

# Community-Initiated Trails Process

## Implementation of the Southwest Urban Trails Plan

DRAFT, November 2014

### Background

The City of Portland has undeveloped right-of-ways (ROWs) in many parts of the city that some residents are interested in turning into urban trails. Historically, many of these ROWs have been located in Southwest Portland and are identified in the Southwest Urban Trails Plan (2000). The Plan supports the City's pedestrian transportation policy which calls for the City to complete a pedestrian network that serves short trips and transit, improves the quality of the pedestrian environment, increases pedestrian safety and convenience, encourages walking, and explores a range of funding options for pedestrian improvements.

While some of the trails identified in the plan have already been built, issues have arisen about how trails are chosen, permitting of improvements, and neighborhood support of the trails. This process looks to better consider these factors and put together a simple and fair method for those interested in expanding the City's trail system.

Many parts of this process are derived from existing City policies that look to address resident-initiated improvements, such as the Street Vacation, Area Parking Permit, and Local Improvement District policies.

### Benefits of Trails

PBOT has many miles of ROW throughout the City that remain undeveloped. While some of these ROWs are merely undeveloped because adjacent properties have yet to be developed (or redevelop under our current frontage improvement policies – e.g., much of East Portland, which was annexed into the City after much of its development), some ROWs may not be 'fit' for development. The determination of whether a ROW is 'fit' may depend on terrain, environmental protection zones, other ROW needs (e.g., water, sewer), and erosion potential, among others.

Yet, even though these ROW's might be unreasonable for development into built-out roads, they may offer opportunities for valuable, and currently unmet, connections. Trails are a way to improve the connectivity while keeping the costs lower than what would be needed for full sidewalk or road improvements. Trails are also valuable as a way to provide a connection without altering the aesthetics or 'place' that a ROW may go through, whether that be through the woods or in a neighborhood that has a rural feel.

### Community-Initiated Work

The City strives to work hand-in-hand with community members and groups to ensure that our efforts meet the needs of those we aim to serve. While many of these efforts are led by the City, there are also some that are led by community groups with the City in a support role. These sorts of efforts take advantage of community interest, knowledge, resources, and passion, while potentially keeping costs low(er) for the City and the public.

In the case of trails, SW Trails has been instrumental in identifying and building trails throughout Southwest Portland, many for a fraction of the cost and time than it would have been if the construction were completed by the City. There are a few reasons for these advantages, including, but not limited to:

1. Volunteers are the main labor source
2. Project coordinators are not trying to schedule available around other staff demands
3. Trails built by community groups may not need to meet as strict of design standards as would be required if the City built the trail, which may lower costs

For these reasons, among others, PBOT supports and encourages community-initiated work in the right circumstances. This process looks to identify what the right circumstances are for community-initiated trail work.

### Immunity for Certain Landowners

In 2011, SW Trails worked with partners to pass House Bill 2865 (ORS 105.668) to gain immunity for certain landowners. Before extending immunity to certain landowners and nonprofits, there was the potential for either the adjacent property owner or the organization which built the trail (e.g., SW Trails) to be liable if anyone on the trail was injured. ORS 105.668 specifies that personal injury or property damage resulting from the use of a public trail that is a public easement or in an unimproved right of way, or from use of structures in the public easement or unimproved right of way may not give rise to an action based on negligence against any of the following entities:

1. A city with a population of 500,000 or more;
2. The officers, employees, or agents of such a city;
3. The owner of any land abutting a public easement or unimproved right-of-way over which the trail extends; or
4. A nonprofit corporation or its volunteers for the construction and maintenance of such a trail in a city of 500,000 or more.

The immunity granted by HB 2865 was a key victory in allowing and encouraging community partnerships for trail building, as well as addressing concerns of adjacent landowners, nonprofits and volunteers being exposed to potential liability from users of the trails.

### Southwest Urban Trails Plan

In 2000, PBOT worked with a variety of community stakeholders and City bureaus to develop the Southwest Urban Trails Plan. This plan outlined a proposed network of trails throughout Southwest Portland to increase pedestrian access for recreation and transportation.

This Community-Initiated Trails Process looks to be consistent with and supportive of the Southwest Urban Trails Plan, as well as fill in the details of the “more formal public process” referenced in the plan for situations where there may be opposition to the trails (pg. 21, [portlandoregon.gov/transportation/article/222843](http://portlandoregon.gov/transportation/article/222843)). The Plan was adopted by resolution by the Portland City Council on July 26, 2000 (<http://www.portlandonline.com/auditor/index.cfm?a=40778&c=31608>).

## Process Framework

The importance of trails as a piece of Portland's transportation system is detailed in Chapter 6: Transportation of our current Comprehensive Plan. Specifically, trails are mentioned in the following policies:

- *6.22.E. Pedestrian Transportation.* Develop a citywide network of pedestrian trails that increases pedestrian access for recreation and
- *6.41.E. Southwest Transportation District.* Use the Southwest Urban Trails Plan as a guide to dedicating and developing trail segments in Southwest.

In addition, there is support for trail in the City's Pedestrian Master Plan and Regional Active Transportation Plan. The Community-Initiated Trails Process looks to draw from these policies to build a framework. Specifically, we're looking for the City's Community-Initiated Trails Process to address:

- **Purpose of Trail.** City policy aims to support a broad range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. The City's support of transitioning an unimproved ROW to a trail depends on how an improved ROW may help meet these goals.
- **Connectivity.** The City's transportation system aims to increase accessibility to transit, employment, education, recreation, and services (e.g., grocery stores, community centers). The City's support of a trail will weigh heavily on whether an improved ROW increases accessibility.
- **Resident Support.** While the ROW is public space, it is important that the residents immediately surrounding and nearby to the ROW are supportive of the potential improvements. Nearby residents will serve as the primary users of the trail and should feel comfortable with improvements made to their neighborhood.
- **Trail Design.** If a ROW is improved to recreational trail standards by a party other than the City (e.g., SW Trails), it may not need to meet the same standards that would be necessary if the City was improving the ROW. That said, there are still trail standards that will need to be met (As of July 2014, PBOT would recommend following Portland Parks Trail Type B standards - <http://atfiles.org/files/pdf/PortlandTrailDesign.pdf>) and potential environmental mitigation depending on the specific location.
- **Permitting.** The organization initiating the trail will need to obtain the permits required for the trail construction. Further discussion of permitting is included later in this process.
- **Maintenance.** If a ROW is improved to recreational trail standards by a party other than the City, this party will be responsible for the maintenance of that ROW. If the trail condition degrades to the point where the City Engineer deems the conditions to be unsafe for the public, he/she may close the trail.
- **Funding.** In the current financial state, the City of Portland does not have funds to dedicate to improve or maintain trails. It will be up to the party interested/acting on improving the trail to fund the surveying, engineering, material, and building of the trail through grants, fundraising, or other means. If the other requirements of the trail are met (purpose, accessibility, resident support, design, and maintenance) and the trail applicant is a not-for-profit organization, PBOT will waive the costs for encroachment permitting.

## Proposed Process for Community-Initiated Improvements to ROW to Trail Standards

PBOT staff have created the following system to help interested applicants evaluate if a ROW is appropriate for trail improvement and, if desired, how to move forward with the improvements.

### Step 1. Check with public agencies to see if there are any ROW improvements planned or any issues with development in the ROW.

Some PBOT ROWs have utilities, such as water mains or sewer, underground. Before pursuing a trail, it is important to check with other public agencies to ensure that improving the ROW would not cause issues with the function or maintenance to utilities, if present.

To find out whether there are any plans for or utilities present in the ROWs, contact the following:

- Right-of-Way Acquisition (RWA): [pbotrwa@portlandoregon.gov](mailto:pbotrwa@portlandoregon.gov) or (503) 823-1372
- Utilities Coordination Planning: [ryan.mace@portlandoregon.gov](mailto:ryan.mace@portlandoregon.gov) or (503) 823-7076

### Step 2. Determine if or how the proposed trail would increase connectivity.

In order for the improvement of the ROW to be eligible for the PBOT process, it must increase access to at least two of the following:

1. Transit
2. Places of Work
3. Schools
4. Recreation, Parks, and Green Spaces
5. Other Services (grocery stores, community centers, parks, churches, etc.)

The proposed trail must provide a more direct, comfortable, or significantly safer (e.g., does not require crossing busy roads) route than existing infrastructure allows to meet this requirement.

### Step 3. Obtain resident support and feedback.

It is important that the neighbors adjacent to and near to the ROW are knowledgeable and supportive of the conversion of the ROW to a trail. The adjacent neighbors will be the “eyes” of the trail, helping the submitting trails organization stay abreast of maintenance and safety issues. It is also important to have broader neighborhood support since those living in the neighborhood will be the primary users of the trail.

In the SW Trails Plan, there was a process that involved first identifying the potential pedestrian routes in Southwest Portland (Appendix A of the SW Trails Plan) which, through criteria-driven evaluation, public open houses, and trail inventory and analysis, became the “Proposed Urban Trail Network (Map 3.1 in the SW Trails Plan).

We realize that trail organizations may request to improve ROWs that are identified as part of the adopted Proposed Urban Trail Network as well as ROWs that have not been identified. PBOT staff has created two different processes depending on whether the trail has been identified as a Proposed Urban Trail.

**If the ROW is identified as a “Proposed Urban Trail” in an adopted City transportation plan (e.g., Map 3.1 of the SW Trails Urban Trails Plan, Transportation System Plan, etc.), the applying trail organization will not have to document resident support. Instead, the applying trails organization must notify**

residents within ½ mile of the trail and the appropriate neighborhood association of upcoming improvements, and offer an opportunity to provide feedback. PBOT staff will assist in this effort by providing the necessary addresses to be notified, templates for notification documents, and comment gathering.

**If the ROW is NOT identified as a “Proposed Urban Trail” in an adopted City transportation plan,** the applicant needs to show resident support for creating a trail before the necessary permits will be issued. PBOT acknowledges that individual residents will have varied opinions as to whether they would like the ROW to become a trail. As such, this policy allows for a variety of resident approval methods:

| <b>Options</b> | <b>Adjacent Neighbors</b> | <b>Households within ½ mile of ROW</b> | <b>Neighborhood Association</b> |
|----------------|---------------------------|--|---------------------------------|
| <i>Method</i>  | <i>Petition</i>           | <i>Petition</i>                        | <i>Letter</i>                   |
| 1              | 75%                       |  |                                 |
| 2              | At least 25%              | At least 50% of households             |                                 |
| 3              | At least 50%              |  | Formally Approved               |

In order to successfully move forward on improving a ROW, one option specified above (1 through 3) needs to be met. PBOT staff will assist the applying organization in developing the petition for and identifying the properties adjacent to and within ½ mile of the ROW.

Along with the petition and/or letter, an open house or meeting is required. This meeting could be before the resident petitions are signed or afterwards. The open house could be facilitated as an information meeting, design charette, or however else the applying party deems useful. The open house must be open to the public, facilitated by the applying party, and be attended by the PBOT Staff member.

If the proposed trail are on private property, the applying organization must obtain permission from the property owner before the trail is permitted.

#### Step 4. Design must meet current City of Portland “Recreational Trail” standards.

Any proposed trail must meet existing City of Portland “urban trail” standards as detailed in Portland Parks’ Trail Type B standards - <http://atfiles.org/files/pdf/PortlandTrailDesign.pdf>. In addition, there may be additional environmental factors that will need to be addressed through design to mitigate storm water, environmental impacts, or erosion. The applying organization must submit survey information, engineering design drawings for the proposed trail, along with any materials that they plan to use in construction.

#### Step 5. Obtain the applicable permits and Bureau review.

Once the trail meets the requirements of access, resident support, and design standards, the initiating agency must apply for the appropriate City permits. PBOT permitting staff will assist in defining which permits are necessary per the proposed engineering design drawings submitted. In addition, if the trails are being proposed by a not-for-profit agency, the encroachment permit fees will be waived. Fees associated with other permits and review that may be needed, such as structural review, environmental review, unmapped floodway, etc. will not be waived.

Each permit shall be accompanied by a maintenance plan that will be created collaboratively by PBOT staff and the applying agency. Regular maintenance tasks should be defined and individuals/groups should be identified as to what tasks they are responsible for and will also define how violations of the

trail will be reviewed and enforcement methods. PBOT will not be held responsible for funding or completing maintenance work on a trail that is completed through this process.\

### Step 6. Approval and Construction

Once the trail applicant receives the necessary permits, construction may begin. The applying organization shall inform PBOT about when the construction will occur and send notices to surrounding households. PBOT will provide the addresses for the households that need to be notified as well as a template for the notification.

The trails organization shall contact PBOT once construction is complete to allow staff an opportunity to inspect the trail and any structures that were built. The completed trail will be added to PBOT's trails maps (although the trail will not become an asset of PBOT since maintenance will be continued to be performed by the trails organization) and, upon a successful inspection, be allowed for publication in the applying trail organization's media and map publications.

### Mutual Respect

PBOT realizes that all public ROW (improved or unimproved) is open to the public. That said, there are many ROWs in the City that are not suitable for large amounts of pedestrian traffic either because the terrain is not safe or maintained for walking or there are sensitive environmental conditions that would necessitate improvements before increased pedestrian traffic could be allowed. The Community-Initiated Trails Process aims to identify unimproved ROWs that could serve as trails, and ensure that they are safe and environmentally protected to allow for pedestrian traffic.

We hope, that through this process, a sense of respect between trail users and adjacent property owners will develop. If a trail is approved through this process, we hope that the adjacent property owners will understand that their adjacent ROW provides connectivity through their neighborhood and will work with trails organizations to maintain a safe and welcoming trail. PBOT also welcomes adjacent property owners to work with the Office of Neighborhood Involvement Crime Prevention Coordinators if they would like additional resources for ensuring the security of their property using Crime Prevention Through Environmental Design (CPTED) principles.

We also hope that if a trail is not approved through this process, that the applying trails organization will respect the voices that denied the trails' development, whether those voices come from PBOT, the adjacent property owners, or the neighborhood. If a trail is not accepted for improvement, we would hope the trails organization would not advertise the unimproved ROW as a trail and not encourage large-scale use of the area. Instead, we would encourage the trails organization to look for another valuable connection that would improve transportation options have broader neighborhood support.