

Alpine City

Recommendations for Preserving Lambert Park

Alternative Recommendation No. 1, General Plan and Land Use Ordinance Restrictions Combined with Deed Restrictions:

What this would look like.

1. General Plan Amendment. The City's general plan would be amended to include more specific statements about the preservation of Lambert Park for public purposes only. These statements could be part of the general plan's statutorily required or permitted land use element, environmental element, and conservation element. *See Utah Code Ann.* § 10-9a-403(2)(a)(i), (3)(a), and (3)(c). The general plan would envision the use of the park for public purposes only, with land use restrictions on residential, commercial, or industrial development within the park. In order for such restrictions to be repealed or modified, a general plan amendment would be necessary.

2. Land Use Ordinance Amendment. The City's land use ordinance would be amended to create a public use or open space zoning district, in which only certain public or private uses are permitted. *See, e.g.,* Salt Lake City Code, Chapters 21A.32.070 (public lands district), 21A.32.100 (open space district), and 21A.32.105 (natural open space district); Holladay City Code, Chapter 13.46 (public use district); Sandy City Code, Chapter 21-10 (open space district). The zone would specify permitted and conditional uses so as to define and allow or disallow certain public and quasi-public uses like churches, cemeteries, parks, and schools.

3. Deed Restrictions. The City would record restrictive covenants against the Lambert Park property. Those covenants could be simple or elaborate. The covenants would run with the land and be binding upon any purchaser or other successor in interest of the property. The procedure for amending or repealing the covenants would be specified in the recorded document itself. For example, the covenants could require the recommendation of the planning commission and the vote of a supermajority of the council for that purpose. Nevertheless, since this would essentially amount to a contractual obligation between the City and itself, a majority of the council could presumably repeal the requirement and revise the restrictive covenants before or after a conveyance of the property to a third party.

Procedure for Accomplishing this Recommendation.

1. Notice to each affected entity (municipality, county, or service district) of intent to prepare a *comprehensive amendment* (if applicable) to the general plan. *Utah Code Ann.* § 10-9a-203.

2. Notice of the first public hearing (required before the planning commission, but recommended before the city council as well) and notice of each public meeting for *any* modification of the general plan or land use ordinance. *Utah Code Ann.* §§ 10-9a-204(1), 10-9a-205(1). The public hearings for recommending the general plan amendment and land use ordinance amendment could be held at the same public meeting.

3. Positive recommendation from the planning commission for a general plan amendment and land use ordinance amendment after a public hearing. *Utah Code Ann.* §§ 10-9a-404(2), 10-9a-502(1)(d).

4. Adoption of the general plan amendment and amendment to the land use ordinance by the city council. *Utah Code Ann.* §§ 10-9a-404(3), 10-9a-502(2)(b).

5. Deed restrictions or restrictive covenants are not specifically mentioned in LUDMA as land use regulations requiring the foregoing procedure for adoption. However, they would fit the definition of a “legislative decision enacted by . . . resolution . . . that governs the use or development of land.” *Utah Code Ann.* § 10-9a-103(33). Therefore, the imposition, modification, or repeal of such restrictions would necessarily follow the same procedures as for a land use ordinance or zoning map amendment.

Summary of Advantages and Disadvantages.

Conservation Option	Advantages	Disadvantages
<p>General Plan and Land Use Ordinance Restrictions. This option involves imposing more specific development restrictions in the general plan, and adding a public use zone permitting recreational uses and prohibiting residential, commercial, or industrial uses.</p>	<ol style="list-style-type: none"> Two levels of protection and public processes required to modify restrictions in the general plan and land use ordinance. Relatively quick and inexpensive to implement. 	<ol style="list-style-type: none"> If required public processes are followed, restrictions and zone designations can be repealed relatively easily if city council is so inclined. No assurance, other than political will, that restrictions will remain in place in perpetuity.
<p>Deed Restriction. Restricts residential, commercial, and industrial development on park property in the event of a sale. Could be recorded now or included in a deed at the time of sale.</p>	<ol style="list-style-type: none"> Restrictions can be tailored to specific parcels within the park. Relatively quick and inexpensive to implement. 	<ol style="list-style-type: none"> City council may repeal or modify restrictions relatively easily. No assurance, other than political will, that restrictions will remain in place in perpetuity or even at the time of sale.

Alternative Recommendation No. 2, Conservation Easement Limited by Time or Scope:

What this would look like.

The City would grant a conservation easement to a qualified third party for a term of [redacted] years. The term would be automatically renewed unless either party notified the other party of its intent not to renew within [redacted] years before the term expires. The City would prepare the formal easement document for recording. It would be a relatively simple document with broad restrictions against residential, commercial, and industrial development of the

Lambert Park property. This would allow the City to use the property for public purposes as the city council deems appropriate. Alternatively, the City could impose varying restrictions on different parts of the park property. The easement holder would be responsible, at its own expense, to defend the City against any encroachment on the easement or violation of the easement restrictions.

Procedure for Accomplishing this Recommendation.

1. The appropriate easement holder should be selected. The City has some experience with Utah Open Lands, but other qualified entities such as The Nature Conservancy could also be considered.

2. Since approval of the easement would be a legislative decision involving restrictions on land use, the planning commission should review the easement and make a positive recommendation regarding its execution. The city council may adopt, modify, or reject the recommendation. The procedures outlined above for notice and public hearings regarding a land use regulation should be followed.

3. The City may or may not attach a management plan for Lambert Park to the recorded easement document. If the City desires to incorporate the management plan in the easement document, the plan would have to be formulated and presented to the city council for approval along with the easement. The easement could provide for modification of the management plan without nullifying or diminishing the easement. Alternatively, the management plan may be adopted separately, in which case modifications to the plan may be made more frequently as needed if the council so desires.

Summary of Advantages and Disadvantages.

Conservation Option	Advantages	Disadvantages
<p>Conservation Easement Limited by Time or Scope. City grants a conservation easement to a third party for a portion of the park or for a term of years. City retains ownership, control, and management responsibility for park, subject to certain restrictions.</p>	<ol style="list-style-type: none"> 1. Places conservation-oriented restrictions on the use of the park property beyond the reach of the city council, at least for a term of years. 2. Could place easement on development-critical areas only rather than entire park property. 3. Could limit restrictions to those against residential, commercial, and industrial development and take Box Elder Drive out of the equation. 4. Easement limited to a term of years, renewable 	<ol style="list-style-type: none"> 1. Not necessarily permanent, depending on limits of restrictions. 2. Process not entirely quick or inexpensive. PC and city council public hearings required or recommended. 3. Management plan would be recommended, either attached to or apart from the easement document, which may add to implementation delay and cost.

	<p>automatically or if the parties so agree.</p> <ol style="list-style-type: none">5. Could include easement termination triggers for flexibility.6. City retains control and management responsibility, subject to use restrictions.7. Perhaps easier for residents to digest an easement for a term of years rather than a conveyance of property rights in perpetuity.	
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