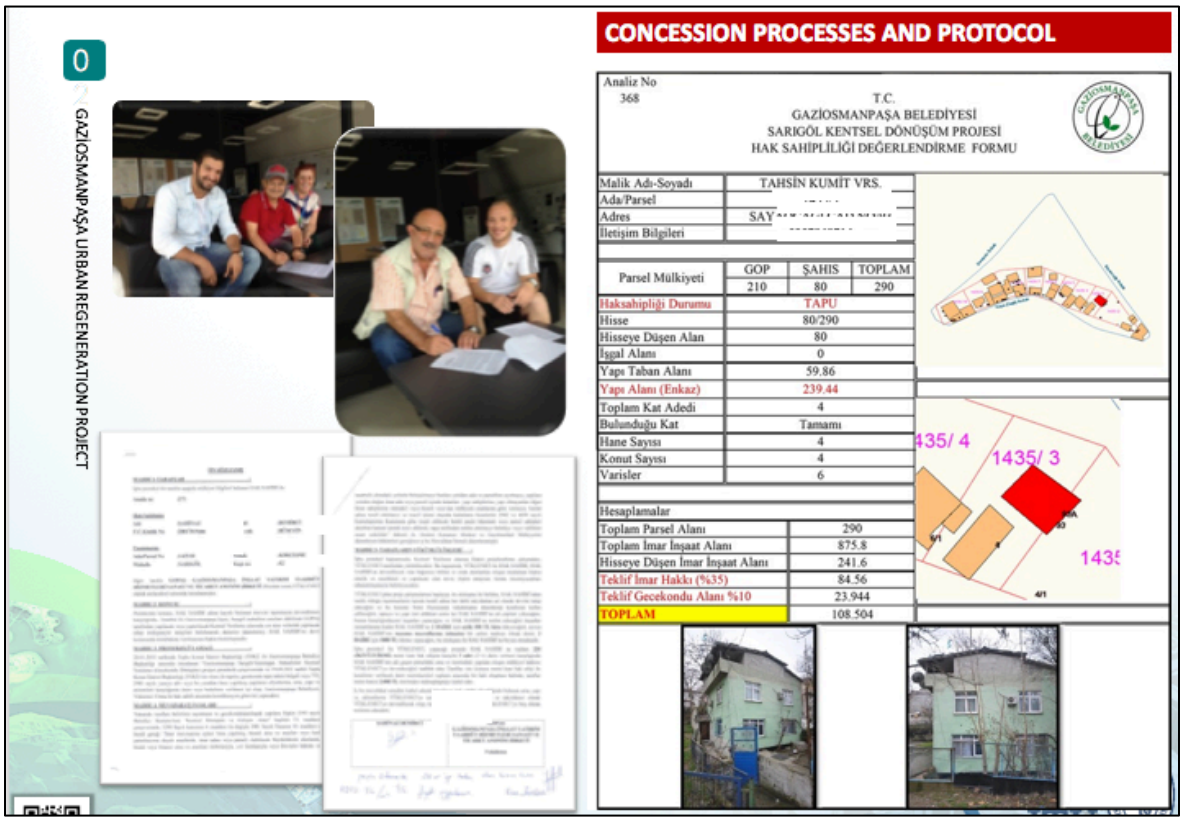
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GAZİOSMANPAŞA URBAN REGENERATION PROJECT
CONCESSION PROCESSES AND PROTOCOL
Analiz No
368
T.C.
GAZİOSMANPAŞA BELEDİYESİ
SARIGÖL KENTSEL DÖNÜŞÜM PROJESİ
HAK SAHİPLİLİĞİ DEĞERLENDİRME FORMU
Malik Adı-Soyadı
TAHSİN KUMİT VRS.
Ada/Parsel
Adres
İletişim Bilgileri
Parsel Mülkiyeti
GOP
ŞAHIS
TOPLAM
210
80
290
Haksahipliği Durumu
TAPU
Hisse
80/290
Hisseye Düşen Alan
80
İşgal Alanı
0
Yapı Taban Alanı
59.86
Yapı Alanı (Enkaz)
239.44
Toplam Kat Adedi
4
Bulunduğu Kat
Tamamı
Hane Sayısı
4
Konut Sayısı
4
Varisler
6
Hesaplamalar
Toplam Parsel Alanı
290
Toplam İmar İnşaat Alanı
875.8
Hisseye Düşen İmar İnşaat Alanı
241.6
Teklif İmar Hakkı (%35)
84.56
Teklif Gecekondu Alanı %10
23.944
TOPLAM
108.504
1435/ 4
1435/ 3

Urban Regeneration : Urban Design & Planning
LANDSCAPE ARCHITECT
URBAN DESIGN
URBAN HYDROLOGY
ENVIRONMENTAL ENGINEERING
ARTISTIC DESIGN
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Urban Regeneration : Urban Design & Planning
Density (TAKS, KAKS),
Similar,
Height - silhouette,
Housing - Typology of Urban Space
City Identity,
Public Spaces,
Street, square, green area,
Livable environment,
Ecology and environment.
Similar- Emsal..?
Density..?
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INTEREST-RESPONSIBILITY MATRIX FOR URBAN REGENERATION

URBAN REGENERATION PROJECT
STEPS AND SECTORAL RESPONSIBILITIES...

	URBAN PLANNER	ARCHITECT	CIVIL ENG	FINANCIAL EXPERT	SOCIOLOGIST	GEOLOGIST	ENVIRONM. ENG.	SURVEYING GEOMATICS
Determination and Announcement of UR project (Application) Areas,	■	■	■			■	■	■
Updating of Current Current Information of the Region,								■
Property Analysis (Determination of Existing Legal Status of Immovable Properties)								■
Determination of the current use of buildings,		■	■			■		■
Information and coordination activities about the project,	■	■	■	■	■	■	■	■
Detection and Analysis of Demographic, Social and Economic Structure,	■			■	■		■	
Evaluation of real estate valuation and valuation map and reports,	■	■	■	■				■
Determination of Entitlement and Determination of Participation Value of the Project (Hak sahiplik analizi),			■	■				■
Preparation of Regeneration-Design and Development Implementation Plan,	■	■		■		■	■	
Preparation of Architectural Application Project,		■		■			■	
Preparation of Technical Infrastructure Project,			■			■	■	■
Preliminary Calculations for feasibility analysis of Project Distribution Value,	■	■	■					■
Feasibility Analysis of the Project,	■	■	■	■	■	■	■	■
Finalization of Regeneration Implementation Plan for Transformation,	■							
Finalization of the Project Distribution Value and Distribution Operations,				■				■
Implementation of Regeneration Development Plan to Land,		■	■				■	■
Expropriation transactions,	■	■	■					■
Subdivision and Registration in the Title Land Registry,								■
Demolition-Construction-Rubble-Excavation and Starting Construction Process		■	■	■			■	■
Project delivery and approval – Happy end ☺☺☺								■

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7 MANAGEMENT OF COASTAL LAND

7.1 Problems in coastal use and planning needs

Since the existence of mankind, the coasts have been a comfortable life or attraction centers for relaxation. For this reason, all countries have always been in the race to offer their shores the best way for their people and the world.

Coastal resources management is inseparable with the economy of each country. In developing countries, coastal areas have great economic value in terms of food production and basic industry. In addition, tourism in coastal areas is an important source of income. In developed countries, the coast is usually the locomotive of the country's economy. In these countries, coastal tourism is also a source of wealth.

One of the limitations of the coastal areas is that the coastline extends in the form of a narrow band of land. The length of the coasts that are opened for use as a result of the development and facilitation of transportation increases with the kilometres and the sections of the coastal areas that are opened for new usage are measured with the square kilometres. This situation always leads to a pressure on the land values along the coast. In fact, the coastal area is scarce in terms of housing. Coastal areas are sensitive and have a tendency to erosion. This prioritizes the protection and preservation of the lesser ones.

The excessive development of potential value of coastal areas can lead to environmental degradation, which in some cases may result in complete destruction of these values. In addition, due to the intense and often conflicting use demands of the various sectors, the balance of protection and use on the coasts cannot be established, and therefore the presence of natural and cultural resources remains under threat.

In today's developed countries, an integrated approach, called Coastal Areas Management, is used to prevent such negativities. The use of our coastal areas, which are our most valuable natural resources, at balanced, long-term, efficient and non-destructive levels; it should contribute to the preservation of the natural properties of these areas.

Natural resources in the coasts have enabled economic and social development of societies and played a more important role in the development of coastal areas and even in countries than in other areas. The coastal areas, which have been the focus of interest since the first settlements of people, have been facing various pressures caused by intense and often contradictory demands on industrial and commercial development as well as on recreational uses and environmental protection.

In our country, which has four different seas, the total length of our sea coasts exceeds 8300 km and this length constitutes 75% of our total country border. In addition, there are many lakes of various sizes which make up 12% of the country's surface area.

Especially in the last 25-30 years, Turkey depending on the demand of domestic and foreign tourism coast to come under intense population pressure, the construction of second homes and vacation sites, excessive and unplanned construction studies; The highways and many other applications carried out on behalf of the solution of the transportation problem clearly show how the cradle of civilization and the ecosystem of ecology are under great pressure today. For all these reasons, there is a need for management models based on broad perspectives on the management of land in coastal areas, the development and use of resources, and on the many disciplines of technical, socio-economic and environmental issues.

Main problems encountered in the management of coastal regions

1) There are many competent bodies on the protection and use of resources and there is a lack of authority and coordination among them,

2) The existence of a large number of laws and regulations regulating the distribution of authority and resource utilization among organizations, as well as the unity between them, often containing provisions and gaps that mutually weaken each other,

3) Planning and investment decisions are often taken without adequate preliminary research and no Environmental Impact Assessment before implementation,

4) The lack of expert opinions in the determination of the coastal line and the inadequacy of the Coastal Law.

5) The current planning system is insufficient for the following reasons,

- Lack of multi-sectoral and environmentally sensitive regional plans,
- In the event that the authority to make zoning plan is transferred to the local administrations,
- Failure to take into account the recommendations of scientific circles and voluntary organizations in the planning process and the lack of mechanisms to ensure the participation and participation of the local people in decisions,
- An effective monitoring, supervision and enforcement system cannot be implemented by both the central authority and the local authorities;
- The planning and implementation process is open to various external pressures and therefore political preferences can prevent scientific truths,
- Lack of control of urban settlements and second homes on the coast,

7.2 The development of coastal legislation in Turkey

The fact that the coast is a public good and that it is not subject to private property has been included in every legal legislation with little differences. In the Ottoman Laws, it is known that the coasts are generally state property. In the Republican period, in 1926, adopted in the Civil Code adopted in the Civil Law and the goods belonging to the interests of the state is under the rule of the state and with the phrase that the coast is open to everyone's use of the principle is adopted.

As a result of the coastline of the Municipality Building Roads Law No. 2290 (1933-1957), a 10m area was considered and protected as a coastline. In Turkey, sea, lake and river shores with which the influence of this place and the first legislation regarding planning and construction in the coastal strip in the sequel, 07.11.1972 date and 1605 No. added to the law numbered 6785 Zoning Law 7 and 8. the coastal areas were also included in the zoning scheme.

Article 43 of the 1982 Constitution under the heading of "Public Benefit and the Utilization of Coasts" has been stipulated as follows.

"The coasts are under the sovereignty and savings of the State". The public interest is considered to benefit from the coastal strips surrounding the shores of the sea, lakes and rivers and the shores of the sea and lakes. According to the purpose of the use of coastlines and coastal strips, the depth and the possibilities and conditions for the use of these places are regulated by law.

"The Coastal Law No. 3086", which was adopted in accordance with this Constitution, entered into force on 01/12/1984. Upon the annulment of some articles of this law by the Constitutional Court, until the new law came out, the Circular No. 110 was issued by the Ministry of Public Works and Settlement.

Subsequently, on 17/04/1990, Coastal Law No. 3621 was adopted and entered into force. However, since the Constitutional Court annulled some articles of this law on 18/09/1991, some amendments were made to **the Law No: 3621** on Law No. 3830 adopted on 11/07/1992.

The aim of t**he Coastal Law No. 3621/3830** is to determine the principles of use for public benefit, which are open to the benefit of the society by taking into account the natural and cultural characteristics of the coastal lanes, which are under the influence of sea, natural and artificial lakes and rivers, and the sea and lakes.

According to the Implementing Regulation of Law No. 3830; Various definitions related to the coastline have been made.

7.3 Definitions of coastal legislation

Coastal Line (Kıyı Çizgisi): It is a natural line which varies according to meteorological events in the sea, natural and artificial lakes and streams, except the flood conditions, where the water touches the land part. It determines the maximum water level of coastal line determined by the General Directorate of State Hydraulic Works (DSİ) in the artificial lakes.

Coastal Edge Line (Kıyı Kenar Çizgisi-KKÇ): The natural boundary of sandy, pebble, rocky, stony, reeds, marsh-like areas composed of sandy and coastal dunes formed by water movements in the direction of the sea after natural and artificial lakes and streams and low flattened coastal areas; in the narrow and high coastal areas, the upper limit of slope or cliff.

This limit cannot be changed if the land is obtained by filling.

The coastal edge line is determined as a coastal line where rivers, which are not subject to coastal edge line detection, are combined with sea, natural and artificial lakes.

Natural and artificial lakes and streams, the General Directorate of State Hydraulic Works of the flood, or not yet made, but the border shown on the map in the sections shown on the coastal border line is located on the intersection with the land on the land side of the flood deck.

Shore: The area between the coastline and the coastal edge line. There are two forms of shore.

a) Narrow-High Shore: It is a coastline that does not have a beach or abrasion platform, or ends with a very narrow slope or cliff.

b) Low-Flattened Coast: The coastal beach, which continues after the coastline, including the beach, the moving and stable sand dunes, including the reeds, marshy and sandy pebbles, rocky and rocky areas.

Shoreline: It is at least 100 meters wide in horizontal direction from the coastal edge line.

a) The first section of the shoreline: 50 meters wide in the direction of the land from the KKÇ, only open areas, green areas, promenades, children's playgrounds and areas that can be used as a pedestrian way.

b) The Second Section of the shoreline: From the first part of the shoreline, it is at least 50 meters wide in the direction of the land and open to the benefit of the community, and it is the areas where day-to-day tourism structures and facilities, motorways, open car parks and treatment facilities can be made.

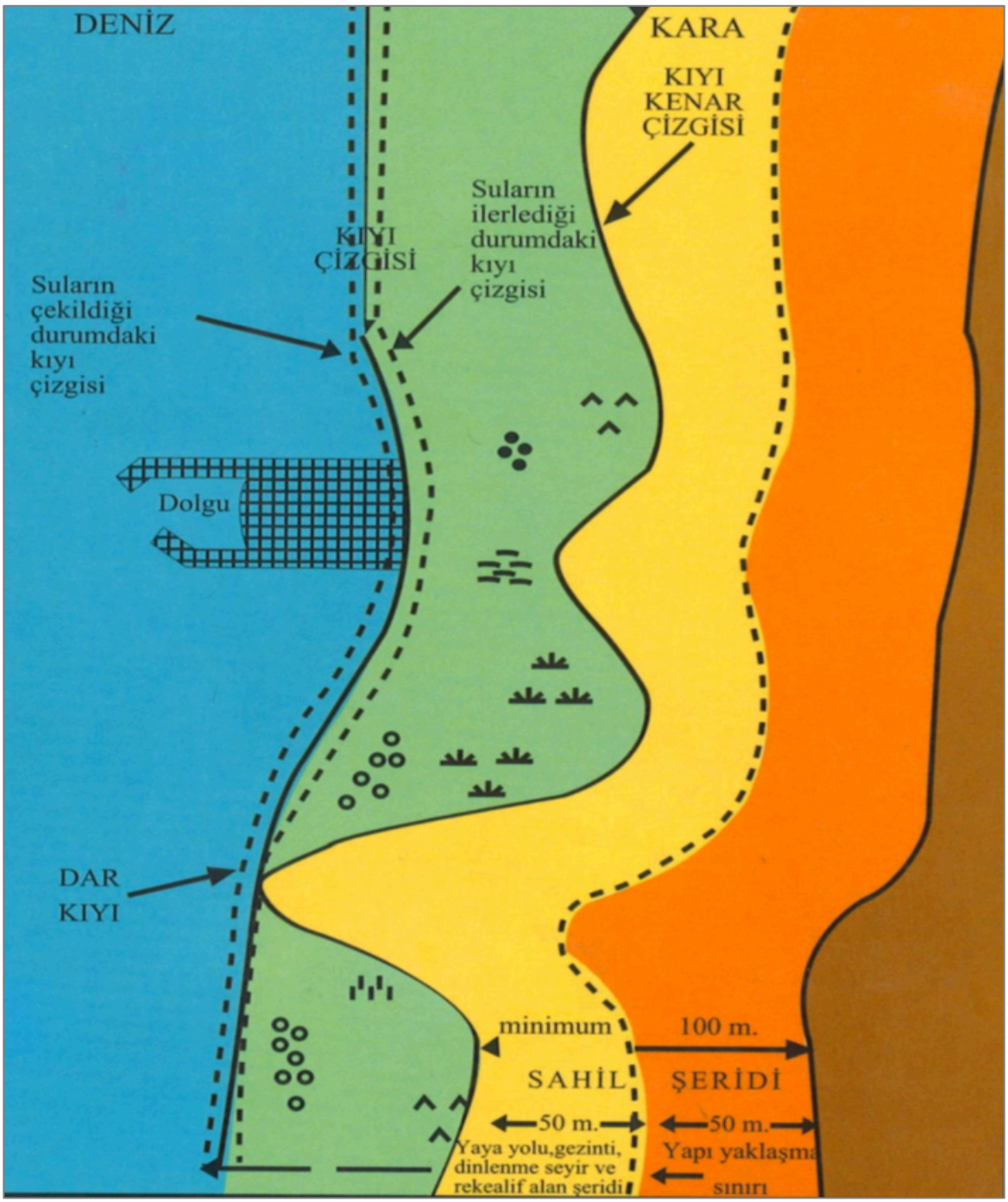
The coasts are the areas under state provision and savings and are open to free and equal use of everyone. Cannot be built on the coast, walls, fences, railings, wire mesh, ditches, piles and similar obstacles cannot be created, the coast to change the size of the excavation cannot be done, sand gravel, etc. It cannot be retrieved. Rubble, soil, slag, garbage cannot be poured into the coasts.

In the coastal zone but with the decision of implementation zoning plan; scaffolding, port, berthing place, docks, jetty, bridge, culvert, retaining wall, lantern, boat place, boathouse, salt, dalyan, liquidation and pumping stations such as the public interest to provide the use of the public interest and infrastructure to protect the coast and facilities structures and facilities, such as shipyards and aquaculture facilities, which are mandatory, can be constructed and cannot be used for purposes other than their intended purpose.

The benefit of the public is considered to benefit from the coast and coastline.

It is mandatory to determine and approve the KKÇ before planning and implementation on the coasts of coastal and coastal shores and coastal strips and rivers mentioned in the Coastal Law Implementing Regulation.

In case the request is made by private or legal persons, KKÇ should be determined within three months.

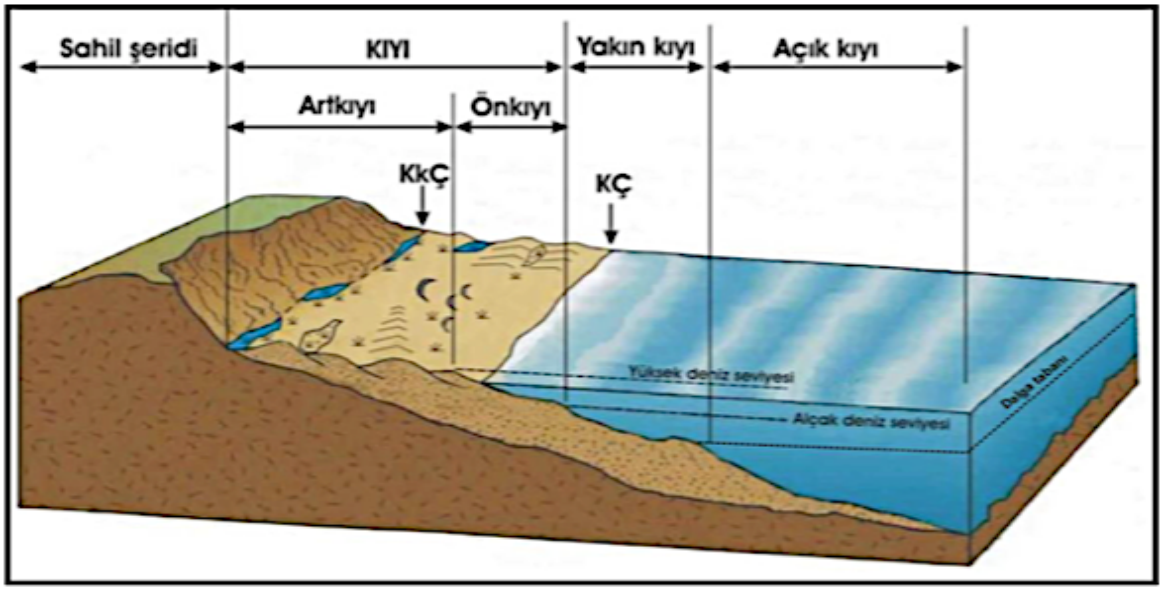


As a result of the land and office studies of the KKÇ Determination Commissions established by the Governorates, the KKÇ are transferred to the existing maps with 1/1000 scale (1/5000 maps can be used in the Governorate program) and the necessary information and documents are sent to the Ministry of Environment and Urbanization for approval. The assessments evaluated in the relevant unit of the Ministry shall be submitted to the approval after being examined on-site together with the commission members if necessary or returned to the relevant governorship if they are incomplete and inaccurate.

In cases where public interest is required in sea, lake and rivers, land can be acquired through filling or drying by taking into consideration the ecological balance with the decision of implementation zoning plan. In these areas, technical and social infrastructure facilities such as parks, green areas, outdoor car parks, children's gardens can be constructed. The location of KKÇ does not change if land is obtained by filling and drying.

7.4 Determination of coastal line

The first step of the conservation of the coastal ecosystem, the protection of the coastal ecosystem and the planning and construction of the coastal and coastal lines on the coasts, is to determine the coastal line (KKÇ) according to the natural and scientific data.



Formation of coastal line detection commissions

The KKÇ assessment commissions are formed by the participation of at least one person from each of the five occupational groups that are required to be public officials and with the approval of the relevant governorship.

Earth Scientist (Geological Engineer, Geologist or Geomorphologist): *Geological and geomorphological survey of the area and the area under investigation. Determines the boundaries of the current and past effects of water movements on the ground by determining the characteristics of the ground and the conditions of formation and determines the optimum boundaries to be passed by the KKÇ.*

Surveying Engineer: *Determines whether the current map to be used in the determination of KKÇ reflects the current situation of the land and provides the control of*

the broken points determined in the field for the KKÇ by transferring on the map and checking it. Draws the measurement chart of the determination and the current maps on a 1 / 25.000 scale map, prepares the index of the index if the number of layouts is more than one. If there is an old approved KKÇ in the detection area and a revised base map is used, this allows the detection to be correctly transferred to the new map.

Agricultural Engineer: *Determines the flora of the area under investigation. Determines the variation and variation of the vegetation cover between the places where water movements are effective and the other places, the species that can grow in the influence of fresh and salt water, the agricultural quality of the ground and the soil boundary, determine the plant species that can grow on this ground and determine the limits of the effect of the water movements.*

Architect or Urban Planner: *They are actively involved in land surveys and office studies and participate in KKÇ determination in line with their opinions on their subjects and contribute to the correctness of the determination.*

Civil Engineer: *Actively in the field surveys and office works, they participate in KKÇ determination in line with their opinions and contribute to the correctness of the determination.*

Records of coastal line detection commission

- The place where the detection is made in the entrance of the records should be written in full of the name of the province, district and district.

- It should be clearly stated which sea, lake and riverbank belong to the detection.

- The layout, scale and numbers on which the determination is made must be written sequentially and one by one from the number one fracture point or from the beginning of the examination.

- Earth scientist and Agricultural Engineer should explain the findings obtained as a result of the investigations under separate headings in the records.

- In the case of fixations in a large number of sections, this information should be provided on the basis of the surveyed area, not on the basis of layouts.

- The location of the coastal edge line, which is the common view of the members of the Commission, and the reasons for it, and the type of soil structure and vegetation cover, should be explained in detail.

- The approval date of the old approved line should be specified at the start and end points of the detection, where the coastal edge line is coincident (if any).

- If there are old approved KKÇ determinations in the detection area, this should be indicated with the approval dates and the commission reports and measurement charts of the former approval should be added to the commission report.

- The date on which the records are issued should be written and signed separately by each member of the commission.

Production of topographical maps

- Current maps should comply with large-scale map construction regulations.

- In cases where the date of approval of the current maps is too old, the maps should be updated and revised before the coastal line detection, and the additional and revised maps should be re-approved by the relevant administration.

- The approval of a surveying engineer is required to verify that the current maps that have been approved by both the governorships and municipalities are checked.

- The topographical map layouts where the coastal edge line fixations of the same area are processed should be opened according to the same coordinate system.

- At least 200 m. area should be shown. If the area ends at least 200m. on the boundary of the layout, the side sheet should be sent to the Ministry as the information sheet.

- If the coastal line determination is made on request, the property boundaries of the immovable properties subject to demand should be shown on the current map.

- The fracture points of the coastal edge line should be numbered and the height values of these points should be stated on the scale.

- The accuracy of the transfers of the old approved coastline on the map should be confirmed by the governors. Samples of old approved sketches should also be sent for information.

- If there are partial approvals made in the subject within the subject, this should be indicated on the map.

- If there is an old approved coastal edge line at the boundary of the plot, the date of the approval of this old approved coastline should be written on the edge of the map.

- The detected coastal line should be shown schematically on a 1 / 25,000 scale map.

- If the number of layouts sent to the approval is more than one, the layout index reflecting the position of the shoreline and shoreline should be created.

- The photographs of the area where the coastal line is determined within the context should be taken and recorded in the minutes.

8 REFERENCES

be added…