

**NEIGHBORHOOD TRAILS PROCESS**  
**TESTIMONY ON AMENDMENTS ONLY**

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

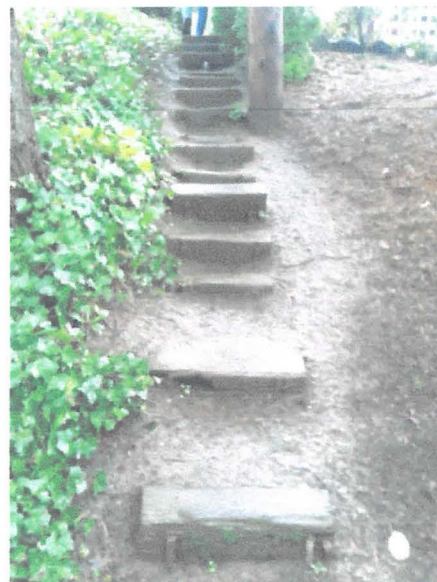
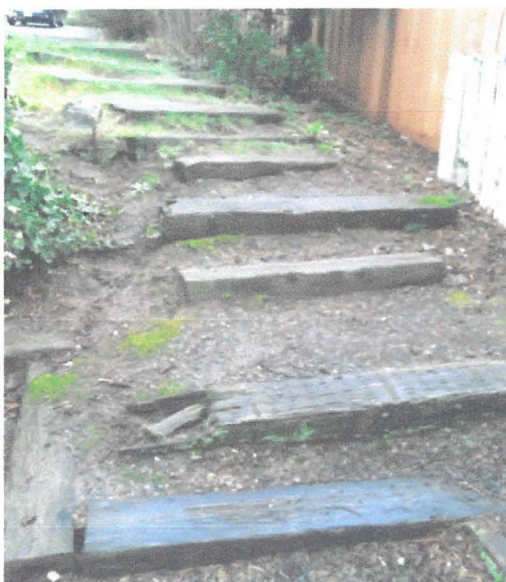
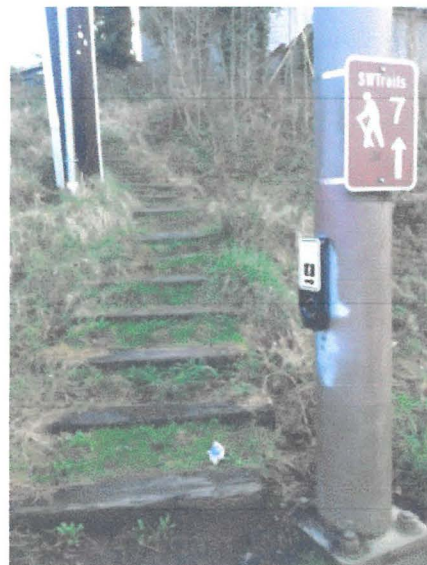
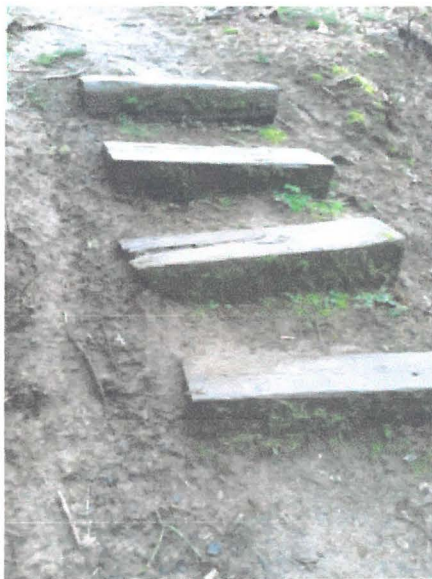
| NAME (print)       | ADDRESS AND ZIP CODE    | Email                  |
|--------------------|-------------------------|------------------------|
| ✓ John Gibbon      | 9822 SW. Quail Post Rd. | jgorygun@aol.com       |
| ✓ Elizabeth Durcan | 2435 SW seymour DR      | medurcan333@gmail.     |
| ✓ GLENN BRIDGER    | 940 SW Vincent Pl       | gbridger@telexport.com |
| ✓ DON BAACK        |                         |                        |
| ✓ HUGH MCGAVICK    | 11660 SW LANCASTER RD   |                        |
|                    |                         |                        |
|                    |                         |                        |
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|                    |                         |                        |
|                    |                         |                        |

Testimony of Elizabeth Duncan  
Resolution #1149  
PBOT's Community Initiated Trails Process  
November 4, 2015

Good Morning. My name is Elizabeth Duncan and I testified on October 14 concerning the liability of adjoining property owners along existing, illegal trails.

PBOT's amendments do not propose any protections for property owners who live along existing trails and that is **absolutely reprehensible**.

I'd like to ask each of you if you would want to be liable for a trail that is published on the City's walking map and looks like this:



**No one in their right mind would knowingly take on that sort of liability.**

This is not a theoretical problem – Walkers are being injured on these trails. One lady in my neighborhood died from a brain injury she sustained when she fell down a steep, illegal trail with no handrail.

At a SW Trails meeting a few months ago Don Baack mentioned that there have been 4 or 5 serious injuries that *he was aware of*. This makes one wonder how many other injuries have occurred.

With the present condition of these existing trails, the fact that walkers are being injured when using these trails should not surprise you.

The important point is that this Council has the opportunity to fix the mistakes of the past.

Don't allow PBOT to move forward and totally ignore the hazardous condition of existing trails.

This is a plan that I suggest:

**First:** Require SW Trails to assume all liability for all existing trails.

\*They built them illegally without the required permits,

\*They are proud of them and talk about how marvelous their trails system is at every opportunity,

\*Let SW Trails assume full liability for them in a written agreement with the City.

**Second,** have a city engineer actually go out and walk each and every trail and document conditions deemed unsafe to the public. Realistically, this shouldn't take more than a few days

**Third,** follow the same Maintenance provision detailed in PBOT's proposed Trails plan at page 3: If the City Engineer deems the conditions to be unsafe for the public, PBOT shall formally inform the group responsible for maintenance of the deficiencies and if they are not resolved in the time frame set forth in the maintenance agreement, PBOT may close the trails.

But one caveat: Follow this procedure for existing trails first. Don't allow SW Trails to use any of its resources to build new trails when it should be fully responsible for fixing the hazardous trails that currently exist.

PLEASE do the responsible thing and **do not pass this trails plan before you today** until it is amended to cover the existing trails and protect walkers who use these dangerous trails and the innocent property owners currently liable for them.

Thank you.

Elizabeth Duncan  
Attorney at Law  
2435 SW Seymour Dr.  
Portland OR 97239  
503-313-4648

## Testimony on the amendments to the Pilot Trails Policy

From Don Baack, 6495 SW Burlingame Place, Portland I chair SWTrails PDX and am speaking on their behalf.

We have asked that **ALL** property owners adjacent to unbuilt rights of way be notified of their responsibility to keep the rights of way open for public use. We also asked that they be completely informed of their liability and responsibilities for the rights of way along with an explanation of how the new state law relating to liability if a non profit builds or maintains a trail with City of Portland authorization.

This is important as we have recently observed efforts to block rights of way and intimidate walkers using the rights of way. **We fear more property owners will be led to do the same if they are completely informed of their rights and responsibilities.**

We are also very concerned about PBOT's apparent blatant violation of Title 29 which reads:

Portland City Code 29.20, Property Nuisances, Section K requires:

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**K. Obstructions to sidewalks, streets, and other rights of way.** Keep the adjacent rights of way free of anything that obstructs or interferes with the normal flow of pedestrian or vehicular traffic, **unless specifically authorized by permit or ordinance to do otherwise.** This responsibility includes, but is not limited to, removal of earth, rock, and other debris, as well as projecting or overhanging bushes and limbs that may obstruct or render unsafe the passage of persons or vehicles. This responsibility also includes, but is not limited to, the obligation to maintain all rights of way referenced in this subsection to meet the following minimum clearances:

**1. Sidewalks. .... 2. Improved streets. ....**

**3. Alleys and unimproved rights of way.** All alleys, unimproved streets, and other public rights of way must be clear of obstructions that may hinder the normal flow of traffic or render the right of way unsafe for its current and necessary use.

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Several years ago, before the passage of the 2011 state law, Christine Leon wrote to a Hillsdale property owner about an unbuilt right of way. Among other things the letter stated that the right of way could not be blocked.

Recently, Ms Leon was contacted about "unblocking" the same right of way. We were told we needed to contact the Bureau of Development Services, BDS, which in

in charge of compliance for such issues. We requested the blockage of this right of way be removed. BDS posted the property to have the blockage removed only to have Rick Eisenhauer tell them to pull their posting, saying in effect that the trail has not gone through the trails process so there was no reason to unblock the right of way.

Mr Eisenhauer **apparently views the trails policy as an authorization to allow rights of way to be blocked.**

This is not our understanding. We want the City Council to make that very clear.

If permits are going to be issued allowing the blockage of rights of way, the process to do so should have a robust public involvement process akin to a street vacation. It should not be done the whim of a city bureaucrat. In addition, until we made several inquiries, we had no knowledge of this action having taken place.

We have another similar situation where the adjacent property owner has built a which encroaches on a major portion of an unbuilt right of way, to the extent that walkers are forced to walk in in appropriate places on the existing right of way.

A letter requesting the encroachment be removed has been ignored by PBOT, their response being if a trail is not authorized via this proposed policy they will allow the encroachment to stand. This is akin to a street vacation with no public process. The land owner get exclusive use of the land with no process cost other than the minor encroachment fee. He pays no taxes.

Again, we seek a robust public process that will provide clear criteria for issuing an encroachment permit that inhibits the public's use of the right of way, ample opportunity for the public to comment and a clear appeals process.

**When the City of Portland ignores its responsibilities, it leads to citizen distrust of the City. Blatant actions such as the above causes unnecessary conflict in the community. It need not happen if the city follows its own rules.**

Don Baack

**Parsons, Susan**

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**From:** Rick Kappler <rickk@sunsetforest.com>  
**Sent:** Tuesday, November 03, 2015 2:38 PM  
**To:** Council Clerk – Testimony  
**Subject:** Trails Process Amendments

In contrast to adjacent neighbors having the power to veto future, new trails, I support the 4<sup>th</sup> amendment to the trails policy:

Amendment #4. Clarification of the role of PBOT's Director and the advisory nature of the Trails Process (proposed by Commissioner Fritz). The basis of this amendment was submitted by multiple residents' testimony. At the end of the "Background" section, add the following text: "It is important to remember that the Director of Portland's Bureau of Transportation has the ultimate say in deciding the best use of specific ROWs. This process was developed to provide a consistent method for those interested in converting an unimproved ROW into a trail to demonstrate need, community desire, and technical feasibility for a trail to the Bureau. The ability to complete the steps outlined in the process will be the primary determinant in whether or not PBOT will allow a group to move forward with building a trail. With that being said, this process should be considered "advisory," as the PBOT Director has the final authority on how bureau owned ROWs are used." This amendment was proposed by Commissioner Fritz, inspired by testimony from individuals who believed the process implied that neighbors could "veto" the approval of an unimproved ROW as a trail.



37163 *g h 2*

NEIGHBORHOOD TRAILS PROCESS

IF YOU WISH TO SPEAK TO CITY COUNCIL, PRINT YOUR NAME, ADDRESS, AND EMAIL.

| NAME (print)                      | ADDRESS AND ZIP CODE                 | Email                        |
|-----------------------------------|--------------------------------------|------------------------------|
| <i>maripat</i><br>✓ Margat Hensel | 2911 Orchard Hill Pl. 97035<br>97219 | henselm@comcast.net          |
| ✓ Dale Sherbourne                 | 2134 SW Palatine St                  | daleedwardsherbourne@mac.com |
| ✓ Doug Rogers                     | 4675 SW Cullen Blvd. 97221           | rdouglasrogers@msn.com       |
| ✓ Marnie Fitzgerald               | 10537 SW 64 Dr 97219                 | fitzgerald.marnie@gmail.com  |
| ✓ Eric Sorenson                   | 1160 SW Cornado 97211                | eric.sorenson@gmail.com      |
| ✓ Peter F Fry                     | 2153 SW Main #105 97205              | peter.e.hinleyfry.com        |
| ✓ Elizabeth Duncan                | 2435 SW Seymour Dr 97239             | meduncan333@gmail            |
| ✓ David Barberis                  | 2435 SW Seymour Dr 97239             | meduncan333@gmail            |
| <i>Ivy</i><br>✓ Ivy Stovall       | 6814 N Saint Louis Ave 97203         | ivystovall@yahoo.com         |
| ✓ Rick Nitti                      | 1405 SW Curby St. 97219              | rnitti@nhpx.org              |
| Tovey Barron                      | 4486 SW Washington 97239             | swelljibes@gmail.com         |
| ✓ Trudi Raz Frengle               | 7206 SW 21 Ave 97219                 |                              |





**Moore-Love, Karla**

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**From:** Julia Harris <juliaharrispx@gmail.com>  
**Sent:** Wednesday, October 14, 2015 3:46 PM  
**To:** Council Clerk – Testimony  
**Subject:** Community-Initiated Neighborhood Trials Process

My intent was to testify in person today at the hearing on the Community-Initiated Neighborhood Trials Process, but couldn't attend. I would, however, like my views considered. The new policy on urban trails should include:

- Allow Neighborhood associations to approve trails in their neighborhood
- Clear language defining the responsibilities and rights of the adjacent property owners
- Information on how property owners can arrange for a nonprofit to maintain the trail
- Enforcement mechanisms if an adjacent property owner has encroachment

Thank your your consideration.

Julia Harris  
4045 SW Council Crest Drive  
Portland, OR 97239

**From:** Kelly Baker <kbaker@infinitycountertops.com>  
**Sent:** Wednesday, October 14, 2015 3:45 PM  
**To:** Council Clerk – Testimony  
**Subject:** [User Approved] FW: NEW Trails Request for Moratorium Vote By City Council

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**From:** Kelly Baker [mailto:kbaker@infinitycountertops.com]  
**Sent:** Wednesday, October 14, 2015 3:03 PM  
**To:** 'cctestimony@portlandoregon.gov"  
**Subject:** NEW Trails Request for Moratorium Vote By City Council

Attn Portland Oregon Council

My family lives at 2824 SW Taylors Ferry in Portland

1) We support the **Community Initiated Trails Process** policy as updated August 10, 2015 including leaving the language intact as written regarding the approval process for ROW's not identified as Proposed Urban Trails in the approved City transportation plan.

Given the need to repair Portland's streets and address pedestrian safety issues, especially in East Portland and on several public roads close to our neighborhood, the City Council (PBOT and Commissioner Novick) as taxpayers we expect the Council to FULLY exercise fiscal responsibility and sound stewardship of public funds.

**PLEASE DO NOT use our taxpayer dollars to fund (via staff time or partnership dollars) to develop, publish and create signage for any NEW COMMUNITY-BUILT TRAILS .**

**The Council should vote to place a MORATORIUM on any new community-built trails until:**

2) **Current community built trails should be brought up to safety standards, with priority given to those designated as part of the "Safe Routes to Schools" system.**

AFTER existing trails are brought up to safety standards, and a plan for maintaining the existing trails should be developed and then implemented.

Then Council should move the responsibility for overseeing community initiated, volunteer created and maintained Urban Trails from PBOT to Parks and Recreation. Most existing trails are used by hikers/walkers as an enjoyable activity for good health and fellowship, not to walk to work or school.

We respectfully request the Council to adopt the Community-built Trails Process policy as updated August 15, 2015, and place a moratorium on further development or approval of new trails **until current trails are SAFE and MAINTAINED, of which there are so many that are unsafe overgrown, unsightly.**

- 3) We **also** respectfully request that current trails are fully reviewed and analyzed to the extent they are actually used. As taxpayers we request knowing what percentage of Portland's taxpayers/citizens are using the trails rather than the increased transients we see that are roaming our neighborhood. We know that the proposed urban trails are being proposed by a small, vocal group of citizens who want to push through "wants" at the tax payers cost without proper assessment !!!!!
- 4) We also would like to point out that we really question the use of our tax dollars to add a walking trails
- a) the proposal specifically calls for adding a trails close to our property which is right off the freeway.
  - b) add a walking trail heightens our safety and crime issues we have recently experienced in the last couple of years as transients/homeless have taken up residence on Barbur Blvd.
  - c) we also have children as well as our neighborhood children that we are ALL responsible to take care of.

In summary :

**Please vote for a MORATORIUM on any new community-built trails until current trails are brought up to safety standards, actual maintenance has been implemented, and a true assessment is completed if there is actually a NEED for new trails by the larger population – not just a select few that are NOT tax payers.**

We respectfully ask that our concerns be taken into consideration.

Thank you

*Kelly Baker*



This email has been checked for viruses by Avast antivirus software.

[www.avast.com](http://www.avast.com)

June 11, 2015

Mayor Hales  
Commissioner Fish  
Commissioner Fritz  
Commissioner Novick  
Commission Saltzman  
Portland City Council  
City Hall  
1221 SW 4<sup>th</sup>  
Portland, OR 97204

RE: Community-Initiate Neighborhood Trails Process (Draft – June 2015)

The City of Portland Bureau of Transportation (PBOT) is developing rules for the creation and management of trails in City right-of-ways. We, the affected property owners, support trails. However, trails need to be developed professionally, with permits, and at appropriate locations.

These are our issues:

- 1) **Environmental impact**
- 2) **American Disability Act**
- 3) **Connectivity**
- 4) **Maintenance**
- 5) **Private Property**

PBOT has done a very good job and we support the June 2015 draft.

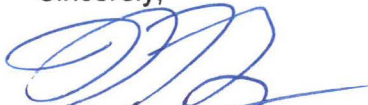
We do recommend two additional amendments.

**1) Trail Design:** The process framework dictates the Portland Park Trail B standard. This standard is not acceptable. The Trail B standard should be the exception; not the rule. Otherwise, Portland would be a violation of the American Disability Act. The Trail B standard does not require accessible trails.

**2) Trail Implementation Process:** The City needs to require a survey that delineates the right of way for each proposed trail development.

Thank you for your consideration.

Sincerely,



Peter Finley Fry

October 8, 2015

TY K. WYMAN  
Admitted in  
Oregon

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Peter Finley Fry  
Planning Consultant  
Peter Finley Fry AICP, MUP, Ph.D.  
2153 SW Main Street, #105  
Portland, OR 97205

Re: PBOT's Community-Initiated Neighborhood Trails Process  
– Most Recent Draft  
Our File No.: MCG35-1

Dear Peter:

You asked me to comment on staff's assertion that the Legislature has immunized property owners from liability that could result from the referenced process. As described below, legislation does assist landowners in this regard, but by no means confers on them complete protection for liability claims.

As background, the referenced program seeks to facilitate use of unimproved rights-of-way in the city as public trails. Staff asserts that Oregon HB 2865 (2011) grants property owners "immunity" from liability that could result from such use. This firm was not involved in the adoption of the referenced legislation. Nonetheless, given our deep history of defending tort claims made against landowners, you asked me to comment on that assertion.

Put generally, staff's memo opens more questions than it closes. Staff asserts that, under HB 2865, "personal injury . . . in the public right-of-way may not give rise to an action based on negligence" against the "the owner of abutting land." Even assuming that to be correct, it would not immunize property owners from liability.

Negligence is only one basis on which an owner may be found liable for an injury occurring on his/her property. Another basis is "strict liability," in which

Peter Finley Fry  
October 8, 2015  
Page 2


liability would be assigned against the landowners even though he/she owes the injured party no "duty of care." While a basis for strict liability is not apparent to us, we have not comprehensively researched the question.

I am particularly concerned that the trails initiative leaves landowners vulnerable to a third basis for liability in tort, "statutory liability." I suspect that most Oregon property owners do not realize that the law presumes that the adjacent fee title holder owns to the centerline of right-of-way. Thus, injuries that occur on these trails will presumably take place on the premises of the adjacent owner.

Furthermore, an owner may be found liable for an injury that occurs on a portion of his/her property situated within the public right-of-way. Consider the case of *Harris v. Sanders*, 142 Or App 126 (1996). There a local ordinance required property owners to clear leaves along their sidewalks. Harris slipped on leaves while traversing Sanders' sidewalk. She sued, asserting that Sanders was liable for her injury regardless of any negligence on Sanders' part. The court upheld the suit.

Accordingly, we see no reason to believe that HB 2865 "immunizes" property owners from injuries that may occur as a result of the trail initiative.

Very truly yours,



Ty K. Wyman

TKW:car

April 27, 2015

Sara Schooley  
Portland Bureau of Transportation  
1120 SW 5<sup>th</sup> #800  
Portland, Oregon 97204-1914

RE: Trail Rules

The City of Portland Bureau of Transportation (PBOT) is developing rules for the creation and management of trails in City right-of-ways. We, the affected property owners, support trails. However, trails need to be developed professionally, with permits, and at appropriate locations.

We continue to be concerned about the following issues:

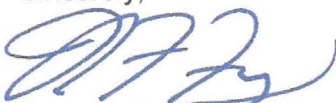
- 1) **Environmental impact**
- 2) **American Disability Act**
- 3) **Connectivity**
- 4) **Maintenance**
- 5) **Private Property**

We have three comments on the April draft.

- 1) **Trail Design:** The process framework dictates the Portland Park Trail B standard. This standard is not acceptable. The Trail B standard should be the exception; not the rule. Otherwise, Portland would be a violation of the American Disability Act. The Trail B standard does not require accessible trails.
- 2) **Step One:** At this step, PBOT should be allowed to reject an application.
- 3) **Step Five:** Each of the three classes should have the right to veto proposed right-of-way improvements; Adjacent (abutting) neighbors, Households with ¼ mile of right-of-way, and Neighborhood associations. The importance of notice and adequately ensuring that a broad range of affected/impacted residents are informed is critical to success. This ensures that the proposed pathway has wide support and does not adversely impact residents.
- 4) **Step Five and Six:** The proposed permitting process is confused. A permit for work in the public-right-of-way would be filed with PBOT. Bureau of Development Services (BDS) deals with permits in the public right-of-way only when street improvements are not standard. Then, nonstandard street design goes through design review. Otherwise all permitting in the public right-of-way is PBOT's responsibility.

The City Bureaus; including Bureau of Environmental Services (BES), PBOT, and BDS, have different jurisdictions and powers. For example; only BDS can grant fee waivers. As another example, PBOT has the power to require Performance and Maintenance Bonds. The processing of an improvement in the public right-of-way needs to be consistent with the existing regulatory framework.

Sincerely,



Peter Finley Fry



2-mp3  
Recordings

Moore-Love, Karla

**From:** whitenoyse@comcast.net  
**Sent:** Wednesday, October 14, 2015 8:33 AM  
**To:** Council Clerk – Testimony; Schooley, Sara; Novick, Steve  
**Subject:** Trails Process and Additional Commentary (Media Attached)  
**Attachments:** 151014 Additional Letter to City Council.docx; 151014 Transcript of Testimony, City Hearing re Trails Process.docx; 150626 SWTrails Discusses Strategy, Novick.mp3; 150501 NEIGHBORHOOD ASSOCIATION SAID YES.mp4

37163

Dear city council and interested parties,

**I understand this email and the attachments included will be entered into public record.**

After nearly eight years of having to deal with Don Baack and SW Trails, I feel I could write a book. But in the interest of directness and brevity, I would like to submit the attached small movie recorded last May 1st, 2015. This was during the period of time when the city was "apparently" working on a "Community-Initiated Trails Process."

Obviously, the process is of little or no concern to Don Baack, as he (along with his side kick, Glenn Bridger) have already made up their minds about their own trails process. And it's obvious that adjacent property owners have no say at all in the matter. Only the "Neighborhood Association" can make a decision about a trail!

See the attached mp4 file. If it's against your policy to download an attached movie file (only 3 Mg), then please use this link to access the clip:

<https://vimeo.com/127291099>

Password: nasaidyes

Please notice the lush greenery behind Baack & Bridger and the phone pole, at the end of the strip of grass (Which drops off to a steep embankment). That is all dead now. Poisoned this last summer with the herbicide "Crossbow" by someone apparently making a point... And remember - this is our "Good Neighbor Award" winner himself, Don Baack, bullying me in the attached movie.

Neighborhood associations DO NOT represent the residents in their regions! In Hillsdale, for example, there are around 7200 residents living within the arbitrarily drawn "border" of "Hillsdale Neighborhood." The meetings of the Hillsdale Neighborhood Association draw anywhere from a dozen to twenty or so of the same people. On rare occasions, that number may expand to several tens. One-half-of-one-percent of a population does NOT represent the the whole! Neighborhood associations **must not** be part of a trails-building decision making process, as a trail will and does alter the value of the properties adjacent to them. Actions of this type are **unlawful** for neighborhood associations to make. Residents know this as does the city council.

Also, please listen to a short recorded segment from the SW Trails Meeting of June 26, 2015. "150626 SWTrails Discusses Strategy, Novick.mp3" This segment has Baack and company discussing their proposed process for trails, not in accordance with Parks' directives:

"We've created our own way of doing things here." (:30.6)

37163

And then Don Baack's characterization of Commissioner Novick:

"Quite honestly, they want us to be on board. And if we don't buy what they've thrown at us, we can say, "we can sit on our hands for a year and watch you." Which is what we will do. And they don't want to be there. It makes Novick look really dumb. And he doesn't want to look dumb anymore. He's earned that." (1:08)

This group was aware of the recordings being made at the time, and the meeting was public.

This is the person who the city of Portland is empowering as a community leader. I sincerely hope you take a serious look at this character and the manner in which he treats those not in lock step with his agenda. We and many others have been watching him for years and keeping track of his antics. We are fed up.

David Barberis  
(Resident of Hillsdale since 1959)  
2435 SW Seymour Drive  
Portland, OR  
97239

October 14, 2015

Dear commissioners for the city of Portland and other interested parties,

**I understand that my following statement is entered as public record.**

My name is David Barberis. My family has owned the property on 2435 SW Seymour Drive since our house was built in 1959. I was raised in this house and took ownership of it in the early 1980's after the deaths of my parents. My children are third-generation original location citizens of SW Portland Oregon. For this we deserve consideration and respect.

In March of 2008 I found out that Don Baack and his SW Trails group had taken possession of a shortcut on my privately-owned property and included it in their system of "urban trails," without consulting with me, or considering my ownership rights. I discovered that the city of Portland, following Don Baack's directive, published a publicly distributed map of urban trails that included a path through my private property. I further discovered that the Hillsdale Neighborhood Association had voted to include this path (on my property) into the system of SW Trails. All of this had taken place prior to my discovery in 2008. Neither Don Baack, SW Trails, or the Hillsdale Neighborhood Association ever discussed the matter of a trail with me. I - the owner of the property they unlawfully took possession of - protested to the city of Portland. The City of Portland acknowledged that they were in error to have included the path through my private property on their map, and they upgraded the map to **exclude** the path on our property.

Don Baack did not take this very well. In fact, he came into our neighborhood - uninvited and unwelcomed - at a time when no one was at home, and destroyed and removed decades-old juniper and cotoneaster on a steep hillside below a "paper street" adjacent to us, and illegally installed creosote-infused rotting railroad ties, pounded in with rebar, in a zone where water and gas lines run. He did not get permits, or conduct any proper locates for his construction. The city of Portland found him to be negligent and directed us to remove the stairs and replant the hillside to its original state. (I have the documents if you would like to review them.)

Despite our repeated efforts over the last eight years to restore the hillside to its original state, our efforts have been thwarted by destruction of the plantings we have paid for out of our pockets. Repeated efforts on our part to restore the vegetation have resulted in trampling, tearing out, and most recently, poisoning of the vegetation on the hillside. The poisoning done this summer of 2015 was done directly above an open rain drain that dumps directly into Fanno Creek. The poison (Crossbow) that destroyed the juniper, cotoneaster and California Lilac has been introduced into Fanno Creek. There is no question who is responsible for this destruction. I invite you to see for yourself the damage that was done above 25<sup>th</sup> Avenue below the "paper street" known as Seymour Street.

I have dealt with this issue of trails incursion for the past eight years. It has impacted every facet of my family's life.

My wife and I have spent countless hours of research, correspondence, and other work that the city should have been doing to protect its tax-paying citizens.

We have had enough.

I have lived next to this "paper street" since 1960. For 55 years (over half a century) I have lived at 2435 SW Seymour Drive. Since I was around ten years old, I have maintained the 80 by 20 foot "strip" that is adjacent to my property. I have mown the grass on it, kept it weed free, and cleared any obstructions for the benefit of my neighbors and their children who use for safe play. And by "neighbors," I mean those people who live close to me who I know, share everyday life with and look out for. In other words, our true neighborhood, not the artificially concocted "Hillsdale Neighborhood" on SWNI. Over the 50+ years of my maintenance of this "city-owned" strip of land, I have used my lawnmower(s) to cut the grass approximately 12 times per year.  $50 \times 12 = 600$ . It takes approximately 20 minutes to cut it properly, since it's not flat and there are contours and obstructions. So  $600 \times 20 \text{ minutes} = 12,000 \text{ minutes}$ , or 200 hours. I'd say that each time I cut the "strip" I've used around  $1/16^{\text{th}}$  of a gallon of gas, so I've used around 37 gallons of gas over 50+ years. My time and my resources to take care of "city property." My time today is worth \$150.00 per hour. Gas today is around \$2.00 per gallon.  $\$150.00 \times 200 \text{ hours} = \$30,000.00$ . Plus \$74.00 in gas.

That's \$30,074.00. Okay, let's be fair with the changing value of the dollar and all. Let's call it \$15,000.00 even. My work, my resources... all out of my pocket. After taxes, of course.

Not once in the entire time that I have lived next to this strip of land has the city of Portland spent a single dollar to maintain it. Not once. I have taken on the responsibility as a good steward of the land and citizen of Portland.

So when Don Baack and his SW Trails Group comes barging in in May of 2008 claiming that this 80 x 20 strip of land has belonged to his "trails system" for years ... yeah - it doesn't sit too well with me or my neighbors.

Don Baack has bullied and lied for long enough. He and his followers have intentionally destroyed natural vegetation and invaded private spaces adjacent to homes, depriving the owners of their privacy and security. They have destroyed over \$800.00 of plantings (again, out of my pocket) that I've tried to introduce to the hillside they want to include as part of their trails system adjacent to us. Despite the fact that a trail is completely unnecessary since the paved (extremely low traffic) streets already serve the same purpose! Our neighborhood is furious and we will not tolerate this destruction any longer. It impacts our lives. Our security. **Our property values.**

While we appreciate the city's supposed effort to create a "community-initiated trails process," we are also appalled with the manner in which the city chose to implement the process. There were two well-defined and specific dates given as cut-offs for community involvement, after which two specific "trails processes" were amended. After the second cutoff date, an overwhelming majority of community responses were against trails and neighborhood associations being included as a part of the trails process. In the draft following the second - ***and at the time, final***, period of community input, neighborhood associations had (correctly) been excluded from the process. Yet, mysteriously and magically, unknown to the community at large or to the stakeholders potentially impacted by the trails process, the city apparently granted a special audience to Don Baack and further amended the draft of the trails policy - ***after the second cutoff date!*** Suddenly neighborhood associations are back on the list of elements to approve trail building!

Interestingly... members of SW Trails' board of directors sit on several of the SW neighborhood associations' board of directors... and new by-laws for neighborhood associations require that only the board of directors may vote on issues!! This is an outrageous conflict of interests, and contradicts any degree of transparency in our public system.

When the city claims to be in the process of creating a "community-initiated trails process," I have to wonder if their actions are disingenuous at best. According to the principal agent of the city in the trails-building process - Don Baack of SW Trails - the decision where and when to build trails has already been determined! I've attached a small movie of Don's blunderbuss, together with his crony, Glen Bridger, from May 1<sup>st</sup>, 2015. That's correct - May 1<sup>st</sup>. Long before the "***community***-initiated trails process" draft was written. Please view it for an example of what we've had to put up with for years.

This kind of video documentation goes a long way these days. And this is only the first few minutes of one video. There's plenty more to follow, but correct timing is critical to our defense.

Speaking of documentation of events... after the poisoning of the hillside adjacent to us, resulting in the destruction of decades-old cotoneaster and California Lilac, once covered in swarms of European honeybees, Don Baack filed a complaint with BDS through agent Mike Rich regarding obstruction of traffic(!), who then served the complaint when my 17-year-old daughter was alone at home. She was very upset by this, having experienced the last eight years of harassment by Don Baack and SW Trails, and the negative impact on our family. Unknown to me at the time, my daughter looked up Don Baack's email address through his SW Trails website, and wrote him an email telling him how much stress he had caused to our family, and asking him to leave us all alone. In the body of the email she alluded to her age. Don Baack responded by asking her to meet him at a local bakery in Hillsdale.

Let me clarify this:

Don Baack, *78-years-old*, asked my daughter, *17-years-old*, to meet him to discuss trails issues. Don Baack did not suggest that my minor daughter ask her parents. Don Baack did not communicate his intent through my minor daughter's parents (my wife and me). No, Don Baack directly solicited my minor daughter to meet him behind our backs.

Transcript of Don Baack's email of July 12, 2015:

**"I have received and twice read your email.**

**Would you like to meet at Baker & Spice, I will treat for coffee and a sweet snack and we can talk about this situation.**

**If yes, please suggest some dates and times that will work for you.**

**Don Baack  
503-246-2088 baack@q.com  
6495 SW Burlingame Pl  
Portland, Or. 97239"**

My daughter told me she responded to Don Baack, stating she did not have, nor had ever had, any intention of meeting him, and that his proposals were not welcomed.

We demand that the City of Portland put an immediate end to this harassment of decent, tax-paying residents, by Don Baack and SW Trails. This is way overdue.

**Again, I understand that this statement is entered as public record.**

Thank you,

David Barberis  
2435 SE Seymour Drive  
Portland, OR  
97239

Mayor, City Council,

Thank you for considering my statement, along with others, who've been impacted by some of the trails Don Baack and SW Trails put in throughout SW Portland. We're grateful that the city is developing a process that allows for participation from property owners adjacent to what are often referred to as "paper streets" in our neighborhoods. After all, adjacent property owners are liable for any potentially dangerous conditions along these strips.

Many of us with deep roots in Portland refer to these undeveloped segments of city property as "paper streets." We're aware that Portland streets were platted long ago by firms not near to or familiar with the geographical challenges of the city of Portland. Below my home, 19<sup>th</sup> and 25<sup>th</sup> Avenues come together at an intersection. Streets on the west side of the hill suddenly stop, only to appear on the east side of the hill in a direct line. These "paper streets" never could have been developed due to impossible inclines, or else they simply were not necessary or practical to develop.

The point is, many of these "paper streets" (suddenly, "rights-of way") are narrow, steeply-inclined, run within a couple feet of bedrooms, kitchens, private yards, and environmentally sensitive spaces. Some portions of these "paper streets" have been paved over by the adjacent property owners, because it's the only route to their garage. Some serve as communal neighborhood play areas, or privacy buffers. Some have small gardens. But they are **not all the same**.

And that's why it is necessary for property owners adjacent to these "paper streets" to have a voice in deciding whether or not a public trail is the best and most equitable use of the land. **There is no "one-size-fits-all" solution.**

Property owners adjacent to these "paper streets" cringe when hearing the shallow reasoning: "That's public property and I have a right to use it! I pay taxes!!" My response: "Yes - you do pay taxes. **And so do I.** So do all my neighbors. In fact, the only difference between you and me is that I live next to this strip and I maintain it. **And I** also have the burden of liability, which you **do not** have."

Younger families are replacing some original home-owner-families along my street. They've moved to this neighborhood for its security, community, safety, and the mutual respect and consideration we have for each other. We're very fortunate to live in a safe, secure and healthy environment.

I'm sure Commissioner Novick understands what I mean. In an interview last February on the "bikeportland" website, Commissioner Novick was asked:

**"Do you plan to stay in your current neighborhood for a long time?"**

**"Oh, yes. We have really great neighbors. I've never been in a place before where I knew my neighbors at all!"**

This describes our neighborhood too. And it's been this way since the 1940's.

Our neighborhood is the epitome of what a neighborhood should be. We know each other and are parts of each other's lives. We've had close to zero incidents of crime in over half-a-century.

Things changed when Don Baack and SW Trails stripped off the existing decades-old plantings on the steep hill at the end of "the strip" and put in an un-permitted and hazardous stair structure, ignoring the regulations set forth in the 2000 "SW Urban Trails Plan." I actually had a dog run into my house through an open door after it strayed from the trail, followed by its owner, a stranger to me. Into my house, uninvited. Questionable strangers I did not recognize tried to make conversation with my young daughters as they played in our yard. Our cars were rifled through. We removed the stairs, *with permission from the City Attorney's office*, as they had been unpermitted and unlawfully installed. Our repeated attempts to revegetate the hillside over the past seven-and-a-half years, *as instructed by the city*, have been thwarted by ripping out of the shrubs, trampling them, and most recently this last summer - wholesale poisoning by the herbicide Cross Bow. I invite you to come take a look at the damage.

It is not reasonable, fair or tolerable that the status quo of any neighborhood should be impacted without the immediate neighbors' consent. That's why we understand and appreciate that the city council recognizes the importance of maintaining the integrity of strong neighborhoods. Putting in public recreational trails and then advertising them as destinations by way of maps, both on-line and hard-copy, completely alters the fabric of our neighborhoods. Besides, there is not one single location that is not currently accessible using existing street infrastructure. And the complaint of "no sidewalks" is often absurd, since many of our Southwest streets are low-traffic, dead end streets to begin with.

Thank you again for your consideration.

David Barberis  
(Resident and later homeowner since 1959)  
2435 SW Seymour Drive  
Portland, OR  
97239



**Moore-Love, Karla**

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**From:** Elizabeth Duncan <elizabethduncanlaw@gmail.com>  
**Sent:** Wednesday, October 14, 2015 8:14 AM  
**To:** Council Clerk – Testimony  
**Subject:** Please include the following testimony in the record on PBOT's trails process  
**Attachments:** City Council Testimony Submitted 10-14.docx

## Testimony – PBOT's Community Initiated Trails Process October 14, 2015

Good Morning. My name is Elizabeth Duncan.

I am a property owner in SW Portland that is next to an unimproved ROW.

I've worked as an appellate lawyer in Oregon for over 25 years so I know how to analyze a statute and legislative history, and I can tell you in no uncertain terms that ORS 105.668 is no magic cure to avoid liability.

First, it only offers immunity for negligence actions, not other theories of liability that can be raised against an adjoining property owner (strict liability and statutory liability).

Second, and more importantly, it is not retroactive so it does not apply to existing trails, many of which were built illegally, were hazardous when built and have only deteriorated over time. I have pictures of just a handful of examples of these trails for you. There are many, many more.

I refer to these trails as illegal because SW Trails built these trails in violation of the 2000 SW Urban Trails Plan. That original plan required SW Trails Group to do two things:

- (1) get the permission of the adjoining property owners (to this day Don Baack refuses to acknowledge that this was always a requirement) and
- (2) consult with PBOT where stairs were required because oversight was necessary to make certain the right type of stairs were built for each location. (Pages 21 & 22).

SW Trails ignored these requirements simply because it doesn't like to be bothered by rules and the City failed to enforce the rules.

As a result, there are existing, hazardous trails all over SW Portland that need to go through the new trails process before the adjoining property owners are immunized from negligence liability. PBOT's trail process acknowledges this on the bottom of page 2.

Many of these trails were built illegally and many of the adjoining property owners still don't understand their liability. It is *criminal* for SW Trails to put citizens in this type of jeopardy.

SW Trails should be required to go through the trails process detailed in PBOT's draft plan on all currently existing illegal trails **before** it is allowed to build a single new trail.

Force SW Trails to clean up the mess that it has created by refusing to follow the rules. And never loosen the reins on that group again.

MY SECOND POINT, very briefly, is that **the goals of a special interest group should not override the best interests and desires of a long-established neighborhood.**

Trails, especially unwelcome trails, bring with them a host of problems, including an increase in crime, vagrancy, an invasion of privacy, a decrease in property values.

PBOT's own published brochure "A Path to Trail Safety" alerts citizens on ways to protect themselves and their property from trails.

The fact that 84% of comments in response to the April Draft of the trails process were anti-trails should tell you something.

The decision to allow a trail into a community should be made by that community directly affected by it, not a special interest group like SW Trails and not by Neighborhood Associations, which have no legal authority to take action that impacts private property values.

The approval methods in PBOT's trails plan should be limited to 75% of the adjoining property owners and **at least 51% of households** within ¼ mile.

These are the people directly impacted – 24 hours a day -- by a proposed trail.

Thank you for your time.

Moore-Love, Karla

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**From:** anglophile <anglophile@aol.com>  
**Sent:** Wednesday, October 14, 2015 7:02 AM  
**To:** Council Clerk – Testimony  
**Subject:** [User Approved] Trails Process

My name is Catherine Pendergrass. I am a Portland native, a retired high school teacher, and have lived at 2335 S.W. Seymour Drive, Portland, Oregon for 24 years.

On our street, S.W. Seymour Drive, in 2008, S.W. Trails removed vegetation from a steep slope and built stairs to create a path in a Right of Way (ROW). Don Baack was one of the workers. The stairs were illegally built, and the city ordered them to be removed. The vegetation was replaced by the homeowner adjacent to the ROW, with permission of the city attorney, to protect erosion on the steep slope.

This summer vegetation on that ROW was poisoned. An O.S.U. lab confirmed the poison. A drain to Fanno Creek Watershed is directly underneath the poisoned plants. The police were notified and inspected the vandalism on July 3, 2015.

On July 8, 2015, the Bureau of Developmental Services, having received an anonymous complaint, sent a notice to only one of the homeowners adjacent to the ROW to have all vegetation removed from the ROW in 30 days. The owner on the other side of the ROW was not served with a notice, only the owner who complained about the stairs in 2008. PDOT reversed the order.

On July 28, 2015 at 10:15 a.m., a member of SW Trails and his dog walked down S.W. 25th Street, a dead end street beneath the poisoned vegetation, stopped, took photos of the poisoned plants, turned, and walked away. He was there for less than two minutes.

On August 15, 2015, the police were called and asked a member of S.W. Trails, Hans Steuch, to stop using power tools to illegally remove vegetation from the Coronado ROW.

These are the actions I personally know of, and all are documented with police reports or photos. When S.W. Trails wants to establish a demand trail on a ROW before the new trail policies go into effect, rules apparently do not apply to them. I do not know who poisoned the hillside of plants, but the timeline of events, the anonymous complaint, and the photographer, are highly suspicious.

To allow S.W. Trails to create trails with no abutting property owner or neighborhood approval would be a serious mistake. I do not wish my city to be supportive of any person or organization that disregards the permitting process and breaks the law to accomplish their goals.

Sincerely,

Catherine Pendergrass  
2335 S.W. Seymour Drive  
Portland, Or 97239

Moore-Love, Karla

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**From:** Hugh McGavick <hughmcgavick@me.com>  
**Sent:** Tuesday, October 13, 2015 10:25 PM  
**To:** Council Clerk – Testimony  
**Subject:** "Testimony" re: Community Initiated Neighborhood Trails Process

Please accept this written "testimony" in lieu of live testimony at tomorrow's hearing on the Community Initiated Neighborhood Trails Process before the City Council:

We substantially support adoption of the current Draft of the **Community Initiated Neighborhood Trails Process**.

We commend PBOT and Sara Schooley for their efforts to implement the **City's Public Involvement Principles** by giving adjacent and nearby neighbors a meaningful and needed voice about proposed trail development. When adopted, the new Policy will remedy a significant power imbalance, and bring fairness, predictability, and **environmental protection** to the forefront regarding trail building on those ROWs not identified as a "Proposed Urban Trail". (Step 3.)

We believe this new policy fills a void SW Trails PDX has aggressively exploited with their philosophy that it is easier to apologize after the fact than to get permission. We have repeatedly observed SW Trails and their operatives deliberately escalate friction with anyone who opposes their desire to put a trail anywhere and anytime. They are dismissive of protests from impacted adjacent and nearby neighbors. They put their personal agendas above any environmental concerns, as evidenced by the willful environmental destruction caused by their illegal trail building, trail publicizing and use.

It is no surprise that SW Trails' proposed "amendments" seek to perpetuate their old way of doing business, and to gut the pending draft policy to once again give them preferred status over at-risk neighbors and the environment. **"Resistance to accountability"** summarizes their opposition. This vocal minority opposes public participation and seeks to preserve the status quo, but their positions are without merit.

We agree with others who have requested a Council **MORATORIUM** on any new community-built trails until existing trails are brought up to proper safety standards.

Finally, we feel Neighborhood Associations should have no place in trail approval, and should be removed from Step 3.

Thank you for your consideration.

Hugh McGavick & Anne Jaqua

**PS: Typographical error:** At page 5, Step 3, Para. 3, beginning with: "Once the ROW has received", the paragraph concludes incompletely: "As such, this process incorporates the." Something is clearly missing.

**From:** Carol Lundgren <c@infinitycountertops.com>  
**Sent:** Tuesday, October 13, 2015 11:23 AM  
**To:** Council Clerk – Testimony  
**Subject:** PLEASE VOTE FOR MORATORIUM ON NEW Trails

Attn Portland Oregon Council

We are owners that live in our family home at 840 SW Coronado Street, 97219 for the past 13 years.

1) We support the **Community Initiated Trails Process** policy as updated August 10, 2015 including leaving the language intact as written regarding the approval process for ROW's not identified as Proposed Urban Trails in the approved City transportation plan.

Given the need to repair Portland's streets and address pedestrian safety issues, especially in East Portland and on several public roads close to our neighborhood, the City Council (PBOT and Commissioner Novick) as taxpayers we expect the Council to FULLY exercise fiscal responsibility and sound stewardship of public funds.

**PLEASE DO NOT use our taxpayer dollars to fund (via staff time or partnership dollars) to develop, publish and create signage for any NEW COMMUNITY-BUILT TRAILS .**

**The Council should vote to place a MORATORIUM on any new community-built trails until:**

2) **Current community built trails should be brought up to safety standards, with priority given to those designated as part of the "Safe Routes to Schools" system.**

AFTER existing trails are brought up to safety standards, and a plan for maintaining the existing trails should be developed and then implemented.

Then Council should move the responsibility for overseeing community initiated, volunteer created and maintained Urban Trails from PBOT to Parks and Recreation. Most existing trails are used by hikers/walkers as an enjoyable activity for good health and fellowship, not to walk to work or school.

We respectfully request the Council to adopt the Community-built Trails Process policy as updated August 15, 2015, and place a moratorium on further development or approval of new trails **until current trails are SAFE and MAINTAINED, of which there are so many that are unsafe overgrown, unsightly.**

3) We **also** respectfully request that current trails are fully reviewed and analyzed to the extent they are actually used. As taxpayers we request knowing what percentage of Portland's taxpayers/citizens are using the trails rather than the increased transients we see that are roaming our neighborhood. We know that the proposed urban trails are being proposed by a small, vocal

group of citizens who want to push through "wants" at the tax payers cost without proper assessment !!!!!

4) We also would like to point out that we really question the use of our tax dollars to add a walking trails

a) the proposal specifically calls for adding a trail at the end of our dead end street which is illogical.

b) add a walking trail at the end of street will also heighten safety and crime issues we have recently experienced in the last couple of years as transients/homeless have taken up residence in Tyron Creek park.

c) we have our neighborhood children that we are responsible to consider.

In summary :

**Please vote for a MORATORIUM on any new community-built trails until current trails are brought up to safety standards, actual maintenance has been implemented, and a true assessment is completed if there is actually a NEED for new trails by the larger population – not just a select few that are NOT tax payers.**

We respectfully ask that our concerns be taken into consideration.

Thank you

*Paul & Carol Lundgren  
Property Owners At  
840 SW Coronado St  
Portland OR 97219  
503 804 0382*



This email has been checked for viruses by Avast antivirus software.  
[www.avast.com](http://www.avast.com)



**From:** Larry Crawshaw <crawshl@pdx.edu>  
**Sent:** Tuesday, October 13, 2015 2:38 PM  
**To:** Council Clerk – Testimony  
**Subject:** Re: Trails Process

On Tue, Oct 13, 2015 at 10:33 AM, Larry Crawshaw <crawshl@pdx.edu> wrote:

In the email below, there may be some ambiguity as to which draft on trail policy I am supporting. My support is for the draft that Ms. Sara Schooley prepared after public comments on her April draft. It was to be presented to the council on July 1, but was postponed until October 14...

Thanks.....Larry Crawshaw

I would like to strongly support the current version of "The Community Initiated Neighborhood Trails Process Draft" that is currently under consideration for approval. It is evenhanded and is fair to all involved parties.

The attempts by the Trail Organization to subvert this document clearly disclose their continuing obsessive and selfish attempts to force trails in areas that are best left alone. The fact that a particular area is in the public domain is NOT a sufficient reason to build a trail there. In a number of cases, the undeveloped areas form important environmental sanctuaries that are valuable for urban wildlife, watershed maintenance, and undisturbed plant growth and perpetuation. These needs should be carefully deliberated, and based on past activity, it is clear that the Trail Organization is oblivious to such considerations.

Cheers.....Larry Crawshaw Emeritus Professor, Biology Department,  
University Past Director, Environmental Program, Portland State University

Portland State

**Moore-Love, Karla**

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**From:** Lila Krause <rhk49@mac.com>  
**Sent:** Tuesday, October 13, 2015 10:38 AM  
**To:** Council Clerk – Testimony

I support the *Community Initiated Trails Process* policy as updated August 10, 2015 including leaving the language intact as written regarding the approval process for ROW's not identified as Proposed Urban Trails in the approved City transportation plan. I live at 912 SW Coronado Street, 97219.

Given the need to repair Portland's streets and address pedestrian safety issues, especially in East Portland, the City Council (PBOT and Commissioner Novick) need to exercise fiscal responsibility and NOT use taxpayer dollars to fund (via staff time or partnership dollars) any NEW COMMUNITY-BUILT TRAILS. That is, the Council should vote to place a MORATORIUM on any new community-built trails until:

- **Current community built trails are brought up to safety standards, with priority given to those designated as part of the "Safe Routes to Schools" system.**

AFTER existing trails are brought up to safety standards, and a plan for maintaining the existing trails is developed and implemented, the Council should move the responsibility for overseeing community initiated, volunteer created and maintained Urban Trails from PBOT to Parks and Recreation. Most existing trails are used by hikers/walkers as an enjoyable activity for good health and fellowship, not to walk to work or school.

I urge the Council to adopt the Community-built Trails Process policy as updated August 15, 2015, and place a moratorium on further development or approval of new trails until current trails are SAFE and MAINTAINED and an assessment of the utilization of current trails is made to determine what percentage of Portland's citizens are using the trails. Is it a small, vocal group of citizens who want their "wants" met at the expense of the majority who have real "needs"?

Please consider a MORATORIUM on any new community-built trails until current trails are brought up to safety standards.

Thank you for your time.

Richard Krause

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**From:** Larry Crawshaw <crawshl@pdx.edu>  
**Sent:** Tuesday, October 13, 2015 10:34 AM  
**To:** Council Clerk – Testimony  
**Subject:** Trails Process

I would like to strongly support the current version of "The Community Initiated Neighborhood Trails Process Draft" that is currently under consideration for approval. It is evenhanded and is fair to all involved parties.

The attempts by the Trail Organization to subvert this document clearly disclose their continuing obsessive and selfish attempts to force trails in areas that are best left alone. The fact that a particular area is in the public domain is NOT a sufficient reason to build a trail there. In a number of cases, the undeveloped areas form important environmental sanctuaries that are valuable for urban wildlife, watershed maintenance, and undisturbed plant growth and perpetuation. These needs should be carefully deliberated, and based on past activity, it is clear that the Trail Organization is oblivious to such considerations.

Cheers.....Larry Crawshaw Emeritus Professor, Biology Department,  
University Past Director, Environmental Program, Portland State University

Portland State

**Moore-Love, Karla**

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**From:** Amy McCormick <amymccormick@hotmail.com>  
**Sent:** Tuesday, October 13, 2015 7:45 AM  
**To:** Council Clerk – Testimony  
**Subject:** Trails process

I support the **Community Initiated Trails Process** policy as updated August 10, 2015; including leaving the language intact as written regarding the approval process for ROW's not identified as Proposed Urban Trails in the approved City transportation plan. I live at 950 SW Coronado Street, 97219.

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**From:** Kyle Womack <KWomack@henneberyeddy.com>  
**Sent:** Tuesday, October 13, 2015 6:37 AM  
**To:** Council Clerk – Testimony  
**Subject:** Trails Process, Community Initiated Policy

I support the **Community Initiated Trails Process** policy as updated August 10, 2015; including leaving the language intact as written regarding the approval process for ROW's not identified as Proposed Urban Trails in the approved City transportation plan. I live at 950 SW Coronado Street, 97219.

The City Council should vote to place a Moratorium on any new community-built trails until community built trails are brought up to safety standards, with priority given to those designated as part of the "Safe Routes to Schools" system.

Only after existing trails are brought up to safety standards, and a plan for maintaining the existing trails is developed and implemented, the Council should move the responsibility for overseeing community initiated, volunteer created and maintained Urban Trails from PBOT to Parks and Recreation. Most existing trails are used by hikers/walkers as an enjoyable activity for good health and fellowship, not to walk to work or school.

**Moore-Love, Karla**

37163

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**From:** Doug Wicks <dwicks@centurylink.net>  
**Sent:** Monday, October 12, 2015 11:07 PM  
**To:** Council Clerk – Testimony; Hales, Mayor; commissioner-novick@portlandoregon.gov; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman  
**Cc:** Janet Baker; aje0280@gmail.com; Carol Wicks  
**Subject:** Email testimony regarding the Mayor's \$25,000 fee on home demos - from a Beaumont Wilshire community member  
**Attachments:** Wicks\_Thoughts\_HouseDemoFee\_10.12.2015.docx

Mayor Hales and City Council -

I wish I could appear before you to testify, but family matters take me out of town on Wednesday.

Consequently, I've written my testimony in letter form.

Thank you for the opportunity to provide you with my thoughts.

Best, Doug

Doug Wicks  
3216 NE 42nd Avenue  
Portland 97213  
503 307-5760

October 12, 2015

To the Portland City Council and Mayor Hales:

Thank you for the opportunity to provide with my thoughts regarding the Mayor's proposal regarding a \$25,000 fee attached to home demolitions.

My name is Douglas Wicks. I live at 3216 NE 42<sup>nd</sup> Avenue with my wife and son. We've lived in Portland for 20 years, with 18 of those years as homeowners in NE Portland.

On Monday September 14<sup>th</sup> 2015, Renaissance Homes demolished 3215 NE 42<sup>nd</sup> Avenue – the house directly across the street from us.

A house that stood since 1923, a house that served as home for 92 years, was gone in under three days.

My neighbors and I held Renaissance at bay for maybe three months using the minimal tools provided by the city – we essentially were a speed bump on the way to demolition. We slowed Renaissance but we could not stop them.

During the pause, we simultaneously sought two outcomes more desirable than demolition – either 1) a group of neighbors purchase the home from Renaissance, or 2) persuade Renaissance to build a home that is compatible with the neighborhood.

During the pause, Renaissance ostensibly put the house on the market, but at a price so inflated they effectively priced us and any other potential buyer out of the market. The price was so high we did not believe we could economically purchase and renovate the home given the additional investment required. That is their right, and that's what they did.

Predictably, the other pathway is where we're at – seeking to move Renaissance to build a home that is compatible with our neighborhood. Site constraints caused Renaissance to move from their initial horrible proposed construction to something that is merely out of character with the homes on the block – not horrible, yet unfortunately incompatible.

Here's what I mean – the home as specced will be setback about 15 feet from the sidewalk – half the distance from every other house on the block. When the homes on our block went up back in the 1920's – over the course of about 14 years - there was a uniform setback of 30 feet. Every builder and homeowner managed to conform to that standard, yet Renaissance will not.

This closer setback will make it impossible for people on their front porch to see all the way down the block as we are currently able to do. This may seem trivial to an outsider, but it's critical to the numerous parents on the block – currently, they can see their kids playing in a neighbor's front yard. Renaissance's construction site is located mid-block and will break line of site for homes on the west side of the block. This goes to the heart of what it is to be a parent in Portland – that we can see our kids and know they are safe on our block.

Renaissance decided upon a Colonial aesthetic. Our neighborhood consists mostly of Arts and Crafts homes, with a couple of Mission styles and Portland four post homes.

As specced, the home will tower over every other house on the block – the design builds to one foot below the maximum allowed by code. In terms of square footage, the house will be substantially larger

than most other houses on the block. The size by all measures is notably out of context with the vast majority of homes on our block.

The square footage of the home, by my back of the envelope calculation, is over 3,500 square feet. The house will most likely sell in the neighborhood of \$1,000,000 – 2.5 times the price they paid for the prior home.

That takes us to the present, and the Mayor's proposed \$25,000 fee for demolishing an existing home.

When Renaissance can purchase a home for \$388,000 and turn a new house for \$1,000,000, the \$25,000 sting the Mayor speaks of is not much of a sting. For Renaissance and other big developers, this will be a cost of doing business. It will also exacerbate the design and affordability problems we've observed in our situation, in which developer profit maximization necessitates a departure from neighborhood design norms.

With that in mind, let's step back for a minute – what is the purpose of levying a \$25,000 fee on builders who seek to demolish an existing home? Is it simply to raise money for the city, or is it, as we residents hope, a proposal to stem the rash of home demolitions in Portland?

If the latter is the objective, it may work in some neighborhoods, but not many, given rapidly rising housing costs. Truly, it may price some small developers out of the market and alleviate the demolition in cases where the profit margin on a demo and new build are tight. However, I believe the Renaissance's and the Vic Remmers of the region know how the game is played – they'll pay the fee and laugh all the way to the bank.

That said, perhaps it can be used as a stick, incenting developers to work cooperatively with neighbors – in other words, developers who, like Renaissance, simply and completely refuse to talk to interested neighbors, would be charged the fee. Developers who work with neighbors in good faith and observe neighborhood conventions on setback, scale and aesthetic would have the fee waived.

But the city also should give residents more influence in new construction – as noted, under existing rules we were merely a speed bump. Renaissance never deigned to talk to us – this did not surprise me, given Renaissance's attitude towards working with neighborhoods, per the December 11, 2013 Oregonian:

“Renaissance Homes spokeswoman Kelly Asmus said her company makes an effort to inform neighbors about their projects but isn't open to changing their home designs.

“It's really challenging to solicit a wide range of opinions when you're running a business,” she said. “It's pretty near impossible to make everyone happy.”

That's an appalling attitude for a business to take, and frankly insults the city and our local business community. In situations like ours, where neighbors are interested and cooperative, the city should require developers to build compatible structures that still allow the developer to make a reasonable profit. For example, the city should stipulate that new construction may exceed the average square footage and average height of existing homes on the block by no more than 10 or 20%. If a block has a uniform setback of 30', so too must new construction. If a neighborhood is composed of Arts and Crafts and Mission, the exterior of the new construction should, within reason, conform to such styles.



One point I want to be certain is articulated – this is NOT NIMBY. We have not sought to prevent Renaissance from making a profit or even to build a new house – we seek to preserve the integrity of our neighborhood by urging Renaissance to move in a certain direction that respects the existing neighborhood. While the Renaissance proposal could have been worse, it certainly could be improved upon.

My wife and I moved here 20 years ago and we never looked back. Portland has been and remains a great place to live. However, allowing developers to build enormous suburban-style tract homes in beautiful old Portland neighborhoods degrades the city's well-known livability and beauty. It diminishes the character of our neighborhoods. Our city government must move quickly to stem demolitions.

Using a \$25,000 fee as a stick – or perhaps even a \$50,000 or \$100,000 fee – to bring developers to the bargaining table, AND providing guidelines to construct homes that are reasonably compatible with a neighborhood will allow developers to build profitably while alleviating some of the legitimate concerns of neighbors.

Thank you for considering my thoughts, and thank you for your public service.

Best regards,

Douglas Wicks  
503 307-5760

**Moore-Love, Karla**

---

**From:** Ryan Fedie <rtfedie@gmail.com>  
**Sent:** Monday, October 12, 2015 10:17 PM  
**To:** Council Clerk – Testimony  
**Cc:** Sean Baioni; Nancy Seton  
**Subject:** Trails process input  
**Attachments:** 2015 10 8 A Proposed Amendments by SWTrails.doc; ATT00001.txt; 2015 10 14 Hans Patty SWTrails Testimony A. Trails Policy .docx..pdf; ATT00002.txt

Hi,

As the southwest hills residential league (swhrl) neighborhood association co-chair for transportation, I'm submitting the following documentation in support of the changes to the trails policy proposed by SW trails. Increasing pedestrian mobility and multi-modal transportation is a top priority for the swhrl within the neighborhood and across SW Portland. Please submit the two attachments as testimony for swhrl in support of the changes. We look forward to hearing the process is made easier for trails in SW.

Ryan Fedie

The proposed trails policy in no way supports the volunteer efforts of our SW volunteers, rather it makes achieving City Pedestrian Mobility goals much more difficult if not impossible in geographically challenged sections of the city. The City faces a choice: 1. Regress with this restrictive draft process that jeopardizes the creation of new trail connections and puts at risk the loss over time of key trail links as they degrade and are encroached upon, or 2. Develop a straightforward and 'user-friendly' trails process that protects and improves the existing trail network and extends quality pedestrian improvements across the entire City of Portland.

1. Add "With the adoption of the trails process, a letter will be sent to each property owner adjacent to an unbuilt right of way explaining the owners responsibility to keep the rights of ways accessible to the public and that they are liable for anything that happens along the trail. In addition, the letter will explain ORS 105.668 and how they can reduce their liability by working with a nonprofit to improve the trails to city guidelines." **Add a separate paragraph** "This Trails policy will be in effect for 6 months' at which time it shall be reviewed by staff and stakeholders to recommend changes".
2. Replace Steps 1, 2 and 3 with the following.
  - A. People interested in seeing a segment of right of way developed into a permitted trail will write up the request including a map showing where the trail would start and where it would end. Briefly describe why the trail should be created (no trail currently exists) or improved (a visible trail exists). The request would include what non-profit would be constructing and maintaining the trail and should include a statement of support from the non-profit.
  - B. City staff will review the request internally and with other affected bureaus and if a. the non-profit organization is deemed capable of constructing and maintaining the trail, and b. no compelling reason to reject the request presented, send out a notification of the request and request comments from interested parties and a letter of support from the affected neighborhood.
  - C. After review of the comments and no compelling reason to reject the request is apparent, the permit will be issued.
  - D. Provide an appeals process by well informed, objective and independent observers.

After the permit is issued go to Step 4. Delete proposed steps 1,2 and 3.

3. **Change "standard" to "guidelines" as it is used in Parks documents. In step 6, add the clause "accompanied by members of the construction non-profit" when inspections are done.**
4. **Mutual Respect** Replace this section with **Mutual Respect "and maintaining open rights of way"**. The city code provision which imposes the duty on adjacent landowners to keep public rights of way clear is Title 29.20.010.K.3:

"29.20.010. It is the responsibility of the owner of any property, improved or unimproved, to maintain the outdoor areas of the property and adjacent rights of way in a manner that complies with the following requirements:

**"K. \*\*\* 3. Alleys and unimproved rights of way. All alleys, unimproved streets, and other public rights of way must be clear of obstructions that may hinder the normal flow of traffic** or render the right of way unsafe for its current and necessary use." (Amended by Ordinance Nos. 176381, 180330, 183534, 184522, 185448 and 186053, effective January 1, 2015.) (All emphases added,)



**SWTrails PDX**

Don Baack  
President  
503-246-2088  
baack@q.com

Lee Buhler  
Secretary  
503-227-0160

Dave Manville  
Vice President  
Construction  
503-244-1005

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Sharon Fekety  
Board Member  
Walks  
503-224-8886

Glenn Bridger  
Board Member  
Audits  
503-245-0729

Hans Steuch  
Board Member  
Policy-Red Electric  
503-452-9225

Barbara Bowers  
Board Member  
Membership  
503-452-5017

Barbara Stedman  
Board Member  
Social Media  
503-892-5180

October 9, 2015

**To:** Portland City Council and Interested Parties  
**From:** SWTrails  
**Re:** Testimony for hearing on Community-Initiated Trails Process

The Board of Directors of SWTrails respectfully submits the following testimony for your consideration.

### **Liability Law and Approval Process**

**SWTrails requests that the new trails policy fully address the significant change in the rights and liabilities law applicable to adjacent property owners and require a 'notification process' in lieu of an 'approval process.'**

Prior to the passage of State law ORS 105.668, adjacent property owners had significant liability for non-recreational use of any trail built adjacent to their property. However, the passage of ORS 105.668 (see attached), represents a seismic shift in liability if the trail is built by a qualified nonprofit as directed by the City of Portland. Yet the City's approach to the draft Trails Policy does not fully reflect this new reality. Instead, the proposed policy bestows upon the adjacent property owner virtual veto rights to block trail maintenance and the creation of new urban trail segments. Trails appear to be treated in the draft process in a manner similar to seeking to install street furniture in the right of way. However, the rights of the adjacent property owners to veto a public pedestrian trail route along a public right of way ended when the street was dedicated for public use. Note the language of original plat documents, such as "...hereby dedicate to the use of the public as public ways forever..." (see attached).

Adjacent property owners do not have 'veto' power to block

improvements on other public lands. For example, property owners cannot veto the installation of new park amenities, nor do they have the right to block school construction projects. Furthermore, adjacent property owners cannot stop the installation of utilities in the public right of way. Providing 'veto power' for adjacent property owners and nearby neighbors to reject the development of new pedestrian connections along public-owned property specifically platted decades ago for transportation purposes is unprecedented. The proposed trails process is clearly a huge departure from prevailing transportation policy and seems to be heavily weighted toward property owners when the change in liability law, which creates immunity, now protects their interests.

The draft process should require 'notification' of adjacent property owners and nearby neighbors and should NOT require 'approval' from them to build much-needed pedestrian infrastructure improvements. Providing adjacent property owners with 'veto' power is essentially giving away public land without any public benefit.

## **Decision-Making Criteria**

**SWTrails expects the decision-making for proposed ROW improvements be done by PBOT and partner Bureaus, based on clear criteria.**

The proposed trails process seeks to shift the responsibility for decision-making concerning proposed trails from simple merits to a complicated, time-consuming process that gives undue influence to adjacent property owners and nearby neighbors.

A sound trails policy begins with clear criteria. The process should also include a public involvement component whereby interested parties, including adjacent property owners, nearby neighbors, and neighborhood associations are 'notified' of proposed developments so their opinions, if they wish to offer them, may be considered by City staff. However, the decision to approve or reject a proposed

right of way improvement should be left to PBOT and partner Bureaus, based on compliance with the criteria. The decision-making should NOT be up to property owners and nearby neighbors.

## Flawed Data

**SWTrails asserts that the public input process was flawed and the new trails process is weighted heavily in favor of a minority group of property owners and not representative of the needs of the community at-large.**

The process followed in developing the proposed policy began with discussions with staff about their desires and requirements for a policy. The process also included contacting by direct mail every property owner (over 8,500) who owns property adjacent to an undeveloped public right of way asking them to weigh in on the discussion (see attached). However, the direct mail piece did not explicitly inform the property owners that they are currently responsible for keeping the right of way open for the public and are potentially liable for anything that happens on the right of way adjacent to their property. The notice also did not tell the adjacent property owners of the new ORS 105.668 where under certain conditions property owners are relieved of both the maintenance responsibility and the have immunity protections if a trail is permitted by the City and built by a cooperating nonprofit under the direction of the City. This is a serious omission that could have turned 'trail opponents' into 'trail supporters' had property owners been made aware of the changes in State law.

Furthermore, the mailings advising of the new trails policy were not sent out to representatives of the wider community of users who would benefit from improved pedestrian connectivity. These users often include members of racial minority groups, as well as physically and economically challenged members of the community. For example, a key trail currently under development in SW Portland along the SW 25<sup>th</sup> corridor between Stephens Crossing and Robert Gray Middle School provides needed service not otherwise available to low income and minority families.

As the public involvement for the new trails process was slanted heavily to the property owners adjacent to the unimproved lands, and not on the intended users of the trails whose diversity is more representative of the city as a whole, PBOT has failed in their outreach program and in efforts to meet their equity goals.

Altogether, this public involvement approach skewed the feedback received by PBOT on their proposal, with the primary commenters being adjacent property owners.

## **Encroachments**

### **The new trails process does not fully address the City-wide problem with encroachments and the process for enforcing the removal of encroachments.**

Encroachments in the public right of way exist throughout the City. Some adjacent property owners use the right of way to dump yard debris, park extra vehicles, and take other actions that impede pedestrian use of these public spaces. The City of Portland does not seem to be enforcing the removal of encroachments according to code in a fair and equitable manner. This is causing a slow burning frustration and disillusionment in the process among Portland residents, often pitting neighbor against neighbor. This lack of enforcement to remove encroachments that block pedestrian access to public rights of way is a violation of Title 29 of the City code (see City Code, Chapter 29.20, section K. paragraph 3 attached).

Unfortunately, this lack of enforcement has inadvertently become an enticement for property owners adjacent to unbuilt rights of way to block them. The draft trails process not only does not address the matter of encroachments and the removal of them, but by having such a restrictive process for the development of ROW improvements, it further entices property owners to block off public rights

of way for their own personal use knowing that they also have ‘veto power’ under the draft policy to thwart proposed improvements that benefit the public. The net result is a significant decrease in pedestrian connectivity in those parts of the city where there are many unbuilt rights of way being used as trails, and a difficult and time wasting task to gain access to dedicated rights or way or easements that are currently blocked.

The City of Portland must follow its own laws and immediately ‘post’ (citing the property owner) blocked or fenced rights of way when requested and enforce removal of the encroachments. The new trails process should address the matter of encroachments and should not provide adjacent property owners with ‘veto power’ to shut down proposed improvements that are planned to serve the transportation needs of the community at-large.

### **Needed Partnership—Mutual Goals**

**SWTrails maintains that the new trails process is overly restrictive and ought to instead better incorporate Mayor Katz’s directive to build trails with City support and resources.**

After the SW Urban Trails Plan was adopted, **Mayor Katz** wrote then **Commissioner Charlie Hales** “...requesting consistent coordination and cooperation from the Office of Transportation” to realize the goal of an urban trail network. She further states, “**My request to you is that you work with the Office of Transportation to develop a policy that will allow for an efficient use of these volunteers’ time. Such a policy would not be strictly focused on the SW Urban Trails Plan but would be applicable citywide for other neighborhood groups that might be interested in similar trail-building efforts in the future. The purpose of such a policy is to recognize the value of volunteers and to develop a means for them to have access to resources they need. ...**” (see letter attached). The proposed trails process provides more consideration for those who aim to halt the development of trail segments and not for those who wish to



address connectivity deficiencies and create trails for the benefit of residents, neighborhoods, and the City. The draft process, which is unnecessarily complicated, and provides unprecedented ‘veto power’ to property owners adjacent to undeveloped public rights of way, goes against Mayor Katz’s directive to the Department of Transportation to make use of volunteers who are willing to build trails for the benefit of the City. Furthermore, the process does not address Mayor Katz’s directive to support the volunteers by providing resources and tools—there is no mention in the draft policy that outlines a process for granting access to needed resources in order to support those willing volunteers to successfully build the trail system.

## **Permits**

**SWTrails requests that the new trails process adhere to past practices where City approval for trail work could include grouping of projects.**

City Engineer, Brant Williams, outlined in an April 28, 1999 letter to Don Baack of SWTrails, a process where trail segments could be built without the need for permits (see letter attached). Since permits have not been required by the City to construct trail segments, SWTrails maintains that permits to complete the trail segments outlined on Map 3.1 of the Southwest Urban Trails Plan should be issued without further process upon request by a qualified nonprofit.

## **Expand Streamlined Process**

**SWTrails requests that demand trails and proposed walking routes on Appendix A of the SW Urban Trails Plan be subject to the same process as the proposed walking routes on Map 3.1 of the SW Urban Trails Plan.**

Appendix A of the SW Urban Trails Plan was completed in 1998 as part of the SW Community Plan effort (see attached). This document was developed with input from every SW neighborhood. It was based on mapping “**where people want to**

walk” in their neighborhood. Most routes follow existing rights of way, some crossed parks and a few crossed private property. Those neighborhood supported walking routes that follow existing public rights of way, as delineated in Appendix A of the Southwest Urban Trails Plan should be subject to a streamlined process for permitting and creating those proposed trail segments. Many of these connections are currently in use as demand trails, but some could be made safer for pedestrian use with improved trail-building methods and materials, and may also be constructed in a way that better protects natural resources.

## Resources

**SWTrails requests that the City provide support (tools, materials, and nominal funding) for trail maintenance and trail building.**

The Office of Transportation, now PBOT, provided funds for materials and a few tools to build out the current SW Urban Trails network. The total investment of City funds was approximately \$50,000 to build the almost entire 40+ mile network (excluding the funds spent on developing the 4T route and its website). After a liability-related event in 2008, and based on PBOT direction, SWTrails has not done maintenance on the trail system nor has it built any additional connections on the Urban Trails Routes. With the cooperation and support of PBOT and modest ongoing funding, we are confident that if the changes to the draft policy are made, as proposed by SWTrails, we can complete and maintain the Urban Trail network and improve many pedestrian connections throughout SW Portland, as well as help train other groups that might seek to become qualified trail building nonprofits.

## Support Volunteers

**SWTrails requests that the new trails process fully incorporate the goals of Objective 20 of the Transportation Section of the SW Community Plan and work in partnership with volunteers to achieve transportation goals.**

**Objective 20 of the Transportation Section of the SW Community Plan** adopted by City Council in July 2000 states: **“Support the volunteer efforts of residents, businesses, and organizations in carrying out activities that promote accomplishment of the transportation objectives and enhance the Southwest community” (see attached)**. The proposed trails policy in no way supports the volunteer efforts of our SW volunteers, rather it makes achieving City goals much more difficult if not impossible. The City faces a choice, regress with this restrictive draft process that jeopardizes the creation of new trail connections and puts at risk the loss of key trail links as they degrade over time, or develop a straightforward and ‘user-friendly’ trails process that protects and improves the existing trail network and extends quality pedestrian improvements across the entire City of Portland.

#### **ATTACHMENTS**

1. ORS 105.668. Immunity from liability for injury or property damage arising from use of trail or structures in public easement or right of way.
2. Sample of plat document with dedication language.
3. Flyer sent by PBOT to 8,500 property owners adjacent to rights of way.
4. City Code, chapter 20.20, section K, paragraph 3.
5. Mayor Katz letter to Commissioner Hales.
6. City Engineer Brant Williams letter to Don Baack.
7. Appendix A of 2000 SW Urban Trails Plan.
8. Excerpt from 2000 SW Community Plan.

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## 2013 ORS § 105.668<sup>1</sup>

### Immunity from liability for injury or property damage arising from use of trail or structures in public easement or right of way

- (1) As used in this section:
  - (a) Structures means improvements in a trail, including, but not limited to, stairs and bridges, that are accessible by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance.
  - (b) Unimproved right of way means a platted or dedicated public right of way over which a street, road or highway has not been constructed to the standards and specifications of the city with jurisdiction over the public right of way and for which the city has not expressly accepted responsibility for maintenance.
- (2) A personal injury or property damage resulting from use of a trail that is in a public easement or in an unimproved right of way, or from use of structures in the public easement or unimproved right of way, by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance does not give rise to a private claim or right of action based on negligence against:
  - (a) A city with a population of 500,000 or more;
  - (b) The officers, employees or agents of a city with a population of 500,000 or more to the extent the officers, employees or agents are entitled to defense and indemnification under ORS 30.285 (Public body shall indemnify public officers);
  - (c) The owner of land abutting the public easement, or unimproved right of way, in a city with a population of 500,000 or more; or
  - (d) A nonprofit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right of way in a city with a population of 500,000 or more.
- (3) Notwithstanding the limit in subsection (2) of this section to a city with a population of 500,000 or more, by adoption of an ordinance or resolution, a city or county to which subsection (2) of this section does not apply may opt to limit liability in the manner established by subsection (2) of this section for:

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- (a) The city or county that opts in by ordinance or resolution;
  - (b) The officers, employees or agents of the city or county that opts in to the extent the officers, employees or agents are entitled to defense and indemnification under ORS 30.285 (Public body shall indemnify public officers);
  - (c) The owner of land abutting the public easement, or unimproved right of way, in the city or county that opts in by ordinance or resolution; and
  - (d) A nonprofit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right of way in the city or county that opts in.
- (4) The immunity granted by this section from a private claim or right of action based on negligence does not grant immunity from liability:
- (a) Except as provided in subsection (2)(b) or (3)(b) of this section, to a person that receives compensation for providing assistance, services or advice in relation to conduct that leads to a personal injury or property damage.
  - (b) For personal injury or property damage resulting from gross negligence or from reckless, wanton or intentional misconduct.
  - (c) For an activity for which a person is strictly liable without regard to fault. [2011 c.528 §1]

...

Chapter 105

## Atty. Gen. Opinions

Private process server in a forcible entry and detainer action, (1975) Vol 37, p 869

<sup>1</sup> Legislative Counsel Committee, *CHAPTER 105—Property Rights*, [https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2013ors105.html](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors105.html) (2013) (last accessed Apr. 27, 2014).

<sup>2</sup> Legislative Counsel Committee, *Annotations to the Oregon Revised Statutes, Cumulative Supplement - 2013, Chapter 105*, [https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2013ano105.html](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ano105.html) (2013) (last accessed Apr. 27, 2014).

KNOW ALL MEN BY THESE PRESENTS, That Ruth Foy and Alfred Foy, her husband, and George Herman, and Grace B. Herman, his wife, do hereby make, establish, and declare the annexed map of GRACEMONT a true and correct map and plat thereof, all lots being of the dimensions shown on said map and all roads, streets, and courts of the widths therein set forth, and said Ruth Foy and Alfred Foy, her husband, and George Herman and Grace B. Herman, his wife, do hereby dedicate to the use of the public as public ways forever all roads, streets and courts shown on said map.

IN WITNESS WHEREOF, said Ruth Foy and Alfred Foy, her husband, and George Herman, and Grace B. Herman, his wife, have hereunto set their hands and seals this 25<sup>th</sup> day of May, 1940.

Executed in the presence of us as witnesses:

\_\_\_\_\_  
Ruth Foy  
\_\_\_\_\_  
Alfred Foy  
\_\_\_\_\_  
George Herman  
\_\_\_\_\_  
Grace B. Herman

\_\_\_\_\_  
Vera J. Forbes  
\_\_\_\_\_  
Emily Rydsc

Notary's  
Seal

STATE OF OREGON }  
COUNTY OF MULTNOMAH } 53

BE IT REMEMBERED, That, on this 25<sup>th</sup> day of May, 1940, before me the undersigned, a Notary Public in and for said State and County, personally appeared Ruth Foy and Alfred Foy, her husband, and George Herman, and Grace B. Herman, his wife, to me personally known to be the individuals named and described in, and who executed the foregoing instrument, and acknowledged to me that they executed the same freely, and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first in this my certificate written.

\_\_\_\_\_  
Vera J. Forbes  
Notary Public for State of Oregon.  
§ My commission expires Mar. 27, 1943

Approved \_\_\_\_\_  
Charles Mc Kivaly  
Per. City Planning Commission

Approved June 3<sup>rd</sup> 1940 \_\_\_\_\_  
Charles Ringle  
County Assessor

I, Earl A. Marshall, being first duly sworn, depose and say that I have correctly surveyed and marked with proper monuments the lands represented on the annexed map of GRACEMONT; that I used as an initial point for said survey the center of Section 33, T.15 R.1E, W.1M, where is situated a concrete monument 6" x 6" x 36". The property platted is described as follows; Beginning at the initial point aforesaid, running thence S.0° 02' E. along the center line of said section 35.85 feet to a point in the center line of Stephenson Road, thence S.89° 20 1/2' E. along the center line of Stephenson Road 1366.23 feet to a point in the center line of Boones Ferry Road; thence along the center line of Boones Ferry Road N.5° 59 3/4' E. 109.32 feet; thence 285.00 feet on a curve to the left having a radius of 204.52 feet; thence N.27° 51' W. 414.22 feet; thence 162.92 feet on a curve to the right having a radius of 477.06 feet; thence N.8° 16 1/2' W. 346.52 feet; thence 154.60 feet on a curve to the right having a radius of 716.3 feet to an intersection with the north line of the south one-half of the north-east one-quarter of said Section 33; thence, leaving the center line of Boones Ferry Road, N.89° 31' W, along said north line of said legal subdivision, 1408.52 feet to a point in the north and south center line of said Section 33; thence S.0° 02' E. 1299.81 feet to point of beginning

Earl A. Marshall

Subscribed and sworn to before me this \_\_\_ day of May, 1940

\_\_\_\_\_  
Notary Public for State of Oregon  
My commission expires \_\_\_\_\_

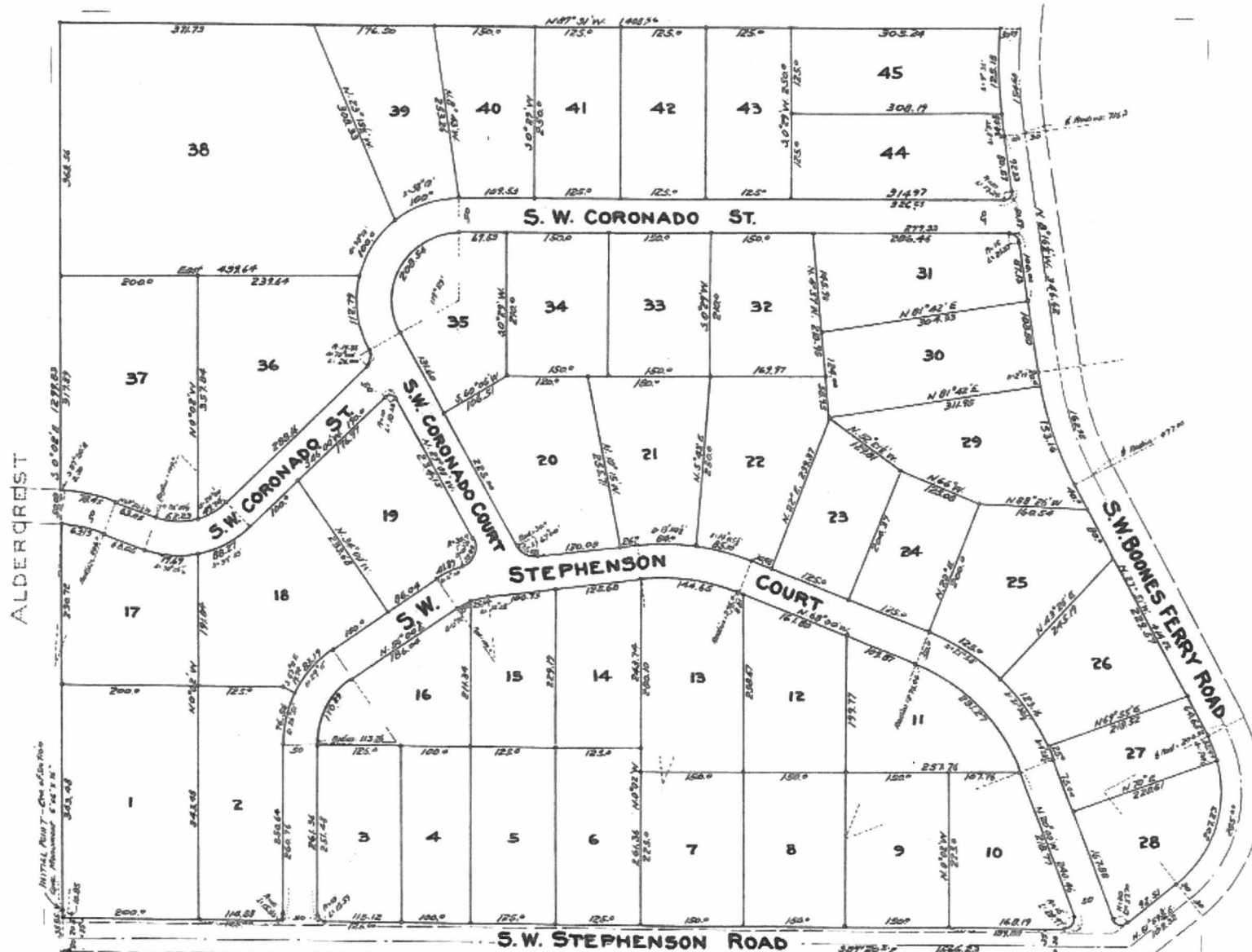
All taxes from 1926 to 1940 -  
both inclusive are paid.  
Martin T. Pratt, Sheriff  
by J. H. Ide  
Deputy

Approved June 5, 1940 \_\_\_\_\_  
G. A. Bigelow  
F. L. Shull  
O. V. Badley

Board of County  
Commissioners

Approved June 4 1940 \_\_\_\_\_  
Claude G. Powers  
County Surveyor

Attest: A. A. Bailey  
County Clerk  
By \_\_\_\_\_  
Deputy



# GRACEMONT

IN SECTION 33 T. 15. R. 1 E. W. M.

Surveyed May, 1940 by Marshall Bros.  
Scale 1 in. = 100 ft.

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27  
6-38

# Community-Initiated Neighborhood Trails Process

Attachment 3  
page 1



[www.portlandoregon.gov/transportation/trails](http://www.portlandoregon.gov/transportation/trails)

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*How should neighbors work together to decide where trails get built, who maintains them, and how to keep trails safe?*

*Could trails in your neighborhood provide better walking connections to places like schools, businesses, and transit stops?*

If these questions (or answers) interest you, please join us in developing the City's first Community-Initiated Neighborhood Trails Process!

## Where could these trails go?

This process would allow community groups to propose and construct trails in undeveloped rights-of-way (ROW). An undeveloped ROW is City-owned property that is unpaved, not maintained by the City, and may be impassible to vehicles. To learn more about where these ROWs are, visit our website at [www.portlandoregon.gov/transportation/trails](http://www.portlandoregon.gov/transportation/trails).

## Why do we need a Neighborhood Trails Process?

The City's Community-Initiated Neighborhood Trails Process will create simple steps for community groups or individuals to follow if they want to build a trail on an undeveloped ROWs. The process aims to evaluate whether these public properties could provide increased connections for people walking and if there is community support for the trail, among other factors.

We have a draft of the Community-Initiated Neighborhood Trails Process and are interested in hearing your thoughts. We want to ensure that the process is simple, fair, and consistent for those interested in expanding the City's trail system while being considerate of neighborhood impacts. To view the a draft version of the process, visit our website at [www.portlandoregon.gov/transportation/trails](http://www.portlandoregon.gov/transportation/trails).

## What's the timeline?

City staff has worked with residents over the last five months to develop the Community-Initiated Neighborhood Trails Process. We welcome additional feedback throughout April. In May, we hope to finalize the process and start piloting it in early summer!

You can submit your feedback in a couple of ways:

By email: Please submit your email comments to [trails@portlandoregon.gov](mailto:trails@portlandoregon.gov)

By phone: Call the Trails Program at 503.823.7736





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**Project Contact:**

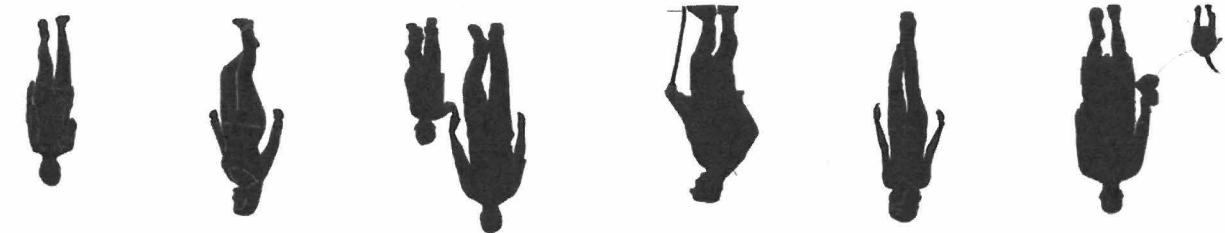
Community-Initiated Neighborhood Trails Program  
Portland Bureau of Transportation (PBOT)  
Phone: 503.823.7736 | Email: trails@portlandoregon.gov

[www.portlandoregon.gov/transportation/trails](http://www.portlandoregon.gov/transportation/trails)

The City of Portland complies with all non-discrimination laws including Title VI (Civil Rights) and Title II (ADA). To request a translation, accommodation or additional information, please contact [sara.schooley@portlandoregon.gov](mailto:sara.schooley@portlandoregon.gov) or use City TTY 503-823-6868, or Oregon Relay Service: 711. Para solicitador interprete, llame al 503-823-1088.



1120 SW 5th Avenue, Suite 800  
Portland, Oregon 97204-1914



**You own property or live near an unimproved Right-of-Way (ROW)!**  
The City is putting together a process for community members and groups to propose urban trails in undeveloped public rights-of-ways. To learn more about the Community-Initiated Neighborhood Trails process, check-out this pamphlet or visit us online at [www.portlandoregon.gov/transportation/trails](http://www.portlandoregon.gov/transportation/trails)!

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POL → Government → Elected Officials → Auditor Hull Caballero → Charter, Code & Policies → City Code & Charter → Online Code & Charter → Title 29 Property Mainten → **Chapter 29.20 Property Nuisances**

### 29.20.010 Outdoor Maintenance Requirements. - Printable Version

(Amended by Ordinance Nos. 176381, 180330, 183534, 184522, 185448 and 186053, effective January 1, 2015.) It is the responsibility of the owner of any property, improved or unimproved, to maintain the outdoor areas of the property and adjacent rights of way in a manner that complies with the following requirements:

**A. Holes, tanks, and child traps.** Remove, or fill where filling will abate the nuisance, all holes, cisterns, open cesspools, open or unsanitary septic tanks, excavations, open foundations, refrigerators, freezers, or iceboxes with unlocked attached doors and any other similar substance, material or condition which may endanger neighboring property or the health or safety of the public or the occupants of the property.

**B. Unsecured structures.** Board over or otherwise secure, and keep boarded over or otherwise secured, all open or broken exterior doors, windows, or apertures of any structure so as to prevent access by unauthorized persons through such openings.

**C. Rat harborage.** Remove or repair, and keep removed or repaired, any condition that provides a place where rats gain shelter, feed, or breed.

**D. Emergency access routes.** Remove and keep removed all brush, vines, overgrowth and other vegetation located within 10 feet of a structure or within 10 feet of a property line which is likely to obstruct or impede the necessary passage of fire or other emergency personnel.

**E. Thickets that conceal hazards.** Cut and remove and keep cut and removed all blackberry vines and other thickets when such growth is found to be:

1. Concealing trash and debris; or
2. Creating rat harborage; or
3. Creating harborage for people involved in criminal activity or for products used for criminal activity.

**F. Overgrown lawn areas.** Cut and remove and keep cut and removed all weeds and grass that are located in lawn areas and have a prevailing height of more than 10 inches.

**G. Nuisance Plants.** Eradication, as defined in 29.10.020 V., is required of all plants identified on the Nuisance Plants List. The Director shall adopt administrative rules detailing implementation and enforcement of this provision.

**H. Trash and debris.** Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:

1. All garbage, offal, dead animals, animal and human waste, and waste materials (All garbage shall be stored as specified in Section 29.30.140);
2. Accumulations of litter, glass, scrap materials (such as wood, metal, paper, and plastics), junk, combustible materials, stagnant water, or trash;
3. All dead bushes, dead trees, and stumps with the exception of such material which:
  - a. Is being maintained as part of a naturescaped property;
  - b. Does not result in a nuisance as otherwise defined in this chapter; and
  - c. Is located on a property which is otherwise substantially in compliance with this chapter;
4. All trees which are dead, dying or dangerous and are determined by the City Forester or a private certified arborist to require removal in order to safeguard people or property per the provisions in Title 11;
5. Accumulations of dead organic matter and yard debris, with the exception of small accumulations of such material in a maintained compost area on the property and only if such material does not result in a nuisance, such as creating rat harborage, as otherwise defined in this chapter; and
6. Accumulations of clothing and any other items not designed for outdoor storage.

**I. Storage of non-trash items.** Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:

1. Accumulations of wood pallets.
2. Any woody debris from Elm trees and all firewood that is not stacked and useable. "Useable" firewood has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the

### Title 29 Property Mainten

[Chapter 29.05 Title, Purpose and Scope](#)

[Chapter 29.10 Definitions](#)

**Chapter 29.20 Property Nuisances**

[Chapter 29.30 Housing Maintenance Requirements](#)

[Chapter 29.35 Maintenance Requirements for the Exterior of Non-Residential Structures.](#)

[Chapter 29.40 Dangerous and Derelict Structures](#)

[Chapter 29.50 Other Requirements](#)

[Chapter 29.60 Administration and Enforcement](#)

[Chapter 29.70 Costs and Penalties](#)

[Chapter 29.80 Appeals](#)

[Chapter 29.90 Housing Receivership](#)

property. Elmwood which is infected with Dutch Elm Disease must be properly disposed of at the direction of the City Forester, per the provisions in Title 11, Trees.

3. Accumulations of vehicle parts or tires.

4. All construction materials, except those that are stored in a manner to protect their utility and prevent deterioration and are reasonably expected to be used at the site.

5. All appliances or appliance parts except for storage of appliances that are reasonably expected to be used at the site and are stored in a manner to protect their utility and prevent deterioration.

6. All indoor furniture except that which is stored in a manner to protect its utility and prevent deterioration and is reasonably expected to be used at the property.

7. All recycling materials except for reasonable accumulations (amounts consistent with a policy of regular removal) that are stored in a well-maintained manner.

8. All other non-trash items which:

a. Are of a type or quantity inconsistent with normal and usual use; or

b. Are likely to obstruct or impede the necessary passage of fire or other emergency personnel.

**J. Disabled vehicles.** Neither store nor permit the storing of a disabled vehicle for more than 7 days unless the vehicle is enclosed within a legally permitted building or unless it is stored by a licensed business enterprise dealing in junked vehicles lawfully conducted within the City. Removal and disposition of such disabled vehicles shall be in accordance with the provisions of Section 16.30.320, 16.30.340, 16.30.350 and 16.30.500 of the Code to the extent that such provisions are applicable.

**K. Obstructions to sidewalks, streets, and other rights of way.** Keep the adjacent rights of way free of anything that obstructs or interferes with the normal flow of pedestrian or vehicular traffic, unless specifically authorized by permit or ordinance to do otherwise. This responsibility includes, but is not limited to, removal of earth, rock, and other debris, as well as projecting or overhanging bushes and limbs that may obstruct or render unsafe the passage of persons or vehicles. This responsibility also includes, but is not limited to, the obligation to maintain all rights of way referenced in this subsection to meet the following minimum clearances:

1. **Sidewalks.** All sidewalks must be clear of obstructions by earth, rock, or vegetation from edge to edge and to an elevation of 7-1/2 feet above sidewalk level. For example, bushes that encroach on or over any part of a sidewalk area must be cut back or removed and limbs of trees that project over the sidewalk area at an elevation of less than 7 1/2 feet above the sidewalk level must be removed. Pruning Street Trees and tree removal is subject to the requirements of Title 11, Trees.

2. **Improved streets.** On any improved street designated as a Regional Trafficway, Major City Traffic Street, District Collector, or a one-way street where parking has been prohibited, branches must be trimmed to a height of 14 feet above the crown of the street. Moreover any other improved streets must be clear of obstructions to vehicle movement and parking from edge to edge and to an elevation of 11 feet above street level. For example, bushes that encroach on or over any part of a street must be cut back or removed; limbs of trees that project over a street at an elevation of less than 11 feet above street level must be removed; and no wires or other things shall be maintained over the street level at any elevation less than 11 feet. Pruning Street Trees and tree removal is subject to the requirements of Title 11, Trees.

3. **Alleys and unimproved rights of way.** All alleys, unimproved streets, and other public rights of way must be clear of obstructions that may hinder the normal flow of traffic or render the right of way unsafe for its current and necessary use.

37163



37163

City of Portland  
Vera Katz  
Mayor

KEEP FOR YOUR  
INFORMATION

August 4, 2000

To: Commissioner Charlie Hales

From: Mayor Vera Katz *VKatz*

RE: Southwest Urban Trails Plan

In light of the City Council's recent passage of the Southwest Urban Trails Plan, I would like to make a request of you as Transportation Commissioner.

There is no doubt that a lot of work has gone into this Plan, both on the part of the SW Trails Group and the Office of Transportation. Yet, there is still much work to be done before the Plan results in an actual system of trails. I gathered from testimony at the hearing that volunteers associated with the SW Trails Group are more than willing to take on much of this work. I believe that in order for them to be successful, it will require consistent coordination and cooperation from the Office of Transportation.

My request to you is that you work with the Office of Transportation to develop a policy that will allow for an efficient use of these volunteers' time. Such a policy would not be strictly focused on the Southwest Urban Trails, but would be applicable citywide for other neighborhood groups that might be interested in similar trail-building efforts in the future.

The purpose of such a policy is to recognize the value of volunteers and develop a means for them to have access to resources they need. Without an easy, consistent way of accessing resources for trail building and maintenance, volunteers may become discouraged and no longer offer their time or labor. Given that possibility, the policy should be explicit in establishing lines of communication between Transportation, groups interested in volunteering, and the appropriate neighborhood coalition. It should also outline the appropriate method for volunteers to receive and return materials and tools, along with a commitment by Transportation to ensure that such an exchange is easy to initiate and implement.

Because of the wonderful work that has already taken place between the SW Trails Group and Transportation, I believe that a well-grounded policy is possible and will be successful for any group that has that shares a similar level of interest.





# CITY of PORTLAND

OFFICE of TRANSPORTATION

Charlie Hales, Commissioner  
 Engineering & Development  
 Brant Williams, City Engineer  
 1120 S.W. 5th Avenue, Room 802  
 Portland, Oregon 97204-1914  
 (503) 823-7004  
 FAX (503) 823-7371  
 TDD 823-6868

April 28, 1999

Attachment 6  
 page 1

Don Baack  
 6495 SW Burlingame Place  
 Portland, OR 97201

Dear Don:

You had asked that I take a look at a proposal to allow volunteers to make pedestrian connection improvements on several unimproved streets in Southwest Portland. The intent was for these improvements to be smaller-scale projects that could be built by neighborhood volunteers. The projects would have the support of the larger neighborhood as well as adjacent residents and property owners. This support would be important to allow these projects to move forward outside of the more formal public process for the SW Urban Trails Plan.

Instead of independently reviewing each of the projects requested in your e-mail of April 2, I would like to provide you with an overall framework that meets the intent described above.

- Residents and property owners adjacent to each project will need to be notified and should be supportive of the proposed improvements. Opposition to the work could result in postponing the project until it could go through a more formal public process requiring City staff participation.
- Each project will need to be sponsored by Southwest Neighborhoods, Inc. (SWNI). This will provide the added benefit that work performed by the volunteers will be covered under SWNI's insurance policy.
- The projects can only be built using tools no larger than typical hand tools, as this is a City Code requirement for work done without a permit.
- In your request, you asked for City assistance for various materials and technical services. Other than maybe some incidental services, I unfortunately cannot offer up these resources at this time. Allocating City resources to these types of projects would need to be considered from a public policy standpoint. The City has a long-standing practice of not spending money on unimproved sections of streets.
- And of course, the work must comply with all other state and local traffic and street-use laws and regulations.

I trust that you will find these conditions to be reasonable and workable. I certainly support your efforts and thus, my intention is to provide you with a means for building these projects that works not only for you and the volunteer workers, but also for residents, the neighborhoods, and the City.

Don Baack  
April 28, 1999  
Page - 2

Please give me a call if you have any questions. I would be happy to discuss the projects and this information with you. We appreciate all the hard work the SW Trails Committee has done on developing the primary urban trails network of the SW Urban Trails Plan.

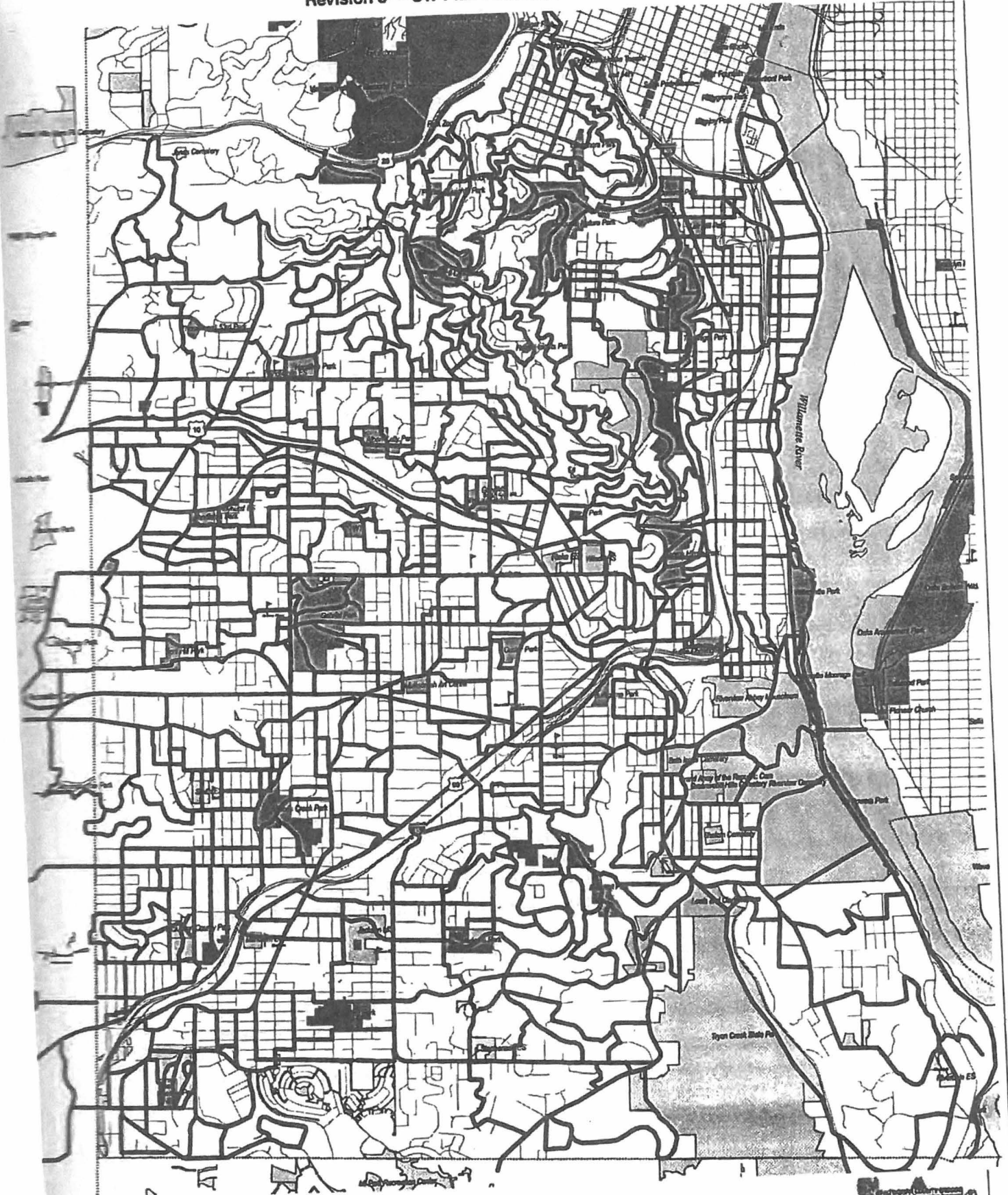
Sincerely,



Williams

Williams  
Executive Director, Southwest Neighborhoods  
10000 1st Avenue, NE, Seattle, WA 98108  
206.462.1000

Revision 3 — SW Plan Potential Pedestrian Routes



2 Miles

Parks Jurisdiction  
 Other Open Space  
 Schools  
 Metro  
 City of Portland

DRAFT  
8/19/98

# Southwest Community Plan

Adopted by City Council, July 13, 2000  
Ordinance No. 174667

## **Vision, Policies and Objectives**



**City of Portland  
Bureau of Planning  
Portland, Oregon**

**July 2000**





## Southwest Community Plan

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20. Support the volunteer efforts of residents, businesses, and organizations in carrying out activities that promote accomplishment of the transportation objectives and enhance the Southwest community. **37163**

**Moore-Love, Karla**

---

**From:** Melissa Manley <melissamanley@comcast.net>  
**Sent:** Monday, October 12, 2015 10:13 PM  
**To:** Council Clerk – Testimony  
**Subject:** Trails Process, Community Initiated Policy

We support the ***Community Initiated Trails Process*** policy as updated August 10, 2015 including leaving the language intact as written regarding the approval process for ROW's not identified as Proposed Urban Trails in the approved City transportation plan. We live at 1049 SW Coronado Street, 97219.

Given the need to repair Portland's streets and address pedestrian safety issues, especially in East Portland, the City Council (PBOT and Commissioner Novick) need to exercise fiscal responsibility and NOT use taxpayer dollars to fund (via staff time or partnership dollars) any NEW COMMUNITY-BUILT TRAILS. That is, the Council should vote to place a MORATORIUM on any new community-built trails until:

- **Current community built trails are brought up to safety standards, with priority given to those designated as part of the "Safe Routes to Schools" system.**

AFTER existing trails are brought up to safety standards, and a plan for maintaining the existing trails is developed and implemented, the Council should move the responsibility for overseeing community initiated, volunteer created and maintained Urban Trails from PBOT to Parks and Recreation. Most existing trails are used by hikers/walkers as an enjoyable activity for good health and fellowship, not to walk to work or school.

We urge the Council to adopt the Community-built Trails Process policy as updated August 15, 2015, and place a moratorium on further development or approval of new trails until current trails are SAFE and MAINTAINED and an assessment of the utilization of current trails is made to determine what percentage of Portland's citizens are using the trails. Is it a small, vocal group of citizens who want their "wants" met at the expense of the majority who have real "needs"?

Please consider a MORATORIUM on any new community-built trails until current trails are brought up to safety standards.

Thank you for your time.

Melissa Manley  
Kevin Manley

**Moore-Love, Karla**

---

**From:** Elizabeth Saunders <salmonheart@gmail.com>  
**Sent:** Monday, October 12, 2015 9:16 PM  
**To:** Council Clerk – Testimony  
**Subject:** Trails Process, Community Initiated Policy

To Whom it May Concern,

I am writing to express my strong support for the *Community Initiated Trails Process* policy as updated on August 10, 2015, including leaving the language intact as written regarding the approval process for ROW's not identified as Proposed Urban Trails in the approved City transportation plan. I live at 1025 SW Coronado Street, Portland, OR 97219.

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Please consider a MORATORIUM on any new community-built trails until current trails are brought up to safety standards.

Please feel free to contact me if you have any questions.

Thank you,

Elizabeth Saunders

8:04 pm

Sunny Sorensen

Fwd: Trails Process, Community Initiated Policy

FYI, This is what I sent. I plagiarized a friend who shared her submission and is a brilliant writer.

6:15 pm

5038169242

(no subject)

Urgent. Please see your email for message regarding trails. SWTrails wants to put up signs and

6:13 pm

Sunny, me 3

Urgent Update

My humble apologies. This left prematurely, due to cold fingers on keyboard. Please see complete

6:00 pm

Sunny Sorensen

URGENT TRAILS UPDATE

We apologize for the short notice. Some changes have occurred with little notice. Eric will be

5:05 pm

**Douzdjian**

Westside Christian - Location Change

We were just informed that the Westside Christian game will be played where we usually play them at:

3:28 pm

Heidi, Elizabeth, me 11

Tuesday

Ok. Sounds good. On Oct 12, 2015, at 15:28, Heidi Hu <[heidi.y.hu@gmail.com](mailto:heidi.y.hu@gmail.com)> wrote: Hi Lizanne,

2:33 pm

**Multnomah Athletic Club**

Take 5 Mins To Improve MAC

Take the Member Survey Every five years, members are invited to share feedback that helps drive the

1:47 pm

**Riverdale School District**

PSAT details for Wednesday

Take note of test timing and approved calculators list Riverdale High School REMINDER PSAT is

12:14 pm

Riverdale School District

TOMORROW: Please join us for Riverdale's State of the District!

Hear (and ask questions) about the state of your schools. Riverdale School District Please join us

11:54 am

me, Roberta, Elizabeth 3

2014 taxes?

Ok. Thank you, Robbie! On Monday, October 12, 2015, Straughn, Roberta (US - Honolulu) <[rstraughn@](mailto:rstraughn@)

11:48 am

Nathan Spear

Elizabeth, please add me to your LinkedIn network

LinkedIn Elizabeth Saunders Hi Elizabeth, I'd like to join your LinkedIn network. Nathan Spear

11:34 am

**Beverly Martin 2**

Daily Words of Wisdom

Creativity is the sudden cessation of stupidity. -Author Unknown Handpicked Words of Wisdom to

10:21 am

**PayPal Statements**

Your September account statement is available.

Elizabeth Saunders – Log in to PayPal to see your account statement. Your September account statement

10:00 am

**Jill Hall**

Application Help - This Thursday 9-1 - Please RSVP

Hi Seniors, I am available this Thursday during conferences to help with applications and essays in

9:19 am

**OSB Continuing Legal Edu.**

Your Weekly Forecast for the Week of October 12 - OSB 921260

OSB CLE Logo Browse CLE Calendar General Info/FAQ OSB Website October 12 Register Ethics,

5:17 am

Moda Health

Check out your Moda Health member benefits

Having trouble viewing this email? Click here At Moda Health, we're passionate about helping you

Yesterday

teresa .. stephen 4

Girls Soccer

Sorry, I guess I am brain weary or something. What I meant to say was that Rachel has practice on

Saturday

Andrew Smith

Temperance - The New Moon in Cardinal Air

Libra New Moon on the 13th October 2015 View this email in your browser Hi there Finally, the New

Saturday

**Douzdjian**

Varsity Boys Soccer - Week of October 12th

Mavs- We have 2 games this week on Tuesday and Friday. Also, no school on Thursday or Friday. You

Saturday

application\_help

Common App Payment Notification

Dear William , This email confirms the successful payment of the application fee on 10/10/2015 in the

Fwd: Trails Process, Community Initiated Policy

S



**Sunny Sorensen**

to

1 hour ago

Details

FYI, This is what I sent. I plagiarized a friend who shared her submission and is a brilliant writer. Please feel free to copy anything you like. Just send a submission ASAP. Sunny

----- Forwarded message -----

From: **Sunny Sorensen** <sunnyinportland@gmail.com>  
 Date: Mon, Oct 12, 2015 at 7:56 PM  
 Subject: Trails Process, Community Initiated Policy  
 To: cctestimony@portlandoregon.gov

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Thank you for your time.

Deb Sorensen

Reply  
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Deb Sorensen

Reply  
Forward

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**Sent:** Monday, October 12, 2015 7:57 PM  
**To:** Council Clerk – Testimony  
**Subject:** Trails Process, Community Initiated Policy

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Thank you for your time.

Deb Sorensen

**Moore-Love, Karla**

---

**From:** Robert Burgee <robert@stylemetrics.com>  
**Sent:** Monday, October 12, 2015 5:23 PM  
**To:** Council Clerk – Testimony  
**Cc:** Eric Sorensen; Hugh McGavick; greggcorey@comcast.net  
**Subject:** Trails Process

Dear Friends: It has been and continues to be a curious and troubling fact that not in any communication regarding trail building, trail maintenance, liability, etc. is there an expressed concern about the environmental impact of trail construction and use. Trails through undeveloped rights of way, especially on sloped ground, can affect runoff, drainage and loss of vegetation. Does the use of a trail trump the environment?

We have a situation on the undeveloped portion of SW Coronado St. between 16th Drive and Boones Ferry Road where an individual decided to “blaze” a trail for his and others’ use. This threatens what has been determined by licensed geologists to be an inappropriate hiking path. The hillside is unstable, and is an important drainage into Arnold Creek. Taxpayers are paying for expensive improvements to rainwater runoff on Stevenson Rd while at the same time the hiking cohort is using SW Coronado as a convenient walking route to Tryon Creek State Park. There are two viable and safe options for these hikers, neither of which threatens damage to the watershed.

I suggest that the City post signs stating “Pedestrian Use of This Pathway is Prohibited” at each entry point to the path. You will have the unanimous support of every neighbor in the vicinity of the hiking path in question.

Thank you for your thoughtful consideration of this issue.

Robert Burgee  
1449 SW Coronado St.

**From:** Paulette Watanabe <paulette.watanabe@gmail.com>  
**Sent:** Monday, October 12, 2015 12:21 PM  
**To:** Council Clerk – Testimony  
**Subject:** Fwd: Trails Process - Need for Moratorium

I neglected to sign my "testimony" for Wednesday's hearing on the Trails Process. I would like to add that the version of the document that was to be heard by the Council in July is superior to one subsequently revised by Don Baak (the one being considered by the Council on October 14). Sara Schooley did an excellent job of incorporating comments made after her initial draft. The revisions came from over 100 comments she received. How is it that one individual's comments made after the open period for public input can change the document?

Paulette Watanabe Crawshaw  
----- Forwarded message -----

**From:** **Paulette Watanabe** <paulette.watanabe@gmail.com>  
**Date:** Mon, Oct 12, 2015 at 11:33 AM  
**Subject:** Trails Process - Need for Moratorium  
**To:** [cctestimony@portlandoregon.gov](mailto:cctestimony@portlandoregon.gov)

Since I am working on Wednesday mornings, I am submitting my "testimony" via email. Given the need to repair Portland's streets and address pedestrian safety issues, especially in East Portland, the City Council (PBOT and Commissioner Novick) need to exercise fiscal responsibility and NOT use taxpayer dollars to fund (via staff time or partnership dollars) any NEW COMMUNITY-BUILT TRAILS . That is, the Council should vote to place a MORATORIUM on any new community-built trails until:

- **Current community built trails are brought up to safety standards, with priority given to those designated as part of the "Safe Routes to Schools" system.**

AFTER existing trails are brought up to safety standards, and a plan for maintaining the existing trails is developed and implemented, the Council should MOVE trails to Parks and Recreation. Most existing trails are used by hikers/walkers as an enjoyable activity for good health and fellowship, not to walk to work or school. I urge the Council to TABLE ADOPTION of the Community-built Trails Process (Policy) until current trails are SAFE and MAINTAINED and an assessment of the utilization of current tails is made to determine what percentage of Portland's citizens are using the trails. Is it a small, vocal group of citizens who want their "wants" met at the expense of the majority who have real "needs"? Please consider a MORATORIUM on any new community-built trails and a re-visiting of the trails process document if and when current trails are brought up to safety standards.

**Moore-Love, Karla**

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**From:** Don Baack <baack@q.com>  
**Sent:** Monday, October 12, 2015 8:26 AM  
**To:** Council Clerk – Testimony  
**Cc:** Turner Cathy And Mark  
**Subject:** Testimony to Amend the Trails Policy  
**Attachments:** 2015 10 14 SWT Board Approved Amendments.doc

Please confirm receipt of this testimony.

--

Don Baack  
baack@q.com  
503-246-2088 call if you need response quickly


**SW Trails PDX**

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 baack@q.com

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Glenn Bridger  
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*Audits*  
 503-245-0729

Hans Steuch  
*Board Member*  
*Policy-Red Electric*  
 503-452-9225

Barbara Bowers  
*Board Member*  
*Membership*  
 503-452-5017

Barbara Stedman  
*Board Member*  
*Social Media*  
 503-892-5180

To the City Council and Interested Parties

Proposed Amendments by SWTrails

SW Trails strongly supports a Trails Policy. However, the proposed trails policy in no way supports the volunteer efforts of our SW volunteers, rather it makes achieving City Pedestrian Mobility goals much more difficult if not impossible in geographically challenged sections of the city. The City faces a choice: 1. Regress with this restrictive draft process that jeopardizes the creation of new trail connections and risks the loss over time of key trail links as they degrade and are encroached upon, or 2. Develop a straightforward and 'user-friendly' trails process that protects and improves the existing trail network and extends quality pedestrian improvements across the entire City of Portland.

And therefore we propose the following amendments:

1. Add following "Immunity to Certain Landowners" on page 2, a section called "Notice to Certain Landowners": "With the adoption of the trails process, a letter will be sent to each property owner adjacent to an unbuilt right of way explaining the owners responsibility to keep the rights of ways accessible to the public and that they are liable for anything that happens along the ROW. In addition, the letter will explain ORS 105.668 and how they can reduce their liability by working with a nonprofit to improve the trails to city guidelines." **Add a separate paragraph** "This Trails policy will be in effect for 6 months' at which time it shall be reviewed by staff and stakeholders to recommend changes".
2. Replace Steps 1, 2 and 3 in the Draft City-Wide Trails Policy with the following.
  - A. People interested in seeing a segment of right of way developed into a permitted trail will write up the request including a map showing where the trail would start and where it would end. Briefly describe why the trail should be created (if no trail currently exists) or improved (if a visible trail exists). The request would include what non-profit would be constructing and maintaining the trail and should include a statement of support from the non-profit.
  - B. City staff will review the request internally and with other affected bureaus and if 1. the non-profit organization is deemed capable of constructing and maintaining the trail, and 2. no compelling reason to reject the request is presented, send out a notification of the request and request comments from interested parties and comments from the affected neighborhood.
  - C. Urban trails previously constructed and that meet the current guidelines shall be granted a group permit. SW Trails requests that the new trails process adhere to past practices where City approval for trail work could allow grouping of projects
  - D. After review of the comments and no compelling reason to reject the request is apparent, the permit will be issued.
  - E. Provide an appeals process by well informed, objective and independent observers. (City Council)

After the permit is issued take the following steps:

3. In step 4 of PBOT's draft process change "standard" to "guidelines" as it is used in Parks documents.
4. In the draft process step 6, add the clause "accompanied by members of the construction non-profit"

when inspections are done.

5. Replace section “Mutual Respect” with “Mutual Respect and maintaining open rights of way”. The city code provision which imposes the duty on adjacent landowners to keep public rights of way clear is Title 29.20.010.K.3:

“29.20.010. It is the responsibility of the owner of any property, improved or unimproved, to maintain the outdoor areas of the property and adjacent rights of way in a manner that complies with the following requirements:

**“K. \*\*\* 3. Alleys and unimproved rights of way. All alleys, unimproved streets, and other public rights of way must be clear of obstructions that may hinder the normal flow of traffic** or render the right of way unsafe for its current and necessary use.” (Amended by Ordinance Nos. 176381, 180330, 183534, 184522, 185448 and 186053, effective January 1, 2015.) (All emphases added,)



**Moore-Love, Karla**

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**From:** Glenn Bridger <gbridger@teleport.com>  
**Sent:** Sunday, October 11, 2015 10:53 PM  
**To:** Council Clerk – Testimony  
**Subject:** Community-Initiated Trails Process  
**Attachments:** Trails Testimony Oct 15 Bridger.docx

Friends,

Please place the attached testimony in the record for your hearing scheduled on Wednesday October 14.

Respectfully submitted,

Glenn Bridger  
940 SW Vincent Place

### **Trails Public Involvement outreach**

Trails are important to communities as places to exercise, to provide safer paths to work and transit, and establish safe routes to schools. When construction is taken on by a non-profit organization, they can also provide immunity for adjacent owners when the public rights of way are used for the purpose for which they were dedicated, that is, places for people to walk even if there is no roadway improvement on the site.

The public involvement outreach by PBOT involved 8000 postcards to owners of lands adjacent to unimproved rights of way. These cards focused upon possible use of these rights of way for a trail. The notice did not highlight the major change, which was the provision of immunity these owners would receive were appropriate trails constructed. These focused postcards advising of the new policy development did not reach out individually to the whole community of users, who would benefit from improved trail connectivity. These users often include members of racially, physically, and economic communities that comprise the trail users. For example, a key trail currently under development in SW Portland along the SW 25<sup>th</sup> corridor between Stephens Crossing and Robert Gray Middle School provides needed service not otherwise available to low income and minority families.

PBOT has failed in their outreach program and its efforts to meet city equity goals. The public involvement for this proposal was slanted heavily to the property owners adjacent to the unimproved lands, and not on the intended users of the trails whose diversity is more representative of the city as a whole than is the diversity of the property owners. This public involvement approach also slanted the feedback received by PBOT on their proposal, with the primary commenters being adjacent property owners.

### **Purpose of Trails Policy**

The Purpose of the City Trails Policy should be changed, from the above de-facto focus upon the affect the policy may have upon owners of lands next to unbuilt rights of way, to the need for Portland to build out trails on their underused lands to the benefit of all Portlanders. In a perfect city, there would be no unused rights of way as streets and sidewalks would have been constructed in those locations. We continue to have connectivity needs, but do not have the public funding to bring those projects to fruition. Trails, built by nonprofit organizations, is the way these city connections can be most effectively provided.

“To enable the construction of safe public trails on public rights of way” should be the purpose of this document. Processes should be streamlined to facilitate these improvements. Guidelines should be in place to assure they are safe for users, and respect the environment through which they pass. The ideas of adjacent owners and community users should be solicited before any construction so that local desires are respected to the extent practicable. But the desires of the larger community for the trail service that will be provided should be the over-riding factor governing its construction.

### **Stewardship of public rights of way**

PBOT has the lead stewardship role over the public rights of way in the city. They oversee and have the approval authority over the use of these public lands by utilities, private entities, and others. Their stewardship responsibility owes no special allegiance to any property owners whose lands are adjacent to public rights of way. PBOT has reaffirmed this position recently when enacting rules allowing utility and fiber optic companies to place equipment storage structures in the public rights of way.

As stewards of the public lands, it is also their responsibility to assure that private uses of these lands be limited and do not interfere with public uses such as transportation and utility corridors. Providing private benefit of these lands to adjacent users could be viewed as de-facto vacation of the rights of way, without the accompanying upward adjustment in property tax revenue to reflect this exclusive usage.

### **Connectivity**

Trails are historically the first and most rudimentary evidence of needed connectivity. Their routes define the most practicable and most accessible route between points where people desire to travel. The existence of social, or demand trails, are prima fascia documentation of needed connectivity and should be accepted as de-facto evidence of a connection need. Unfortunately, demand trails are not necessarily properly sited to minimize environmental damage or provide all-weather passage. This is where non-profit trails building organizations provide added value. But the initial routes, both present and historic, need to be honored when any trail requests are presented, with the objective on refining these routes through contemporary design techniques.

### **Community**

Trails are for serving and building community. Outreach to neighbors, and neighborhood associations, are important for respecting the community needs. **Let's be clear: no not for profit group is going to go out of their way to expend their efforts to construct a trail where there are not trail users who will benefit from the project.** When a not for profit organization comes forth with requests for a permit for a trail, they should be able to make a case for the trail or trails. The process for the city issuance of a permit should include outreach to the community, including the neighborhood associations. As trails expand public services at a minimal cost, every effort should be made to grant permits except where they city identifies other public activities that require the lands, or safety or environmental issues that cannot be incorporated into the trail construction. Private desires to restrict uses of public lands do not trump community benefits of a trail.

### **Respectfully submitted,**

Glenn Bridger, 940 SW Vincent Place, Portland.

**Moore-Love, Karla**

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**From:** Hans E Steuch <h.steuch@msn.com>  
**Sent:** Sunday, October 11, 2015 5:22 PM  
**To:** Council Clerk – Testimony  
**Cc:** Don Baack  
**Subject:** Trails Process  
**Attachments:** SWTrails Testimony A. for Trails Policy Hearing(updated 10 9 2015).docx..pdf

Please find attached SWTrails written testimony for the Wednesday, October 13, Portland City Council hearing on the Portland Bureau of Transportation's Community-Initiated Neighborhood Trails Process.

Hans Steuch  
(503) 504-8843 (m)



**SWTrails PDX**

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*Board Member*  
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*Membership*  
 503-452-5017

Barbara Stedman  
*Board Member*  
*Social Media*  
 503-892-5180

October 9, 2015

**To:** Portland City Council and Interested Parties

**From:** SWTrails

**Re:** Testimony for hearing on Community-Initiated Trails  
 Process

The Board of Directors of SWTrails respectfully submits the following testimony for your consideration.

### **Liability Law and Approval Process**

**SWTrails requests that the new trails policy fully address the significant change in the rights and liabilities law applicable to adjacent property owners and require a 'notification process' in lieu of an 'approval process.'**

Prior to the passage of State law ORS 105.668, adjacent property owners had significant liability for non-recreational use of any trail built adjacent to their property. However, the passage of ORS 105.668 (see attached), represents a seismic shift in liability if the trail is built by a qualified nonprofit as directed by the City of Portland. Yet the City's approach to the draft Trails Policy does not fully reflect this new reality. Instead, the proposed policy bestows upon the adjacent property owner virtual veto rights to block trail maintenance and the creation of new urban trail segments. Trails appear to be treated in the draft process in a manner similar to seeking to install street furniture in the right of way. However, the rights of the adjacent property owners to veto a public pedestrian trail route along a public right of way ended when the street was dedicated for public use. Note the language of original plat documents, such as "...hereby dedicate to the use of the public as public ways forever..." (see attached).

Adjacent property owners do not have 'veto' power to block

improvements on other public lands. For example, property owners cannot veto the installation of new park amenities, nor do they have the right to block school construction projects. Furthermore, adjacent property owners cannot stop the installation of utilities in the public right of way. Providing 'veto power' for adjacent property owners and nearby neighbors to reject the development of new pedestrian connections along public-owned property specifically platted decades ago for transportation purposes is unprecedented. The proposed trails process is clearly a huge departure from prevailing transportation policy and seems to be heavily weighted toward property owners when the change in liability law, which creates immunity, now protects their interests.

The draft process should require 'notification' of adjacent property owners and nearby neighbors and should NOT require 'approval' from them to build much-needed pedestrian infrastructure improvements. Providing adjacent property owners with 'veto' power is essentially giving away public land without any public benefit.

## **Decision-Making Criteria**

**SWTrails expects the decision-making for proposed ROW improvements be done by PBOT and partner Bureaus, based on clear criteria.**

The proposed trails process seeks to shift the responsibility for decision-making concerning proposed trails from simple merits to a complicated, time-consuming process that gives undue influence to adjacent property owners and nearby neighbors.

A sound trails policy begins with clear criteria. The process should also include a public involvement component whereby interested parties, including adjacent property owners, nearby neighbors, and neighborhood associations are 'notified' of proposed developments so their opinions, if they wish to offer them, may be considered by City staff. However, the decision to approve or reject a proposed

right of way improvement should be left to PBOT and partner Bureaus, based on compliance with the criteria. The decision-making should NOT be up to property owners and nearby neighbors.

## Flawed Data

**SWTrails asserts that the public input process was flawed and the new trails process is weighted heavily in favor of a minority group of property owners and not representative of the needs of the community at-large.**

The process followed in developing the proposed policy began with discussions with staff about their desires and requirements for a policy. The process also included contacting by direct mail every property owner (over 8,500) who owns property adjacent to an undeveloped public right of way asking them to weigh in on the discussion (see attached). However, the direct mail piece did not explicitly inform the property owners that they are currently responsible for keeping the right of way open for the public and are potentially liable for anything that happens on the right of way adjacent to their property. The notice also did not tell the adjacent property owners of the new ORS 105.668 where under certain conditions property owners are relieved of both the maintenance responsibility and the have immunity protections if a trail is permitted by the City and built by a cooperating nonprofit under the direction of the City. This is a serious omission that could have turned 'trail opponents' into 'trail supporters' had property owners been made aware of the changes in State law.

Furthermore, the mailings advising of the new trails policy were not sent out to representatives of the wider community of users who would benefit from improved pedestrian connectivity. These users often include members of racial minority groups, as well as physically and economically challenged members of the community. For example, a key trail currently under development in SW Portland along the SW 25<sup>th</sup> corridor between Stephens Crossing and Robert Gray Middle School provides needed service not otherwise available to low income and minority families.

As the public involvement for the new trails process was slanted heavily to the property owners adjacent to the unimproved lands, and not on the intended users of the trails whose diversity is more representative of the city as a whole, PBOT has failed in their outreach program and in efforts to meet their equity goals.

Altogether, this public involvement approach skewed the feedback received by PBOT on their proposal, with the primary commenters being adjacent property owners.

## **Encroachments**

### **The new trails process does not fully address the City-wide problem with encroachments and the process for enforcing the removal of encroachments.**

Encroachments in the public right of way exist throughout the City. Some adjacent property owners use the right of way to dump yard debris, park extra vehicles, and take other actions that impede pedestrian use of these public spaces. The City of Portland does not seem to be enforcing the removal of encroachments according to code in a fair and equitable manner. This is causing a slow burning frustration and disillusionment in the process among Portland residents, often pitting neighbor against neighbor. This lack of enforcement to remove encroachments that block pedestrian access to public rights of way is a violation of Title 29 of the City code (see City Code, Chapter 29.20, section K. paragraph 3 attached).

Unfortunately, this lack of enforcement has inadvertently become an enticement for property owners adjacent to unbuilt rights of way to block them. The draft trails process not only does not address the matter of encroachments and the removal of them, but by having such a restrictive process for the development of ROW improvements, it further entices property owners to block off public rights



of way for their own personal use knowing that they also have ‘veto power’ under the draft policy to thwart proposed improvements that benefit the public. The net result is a significant decrease in pedestrian connectivity in those parts of the city where there are many unbuilt rights of way being used as trails, and a difficult and time wasting task to gain access to dedicated rights of way or easements that are currently blocked.

The City of Portland must follow its own laws and immediately ‘post’ (citing the property owner) blocked or fenced rights of way when requested and enforce removal of the encroachments. The new trails process should address the matter of encroachments and should not provide adjacent property owners with ‘veto power’ to shut down proposed improvements that are planned to serve the transportation needs of the community at-large.

### **Needed Partnership—Mutual Goals**

**SWTrails maintains that the new trails process is overly restrictive and ought to instead better incorporate Mayor Katz’s directive to build trails with City support and resources.**

After the SW Urban Trails Plan was adopted, **Mayor Katz** wrote then **Commissioner Charlie Hales** “...requesting consistent coordination and cooperation from the Office of Transportation” to realize the goal of an urban trail network. She further states, “My request to you is that you work with the Office of Transportation to develop a policy that will allow for an efficient use of these volunteers’ time. Such a policy would not be strictly focused on the SW Urban Trails Plan but would be applicable citywide for other neighborhood groups that might be interested in similar trail-building efforts in the future. The purpose of such a policy is to recognize the value of volunteers and to develop a means for them to have access to resources they need. ...” (see letter attached). The proposed trails process provides more consideration for those who aim to halt the development of trail segments and not for those who wish to

address connectivity deficiencies and create trails for the benefit of residents, neighborhoods, and the City. The draft process, which is unnecessarily complicated, and provides unprecedented ‘veto power’ to property owners adjacent to undeveloped public rights of way, goes against Mayor Katz’s directive to the Department of Transportation to make use of volunteers who are willing to build trails for the benefit of the City. Furthermore, the process does not address Mayor Katz’s directive to support the volunteers by providing resources and tools—there is no mention in the draft policy that outlines a process for granting access to needed resources in order to support those willing volunteers to successfully build the trail system.

## **Permits**

**SWTrails requests that the new trails process adhere to past practices where City approval for trail work could include grouping of projects.**

City Engineer, Brant Williams, outlined in an April 28, 1999 letter to Don Baack of SWTrails, a process where trail segments could be built without the need for permits (see letter attached). Since permits have not been required by the City to construct trail segments, SWTrails maintains that permits to complete the trail segments outlined on Map 3.1 of the Southwest Urban Trails Plan should be issued without further process upon request by a qualified nonprofit.

## **Expand Streamlined Process**

**SWTrails requests that demand trails and proposed walking routes on Appendix A of the SW Urban Trails Plan be subject to the same process as the proposed walking routes on Map 3.1 of the SW Urban Trails Plan.**

Appendix A of the SW Urban Trails Plan was completed in 1998 as part of the SW Community Plan effort (see attached). This document was developed with input from every SW neighborhood. It was based on mapping “**where people want to**

**walk**” in their neighborhood. Most routes follow existing rights of way, some crossed parks and a few crossed private property. Those neighborhood supported walking routes that follow existing public rights of way, as delineated in Appendix A of the Southwest Urban Trails Plan should be subject to a streamlined process for permitting and creating those proposed trail segments. Many of these connections are currently in use as demand trails, but some could be made safer for pedestrian use with improved trail-building methods and materials, and may also be constructed in a way that better protects natural resources.

## Resources

**SWTrails requests that the City provide support (tools, materials, and nominal funding) for trail maintenance and trail building.**

The Office of Transportation, now PBOT, provided funds for materials and a few tools to build out the current SW Urban Trails network. The total investment of City funds was approximately \$50,000 to build the almost entire 40+ mile network (excluding the funds spent on developing the 4T route and its website). After a liability-related event in 2008, and based on PBOT direction, SWTrails has not done maintenance on the trail system nor has it built any additional connections on the Urban Trails Routes. With the cooperation and support of PBOT and modest ongoing funding, we are confident that if the changes to the draft policy are made, as proposed by SWTrails, we can complete and maintain the Urban Trail network and improve many pedestrian connections throughout SW Portland, as well as help train other groups that might seek to become qualified trail building nonprofits.

## Support Volunteers

**SWTrails requests that the new trails process fully incorporate the goals of Objective 20 of the Transportation Section of the SW Community Plan and work in partnership with volunteers to achieve transportation goals.**

**Objective 20 of the Transportation Section of the SW Community Plan** adopted by City Council in July 2000 states: **“Support the volunteer efforts of residents, businesses, and organizations in carrying out activities that promote accomplishment of the transportation objectives and enhance the Southwest community” (see attached)**. The proposed trails policy in no way supports the volunteer efforts of our SW volunteers, rather it makes achieving City goals much more difficult if not impossible. The City faces a choice, regress with this restrictive draft process that jeopardizes the creation of new trail connections and puts at risk the loss of key trail links as they degrade over time, or develop a straightforward and ‘user-friendly’ trails process that protects and improves the existing trail network and extends quality pedestrian improvements across the entire City of Portland.

#### **ATTACHMENTS**

1. ORS 105.668. Immunity from liability for injury or property damage arising from use of trail or structures in public easement or right of way.
2. Sample of plat document with dedication language.
3. Flyer sent by PBOT to 8,500 property owners adjacent to rights of way.
4. City Code, chapter 20.20, section K, paragraph 3.
5. Mayor Katz letter to Commissioner Hales.
6. City Engineer Brant Williams letter to Don Baack.
7. Appendix A of 2000 SW Urban Trails Plan.
8. Excerpt from 2000 SW Community Plan.

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## 2013 ORS § 105.668<sup>1</sup>

### Immunity from liability for injury or property damage arising from use of trail or structures in public easement or right of way

- (1) As used in this section:
  - (a) Structures means improvements in a trail, including, but not limited to, stairs and bridges, that are accessible by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance.
  - (b) Unimproved right of way means a platted or dedicated public right of way over which a street, road or highway has not been constructed to the standards and specifications of the city with jurisdiction over the public right of way and for which the city has not expressly accepted responsibility for maintenance.
- (2) A personal injury or property damage resulting from use of a trail that is in a public easement or in an unimproved right of way, or from use of structures in the public easement or unimproved right of way, by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance does not give rise to a private claim or right of action based on negligence against:
  - (a) A city with a population of 500,000 or more;
  - (b) The officers, employees or agents of a city with a population of 500,000 or more to the extent the officers, employees or agents are entitled to defense and indemnification under ORS 30.285 (Public body shall indemnify public officers);
  - (c) The owner of land abutting the public easement, or unimproved right of way, in a city with a population of 500,000 or more; **or**
  - (d) A nonprofit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right of way in a city with a population of 500,000 or more.
- (3) Notwithstanding the limit in subsection (2) of this section to a city with a population of 500,000 or more, by adoption of an ordinance or resolution, a city or county to which subsection (2) of this section does not apply may opt to limit liability in the manner established by subsection (2) of this section for:

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- (a) The city or county that opts in by ordinance or resolution;
  - (b) The officers, employees or agents of the city or county that opts in to the extent the officers, employees or agents are entitled to defense and indemnification under ORS 30.285 (Public body shall indemnify public officers);
  - (c) The owner of land abutting the public easement, or unimproved right of way, in the city or county that opts in by ordinance or resolution; **and**
  - (d) A nonprofit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right of way in the city or county that opts in.
- (4) The immunity granted by this section from a private claim or right of action based on negligence does not grant immunity from liability:
- (a) Except as provided in subsection (2)(b) or (3)(b) of this section, to a person that receives compensation for providing assistance, services or advice in relation to conduct that leads to a personal injury or property damage.
  - (b) For personal injury or property damage resulting from gross negligence or from reckless, wanton or intentional misconduct.
  - (c) For an activity for which a person is strictly liable without regard to fault. [2011 c.528 §1]

...

Chapter 105

## Atty. Gen. Opinions

Private process server in a forcible entry and detainer action, (1975) Vol 37, p 869

<sup>1</sup> Legislative Counsel Committee, *CHAPTER 105—Property Rights*, [https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2013ors105.html](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors105.html) (2013) (last accessed Apr. 27, 2014).

<sup>2</sup> Legislative Counsel Committee, *Annotations to the Oregon Revised Statutes, Cumulative Supplement - 2013, Chapter 105*, [https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2013ano105.html](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ano105.html) (2013) (last accessed Apr. 27, 2014).

KNOW ALL MEN BY THESE PRESENTS, That Ruth Foy and Alfred Foy, her husband, and George Hermann, and Grace B. Hermann, his wife, do hereby make, establish, and declare the annexed map of GRACEMONT a true and correct map and plat thereof, all lots being of the dimensions shown on said map and all roads, streets, and courts of the widths therein set forth, and said Ruth Foy and Alfred Foy, her husband, and George Hermann and Grace B. Hermann, his wife, do hereby dedicate to the use of the public as public ways forever all roads, streets and courts shown on said map.

IN WITNESS WHEREOF, said Ruth Foy and Alfred Foy, her husband, and George Hermann, and Grace B. Hermann, his wife, have hereunto set their hands and seals this 25<sup>th</sup> day of May, 1940.

Executed in the presence of  
us as witnesses: \_\_\_\_\_  
\_\_\_\_\_ Ruth Foy \_\_\_\_\_  
\_\_\_\_\_ Vera J. Forbes \_\_\_\_\_ Alfred Foy \_\_\_\_\_  
\_\_\_\_\_ Emily Rydse \_\_\_\_\_ George Hermann \_\_\_\_\_  
\_\_\_\_\_ Grace B. Hermann \_\_\_\_\_

Notary's  
Seal

STATE OF OREGON }  
COUNTY OF MULTNOMAH } 33

BE IT REMEMBERED, That, on this 25<sup>th</sup> day of May, 1940, before me the undersigned, a Notary Public in and for said State and County, personally appeared Ruth Foy and Alfred Foy, her husband, and George Hermann, and Grace B. Hermann, his wife, to me personally known to be the individuals named and described in, and who executed the foregoing instrument, and acknowledged to me that they executed the same freely, and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first in this my certificate written.

\_\_\_\_\_ Vera J. Forbes \_\_\_\_\_  
Notary Public for State of Oregon.  
My commission expires Mar. 24, 1943

Approved \_\_\_\_\_ Charles Mc Kialoy  
Pres. City Planning Commission

Approved June 3<sup>rd</sup> 1940 \_\_\_\_\_  
Charles Ringler  
County Assessor

I, Earl A. Marshall, being first duly sworn, depose and say that I have correctly surveyed and marked with proper monuments the lands represented on the annexed map of GRACEMONT; that I used as an initial point for said survey the center of Section 33, T.1S. R.1E, W.1M, where is situated a concrete monument 6" x 6" x 36". The property platted is described as follows; Beginning at the initial point aforesaid, running thence S.0° 02' E. along the center line of said section 35.85 feet to a point in the center line of Stephenson Road, thence S.89° 20 1/2' E. along the center line of Stephenson Road 1566.23 feet to a point in the center line of Boones Ferry Road; thence along the center line of Boones Ferry Road N.51° 59 1/2' E. 109.32 feet; thence 285.00 feet on a curve to the left having a radius of 204.22 feet; thence N.27° 51' W. 414.22 feet; thence 162.92 feet on a curve to the right having a radius of 477.06 feet; thence N.8° 16 1/2' W. 346.62 feet; thence 154.68 feet on a curve to the right having a radius of 716.3 feet to an intersection with the north line of the south one-half of the north-east one-quarter of said Section 33; thence, leaving the center line of Boones Ferry Road, N.89° 31' W, along said north line of said legal subdivision, 1408.56 feet to a point in the north and south center line of said Section 33; thence S.0° 02' E. 1299.83 feet to point of beginning

Earl A. Marshall

Subscribed and sworn to before  
me this \_\_\_\_\_ day of May, 1940

\_\_\_\_\_ Notary Public for State of Oregon  
My commission expires \_\_\_\_\_

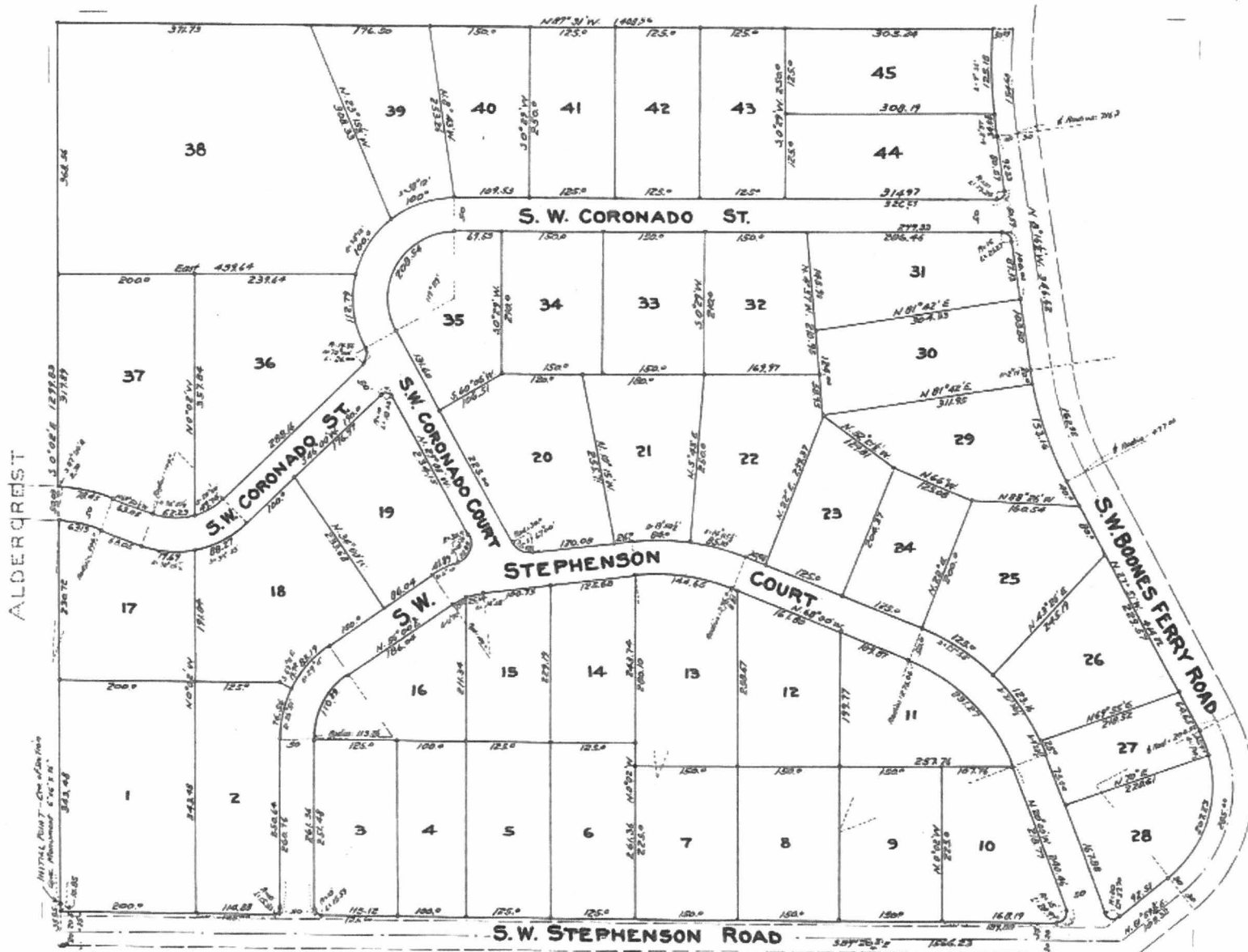
All taxes from 1926 to 1940  
both inclusive are paid.  
Martin T. Pratt, Sheriff  
by J. H. Idc Deputy

Approved June 5, 1940 \_\_\_\_\_

C. A. Bigelow  
F. L. Skull  
O. V. Badley  
Board of County Commissioners

Approved June 4 1940 \_\_\_\_\_  
Claude G. Powers  
County Surveyor

Attest: A. A. Bailey  
County Clerk  
By T. E. Reinhardt  
Deputy



# GRACEMONT

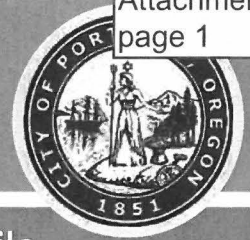
IN SECTION 33 T.15.R.1E. W.M.  
Surveyed May 1940 by Marshall Bros.  
Scale 1 in. = 100 ft.

1178  
23  
G-38



# Community-Initiated Neighborhood Trails Process

Attachment 3  
page 1



[www.portlandoregon.gov/transportation/trails](http://www.portlandoregon.gov/transportation/trails)

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*How should neighbors work together to decide where trails get built, who maintains them, and how to keep trails safe?*

*Could trails in your neighborhood provide better walking connections to places like schools, businesses, and transit stops?*

If these questions (or answers) interest you, please join us in developing the City's first Community-Initiated Neighborhood Trails Process!

## Where could these trails go?

This process would allow community groups to propose and construct trails in undeveloped rights-of-way (ROW). An undeveloped ROW is City-owned property that is unpaved, not maintained by the City, and may be impassible to vehicles. To learn more about where these ROWs are, visit our website at [www.portlandoregon.gov/transportation/trails](http://www.portlandoregon.gov/transportation/trails).

## Why do we need a Neighborhood Trails Process?

The City's Community-Initiated Neighborhood Trails Process will create simple steps for community groups or individuals to follow if they want to build a trail on an undeveloped ROWs. The process aims to evaluate whether these public properties could provide increased connections for people walking and if there is community support for the trail, among other factors.

We have a draft of the Community-Initiated Neighborhood Trails Process and are interested in hearing your thoughts. We want to ensure that the process is simple, fair, and consistent for those interested in expanding the City's trail system while being considerate of neighborhood impacts. To view the a draft version of the process, visit our website at [www.portlandoregon.gov/transportation/trails](http://www.portlandoregon.gov/transportation/trails).

## What's the timeline?

City staff has worked with residents over the last five months to develop the Community-Initiated Neighborhood Trails Process. We welcome additional feedback throughout April. In May, we hope to finalize the process and start piloting it in early summer!

You can submit your feedback in a couple of ways:

By email: Please submit your email comments to [trails@portlandoregon.gov](mailto:trails@portlandoregon.gov)

By phone: Call the Trails Program at 503.823.7736



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**Project Contact:**

Community-Initiated Neighborhood Trails Program  
Portland Bureau of Transportation (PBOT)  
Phone: 503.823.7736 | Email: trails@portlandoregon.gov

[www.portlandoregon.gov/transportation/trails](http://www.portlandoregon.gov/transportation/trails)

The City of Portland complies with all non-discrimination laws including Title VI (Civil Rights) and Title II (ADA). To request a translation, accommodation or additional information, please contact [sara.schooley@portlandoregon.gov](mailto:sara.schooley@portlandoregon.gov) or use City TTY 503-823-6868, or Oregon Relay Service: 711. Para solicitador interprete, llame al 503-823-1088.



1120 SW 5th Avenue, Suite 800  
Portland, Oregon 97204-1914

**You own property or live near an unimproved Right-of-Way (ROW)!**

The City is putting together a process for community members and groups to propose urban trails in undeveloped public rights-of-ways. To learn more about the Community-Initiated Neighborhood Trails process, check-out this pamphlet or visit us online at [www.portlandoregon.gov/transportation/trails](http://www.portlandoregon.gov/transportation/trails)

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POL → Government → Elected Officials → Auditor Hull Caballero → Charter, Code & Policies → City Code & Charter → Online Code & Charter → Title 29 Property Mainten → **Chapter 29.20 Property Nuisances**

**29.20.010 Outdoor Maintenance Requirements.** - Printable Version

(Amended by Ordinance Nos. 176381, 180330, 183534, 184522, 185448 and 186053, effective January 1, 2015.) It is the responsibility of the owner of any property, improved or unimproved, to maintain the outdoor areas of the property and adjacent rights of way in a manner that complies with the following requirements:

**A. Holes, tanks, and child traps.** Remove, or fill where filling will abate the nuisance, all holes, cisterns, open cesspools, open or unsanitary septic tanks, excavations, open foundations, refrigerators, freezers, or iceboxes with unlocked attached doors and any other similar substance, material or condition which may endanger neighboring property or the health or safety of the public or the occupants of the property.

**B. Unsecured structures.** Board over or otherwise secure, and keep boarded over or otherwise secured, all open or broken exterior doors, windows, or apertures of any structure so as to prevent access by unauthorized persons through such openings.

**C. Rat harborage.** Remove or repair, and keep removed or repaired, any condition that provides a place where rats gain shelter, feed, or breed.

**D. Emergency access routes.** Remove and keep removed all brush, vines, overgrowth and other vegetation located within 10 feet of a structure or within 10 feet of a property line which is likely to obstruct or impede the necessary passage of fire or other emergency personnel.

**E. Thickets that conceal hazards.** Cut and remove and keep cut and removed all blackberry vines and other thickets when such growth is found to be:

1. Concealing trash and debris; or
2. Creating rat harborage; or
3. Creating harborage for people involved in criminal activity or for products used for criminal activity.

**F. Overgrown lawn areas.** Cut and remove and keep cut and removed all weeds and grass that are located in lawn areas and have a prevailing height of more than 10 inches.

**G. Nuisance Plants.** Eradication, as defined in 29.10.020 V., is required of all plants identified on the Nuisance Plants List. The Director shall adopt administrative rules detailing implementation and enforcement of this provision.

**H. Trash and debris.** Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:

1. All garbage, offal, dead animals, animal and human waste, and waste materials (All garbage shall be stored as specified in Section 29.30.140);
2. Accumulations of litter, glass, scrap materials (such as wood, metal, paper, and plastics), junk, combustible materials, stagnant water, or trash;
3. All dead bushes, dead trees, and stumps with the exception of such material which:
  - a. Is being maintained as part of a naturesscaped property;
  - b. Does not result in a nuisance as otherwise defined in this chapter; and
  - c. Is located on a property which is otherwise substantially in compliance with this chapter;
4. All trees which are dead, dying or dangerous and are determined by the City Forester or a private certified arborist to require removal in order to safeguard people or property per the provisions in Title 11;
5. Accumulations of dead organic matter and yard debris, with the exception of small accumulations of such material in a maintained compost area on the property and only if such material does not result in a nuisance, such as creating rat harborage, as otherwise defined in this chapter; and
6. Accumulations of clothing and any other items not designed for outdoor storage.

**I. Storage of non-trash items.** Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:

1. Accumulations of wood pallets.
2. Any woody debris from Elm trees and all firewood that is not stacked and useable. "Useable" firewood has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the

**Title 29 Property Mainten**

[Chapter 29.05 Title, Purpose and Scope](#)

[Chapter 29.10 Definitions](#)

**Chapter 29.20 Property Nuisances**

[Chapter 29.30 Housing Maintenance Requirements](#)

[Chapter 29.35 Maintenance Requirements for the Exterior of Non-Residential Structures.](#)

[Chapter 29.40 Dangerous and Derelict Structures](#)

[Chapter 29.50 Other Requirements](#)

[Chapter 29.60 Administration and Enforcement](#)

[Chapter 29.70 Costs and Penalties](#)

[Chapter 29.80 Appeals](#)

[Chapter 29.90 Housing Receivership](#)

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property. Elmwood which is infected with Dutch Elm Disease must be properly disposed of at the direction of the City Forester, per the provisions in Title 11, Trees.

3. Accumulations of vehicle parts or tires.
4. All construction materials, except those that are stored in a manner to protect their utility and prevent deterioration and are reasonably expected to be used at the site.
5. All appliances or appliance parts except for storage of appliances that are reasonably expected to be used at the site and are stored in a manner to protect their utility and prevent deterioration.
6. All indoor furniture except that which is stored in a manner to protect its utility and prevent deterioration and is reasonably expected to be used at the property.
7. All recycling materials except for reasonable accumulations (amounts consistent with a policy of regular removal) that are stored in a well-maintained manner.
8. All other non-trash items which:
  - a. Are of a type or quantity inconsistent with normal and usual use; or
  - b. Are likely to obstruct or impede the necessary passage of fire or other emergency personnel.

**J. Disabled vehicles.** Neither store nor permit the storing of a disabled vehicle for more than 7 days unless the vehicle is enclosed within a legally permitted building or unless it is stored by a licensed business enterprise dealing in junked vehicles lawfully conducted within the City. Removal and disposition of such disabled vehicles shall be in accordance with the provisions of Section 16.30.320, 16.30.340, 16.30.350 and 16.30.500 of the Code to the extent that such provisions are applicable.

**K. Obstructions to sidewalks, streets, and other rights of way.** Keep the adjacent rights of way free of anything that obstructs or interferes with the normal flow of pedestrian or vehicular traffic, unless specifically authorized by permit or ordinance to do otherwise. This responsibility includes, but is not limited to, removal of earth, rock, and other debris, as well as projecting or overhanging bushes and limbs that may obstruct or render unsafe the passage of persons or vehicles. This responsibility also includes, but is not limited to, the obligation to maintain all rights of way referenced in this subsection to meet the following minimum clearances:

1. **Sidewalks.** All sidewalks must be clear of obstructions by earth, rock, or vegetation from edge to edge and to an elevation of 7-1/2 feet above sidewalk level. For example, bushes that encroach on or over any part of a sidewalk area must be cut back or removed and limbs of trees that project over the sidewalk area at an elevation of less than 7 1/2 feet above the sidewalk level must be removed. Pruning Street Trees and tree removal is subject to the requirements of Title 11, Trees.
2. **Improved streets.** On any improved street designated as a Regional Trafficway, Major City Traffic Street, District Collector, or a one-way street where parking has been prohibited, branches must be trimmed to a height of 14 feet above the crown of the street. Moreover any other improved streets must be clear of obstructions to vehicle movement and parking from edge to edge and to an elevation of 11 feet above street level. For example, bushes that encroach on or over any part of a street must be cut back or removed; limbs of trees that project over a street at an elevation of less than 11 feet above street level must be removed; and no wires or other things shall be maintained over the street level at any elevation less than 11 feet. Pruning Street Trees and tree removal is subject to the requirements of Title 11, Trees.
3. **Alleys and unimproved rights of way.** All alleys, unimproved streets, and other public rights of way must be clear of obstructions that may hinder the normal flow of traffic or render the right of way unsafe for its current and necessary use.



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City of Portland

Vera Katz

Mayor

COPY FOR YOUR INFORMATION

August 4, 2000

To: Commissioner Charlie Hales

From: Mayor Vera Katz *vkatz*

RE: Southwest Urban Trails Plan

In light of the City Council's recent passage of the Southwest Urban Trails Plan, I would like to make a request of you as Transportation Commissioner.

There is no doubt that a lot of work has gone into this Plan, both on the part of the SW Trails Group and the Office of Transportation. Yet, there is still much work to be done before the Plan results in an actual system of trails. I gathered from testimony at the hearing that volunteers associated with the SW Trails Group are more than willing to take on much of this work. I believe that in order for them to be successful, it will require consistent coordination and cooperation from the Office of Transportation.

My request to you is that you work with the Office of Transportation to develop a policy that will allow for an efficient use of these volunteers' time. Such a policy would not be strictly focused on the Southwest Urban Trails, but would be applicable citywide for other neighborhood groups that might be interested in similar trail-building efforts in the future.

The purpose of such a policy is to recognize the value of volunteers and develop a means for them to have access to resources they need. Without an easy, consistent way of accessing resources for trail building and maintenance, volunteers may become discouraged and no longer offer their time or labor. Given that possibility, the policy should be explicit in establishing lines of communication between Transportation, groups interested in volunteering, and the appropriate neighborhood coalition. It should also outline the appropriate method for volunteers to receive and return materials and tools, along with a commitment by Transportation to ensure that such an exchange is easy to initiate and implement.

Because of the wonderful work that has already taken place between the SW Trails Group and Transportation, I believe that a well-grounded policy is possible and will be successful for any group that has that shares a similar level of interest.



APR 30 1999



**CITY of PORTLAND**  
OFFICE of TRANSPORTATION

Charlie Hales, Commissioner  
Engineering & Development  
Brant Williams, City Engineer  
1120 S.W. 5th Avenue, Room 802  
Portland, Oregon 97204-1914  
(503) 823-7004  
FAX (503) 823-7371  
TDD 823-6868

April 28, 1999

Attachment 6  
page 1

Don Baack  
6495 SW Burlingame Place  
Portland, OR 97201

37063

Dear Don:

You had asked that I take a look at a proposal to allow volunteers to make pedestrian connection improvements on several unimproved streets in Southwest Portland. The intent was for these improvements to be smaller-scale projects that could be built by neighborhood volunteers. The projects would have the support of the larger neighborhood as well as adjacent residents and property owners. This support would be important to allow these projects to move forward outside of the more formal public process for the SW Urban Trails Plan.

Instead of independently reviewing each of the projects requested in your e-mail of April 2, I would like to provide you with an overall framework that meets the intent described above.

- Residents and property owners adjacent to each project will need to be notified and should be supportive of the proposed improvements. Opposition to the work could result in postponing the project until it could go through a more formal public process requiring City staff participation.
- Each project will need to be sponsored by Southwest Neighborhoods, Inc. (SWNI). This will provide the added benefit that work performed by the volunteers will be covered under SWNI's insurance policy.
- The projects can only be built using tools no larger than typical hand tools, as this is a City Code requirement for work done without a permit.
- In your request, you asked for City assistance for various materials and technical services. Other than maybe some incidental services, I unfortunately cannot offer up these resources at this time. Allocating City resources to these types of projects would need to be considered from a public policy standpoint. The City has a long-standing practice of not spending money on unimproved sections of streets.
- And of course, the work must comply with all other state and local traffic and street-use laws and regulations.

I trust that you will find these conditions to be reasonable and workable. I certainly support your efforts and thus, my intention is to provide you with a means for building these projects that works not only for you and the volunteer workers, but also for residents, the neighborhoods, and the City.

Don Baack  
April 28, 1999  
Page - 2

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Please give me a call if you have any questions. I would be happy to discuss the projects and this information with you. We appreciate all the hard work the SW Trails Committee has done on developing the primary urban trails network of the SW Urban Trails Plan.

Sincerely,



Williams

Revision 3 — SW Plan Potential Pedestrian Routes

APPENDIX A.



2 Miles

- Parks Jurisdiction
- Other Open Space
- Schools
- Metro
- City of Portland

DRAFT 8/19/98





# Southwest Community Plan

Adopted by City Council, July 13, 2000  
Ordinance No. 174667

## **Vision, Policies and Objectives**



**City of Portland  
Bureau of Planning  
Portland, Oregon**

**July 2000**



20. Support the volunteer efforts of residents, businesses, and organizations in carrying out activities that promote accomplishment of the transportation objectives and enhance the Southwest community.

**Moore-Love, Karla**

---

**From:** Lee Buhler <leebuhler@gmail.com>  
**Sent:** Sunday, October 11, 2015 4:47 PM  
**To:** Council Clerk – Testimony  
**Subject:** Trails Process

Dear Mayor Hales and City Commissioners:

Here are my thoughts on the Community Initiated Trails Policy. Thank you very much for considering them.

I think that trails are very important and the more we have the better. They help alleviate congestion, provide health benefits, increase the sense of community, reduce pollution, reduce crime, increase property values and provide an equitable means of transportation for those who need them. We need to do more than just say we are going to have zero pedestrian fatalities and do some actions to make this a reality. A good Trails Policy would help and a bad Trails Policy will hurt this effort.

I think we need to be fair in making these trails and allow as many trails to be built as possible. I do not think it is fair to let adjacent neighbors or neighborhood associations decide on whether a trail should be built. A trail could benefit many people beyond their scope and since it is public land we should consider everyone. I think the decision should be made through our elected officials and the Transportation Department with an option to appeal any decision to the full City Council. I do think it is important to get input from Neighborhood Associations and adjacent neighbors but a trail could provide a safe means of transportation for many people and they should be considered. I do not think it is fair to allow a small number of people to veto the use of public land that would benefit many other people.

I know there are many good people who want to do what they can to help their community. There are people who are willing to do the hard work to build trails for free. I would hope the City would support these people as much as possible and make the process as easy as possible. One of the best things about Portland are the many residents who want to help out others.

I think it is good we provide an incentive for adjacent neighbors by giving them a special relief from liability. I have about 160' of sidewalk along my property and I do not have the same immunity from liability. I must maintain my sidewalks. However, I am glad so many people benefit from my sidewalks and I accept the responsibility. However, I think I should be given the same respect when I go out for a walk. I think everyone in Portland must realize that public property belongs to everyone.

In sum, I do not think the proposed Trails Policy is fair. I think with some changes it could be made fair and a great benefit to the City. I think the suggested changes by SW Trails would make the policy fair and I urge you to support those changes.

Sincerely,

Lee Buhler

**From:** Marianne Fitzgerald <fitzgerald.marianne@gmail.com>  
**Sent:** Saturday, October 10, 2015 4:29 PM  
**To:** Commissioner Fritz; Commissioner Novick; Commissioner Fish; Commissioner Saltzman; Hales, Mayor; Council Clerk – Testimony  
**Cc:** Schooley, Sara; Treat, Leah  
**Subject:** City Council Agenda 1036 in support of Trails Process

Regarding City Council Agenda Item 1036, October 14, 2015 City Council Meeting, Community-Initiated Neighborhood Trails Process

Dear Commissioner Novick and Members of the Portland City Council:

Please accept this brief personal testimony in support of the draft Community Initiated Neighborhood Trails Process.

PBOT staff Sara Schooley has done a fantastic job of developing this process through extensive community outreach. This is a topic that is very controversial in our neighborhoods and the draft before City Council this week attempts to balance the needs of various participants in the process. It puts the burden of the work on the applying community organization in order to minimize impacts on city staff time, which we know has competing priority work. It also requires dialogue which is designed to develop mutual respect (p. 8). I don't think it's overly bureaucratic as some have claimed.

**I support adopting the draft Community-Initiated Neighborhood Trails Process as-is, with no amendments**, in order to give it a chance to see how it works.

I hope that the first few pilot projects that are tested are those most likely to succeed in achieving the purpose of the trail (page 3), to increase connectivity as one of a broad range of transportation choices in our neighborhoods, with local resident support.

Staff notes that SWTrails PDX may request dedicated funding for trail building and maintenance. I suggest that PBOT consider a limited competitive grant program (similar to neighborhood small grants) to allow a range of community organizations to apply for limited funding for trail improvements and maintenance. This is a community initiated process, and I am well aware of the limited funds PBOT has to spend on capital projects. A grant program can provide some assurance that the best projects move forward, and also provides needed administrative oversight of public funds.

Thanks for considering my comments in support of the draft Community Initiated Neighborhood Trails Process.

Sincerely,  
Marianne Fitzgerald  
10537 SW 64th Drive  
Portland OR 97219

**Moore-Love, Karla**

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**From:** John Gould <johnwgould@comcast.net>  
**Sent:** Friday, October 09, 2015 3:18 PM  
**To:** Council Clerk – Testimony  
**Cc:** Don Baack  
**Subject:** PBOT Trails permitting proposal  
**Attachments:** Trails in the City.docx

Enclosed is supporting testimony for SW Trails, Inc. for the Council hearing on Wednesday at 9:30.

John Gould

## How to get Trails in the City

1. The city is filled with dedicated but unused and unmaintained public rights of way.
2. There are groups who are interested in volunteering to provide both a public use and maintenance, one of which is SW Trails, a non-profit volunteer interest group in Hillsdale.
3. They are blocked from doing so by an apparently uninterested administration and objecting adjacent landowners.
4. But neither the city, its employees, nor abutting landowners have anything to fear from allowing public access to unused public easements because they are all protected by ORS 105.668(2):

**“(2) A personal injury or property damage resulting from use of a trail that is in a public easement or in an unimproved right of way \*\*\* by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance does not give rise to a private claim or right of action based on negligence against \*\*\* (a) [a city over 500,000 in population], (b) [city employees], (c) The owner of land abutting the public easement, or unimproved right of way \*\*\*.**

5. In fact, because of the landowner’s duty under the Portland city code to maintain abutting public rights of way free of obstructions, there is more hazard to a landowner ignoring the area with indifference or purposely-placed obstacles intended to obstruct access. This is because the immunity granted by ORS 105.668 for simple negligence does not provide a shield “(4)(b) For personal injury or property damage resulting from gross negligence or from reckless, wanton or intentional misconduct.”
6. The city code provision which imposes the duty on adjacent landowners to keep public rights of way clear is Title 29.20.010.K.3:

“29.20.010. It is the responsibility of the owner of any property, improved or unimproved, to maintain the outdoor areas of the property and adjacent rights of way in a manner that complies with the following requirements:

**“K. \*\*\* 3. Alleys and unimproved rights of way. All alleys, unimproved streets, and other public rights of way must be clear of obstructions that may hinder the normal flow of traffic**

or render the right of way unsafe for its current and necessary use.” (Amended by Ordinance Nos. 176381, 180330, 183534, 184522, 185448 and 186053, effective January 1, 2015.) (All emphases added.)

6. So why, when the duties are clear, the potential liabilities disarmed, and volunteers willing and able to convert unused public rights of way into functional community trails is there a slowdown in activity? The roadblock now is that part of PBOT’s “Community-Initiated Neighborhoods Trails Process” that is, in effect, allowing a project veto to adjacent property owners. Page 4 of the Application (September 15, 2015 version) contains this requirement for an organization wishing to take on a trail conversion:

“Please select which of the following applies. Attach the completed petition to this document:

Completed petition with the support of 75% of property owners adjacent to the proposed trail.

Completed petition with the support of 50% of property owners within ¼ mile of the proposed trail.

Completed petition with the support of 50% of property owners adjacent to the proposed trail and a letter of support from the appropriate Neighborhood Association. “

**7. This provision simply gives public approval of this process to too narrow a block of the affected community.** It is the adjacent neighborhood which is most impinged upon by the limitation of pedestrian ways, not the just the next-door neighbors. Both should have the right to opine, yes, but not with veto power.

**Conclusion:** PBOT’s draft application for a permit to convert an unused dedicated public right of way to a community trail should be amended by **deleting the power currently proposed to be given to adjacent property owners to veto the project by saying no or simply ignoring the request (abstaining).** A letter of comments from the affected Neighborhood Association seems appropriate and rational, since it is they who are likely to be the principal users of the new way, and it evinces community demand.

Respectfully submitted on behalf of  
SW Trails, Inc.

By: \_\_\_\_\_

John Gould

Date: \_\_\_\_\_

**Moore-Love, Karla**

---

**From:** Rick Kappler <rickk@sunsetforest.com>  
**Sent:** Wednesday, September 16, 2015 6:58 AM  
**To:** Council Clerk – Testimony  
**Subject:** Trails Process

Dear PBOT,

Unlike the abandoned public process for the mountain biking plans for the Riverview Natural Area, Portland city council needs to someday understand the critical need for trails in Portland. Mountain biking is transportation. Walking is transportation. The trails policy that needs to be adopted is the one that SW Trails advocates.

Rick Kappler