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# The Southwest Portland Post

Southwest Portland's Independent Neighborhood Newspaper

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## A Hillsdale neighbor, a city official, and the trail liability issue

By Lee Perlman  
The Southwest Portland Post

Since our last issue, *The Post* has found two people willing to talk to us for the record about trail liability: a trail neighbor and a City of Portland official.



Larry Sloan is concerned about liability for accidents that might occur along this trail adjacent to his property. (Post photo by Lee Perlman)

Larry Sloan's house in Hillsdale sits next to a trail. It is an unusual situation in that in his case the land the trail sits on is not an "easement," part of his and his neighbor's private property through which the public has a right to travel according to conditions imposed at the time the property was subdivided. Rather, it is a right of way for the elec-

tric power and utility lines that run overhead.

Still, Sloan shares this in common with other trail neighbors: he is liable for injuries suffered by passers-by who use the trail. The right of way "was there before I bought the house," Sloan told *The Post*. "Somehow it morphed into a trail."

It was improved, with steps made from railroad ties secured by rebar, by volunteers of the Southwest Trails Committee headed by Don Baack; Sloan met Baack during the course of a Trails work party. "I couldn't say 'no' to what they were doing, and I had no reason to anyway," Sloan said.

The steps have not been maintained since they were installed, he said; the rebar has worked itself up through the wood, creating some potential stubbed toes, (Sloan himself has periodically pounded them back down), and the steps show signs of splitting away.

Still, he did not perceive that he had a problem until informed of the liability issue. "This was never designed as a trail, it isn't a street or a sidewalk, it doesn't belong to me, I can't sell it or make improvements in it, yet I am responsible for liability and mainte-

nance," Sloan complained.

Bureau of Transportation pedestrian coordinator April Bertelsen confirms this. Under City code, "Unimproved rights of way are the responsibility of the abutting property owners until they're improved to City standards," she told *The Post*.

This includes everything from totally unimproved easements to partially paved streets that lack sidewalks and curbs, she said. "Our position is that if you keep things in good order you're reducing your liability."

The code also says that if you build something in a right of way, whether it is a retaining wall or "things like stairs," you are required to secure a building permit for it first, Bertelsen said. Conceding that this hasn't always happened she said, "The events of the past year have increased the City's attention to this; we have more interest in inspection" of the trails.

Baack and the Trails Committee have called on the City to take on responsibility for trail liability. As we reported last month, the Southwest Neighborhoods, Inc. board of directors adopted this position at their June meeting and sent a

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## South Portland neighbors ponder future streetcar extension

### TRANSPORTATION

By Lee Perlman  
The Southwest Portland Post

City and regional officials are nearing a decision point on the exact route of a Portland Streetcar extension to Lake Oswego through the Macadam Corridor. Developer and condominium owner Verne Rifer is seeking to unite South Portland groups around a common position.

There are two principal routes upon which the streetcar could proceed south from its current terminus at Southwest Lowell Street: Southwest Macadam Avenue or an old railroad right of way currently used for sight-seeing by the Willamette Shore Trolley.

Transportation planners strongly favor the Willamette Shore route because it would involve very little property acquisition and would allow the car to achieve high speed traveling through areas where it does not have to co-exist with cars.

However, in places the right of way comes within a few feet of bedroom windows of houses constructed while the rail line was dormant. Residents have grudgingly learned to live with the Willamette Shore Trolley, which operates hourly on summer weekends, but serious transit service would have far greater impact.

Planners are looking at hybrid options that could wed the best of each route and still be acceptable to neighborhood interests.

Rifer told the South Portland Neighborhood Association that he is trying to unite support around a route that would go south to Southwest Boundary Street, move over to Macadam as proceed south to Carolina Street, then return to the Willamette Shore route. For any Willamette Shore route between Boundary and Carolina, "We'll fight them block by block and house by house," he said.

South Portland board member Bill Danneman raised a different objection: having the route along any part of the Willamette Shore right of way would deprive Macadam businesses

of the benefits of having the streetcar stop near them. He proposed that the route continue along Macadam as far as Southwest Nevada Street. This position was ultimately adopted by a bare majority of the board.

Rifer argued against Danneman's proposal, but accepted the result. The north end was more critical, he said; a position that the line switch to Macadam before Boundary would be "dead in the water," he said.

Another South Portland board member, Jim Gardner, raised concerns that having a streetcar on Macadam would increase traffic congestion on a street that many fear will soon be overloaded. Rifer downplayed such concerns. Gardner replied, "I've heard the same

(reassurances) about the streetcar downtown, and when I'm behind one, it's a lot slower."

### Hillsdale, South Portland seek road compensation

At the suggestion of Southwest Trails Committee chair Don Baack, the South Portland Neighborhood Association voted to join Hillsdale in seeking a better pedestrian connection across Southwest Boones Ferry Road.

The improvement would be "mitigation" for a pending ODOT project in which an overpass on Southwest Barbur Boulevard at Iowa Street will be replaced; the project will begin next

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Willamette Shore Trolley headed toward Lake Oswego at the Riverplace terminal.

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