




## REGISTRATION OF LANDS IN ORDER TO ISSUE BUSINESS LICENSES TO SERVICE-ORIENTED FACILITIES IN PARKS AND GREEN AREAS

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### ABSTRACT

It is not uncommon for areas designated as parks and green spaces to remain unregistered after the implementation of a zoning plan. The decision to exclude registration for such areas is neither erroneous nor a misinterpretation and it does not negate the intended designation of the area as a park or a green space. These areas are also outfitted with service facilities suitable to their functions and unique needs, which can be administered by either the private sector or municipalities. It is important to note that service-oriented facilities fall under the definition of a workplace in all conditions. Consequently, there is no exemption from acquiring an operating license for such businesses operating in urban green areas, regardless of the circumstances. In order to obtain a business and an operating license, it is necessary to provide information regarding the block/parcel of the real property where the business is situated. In cases where licenses are issued through the e-Municipality System, which is affiliated with the central administration, granting business licenses to establishments located in non-registered areas is not possible. More briefly, a business license is mandatory for establishments operating in parks and green areas, as permitted by the zoning legislation. However, the process of obtaining these licenses is posing significant challenges arising from absence of registration in such areas. Nevertheless, the Turkish Civil Code's legal framework recognizes real rights as being registrational. This recognition is further reflected in the recently revised Land and Plot Readjustment Regulations in 2020, which contains an explicit provision to this effect. This article delves into the registration requirement for buildings and businesses in compliance with the zoning plan in parks and green areas. It outlines an approach, models the method, and presents suggestions.

**Keywords:** Land and Plot Readjustment Regulations, Parks and Green Areas, Urban Planning.

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## INTRODUCTION

Urban open and green spaces (AYA), which are among the indispensable parts of residential areas along with the built environment, are the spatial values intrinsic to the fabric of cities and play a significant role in shaping the quality of social, cultural, psychological, ecological, and economic functions. As per the definition outlined by Bakan and Konuk in 1987, urban open green areas (AYA) are locations that are situated outside of urban structures yet are built on urban land and utilized by urban residents where city-related events transpire. Ekşinat, in 1992, elaborated upon this definition as areas where the subjective and psychological processes of human life in urban areas occur and emotional perception and experiences are transformed into consciousness, personality, and memories. Urban green areas, commonly referred to as AYAs, are integral to urban environments, contributing significantly to the overall quality of life. They provide a multitude of benefits, including regulating interactions between the natural environment and microclimate, providing opportunities for a diverse range of activities, and creating space for entertainment and recreational facilities (Gül et al., 2020).

The rapid growth of the urban population, combined with the prevalence of natural disasters and the recent outbreak of COVID-19, have highlighted the necessity of planning future cities in a more prepared manner, with due consideration to public health (Istanbul AYA Yaklaşımı Raporu, 2022). The importance of urban green spaces and open areas is becoming increasingly apparent as they provide natural habitats (Özdemir, 2009) and social attraction sites for recreational activities (Önder ve Polat, 2012).

The incorporation of green spaces in urban planning is a fundamental element that necessitates adherence to specific standards and requirements. The development of these standards is contingent upon the demographic, socioeconomic, and geographical-spatial features of the specific urban area in question (Uslu et al., 1996). The minimum-level standards for green areas and their development are governed by law and regulations. In our country, the primary legal statutes defining the criteria for green areas are the Law on Land Development Planning and Control No. 3194, its implementation regulations, the Spatial Plans Regulation, and the Planned Areas Zoning Regulation.

The Spatial Plans Regulation (MPYY) includes open and green spaces under the designation of “Social Infrastructure Areas” where the regulation specifies that green areas, encompassing children’s gardens, parks, and areas for picnic and entertainment, fall under this definition (Gül et al., 2020). The Regulation delineates various usage purposes and zoning features for different categories of green areas. However, urban open and green areas that are publicly owned, accessible to all citizens, and not subject to registration from now on will be referred to as parks or green areas following the subject of this article.

The utilization of public parks and green spaces in urban areas is primarily attributed to the residents of the city (Önal and Sağır, 2018) and is fundamentally a social activity, serving as a platform for com-

munity-building and collective ownership among city residents (Özdemir, 2009). The anticipation of users' needs, encompassing their physical, physiological, psychological, and social structure, is crucial in creating a conducive environment with open spaces that align with these expectations (Aksoy, 2001). In the process of designing parks and green areas, it is essential to take into consideration the needs of the local populace, including the provision of facilities for entertainment, recreation, tranquillity, sports, and socialization (Liu et al, 2015; Istanbul AYA Yaklaşım Raporu, 2022).

In the study undertaken by Aksoy and Akpınar (2012), the majority of participants, approximately 52%, indicated resting and obtaining fresh air as the leading reason for visiting parks. Another 29% reported using parks for children's recreational activities. The study further revealed that the presence of refreshment kiosks and cafeterias did not impact the frequency of park visits. However, it was recommended that basic amenities such as refreshment kiosks, tea shops, and restrooms should be located within park areas to cater to the diverse needs of park visitors.

According to Önder and Polat (2012), accessibility, usability, and multifunctionality are essential aspects of green areas. Özdemir (2009) put forth the intrinsic value of spending time in green spaces and the importance of such areas in promoting urban communication and its perception as a valuable activity. As per the assertions of Özdemir, individuals from diverse backgrounds tend to seek out new spaces to fulfill their demands if the green areas fail to cater to their needs and become dysfunctional.

In 2018, Önal and Sağır conducted surveys to identify individuals' predominant issues in public areas. The research reveals that approximately 13% of the participants identified the inadequacy of refreshment kiosks, cafes, restaurants, or shopping areas as their primary concern. On the other hand, around 15% of the participants indicated that the absence of cultural amenities such as cinemas and concert halls was their primary concern. Considering the importance of other identified issues in the survey, such as parking, restrooms, and hygiene, it becomes apparent that the significance of facilities must be recognized. Therefore, it is imperative to prioritize the need for the facilities while keeping the aforementioned concerns in mind.

The results of the literature survey indicate that in order to successfully fulfill their intended functions and satisfy user expectations, parks and green areas should feature multi-functional designs that incorporate sufficient high-quality facilities (Wang et al, 2015). Non-registered parks and green areas should be supplemented with service-oriented businesses as an additional means of augmenting their overall functionality. These businesses can provide users with various amenities to enhance their overall experience.

The inclusion of service areas, such as refreshment kiosks and cafeterias, as well as culture and art-oriented facilities in parks and green spaces, is a suitable means of fulfilling their intended functions (Fausold and Lillieholm, 1996). *The Economic Value of Open Space: A Review and Synthesis* Lincoln Institute of Land Policy Research and Utah University.Utah.. Furthermore, such amenities aid

in enhancing the quality of time spent in open and green areas. In fact, The Spatial Plans Regulation delineates the service-oriented facilities within the open and green area groups. Simultaneously, the Planned Areas Zoning Regulation imposes conditions for construction in these areas, which have very low total area ratios (TAR).

Local governments have an impact on urbanization as regulator and developer as well as planning (Adams et al, 2013) .The onus of maintaining urban parks and green areas falls under the jurisdiction of municipalities (Municipality Law, 2005; Law on Metropolitan Municipality, 2004). By default, parks and green areas are exempt from registration after the implementation of the zoning plan except when establishing real rights is deemed necessary. The establishment of limited registration with real rights is contingent upon the existence of a real right and the fulfillment of the registration requirement (Çepni, 2021).

In the context of municipal duties and responsibilities, when a need to establish facilities duly permitted by the relevant regulations in green areas arises, the operation of these facilities must be taken into account to align with users' expectations and enhance the overall quality of services provided (Cohen et al, 2007). It is mandatory for any operational facility to obtain a business license (URL-1). However, in order to apply for a Business License, it is necessary to provide the land registry information of the parcel where the business is located. Consequently, the licensing process may encounter hindrances in cases of non-registered green areas where no land registry information is available. Recently, the efficacious implementation and execution of license systems on a centralized database have superseded the formerly adopted palliative solutions of local governments. In this case, establishing and operating businesses allocated for service in non-registered parks and green areas present significant challenges.

As per the zoning legislation, complementary structures located in parks and green areas are to be utilized solely for the purpose of rendering services to the users. These facilities must be operated to ensure the provision of user services. In the event that non-municipal businesses are granted access to the facilities, business licensing or, rather, lack of registration presents a significant administrative challenge. However, the Regulation on Land and Plot Readjustment dated 2020 allows limited registrations due to real rights in non-registered areas. On the other hand, the present document lacks explanatory information about the registration process and the space size subject to registration. This is compounded by the lack of studies on the subject, which further hinders our comprehension and ability to make informed decisions.

This article seeks to address the issuance of business licenses for facilities that are to be built within the framework of zoning legislation in non-registered parks and green areas through limited registration. The objective is to establish a reference source that is comprehensive and useful for practitioners. This reference source will provide guidance on “the registration process for a structure” through the

estimation of the area to be registered, the examination of real rights established on the structure, and the inspection of the registered part in terms of parceling conditions.

The concept of property differs from country to country and from culture to culture, and the issue of registration, like many elements of zoning legislation, does not fully coincide with international examples. It is worth emphasizing that this uniqueness is the reason for the lack of international literature in the following sections.

## 1. BUILDINGS IN PARKS AND GREEN AREAS (FACILITIES)

According to the Spatial Plans Regulation in 2014, which represents one of the regulatory implementations of the Law on Land Development Planning and Control No. 3194, the term “Parks and Green Areas” is defined under the category of “Social Infrastructure Areas” as per Article 5/i. The Table of Annex-2 in the Regulation presents a list titled “Open and Green Areas” comprising several types of locations, categorized based on their respective purposes, such as Zoos, Urban Forests, Afforestation Areas, Exhibition, Fairs, Festival Areas, Hippodromes, Children’s Gardens, Parks, Squares, District Sports Areas, Botanical Parks, Promenade and Recreation Areas. However, the current regulation does not provide explicit information about the permissible construction activities and structures that can be built within parks and green areas in compliance with the prevailing zoning legislation.

Article 4 of the Planned Areas Zoning (PAI) Regulation, which is an additional implementation of Law No. 3194, stipulates that specific structures may be built in children’s gardens, provided they do not exceed 6 m<sup>2</sup> in area. Expressly, the regulation permits the construction of refreshment kiosks, ornamental pools, pergolas, and restrooms in these areas.

The Planned Area Zoning Regulation, as stipulated in Article 19, delineates the construction requirements that apply to the utilization of parcels for specific functions. Of note, the provisions for “Park Areas” and “Recreation Areas” are detailed in paragraphs “c” and “ç” respectively.

Accordingly, in park areas;

- Ornamental pools, outdoor playgrounds, public restrooms, bowers, and pergolas can be built.
- It has been established that if the park area surpasses 1000 m<sup>2</sup>, it is permissible to build single-story buildings that do not exceed 4.50 meters in height, with a maximum floor area of 15 m<sup>2</sup>, which is limited to occupying not more than 3% of the total park area.
- The functions of these buildings are the tea garden, refreshment kiosk, playground, headman’s office, security huts, and the park’s transformer building.
- The article states that the spaces beneath the park’s ground can be utilized to construct

parking lots. Additionally, it suggests that Masjids and 112 ambulance stations can be built, which is limited to occupying not more than 3% of the total park area.

In Recreation Areas

- Multi-purpose halls, masjids, restaurants, coffee houses, tea gardens, and refreshment kiosks are permissible within prescribed limits. Specifically, these establishments must not exceed a 5% total area ratio (TAR) and must adhere to temporary building size regulations.

- Children's playgrounds and sports areas, such as wrestling, tennis, swimming, mini-golf, autocross, and go-kart, are permissible within a 5% total area ratio (TAR).

- It has been stated that constructing open or closed parking lots, restrooms, fountains, pergolas, bowers, barbecues, and picnic tables is permissible.

In summary, as per the regulations outlined in the PAI Regulation, the construction of refreshment kiosks, tea gardens, and playgrounds in park areas exceeding 1000 m<sup>2</sup> is subject to specific conditions. These constructions must adhere to certain specifications, including single-floor structures with floor areas not exceeding 15 m<sup>2</sup> and not exceeding 3% of the total area ratio (TAR). As mentioned in Article 19/c-2, the playground area refers to a closed area, whereas the restroom and pergola, mentioned in Article 19/c-1, are excluded from the 3% total area ratio (TAR).

In recreational areas, the established total area ratio (TAR) is 5%, and there has been a recent issuance of temporary construction permits for further types of use.

It is not against the natural course of the process that structures permitted by the PAI Regulation to be subjected to real rights, which may necessitate registration.

The link between planning and ownership needs to be strengthened to ensure alignment between urban planning and residents' satisfaction (Emamgholian et al, 2021). It is therefore essential that planning is supported by property relations.

## 1.1. Registration Need/Requirement for Workplace Opening License

In the realm of business, one primary mandatory document is the license to open and operate a business. Without obtaining this license, the business cannot initiate its operations. The conditions required to obtain a permit to open and operate a business in our country are regulated by the "Regulation on Workspace Opening and Operation Licenses" in 2005 (RG, 10.08.2005, 25902). As per the Regulation, it is mandated that workplaces that are operated by third-party entities, independent of the institution's activities, are required to obtain a license. The requirement extends even to those workplaces that are located within the institution's premises or social facilities (Gündüzöz, 2010).

Parks and green areas can be utilized for commercial purposes, such as social and sports businesses.

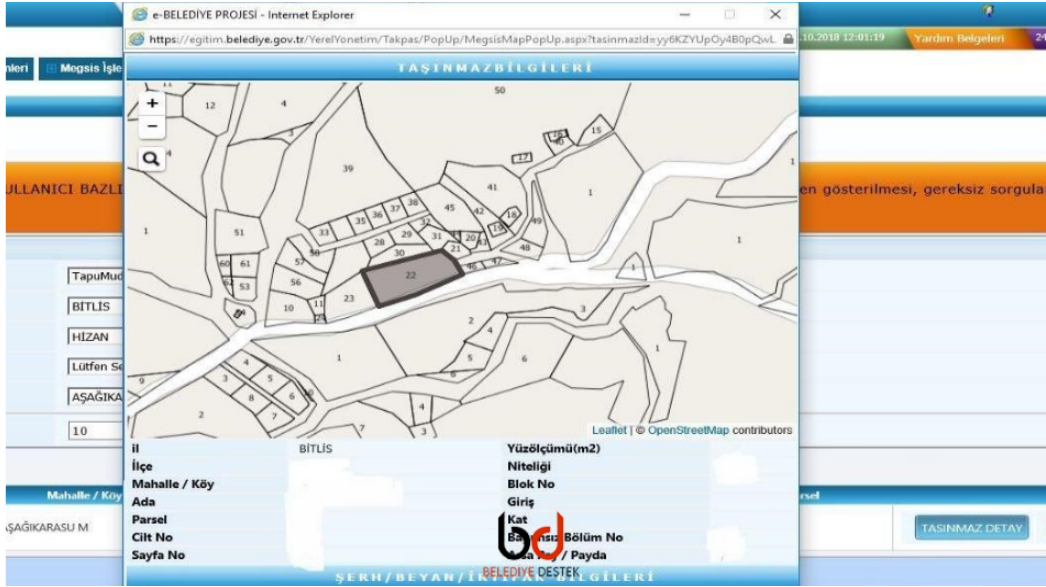
These enterprises often enhance park utilization by providing visitors with an array of services and activities. Examples of such enterprises include refreshment kiosks, cafes, tea gardens, playgrounds, sports areas, and event-organizing facilities. Nevertheless, it is required that all such businesses obtain a Workplace Opening and Operating License before commencing their operations to ensure compliance with regulatory requirements.

Facilities in parks and green areas are required to be planned in an environmentally friendly manner. A business license is essential in inspecting the environmental impacts of the business and preserving the green area.

The issuance of business licenses in parks and green areas is the responsibility of municipalities. In order to fulfill this duty, municipalities have resorted to utilizing various approaches to granting such licenses within parks and green areas. Notably, the process entails relying on lease agreements or including qualification information in the land registry information section of the business license. However, recently, several municipalities have opted to carry out their license application procedures through the e-Municipality System. This shift has resulted in a swift rise in the number of municipalities that are stakeholders in this system. Incorporating workplace licenses into e-government systems through a database affiliated with the central administration also necessitated the inclusion of spatial basis information derived from the land registry.

The land registry information of the parcel on which the business is located is required for the process of the Ministry of Internal Affairs' e-Municipality System License Information Module (RUBİS). The TAKPAS (Land Registry and Cadastre Sharing System) module, which is also a part of the e-Municipality System, is utilized to gather this information. In other words, it appears that the e-Municipality System (as depicted in Figure 1) cannot issue a business license to any enterprise operating on a non-registered parcel.

**Figure 1.** e-Municipality System Workplace Opening Licence Application Screen (URL-2).



**Figure 2.** TAKPAS Module Parcel Information Screen (URL-3).

In fact, as per the Regulation on Workplace Opening and Operating Licenses, it is mandatory to provide the sheet/block/parcel information of the business location in all relevant documents, including application forms. Moreover, the same land registry details must be included in the license document itself (Figure 3).

T.C.  
.....İL ÖZEL İDARESİ  
.....BÜYÜKŞEHİR BELEDİYE BAŞKANLIĞI  
.....BELEDİYE BAŞKANLIĞI  
**İŞYERİ AÇMA VE ÇALIŞMA RUHSATI**

Adı soyadı : .....

İşyerinin unvanı : .....

Faaliyet konusu : .....

İşyerinin adresi : .....

İşyerinin bulunduğu yer : Ada no:..... Pafta no:..... Parsel no:.....

İşyerinin sınıfı : .....sınıf Gayrisihhi Müessese  Sıhhi Müessese

İşyerinde yanıcı ve parlayıcı madde kategorisindeki sıvıların depolanması amacıyla bulunacak depoların hacmi\* : 1.depo..... 2.depo..... 3.depo..... 4.depo..... 5.depo.....

İşyerinde yanıcı ve parlayıcı madde kategorisindeki sıvılardan depolanmasına izin verilenlerin sınıfı/sınıfları\* : .....

Ruhsatın tarih ve sayısı : .....

Adı Soyadı  
Unvanı

14/7/2005 tarihli ve 2005/9207 sayılı Bakanlar Kurulu Kararı ile yürürlüğe konulan İşyeri Açma ve Çalışma Ruhsatlarına İlişkin Yönetmelik kapsamında düzenlenmiştir.  
\*Akaryakıt, sıvılaştırılmış petrol gazı, sıvılaştırılmış doğal gaz ve sıkıştırılmış doğal gaz istasyonu niteliğindeki işyerleri için doldurulacaktır.

**Figure 3.** Regulation Annex Example of Licence Document (Regulation on Workplace Opening and Operation Licence Example 5).

In summary, in order to issue a Workplace Opening License, registration data on a spatial basis is required, and therefore, the need for registration arises to issue licenses through the e-Municipality System for workplaces in non-registered areas, such as parks and green areas.

## 2. (LEGAL)FRAMEWORK ON REGISTRATION REQUIREMENT/NEED IN PARKS AND GREEN AREAS

It is plausible that parks and green areas allocated as public spaces by zoning plans can be categorically counted among public common properties for the public benefit in Article 16/B of Cadastre Law No. 3402. Whilst not subject to registration, parks and green areas are still bound by the registration provision set forth in Article 999 of the Turkish Civil Code (TMK), which pertains to areas with real rights (Çepni, 2021).

The foundation for the initial registration of public areas on behalf of the governing municipalities, such as roads and parks whose use have changed in zoning plans, are long-established practices that are based on Article 21 of the Land Registry Law No. 2644 and Article 159 of the repealed Municipality Law No. 1580 (URL-2). The General Directorate of Land Registry and Cadastre (TKGM) Circular No. 1477 was also issued in this direction and guided the implementation.

An essential counterpart of the registration approach through real rights is the legal transactions made through the easement rights. According to the 7th article of TKGM Circular No. 2010/4, If the easement right falls within a non-registered area such as roads, squares, and other similar areas, it is expected that the governing administration should register the segments under easement in their jurisdiction, along with their current qualifications.

In summary, parks and other green areas are registered with the relevant municipality under the full real right (ownership) contingent upon zoning plan changes or the limited real right (easement) if without any alteration to their existing qualifications.

However, in specific public spaces, such as parks and green areas that require only limited construction for public purposes, the requirement for registration based on a building permit has yet to be a matter of discussion or concern.

Article 33/3 of the Land Readjustment Regulation in 2020 provides a definition for registration based on construction rights:

*(3) Public and public service areas, where building rights are granted in compliance with zoning laws and where licensed buildings can be constructed, are registered within their respective qualifications in the zoning plan. These areas and structures are to be reserved solely for the communal use of the public, no other functions are permitted and can not be subject to private ownership.*

The construction of a building inevitably leads to the establishment of rights that are associated with it. To satisfy these demands, it is imperative to register the underlying land on which the building is constructed. The related regulation article in this context serves as a decisive frame of reference.

Article 33/3 of the AAD Regulation has not introduced any novel approach aside from establishing the

causality of registration based on existing real rights. Nonetheless, this provision has played a pivotal role in defining the registration procedure regarding properties that do not meet the zoning parcel criteria. In this sense, it has contributed to resolving ambiguities arising from prior interpretations.

This article aims to provide an in-depth analysis of the registration process for parks and green areas, as outlined in Article 33/3 of the AAD Regulation and will help users to understand the intricacies of the registration process and its usefulness in managing public green spaces. Among the aspects to be explored are the size and the geometry of the area to be registered, its qualifications, and the real rights and annotations associated with it.

The related regulation article states that the registration will be made on behalf of the governing administration and within the qualifications in the zoning plan. In terms of parks and other green areas, the relevant governing bodies are typically municipalities. In accordance with the Law on Metropolitan Municipalities No. 5216 and the Municipality Law No. 5393, the governing administration for queries related to parks and green areas would be the governing municipality.

Since the registration process rests on the foundation of construction rights, the area of the land subject to registration is estimated according to the zoning plan and to the construction conditions laid out in the Planned Areas Zoning Regulation. The location and geometry of the land to be registered are determined by referencing the building contour. This outline can be perceived as the trace of the building or outbuilding on the plane.

The parcel of land in question, which falls within a non-registered area, is not considered a zoning parcel based on its construction condition. Therefore, it is not subject to compliance with the parcel sizes or other parceling conditions as stipulated by the Planned Areas Regulation and the zoning plan. Accordingly, it would not be wrong to express the land subject to registration as a building trace instead of a parcel.

To briefly touch upon the registration process, it will be essential to prepare the municipal council's decision with care and attention to detail ensuring that the legal basis of the transaction is adequately presented and that its justification is clear and convincing. Although the registration of park areas corresponding to building traces is a relatively new demand, easement-based registrations in parks and other non-registered areas are widely carried out following the guidelines stipulated in TKGM Circular No. 2010/4. These registrations are not discernibly different from one another within the framework of the registration approach based on real rights.

Article 19 of the Planned Areas Zoning Regulation and Article 33/3 of the Land Readjustment Regulation should be used as a foundation for the board's decision to be taken. Given that the registration requirement originates from the zoning plan and represents a singular application therein, it falls within the purview of the Zoning Law 15-16 and its pertinent provisions. Also, the committee's decision must incorporate precise numerical data demonstrating that the proposed registration size

within the park area is proportional with the limits prescribed by the construction permit.

As per the regulations for Large Scale Mapping and Map Information (BÖHHBÜY), field sketches containing coordinates, length and area calculations, and construction total area ratio (TAR) calculations within the park area are required to be approved as an annex to the council decision.

To enhance the clarity and comprehensibility of the registration process for parks and green areas, a sample application has been developed, based on Article 33/3 of the ADD Regulation. This approach is aimed at simplifying the process and making it more transparent for all participants involved.

### 3. APPLICATION

For the sample application, the objective is to identify non-registered park areas on existing zoning plans and provide an illustrative representation of the lands that can be registered upon request.

In Example 1, the present case concerns the municipality's proposal to establish and manage one or two refreshment kiosks on a park area spanning 1140 square meters, situated along the coastal edge line. Per Article 19/c of the PAI Regulation, the park area allows for a total single-story building area of 34.2 square meters. The proposal further permits the creation of two or more refreshment kiosk areas, with each area not exceeding 15 square meters.



Two refreshment kiosk traces (blue crosshatched)

For the park area spanning 1140 m<sup>2</sup> the permitted total construction area is 34 m<sup>2</sup>. Accordingly in the park area, two pieces of 15 m<sup>2</sup> or, three pieces of 11 m<sup>2</sup> or, more than two pieces of different size refreshment kiosks no more than a total area of 34 m<sup>2</sup> can be designed.



**Figure 1.** Example 1.

As seen in Figure 1 15 m<sup>2</sup> two refreshment kiosks spanning 15 m<sup>2</sup> area are positioned in compliance with the PAI Regulation. These sections can not be expected to conform to the parcel sizes outlined in PAI Regulation Article 6 and road frontage requirement as specified in Article 5 and 7 is also not applicable in this context.

A request was submitted on behalf of the district municipality for the registration of two closed polygons that correspond to the building trace while maintaining their park qualities. To complete the registration process, the block and parcel number will be required after the TKGM units have issued the registration notification. Furthermore, it is advisable to include an annotation referencing Article 33/3 of the AAD Regulation in the declarations section of the land registry. This annotation should stipulate that the park cannot be subject to private ownership.

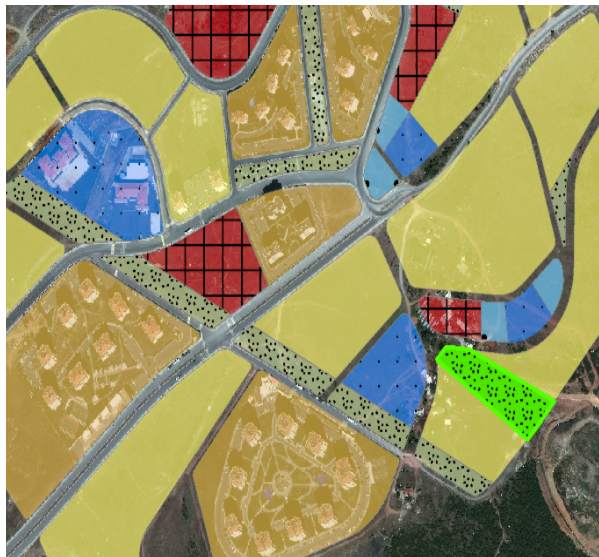
The two pieces of land, each with an area of 15 square meters, are designated as a park and registered under the municipality's ownership. After sharing their information via the data sharing module (TAKPAS) provided by TKGM, they will be available for public use once a workplace opening and operating license is issued through the e-Municipality System (RUBİS).

In Example 2, a similar scenario arises. There are requests for business developments comprising a tea garden and playground in a park-qualified area spanning 9895 m<sup>2</sup> as designated in the zoning plan. The municipality is currently in the process of evaluating the demand from owners of public housing.

Per Article 19 of PAI Regulation, the park area is subject to a total construction area reaching 297 m<sup>2</sup>. However, it must be noted that each building trace cannot exceed 15 m<sup>2</sup>. As a result, completing the total amount with unit pieces that adhere to this limit may not result in an aesthetically pleasing or useful design. On the other hand, registration of one unit area (15 m<sup>2</sup>) for each requested tea garden and playground uses will be sufficient to issue an operating license.

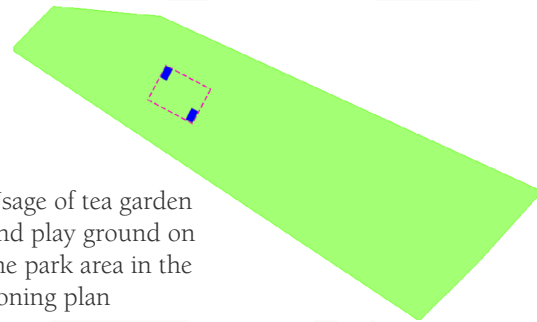
The design of the structure pattern for the total construction area is not within the scope and interest of this article. Nevertheless, the option of registering one or two unit building permits and allocating the remaining area as open space in accordance with PAI Regulation article 19/c-1 is a viable alternative worth considering.

To repeat for Figure 2, the presence of registration is adequate to issue a workplace opening and operating license. Furthermore, it is important to clarify that the allocation of the total area intended for construction is beyond the purview of this article.



For the park area spanning 9895 m<sup>2</sup> the permitted total construction area is 297 m<sup>2</sup>.

In the example below; two pieces of 15 m<sup>2</sup> building trace to be registered (blue filled area) along with usage area corresponding to total construction area (purple dashed border) supported by systems such as pergola are seen.



Usage of tea garden and play ground on the park area in the zoning plan

**Figure 2.** Example 2.

## DISCUSSION AND CONCLUSION

The primary function of open and green spaces is to provide urban residents with recreational and entertainment opportunities besides building stock. Thereby, the construction and registration of structures in parks and green areas are not deemed to be priority goals or requirements. However, the definition of open green areas encompasses service-oriented facilities designed to enhance utilization and improve the overall quality of usage. These facilities are in high demand and add significant value to the surrounding areas.

The Spatial Plans Construction Regulation classifies parks and green areas, whereas the Planned Areas Zoning Regulation provides limited construction permits for parks and recreation areas. Parks and green areas are primarily non-registered areas, and the presence of temporary structures does not warrant registration under normal circumstances. Turkish Civil Code however perceives the need to establish real rights as registrational right.

It is permissible for municipalities to establish and operate refreshment kiosks, cafes, tea gardens, and playgrounds in parks and green areas. Alternatively, these facilities may be entrusted to private businesses for operation. On the other hand, it is mandatory for all businesses to obtain a workplace opening and operation license for their establishments. In order for this license to be issued, land registration information of the property where the business is intended to be established should be provided.

In particular, local administrations that have adapted to the e-Municipality System affiliated with the central government and issue business licenses through the modules in this system cannot issue business licenses without the island and parcel information of the piece of land on which the business is

located. The e-Municipality System's business license module, RUBİS, is designed to issue business licenses and retrieve land registry information using TAKPAS, a sharing module linked to the General Directorate of Land Registry and Cadastre archive. Therefore, it is not possible to issue a business license for a piece of land that is not in the land registry.

The operation of businesses without a valid license is undoubtedly an undesirable practice that lacks control mechanisms and is likely to result in unfavorable outcomes for the green area ecosystem. Consequently, it is reasonable for municipalities to refrain from issuing business licenses and offering such businesses in green areas to preserve the health of the ecosystem. However, it is important to reiterate that the service facilities permitted by the Regulation play a crucial role in enhancing the quality of open green areas and catering to the demands of park visitors.

In this scenario, the only appropriate course of action would be registering the land area where the facilities to be permitted are located within the non-registered open green spaces, more specifically, the building trace. By doing so, the business license applications could be completed by utilizing the registered information.

The sought-after solution can be found in Article 33/3 of the Land Readjustment Regulation. This particular regulation article stipulates that the land with buildings subject to licensing in non-registration areas may be registered based on their qualifications in the zoning plan and on behalf of the governing administration. Furthermore, the regulation article emphasizes that the registered portions of the land must be utilized solely for their intended purpose and cannot be subjected to private ownership.

In fact, the legal approach referred to in Article 33/3 of the AAD Regulation is predicated on the existence of real rights within the Civil Code and is not devoid of a legal-theoretical basis.

The decision-making process of the committee responsible for land registration must be anchored in the relevant legal and regulatory frameworks and communicated with clear and comprehensive reasoning. The measurement sketches appended to the council's decision should precisely determine the piece of land to be registered in spatial and geometrical terms and provide the total area ratio and area calculations required by the regulations. Additionally, it is highly recommended that the administrative action be supported by a technical report to strengthen the validity of the decision-making process.

It is imperative that the registration notification, in line with committee resolutions and technical documentation, prepared by TKGM local units adheres absolutely to the legislative requirements in relation to ownership, qualification, and surface area information. It would be worthwhile to incorporate the explicit stipulations that registration cannot be subject to private ownership and that qualifications cannot be modified into the declarations section of the registration phase. Furthermore, it is prudent to meticulously avoid establishing partial real rights in favor of private individuals on

registered real estate.

The cessation of the non-registered status of service facilities operating within parks and green areas is an indispensable measure for achieving financial transparency, audit compliance, and safeguarding public health. The cardinal objective of urban development in cities and metropolitan areas necessitates the preservation of open green spaces. It is imperative that these spaces remain unaltered by building construction while simultaneously improving the area's service quality, satisfaction, and usage. It is vital to preserve the essential functions of open green areas while enhancing their usability. In this context, building and registering facilities at a minimum level is imperative to ensure their continued operation with a valid business license. It is equally vital to avoid unnecessary and excessive licensing and registration that may lead to undue complications.

## REFERENCES

- Adams, D., & Tiesdell, S. (2012). *Shaping places: urban planning, design and development*. Routledge.
- Aksoy, Y. (2001). *İstanbul Kenti Yeşil Alan Durumunun İrdelenmesi*, Doctoral Thesis, Istanbul Technical University, Institute of Science.
- Aksoy, Y., & Akpınar, A. (2011). Yeşil Alan Kullanımı ve Yeşil Alan Gereksinimi Üzerine Bir Araştırma İstanbul İli Fatih İlçesi Örneği. *İstanbul Ticaret Üniversitesi Fen Bilimleri Dergisi*, 10(20), 81-96. <https://doi.org/10.18521/ktd.49066>
- Bakan, K., & Konuk G. (1987). *Türkiye'de Kentsel Dış Mekanların Düzenlenmesi*, Tübitak.
- Cohen, D. A., McKenzie, T. L., Sehgal, A., Williamson, S., Golinelli, D., & Lurie, N. (2007). Contribution of public parks to physical activity. *American journal of public health*, 97(3), 509-514. <https://doi.org/10.2105/AJPH.2005.072447>
- Çepni, M.S. (2021). Arsa Düzenlemelerinde Tescil Harici Alanlar, *Jeodezi ve Jeoinformasyon Dergisi*, 9(2), 127-136. Doi: 10.9733/JGG.2022R0009.T
- Emamgholian, S., Pouliot, J., & Shojaei, D. (2021). 3D Zoning: A Missing Piece to Link Planning Regulations with 3D Cadastre. 7th International FIG Workshop on 3D Cadastres, New York. <https://doi.org/10.4233/uuid:ec641882-0040-456d-a101-f641aa5c70d9>
- Eşkinat, Y. (1992). Kent planlama ve tasarım arasında gerekli ara ölçek: Kentsel tasarım, II. Kentsel Tasarım ve Uygulamalar Sempozyumu, İstanbul.
- Fausold, J. C., & Lilieholm, J. E. (1996). *The Economic Value of Open Space: A Review and Synthesis*, Lincoln Institute of Land Policy Research and Utah University, Utah.
- Gül, A., Dinç, G., Akın, T., & Koçak, A. İ. (2020). Kentsel açık ve yeşil alanların mevcut yasal durumu ve uygulamadaki sorunlar. *İdealkent*, 11, 1281-1312. Doi: 10.31198/idealkent.650461
- Gündüzöz, İ. (2010). *Sorulu-Cevaplı İşyeri Açma Ve Çalışma Ruhsatı*, Türkiye Belediyeler Birliği, ISBN: 978-975-6311-14-1

- İstanbul Açık ve Yeşil Alan Yaklaşımı Raporu. (2022). İstanbul Büyükşehir Belediyesi Yeşil Alan ve Tesisler Yapım Şube Müdürlüğü, İstanbul.
- Liu, H., Li, F., Xu, L., & Han, B. (2017). The impact of socio-demographic, environmental, and individual factors on urban park visitation in Beijing, China. *Journal of Cleaner Production*, 163, 181-188. <https://doi.org/10.1016/j.jclepro.2015.09.012>
- Önal, S., & Sağır, M. (2018). Identification of the use of urban parks in ankara. *Journal of Ankara Studies*, 6(1), 77-90. Doi: 10.5505/jas.2018.57338
- Özdemir, A. (2009). Katilimci Kentli Kimliğinin Oluşumunda Kamusal Yeşil Alanların Rolü: Ankara Kent Parkları Örneği. *Turkish Journal of Forestry*, 10(1), 144-153. <https://doi.org/10.18182/tjf.11280>
- Önder, S., & Polat, A. T. (2012). Kentsel açık-yeşil alanların kent yaşamındaki yeri ve önemi. *Kentsel Peyzaj Alanlarının Oluşumu ve Bakım Esasları Semineri*, 19, 73-96.
- Tapu ve Kadastro Genel Müdürlüğü (1985). 1477 sayılı Genelge
- T.C. Resmî Gazete. (1985). İmar Kanunu, 18749
- T.C. Resmî Gazete. (1987). Kadastro Kanunu, 19512
- T.C. Resmî Gazete. (2004). Büyükşehir Belediye Kanunu, 25531
- T.C. Resmî Gazete. (2005). Belediye Kanunu, 25874
- T.C. Resmî Gazete. (2005). İşyeri Açma ve Çalışma Ruhsatlarına İlişkin Yönetmelik, 25902
- T.C. Resmî Gazete. (2014). Mekansal Planlar Yapım Yönetmeliği, 29030
- T.C. Resmî Gazete. (2017). Planlı Alanlar İmar Yönetmeliği, 30113
- T.C. Resmî Gazete. (2018). Büyük Ölçekli Harita ve Harita Bilgileri Üretim Yönetmeliği, 30460
- T.C. Resmî Gazete. (2020). Arazi ve Arsa Düzenlemeleri Hakkında Yönetmelik, 31047
- Uslu, A., Oguz, D., Tanrıvermiş, E., & Eksioğlu, T. (1996). Geçmişten Günümüze Kızılay Meydanı, Çevre Planlama ve Tasarımına Bütüncül Yaklaşım Sempozyumu, 329-331, Ankara.
- Wang, D., Brown, G., & Liu, Y. (2015). The physical and non-physical factors that influence perceived access to urban parks. *Landscape and urban planning*, 133, 53-66. <https://doi.org/10.1016/j.landurbplan.2014.09.007>
- URL-1 Türk Hukuk Sitesi, <https://www.turkhukuk sitesi.com/showthread.php?t=30904>, Access Date: 01.03.2024
- URL-2 TC İçişleri Bakanlığı e-Belediye Sistemi, (<https://www.belediye.gov.tr/ruhsat-modulu>)
- URL-3 TC İçişleri Bakanlığı e-Belediye Sistemi, (<https://www.belediye.gov.tr/takpas-modulu>)