Trails Master Plan

Sunset Valley, Texas

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Chapter 1: Introduction and History

1.1 Overview

Sunset Valley's Trails Master Plan identifies the location of existing and proposed trails throughout the city. The Trails Master Plan also establishes design criteria, trail improvement plans, maintenance and management standards. The Trails Master Plan in conjunction with the Park and Open Space Management Plan works to provide appropriate recreational activities while maintaining environmental integrity.

1.2 Goal Statement

The purpose of the Trails Master Plan is to define the current trail system and plan for future trail development in a manner that sustains the natural ambience of the land and wildlife habitat with the lowest environmental impact. The Trails Master Plan is designed to provide healthy recreational opportunities while protecting the property rights and quality of life of the residents of Sunset Valley.

1.3 History

Sunset Valley Greenways Task Force

In 1998 the City of Sunset Valley established the Sunset Valley Greenways Task Force to evaluate and make recommendations for a trail system for the City. Its vision and goals centered on adapting the goals of the City's Comprehensive Master Plan into a workable plan of development for the community's trails. Principle to their vision was "linked networks of pathways" that would be "destination oriented but also include attractive natural views and other focal points".

The Task Force recommended two categories of trails: Formal Trails and Conservation/Nature Paths. Specific proposed trails recommended in 1998 were as follows:

Formal Trails

1. Roadway “B” Trail (Ernest Robles Way Trail)
2. Jones Road Trail
3. Buffer Easement Trail
4. Burger Ring Trail

Conservation/Nature Paths

1. Cougar Trail
2. Prairieland Trail (Indian Grass Prairie Trail)
3. Sunset Valley Creekbelt (Sunset Valley Nature Area Trail)
4. Gaines Trail
5. South Rim Trail (South Hills Trail)

A Decade of Usage & Improvements

Since 1998, the City of Sunset Valley, through its City Council, Public Works Department, and the Council-appointed Planning and Environmental Committee, has developed and maintained its Trail System with the Task Force’s goals as its guideline. For instance, the Ernest Robles Way Trail (ERW) was initially constructed with granite gravel surfacing only and, later, when funding became available, it was renovated and upgraded with concrete curbing for borders. Jones Road Trail was constructed, linking the school, the neighborhood, and the City Hall Complex with the ERW Trail.

Also, during this time period, the City has seen the development of two new residential neighborhoods: the commercial development of the Weaver Property and the renovation of Toney Burger Center. At the same time the City acquired property along Westgate Boulevard at Jones Road which it ‘undeveloped’ into an environmentally welcoming entry into its boundaries. With these changes, developers have been both required and encouraged to construct privately constructed trails and other open space amenities for the enjoyment of both the citizens of Sunset Valley and their retail clientele.

In January 2007, Kellogg Landscape Architecture Construction, Inc. (Kellogg) was charged with producing a Trails Master Plan for the City of Sunset Valley. The goal of this planning process was to produce both an Existing Trails

Master Plan and a Proposed Trails Master Plan along with a standard of design criteria for use by the City in its planning, acquisition, and budgeting efforts. This information is intended to guide the City in improving and maintaining a superior trail system.

1.4 Trail Usage

Sunset Valley has a variety of trail users. Hiking, running, biking, and equestrian activities are all popular on Sunset Valley's trail system. Due to Sunset Valley's location the trail system also serves a population greater than the number of residents in the city. The trail system provides a series of non-vehicular pathways that link all parts of the city. According to the 2000 census, Sunset Valley's population breakdown reveals 21.6% of the population is below the age of 18 and 17.3% of the population is over the age of 65. The median age for residents is 46. In Sunset Valley 15.4% of the population over 5 years of age have some type of long lasting disability. This demonstrates that a variety of user groups utilize the trail system and therefore trail design should take this into account.

Most trails are designated as multi-use, providing opportunities for pedestrians, bicyclists, and equestrians. Where the threat of environmental degradation is highest, trails will be restricted to pedestrians. No motorized vehicles except authorized maintenance vehicles, emergency vehicles, and transportation for disabled individuals (e.g. motorized wheelchair) shall be allowed on the trails. Should conflicts arise on specific trail segments in the future, the City may restrict access to certain segments to avoid environmental degradation, conflicts with properties adjacent to the trail, or trail user conflicts.

1.5 Trail Research

Research was conducted at several nearby cities to examine various methods of trail construction and maintenance regimes. Site visits were made to Kyle, San Marcos, Bastrop, Austin, and Round Rock. In visiting these nearby cities several factors arose as important issues in trail development. The majority of trails took into account potential usage, accessibility, maintenance

concerns, and site conditions. Potential usage refers to who would be using the trails: pedestrian, cyclist, equestrian, or multiple user groups. Accessibility refers to designing trails that are accessible to disabled individuals. Scanlan, Buckle, and Young provided an opinion on trail accessibility, repair, and maintenance located in Appendix B.

Continual maintenance was a major concern for the other municipalities. Other cities designed trails to meet the needs of the people while not incurring continual maintenance issues. Site conditions such as soil, water flow, ecological characteristics, and slope are all considered in trail design.

The cities had a variety of trail types from rustic natural trails to developed hiking and biking areas (Appendix A). The trail surfaces ranged from compacted dirt to concrete and asphalt (Table 1). Single trails could have multiple surfacing types transitioning from concrete to granite gravel or from pervious concrete to traditional concrete. In areas where erosion was a potential or known problem, either concrete, asphalt, or boardwalk were used to maintain a stable surface and decrease sediment loads. In Round Rock one trail was a combination of concrete, boardwalk, and granite gravel depending on the site conditions. Similar trails were found in Austin and Bastrop. In some instances artistic details such as fossils were included along the trails. After reviewing 13 trail systems of neighboring areas it is recommended that usage, accessibility, maintenance concerns, and site conditions be considered when designing or redesigning a trail.

Table 1: Comparison of cities with trail surface types.

City	**Trail Surfaces**
Kyle	Predominantly pervious concrete or concrete.
Buda	Concrete sidewalks in floodplains, some decomposed granite trails, some natural dirt trails.
San Marcos	Concrete, granite gravel, boardwalk, natural trails.
Bastrop	Concrete, granite gravel, natural trails.
Austin	Concrete, granite gravel, boardwalk, natural trails.
Round Rock	Concrete, granite gravel, asphalt, boardwalk, natural trails.

Chapter 2: Design Criteria

2.1 Types of Trails

The existing trails of Sunset Valley are categorized as follows:

Urban Trails

Urban Trails are those trails located in developed areas of the City and its right of ways (ROWs). Sidewalks are included as part of the urban trail system. Their surfacing materials are compacted aggregate base with either granite gravel, stabilized soil aggregate, concrete or pervious concrete surfacing. If composed of granite gravel or stabilized soil aggregate, the trail may have borders of either concrete curbing or mortared chopped limestone to contain the surfacing and to aid in its maintenance. Fitness trails will fall into this category. These trails are intended for multiple user groups such as bicycles, pedestrians, and equestrians.

Figure 1: Urban Trail along Jones Road

Nature Trails

Nature Trails are those trails located in the City's greenspaces. Currently their surfacing material may consist of granite gravel, stabilized soil aggregate, existing compacted dirt/stone or mulch or maintained in their natural grass cover by periodic mowing. These trails are intended for multiple user groups such as bicycles, pedestrians, and equestrians.

Figure 2: Nature Trail in the Sunset Valley Nature Area

Conservation Trails

Conservation Trails (fig. 3) are those trails which are located within Preserves or Conservation areas. Their surfacing materials consist of existing compacted dirt and existing stone/boulders. These trails have been designed specifically for pedestrians. The conservation trail grades vary greatly and may be challenging depending on the user.

Figure 3: Conservation Trail

2.2 Trail Surfacing

Trail use, maintenance concerns, and site conditions are important to consider in regards to trail surfacing. Under normal drainage and gradient conditions preferred trail surfacing options are as follows:

Urban Trails - compacted aggregate base with granite gravel or stabilized soil aggregate. Metal, wood, stone, or concrete edging may be used to contain aggregate. In high traffic areas along Brodie Lane and Highway 290 concrete or a surface similar in performance characteristics is the preferred trail surface due to increased maintenance requirements of granite gravel and high volume traffic.

Nature Trails - compacted existing dirt and stone

Conservation Trails - compacted existing dirt and stone

Urban Trails

In areas that are frequently inundated with water, pervious concrete or traditional concrete should be the preferred method of surfacing. In these areas boardwalk or rubberized paving are also considered acceptable. With the exception of the Village Trail no urban trails are recommended for resurfacing at this time.

Nature Trails

In poorly drained Nature Trail areas, the trail may be constructed of corduroy log placement with a soil or mulch layer over it (fig.4) or with concrete (pervious or impervious). Surfacing should be maintained to reduce erosion. At this time the Yellowtail Cove link is the only trail recommended for resurfacing as described in section 3.7.

Figure 4: Corduroy log trail

Nature and Conservation Trails

In highly erosive areas with steep gradients on Nature and Conservation Trails, trails will be either rerouted to avoid these areas or they may be constructed with cedar post 'erosion bars' as steps (fig. 5). When steep gradients are composed of exposed rock such as the steep climb up the bluff to Homestead Hill, existing boulders will be incorporated into a 'naturally' appearing series of steps up to the bluff.

Figure 5: Erosion bars created from cedar to stabilize the hillside.

Due to the wide expanse of floodplain along the creeks, it is not feasible for bridges to be installed at creek crossings. Generally, creek bed crossings should be left natural. Armored creek crossings (fig. 6) utilizing flat stone and small amounts of concrete may be used to stabilize creek crossings where appropriate. In situations where trails cannot be rerouted and other means of stabilization are not working, the use of concrete or other alternative paving may be utilized where appropriate.

Figure 6: Armored Crossing

As new surfacing technologies become available they will be considered as needed by the Planning and Environmental Committee.

2.3 Trail Borders

Metal, wood, stone or concrete may be used to contain trails constructed from aggregate.

Nature trails may have limited defined borders of small to large limestone boulders and native plantings to provide trail definition.

Conservation Trails should avoid any border elements unless consistent off-trail use develops. If necessary, conservation trails may utilize defined borders in the same manner as allowed on the Nature Trails.

2.4 Trail Clearance

Based on intended trail usage, different trails require different tread width and clearances (fig. 7). Urban trails will have a six to eight foot tread width and a minimum of 10 foot height clearance. Along streets, vegetation near urban trails will be kept low to increase visibility. Nature Trails should have a six to eight foot tread width and minimum 10 foot height clearance. A two foot buffer zone with low growing vegetation on each side of the trail is also recommended. Conservation Trails should have a three to four foot tread width with a minimum seven foot height clearance.

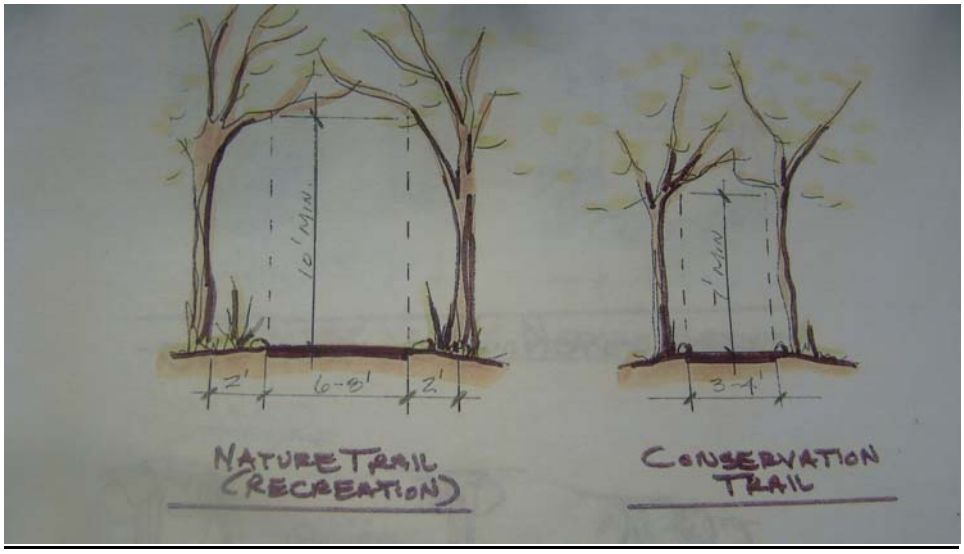

Figure 7: Trail Tread Width and Clearances

2.5 Detectable Warnings

Detectable Warnings is a system of textured ground surface indicators found on many footpaths to assist blind and vision impaired pedestrians. Detectable warnings shall be installed when trails cross streets such as at Lovegrass Lane into the Nature Area. For Urban Trails the detectable warning will be installed using a concrete and brick design (figs.8, 9). On Nature Trails the detectable warning can be composed of granite gravel and flagstone (fig.10). At this time the only detectable warning that needs to be installed is at Lovegrass Lane.

Figure 8: Detectable Warning

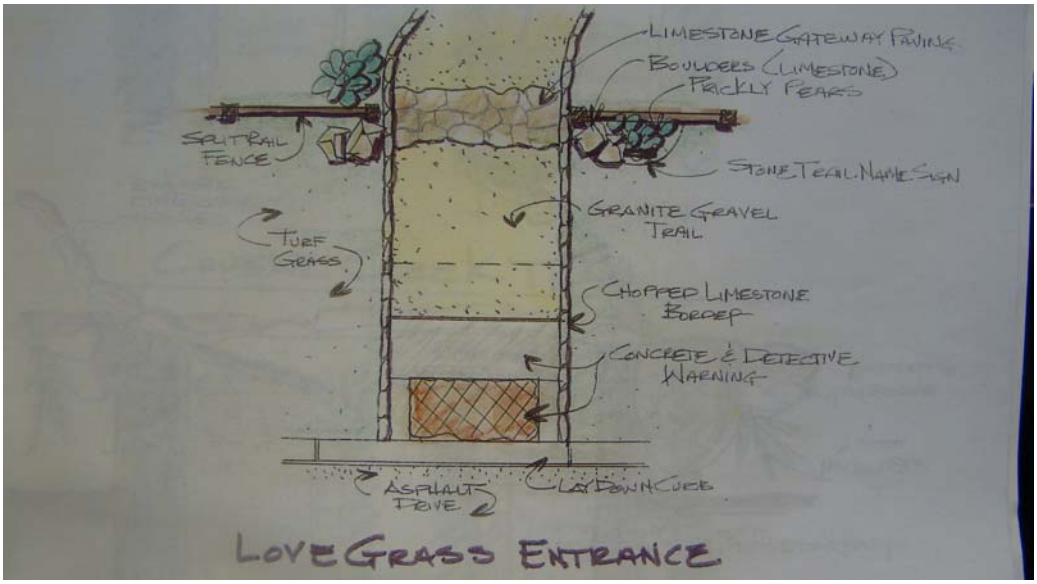

Figure 9: Design for Detectable Warning at Lovegrass Lane Entrance to Sunset Valley Nature Area

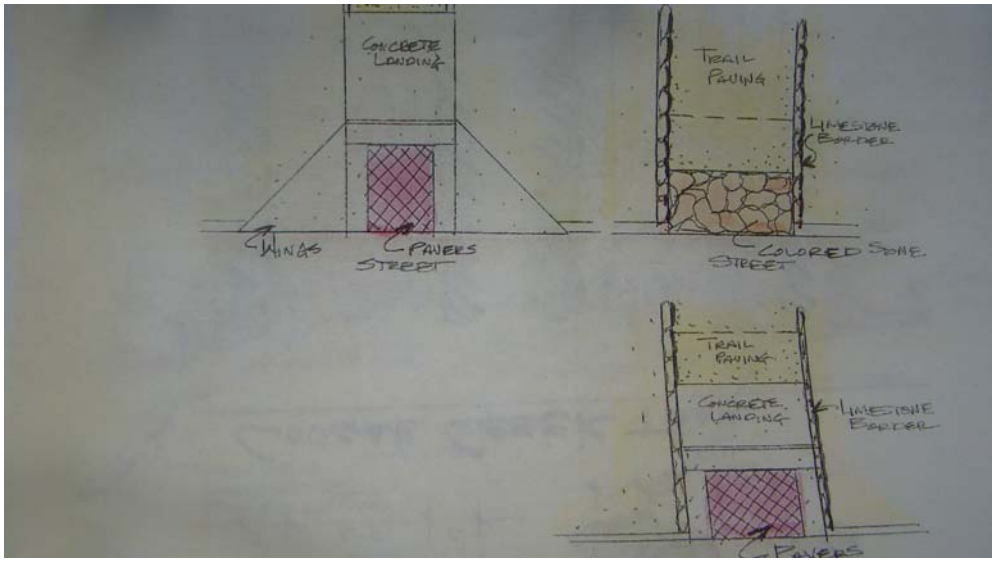

Figure 10: Alternative Detectable Warning Systems

2.6 Entry Sign Design

Trail Entrances- Nature Trails and Conservation Trails are to have designated trail entrances that provide orientation to the area.

Designated entryways will include a sign that includes trail etiquette, trail names, area map, trail mileage, emergency contact, and other pertinent information. The signs should be discretely placed out of sight from major traffic routes. In instances where two different trail systems meet, the signage will be designed so that trail signs for both trails are located and displayed appropriately. All trail signage should be made of fade-resistant high pressure laminate.

2.7 Trail System Kiosk

The main trail system kiosk will be discreetly located in the Cougar Creek Greenbelt behind city hall. The trail kiosk will be designed to provide habitat for chimney swifts (fig. 11) and have appropriate signage attached. The signage for the trail head will include information on the entire trail system. A multi-level drinking fountain (fig. 12) will be placed near the Sunset Valley Organic Community Garden. The drinking fountain should be shaded by native trees and a bench placed nearby. A dog waste station (fig. 13) should also be placed in the vicinity of the garden.

Figure 11: Example of Trail System Kiosk with Chimney Swift Tower.

Figure 12: 3-tiered water fountain, including a level for dogs.

Figure 13: Dog waste station with disposal bin below.

2.8 Kiosks

A small kiosk similar to that shown in figure 14 will be placed at the crossroads area in the Sunset Valley Nature Area (see map page 31). The kiosk should include: (1) a feature to collect rainwater to provide water for wildlife, (2) benches, and (3) information on the entire trail system. The kiosk for the crossroads area should be made using as much harvested/recycled material as possible.

Figure 14: Bird blind with benches and water collection.

2.9 Signage

Signage will be designed by city staff and the Planning and Environmental Committee. Discussions of signage will be posted on planning and environmental agendas for public comment prior to approval by Council and installation on City property.

Trail Entry Signs

Entry signs will be located as determined in Chapters 3 and 4. These signs will be a maximum of 24" x 36". Trail entry signs will include trail etiquette, trail names, area map, trail mileage, emergency contact, and other pertinent information. They will be mounted on cedar support posts and will be designed so as not to be climbed on. These signs should be made from fade-resistant high pressure laminate.

Interpretive Signs

Small interpretive signs will also be installed at various points of interests throughout the trail system. Some interpretive signs may be in areas where no trails exist but provide information about the critical nature of the area in case they are discovered (i.e. Weaver Sink). The interpretive signs (fig. 15) will provide educational information. These signs should be made from fade-resistant high pressure laminate with cedar frames.

Combination Signs

In order to reduce the amount of signage while providing adequate educational opportunities and directional information, a combination entry/interpretive sign will be used when possible. These signs will also include trail etiquette, trail names, area map, trail mileage, emergency contact, and other pertinent information. This type of signage would be most effective in the South Hills Conservation Area and Gaines Greenbelt.

Figure 15: Examples of High Pressure Laminate Signage

Other Sign Information

Trail Symbols

In order to provide easy recognition and aid in user orientation, each trail should be designated by a distinctive symbol. The symbol will appear on each trail entry sign. The type of symbol can be found in chapter 3 listed in the Trail Specifications Table for each area.

Trail Maps

Trail maps should be incorporated into all trail entry signs and kiosks. Each map should include entry points and 'you are here' location markers.

2.10 Trail Barriers

Traffic limiting features, including but not limited to cedar log barricades, may be utilized to prevent/minimize off-trail access to select sites due to ecological sensitivity or to prevent undesirable traffic in erosion prone locations. These barriers may be permanent or temporary due to the nature of changes to the trail.

Figure 16: Cedar post barriers

2.11 Parking for Trails

The Trails Master Plan does not address designated parking for trail use.

Chapter 3: Sunset Valley Trails

Figure 17: Current Trail System. Trails are marked in green. Gold line represents the City limits.

3.1 Cougar Creek Greenbelt

Current Trail System

Cougar Creek Greenbelt is a 23.37 acre tract and has approximately ¾ mile of associated trail (figs. 18, 19). The Cougar Creek Greenbelt is adjacent to the City Hall complex and links Ernest Robles Way to Brodie Lane. The Cougar Creek Greenbelt and trail is also linked with the Village Trail located behind the Sunset Valley Village Shopping Center. Currently the Cougar Creek Trail is composed of grass and compacted soil/rocks and is approximately eight feet wide (fig. 20). There is a bench seating area and a bird blind near an ephemeral wetland on this trail which was built as part of an Eagle Scout Project. This structure collects rainwater for a wildlife watering station, and will be maintained by Sunset Valley as a permanent fixture. Trail use is open to multiple user groups. Other points of interest on or near this tract are the Weaver Sink and Homestead Shopping Center Pond.

Recommendations

Since the Cougar Creek Greenbelt is adjacent to the City Hall complex it is the ideal location for the trail system kiosk (fig 20). The trail system kiosk should provide information about the overall trail system. Design criteria for the trail kiosk are located in section 2.7. The trail system kiosk should be discretely located away from major traffic routes. New trails should be established to link upper Cougar Creek. Trail specifications are found in Table 2.

Special Features

Interpretive opportunities in the Cougar Creek Greenbelt include the Weaver Sink, Bird Blind, and Homestead Pond.

Table 2. Cougar Creek Greenbelt Trail Specifications

Type	Nature Trail
Width	Clearing 10’ minimum
Tread	6-8 Feet
Height Clearance	10 Feet
Grade	Optimal 0-3% Maximum 5-10% sustained 15% fewer than 50 yards
Cross Slope	2-4%
Sight Distance	50-100 Feet
Symbol	Cougar Footprint
Entry Signs	Trail System Kiosk City Hall
Interpretive Signs	Weaver Sink-Edwards Aquifer Homestead Pond-Water Quality and Habitat Bird Blind-Birds of Central Texas

Figure 18: Upper Cougar Creek

Figure 19: Cougar Creek Greenbelt

Figure 20: Cougar Creek Greenbelt with proposed amenities. Trail in green is the Cougar Creek trail. Trail in orange is the proposed upper Cougar Creek Trail.

3.2 Sunset Valley Nature Area

Current Trail System

The Sunset Valley Nature Area is 64.59 acres in extent and has approximately 2.25 miles of trails (figs.21, 22). The Sunset Valley Nature Area is located between Lovegrass Lane and Oakdale Drive (fig. 23). The Sunset Valley Nature Area surrounds a portion of the main branch of Williamson Creek and connects with the South Hills Conservation Area. The flow of Williamson Creek is ephemeral and no permanent body of water is located on the tract. Brodie Lane separates the Sunset Valley Nature Area from the Indian Grass Prairie Preserve. The trail within the Sunset Valley Nature Area is mostly compacted dirt and stone, with a small section of granite gravel at the Lovegrass Lane entrance and a mulched section near the Curley Mesquite Cove entrance. The trail is open to multiple user groups. Points of interest in this Greenspace include the Williamson Creek Watershed and large Bigelow Oak trees.

Recommendations

The trails are all well established and should remain in a natural state. A small kiosk with benches should be placed at the crossroads (fig. 23) with information about the entire Sunset Valley trail system to orient visitors. Design criteria for this kiosk are located in section 2.7. Entry signage should be placed at the Lovegrass Lane, Curley Mesquite Cove, and Oakdale Drive entrances to the Sunset Valley Nature Area. Entry signage should also be placed at the border of the Sunset Valley Nature Area and the South Hills Conservation Area. Signage should be discretely located away from major traffic routes. This should be a two-sided sign with information about both areas. Screening plantings where the trail nears residential areas are also recommended. Trail specifications are found in Table 3.

Special Features

Interpretive opportunities include the Bigelow Oak (Tree City USA) and Williamson Creek (Watershed).

Table 3: Sunset Valley Nature Area Trail Specifications

Type	Nature Trail
Width	Clearing 10’ minimum
Tread	6-8 Feet
Height Clearance	10 Feet
Grade	Optimal 0-3% Maximum 5-10% sustained 15% fewer than 50 yards
Cross Slope	2-4%
Sight Distance	50-100 Feet
Symbol	Oak Leaf
Entry Signs	Lovegrass Lane Curley Mesquite Cove South Hills Conservation Area 762 Oakdale 798 Oakdale
Interpretive Signs	Bigelow Oak-Tree City USA Williamson Creek Watershed

Figure 21: Sunset Valley Nature Area

Figure 22: Sunset Valley Nature Area

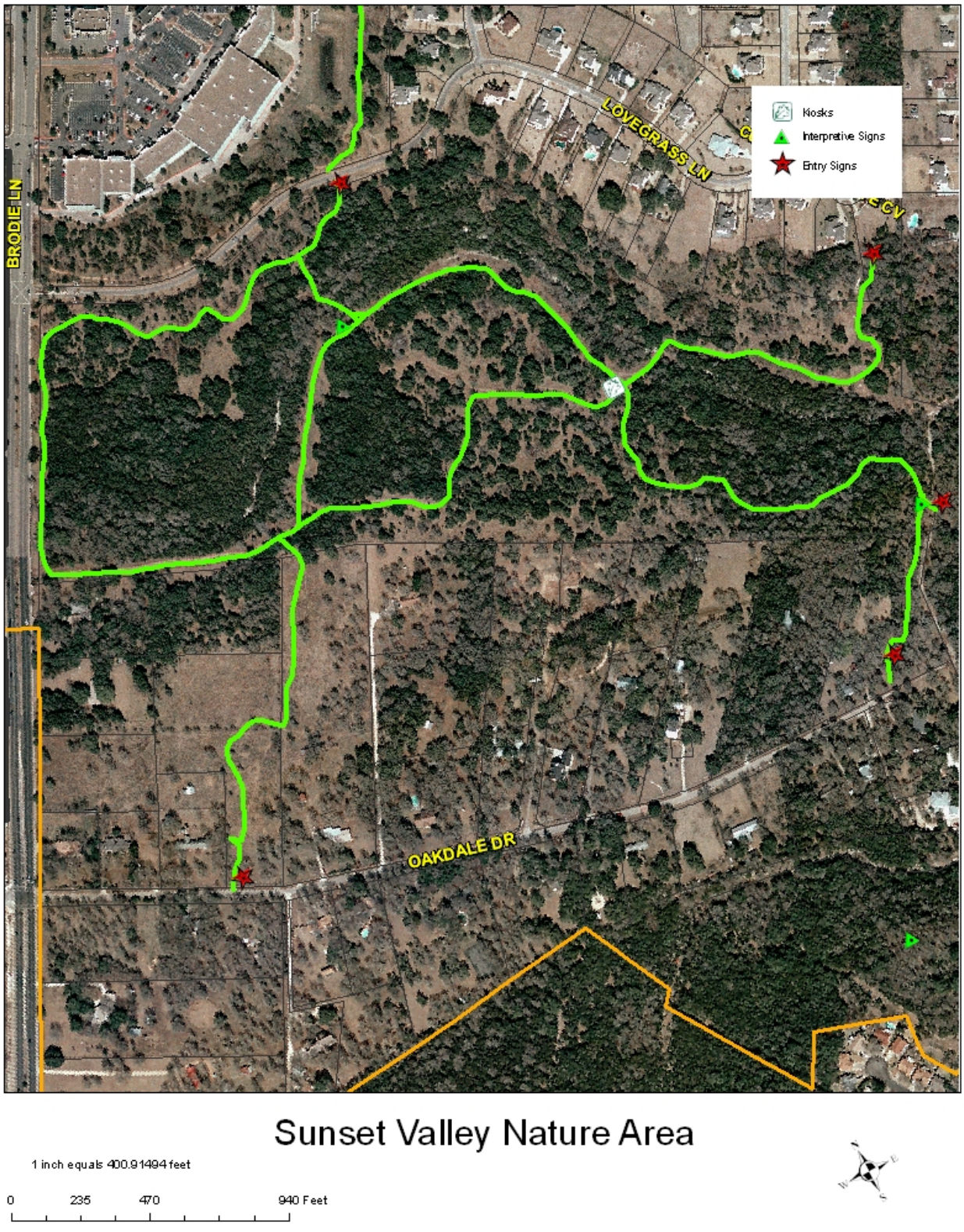

Figure 23: Sunset Valley Nature Area with amenities. Trail is marked in green.

3.3 Indian Grass Prairie Preserve

Current Trail System

The Indian Grass Prairie Preserve comprises 21.43 acres in extent and has approximately .80 miles of trail (fig. 24). The Indian Grass Prairie Preserve is located along Williamson Creek between Country White Lane, Home Depot Boulevard, Brodie Lane, and the apartment complex. Contained within the preserve area are a radio tower, an associated small building, and a gravel road. The majority of the trail uses the gravel road which is necessary for maintenance access to the radio tower. Although the Indian Grass Prairie Preserve is zoned as a Conservation Area the trail type is considered a Nature Trail and available to multiple user groups. The Indian Grass Prairie Preserve is also home to the Sunset Valley Cave.

Recommendations

The Indian Grass Prairie Preserve will be home to a portion of the Violet Crown Trail. This trail is recommended for construction as an urban trail. This section of the trail is to be up to 10 feet wide and constructed of stabilized granite gravel. The trail may also have 6 inch concrete borders if needed to contain the surfacing. The remainder of the current trail system in the Indian Grass Prairie Preserve is well established. Signage for the current trail should be provided near the entry at Brodie Lane and at the Violet Crown entry at Home Depot Boulevard. Trail specifications are found in Table 4.

Special Features

Interpretive signage should be placed near the cave. No official trails should be established to the cave.

Table 4: Indian Grass Prairie Preserve Trail Specifications

Type	Nature Trail and Urban Trail
Width	Clearing 10’ minimum for Nature Trail, 14’ minimum for Urban Trail
Tread	6-8 Feet for Nature Trail, 14’ minimum for Urban Trail
Height Clearance	10 Feet
Grade	Optimal 0-3% Maximum 5-10% sustained 15% fewer than 50 yards
Cross Slope	2-4%
Sight Distance	50-100 Feet
Symbol	Indian Grass
Entry Signs	Brodie Lane and Home Depot Blvd
Interpretive Signs	Karst Features

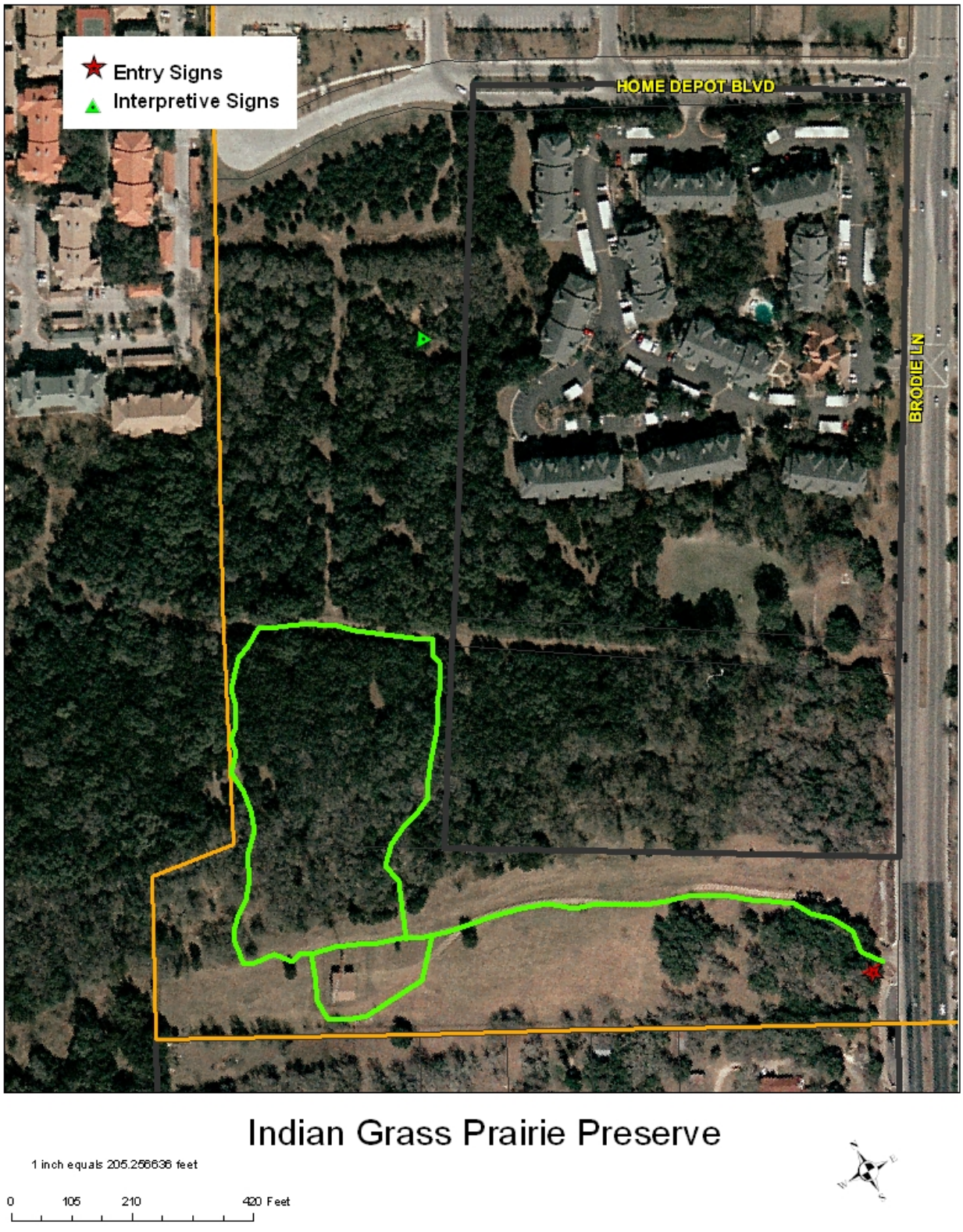

Figure 24: Indian Grass Prairie Preserve with amenities. Trail is marked in green. Gold line represents the city limits.

3.4 South Hills Conservation Area

Current Trail System

The South Hills Conservation Area is 42.83 acres in extent and has approximately 1.25 miles of trails (figs. 25, 26). The South Hills Conservation Area is located at the southern edge of the City of Sunset Valley, along the western edge of the Cherry Creek neighborhood. The majority of trails are narrow hiking trails. Some of the trails in the South Hills Conservation Area have steep grades and are the most physically challenging trails in Sunset Valley (figs. 24, 25). The South Hills Conservation Area is restricted to pedestrian traffic only on the established footpaths. The South Hills Conservation Area is the only green space or conservation area with a designated maintenance trail approximately 0.50 miles in length. Due to the proximity of this trail to residential areas traffic on the maintenance trail is restricted to authorized maintenance and monitoring activities. Points of interest include Crystal Mountain, the Oatmanville Railroad, and Homestead Hill.

Recommendations

The trails of the South Hills Conservation area are not clearly defined in areas and some trails need to be rerouted. The trail on the steep hill leading to the back trail should be rerouted to reduce erosion. The trail system near Homestead Hill should be clearly defined with trail borders as described in section 2.3. Combination signage should be placed along the border between the Sunset Valley Nature Area and the South Hills Conservation Area. All of the proposed signage in the South Hills Conservation Area should be combination signs (section 2.9). Trail specifications are found in Table 5.

Special Features

Interpretive opportunities include Oatmanville Railroad, Crystal Mountain (Geology), and Homestead Hill (History).

Table 5. South Hills Conservation Area Trail Specification

Type	Conservation Trail
Width	Clearing 5’ minimum
Tread	3-4 Feet
Height Clearance	7 Feet
Grade	Optimal 0-10% Maximum 15% sustained 40% fewer than 50 yards
Cross Slope	4% maximum
Sight Distance	50-100 Feet
Symbol	Sunset
Combination Signs	Sunset Valley Nature Area-Oatmanville Railroad Crystal Mountain-Geology Homestead Hill-Sunset Valley History

Figure 25: South Hills Conservation Area

Figure 26: South Hills Conservation Area with amenities. Trail is marked in green. Gold line represents the city limits.

3.5 Gaines Greenbelt Conservation Area

Current Trail System

The Gaines Greenbelt is 22.08 acres in extent and has approximately 0.20 miles of trail within the Sunset Valley section of the greenbelt. The Gaines Greenbelt is located at the northern edge of the City of Sunset Valley and connects with the City of Austin's Barton Creek Greenbelt (fig. 27). The area is bisected several times by Gaines Creek. Gaines Creek is ephemeral and is a tributary for Barton Creek. The surface of the Gaines Greenbelt trail is compacted dirt and stone. The trail is labeled a conservation trail designed for pedestrian use. The Gaines Greenbelt Conservation Area is habitat for endangered Golden-cheeked Warblers. Trail specifications are located in Table 6.

Recommendations

Due to the critical nature of the areas trail modification should be minimally invasive and not disturb canopy cover. A combination sign should be placed along the trail at the first entrance to the Gaines Greenbelt Conservation Area from either direction. These signs should contain information about the sensitive nature of the area. Gaines Greenbelt is potentially part of the Walk for a Day Trail System linking Lady Bird Lake to Northern Hays County. Habitat preservation and management should be carefully considered when planning future recreational opportunities. Trail specifications are found in Table 6.

Special Features

As referenced above the Gaines Greenbelt is habitat for the Golden-cheeked Warbler. Bird watching opportunities are common on this tract and the combination signs should include information on the conservation needs.

Table 6. Gaines Greenbelt Trail Specifications

Type	Conservation Trail
Width	Clearing 5’ minimum
Tread	3-4 Feet
Height Clearance	7 Feet
Grade	Optimal 0-10% Maximum 15% sustained 40% fewer than 50 yards
Cross Slope	4% maximum
Sight Distance	50-100 Feet
Symbol	Golden Cheeked Warbler
Combination Signs	North Entry-Golden Cheeked Warbler South Entry-Endangered Species

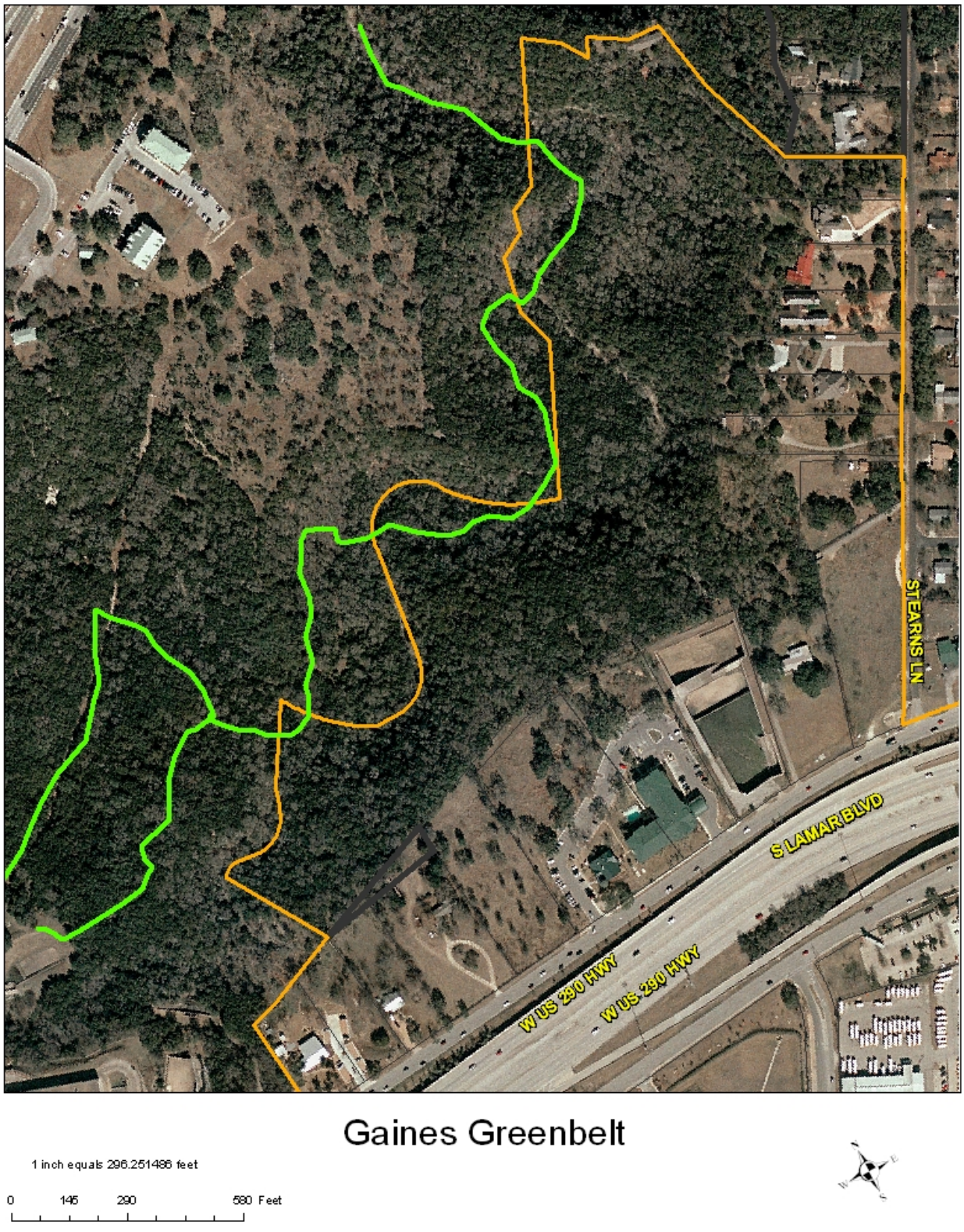

Figure 27: Gaines Greenbelt. Trail is marked in green. Gold line represents the city limits.

3.6 Village Trail

Current Trail System

The Village Trail includes a section of approximately 550 feet of concrete trail that traverses the width of the Cougar Creek Greenbelt before becoming a granite gravel trail (figs. 28, 29). The concrete portion of the trail crosses a section of the creek which is frequently inundated with water. The length of the granite gravel trail is approximately 1335 feet. With the exception of the concrete portion, the Village Trail is not located on property owned by the City of Sunset Valley, but lies within a 15 foot easement behind the Sunset Valley Village Shopping Center. All of the area outside of the easement belongs to the Village Shopping Center. A 380 foot section of the granite portion of this trail is prone to erosion from natural water sheet flow and spray from sprinkler heads of an adjacent re-irrigation system.

Recommendations

The Village trail is one of the most heavily used trails in Sunset Valley. With increased usage there are increased maintenance requirements. The section of the trail that is prone to erosion should be considered as a candidate for pervious concrete, boardwalk, steel edging with stabilizing polymer, or other methods of erosion control.

Special Features

No unique features have been identified at this location.

Figure 28: Village Trail

Figure 29: Village Trail is marked in green.

3.7 Yellowtail Cove Link

Current Trail System

The Yellowtail Cove Link is approximately 740 feet long and connects the Cougar Creek Greenbelt to Yellowtail Cove (figs. 30, 31). A large section of this trail crosses the Sunset Valley tributary to Williamson Creek, locally referred to as “Cougar Creek” (Sect 3.1). Currently this trail is a compacted dirt trail that is prone to erosion and prolonged wet periods. The original trail has widened over time to allow passage around the wet areas.

Recommendations

Due to erosion, prolonged wet periods, and widening of the trail, approximately 250 feet of this trail are recommended to be redeveloped using concrete, a surface similar in performance characteristics to concrete, or boardwalk. By using concrete or boardwalk this trail will be passable the majority of the time and can be narrowed, with adjacent damaged areas being revegetated.

Special Features

No unique features have been identified at this location.

Figure 30: Yellowtail Cove Link

Figure 31: Yellowtail Cove Link. Trail is marked in green.

3.8 Lone Oak Trail to Sunset Valley Nature Area/South Hills Conservation Area

Current Trail System

This trail is approximately 0.30 miles in length and crosses the main branch of Williamson Creek (fig.32). Currently this is a natural, compacted dirt/rock trail that connects the end of a city street, Lone Oak Trail, to the trail system located in the Sunset Valley Nature Area and the South Hills Conservation Area (fig.33). The terrain is rough in areas with a few steep sections.

Recommendations

It is recommended that this trail be kept in a natural state with the addition of an informational sign. Signage will be located near the junction of the Nature Area and South Hills Conservation Area. The location of this trail may be changed pending discussions with neighboring landowners. The map located on page 49 provides some alternative routes. Screening plantings along areas where the trail nears residential areas are also recommended.

Special Features

No unique features have been identified at this location.

Figure 32: Lone Oak link to the Sunset Valley Nature Area and South Hills Conservation Area

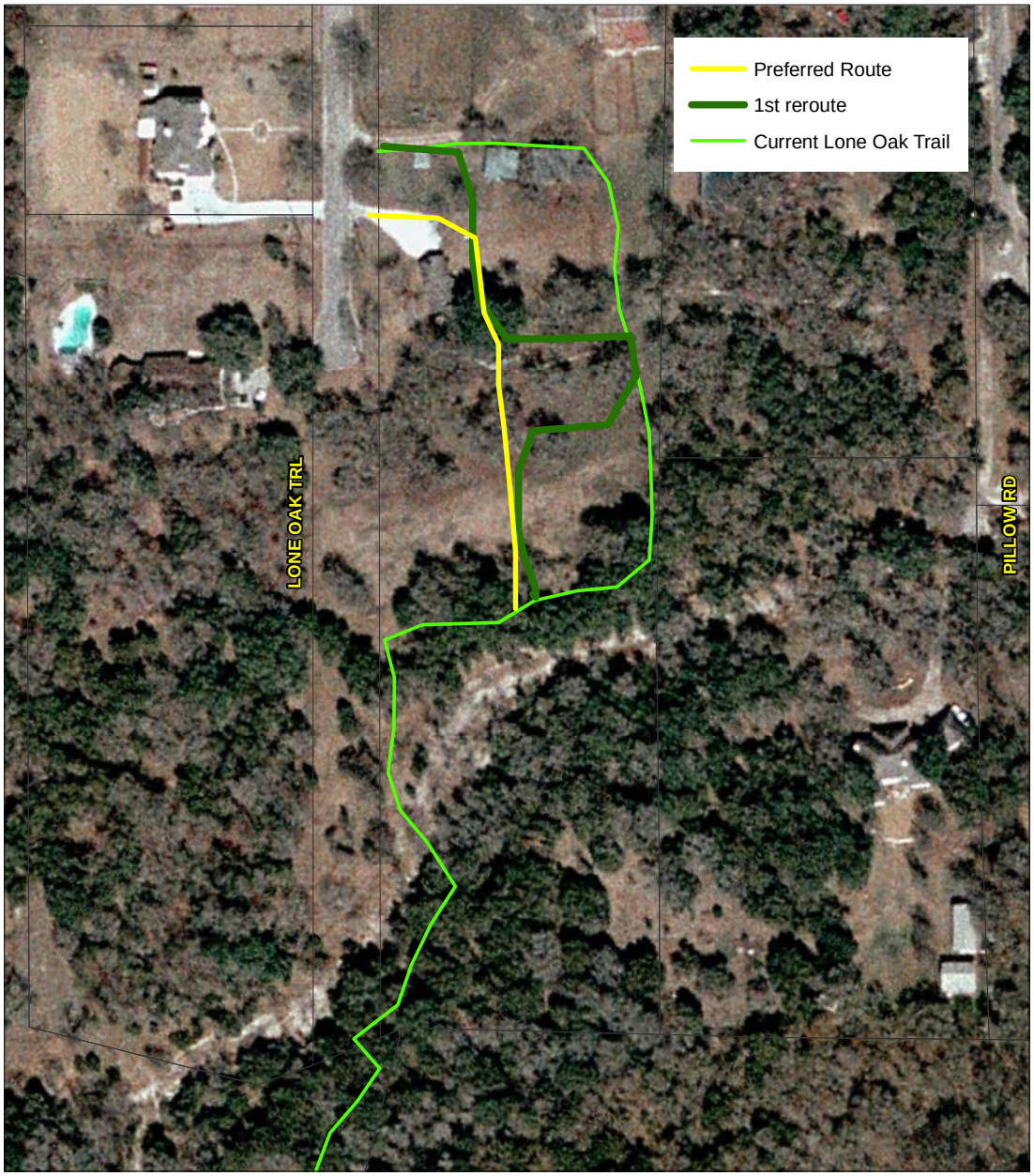

Figure 33: Lone Oak Trail Link to South Hills Conservation Area and Sunset Valley Nature Area. Trail is marked in green.

3.9 Lone Oak Trail to Curley Mesquite Cove

Current Trail System

One portion of this trail is a 6 foot wide trail link utilizing an easement across private property that connects two city streets, Lone Oak Trail and Curley Mesquite Cove (fig. 34). This portion of the trail is surfaced with mulch and each side is fenced. The remainder of this trail loops around the detention pond and links to Curley Mesquite Cove and the Sunset Valley Nature Area (fig. 35). This portion of the trail is compacted dirt and stone.

Recommendations

This link should stay in its current condition with routine maintenance.

Special Features

No unique features have been identified at this location.

Figure 34: Curley Mesquite to Lone Oak Trail Link

Figure 35: Curley Mesquite Cove to Lone Oak Link. Trail is marked in green.

Chapter 4. Regional Trail Systems

Regional Trail Systems provide opportunities for non-vehicular passageways across greater distances. Connecting neighborhoods and commercial areas with trails may allow for increased environmental awareness/education, improved health and fitness, and reduce impacts due to vehicular traffic. Participation in regional trail systems provides opportunities for Sunset Valley residents and others to enjoy these benefits. When possible and beneficial the City of Sunset Valley should examine opportunities to participate in regional trail systems. The Planning and Environmental Committee will assess these programs and make recommendations to the City Council on the benefits and drawbacks of participation. Public feedback should be encouraged and addressed through this process.

At this time the City Council of Sunset Valley has passed a resolution supporting one regional trail system, commonly referred to as Walk for a Day. The Walk for a Day Trail is a cooperative effort between the City of Sunset Valley, City of Austin, Hill Country Conservancy, and other organizations to create a 34-mile trail linking Lady Bird Lake to Northern Hays County. The first phase of the trail would link the City of Austin to Sunset Valley. This trail would allow Sunset Valley to work with various agencies to manage the greenbelt and provide regional recreational opportunities. This trail is still in the planning stages but should meet all standards of this master plan. The Hill Country Conservancy, a non-profit agency, is facilitating this project and raising funds to help build, manage, protect, and monitor the trail system.

Chapter 5: Incorporation of New Land Acquisitions

The city passed a resolution (No. 020607) pertaining to land acquisition in February 2007. This resolution adopted criteria for land acquisitions that include flood/drainage, water quality, air quality, and residential livability. When new properties are purchased or easements acquired they may be incorporated into the trails master plan. Chapter 7 proposes several new trails/links which would require land to be purchased or easements to be acquired.

The Planning and Environmental Committee will conduct a site visit to each location and complete an assessment matrix of the property (Table 7). The assessment examines existing environmental features, structures, vegetation types, neighboring properties, and other components. This information will be used by the Planning and Environmental Committee to make recommendations to the City Council for the placement of trails and other possible uses of the property. Once the recommendations are approved by the Council, any trails on the new properties will be incorporated into the trails master plan.

Table 7. Property Assessment Matrix

Assessment Criteria	Comments	Recommendations
Neighboring Properties		
Access Points-Current and Future Recommendations		
Features		
Environmental Needs/Concerns		
Cultural/Archaeological		
Paths/Trails-Current and Future Recommendations		
Recreational Opportunities		
Wildlife Opportunities		
Zoning		
Purchase Agreements/ Restrictions		
Water Treatment Opportunities		
Karst Features		
Fences/Buildings		
Water Well		
Tree Survey		
Juniper/Mesquite Recommendations		
Hazards		
Emergency Access		

Chapter 6: Proposed Trails

6.1 Toney Burger Fitness Trail

The construction of a trail around Toney Burger Center that includes exercise stations is recommended (figs.36, 37). This would provide a 1.25 mile looped trail that is handicap accessible and will provide exercise opportunities. Currently there are granite gravel sidewalks along Jones Road and Ernest Robles Way. A concrete sidewalk is also located adjacent to Highway 290. To complete this trail a granite gravel sidewalk should be constructed along North Pillow Road. Trees should be planted along this section to provide shade. Four benches also should be installed along North Pillow Road (1), Jones Road (2), and Ernest Robles Way (1). Exercise stations (10) should be located along Jones Road, Ernest Robles Way, and North Pillow (fig. 38). This project would be developed in cooperation with the Austin Independent School District.

Figure 36: Granite path along Jones Road that can be utilized as part of the Toney Burger Fitness Trail

Figure 37: Toney Burger Fitness Trail. Trail is marked in green.

Figure 38: Sample Fit Stations

6.2 Pillow Road to Lone Oak Trail Link

A trail is recommended to be established to link Pillow Road to Lone Oak Trail. If constructed, this trail would provide a non vehicular route and easier access to the larger trail system. The Planning and Environmental Committee or a trail link ad hoc committee will work with residents to identify potential locations for the trail link. If citizens agree the city would pursue an easement or acquisition across private property for the construction of the desired trail link.

6.3 Reese Road to Pillow Road Link

A trail is recommended to be established to link Reese Road to Pillow Road. If constructed, this trail would provide a non vehicular route and easier access to the larger trail system. The Planning and Environmental Committee or a trail link ad hoc committee should work with residents to identify potential locations for the trail link. If citizens agree the city would pursue an easement or acquisition across private property for the construction of the desired trail link.

Figure 39: Future Trail System. Trails marked in green.

Chapter 7: Trail Development and Maintenance Plan

7.1 Trail Development

Year 1: Trail Head, Entry Signage, Kiosk, and Interpretive Signage

Year 2: Toney Burger Fitness Trail

7.2 Trail Maintenance Plan

The trails of Sunset Valley are maintained on a regular basis. Below is a table (8) of general maintenance activities and frequencies.

Table 8. Maintenance Plan

Weekly	Monthly	Yearly
Mowing	Mowing (weekly as needed)	Clean signs
Monitor for Potential Hazards/Graffiti/Vandalism	Trails Surface Compaction (as needed)	Stain/Weatherize posts
Litter Removal (as needed)	Litter Removal	Clean Kiosks
	Erosion Checks	Community Clean Ups
	Weed control on urban trails (as needed)	Pruning (as needed) for trail clearance
		Trails Surface Compaction (as needed)
		Repairs/reroutes

7.3 Trail Condition Monitoring

Conservation Rangers are citizens who have been trained to protect, monitor, and preserve the City's greenspaces and conservation areas. The City's Conservation Rangers will be involved in an active trail maintenance and monitoring program. Conservation Rangers pick up litter and report trail problems on a regular basis.

7.4 Litter/Trash Control

Sunset Valley's Greenspaces and Conservation Areas are strictly pack it in, pack it out. No trash receptacles will be located near entries or kiosks because they attract nuisance wildlife, insects, and increased trash.

Chapter 8: Trail Use Guidelines

8.1 Trail Etiquette

In developing this master plan it was determined that trail etiquette is an important consideration. Most of the trails are available to mixed user groups (hikers, bikers, and equestrian) and determining how these individuals interact with each other and the surrounding habitat is important. Below are some suggested trail etiquette guidelines that should be incorporated into entry sign designs. The yield sign (fig. 40) should also be incorporated into the entry sign design.

8.2 Pets

The South Hills Conservation Area and the Gaines Greenbelt's primary focus are for conservation purposes. It is highly recommended that pets be kept on leash or under direct control (i.e. electronic collar) at all times in these areas.

Table 9. Trail Etiquette Guidelines to be included on trail entry signs.

Trail Etiquette Guidelines
Respectfully share the trail. Ride, walk, or run on the right side of the trail.
Stay on the trail. Creating your own trail or cutting switchbacks creates erosion, damages habitat and causes new trails which can't be maintained
Runners and Hikers yield to equestrians. Cyclists yield to runners, hikers, and equestrians. (fig. 40)
Avoid using muddy trails.
Keep pets on leash or under direct control. No chasing wildlife.
Clean up after your animals.
No fires, EVER.
No litter of any kind. Pack it in, Pack it out.
Respect private property.

Figure 40: Trail Etiquette Sign

8.3 Trail Closure

At certain times, sections of trails or entire trail systems may be closed. Trails can be closed for three main reasons:

Type 1) potential hazards (flooding, fire, major storm damage)
Type 2) management activities (wildlife management, prescribed burns, revegetation etc.), and
Type 3) muddy trail or other surface conditions.

In the case of trail closure due to Type 1 or Type 2 events, signs will be posted at the entry to the trail system or near the problem areas. Type 2 closings will be posted on the website 10 days in advance and residents will be notified by mail. A message may also be recorded on the city's information line if a trail system or area is to be closed. Trail closure due to trail surfacing conditions (Type 3) will usually be for brief periods of time following rain events. Reducing traffic and allowing the trail to dry will reduce erosion and the likelihood of ruts developing in the trail. This type of trail closure applies primarily to bicycle and equestrian traffic on trails. No signs will be posted, but this information will be included on the entry signs

Chapter 9: Trail Monitoring and Emergency Access

9.1 Trail Monitoring

Conservation Rangers play a key role in maintaining the trail system, but are also involved in monitoring use of trails and activities in the greenspaces and conservation areas. Conservation Rangers go through training with the Public Works and Environmental Services Department. Conservation Rangers report suspicious activities, vandalism, and wildlife issues to the Police and the Public Works and Environmental Services Department. Conservation Rangers are required to report activities and not directly confront individuals on the trails. Anyone interested in becoming a Conservation Ranger should contact the Public Works and Environmental Services Department at 891-9103.

The trails are patrolled by the Sunset Valley Police Department several times a week by either bicycle or all terrain vehicles. The police depart will enforce all applicable ordinances/laws in regards to the trail system. Contact information for the police department will also be included on entry signs and kiosks.

9.2 Emergency Access

In order to provide emergency assistance within the greenspaces and conservation areas a series of emergency access points and routes have been designated. These locations can be accessed by emergency response vehicles for emergencies and training purposes. This information will be provided to the police department, search and rescue team, and other emergency responders in a document separate from the trails master plan.

APPENDIX A

Trail Research Photos

Figure 41: Trail featuring fossils. Austin Nature Center

Figure 42: Concrete trail with limestone edging. Austin Nature Center

Figure 43: Concrete details. Austin Nature Center

Figure 44: Boardwalk with rails made from treated lumber. Austin Nature Center.

Figure 45: Granite, Concrete, Boardwalk Trail Interface. Austin Nature Center

Figure 46: Natural trail with fossil features. Austin Nature Center

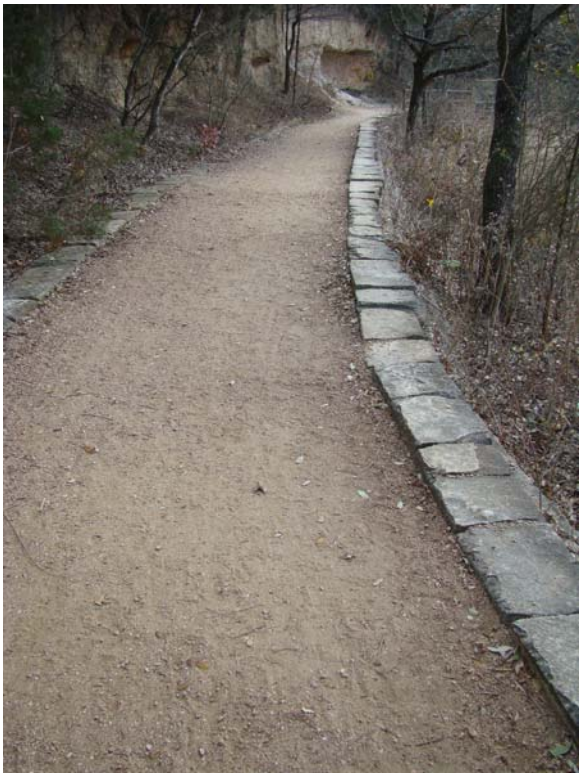

Figure 47: Granite trail with cut limestone edging. Austin Nature Center

Figure 48: Town Lake Hike and Bike Trail

Figure 49: Granite gravel with stabilizing polymer. Pease Park Austin, Texas

Figure 50: Flagstone path. McKinney Roughs Natural Area

Figure 51: Granite gravel path with natural cedar border. McKinney Roughs Natural Area

Figure 52: Maintenance Trail. McKinney Roughs Natural Area

Figure 53: Primary Equestrian Trail. McKinney Roughs Natural Area

Figure 54: Granite Gravel Trail. Colorado River Refuge Bastrop, Texas

Figure 55: Recycled and Treated Lumber Boardwalk. Colorado River Refuge Bastrop, Texas

Figure 56: Maintenance trail/road. Southwest Metropolitan Park. Travis County

Figure 57: Natural Trail. Southwestern Metropolitan Park. Travis County.

Figure 58: Granite Gravel Trail with Limestone Border. Southwest Metropolitan Park. Travis County

Figure 59: Multipurpose Concrete Trail. Southwest Metropolitan Park. Travis County

Figure 60: Floating Recycled Lumber Boardwalk. Texas Rivers Center. San Marcos, Texas

Figure 61: Recycled Lumber Boardwalk. Texas Rivers Center. San Marcos, Texas

Figure 62: Recycled Glass Path. San Marcos Nature Center

Figure 63: Granite Gravel Path with Paver Edging. San Marcos Nature Center

Figure 64: Pervious Concrete Path. Steeplechase Park. Kyle, Texas

Figure 65: Pervious Concrete Close Up. Steeplechase Park. Kyle, Texas.

Figure 66: Natural Trail. Blunn Creek Nature Area. Austin, Texas

Figure 67: Granite Gravel and Natural Trail. Gaines Creek Park. Austin, Texas

Figure 68: Natural Trail with Natural Stone Border. Gaines Creek Park. Austin, Texas

Figure 69: Concrete Trail Round Rock, Texas

Figure 70: Asphalt Trail. Round Rock, Texas

Figure 71: Asphalt Trail with Ribbon Curb. Round Rock, Texas

Figure 72: Granite Gravel with Ribbon Curb Trail. Round Rock, Texas

Figure 73: Recycled Lumber Boardwalk with Metal Rails. Round Rock, Texas

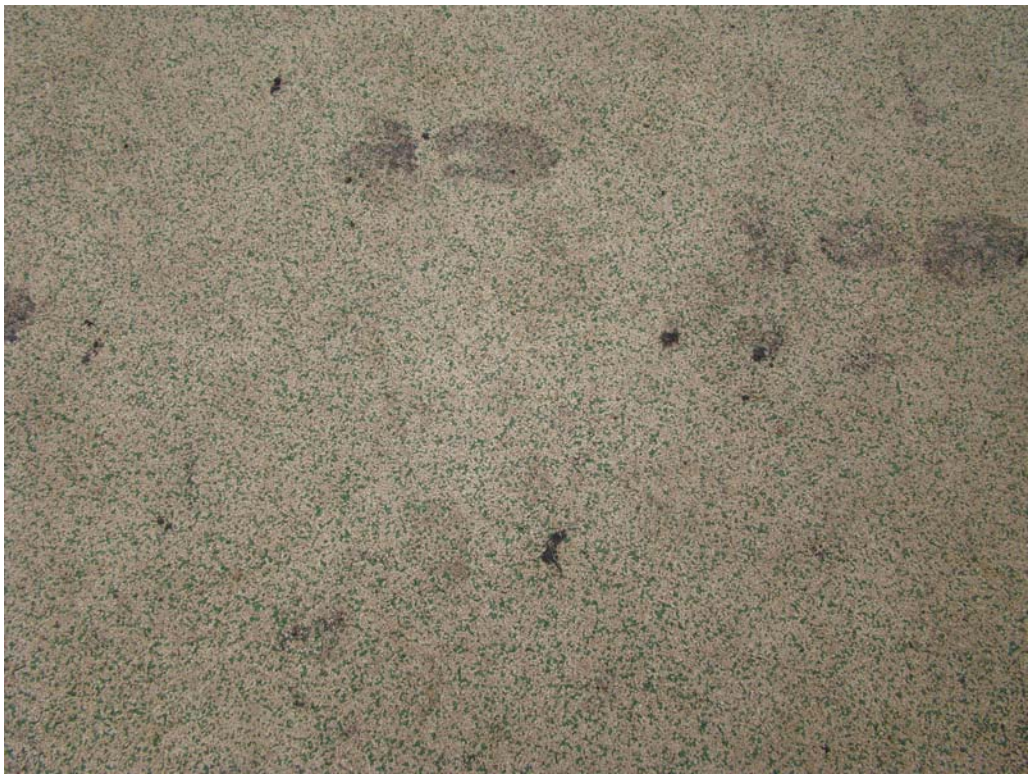

Figure 74: Pervious Rubber Surface. Round Rock, Texas

Figure 75: Granite Gravel Trail. Round Rock, Texas

Appendix B
City Maintenance of Nature Trails and ADA Compliance
Legal Opinion

SCANLAN, BUCKLE & YOUNG, P.C.

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MEMORANDUM

TO: The City of Sunset Valley

FROM: Jeff Tippens and Doug Young

SUBJECT: City Maintenance of Nature Trails and ADA Compliance

DATE: May 9, 2008

Issue

The City of Sunset Valley ("City") has asked for an analysis of its legal obligations under the American With Disabilities Act of 1990 ("ADA") as they relate to the City's maintenance of trails in its parks and nature conservation areas. More specifically, the City has asked whether its continued repair and maintenance of the trails obligate it to modify the trails to bring them into compliance with the ADA.

trails; nor is it obligated to make modifications that would impose undue financial

Brief Answer

The City is not obligated to modify its existing trails in a manner that would fundamentally alter the nature of those and administrative burdens. In addition, taking into consideration similar ADA trail regulations that have been adopted by one federal agency and those that have been proposed by another federal agency, it is reasonable to conclude that the City is not obligated to modify its trails to make them ADA compliant, provided its actions are limited to maintaining and repairing the trails.

In any event, the City may not take actions that effectively deny a qualified

disabled individual access to trails.

Discussion and Analysis

Subchapter II of the ADA prohibits state and local governments from discriminating against and excluding disabled individuals from participating in or benefiting from the government's services, programs, and activities. *See* 42 U.S.C.A. § 12101, *et seq.* Section 12132 of the statute provides:

> "Subject to the provisions of this subchapter, no individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."

Recreational areas and facilities are considered programs or services under the ADA, and City-owned hiking trails are no exception. *See, e.g., Galusha v. New York State Dept. of Environmental Conservation,* 27 F. Supp.2d 117, 124 (N.D. N.Y. 1998) (disabled persons entitled to meaningful access to wild areas of Adirondack parks under ADA, and State is obligated to make reasonable accommodations for disabled individuals).

The City has indicated, and we assume for purposes of this memo, that the existing trails are not currently ADA compliant. To the extent any of the City's trails are accessible to disabled individuals (regardless of whether they are in strict compliance with the ADA standards), ADA regulations and well-established case law prohibit the City from taking actions that result in decreased accessibility. *See* SBY Memo from B. Rockwell (2/8/2008); 28 C.F.R. § 35.130(b)(7); 36 C.F.R. 1191.1, Appendix B, § 202.3.1.

To comply with the ADA, state and local governments generally must make "reasonable modifications" to assure disabled individuals meaningful access to government programs and services. *See* 42 U.S.C.A. §§ 12131-12134; 28 C.F.R. § 35.130(b)(7); *Alexander v. Choate,* 469 U.S. 287, 301, 105 S.Ct. 712, 83 L.Ed.2d 661 (1985). At issue here is what modifications, if any, are reasonable and must be made if the City continues to maintain and repair its existing trails.

The Department of Justice has enacted ADA regulations that provide state and local governments with specific guidance with respect to when and what reasonable modifications must be made in different contexts. *See* 28 C.F.R. Part 35. While the regulations generally provide that no disabled individual may be excluded from participation in, or be denied the benefits of, services or programs because of inaccessible facilities, they also specify that local governments are not *necessarily* required to make all *existing* facilities accessible. 28 C.F.R. §§ 35.149, 35.150(a)(1); 28 C.F.R. §35.150(a)(1). Specifically, local governments are not required to take actions that would result in "a fundamental alteration in the nature of a service, program, or activity

or in undue financial and administrative burdens." 28 C.F.R. §35.150.[1] The regulations do, however, require all *new* facilities to comply with ADA accessibility standards. 28 C.F.R. § 35.151(a),(b).[2] (As discussed below, compliance with regard to new trails does not necessarily require: (i) that trails be concrete or other smooth surface; (ii) that natural terrain be disregarded in determining what measures are reasonable accommodations; or (iii) that the City disregard its ordinances regulating impervious cover, tree protection, or water quality and soil disturbance when constructing new trails).

Given the foregoing ADA regulations, it is clear that the City is not obligated to modify its existing trails in a manner that would fundamentally alter their very nature. Nor is the City obligated to make modifications that would impose undue financial and administrative burdens. *See Easley v. Snider*, 36 F.3d 297, 302 (3d Cir.1994) (reasonable accommodations are those that do not require modification of essential nature of program or impose undue burden on program provider); *see also Staron v. McDonald's Corp.*, 51 F.3d 353, 356 (2d Cir.1995); *Galusha*, 27 F.Supp.2d at 124-25.

The question remains, though, of what modifications—if any—the City must make to its existing trails, short of doing anything that "fundamentally alters" the trail or imposes an undue financial or administrative burden. Existing ADA regulations provide little insight. However, two federal rulemaking proceedings that have been initiated for the specific purpose of promulgating ADA standards for trails suggest that the City has no obligation to modify its trails for ADA compliance purposes, provided that the City's actions are limited to maintaining and repairing existing trails.

Current ADA regulations provide extensive detail about what local governments must do to comply vis-à-vis buildings and facilities in highly developed areas. However, with the exception of boating facilities and fishing piers, the rules do not address the construction or renovation of outdoor recreation areas, such as hiking trails in parks or nature preserves. *See* 36 C.F.R. Part 1191.1, Appendix B, §§ 235.3, 237.

With no specific regulations in place and no interpretive case law directly on point, the City must exercise its own discretion in interpreting and applying the ADA under the circumstances. The City is not entirely without guidance, though. Since 1994, both the United States Forest Service and the Accessibility Board, an independent federal agency responsible for developing minimum accessibility guidelines under the ADA, have been working on federal regulations that would establish accessibility standards for trails and greenways. *See* United States Forest Trail Accessibility Guidelines (May 22, 2006) (http://www.fs.fed.us/recreation/programs/accessibility/FSTAG.doc); Final Report of Regulatory Negotiation Committee on Accessibility Guidelines for Outdoor Developed Areas (Sept. 30, 1999) (http://www.access-board.gov/outdoor/outdoor-rec-rpt.htm).

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[1] In such exceptional circumstances, the public entity bears the burden of proving that compliance with ADA regulations would result in such alterations or burdens.

[2] The DOJ's regulations currently allow state and local governments to choose between complying with the ADA Standards found at 28 CFR Part 36 (with some stipulated exceptions), or the Uniform Federal Accessibility Standards (UFAS), found at 41 CFR Ch. 101.

Despite over ten years of rulemakings, the Access Board's proposed regulations have yet to be enacted as of the date of this memo. The U.S. Forest Service's standards, while implemented, are only applicable to federal land management agencies. These standards are therefore not legally binding on the City.[3] Nevertheless, it is reasonable for the City to consider these standards as it attempts to determine its legal obligations under the ADA with respect to its trails. *See Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc*., 467 U.S. 837, 844 843-845 (1984) (considerable weight should be accorded to executive department's construction of statutory scheme it is entrusted to administer).

Significantly, under both sets of regulations, the routine or periodic maintenance and repair of trails does *not* trigger ADA compliance requirements. Compliance requirements are triggered only in instances of new construction or alteration of existing trails or recreational facilities. There are no obligations where the actions are considered "maintenance" or "repair." Both sets of regulations also recognize that, in certain instances, exceptions are necessary where the natural environment will prevent full compliance.

Both the Forest Service's guidelines and the Access Board's proposed rules provide that "maintenance" and "repairs," as distinguished from new construction or alterations, do not change a trail's purpose, intent, or design. Both sets of proposed guidelines specifically provide that the following activities are maintenance or repair tasks that do not trigger ADA compliance requirements:

1. Removal of debris and vegetation, such as fallen trees and branches, and clearing trails of encroaching brush or grasses;

2. Erosion control and drainage; and

3. Repair of trailhead structures, including replacing deteriorated, damaged, or vandalized parts of structures, such as sections of bridges, boardwalks, information kiosks, fencing, and railing.

Both regulations also permit non-compliance where compliance would:

1. Cause substantial harm to cultural, historic, religious, or significant natural features or characteristics (including instances where natural features such as rock formations, waterways, trees, and other natural conditions would be altered or destroyed);

2. Not be feasible due to terrain, natural obstacles, or prevailing construction

[3] The delay in finalizing and enacting the proposed rules is possibly a testament to the difficulty in reconciling the goal of accessibility with the desire to preserve natural areas and open space in their natural state.

practices; or

3. Require construction methods or materials that are prohibited by federal, state or local law, such as local ordinances and conservation easements).

Finally, both sets of rules make clear that, even in instances where ADA regulations are triggered, compliance does not necessarily require implementation of intrusive measures that clash with the natural environment. To illustrate, the U.S. Forest Service's guidelines provide that it is not necessary to use concrete or asphalt to create a stable surface needed for accessibility. A variety of alternatives are available, including compacting the soil and/or depositing crushed rock, stone, or other natural materials to provide a firm and stable surface.

Given the foregoing, it is reasonable under the circumstances for the City to give weight to the ADA interpretations of two federal agencies charged with enforcing the statute, as evidenced by the U.S. Forest Service's guidelines and the Access Board's proposed regulations. Taking into account these provisions, and considering that the overall policy of the ADA is to require relatively few changes to pre-existing buildings and facilities[4], it is reasonable to conclude that the City is not obligated to modify its trails to make them ADA compliant, particularly with regard to maintaining and repairing the trails.

[4] *Coalition of Montanans Concerned with Disabilities v. Gallatin Airport Authority*, 957 F.Supp. 1166, 1168 (D. Mont.1997) (citing comments to 28 C.F.R. Subpart D).

Appendix C

South Hills Conservation Area Restrictive Covenant Memo

SCANLAN, BUCKLE & YOUNG, P.C.

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April 3, 2009

BY FAX TO:

Clay Collins
City Administrator
City of Sunset Valley
Fax No. 892-6108

Dear Clay:

I respond in this letter to various issues raised regarding proposed changes to the City's trail system in the South Hills Conservation Area.

I understand from Carolyn Meredith's message that some trails in the South Hills Conservation Area are to be removed or discontinued, and that no new trails are planned. I have already provided to you a copy of a memo prepared last year regarding potential ADA issues affecting the City's trail system. Consistent with the principles set out in that memo, as long as the City will not discontinue currently accessible trails, leaving only inaccessible trails, it does not appear that the intended changes will violate the ADA. I understand that this area, because of the terrain, is largely inaccessible.

I have reviewed a Restrictive Covenant affecting the Conservation Area for any possible effect on the City's right to install signs on trails. The Covenant prohibits any improvements except for the two types listed in Section 2, which includes "any other improvement…to protect the health safety and welfare of the public…" Signs would appear to fit that description. It is noteworthy that Section 1 of the Restrictive Covenant provides that the property will be maintained as a habitat for flora and fauna, without providing for hiking or other human-type activities. However, Section 5 of that covenant provides that the document is to be construed as a "conservation easement" as defined in Natural Resources Code ("NRC") § 183, which "shall apply to the construction…of this

covenant." NRC § 183.001 defines a conservation easement as a limitation or affirmative obligation to, among other things, "protect natural…values of real property or assure its availability for…recreational…use." Even thought the express terms of the Restrictive Covenant appear not to permit recreational uses or improvements associated therewith, the incorporation of the definition of "conservation easement" and the provision that the covenant is to be construed pursuant to NRC Chapter 183 makes it clear that recreational uses are allowed. Therefore, signs, if "to protect the health and safety of the public," are permitted.

A more simple resolution of the issue as to whether signs are permitted by the Restrictive Covenant is based on the enforcement provisions of the Covenant. The Restrictive Covenant was executed by the City as the owner of the property. The Restrictive Covenant provides for enforcement by the City "and any person or entity with an interest in the Property." I am not aware that the City has conveyed any interest in the affected property, or that any person or entity had reserved an interest in the affected property. Absent such a conveyance or reservation of an interest, the City is at liberty to reasonably interpret the document and enforce according to such interpretation as to signs and trails, and no one would have standing or authority to attempt to enforce a different interpretation.

I understand that a question has been raised as to whether the City can prohibit pets or require that pets remain on leashes in the conservation area. In particular, I understand that there is concern that if the City does not require keeping pets on leashes elsewhere in the City or on other trails, it could not selectively do so in the South Hills Conservation Area. There is no equal protection or other right of a dog (or correlative right of the dog owner) to uniform rules regarding leash restrictions. The City may enact any rational regulation of pets in the Conservation Area.

A more formidable question is whether dogs are permitted at all in the Conservation Area. Restrictive Covenant Section 3 provides that "No animals shall be raised or kept upon the property or any part thereof…" This likely is intended to mean that no animal may be housed, penned, grazed, or set free on the property, but the term "kept" is uncertain enough that someone could contend that keeping a dog on a leash on the property is keeping a dog on the property. However, assuming that the City is the only person/entity with authority to enforce the Restrictive Covenant, the real issue is for the City to reasonably interpret the term "kept" and enforce accordingly. It would seem that requiring dogs to remain on leashes, if dogs are to be permitted at all, would be most consistent with Section 3.

Please let me know if I can do anything else on these issues.

Sincerely,

Doug Young