

RE: Fairfax Trail System and Trails Adjacent to your Property

This letter serves to inform you about the pedestrian trails in Fairfax, that your property is adjacent to these trails, and, in some cases, improvements on your property may be encroaching on these public-right-of ways. Following is background on these trails and the Town of Fairfax's projects to open the trails.

Fairfax, like many of the cities/towns in Marin, has an extensive trail system that allows residents to walk between their homes, various neighborhoods, open space, and downtown areas. In many cases these trails follow a direct route, allowing a pedestrian to travel a few short blocks as an alternative to a mile or two on narrow, winding streets that do not have sidewalks. Many of the trails date back to the origins of Fairfax, prior to the automobiles and other motorized vehicles.

These trails are located between many properties, and were laid out at the same time as property lines and streets, in order to make the town walkable as well as more accessible to those not driving a car, such as children. They also offer the additional advantage that they provide an alternate way to get in or out of your neighborhood, in the event of an emergency such as earthquake, landslide, or fire. In such an emergency, some streets will likely become impassable, and the trail system may be the only means of ingress/egress for you or your neighbors.

You are receiving this letter because the property you own or live in borders one or more of these trails. Since trails have the same status as streets, paths, and alleyways, their status as public-right-of-ways is not changed by disuse or encroachment. Even though the trail adjacent to you may have been blocked over the years past (by a garden, fence, retaining wall, parking structure or the like), or because stairways built on it have become dilapidated, the trail still exists, as does the right of the public to use it. This right of the public can never be extinguished, just as the public's right to use a town street is also perpetual.

The Town of Fairfax has been working to raise awareness of these public amenities, for their recreational, circulation, and emergency egress value. This has taken the form of publishing maps online (<http://fairfaxvolunteers.org/projects/public-trails-improvement/map-of-all-fairfax-routes/>), listing in the General Plan, various volunteer-based work parties, and has also hired crews to conduct improvements on specific trails. As funding allows, the Town plans to conduct more trail improvements work in the near future.

If you are interested in improving a trail near you, a good place to start is by joining forces with other interested neighbors, or contacting the Fairfax Volunteers. Some trails have been rebuilt by neighbors using materials supplied by the Town. In addition, Town staff may be contacting you regarding upcoming work on trails adjacent to your home.

If you are interested in improving the property you own, that is adjacent to a trail, please do not block public access. To do so is an encroachment of public property, and just as you would not block your neighbor's property, please do not block the public (Town Municipal Code Chapter 12.32).

Some houses are accessed via a trail, and owners have improved the section leading to the door. While technically this is an encroachment, as long as the public is not barred from using the pathway,

and it is not blocked past the improvement, this is generally allowed as long as the property owner obtains required permits, maintains the staircase and executes appropriate agreements with the Town. Think of it as a sidewalk that passes your door – you must not block the sidewalk past your door.

If you would like to build a fence, the Fairfax code allows a 6 foot fence along the side or back of the property, which is generally where the trails lie. Just be sure to build the fence on your own property, and not on the public's trail. Trails are generally between 6 and 10 feet wide, though this varies. MarinMap (<http://www.marinmap.org/dnn/>) also depicts property lines, and the trails and streets between them. However, these maps are not a substitute for a survey, as layers on the maps do not always line up accurately (for instance, the aerial photographs are often skewed in relation to property lines), but are nonetheless useful to determine guidelines for the width and locations of trails.

We hope that this letter answers your questions about the trails in Fairfax, and the benefits these trails have for the community. We also hope that it makes clear the issues surrounding ownership and the rights of the public. If you have questions about the trails or this letter, please contact Councilmember John Reed at jreed@townoffairfax.org or me at gtoy@townoffairfax.org.

Sincerely,

Garret Toy, Town Manager