



TORRES (GIVENS) STATEMENT FOR CITY COUNCIL
REGARDING ROW PERMANENT ENCROACHMENT APPLICATION PERM EN 23-077

The applicant proposes replacing existing railroad tie steps from Fifth Avenue onto parcel, and a new railroad tie and Decomposed Granite staircase, with handrail from Torres Street onto parcel. Both stairs traverse steep hillsides which are treacherous for pedestrian access. The driveway is on the Torres hill slope and is slippery for pedestrians during rain or heavy fog events. The right of way currently erodes into 5th Avenue and Torres Street during winter rains. The homeowner has shoveled the eroded soil back into the ROW after each rain episode. It is the applicant's belief that the addition of 2 landscape walls will prevent the ongoing erosion and limit soil and debris from accompanying the existing drainage paths downhill. This will keep both streets at their desired width without hill-slip after rains. The homeowners would like to remove the large, unsightly tree stump on Torres Street and landscape the ROW with pollinator and hummingbird friendly CA native flowers and flowering shrubs. Their efforts will bring beauty and safety to a high visibility corner in the downtown corridor.

A. Need. The applicant shall be determined to have a justifiable need for the encroachment, and the encroachment shall not be contrary to the public interest. Applicant requests mitigation of erosion problem of hillside and stairs to property on steep hillside of Torres Street

B. Safety. The granting of an encroachment permit shall not create a hazard to public health or safety. Encroachment work shall improve public safety by introducing stairs with handrail into property, removal of large tree trunk impeding into Torres Street and reclaiming areas of Torres & 5th Streets impeded by soil erosion each rainy season. Landscape walls shall keep all soil off the roads, resulting in cleanliness and consistent roadway width year round.

C. Drainage. The proposed encroachment shall not adversely affect the normal drainage of surface water, unless an acceptable mitigation is included that will be advantageous to the general public and meet the standards herein. Work shall not disrupt current drainage patterns. Proposed work will slow the existing drainage speeds and prevent soil erosion which has plagued this corner in the past.

D. Circulation and Parking.

1. The proposed encroachment shall not adversely affect vehicular and/or pedestrian traffic nor the parking of vehicles. The encroachment will improve vehicular traffic by preventing soil erosion (hill slide) into the street during rain events. There are no sidewalks or pedestrian areas in the ROW, thus no effect.

2. The proposed encroachment shall not adversely impact existing rights-of-way nor preclude or make difficult the establishment or improvement of existing or potential streets or pedestrian ways. The encroachment will not adversely impact nor preclude existing rights of way. Improvement or establishment of future work will be aided by tree trunk removal, landscape wall installation and reclaiming of the existing roadway from hill slide.

E. Public Use and Enjoyment.

1. The proposed encroachment shall not diminish public use or enjoyment, either visual or physical, of the City property or public right-of-way to be encroached upon. The encroachment follows Carmel Design Guidelines for visual aesthetic. The ROW will be landscaped for the Public enjoyment with flowering CA Native landscaping. It will bring color and beauty to a dark, unlandscaped corner in the busy, walkable downtown area.

2. The encroachment and enjoyment shall be in the public interest. See above.

3. The length of time an encroachment has existed shall not by itself prejudice a decision. Not Applicable



F. Compatibility.

1. The proposed encroachment and its mitigation shall be consistent with the General Plan and the adopted ordinances of the City. Particular attention shall be given to Section P1-48 of the General Plan, which prohibits the construction of sidewalks and concrete curbs in the R-1 district, unless necessary for drainage and/or pedestrian safety. The encroachment follows the General Plan. The stairs are natural materials and for safe pedestrian access to the parcel.
2. The encroachment shall not create, extend, or be reasonably likely to lead to an undesirable land use precedent. The encroachment will not create undesirable land use precedent. Similar encroachments are present in the City.
3. Granting of a permit shall not adversely affect the usability or enjoyment of one or more adjoining parcels. The encroachment would not adversely affect adjoining parcels.
4. The proposed encroachment and its mitigation shall be compatible with the surrounding area and adjoining properties. The proposed encroachment and its mitigation are compatible with the surrounding area and adjoining properties.

G. Public Property/Greenbelt.

1. The proposed encroachment shall not adversely affect any public property, including existing vegetation or its root structure, and shall not significantly reduce greenbelt area that may be used for tree planting. The encroachment will retain existing ROW trees and bushes. A large tree stump shall be removed, at request of the Planning Commission. Right of Way shall be planted with flowering CA Natives, increasing and improving the greenbelt.
2. Significant trees which would be affected by the proposed encroachment shall be identified by the Director of Forest, Parks and Beach and approval for removal shall follow City policy. Significant trees were identified by the City Forester during the planning phase of home remodel in 2022. Trees are marked on Site Plan, will be protected during Encroachment work, and shall be ringed with CA Natives from the City's list of compatible plants for protected trees in the tree root zone.

H. Mitigation. When deemed appropriate by the City, the applicant shall include those measures appropriate to compensate the City for the loss of the use of City property or the public right-of-way, or to repair damage thereto. Applicant agrees to measures appropriate to compensate the City for the loss of the use of City property or the public right-of-way, or to repair damage thereto.