

APPROACHES TO LAND PROTECTION

CARSON CITY'S OPEN SPACE STRATEGY

The Open Space sales tax will initially generate approximately \$700,000 per year for the acquisition and management of Open Space. (this will increase in subsequent years or the sales tax is projected to increase) At an average price of \$30,000 per acre this will allow the purchase of approximately 23 acres.

Since this amount is small, relative to the need, acquisition alone will not achieve the Open Space objectives defined above. This suggests the City must exercise a high degree of creativity and work with as many partners as possible to leverage all available resources. The key elements of this multi-faceted strategy are as follows:

A. Work with landowners to find win/win solutions.

Often, by engaging landowners early in the process, and flexibly exploring a variety of options with them, new ways, or new combinations of ways, can be found to meet the objectives of the public and the landowner. In many cases, the options available and their implications are not known by landowners. For example, a below-market sale can generate tax credits that might be extremely valuable to a corporate seller. Estate considerations can be very significant to others. Even the designation (without purchase) of Open Space will increase the value of the remaining land in a subdivision.

B. Use the most appropriate preservation tools, and where appropriate, use multiple tools in combination with each other.

The Preservation Tools section below outlines 12 ways that Open Space can be secured. A number of these will allow property to be preserved at little or no cost, or at least acquired at prices favorable to the City. They accomplish this by allowing the City to structure deals that are favorable to the varying tax and estate conditions of the sellers. Several of the tools can be used in combination with others - increasing the benefit to both buyer and seller.

C. Purchase lands only when necessary.

The sales tax proceeds will only purchase a relatively few acres per year. Thus, direct purchase of land should be a last resort, when all other options have been exhausted. Even then, strategic, catalyst purchases should be considered first and foremost. These are purchases that might, for example, preserve a key parcel (around which other strategies can be used to tie in adjacent parcels), to provide matching funds for public or private grants, etc.

D. Prioritize acquisitions using the Open Space Evaluation Form

It will be important to focus on the most important opportunities and urgencies in any given budget year. The use of a standard set of criteria will go far to reduce

subjectivity, help the public understand the basis for decisions and bring continuity from year to year. These criteria are outlined in a following section. Purchase land only when necessary.

E. Work with partners whenever possible to leverage other resources.

There are many agencies and organizations with interests in Carson City that could be coordinated to achieve many Open Space objectives. These cooperative actions can range from intergovernmental agreements (such as the Urban Interface Plan recently endorsed by the City and the BLM) all the way to working with land trusts and conservancies to provide “bridge” financing and to help negotiate complex transactions. The Wetland Reserve Program and the Farmland Protection Program of the U.S. Department of Agriculture are examples of possible partnering options. Even within the City there are opportunities for interagency action (such as among Utilities, Parks and Recreation, Public Works and Open Space) to jointly acquire a parcel or an easement. The OSAC can play a key facilitator role in coordinating these multi-agency efforts.

F. Make acquired Open Space permanent.

Land acquired for Open Space should be permanent; especially those procured with public funds. This might be accomplished by ordinances or recording of restrictive covenants and establish specific policies and procedures regarding the change of use of Open Space. Such security will also assure landowners that a donation of land will be permanent.

PRESERVATION TOOLS

Listed below are a variety of means that can be used to protect Open Space. Relatively few involve outright purchase of land. Others utilize incentives related to development regulations or tax law. Many of the tools can be used in combination.

1. Conservation easement

A conservation easement is a voluntary and permanent agreement to restrict the developability of one’s land in order to preserve conservation values. The easement can be donated by the landowner (usually with a tax benefit for the value of development that is precluded), or purchased by a public or non-profit entity. The landowner retains ownership of the land and the uses that are not restricted in the easement. The purchaser/recipient is required to make periodic inspections to assure the conditions of the easement are being applied. Like all easements, it applies to future owners of the land. A conservation easement can be very flexible, limiting development as much as the landowner desires. Since the easement restricts future development, it reduces the value of the land and can therefore be an effective means of reducing estate taxes.

2. Cluster development

Instead of spreading development evenly across a parcel, cluster development results in smaller lots grouped on one portion of the site, leaving the rest of the land undeveloped. For example, on a 10-acre tract of land zoned for 1 unit per acre, rather than 10 1-acre lots, cluster development might result in 10 ½ acre lots, leaving 5 acres of Open Space. Cluster development can be implemented through zoning requirements or incentives (more units if they are clustered). Usually site plan criteria are established so the Open Space protects the most valuable resources: agricultural land, wildlife habitat, visible hillsides, etc. The Open Space is usually protected by a permanent conservation easement granted to a public agency or land trust. Currently the Carson City Planned Unit Development ordinance allows the use of this tool.

3. Deed restrictions/covenants

For landowners that prefer not to deal with government or non-profit entities, but still wish to set aside land for Open Space, a deed restriction or covenant may be more acceptable. Since deed restrictions and covenants are enforced by the other parties to the agreement (adjacent landowners), not by the government, enforcement is not assured and as a last resort must be done through the court system, which makes it less likely. Also, the restrictions are not perpetual and do not provide tax benefits of charitable deductions, as do easements.

4. Reserved life estate

Allowing the landowner to continue to use the property during their lifetime and/or the lifetime of their immediate family may remove a barrier to a sale or donation by making it possible to take advantage of the income while still enjoying the property.

5. Cash purchase

Cash purchase at fair market value is one of the most common transactions between landowners and a public entity. Nevertheless, while this may yield the greatest gross return, capital gains, estate and other taxes may make other types of transactions more attractive in the long run.

Cash purchases can be made in two ways:

- Annual budgeting – from the annual income of the entity (pay-as-you-go)
- Bond issue – from bonds sold to raise a large amount of capital, repaid from annual income over multiple years.

The purchase can include a variety of considerations to respond to the financial/tax circumstances of the seller.

a. Bargain sale

A bargain sale is a combination of sale and gift to a government or non-profit entity. It enables the seller to realize income and tax benefits from a charitable gift for the difference between the fair market value and the bargain sale price.

b. Charitable gift annuity

For property owners that have held land for a long time with a substantial appreciation in value there may be significant tax advantages in donating the property to a public entity in exchange for an annuity payment for retirement program.

c. Installment purchase

An installment purchase is a purchase in multiple payments, usually over a number of years. This can benefit the seller by placing them in a lower tax bracket, and usually benefits the purchaser in allowing them to spread their acquisition over more properties. An interest rate is built into each payment. If the purchaser is a public entity the interest may be exempt to the seller.

d. Rolling option

Another means to extend a purchase over a number of years is to purchase it through a series of options. An option is the right, but not an obligation, to purchase property at a specified price before a specified date. It may be used for example, by a City that is prohibited from entering into contracts (such as an installment purchase) that would bind future Board of Supervisors. To effect a rolling option purchase, the property is divided into multiple options. The purchasing entity initially pays for all the options (usually for a token price) and then exercises one of the options each year, while renewing the options on the remaining parcels. Usually, the options specify that the parcels be purchased in sequence from least-attractive (for Open Space purposes) to most-attractive, so there is incentive for the purchasing entity to complete the entire purchase and not leave the landowner with an unusable parcel at the end.

e. Bridge financing/land trust

Sometimes a land trust, especially a larger one such as the Trust for Public Lands, will acquire land for a public entity and then resell it to the public entity at favorable terms. Often, the purchase price is set below market, the difference being designated as a tax-exempt donation by the seller to the land trust and/or the public entity.

6. Donation or gift

Over and above public-spirited citizens, landowners in special financial/tax circumstances may find charitable donation particularly advantageous for tax and estate planning purposes.

7. Land exchange

Public entities occasionally have properties that are of suitable size and location to make them attractive to be traded for private lands desired for Open Space. Land exchanges are generally done on the basis of appraised value rather than size. Land trades can be time-consuming and complex but can be beneficial to both the seller (no tax for an equal exchange) and the purchaser (no cash required).

8. Purchase of development rights (PDR)

While not currently available in Carson City, PDR may be attractive to a landowner that desires to retain ownership and use of the land, but does not wish to develop it.

PDR is a means of compensating an owner for relinquishing the development potential of his/her land. The development potential (right) is purchased by a public entity and extinguished. The value of a development right is the difference between the value of land as farmland (or vacant land) and its value for development. For example, if a 10-acre tract of farmland (without development potential) would sell for \$30,000 and the same 10-acre tract of land with development potential sell for \$100,000, the difference (\$70,000) would be the value of the development rights. Furthermore, if the zoning of the land (say 1 unit per 5 acres) allowed two units to be built, these two development rights would have a value of \$35,000 each. As a general rule, the value of development rights ranges from 30% to 80% of the fair market value of the land, usually in direct proportion to the closeness of roads, utilities, and other services that allow development. When development rights are purchased, the land is usually restricted from future development through a deed restriction or conservation easement granted to a non-profit organization.

9. Transferable development rights (TDR)

TDR's are similar to PDR's in that the seller can be compensated for relinquishing development potential, but instead of being purchased and extinguished, the development rights may be purchased by private entities and transferred to other parcels of land. To be sure the TDR's are placed in acceptable locations, some communities formally designate "sending" and "receiving" sites for TDR's. The "sending" sites are areas desired to remain as Open Space; the "receiving" sites are areas that are suitable for higher development densities. Because of the difficulty in establishing appropriate values for the TDR's, and of matching buyers and sellers, the most successful programs⁹ have been the result of establishing a public "bank" to buy and sell TDR's. A TDR "bank" usually requires significant capital to initiate. To be able to sell and purchase development rights requires the creation of a formal system to record and track the transactions. Once implemented, a TDR program can be an effective means of preserving Open Space at little public cost, though it does require a well-managed effort to maintain the system.

10. Estate planning

The combination of state and federal inheritance taxes can create obligations of 55% or more of the value of the property. Often, inheritors are required to sell the inheritance to pay the taxes. A surprising number of landowners are not knowledgeable about inheritance taxes and are unprepared for the consequences to their estate. Land trusts and other public agencies seeking to preserve Open Space should actively encourage landowners to seek proper assistance in estate planning. In this process, landowners will be more likely to become aware of the advantages and opportunities for charitable donations to reduce estate taxes.

11. Land preservation development

A recent innovation is special not-for-profit organizations that achieve Open Space preservation objectives through limited development. They typically acquire a property and do limited, carefully planned development to recover the costs of the land. This approach requires specialized expertise and initial funding. Although it

⁹ Montgomery County, Maryland; Boulder County, Colorado.

does result in some development, it has been found to be effective in preserving key parcels in areas where other Open Space tools are not workable.

12. Intergovernmental agreements (IGA's)

IGA's are a form of cooperation between governments or agencies. Carson City and the BLM have recently entered into an Urban Interface Plan, a form of IGA, to protect the north and east foothills abutting the city. A similar agreement is being developed with the Forest Service. Possible candidates for other IGA's include Nevada Forest and State Trust Lands, Washoe, Storey, Lyon and Douglas counties. Possible topics that could be addressed in IGA's include: appropriate land uses on lands that have high value for Open Space, continuity of trails and coordination of trail heads, common Open Space objectives and priorities, reciprocal review of development proposals, annexation considerations, etc.

MANAGEMENT OF OPEN SPACE

GENERAL REQUIREMENTS

The Open Space plan has been developed through the staffs of the Parks and Recreation Department and the Community Development Department, under the overall direction of the OSAC. Initially, the City's Open Space responsibilities will include public awareness, intergovernmental coordination and property negotiation/acquisition. As the City begins to acquire land and/or easements, it will begin to incur new responsibilities. Eventually, they will include maintenance of improvements, environmental stewardship, and public safety. A comprehensive list of ultimate responsibilities include:

Public Safety

- Leash laws, off-leash areas (coordinate with Env. Stewardship tasks)
- Provisions for fire protection, flooding
- Remedies for infractions

Property Acquisition

- Evaluation, prioritization
- Contact with property owners and/or agents
- Coordinate: title search (including mineral and water rights), hazardous material surveys
- Legal forms for purchase of fee, easements, accepting charitable donations, etc.
- Coordinate efforts of others: land trusts, agencies, governments)
- Recording deeds, agreements and assuring compliance with their conditions

Environmental Stewardship

- Protection/rehabilitation of habitats, species
- Location of improvements to minimize impacts
- Monitoring health of environments
- Fire management

Maintenance of improvements

- Signage (identification, regulations)
- Fencing
- Drainage & erosion control
- Re-vegetation
- Weed control

Public awareness/education

- Nature hikes
- Presentations (schools, community groups)
- Publications (brochures, newsletters, cable TV tours)
- Summer jobs for youth
- Outreach to potential land donors, volunteer organizations
- Corporate stewardship, Adopt-a-Canyon, etc.
- Trail etiquette

MANAGEMENT ROLES/RESPONSIBILITIES

Carson City's Open Space responsibilities can be filled initially by existing City staff that will "wear several hats". Eventually, the program will need its own staff members to oversee various Open Space functions. It will be important, even from the outset, to have a clear definition of roles and responsibilities.

To this end, initial roles and responsibilities for Open Space will be assigned as follows:

*Open Space Coordinator*¹⁰

- Coordinates the work of other city staff members assigned to Open Space
- Act as point person and coordinates negotiations with property owners
- Work with the Parks & Recreation Director to prepare the annual budget for Open Space activities
- Assure that Open Space maps are current and the Open Space master plan is updated at least every 5 to 7 years
- Coordinate Open Space activities, land acquisitions and management with other City departments
- Present recommended actions to the Open Space Advisory Committee and to the Board of Supervisors
- Direct preservation and construction work on Open Space lands purchased by the City

Open Space Advisory Committee

- Make recommendations to Board of Supervisors regarding Open Space purchases, physical improvements, plan review, and development recommendations and policies
- Assist the Open Space Coordinator with preliminary property negotiations and provide resource information

CC Board of Supervisors

- Approve amendments to the Open Space Element of the Carson City Master Plan
- Authorize negotiations and purchases of Open Space by the City
- Approve Open Space Implementation plan, policies and procedures

POLICIES

Most organizations are guided by policies. Policies are "decisions made in advance". They usually address recurring issues so they don't have to be debated each time they come up. Policies help remove bias and bring predictability to the operation of an organization. Policies can be formal or informal. Organizations that operate in the public domain are usually required to develop and follow formal policies. Since Open Space has not been a domain of Carson City in the past, there are few, if any Open Space policies already established.

¹⁰ Because this position may include physical improvements and technical environmental expertise (weed control, wildlife monitoring, etc.) this position should be located within the purview of Parks and Recreation Department.

Conflicts will inevitably occur between preservation of resources and public use. To resolve these issues it will be important for the City to begin to develop and follow formal policies with regard to Open Space. In the Appendix are listed a preliminary list of policies, that will undoubtedly be refined and amended as the Carson City Open Space program matures.

This is not to suggest that Open Space will be inflexibly bound by policies. Rather, it merely assures that when a decision is made to depart from “policy”, it will do so consciously and with justification.

See the Appendix for Open Space Policies.

IMPLEMENTATION

The Open Space Advisory Committee has developed an aggressive implementation plan with short, medium and long range action steps. These action steps combined with a general five year time line are intended to focus the Committee and City staff on priorities, provide accountability to the Board of Supervisors and set a realistic expectation level within the community for implementation of the Open Space Element to the Master Plan.

SHORT RANGE ACTION STEPS (ADOPTION OF PLAN TO TWO YEARS)

- Recommendation 1:** Adopt the Open Space Plan as an Element of the Carson City Master Plan.
- Lead Responsibility:** O.S.A.C. / Community Development Department
- Recommendation 2:** Formally assign responsibilities for Open Space management to the Parks and Recreation Department. Continue to use existing staff of Parks and Recreation Department and Community Development Department to implement the Open Space program for the first year. Assign responsibility for Open Space sub-tasks that will affect other City departments. Establish annual goals and accountability criteria.
- Lead Responsibility:** O.S.A.C. / Parks and Recreation Department /Community Development Department
- Recommendation 3:** Identify key parcels for conservation easements / land acquisition for the first two years of the program. Protecting the City's visual backdrop, the irrigated agricultural lands and the Carson River corridor should be the highest priority initially. Follow steps in Land Protection Strategy.
- Lead Responsibility:** O.S.A.C.
- Recommendation 4:** Develop a coordinated City / O.S.A.C. review process for developers inquiring about potential impact of Open Space on their property. Use the City's Development Standards and brochures to communicate with the public and developers. Establish these standards as part of City policies, guidelines or ordinances to be developed subsequently to the adoption of this plan.
- Lead Responsibility:** Community Development Department / Planning Commission
- Recommendation 5:** Analyze feasibility of bond issue if necessary to purchase initial parcels.
- Lead Responsibility:** O.S.A.C. / Parks and Recreation Department / Finance Department

Recommendation 6: Assign individuals on the OSAC to assist with negotiations for real estate acquisitions. Assure those persons and key city staff who are conversant with all of the potential acquisition tools. With input from City Attorney, establish procedures for contact with potential property owners.

Lead Responsibility: O.S.A.C. / City Manager / City's Attorney Office / Parks and Recreation Department / Community Development Department

Recommendation 7: Conduct a series of neighborhood meetings with the public to identify "linkage" properties on the valley floor for land acquisition / easements. Use Carson City Bicycle System Plan and Eagle Valley Trail System as basis for implementation.

Lead Responsibility: O.S.A.C. / Parks and Recreation Department

Recommendation 8: Continue to actively monitor and participate with the U.S.F.S. and B.L.M. in the planning process and land trades, exchanges and disposals for the public lands managed by these Federal agencies within Carson City.

Lead Responsibility: Community Development Department / Parks and Recreation Department / O.S.A.C.

Recommendation 9: Explore the feasibility of entering into a Memorandum of Understanding with the U.S.F.S., B.L.M., Natural Resources Conservation Service, U.S.G.S., and Nevada Division of Wildlife wherein they agree to provide specialized expertise needed in order to analyze land acquisition proposals.

Lead Responsibility: O.S.A.C. / Parks and Recreation Department / Community Development Department

Recommendation 10: Compile a list of "essential resources" including partnerships with American Land Conservancy and establishment of a Land Conservation Trust.

Lead Responsibility: O.S.A.C. / Parks and Recreation Department / Community Development Department

Recommendation 11: Supplement the Hillside zone district, especially for the 15% to 33% slope category with design guidelines. The design guidelines will provide recommended suggestions for site layout, hillside engineering principles, architecture, construction materials and methods and best management practices. These guidelines will be directed toward conserving Open Space and/or minimizing project impacts to Open Space values on hillsides.

Lead Responsibility: O.S.A.C. / Community Development Department / Development Engineering

Note: The development approval process can be used to effectively conserve onsite resources and maintain connectivity in wildlife habitat and riparian areas, while remaining "density neutral". This option is implicit in the

existing Hillside zone district. Clearer, explicit direction in how it can be applied will make it a more viable choice for landowners, developers, and builders.

Recommendation 12: As part of future master plan developments or amendments to the Boundary of Urban Services or “Blueline”, require the dedication of Open Space resources that have high value to the Open Space system. Develop specific criteria for evaluating areas as additions to the City’s Open Space system and applied in the master plan.

Lead Responsibility: Community Development Department/O.S.A.C.

Recommendation 13: Develop a non-profit “Friends of Open Space” organization and volunteer program to increase the public’s awareness of Open Space issues. Promote a volunteer work force for clean up days on City Open Space and resource management restoration projects

Lead Responsibility: O.S.A.C.

Recommendation 14: Conduct semi-annual joint meetings of the Open Space Advisory Committee and the Carson River Advisory Committee to discuss key land conservation easements or land acquisitions along the Carson River which would accomplish goals of the Carson River Master Plan and the Open Space Element of the Master Plan.

Lead Responsibility: O.S.A.C. / Carson River Advisory Committee / Community Development Department/ Parks and Recreation Dept.

Recommendation 15: Work with Carson City Property Management Committee and City Departments to identify city-owned lands that have natural value for use as Open Space. Pursue the protection of those lands by deed restrictions, and their public use subject to specific conditions and criteria.

Lead Responsibility: Open Space Coordinator / O.S.A.C. /Community Development Department

Note: To evaluate land disposal requests and recommendations from the Property Management Committee for approval or disapproval; Parks and Recreation to use and maintain if the property is designated Open Space. Consider lands that have a demonstrable natural significance or value based on the purposes and selection criteria set forth in the plan. City owned land placed in Open Space status would be the responsibility of the Parks and Recreation Department.

MEDIAN RANGE ACTION STEPS (TWO TO FOUR YEARS)

Recommendation 16: Review the need to designate an Open Space Coordinator and to re-assign Open Space.

Lead Responsibility: Parks and Recreation Department / O.S.A.C.

Note: With the approval of O.S.A.C. the Open Space Coordinator position would receive half time funding through the Quality of Life Initiative - Open Space Funds.

Recommendation 17: Establish standards for Open Space improvements: fencing, signage (identity, regulatory).

Lead Responsibility: Parks and Recreation Department

Note: Actual construction (i.e. restrooms, trails, etc.) will be administered by the Parks and Recreation Department.

Recommendation 18: On a consultant basis hire GIS firm to maintain and update the Open Space GIS map system as a public information resource. Discuss the feasibility of moving the Open Space mapping needs and requirements into the City' structure by using Information Service for creation of maps and drawings.

Lead Responsibility: O.S.A.C. / Parks and Recreation Department / Information Services

Note: The information developed for the Open Space Plan needs to be refined / expanded and then made available as a central information reference for Open Space resources for the community. The maps could be used to educate property owners about the resources on their land. The data could also be used by land trusts in pursuing voluntary conservation options with property owners, by developers in preparing master plans, development plans, and subdivision plats, and by planners in applying land development policies and regulations pertaining to Open Space conservation.

Recommendation 19: Develop basic knowledge among key O.S.A.C. members and city staff of appraisal techniques and land values in relation to proposed Open Space properties.

Lead Responsibility: O.S.A.C. / Open Space Coordinator/ Parks and Recreation Department / Community Development Department/ Assessors Office

Recommendation 20: Adopt the Open Space Plan as the standard of reference for review of Open Space designations in master plans submitted for amendment.

Lead Responsibility: Community Development Department / Open Space Coordinator

Note: Require those master plan amendments to be reviewed for consistency with approved citywide plans, including the Open Space Plan.

Recommendation 21: Develop programs to increase awareness of the tax and estate planning benefits of donations of land and conservation easements. Enlist aid of Nevada nonprofit land trusts in the effort.

Lead Responsibility: O.S.A.C. / Open Space Coordinator

Note: Awareness of the benefits of conservation easements will broaden the options for private landowners and allow the City to tailor more creative approaches to conserving specific areas.

Recommendation 22: On a regional basis, work with surrounding counties to coordinate Carson City's Open Space goals with their adjacent land uses and visual backdrops.

Lead Responsibility: Community Development Department/ Open Space Coordinator

LONG RANGE ACTION STEPS (FOUR TO FIVE YEARS)

Recommendation 23: With the recommendation of O.S.A.C. and approval of the Board of Supervisors, the Parks and Recreation Department would hire an Open Space Manager to be responsible for continued development of the Open Space Program and management of Open Space properties.

Lead Responsibility: Parks and Recreation Department / O.S.A.C.

Note: The assumption at this point is the Open Space Program has matured and the City has acquired property that needs to be managed. The Open Space Manager would be a full time position and would receive funding from the Quality of Life Initiative - Open Space Funds

Recommendation 24: Collect Open Space GIS Mapping and Resource Information from Gnomon, Inc. City to maintain and update Open Space mapping resources for public information resource and property management.

Lead Responsibility: Open Space Manager / Informational Services

Recommendation 25: Prepare for future review and update of the Open Space Element to the Master Plan required after five to seven years after adoption of plan.

Lead Responsibility: Open Space Coordinator/ Community Development Department

O.S.A.C. LOW PRIORITIES ISSUES

Recommendation 26: Conduct an analysis of requirements, and costs vs. benefits of setting up Purchase of Development Rights (PDR) and Transferable Development Credits (TDC) systems to preserve Open Space. Implement if feasible.

Lead Responsibility: Community Development Department / Open Space Coordinator

Recommendation 27: Continue to monitor and update existing soil/geology information and study their relationships to more precisely identify soil types and locations that are optimum for water infiltration (watershed/wellhead aquifer recharge). Compile data using existing City and U.S.G.S. information. Protect these areas by ordinance.

Lead Responsibility: Open Space Coordinator / Water Utilities Department

Recommendation 28: Continue to monitor and update existing information on natural areas and study this information to more definitively document significant wildlife and vegetation habitats and other resources, etc.

Lead Responsibility: Open Space Coordinator