

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL**

RESOLUTION NO. 2024-037

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DENYING A PERMANENT ENCROACHMENT APPLICATION (PERM EN 23-272, DE CAUSSIN) FOR ENCROACHMENTS IN THE RIGHT-OF-WAY ADJACENT TO THE SUBJECT RESIDENCE, LOCATED AT CARMELO STREET 2 NORTHEAST OF 8TH AVENUE, APN: 010-265-010.

WHEREAS, on December 8, 2023, Amy Denney, (“Applicant”) submitted an application on behalf of Myrtle De Caussin (“Owner”) requesting approval of a Permanent Encroachment Permit application PERM EN 23-272 (De Caussin) described herein as (“Application”); and

WHEREAS, the Application has been submitted for the property located on Carmelo Street 2 northeast of 8th Avenue in the Single-Family Residential (R-1) District; and

WHEREAS, the Applicant is proposing to maintain extant unpermitted encroachments, specifically 110 square feet of sealed decomposed granite paving; 47 square feet of mortared river rock planter bed edging; and 12 square feet of stone walkway/landing with fan-shaped brick edging; and

WHEREAS, these encroachments would be in addition to encroachments previously authorized by the City Council on August 4, 2004, including but not limited to stones placed in a manner forming a curbing/planter and a stone garden wall; and

WHEREAS, the application has been referred to the City Council in accordance with CMC 12.08.050.D, which states: *If the proposed encroachment does not conform to these standards (CMC 12.08.060), or it is the opinion of the City Administrator that the nature of the encroachment is contrary to the public interest or should be referred to the City Council for determination;* and

WHEREAS, on April 26, 2024, a notice of the public hearing scheduled for May 7, 2024, was published in the Carmel Pine Cone in compliance with State law (California Government Code 65091) and mailed to owners of real property within a 300-foot radius of the project indicating the date and time of the public hearing; and

WHEREAS, on or before April 27, 2024, the Applicant posted the public notice on the project site and hand-delivered a copy of the public notice to each property within a 100-foot radius of the project site indicating the date and time of the public hearing; and

WHEREAS, on May 7, 2024, the City Council held a public hearing to receive public testimony regarding the Encroachment Permit, including without limitation, information provided to the City Council by City staff and through public testimony on the conceptual design of the project; and

WHEREAS, this Resolution and its findings are made based upon evidence presented to the Council at the hearing including, without limitation, the staff report and attachments submitted by the Community Planning and Building Department; and

WHEREAS, the City Council did hear and consider all said reports, attachments, recommendations and testimony herein above set forth and used their independent judgement to evaluate the project; and

WHEREAS, the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, “CEQA”), together with State Guidelines (14 California Code Regulations §§ 15000, *et seq.*, the “CEQA Guidelines”) and City Environmental Regulations (CMC 17.60) require that certain projects be reviewed for environmental impacts and that environmental documents be prepared; and

WHEREAS, according to Section 15270 of the California Environmental Quality Act (CEQA), State CEQA guidelines, and local environmental regulations, CEQA does not apply to projects which a public agency rejects or disapproves.; and

WHEREAS, the facts set forth in the recitals are true and correct and are incorporated herein by reference.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Carmel-by-the-Sea does hereby make the following findings and determinations regarding Encroachment Permit Application EN 23-272 (De Caussin):

- 1) There is no justifiable need for the encroachment;
- 2) The encroachment is contrary to public interest;
- 3) The encroachment may impact the public’s right to access the right-of-way;
- 4) The encroachment is incompatible with the policies, ordinances, and design guidelines for the treatment of the right-of-way; and
- 5) The encroachment would diminish the ability to enhance and improve the public greenbelt.

BE IT FURTHER RESOLVED that the City Council of the City of Carmel-by-the-Sea does hereby **DENY** a Permanent Encroachment Application (PERM EN 23-272, De Caussin) for encroachments in the right-of-way adjacent to the subject residence, located at Carmelo Street 2 northeast of 8th Avenue, APN: 010-265-010.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 7th day of May, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero
City Clerk