

Reasons for Appeal

San Mateo County File No. PLN2015-00020

Applicant/Owner: Bradford Westerfield

Location: West end of Seventh Street, Montara, adjacent to 101 Seventh Street.

APN: Public right-of-way adjacent to 036-057-240

Project Description: Coastal Development Permit (CDP) to construct a 4-foot tall, wood framed, wire mesh fence within the public right-of-way (ROW) at the western end of Seventh Street in Montara. The fence will encroach approximately 10 feet and enclose approximately 300 square feet of ROW adjacent to 101 Seventh Street on the coastal bluff.

The CDP for this project, as approved by the San Mateo County Planning Commission, does not comply with the County certified Local Coastal Program, specifically Table 10.6, Recommendations for Shoreline Destinations, and Policy 10.29, Protection of Trails from Closing and/or Encroachment. In addition, the encroachment permit to fence off approximately 300 square feet of coastal bluff in the public ROW for private use does not serve any street or allied access purpose. *"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."* (SMC Policy on Vacation of Streets, Legal Foundation 1-b, 2/8/2000).

LCP Table 10.6 recommends keeping open the ends of residential streets in Montara and developing them as viewpoints. The staff report states, "Provision of lateral access within the Seventh Street ROW, i.e., a viewing area at the top of the bluff, is feasible with little or no safety improvements of the area." Indeed, the public viewing area already exists and nothing need be done other than to simply not allow this private fence encroachment in the Seventh Street ROW.

Accelerated V-shaped bluff retreat on the south side of Seventh Street has eroded over half of the 60-foot ROW (6/13/2000 50-Year Erosion and Drainage Map – attached). At the location of the proposed 10.5-foot encroachment approximately 13 feet on average of ROW remains, and it is eroding on two sides. Given the historical erosion pattern, the remaining public portion will be the first to erode away. The public needs a safe distance from the cliff edge for a usable viewing area. Also, it remains in question whether the fragile cliff can handle the digging of 8 to 10 piers for a new fence.

The public ROW at the end of Seventh Street is effectively the shoreline. The proposed fence encroachment, bisects the open gravel public viewing area, and excludes the public from a portion of the shoreline. For some years now, it has been accepted by the County and the applicant that the public has the right to go through the gate (which is left open) and enjoy the public area west of the fence. The only continuing issue has been the view-blocking aspect of the old wall, and the fact that most people unfamiliar with the area would assume it is private property behind the fence and not attempt to go there. The proposed fence is new development (LCP Policy 10.2b) that will exclude the public from part of this shoreline viewing area they have enjoyed, and relegate them to the remaining portion which will be first to erode away.

The reason given for the fence encroachment is to provide a demarcation between public and private space for privacy. Front setback for the house is 23 feet with the exception of the former single-car garage which has 11.8-foot setback. Add to this 5 feet

of existing landscaping encroachment in the ROW. The coastal access in question is the Seventh Street public ROW which obviously pre-dates the house, and cannot be said to encroach on resident's privacy. Clearly choices were made in the location of the house when it was built. There is an ample private back yard. Demarcation and privacy are already provided by extensive mature landscape shrubs, including hedges 6 feet tall and more. In spite of this clear demarcation and encroachment, the new fence is proposed to divide the open gravel public viewing area. This encroachment would set a precedent for other Midcoast houses at coastal street ends with substandard setbacks (e.g. 115 West Point Ave in Princeton) to be allowed similar ROW encroachments for privacy reasons.

It should be kept in mind that whatever historic rights there were to maintain the current fence encroachment into the public right of way have been withdrawn by the action of the Planning Commission under the application made by the county, County Planning Case number PLN 2014-00302, dated January 15, 2015, whereby the County was granted authority to remove the fence back to the property line.