



MEMORANDUM

TO: Mayor and City Council

FROM: Richard Mendoza, Director
Public Works Department

SUBJECT: Staff response to Council Resolution No 20200220-045 related to administrative processes for urban trails

DATE: January 4, 2020

The purpose of this memo is to provide recommendations as requested by Council Resolution No. 20200220-045, regarding how to improve the administrative processes and requirements associated with the design and permitting of urban trails.

The Urban Trails Program convened a stakeholder group in April 2020 to discuss the issues faced during trail projects. The stakeholder group consisted of representatives from the Parks and Recreation Department (PARC), Watershed Protection Department (WPD), Austin Transportation Department (ATD), Shoal Creek Conservancy, Hill Country Conservancy, Waterloo Greenway, The Trail Foundation, Austin Parks Foundation, and Red Line Parkway Initiative (a member of the Parks Board later joined the group). Following the meeting, a survey was sent to these stakeholders and applicable project managers regarding specific challenges trail projects have faced. Staff also made follow-up phone calls to trail advocates to discuss the issues in further depth.

Recommendations:

After these listening sessions, Urban Trails staff compiled the identified issues and began to evaluate options to address them. The issues described below are those where a recommended solution has been agreed upon by trail stakeholders and city staff. These solutions are categorized as either process improvements or code changes. Urban Trails Staff has been prioritizing process improvements as those are needed to keep all trail projects on schedule and prevent late stage design changes.

An additional list of obstacles identified through the stakeholder process can be found in Appendix A. The appendix includes those obstacles where further research and evaluation or policy direction is needed before staff can put forth a recommendation that is agreed upon by all affected parties.

Process Improvements:

Numerous meetings were held with Watershed Protection Department staff, Development Services Department (DSD) staff, and separately with Austin Transportation Department Development Review staff to discuss review and permitting process improvements.

Identified issue: Historically, trail projects reviewed under General Permit have relied on pre-submittal reviews from WPD staff. Review of projects in design prior to permit application submittal can be beneficial to identify potential conflicts with code early in the design phase. Pre-submittal project reviews are provided by DSD and WPD as a courtesy, but there is no formal process in AMANDA to document these comments, no formal procedure in PWD by which these pre-submittal consultations occur, and no fee associated with these pre-submittal consultations to compensate WPD and DSD for this service. Due to this lack of formal process, trail projects have received inconsistent comments causing major design issues to arise late in the design process.

- **Recommended Solution:** DSD is making improvements to the General Permit process to improve consistency. WPD staff is working with DSD staff to formalize a review process for General Permit projects and is standardizing how pre-submittal consultations will be performed by WPD staff. PWD will establish a consistent process for pre-submittal consultations. This new process will allow for consistency in comments and improved documentation.
- **Next Steps:** The proposed process will be reviewed by applicable city staff. Once finalized, WPD and DSD staff will begin implementation. Depending on the outcomes of the new process, Urban Trails staff may continue conversations with WPD staff on how to increase collaboration on projects. These added conversations would help Urban Trails consider additional resources for increased collaboration opportunities.
- **Authority Needed:** Staff level
- **Desired Outcome:** WPD staff will set clear expectations on at what phases Urban Trails can expect a review prior to permit application submittal, how long the review will take, and comments will be formally documented. The informal, iterative process will be eliminated. It is also noted that appropriate reviews should take place throughout the design rather than after completion of design steps. This collaborative approach would help expedite inclusion of comments and reduce adverse impact to design process.

Identified issue: Trail projects that trigger a variance and require approval by the Land Use Commission must be reviewed as a site plan rather than a general permit which adds significant time and cost to a project. The added time becomes especially burdensome if the need for a variance is not found until the project has begun general permit review.

- **Recommended Solution:** Land Development Code 25-5-3 states the criteria for projects to be reviewed as a small project. 25-5-3(B)(10) provides director discretion to allow the director to determine a project applicable for small project review. DSD staff has agreed trail projects that require a Land Use Commission variance are applicable to be reviewed as small projects, and will use the provided director authority to review them as such. Rather than being distributed for review to the whole site plan distribution list, staff has

agreed the number of reviewers can be minimized to only include applicable review disciplines.

- **Next Steps:** Urban Trails staff will examine the site plan distribution list and identify review disciplines that may be unnecessary. Staff will then reach out to those disciplines to discuss trail projects and come to consensus on if the discipline's review is needed. End goal is to create a simplified distribution list.
- **Authority Needed:** Staff level
- **Desired Outcome:** Shorter site plan review process with only applicable reviewers on distribution list.

Identified issue: Developers do not dedicate easements during zoning and may be unaware of easement requirements for trails. As a result, many times developers do not accommodate necessary easements during their site design, making it harder to acquire them during site plan. Additionally, dedication of an easement is not a guarantee that a trail built within that easement will be in compliance with all environmental regulations.

- **Recommended Solution:** Similar to how right-of-way dedication is treated, ATD review staff will identify when a trail easement may be needed at time of zoning. A comment will be made to alert the developer of this requirement so they can incorporate it into their site design and dedicate the easement at time of subdivision or site plan.
- **Next Steps:** ATD Staff and Urban Trail staff will continue to work together during zoning review to ensure the comment is made where applicable. PWD, DSD and WPD will evaluate options for reviewing proposed easement locations to identify potential code compliance issues early in project development.
- **Authority Needed:** Staff level
- **Desired Outcome:** Developers are aware of Urban Trail requirements early on and can design their sites accordingly, making it easier to acquire the necessary easements at time of subdivision or site plan.

The above process improvements, once implemented, should expedite the review and permitting of trail projects. To continue to expedite these processes and overcome future obstacles as they arise, Urban Trail advocates also recommend a quarterly executive level meeting with executives from relevant departments including PWD, WPD, PARD, and DSD with others added as necessary. Full details still need to be determined, but the time would be used to address any major obstacles active trail projects are facing or could expand to include obstacles faced by all active transportation projects.

One identified issue not yet addressed is a need for standardized code interpretations and/or consistent reviewers on trail projects across departments. Inconsistent code interpretations between reviewers can add confusion and time to projects. Having reviewers familiar with trail projects and aware of the relevant requirements and variances could expedite the process by removing inconsistencies. Urban Trails staff will continue to discuss this issue with relevant departments. Additionally, if a dedicated team is formed to review Capital Improvements Projects, trails should also be included.

Code Changes:

Some obstacles identified by trail stakeholders would require code changes to improve ease of trail planning, design and construction. Urban Trails Program staff met with WPD staff to discuss potential changes to environmental code regulations. The following solutions were agreed upon at the staff level. Language for these recommended code changes is attached as Appendix B.

Identified issue: To meet ADA accessible grades, cut and/or fill greater than four feet is often required for construction of Urban Trails. In many cases, this requires a variance. This should be adjusted to receive the same treatment as road construction within right of way which does not require a variance.

- **Recommended Solution:** Add language to LDC 25-8-341 and LDC 25-8-342 to allow cut/fill greater than four feet in depth for construction of a multi-use trail if a) the trail is open to the public and located on public land or in a public easement; b) the cut/fill is not located in a critical water quality zone or floodplain; c) the cut/fill is not located in a critical environmental feature buffer; and d) the trail is constructed in accordance with the Environmental Criteria Manual.
- **Next Steps:** Code amendment required.
- **Authority Needed:** Council action
- **Desired Outcome:** Urban Trails provided the same (or better) allowances than roads and allowed cut and fill by right rather than through variance process.

Identified issue: Land Development Code 25-8-261 (B)(3) allows for a hard surface trail to be located within the critical water quality zone if it satisfies a number of criteria. One of these criteria is that the trail width is limited to 12 feet unless a wider trail is designated in the Urban Trails Plan. A standard Urban Trail is 12 feet in width plus a one-foot compacted sub-grade shoulder on each side. Some reviewers have interpreted that the shoulder makes the trail 14 feet in width and thus not allowed within the critical water quality zone. WPD staff have agreed that the current Urban Trails standard of 12 feet of surface width with one-foot compacted subgrade shoulders on each side is compliant.

- **Recommended Solution:** Clarify code language to reflect current policy and make clear trails within the critical water quality zone are limited to 12 feet in surface width plus one-foot compacted sub-grade shoulders.
- **Next Steps:** Staff recommends addressing this through the Urban Trails Plan Update, but it could also be addressed through a code amendment.
- **Authority Needed:** Council action (adoption of the updated Urban Trails Plan or code amendment)
- **Desired Outcome:** Clear language to ensure consistent interpretation.

Further obstacles were also identified by the stakeholder group for evaluation. Some of these, as noted in Appendix A, need further research and consideration at the staff level. However, the obstacle noted below, has been discussed and could potentially be addressed through code changes. In order to come to a consensus on proposed changes, staff needs additional policy direction from Council.

Identified Issue: Land Development Code 25-8-261(B)(3) restricts development, including the placement of trails, to be located not less than 50 feet from Lady Bird Lake (among other bodies of water). Based on this requirement, the existing Ann and Roy Butler Hike and Bike trail is non-conforming and cannot be expanded or improved (beyond routine maintenance) in its current location. Urban Trail staff and advocates recommend widening and/or rebuilding the Ann and Roy Butler Trail in some areas as recommended in the Butler Trail Safety and Mobility Study. Much of the Study, which takes into account substantial public input, will not be able to be implemented unless this policy is addressed.

WPD has stated that a protective setback is warranted to protect the physical and ecological integrity of shoreline and the reservoir. An administrative variance to allow a trail closer than 50 foot from the shoreline is available, but must meet the minimum deviation and still be protective of the shoreline. Watershed staff do not support allowing the trail to be rebuilt within this 50 ft buffer without taking into consideration the required findings for an administrative variance based on research regarding water quality benefits of riparian areas. WPD staff also notes the mobility study did not address the erosion prevention or ecological protection aspects of the shoreline setback.

Urban Trail advocates find the 50 foot criteria and variance process too restrictive.

Possible Solution: Trail advocates recommend making this requirement more nuanced as it relates to the Ann and Roy Butler Trail. A more nuanced approach could allow for the trail to be rebuilt or widened in its current location if appropriate environmental restoration is included as part of the project.

- **Policy Direction Needed:**

- **The Trail Foundation** seeks certainty that the existing Butler Trail may be redeveloped and improved, including widening and/or resurfacing, in its existing location, as well as consideration for the Butler Trail to be exempt from this code as outlined with standards to be incorporated within the official MOU between TTF and the city.
- **Watershed Staff** states the administrative variance pathway does provide flexibility now, balancing environmental needs with public trail needs, and ensure that the deviation into the buffer is the minimum necessary and does not create the probability of harmful environmental consequences. The Environmental Officer does not support a “by-right” widening of the trail as part of redevelopment in a way that would increase non-compliance with critical environmental feature or shoreline buffer protections. An amendment to City Code, or Council approval of a strategic plan that explicitly allows the trail to increase non-compliance with environmental regulations, may be necessary.

- **Authority Needed:** Council action (likely code amendment).

Desired Outcome: Ability to improve surface and widen the Ann and Roy Butler Hike and Bike Trail as needed, and as called for in the upcoming Butler Trail Safety and Mobility Study, while continuing to protect Lady Bird Lake and its shoreline.

Next Steps:

Urban Trails Program Staff will continue to work with the stakeholder group and boards and commissions as appropriate to move forward on the action items discussed above.

Another recommendation from advocates which requires more exploration, is the option to use utility lines for trails. While this would require close coordination with the relevant utility companies, these areas are typically long corridors with fewer environmental regulations. Trails may be able to more efficiently be constructed in these areas. Urban Trails staff will continue to look into this option and better consider construction feasibility for proposed urban trails through the Urban Trails Plan update currently underway.

Staff will return to Council with updates on use of utility easements, proposed improvements and progress on the outstanding issues noted in Appendix A.

Should you have any further questions or require additional information, please contact Katie Wettick, Urban Trails Program Manager, at 512-974-3529.

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Attachments:

Appendix A: Identified Issues in need of Further Evaluation
Appendix B: Proposed Code Language

APPENDIX A: Identified Issues in need of Further Evaluation

Issue A – Departmental Reviews: Inconsistent code interpretation between reviewers during formal review processes. Many review requirements come from criteria manuals. As these requirements allow for more discretion, review staff responses are sometimes inconsistent between different reviewers making it hard to predict and plan for.

Recommended Solution: Having a designated review team who understands trail projects and who city staff and partners work with regularly to build trust and relationships would allow for consistency.

Status: Further action needed. Urban Trail Program staff will continue to discuss with relevant departments.

Issue B - Codes and Regulations: LDC 25-8-281(C)(3) requires hiking trails be located at least 50-ft from critical environmental features (CEF). The Environmental Criteria Manual explicitly states that the 50-ft buffer applies in all directions (vertically as well as horizontally). Achieving 50-ft horizontal clearance can be challenging as trails are generally in areas of greater concentration of CEFs. Additionally, maintaining vertical clearance of 50-ft over CEFs is extremely expensive and may be unachievable as it requires structures of 50-ft in height.

Recommended Solution: Bring WPD staff into the project planning phase early. Ideally, have WPD help with alignment planning to recommend potential methods for protecting CEFs early and avoid them as possible. A new WPD fee for service process that provides pre-submittal consultations will provide an avenue for an early stage consultation. However, if this process is not found sufficient and a more collaborative approach is still needed, Urban Trails staff will continue discussions with WPD to determine if following a similar fee for service model, Urban Trails can provide resources to have WPD staff further support the project team.

Status: When new projects begin, Urban Trails staff will include WPD early by requesting a pre-submittal consultation. However, further evaluation and discussion on this process is needed, as the pre-submittal consultation is a new model and further collaboration and/or resource sharing may be needed.

Issue C – Codes and Regulations: Floodplain review requires hydraulic models to use a clogging factor of 100% on pedestrian bridge and low water crossing railing. While this is a conservative requirement from a floodplain review standpoint it is a restrictive requirement as the entire crossing is modelled as an obstruction. As a result, significant grading/channel modifications to mitigate floodplain impacts caused by pedestrian crossings is often required. These grading/channel modifications are often in conflict with the erosion hazard zone and other environmental requirements as they increase the limits of construction and removal of existing vegetation.

Recommended Solution: Urban Trail and WPD staff discussed the clogging factor. Floodplain staff noted that in a large flood, the railings currently used by Urban Trails do become full of debris and the 100% clogging factor is largely accurate. Floodplain staff

noted that if another type of railing was considered, the 100% clogging factor is not an absolute. Urban Trails staff to consider other railing types to determine if any have greater spacing while still maintaining ADA compliance. There may be opportunity for Urban Trails staff to work with Watershed staff to create a standard railing detail.

Status: Further research and conversation needed.

Issue D - Austin Water Review: AWU states that no permanent structures can be installed within an existing AWU easement. While proposed structures such as drilled shafts can be installed within 5' horizontally and 2' vertically of utilities, easement widths vary from 15'-50' for single water and/or wastewater lines making traversing these lines difficult and/or expensive. In addition, trails are very often paralleling creeks and other waterways and are very likely to encounter wastewater facilities.

Furthermore, the 5' separation required by AWU between AWU infrastructure and a permanent structure is not included in the Utility Criteria Manual (UCM) as the UCM only speaks to separation between water mains. However, AWU staff reference the UCM when prohibiting permanent structures within 5' of AWU infrastructure and require an engineering justification for a waiver to be granted.

Recommended Solution: At this point, no solution to the above is proposed as further research and conversation is required. For immediate improvement, ensuring consistent reviewers on trail projects would improve efficiency as in some cases new comments regarding these requirements have been added late in the process.

Status: Further research and conversation with Austin Water staff is needed.

APPENDIX B: Proposed Code Language

§ 25-8-341 - CUT REQUIREMENTS.

- (A) Cuts on a tract of land may not exceed four feet of depth, except:
- (1) in an urban watershed;
 - (2) in a roadway right-of-way;
 - (3) for construction of a building foundation or swimming pool;
 - (4) for construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if:
 - (a) the design and location of the facility within the site minimize the amount of cut over four feet;
 - (b) the cut is the minimum necessary for the appropriate functioning of the facility; and
 - (c) the cut is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;
 - (5) for utility construction or a wastewater drain field, if the area is restored to natural grade;
 - (6) in a state-permitted sanitary landfill or a sand or gravel excavation located in the extraterritorial jurisdiction, if:
 - (a) the cut is not in a critical water quality zone;
 - (b) the cut does not alter a 100-year floodplain;
 - (c) the landfill or excavation has an erosion and restoration plan approved by the City; and
 - (d) all other applicable City Code provisions are met.
 - (7) for construction of a multi-use trail, if:
 - (a) the trail is open to the public and located on public land or in a public easement;
 - (b) the cut is not located in a critical water quality zone;
 - (c) the cut is not located in a critical environmental feature buffer; and
 - (d) the trail is constructed in accordance with the Environmental Criteria Manual.

Source: Subsections 13-7-16(b), (c), and (e); Ord. 990225-70; Ord. 031211-11; [Ord. No. 20170615-102](#), Pt. 20, 6-15-17§ 25-8-342 - FILL REQUIREMENTS.

- (A) Fill on a tract of land may not exceed four feet of depth, except:
- (1) in an urban watershed;
 - (2) in a roadway right-of-way;
 - (3) under a foundation with sides perpendicular to the ground, or with pier and beam construction;

- (4) for construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if:
 - (a) the design and location of the facility within the site minimize the amount of fill over four feet;
 - (b) the fill is the minimum necessary for the appropriate functioning of the facility; and
 - (c) the fill is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;
- (5) for utility construction or a wastewater drain field; or
- (6) in a state-permitted sanitary landfill located in the extraterritorial jurisdiction, if:
 - (a) the fill is derived from the landfill operation;
 - (b) the fill is not placed in a critical water quality zone or a 100-year floodplain;
 - (c) the landfill operation has an erosion and restoration plan approved by the City; and
 - (d) all other applicable City Code provisions are met.
- (7) for construction of a multi-use trail, if:
 - (a) the trail is open to the public and located on public land or in a public easement;
 - (b) the fill is not located in a critical water quality zone;
 - (c) the fill is not located in a critical environmental feature buffer; and
 the trail is constructed in accordance with the Environmental Criteria Manual.
- (B) A fill area must be restored and stabilized.
- (C) Fill for a roadway must be contained within the roadway clearing width described in Section 25-8-322 (*Clearing For A Roadway*).

Source: Subsections 13-7-16(a), (b), (c), and (e); Ord. 990225-70; Ord. 031211-11; [Ord. No. 20170615-102](#), Pt. 21, 6-15-17.

§ 25-8-261 (B)(3)

A hard surfaced trail may cross the critical water quality zone pursuant to Section 25-8-262 (*Critical Water Quality Zone Street Crossings*). A hard surfaced trail that does not cross the critical water quality zone may be located within the critical water quality zone only if:

- (a) designed in accordance with the Environmental Criteria Manual;
- (b) located outside the erosion hazard zone unless protective works are provided as prescribed in the Drainage Criteria Manual;
- (c) limited to 12 feet in surface width plus one-foot of compacted sub-grade shoulders on each side of the trail, unless a wider trail is designated in the Urban Trails Plan, the Parks and Recreation Long Range Plan, or an adopted park vision or concept plan;
- (d) located not less than 25 feet from the centerline of a waterway if within an urban watershed;

- (e) located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway if within a watershed other than an urban watershed;
- (f) located not less than 50 feet from the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long, as defined in Section 25-8-92; and
- (g) located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam.