

Protecting Pedestrian Rights-of-way

History and status

Fairfax is fortunate to have been designed with a network of Public Rights-of-way (ROWs) that connect a multitude of neighborhoods with downtown and the hills around us on an often very direct route. These rights of way occur throughout most of Fairfax and are meant to serve the public. They are public property, and their status cannot change through disuse over the years, as is the case with certain types of easements.

These ROWs were laid out between property lines (in the same way that streets are) as a means for people to get around by walking, or perhaps by bike on some of the flatter ones. Often, the ROWs lead between streets that wind up the hillsides, so that as an alternative to a circuitous 2 mile car ride, the distance can be covered in a few blocks by a pedestrian using these much more direct routes. They connect between downtown and residences, and also between town and open space, allowing walks in the surrounding hills to be taken without the use of a car to get to a trailhead. As parking is often a problem at these trailheads, this is a good thing in that respect, as well.

In addition to the benefits in allowing people to walk more easily, these ROWs can be essential and life saving in the event of an emergency. Earthquakes, landslides, and fire can close roads, and these ROWs can become the only means of egress or access to homes. Thus they have the very real potential of saving lives.

In the past, upkeep has been done by various volunteering residents, often children, and in recent years by efforts spearheaded by the Fairfax Volunteers. Steps have been put in, erosion has been decreased, brush and other vegetation has been cleared, and many of the pathways have been marked with their destinations using signposts and/or reflectors. Maps have been maintained online showing the locations and condition of many of the trails (<http://www.fairfaxvolunteers.org/trails.htm>).

Historically, the taking of this public property by adjacent homeowners has occurred by the erection of fences, appropriating the ROW as apparently exclusive access to front doors, planting vegetation in the ROW, the building of decks or even houses within the ROW, establishing parking alongside streets across the ROW with a resulting retaining wall blocking it, or discouraging use by merely erecting signage claiming private property.

It is my intention to recommend that the Town take action so that our community does not continue to lose these very valuable assets, and that these community assets are protected in perpetuity.

Actions taken by the Town to date are:

- Mapped and listed ROWs in the General Plan passed in 2011

- Endorsed the efforts of the Fairfax Volunteers, starting in 2005, of mapping, publishing information on, marking, and maintaining various trails on a volunteer basis.

Remedies also available to the Town are:

- Further mark and publicize routes and destinations
- Pursue violators who block or otherwise take these ROWs
- Require that any blockages by building structures, fences, earthworks, landscaping, etc. by the current or previous owners be mitigated by the removal of the blockages, or provision of alternative means of traversing the route, as close as possible to the original ROW
- Recommend restoration of fences alongside of ROWs if they have been removed, to more firmly establish that the public is not “walking through someone’s yard”, and is in fact on public property
- Establish a town-wide marking system showing the locations of the ends of routes, and their destinations (perhaps by using plastisol street markings such as is used in the “drains to bay” storm sewer campaign)
- Integrate the marking and promotion of the routes with public safety efforts, designed to help ensure egress in emergencies
- Provide help and materials to volunteers seeking to improve the trails

These routes are our heritage, and we have a duty to protect them for ourselves as well as future generations. While the discussion above deals for the most part with pedestrian ROWs throughout Fairfax, there are other equally valuable routes that should be recognized.

These other types of routes are potentially useful in the same ways. They have a variety of legal status, and range from the informal use of private property for circulation (common in the Taylor / Rocca and Willow neighborhoods), to others that make use of other types of easements.

An example of a potentially valuable route is a sewer easement that exists starting at the eastern end of Meadow Way. Recently gated at it’s connection to Meadow Way, this easement parallels the creek on the south side, and could serve as a vital means of egress in the event of an emergency such as wildfire. We should all be aware that the Cascade canyon is a “box canyon”, meaning that Cascade Drive is the only road in or out. In the event of a wildfire, this road will likely become blocked by fire equipment, or by a fire

itself, effectively trapping the residents in the canyon. Their only alternative to fleeing the flames will be to “shelter in place”. Having multiple alternate means of egress seems essential in this situation. This sewer easement is but one example of many routes that could become vital to saving lives in the event of a disaster, were they opened to the public beforehand.

Protecting the integrity of the pedestrian ROWs seems like the low hanging fruit, and I believe that we should act in the public’s interest now to safeguard them. Developing additional routes along easements will take time, but should nevertheless still be pursued in the near future.

John Reed

Fairfax Mayor