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As a landowner, you probably have questions about what is involved in dedicating a public trail easement and how it will affect your development. This Handbook has been designed to provide you with answers to the most commonly asked questions regarding the dedication of a public trail easement.

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INTRODUCTION

The County Trails Master Plan is comprised of over 500 miles of planned trails. Your participation as a landowner will provide a critical link towards completing this countywide trails network. This handbook has been developed to answer your questions about who, what, where, when and how trail routes are acquired, developed, and managed. It addresses a wide range of landowner concerns, including easements on or adjacent to private lands, liability, and trail management. We hope this handbook conveys the County's commitment to the consideration of your needs.
THE SANTA CLARA COUNTY TRAILS SYSTEM

Planning for trails has been an integral part of land use planning in Santa Clara County for the past 30 years. The 1995 County-wide Trails Master Plan identifies a contiguous trail system which will highlight natural, scenic and cultural resources, while providing many opportunities for family recreation, including: hiking, dog walking, horseback riding, running, bicycling, and skating within easy reach of the residents of the County. This planned vision provides for a network of trails that connects cities to one another, cities to the County's regional open space resources, County parks to County parks, the northern urbanized areas to southern agricultural areas of the County and adjoining counties in the Bay Area to Santa Clara County.

As the County's trail routes propose to pass along the boundaries of or through many private lands, it is crucial that public easements on private lands be obtained to provide connections to recreation areas. Failure to obtain even a few links along a proposed route can disrupt trail continuity, possibly preventing its eventual completion. That is why the County Parks Department is seeking to work with you to establish the necessary trail easements.

During the planning phase of this regional trail system, two important considerations emerged: compatibility with the landowners' use of their land and the County's need to provide public recreation and a non-motorized circulation system. Respect for individuals' use of their own property and fairness in accommodating the public good without placing an undue burden on property owners are basic tenets of successful trail development. Where countywide trails routes will be on or adjacent to private lands, considerations of land use, privacy, liability and due process will be of the utmost importance. For a discussion of how these trail management considerations will be addressed, see pages 19 and 20.
WHAT IS A TRAIL EASEMENT?

Easements establish rights to use a specific area for a specific purpose. A trail easement establishes a specific, permanent right of passage. In granting such an easement, you can also restrict specific uses of the trail corridor, or require the easement holder to be responsible for special management provisions, or to install fire breaks, fences, gates and landscape screening, on a case-by-case basis.

Easements are generally obtained as a condition of land development, as are dedications for public streets and sidewalks. Easements may also be dedicated as gifts.

The County Parks Department may request trail easements of varying widths that will allow for slope variations and obstructions, such as trees and utilities, while accommodating such users as equestrians, hikers and bicyclists. Whenever possible, the Parks Department will overlay the trail onto another easement to minimize restrictions to development. During the negotiations to establish a public trail easement, landowners have opportunities to negotiate special management provisions with the Parks Department. Once an easement is dedicated, you keep title to the land, but the County gains specific rights to use the portion dedicated for trail purposes. You, as a landowner, are free to sell your land, but easements are perpetual, so they remain in place if ownership is transferred.

DETERMINING WHERE TRAIL EASEMENTS ARE NEEDED

The Countywide Trails Master Plan was developed to identify trail routes in the County which minimize, where possible, reliance on private lands. This Plan was adopted into the County General Plan in 1995 and is available for your review at the County Parks Department, County Planning Office, and your local library.

As part of the planning process, a parcel-specific graphic computer mapping system was developed showing potential trail routes and identifying...
the parcels that may be potentially affected by the proposed trail routes. This computer system enables the County to be able to notify potentially affected landowners, such as yourself, of proposed trail routes early in the development process. Where trail routes were delineated within individual cities, notification will be the responsibility of each city. If you would like to know if a proposed trail route is planned on or near your property, call the County Parks Department and we will assist you with your inquiry.

Approximately 535 miles of off-street countywide trail routes are proposed in the Trails Plan. An additional 120 miles of on-street bicycle routes are also part of the Plan. These trails generally emphasize urban and urban-fringe areas where the need for trails and the usefulness of trails is greatest. Individual trail routes are based on carefully considered criteria to assure that trails are routed only where they would be needed, useful, and result in minimum impact on adjacent land uses and natural environmental features. Whenever possible, the trails are proposed on public lands. However, there are some trail connections between public lands that will only be realized by working with private landowners.

The County only becomes directly involved with a trail project if the land is located in an area that is in the County’s jurisdiction. The Trails Master Plan does not mandate that jurisdictions other than the County government be required to follow our map of proposed trail routes or the policies guiding the design and management of the trail system. It should be noted however, that all 15 communities in the County participated in the development of this plan, and individual cities may also request trail easement dedications in conjunction with local development proposals.

WHEN ARE EASEMENTS REQUIRED?

Since 1978, the County has required trail easement dedications. Trail easements for providing access to the public are limited to the routes indicated on the County General Plan Trails Map. This map was updated when the Board of Supervisors adopted the Countywide Trails Master Plan Update in 1995. This plan also incorporates the 1992 County Trails Easement Policy, and provides policies and design and management tools to guide you and public agencies through the delineation and management of a public trail easement. If you live in the unincorporated areas of the County, you may call the Parks Department with your Assessors Parcel Number (APN) to find out if your property is subject to the County Trails Easement Dedication Policy.

In accordance with these Board-approved trail policies, easements may be acquired from landowners under the following conditions:

1. The land lies along a trail route designated on the Countywide Trails Master Plan Map contained in the 1995 County General Plan; and

WHAT WILL TRIGGER A REQUEST FOR A TRAIL EASEMENT?
2. The proposal would result in a change in the existing land use thereby requiring one or more of the following approvals:
   - Subdivision
   - Use permits
   - Architectural and site approvals (ASA) 
   (The County will not require the trail easements in Agriculture, Ranchland, or Hillside designated areas if the proposal does not change the existing agricultural, ranching, or hillside use).

3. There is a "nexus" or connection between the proposed development and the dedication/improvement that is required. This dedication/improvement is to be "roughly proportional". However, since there are no numerical formulas for making this determination, this relationship must be decided case-by-case. Some factors that will be considered are:
   - the services or access the trail would provide to the development and the surrounding community in circulation and/or recreation amenities; and
   - the cumulative impacts the development would have on the surrounding community with regard to overall density, circulation and/or recreation facilities.

The County does not require a dedication of trail easements when the proposed development only involves one of the following:
1. Individual building site approvals;
2. Building or remodeling permits;
3. Grading permits; or
4. Minor lot line adjustments

According to a 1990 County Board of Supervisors policy, eminent domain cannot be used to acquire trails except for the following two provisions:
1. Whenever the action would serve the convenience and mutual interests of both a consenting seller and the County; and
2. To acquire trails and trail easements only in non-rural areas located within city boundaries, including unincorporated areas within those boundaries, and any areas bordering the San Francisco Bay.
LOCATING A SPECIFIC TRAIL ROUTE

Trails can be compatible with a variety of land uses - farming, grazing, forestry, residential, commercial or industrial. The key to a successful trail is locating the trail in an appropriate place and designing the trail to meet the requirements of your adjoining land use(s). Typically, this will mean placing the trail along property boundaries wherever feasible and/or in areas removed from the primary use of the land. Often, fencing or landscaping may be added to create a buffer between the trail and the rest of your land.

In addition, natural barriers, topography and fencing can all serve as buffers. In all cases, where a trail is proposed for private land, the exact location of the easement will be negotiated with the landowner. The Parks Department will work out specific alignment alternatives by visiting the site with you and reviewing your long-term land use goals for the property.

TRAIL PLACEMENT

The Trails Plan includes three typical situations for routing trails. In the first case, trails are planned within or adjacent to the road right-of-way. In this case, the trail would run along the edge of your property and an easement may or may not be needed, depending on the width of the available roadway. This situation most frequently occurs in rural residential areas. Roadside trails can be found throughout the Town of Los Altos Hills as an alternative to sidewalks.
In the second case, the trail would be placed on levees or other linear open space and would be separated from occupied structures by streets. This type of trail placement is typical in larger subdivisions in urban or suburban areas. This is the way subdivisions have been developed along the Los Alamitos Creek Trail. To be able to provide for this kind of buffer, easements for public access are preferably secured when the land is first subdivided.

A third scenario would involve routing a trail across rural lands. In this case, the exact alignment would be tied to the natural features of the landscape and the needs of the landowner. An example of this type of trail design can be found on the Stiles Ranch Trail which is located on a public trail easement on private land (dedicated by IBM in February 1991).

<table>
<thead>
<tr>
<th>Private Property</th>
<th>Occupied residence</th>
<th>Front yard</th>
<th>Streets, sidewalks &amp; plantings provide buffers between trails and residential property trails</th>
<th>Levees provide opportunities for separated from residences</th>
<th>Creek</th>
</tr>
</thead>
</table>

**Private Property Buffer Zone**

Distance will vary depending on the characteristics of the site. The table below, which comes from the Trails Master Plan, offers guidelines for minimal setbacks from occupied dwellings.

<table>
<thead>
<tr>
<th>LAND USE CATEGORY**</th>
<th>TRAIL SETBACK FROM OCCUPIED DWELLING***</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Service Areas</td>
<td>21 feet</td>
</tr>
<tr>
<td>Rural Residential</td>
<td>110 feet</td>
</tr>
<tr>
<td>Resource Conservation Areas</td>
<td></td>
</tr>
<tr>
<td>Hillside</td>
<td>110 feet</td>
</tr>
<tr>
<td>Agriculture</td>
<td>300 feet</td>
</tr>
<tr>
<td>Ranchlands</td>
<td>500 feet</td>
</tr>
</tbody>
</table>

** See Land use Map, Santa Clara County General Plan
*** As measured from the edge of the trail tread
HOW IS A TRAIL EASEMENT DEDICATED?

Generally, the initiation of a private/public partnership is triggered when a landowner submits a development proposal to the County Planning Department. Although partnerships may also be initiated when a landowner contacts the Parks Department with an offer of a dedication of an easement or fee title to a parcel of land, this handbook focuses on the dedication of easements in conjunction with a development proposal.

Listed below is the step-by-step process you and the County would follow to dedicate a public trail easement in conjunction with a development proposal.

1. You or your representative submits your initial development application to the County Planning Department.

2. The Planning Department refers the application to the County Parks Department. The Parks Department first determines whether there is a potential trail route proposed on or adjacent to the subject property by reviewing the Trails Section of the Parks and Recreation Chapter of the 1995 County General Plan. Then we verify whether we would need a trail easement by checking the parcel-specific computer mapping system to see if this potential trail route is proposed on the subject property.

3. If the parcel is located along a designated trail route and your proposed development may require a subdivision, use permit or architectural and site approval, the Parks Department staff arranges to meet with you on the property to determine an acceptable trail alignment.

4. The Parks Department declares the application complete for Park purposes upon receipt of an agreement or map defining or illustrating the proposed trail easement.

The Parks Department staff will appear with you before the body charged with approval of the land use permit. The Parks Department provides verification that you have agreed to dedicate an easement for public purposes and that you are working with the Parks Department to complete the trail easement agreement. The Planning Commission considers the dedication of an easement as part of the development proposal.

If you do not agree with the decision of the Planning Commission or ASA Committee, you may appeal any of their actions within fifteen (15) calendar days after the decision has been made. You must file each appeal separately at the Planning Office. Each appeal must be accompanied by the appropriate filing fee listed in their current fee schedule.
1. After the project approval has been granted, you will need to prepare a map and legal description defining the easement.

For a Subdivision
Your engineer will need to draft the proposed trail easement on the tentative map and prepare the legal description of the easement. These items will then be submitted to the County Surveyor’s Office for review. The County Surveyor circulates the tentative map to the Parks Department for acceptance of the trail easement. The proposed easement shown on the tentative map and described in the legal description need to reflect the field investigations with you or your representative and the Parks Department. You will have thirty (30) months after the approval of the tentative map to officially file a final map with the County Recorder and submit the map to the County Surveyor’s Office for processing. A time extension may be granted if you file a request with the Planning Department.

For a Use Permit and Architectural and Site Approval (ASA)
You must file a site plan and legal description of the trail easement with the County Surveyor. The plan and description must be prepared by a licensed engineer and needs to reflect the field investigation between you and the Parks staff.

2. You and the Parks Department will work out the final trail easement agreement that accompanies the map and legal description. This agreement is developed to meet the unique requirements of your situation. The agreement will define accepted uses for the easement and establish any fencing or special management conditions.

3. You will provide the signed, notarized agreement to the Parks Department. County Parks will process the agreement and provide the information needed to fulfill your project requirements.

4. After the agreement has been approved, you may proceed with your development as soon as all the other planning conditions associated with this development have been met. Generally, the trail will not be developed immediately, so you may continue to use the dedicated land until the trail is constructed. The only restrictions on your use of this easement would relate to the placement of any physical obstructions or hazards, such as buildings or toxic materials.
DEVELOPING THE TRAIL

Many landowners support the concept of trails, but remain concerned about liability, vandalism, fires, litter, and security. Since many of the people who worked on the Trails Master Plan were also landowners, they understood that these are very real concerns. As a result, the Trails Master Plan includes 80 design guidelines addressing: trail location (e.g. setback from adjacent uses), environmental protection, trail configuration (e.g. width), trail materials and construction practices (e.g. surfacing), and staging area design. There are also 36 use and management guidelines pertaining to use restrictions, trail closure, private access to public trails, monitoring and maintenance, patrol and trail/landowner information outreach, supervision, staffing, and noticing requirements to landowners.

Trails are generally constructed five to twelve feet wide depending on the terrain and anticipated uses. Where possible, trails are designed to be no steeper than eight percent to meet accessibility standards. Motorized vehicular access is prohibited except as needed for the patrol and maintenance of the trail and any access requirements needed for the routine management of your lands. These provisions would be negotiated on a case-by-case basis in the easement agreement with the County Parks Department.

MANAGING THE TRAIL

When a trail is built and opened to the public, maintenance, management, and liability responsibilities for the trail easement will pass to the Parks Department. The Parks Department will only build trail segments through private lands when they can provide appropriate public access to the trail through public facilities such as a public park or road. Hence, trespass is minimized and ease of management can be maximized. According to the policies and guidelines set forth in the Trails Master Plan, the Parks Department will prepare a trail management plan that will include a patrol and maintenance program before opening any new section of trail. It will also identify the funding for operating and maintaining the trail on an annual basis. Patrol of the trail may be performed by any combination of Parks staff, trained Parks volunteers, or the County Sheriff, depending on the location and anticipated use of the trail.
ACCEPTING LIABILITY FOR PUBLIC USE OF THE TRAIL

When you grant an easement for a public trail, the County will indemnify all grantors of trail easements and other owners of lands immediately adjoining County trails from liability for injuries suffered by users of adjoining trails as long as the injury was not caused by a landowner's willful or malicious conduct. The indemnity will include the costs of defending the landowner against all liability claims brought by users of County trails as well as the costs of damage awards and other costs associated with such claims (Trails Policy PR-TS(03.E). It also means that you will be covered by all state codes that limit the liability of landowners immediately adjoining public trails for injuries to trail users who trespass off the trail and onto private property. These State Indemnification Codes include California Recreational Use Civil Code 846 and Public Resources Code 5075.4. Also in many cases Civil Code 846.1 provides for a state fund to assist with the cost of landowners' attorney's fees. In addition, the County will support amending state legislation that limits the liability of landowners immediately adjoining public trails for injuries to trail users.

FOR MORE INFORMATION

As you proceed with your development, we look forward to working with you to incorporate public trails into your development proposal. Your participation, as a private landowner, in dedicating an easement for a trail that will provide for safe, public recreation/transportation use will represent a significant step toward the community's long term vision for a Countywide Trails system. Should you dedicate a trail easement, we will work closely with you throughout the planning and permitting process to make sure that this dedication will not hold up the processing of your application.

For more information on the Countywide Trails Master Plan and the easement dedication process, please contact:

Parks & Recreation Department
Planning and Development Section
298 Garden Hill Drive
Los Gatos, California 95032
(408) 358-3741

Planning Office
70 West Hedding Street
East Wing
San Jose, California 95110
(408) 299-2454