



**County of San Mateo  
Office of the County Manager  
Memorandum**

**To:** Members, Mid-Coast Community Council  
**From:** Peggy Jensen, Deputy County Manager  
**Date:** March 21, 2013  
**Subject:** Public Access in Montara

At the December 12, 2012 meeting of the Mid-Coast Community Council, County staff responded to questions from Council members about public access in the Montara area. At that meeting, staff agreed to update the Council on proposed plans for Seacliff Way at a future meeting. That update is provided below. Since the December meeting, Council members have submitted additional questions regarding public access in Montara. Responses to those questions are also provided in this memo.

**Update on Seacliff Way**

Property records indicate that the fence at the end of Seacliff Street is located in the public right of way. Because the fence is located on County property, we have the authority to remove it, but must go through a notification process and obtain permits to ensure compliance with the Coastal Act/County Local Coastal Program before work can begin. The Department of Public Works expects to have the fence removed and a new guardrail installed by the end of June.

**Additional Questions from the Mid-Coast Community Council**

1. Public records show that the property at the western end of 7<sup>th</sup> Street in Montara was sold at the end of 2012. Does this affect the County plan to wait for the Coastal Commission decision before taking any action on the fence?

Answer: No, the sale of the property does not change our plan. Permits run with the property, not the owner and therefore transfer of property ownership does not affect permit applications.

2. MCC research shows that the Board of Supervisors accepted the Farallone Streets for public use in 1907. Does this change the County position on the access to streets in Montara?

Answer: No, the information provided by the MCC does not change the County position because accepting an easement on a plot map, which was what the Board did in 1907, does not create an obligation for the County to maintain the right of way. Rather, the County is only legally obligated to maintain rights of way

where roads have been built to County standards and accepted into the County Road system. The unimproved streets in Montara, such as 4<sup>th</sup> and 5<sup>th</sup> Streets, are not in the County road system so the County does not have an obligation to maintain the rights of way.

Accepting the easement that was granted in 1907 gave the County the right to use the land for public purposes, such as a road if and when needed. However, if there is no need of a road to access a piece of property – legal parcels must have street access and cannot be “landlocked” - then the County can choose not to exercise the rights created by the easement. That is the case with 4<sup>th</sup> and 5<sup>th</sup> Streets and all the other “paper streets” in the unincorporated areas of the County.

3. Abandonment of the 5<sup>th</sup> Street right of way was not approved by the Board of Supervisors. Does this change the County position on 5<sup>th</sup> Street?

Answer: No. As noted above, the County retains discretion regarding whether to improve a right of way easement. On 5<sup>th</sup> Street, because there is no parcel that needs street access through the easement, the County has chosen not to improve this right of way. The 5<sup>th</sup> Street right of way has not been abandoned because the County still retains the easement rights, so no action is needed by the Board of Supervisors.

4. What assurance do we have that the County would not allow the property owners to close off 8<sup>th</sup> and 9<sup>th</sup> Streets to public access?

Answer: As discussed above, because 8<sup>th</sup> and 9<sup>th</sup> streets are not improved, the County does not have an obligation to maintain the rights of way. If the adjacent property owners encroach on the right of way and the County requires the right of way for a use consistent with the easement such as providing access to private property or public utility needs, the County may act to ensure access.

Where the County has right of way easements, enforcing public access is discretionary. The County policy is to only enforce access rights on streets that have been improved to County standards and accepted into the Road System. This policy is based on the fact that the County has limited resources to maintain our road system in a safe condition and concerns about liability if access is provided on streets that are not up to County standard. It is for these reasons that the County encourages residents and visitors to use the many improved and maintained public access points to the Coast. These developed access points are the safest routes for both vehicles and people and have also been designed to protect the flora and fauna of our coastline.