

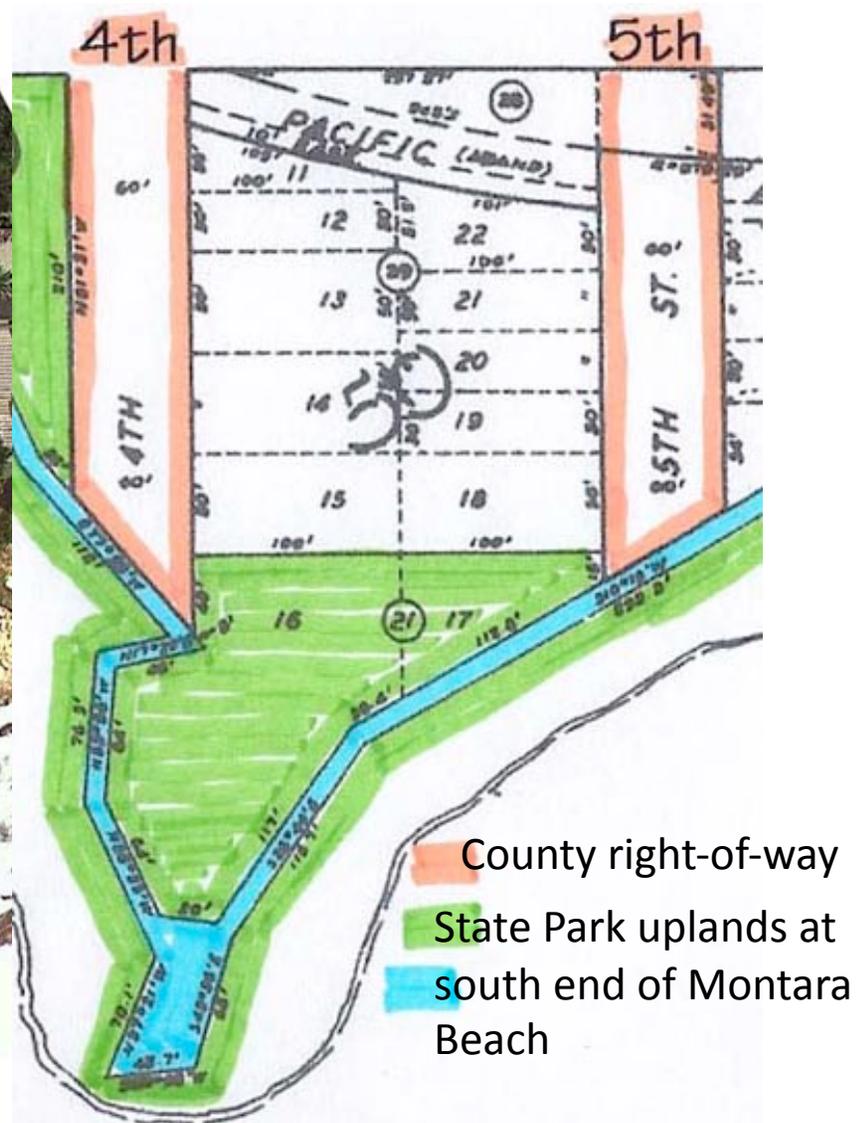
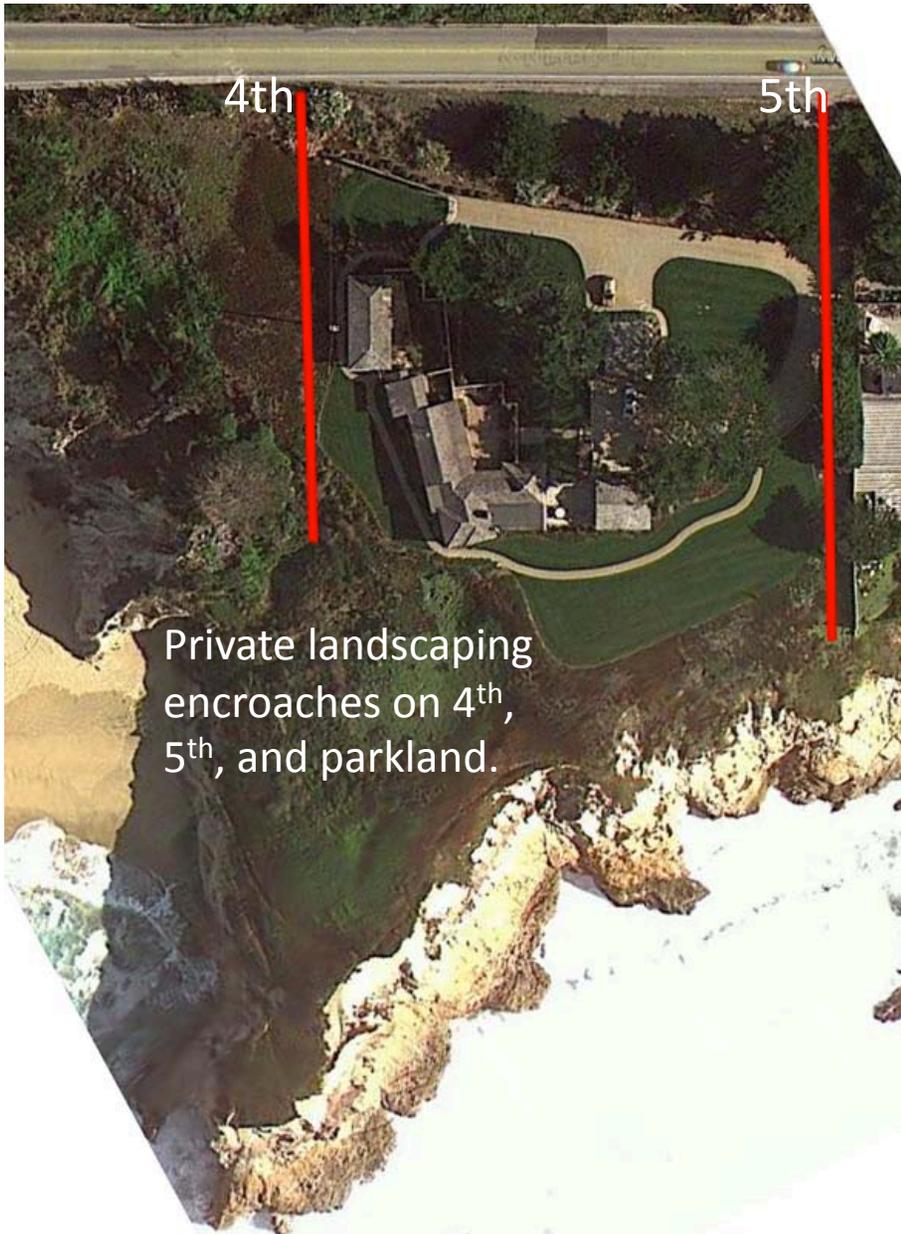


Coastal Access & Views  
via Montara Streets

View from 5<sup>th</sup> Street

MCC presentation 10/23/2013

4<sup>th</sup> & 5<sup>th</sup> are undeveloped streets, but these public rights-of-way are important for non-motorized coastal access and must be protected from private encroachment.





Walls and landscaping installed in 5<sup>th</sup> St. right-of-way 2011/2012 without encroachment permits.



5<sup>th</sup> St. - June 2011  
(Google street view)



## 5<sup>th</sup> Street private encroachments:

- walls
- landscaping
- private property signs

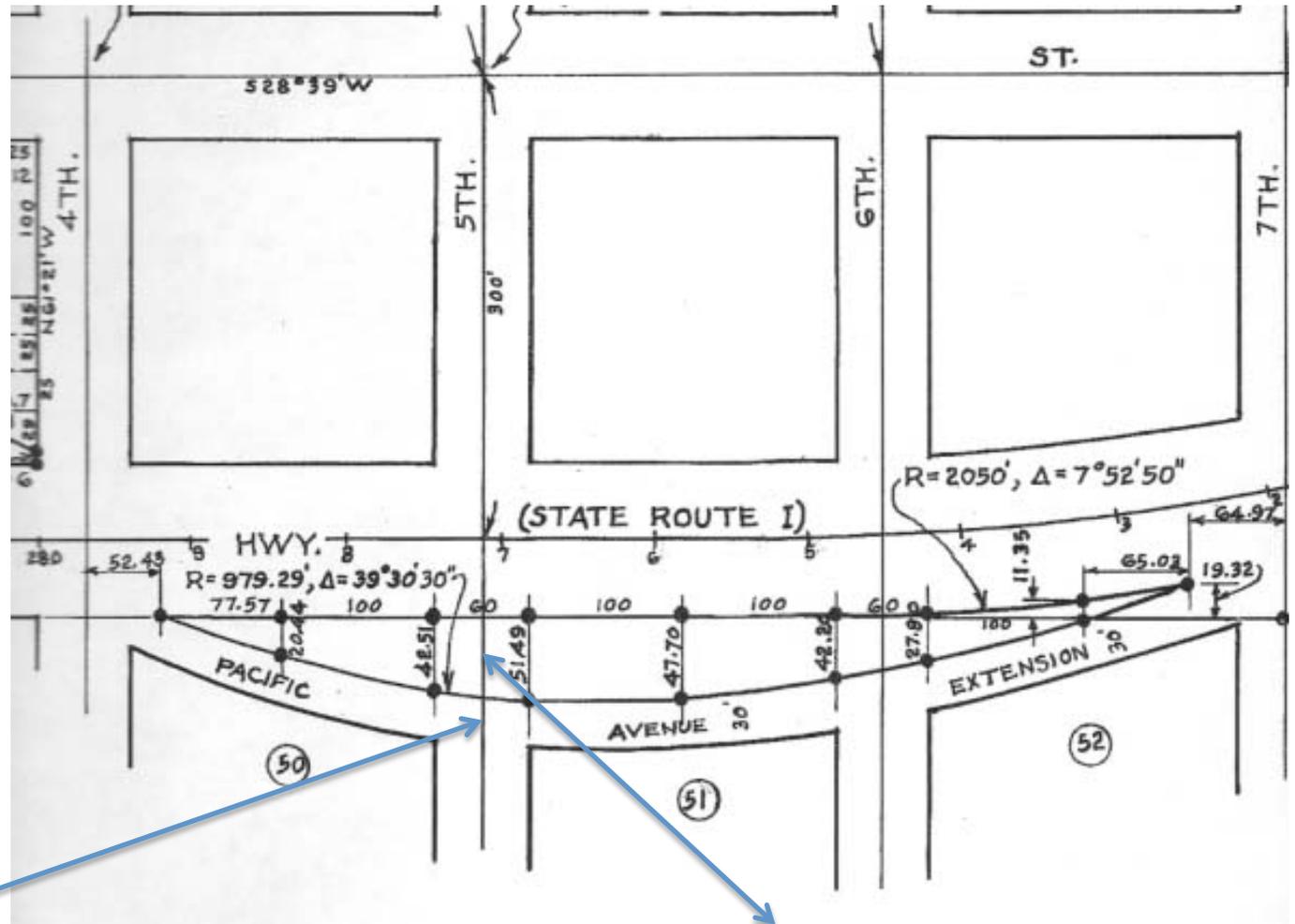
## 5<sup>th</sup> Street:

- **dedicated to public use**
- by the subdivider
- **accepted by the County**
- by Board Resolution 5/20/1907
  
- Only a Resolution of the Board of Supervisors can vacate (abandon) the street.



Portion of 1907 Farallone City subdivision map.  
Streets dedicated & accepted for public use included 1<sup>st</sup> – 12<sup>th</sup>  
(13<sup>th</sup> – 18<sup>th</sup> accepted 1908).

1969 survey of Ocean Shore Railroad property shows details of 5<sup>th</sup> St. across RR property on west side Hwy 1.



Pacific Ave. was vacated (abandoned), except where it coincides with 5<sup>th</sup> St. (Board Resolution 38155, 1/3/1978)

Title to former Ocean Shore Railroad property was transferred to neighboring property owner, but the coinciding 5<sup>th</sup> St. right-of-way has not been vacated.

## County Policy on Vacation of Streets (adopted Feb 8, 2000)

Legal foundation:

***“The owner of a subdivided lot typically holds fee title to the center of the abutting street, but has no right to possess or occupy that area.”***

Earl v. Dutour 181 Cal. 58 (1919)

No portion of 5th St. has ever been vacated (abandoned), including the former railroad property which 5<sup>th</sup> St crosses to join Hwy 1.

It makes no difference who owns title to the land. It is still subject to the public right-of-way.

## 1<sup>st</sup> Street

1977: Planning Commission considered Use Permit for beach restaurant which required the use of 1<sup>st</sup> Street for a parking lot.

Staff [erroneously] reported that the County had never accepted the dedication of 1<sup>st</sup> Street and thus had no rights.

[In fact, 1<sup>st</sup> Street was accepted by Board Resolution 5/20/1907.]

Nevertheless --

District Attorney/County Counsel McCracken stated  
***“he works on the presumption that the public has the right of access which cannot be taken away.”***

Minutes of County Planning Commission 5/11/77

## Pedro Mountain Road (access to McNee Ranch)

1992: MCC asked **whether the public has right of access.**  
County Counsel replied --

*“Our conclusion is that they do... This road is still a County owned right-of-way, never having been abandoned... No action taken by [the property owner] can ever extinguish the public status of the roadway... If any obstructions have been placed in the right-of-way, the County could compel removal of these obstructions...”*

*“This segment has never been formally accepted into the County road system ... and apparently has never been maintained by the County...”*

County Counsel letter to MCC 11/12/92

Note the public right of access is unaffected by its development status or lack of acceptance into the County-maintained road system.

## 8<sup>th</sup> and 9<sup>th</sup> Streets

2012: MCC suggested that coastal access steps be cut into the slope of the landslide restoration project planned next to 8<sup>th</sup> Street. County answered:

*“Existing vertical public access from Hwy 1 to the granitic terrace on Montara State Beach and to the top of the coastal bluff exist within 100 feet of the project area in the adjacent 8<sup>th</sup> and 9<sup>th</sup> Street Corridors...”*

County Planning Dept to MCC, 2/19/13

How do we reconcile this assurance with recent County Council statements that because 5<sup>th</sup> Street is not in the County-maintained road system, it is private and that there is no public access? If the County will not protect public coastal access from private encroachment on 5<sup>th</sup> Street, then any undeveloped public street providing coastal access is in danger of being lost to public use on the whim of the neighboring property owners.

## 13<sup>th</sup> Street

1985 – the portion of 13<sup>th</sup> St. west of Hwy 1 was vacated (abandoned)

**except for a permanent trail easement  
from the highway to the coastal bluff.**

Board Resolution #47293, 9/10/85

Vacating the street allowed the area to be used for house setback requirements only -- not for development.

The only development allowed within a vacated street is driveway, walkway, or similar accessway.

County Policy on Vacation of Streets, 2/8/2000

No one has requested that the County vacate (abandon) 5<sup>th</sup> Street which would be a public process decided by the Board of Supervisors. The adjacent property owner has simply occupied the 60-ft-wide right-of-way and shut out the public without so much as a walking trail to the coastal bluff.

Online Petition to SMB Board of Supervisors:  
Restore & protect public coastal access via Montara streets.

- Please uphold the Midcoast Local Coastal Program and put a higher priority on protecting coastal ends of county streets and rights-of-way for public benefit.
- Please act now to restore the picture-window shoreline view that should be the end of 7th Street by revoking the encroachment permit and removing the wall.
- **Please enforce the right of non-motorized public access to blufftop views at the coastal end of 5th Street by requiring removal of unpermitted encroaching development and private property signage.**

– over 400 petition supporters --

<https://www.change.org/p/supervisor-don-horsley-restore-protect-public-coastal-access-via-montara-streets>

More info & references:

[www.MidcoastCommunityCouncil.org](http://www.MidcoastCommunityCouncil.org) - Issues page: Montara Coastal Access