



Memorandum

To: Planning Commission
From: Thomas Dansie, Director of Community Development
Date: April 28, 2023
Re: Continued Discussion Regarding Open Space Preservation Planning

Based on the Commission's discussion in previous work meetings staff has developed the following draft outline of an Open Space Plan for the Town. The Commission should review this draft outline and provide feedback to staff.

TOWN OF SPRINGDALE OPEN SPACE PLAN

The Town of Springdale is surrounded by thousands of acres of protected open space in Zion National Park. The Town's setting nestled in the bottom of a canyon surrounded by open space is a critical contributor to the Town's character and identity.

In its General Plan, the Town of Springdale has identified the need to preserve additional open spaces within the Town boundaries. These preserved open spaces will complement the protected open space in the Park. Open space in the Town can protect viewsheds, provide connections from the protected open space in the Park to the Virgin River for wildlife, and enhance community character. As directed by the General Plan, the Town will actively seek to preserve open space within the community to achieve these goals.

Open space preservation requires financial resources). It is not feasible for the Town to protect all the open space that could be important in achieving the Town's open space goals. Therefore, the Town must be strategic in prioritizing which properties to pursue for open space protection. Further, the Town must be creative in the tools used to preserve open space. This plan outlines the priorities the Town should consider when selecting properties for open space protection. It also suggests tools the Town can employ in preserving open space.

Priorities for Open Space Preservation

In deciding which properties to pursue for open space protection the Town of Springdale will use the following selection criteria. These criteria are a guide to help the Town Council evaluate where to expend resources in preserving open space. Of course, availability of land and the willingness of property owners to partner with the Town in protecting open space are other determining factors that must be considered when selecting open space protection candidates. Thus, these criteria are general guidelines for the Town to use in prioritizing properties which must be balanced with other factors such as available Town resources and the willingness of landowners.

Priority areas:

The Town will seek to preserve open space in the following areas, listed in order of decreasing priority:

1. **Hillsides:** Hillside areas above the Town provide important scenic vistas. The General Plan encourages the Town to preserve hillside areas in order to protect important community viewsheds. Hillsides also provide habitat for wildlife and native vegetation. The Town will seek to protect these resources by preserving large (minimum of two acres), contiguous property located above the Valley floor. Hillsides are particularly valuable as open space if they are generally undeveloped and undisturbed, contain steep slopes or ridgelines, have abundant native vegetation, and are part of a larger viewshed linked to views of Zion canyon and the major named sandstone peaks and ridges in Zion National Park.
2. **Riparian areas:** The Town is fortunate to have a relatively healthy river running the length of the community. Riparian areas located along the Virgin River provide habitat for wildlife. Healthy and protected riparian areas are an important part of a healthy and well functioning river channel. The Town will seek to preserve riparian areas near the Virgin River, particularly those that are near an unaltered and undisturbed section of the river, or near a stretch of the river that could be rehabilitated and restored to its natural state.
3. **Pastures, orchards, and other agricultural areas:** An important part of the Town's heritage centers on agriculture. At one point in its history the Town was full of fruit orchards, pastures for grazing cattle, gardens, and other agriculture. Very little of that agricultural heritage remains in the community. In order to preserve the influence of the historic agriculture in the community, and to help preserve the Town's agricultural heritage, the Town should seek to protect orchards, pastures, and other agricultural use areas. According to the General Plan, these areas best contribute to the Town's character when they are located adjacent to and in prominent view of State Route 9.
4. **Other ecologically important areas:** In addition to hillsides and riparian areas mentioned above, the Town has other lands that are an essential part of the ecology of the area. These include wildlife corridors, wildlife habitat (such as critical Desert Tortoise habitat), wetlands associated with springs, and other similar areas. In order to protect the health of the Town's ecology the Town should preserve these sensitive areas.
5. **Park-like areas:** Town parks and other areas that have been developed with landscape improvement and which remain mostly devoid of buildings and structures can provide important spaces for community gathering, recreation, and outdoor activity. These spaces should be protected to provide space for community members to enjoy. This will enhance the quality of life for residents.

Property Characteristics:

In addition to considering the location of open space candidate properties, the Town should also evaluate the characteristics of the property itself. Good open space candidates will have the following property characteristics.

1. **Visibility from SR9:** The viewshed from SR9 is critically important to the Town's character. The view from SR9 establishes the overall feel for the Town for both residents and visitors. Open space that is visible from SR9 will have more of an impact on the overall community character and appearance than open space hidden from SR9. Open space candidate properties should therefore be highly visible from SR9.
2. **Size:** Generally, the larger the size of an open space candidate property the better. In all cases the property should be large enough to fill its intended purpose. Hillside properties may need to be five, ten, or more acres in area to have a meaningful impact. On the other hand, orchard properties on SR9 can be much smaller to accomplish their intended purpose.
3. **Connectivity:** Connecting open space properties into a larger open space network multiples their impact. The Town should give priority to open space candidates that are contiguous to other protected open space in order to create an open space network.

Open Space Preservation Strategies

The Town should consider the following strategies to protect open space in the community.

Purchase of Development Rights

The most effective way to protect open space is for the Town or a conservation organization to purchase all or a portion of the property. Property ownership allows the Town to prevent all future development on the property. The Town should seek to acquire fee simple ownership of open space candidate properties whenever possible. However, fee simple purchase of property may be cost prohibitive in many situations. The Town may be able to purchase the development rights from a property owner, leaving ownership and other property rights in control of the owner. A PDR program involves the Town purchasing the development potential on a property. The property owner continues to own the property, but forgoes the opportunity to develop it in the future. Once the development potential is purchased by the Town (or other conservation organization) that development potential is permanently removed from the Town. In order to permanently protect the property as open space the Town (or other conservation organization) would need to place a deed restriction on the property to ensure it is not developed in the future.

Hillside Protection Zone

In order to preserve open space in the foothills, the Town could establish a new Hillside Protection Zone. Properties meeting the location and characteristic criteria for hillsides listed above could be placed in this zone. The zone could have a larger minimum lot area, reduced building size allowances, and other development standards intended to limit the amount of development on the property and achieve the Town's open space goals. The Commission should be aware this strategy will not prevent all development in the hillside areas. It will reduce the amount of development potential in these areas. Also, any lots already existing in this zone that do not meet the new larger lot size requirement would be legal non-conforming lots, meaning they could still be developed even if they are undersized for the new zone.

Transfer of Development Rights

A TDR program preserves open space by allowing the development potential of that property to be transferred to another property in the Town. A TDR program would require the Town to identify areas that should be targeted for preservation. These are termed “sending” areas. The Town would also need to identify areas where additional development (over what the current base zoning allows) could be accommodated. These are termed “receiving” areas. The development potential of properties in sending areas can be transferred to receiving areas. Once the ordinance establishing the sending and receiving areas is established, the actual transfer of the development rights from a property in the sending area to a property in the receiving area is a voluntary transaction between the owners of both properties. A deed restriction is then placed on the property in the sending area to ensure the property is not developed in the future. A TDR program allows the Town to facilitate the preservation of important property, and also necessitates that some properties in the Town are developed at a more dense and intense scale than currently allowed under the existing zone.

Note: in the last meeting the Commission asked staff to research whether a TDR program could have a legislative component. For example, the transfer of development rights would only be allowed through a zone change process applied to both the sending and the receiving properties. In this way the Town would have more discretion on the specific areas where development rights are transferred. Staff found two research analyses that addressed this question. Both are somewhat dated (2007 and 2010). However, the legal analysis contained in both remains valid.

- a. A 2007 study by Margaret Wells (Resource for the Future) and Virginia McConnell (University of Maryland) identified several TDR programs that included a legislative or discretionary component. They found that these programs were generally less successful and utilized less often than traditional TDR programs which are administrative in nature.*
- b. 2010 Performance Utah Audit of County and Municipal TDR Use by the Utah Legislative Auditor General reviewed TDRs in five Utah communities. Four of these used a traditional administrative TDR program. The fifth, Summit County, used a TDR program which included legislative discretion. The audit report found that was “problematic” and concluded administrative TDR programs were more legally supported and much less susceptible to misuse.*