

Current Governmental Policies

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I AM sure you will agree that our opportunities for joint development and multiple use are substantial, despite some limitations, and that opportunities will be missed unless all of us and the agencies we represent are committed to the joint development concept. I was fully committed even before my presentation of the concept to many of you at AASHO almost two years ago. I can also vouch for the dedication of the Bureau of Public Roads to a concept which, during the process of satisfying the public's highway transportation needs, leads toward optimum use of highway rights-of-way, maximum compatibility of the highway with its environment and maximum achievement of a community's comprehensive development goals.

Our concern is now reflected in the 1968 Federal Aid Highway Act, which requires the state highway department to certify that it has given consideration to a highway location's economic, social, and environmental effects and their consistency with community goals and objectives, as expressed through the planning process required by Section 134 of our Act, Title 23, U.S. Code.

The Bureau of Public Roads considers the joint development concept a major component of adequate environmental consideration. Moreover, the concept is not entirely limited to urban areas; we are also interested in and encouraging rural joint development. Also, at the

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outset I must stress that joint development and multiple use are important parts of environmental study but do not take its place.

Obviously the 3-C planning process must be the vehicle by which the planned development of urban corridors is handled; it makes possible the intelligent and simultaneous planning of both private and public facilities. One difficulty, of course, is that we must start from where we are and this requires us to find a way to work with many facilities already built; we are already 90 percent finished with present urban highway plans.

What Is Being Done by the Bureau of Public Roads?

1. An Environmental Development Division has been established and is operational at this time. Represented on the staff of this division are specialists in Regional and City Planning, Landscape Architecture, Architecture, Highway Engineering, Sociology, Economics, and Real Estate Appraisal.

Operating on a team approach, these interdisciplinary professionals are charged with the responsibility of development and promotion of total environmental design, including joint development and multiple use. They form the connecting link with other agencies — Federal, state and local — for achieving an environmental highway program. Several states within their own departments and within the scope of their own needs are currently establishing one form or another of the multidisciplinary team approach. These people will devote their efforts to the broad social-economic-aesthetic and environmental aspects of highway design. Our team will study all major projects to insure a full and coordinated approach. We commend this initiative of individual state highway departments and recommend it to all.

2. Conferences are being sponsored by many field offices of the Bureau of Public Roads and the state highway departments. Attendees are from all levels of government and from groups interested in the governmental programs, including HUD, BPR, state highway departments, city planning departments, park administrators, representatives of mayors' offices, and many others. It is from these informative meetings that many of the more comprehensive multiple use-joint development proposals have been generated.

3. In the area of research and development, we have an Economics and Requirements Division specifically charged with supporting studies of social and economic aspects of highway improvements. One study the Division is currently preparing concerns the development and testing of social and economic indicators of changes in neighborhood character and cohesiveness resulting from highway improvements. Such studies may be financed entirely from our Bureau administrative funds and may be performed either by our staffs or under research consultant contracts. Many research studies on this subject are being thus financed and prosecuted.





Example of multiple use of highways below a revitalized park. Proposed renovation of the South Mall Complex in Albany, New York. Two arterial routes will intersect below Washington Park. (Source: Parsons, Brinkerhoff, Quade & Douglas, Mid-Crosstown Arterial, New York, 1968.)

4. The Bureau of Public Roads has prepared a comprehensive collection of examples of multiple use and joint development for distribution to each field office and state highway department. This will be updated frequently and distributed widely so that our national experiences, both successful and unsuccessful, can be shared.

5. You have heard from representatives of some of the existing Joint Concept Teams concerning their multidisciplinary approach to highway location and design, including the investigation of all possibilities for multiple use and joint development on specific projects. Federal-aid funds are being used to help finance the work of these teams. This approach has been initiated in Chicago, Baltimore, and Cambridge, Massachusetts. The Bureau of Public Roads has assigned a full-time representative to both the Baltimore and Cambridge groups, so that stumbling blocks can be avoided or recognized and removed as soon as possible in the conceptual stage. These activities have already been described but I would point out that they are being financed and administered under the normal and traditional state highway department-BPR partnership that over the years has created the world's finest highway system. This is another effort by the partnership to make that highway system even better.

6. Federal highway funds are currently being used to finance feasibility studies that determine the suitability of highway right-of-way for multiple use and suggest possible uses of this space.

7. Approvals have been given in the past and are being given now to numerous joint uses of Federal-aid rights-of-way, many of them imaginative and novel. These uses are occurring over, under, and adjacent to the roadways, and we are receptive to any and all kinds of uses for consideration as to their suitability.

8. Federal-aid funds are now being used to participate in the acquisition of whole parcels or portions of remainders extending to street lines or other logical barriers or boundaries where such acquisition will provide a highway facility more in conformity with the neighborhood through which it passes. These portions of the right-of-way are being used for green strips, open spaces, parks, play areas, parking, and other public or quasi-public purposes. Some of these might be used for industrial development also.

9. In addition to the planting and preservation of vegetation and acquisition of scenic strips, the Highway Beautification Act of 1965 provides for the expenditure of Federal funds for roadside development for construction and treatment of minor structures (walls, cribbing, barriers), all of which are considered essential to create scenic beauty along and adjacent to Federal-aid highways. We are also participating in noise-suppressive design features where these are practical and found necessary.

10. Federal-aid rights-of-way in some areas are being acquired in

limited vertical dimension to permit existing land uses to continue, or to facilitate new multiple use and joint development.

11. The whole-block-taking concept is being utilized. The use of this concept means that the highway department or some other public agency can retain those unneeded portions of blocks through which the highway passes at less cost than would have been realized without the highway.

For example, a minimum freeway right-of-way might require only about 40 percent of the area of a city block for its actual construction needs. Because of severance damages, however, the cost of acquiring this right-of-way might actually equal the cost of acquiring the entire block. If we assume, as in this example, that the minimum area for a freeway right-of-way would cost \$8 million, plus severance damage payments, even though only 40 percent of the block would be taken, then the entire block could very likely be acquired in fee for not more than \$10 million or about the same price as the taking area plus damages to the remainder. In a case such as this, some local agency (such as a public corporation or authority) could acquire and clear the full block, then sell back to the highway department the space needed for the freeway for something less than it would have had to pay if it acquired it alone. Thus for about \$2 million, let us say, the local public agency would have available for development all of the remaining land, which would have cost at least \$6 million and probably \$8 to \$10 million if purchased separately.

An added refinement of the joint development procedure is worthy of further exploration and application. Here a public or even a private corporation would be created — a so-called third-party holding corporation — to acquire and assemble the necessary land and property involved in a joint development project. It could then sell to the highway department what is needed for highway right-of-way, build or arrange for the building of relocation housing, and compensate relocatees with a reasonably equivalent housing unit, which would be payment in kind rather than in dollars. A plan similar to this was being considered in connection with the North Leg of one of our freeways in the District of Columbia.

What Will Be Done by the Bureau of Public Roads in the Future?

1. Our current policy on air rights is being revised to allow fuller use of the vertical space beneath viaduct structures.

2. We will soon be approving demonstration fringe area parking lots wherein land may be acquired adjacent to the right-of-way on any Federal-aid system outside of a central business district for the construction of publicly owned nonprofit parking facilities. These facilities may also be on the right-of-way, including the use of airspace above and below the highway. Such facilities are to serve urban areas of more than 50,000 people. However, they must be located and designed

to permit use in conjunction with existing or planned public transportation facilities. The Federal-aid share of the cost will be 50 percent, as limited by law.

3. In the near future we will be issuing instructions that will permit participation in basic site development costs for public joint use projects on the right-of-way, such as parks, recreational areas, bridle paths, hiking trails and parking lots.

4. We will also be approving the additional expenditures of funds for constructing viaducts or structures in lieu of embankments or lengthening of structures where such construction will be conducive to joint development in urban areas.

5. Section 138 of Title 23 of the U. S. Code and a section of the Department of Transportation Act clearly directs us to make special effort to preserve and enhance the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. Each Federal-aid project is to include all possible planning to minimize damage to these areas. Federal funds are available for this planning. One request has already been received from a state that wishes to use a highway embankment as a dam for a recreational lake.

6. The Highway Relocation Assistance program has been greatly expanded. The provision calls for both payments and advisory assistance. There are many possibilities here in conjunction with the provisions for advance acquisition of right-of-way to provide quality solutions in the area of multiple use and joint development. It is our intent to fully explore and promote these possibilities.

7. Policies are being developed for accommodation of utilities within Federal-aid rights-of-way and will be issued in the near future.

What Are the Concerns of the Bureau of Public Roads in Joint Development and Multiple Use Proposals?

We recognize a responsibility to the public, and feel it incumbent upon us to determine that all multiple use and joint development proposals are in the public interest. For this reason, our reviews for approval are performed from the standpoint that:

1. The proposed use does not impair the construction, operation, and maintenance of the highway project and the use does not endanger the highway facility or the traveling public;

2. The proposed use is compatible with existing and future land use in the area;

3. The timing and feasibility of the proposed use are identified where Federal-aid funds are to be used to facilitate the use;

4. The extent of the opportunity for involvement by others than the proposed user are made known;

5. The local governing body has approved the joint proposal and its location;
6. The final appearance will be desirable;
7. The proposed use will be properly maintained and policed; and
8. The proposed use will make a contribution to the social, economic and physical development and well being of the community.

Because the Bureau of Public Roads first developed, advocated, and promoted this concept, the Bureau is, of course, firmly committed to the growth of the concept of multiple use and joint development as a major contributing element in the area of environmental quality. With the growth of the American population and the concurrent growth of its needs, coupled with the decline of usable space, we must be ready as public policy-makers and decision-makers to insure the wisest and broadest use of our public investments.

Most of the proposals made to us thus far have had only unilateral financial support, which has come from the highway agencies. Under present and reasonably acceptable concepts of finance, we cannot appropriately use highway funds for other than highway purposes. Therefore, it behooves those other cooperating agencies, as joint sponsors and beneficiaries of such a joint development project, to put something tangible into the project beyond mere endorsement or enthusiasm. I suggest that this financial participation is really the key to success of the joint development concept at this time, and I repeat that as highway agencies we are ready to proceed financially and structurally with our reasonable share of the cost of joint development, and we await a similar responsive action from our joint partners.

Panel Discussion

MR. PIGNATARO: I have a question that deals with satisfying the defense aspects of the Interstate System. Is there any consideration being given to a requirement for blast-resistant structures that are associated with air rights in joint development?

MR. TURNER: No, we have not given much consideration to that. We have required that the use of airspace alongside or under the structure shall be performed in such a way that it does not endanger the structure, the roadway, and the traffic using it. We have not gone so far, however, as to give consideration to blast-resistant structures being required. I do not know whether that would be a necessary thing or

not. If we are going to be worried about blast resistance we may not have the highway left either.

MR. McGRATH: Is it possible to interpret the new concept of joint development as extending to the acquisition of separate sites — perhaps elsewhere in the community — to accommodate housing for persons who would be displaced, whether simultaneously with the construction of the highway or even before?

MR. TURNER: I believe that this was described in connection with the planning of the Century Freeway through the Watts area. There the State of California has proposed to acquire land away from the highway some distance and to place on it housing that would be removed from the right-of-way and transferred to the new site, thereby providing displacement housing.

We have even been talking about the possibility of taking some of the burned-out lots and stores scattered through the Watts area and use them as sites for replacement housing. In effect, this would trade the residences within the right-of-way limits for housing units that may be located some distance away from the highway right-of-way itself. This is a concept that appears to have some merit. It has not yet been implemented except in the instance of about a dozen housing units. But the concept might permit the type of development that you describe. We do not have the details worked out yet.

MR. RUBIN: How much additional legislation do you think will be necessary on the Federal and the state level in order to really carry out this new concept of the extent of a right-of-way, and to what extent would you anticipate opposition from people who fought so hard over the years for antidiversion amendments?

MR. TURNER: I am sure your anticipation of opposition is well founded. If, however, we can sell the idea that this is a necessary part of getting the highway itself I believe we can then construe it as a highway purpose. Therefore it would be eligible. We will have to expand our thinking on that a rather considerable distance, however, from the generally accepted concept that highway purposes are those entirely within the right-of-way for strictly utilitarian purposes of transportation movement.

I think that the biggest problem in legislation, is going to be in the states, because to do this job at all you have to have authorization of state law. We can pass all the Federal laws we want and wrap this up neatly, but unless the state law can execute the objective, at the Federal level we cannot make it go. So I believe the big problem is really at the state level, and this is why we have been working on this model legislation that was referred to this morning. We have a lot of legislative work to do at both levels, however.

Appendix

Subsequent to the Conference on Joint Development and Multiple Use of Transportation Rights-of-Way, the Federal Highway Administration, Bureau of Public Roads, issued two memoranda on joint development and multiple use. The memoranda define the terms and make provision for the use of Federal-aid funds in the planning and implementing of a corridor joint development plan in conjunction with a Federal-aid highway project. While these memoranda were not part of the Conference, they are included in these proceedings for the reader's information on current governmental policy.

January 17, 1969

INTERIM POLICY AND PROCEDURE MEMORANDUM 21-19 20-01

SUBJECT: Joint Development of Highway Corridors and Multiple Use of Roadway Properties

1. PURPOSE

This memorandum describes the procedures to be followed in joint-development planning activities related to new facilities on the Federal-aid systems within urbanized areas, and policies for Federal participation in the costs of such planning and of the implementation of the resulting joint development plan.

2. DEFINITIONS

As used in this memorandum:

a. The term "joint development" or "joint development project" means the set of actions taken in concert by a State highway department, other government agencies, private organizations, and individuals to prepare for and construct a new highway—including those activities to develop, re-develop or adjust the land uses and local network of services affected by the new highway.

b. The term "joint development reconnaissance" means an activity during a highway location study which identifies, for each of the locations under study, the activities which should accompany highway department activities concerned with the new facility, and those development activities which profitably could be coordinated with highway department processes to produce a cohesive and compatible relationship between the new highway and the communities it serves.

c. The term "joint development planning" means a survey or study jointly sponsored by the local governments, and participated in by the State highway department and others as may be required to: (1) describe the social and economic patterns, including utilities and community facilities providing

service to the people of the area, which will be affected by the new highway facility; (2) analyze and evaluate these effects and develop recommendations concerning the desired patterns of land use and local services compatible and consistent with the proposed highway facility and other goals and objectives of the affected communities; and (3) create a financial plan and schedule of actions to be taken by the various entities involved to develop the desired patterns.

d. The term "corridor joint development plan" or "joint development plan" means the officially adopted end-product of the joint development planning process. It, thus, includes a complete description of the desired pattern of land uses (including the highway improvement) and the network of local services, associated with a schedule of actions and fundings for which each of the involved entities are responsible.

e. The term "highway joint development corridor" or "highway corridor" means the general path of a proposed highway including the zone affected by the highway facility on a particular route location or the associated joint development activities. It thus bears a slightly different meaning than the more technical one intended in transportation planning.

f. The term "State highway department" refers either to the State agency concerned with Federal-aid highways or such agencies as it may designate to manage a particular project.

3. JOINT DEVELOPMENT RECONNAISSANCE

Section 109 of Title 23, U.S. Code, requires that the Secretary of Transportation "shall not approve plans and specifications for proposed projects on any Federal-aid system if they fail to provide for a facility (1) that will adequately meet the existing and probably future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; (2) that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and *to conform to the particular needs of each locality.*"

In addition, Section 24 of the Federal-Aid Highway Act of 1968 amended the first sentence of Section 128(a) of Title 23, U.S.C. to read as follows:

"Any State highway department which submits plans for a Federal-aid highway project involving the by-passing of, or going through, any city, town, or village, either incorporated or unincorporated, shall certify to the Secretary that it has had public hearings, or has afforded the opportunity for such hearings, and *has considered the economic and social effects of such a location, its impact upon the environment, and the consistency with the goals and objectives of such urban planning as has been promulgated by the community.*"

The italics have been added for emphasis.

Joint development reconnaissance is a new tool wholly consistent with the requirements of Section 109 and will provide the additional information necessary in the consideration called for by the amendment to Section 128(a). It will also further implement our long-stated policy objective that the highway program, while providing increased mobility through new or improved facilities, should also to the maximum extent possible assist communities in the attainment of their other stated goals and objectives.

The purpose of joint development reconnaissance is threefold. First, it should serve to relate the proposed highway to the other plans, programs and

goals of the affected jurisdictions. Secondly, it should highlight the opportunities for cooperation and collaboration between the State highway department, and other public or private agencies in carrying out the development of the highway corridor as a coordinated public work. Finally, it should give a more explicit framework for the discussion of alternative route locations in relation to the locality's stated goals and objectives.

Joint development reconnaissance, therefore, is primarily oriented to the selection of a specific location for a proposed highway. A reconnaissance study is authorized and should be undertaken for those Federal-aid projects where the State highway department has been officially requested to undertake such work by an affected municipality or by the Division Engineer. Joint development reconnaissance is also authorized to be undertaken for other projects at the option of the highway department. It is expected that reconnaissance work will be performed concurrent with route location studies, and will be concluded in time for presentation to the public along with other results of the route location studies.

The joint development reconnaissance work should be done cooperatively with local governments and other recognized planning and resource organizations and groups representing the people of the affected areas. Wherever possible, these activities should utilize the existing cooperative arrangements established for the urban transportation planning process which is required by Section 134 of Title 23, U.S. Code. However, the exact form of organization used and the list of participants in the reconnaissance process should reflect local conditions as the primary concerns considered in reconnaissance are local ones not regional in nature.

Joint development reconnaissance work should be utilized as necessary for alternative route locations to provide:

- a. A collection and analysis of basic data describing the land uses, and broad characteristics of the jurisdictions, and their constituent neighborhoods, potentially affected by a highway.

- b. Description of the primary economic and social patterns, the local transportation and utility networks, and other services which would be interrupted by a highway.

- c. A listing of those actions needed to adjust and restore those interrupted patterns to an acceptable level, with a recommended assignment of responsibilities.

- d. A description of the development pressures apt to occur within the corridor following construction of a new highway facility, and their relationship to the locality's goals and objectives.

- e. An analysis suggesting how the plans and programs of local private groups and political jurisdictions might be beneficially combined with highway department activities to produce the desired development of the highway corridor.

Particular attention should be paid to the policies defining the land uses and types of development intended for the highway corridor. Typically, the improved accessibility provided by the new highway and the immediate environmental impact of the facility and its traffic combine to produce change in the value of adjacent land. At times, significant shifts in land uses occur, with detrimental effects on the locality, and impairment of the highway facil-

ity and its interchanges. The reconnaissance process should highlight the likelihood of varying degrees of change, and the opportunity to use local powers and resources to deliberately shape land uses in the corridor to accomplish local objectives. Such local programs as urban renewal, streets, sewers, water, other community services, and zoning should be examined to see if their powers or funding might be profitably aligned with State highway department actions to produce compatible corridor development consistent with local plans and objectives. The reconnaissance should indicate the desired development goals and suggested means to reach them for each of the alternative locations.

Joint development reconnaissance, as defined in Section 2 of this memorandum, is an integral part of route location studies and the costs thereof are eligible for Federal-aid reimbursement as part of preliminary engineering.

4. JOINT DEVELOPMENT PLANNING AND IMPLEMENTATION OF THE CORRIDOR JOINT DEVELOPMENT PLAN ASSOCIATED WITH A FEDERAL-AID PROJECT

Following route selection and approval, local jurisdictions should assume responsibility for preparation of a detailed corridor joint development plan. Joint development planning, when undertaken, would continue the relevant reconnaissance studies in greater detail, include additional studies as required, and conclude with official acceptance of the joint development plan by the local jurisdiction's governing body. The highway department is encouraged to participate fully in the process imaginatively using the available tools in the highway program to achieve compatibility between the highway and other corridor activities. Particularly important is the need to carry out highway design and construction activities in harmony with the joint development plan.

Federal-aid participation in the joint development planning process and the plan's implementation is allowable as a Federal-aid highway project cost as follows:

a. *Participation in the Planning Activities*

Federal-aid funds may participate in expense related to joint development planning as defined in Section 2 of this memorandum to the extent that the information developed may be needed in making decisions concerning corridor developments related to the highway and in the design of the highway facility itself.

b. *Design of the Highway Facility*

The primary structural element of a corridor development plan is necessarily the highway itself. Thus, corridor planning and highway design activities should be regarded as a single effort with the goal of having the total joint development plan make maximum contribution to the well-being of people in the corridor. The highway should, as part of the corridor plan, be so located and designed as to allow full benefits to be derived from the combined activities of all entities involved in the plan. There are a number of design variations which can be used to aid in the implementation of the corridor planning objectives. Many of these were examined in The Freeway in The City, and were endorsed in a Circular Memorandum of August 23, 1968.

The Regional Federal Highway Administrator, or upon redelegation, the Division Engineer, may approve such design features as part of normal PS&E approval upon a showing that the combined contribution to the objectives of the approved corridor plan or the social and economic benefits to the users of the roadway and the other components of the plan, justify the expenditure.

Such design features as architectural treatment of highway components, use of extension of structure in place of embankment, adjustment of interchange ramp patterns to increase the usability of enclosed or adjacent lands, and provision of independent alignment for the roadway can be approved in that review. Major choices of the roadway configuration such as a shift from a conventional design on grade or viaduct to a depressed section or one of substantial elevation above ground level should be referred to the Director of Public Roads for prior review and concurrence.

c. Development of Properties Acquired for the Highway

There are a number of ways in which rights-of-way can be used to serve the objectives of the approved joint development plan. A recent Instructional Memorandum titled, "Federal Participation in the Development of Multiple-Use Facilities on the Highway Right-of-Way" discusses allowable expenditures to provide for a variety of multiple uses of right-of-way properties. Through these means and others the corridor plan and its highway design should attempt to make full use of the right-of-way properties over, under and about the roadway itself and to integrate such use with the other aspects of the corridor development. These planned facilities and uses must conform to the rules established in PPM 80-5 to assure that there is no impairment to the construction, operations or maintenance of the highway facility which would affect its integrity or endanger the travelling public.

d. Provision of Platforms for Utilization of Airspaces Above the Highway

The utilization of freeway airspaces should be encouraged within the highway corridor development plan. Federal-aid funds may participate in the highway-related costs of construction of platforms in the airspace above a highway when: (a) the use of such space is an integral part of the total corridor joint development plan; (b) the added cost for this type of air-rights development can be generally supported on the basis of the intensity of the land use in the corridor, the public use or tax benefits to the locality, or the advantages to the highway program of the selected route location over alternative locations; and (c) the proposed facility complies with the rules established in PPM 80-5 to protect the highway and its users. The use of Federal-aid highway funds may be justified when further participation in the costs of providing a platform is required to allow action by another entity in implementation of the corridor plan, and it is the Federal Highway Administrator's finding (a) that the proposed joint development project is necessary to conform the highway to the particular needs of the locality or (b) that a joint development project is the most reasonable means of minimizing the impact of the highway upon the environment.

5. PUBLIC HEARINGS

The material developed under Joint Development Reconnaissance activities or Joint Development Planning for a highway corridor should be presented in public hearings as appropriate and as provided for in PPM 20-8, "Public Hearings and Location Approval." It is also recommended that the

State highway department correlate its presentations with those made by local jurisdictions as may be required by the laws of the locality for their parts in a corridor plan.

Lowell K. Bridwell
Federal Highway Administrator
F. C. Turner
Director, Bureau of Public Roads

January 17, 1969

INSTRUCTIONAL MEMORANDUM 21-2-69
34-50

SUBJECT: Federal Participation in the Development of Multiple Use Facilities
on the Highway Right-of-Way

In executing the federal-aid highway program one important objective is that to the extent possible and practicable, highways, in addition to their basic purpose of fulfilling the important goal of improved transportation, should make a positive contribution toward enhancement of the environment through which they pass and assist communities in attainment of their stated goals and objectives.

Section 128, Title 23, U.S.C., as amended is a clear indication that highway planning can be used in the accomplishment of this purpose. In implementing this policy every encouragement should be given to making maximum utilization of the highway rights-of-way for both public and private development, provided there is no impairment to the full use and safety of the highway. To take full advantage of this policy and to attain the greatest benefit for the community highway departments should encourage the greatest possible participation of local government agencies and the private sector. In many instances financial participation by other agencies of government or the private sector will be necessary.

I. Procedural Requirements

These requirements apply to all multiple uses of highway rights-of-way, regardless of the extent of federal-aid highway fund participation in the multiple use.

A. Proposals for multiple use shall be in the public interest as determined by the local governing body and the state highway department. Such use must be in conformance with an officially approved comprehensive land use plan for an area within which the proposed multiple use is an integral part.

B. Proposals for multiple use shall include documentation of the extent to which environmental factors affected by the proposed use have been considered.

C. Any multiple use of the highway right-of-way will require the execution of an agreement between the using party and the state highway department, and approval of the Bureau of Public Roads. This agreement shall be

in conformance with the Policy and Procedure Memorandum concerning air rights. If subsequently such usage can be changed for other purposes, the condition under which such usage will be permitted is also subject to the provisions of the PPM on air rights. Where conveyance documents are used, such documents shall include restrictive covenants which describe or otherwise limit the type of development and make the plans for development subject to the joint approval of the state highway department and local governing body.

D. Maintenance and policing of multiple use facilities included within federal-aid projects will be considered in the same category as maintenance of all the other project features, and the state highway department's responsibility for maintenance will be extended to cover all such items. However, the state highway department may make contractual arrangements with the local unit of government or the sponsor of the multiple use to maintain and police facilities constructed under the provisions of this memorandum or to share this responsibility.

II. Participation

A. Feasibility Studies

Feasibility studies may be undertaken to evaluate and develop recommendations concerning the optimum joint development and multiple usages of land involving the highway right-of-way. These studies are considered as preliminary engineering and may be financed accordingly.

B. Right-of-Way

Paragraph 5(g) of PPM 80-1 authorizes the acquisition of whole parcels or portions of the remainders to a logical barrier or boundary, such as a street, under the conditions stated therein. The areas thus acquired which are not specifically required for the safety, maintenance and operation of the highway may be devoted to either public or private uses.

C. Construction

It is considered appropriate to use federal highway funds in the financing of the following types of work in the achievement of such objectives subject to the conditions which are subsequently discussed herein on the premise that work needed to make the highway conform to its environment in a reasonable manner is a part of the basic highway cost.

The items described by the following numbered paragraphs 1 through 4 inclusive may be approved by the Regional Federal Highway Administrator or by the Division Engineer upon redelegation of the necessary authority. The item described in numbered paragraph 5 should be referred to the Director of Public Roads for prior review and concurrence.

1. The construction of mini-parks, including minimum facilities such as walks or other paved areas, benches, sandboxes and the like, where this type of facility can be provided on right-of-way parcel remnants or other portions of right-of-way acquired for highway purposes but which may not be needed for operational purposes.

2. Site preparation for recreational facilities, such as basketball or handball courts, play areas, tennis courts, etc. Site preparations may include the necessary grading and drainage facilities and, where necessary because of

safety or aesthetics, the provision of minimum hard surfacing, lighting, fencing and landscaping on land areas of the type described in paragraph 1 above.

3. Lighting, fencing, curbing, landscaping, false ceilings and a minimum type of hard surfacing on areas under a viaduct when safety or aesthetic considerations are involved and to prevent the area from becoming a public nuisance.

4. Increased span length for structures or modifications or variation of structures or highway cross section where such would promote and encourage desirable public and/or private uses of land areas beneath, over, and adjacent to the highway.

5. The use of structure instead of embankment where the same would be more conducive to development of the land space beneath the structure, improve local traffic circulation, provide for better public services, or be more aesthetically pleasing.

D. Requirements

The following conditions shall be met prior to the approval of the financing of any work described above with federal highway funds.

1. The work proposed must be part of a comprehensive plan approved by the Division Engineer for a substantial section of the route on which the project is located. This plan must be developed by the state in cooperation with the responsible interested local or other agencies of government. A comprehensive plan developed in accordance with the provisions of the Interim Policy and Procedure Memorandum on Joint Development is desirable.

2. All facilities constructed with federal funds must be located on the highway right-of-way.

F. C. Turner
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Federal Highway Administrator