

Dear Chair LePage and Planning Commissioners:

**I. Introduction**

My name is Cathryn Carlson. Together with my sister, I am the owner of the house on the corner of Ocean & Carpenter (APN# 033-006-000) adjacent to Ms. Mardani's property on her east side. My family has owned our home in Carmel for the past 45 years.

Ms. Mardani purchased her property in 2021 – a little over 2 years ago. Since then, she has been endeavoring to expand her small, non-conforming 562 sq ft cottage which sits on a small, non-conforming 2500 sq ft lot; I have received and reviewed 12 different sets of plans so far outlining 12 different iterations of her project. While I note that Marnie Waffle, in her Staff Report, mentions that the plans for the concept design currently under review were submitted on November 28, 2023, I first received them myself from the City on January 19, 2024. I then received yet another set of plans, the latest final revised version, on January 29, 2024. I agree with Marc Boyd that the review of each of these proposals has been very time consuming and has created a great deal of stress and mental anguish for Ms. Mardani's neighbors, so much so that her previous direct neighbor to the west, Mr. Cass, decided to sell his newly renovated property and move elsewhere.

While I recognize the right that Ms. Mardani may have to expand her cottage to her liking, she must do so in accordance with the rules and regulations enshrined in the Carmel Municipal Code and the Carmel Residential Design Guidelines.

I have made it a point to carefully study the CMC regarding this project. For example, I brought up the question of whether Ms. Mardani's property actually meets the definition of a legal building site six months before it was finally addressed by the City, for the first time, directly in the Staff Report for the Planning Commission meeting on April 12<sup>th</sup>. This issue is again mentioned in the current Staff Report which leads me to believe that it must deserve some consideration. And yet, the City chose not to answer me directly when I brought this issue to their attention. Rather they addressed it only a few days before the Planning Commission meeting in the Staff Report itself. Such last-minute actions/reactions on the part of the City make it difficult for concerned citizens, such as myself and my neighbors, to understand the City's position in a timely manner.

I did not voice any objections (other than my question as to whether her property actually qualifies as a legal building site) to Ms. Mardani's one-story plan with the attached garage given that it was not made clear, by either Ms. Mardani herself or by the Planning and Building Department, that her existing cottage is nonconforming in terms of the setback requirements. At the time the one-story plan was put forward and conditionally approved by the Planning Commission, it erroneously portrayed a 3-foot setback on the east side bordering my property and a 4-6 foot setback on the west side. This misrepresentation was not picked up by the Planning and Building Department. If Ms. Mardani chooses to progress the present plan, I would, now that this error has been brought to light, insist that any building be carried out in accordance with the CMC and The Community Planning and Building Department Information Handout – Non-Conformities.

**II. Demolition of more than 50% of existing walls including the nonconforming east and west walls– does this trigger rebuilding to current code?**

Another issue I brought up to the City more than six months ago, once it came to light that Ms. Mardini's east and composite setbacks are nonconforming and given the fact that more than 50% of the exterior walls of the existing building will be demolished, is whether or not the nonconforming walls and foundations, and most likely the entire structure (including the foundation) will have to be rebuilt up to current code. Again, this issue was not addressed by the City (as I outline below) until the evening of Friday February 9<sup>th</sup> – in this case less than 4 days before the Planning Commission meeting - when the Staff Report was published online.

On Sheet 1, illustrating the Existing Site Plan and the Proposed Site Plan (please see Appendix 1), the east setbacks closest to my property are indicated at 2.7' and 2.9' in the Existing Site Plan and seemingly at 3.0' (2.7', 2.9', and 3.0' all appear in a very confusing drawing) in the Proposed Site Plan. This drawing does not make sense in that the existing setback clearly ranges from 2.7' to 2.9'.

**How can the east setback be shown at 3' in the Proposed Site Plan when this is clearly not true?**

This question is particularly relevant given the article which appeared in the January 26-February 1, 2024 edition of the Pine Cone with the subtitle "**Demolition triggered setback rule**". It is clear that the Planning and Building Department and the Planning Commission are well aware of the rules regarding alteration of nonconforming structures and the fact that "the city defines demolition as removal of more than 50% of the walls. Doing that would trigger the requirement that nonconforming parts of the home be rebuilt to meet current codes – in this case setbacks."

**This should be acknowledged upfront so that the Applicant and the City do not face the unfortunate situation outlined in the January 26-February 1, 2024 edition of the Pine Cone referred to above.**

However, to the contrary, Ms. Waffle states in her Staff Report, "Occasionally, applicants will retain portions of existing walls to preserve a setback nonconformity." She then goes on to describe how the east and composite setbacks do not meet the required distances of 3' and 7', respectively, and mentions, once again, that the Applicant proposes to retain the nonconforming wall in order to preserve the setback nonconformity as if "preserving" the setback nonconformity were the prerogative of the Applicant when, in this case, it clearly is not. What Ms. Waffle also fails to mention in her analysis is that the Applicant will be substantially modifying and adding windows and doors in the existing east, west, and front walls. The applicant is not "preserving" the setback nonconformity, rather she is modifying and enlarging the nonconformity which is strictly disallowed under the CMC. The CMC is clear: the nonconforming walls must be considered as demolished and, therefore, must be rebuilt in accordance with current code. Furthermore, in the hypothetical case that these nonconforming walls did not have to be rebuilt up to current code, any modification/addition of windows and doors in nonconforming walls would lead to the enforcement of strict and prohibitively expensive fire code compliance of which the Applicant is, most likely, unaware.

I was careful to comply with the CMC when I renovated my house. The Cass family was obligated to renovate their cottage in accordance with the regulations of the CMC. Application of the CMC is an objective exercise in this case. It is not open to subjective interpretation. The CMC must apply to everyone equally without exception.

Furthermore, the fact that more than 50% of the existing walls will be demolished would appear to trigger the necessity to include fire sprinklers in the design. Why has this requirement not been incorporated in the plans?

Fire sprinklers are required to be installed retroactively in existing buildings whenever additions, alterations or repairs are made that involve the addition, removal or replacement of fifty (50%) or greater of the linear length of the walls of the existing building (exterior plus interior) within a five-year period, for more information on fire sprinkler requirements see SOG 17-11 Determining Residential Fire Sprinkler Retrofit Requirements.

**III. The Planning and Building Department is severely understaffed and this plan has not been carefully reviewed or considered**

I have reviewed the most recent set of plans now before the Planning Commission and, even as an untrained layman, I have spotted obvious errors that lead me to believe that the Planning and Building Department has not been able to devote sufficient time and effort to their review and consideration:

1. One blatant mistake, also pointed out by Marc Boyd, occurs on page A.3. The East Elevations at the bottom of the page (both New and Existing) incorrectly show the chimney on the north side of the house whereas it is actually on the south side (all elements are mirror images of what they actually should be). Since this is the side of the house closest to my property, this is of direct relevance to me and is an illustration of the fact that neither the Applicant, the Applicant's architect/designer, nor the Planning and Building Department have reviewed this set of plans sufficiently.
2. On the first page, G.0, while seemingly trivial, under Building Plan, Number of Stories has been left as 2. Given that Ms. Mardani's most recent previous application, considered and voted down by the Planning Commission on Nov. 8, 2023, was a two-story plan, it would seem that this would be one of the first modifications to be made on the new set of plans. The fact that the new Building Plan is a one-story plan is, in some respects, the very essence of this new application and yet, neither the Applicant, the Applicant's architect/designer, nor the Planning and Building Department have noticed this error and corrected it.
3. On page 5 of the plans, also called Sheet 1 and showing the existing and proposed fence lines and tree locations, the Existing and Proposed Site Plans are exactly same (the new garage and new extensions are not shown) and both show incorrect setbacks.

**IV. Nonconforming structure and discovery of the nonconformity following the Planning Commission's conditional approval on April 12, 2023**

In between the Applicant's two prior submissions to the Planning Commission (April 12 and Nov 8, 2023), it came to light that her property was nonconforming in terms of its setbacks, both that of the Composite Side Yard and that of the Side Yard on the east side of her property closest to my fence (please see Appendices 2 and 3, the Project Data Tables from the November 8, 2023 meeting of the Planning Commission and from today's meeting of the Planning Commission, respectively, which differ slightly for some unknown reason).

The original one-story plan which was conditionally approved (and then withdrawn) did not show the nonconforming setbacks. Rather, it showed the setbacks as in compliance with the current code.

In other words, the plans were conditionally approved by the Planning Commission based on the submission of false information which was not picked up by the Planning and Building Department.

Although I am not sure, I believe it likely that Ms. Mardani did not realize that the east wall of her cottage was situated within the setback and that the Composite Side Yard Setback was also nonconforming when she bought her property, particularly given the fact that she did not have a professional survey carried out prior to her purchase.

I have examined the County records and this property has changed hands many times since it was constructed in 1946, including a number of times in the recent past. Furthermore, Ms. Mardani's former neighbors on her west side, Mr. Cass and his daughter Rebecca, faced the same issue in renovating their cottage on the west side of Ms. Mardani's property. They mentioned that they were compelled to modify their renovation plans because their east wall was also in the setback (please see the email from John Mandurrago to this effect contained in Appendix 4). Had they gone ahead with their desired plan, they would have been forced to demolish the entire wall and maybe the entire structure and to bring it up to current code. Mr. Cass and Mr. Mandurrago were not allowed to bypass the law. And yet, Ms. Mardani is seemingly being allowed to proceed. Is there one set of laws for some people and another set for others? Or does the CMC apply to everyone equally?

It is incumbent upon the buyer of a property to understand what they are buying, particularly when they purchase a small 562 sqft cottage on a small 2500 sqft lot. There is a reason that these three cottages remain today substantially unchanged since they were built in 1946.

**V. Is Ms. Mardani intending to live in this house with her family or is it simply an investment property?**

To my knowledge, Ms. Mardani has never lived in her cottage – she has been renting it out during the two years that she has been going through the planning and approval process and has confirmed this to me by email.

I must doubt - although I have no proof to back this up – that Ms. Mardani actually plans to move her family to Carmel and to live in her house. The size and design of this house do not seem at all appropriate for a parent and two or more young, growing children (she has mentioned her fear of them playing near a busy street as one reason for fencing off her property).

An internet search of Ms. Mardani's present mailing address in San Jose, mentioned on her application to the Forest and Beach Commission dated 6/26/2023, indicates that she currently lives in a four-bedroom, 2 ½ bath 2574 sqft house.

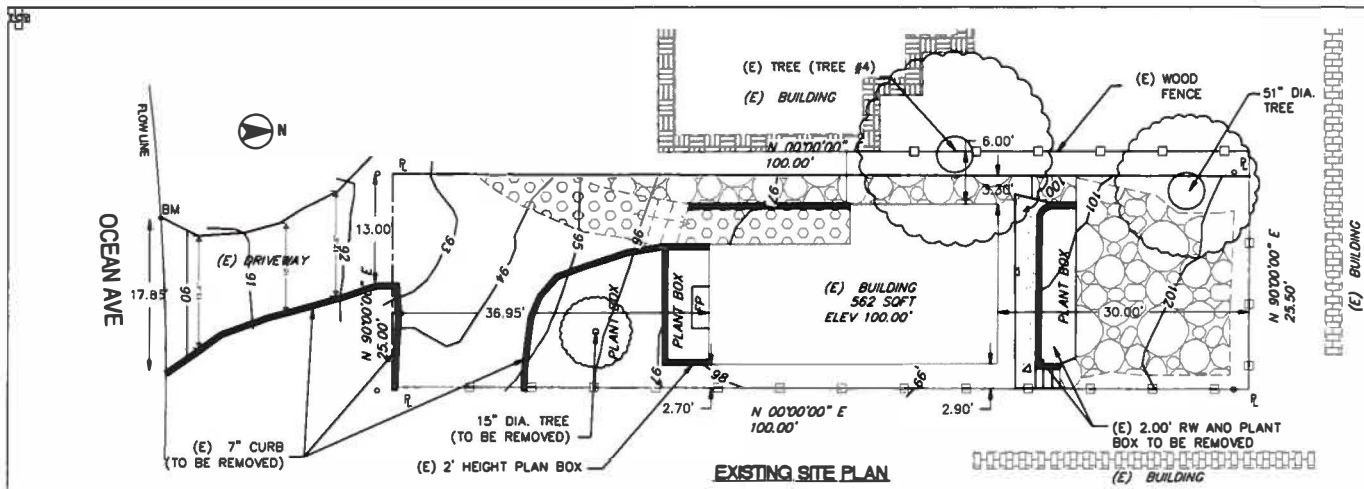
Based on the facts mentioned above, it is my personal opinion that Ms. Mardani is not designing her house to live in it herself with her family but rather, that she is viewing it as an investment property.

Ms. Mardani originally proposed incorporating an 800 sqft ADU in her home as a second story in order to maximize its size above and beyond the square footage which would normally be allowed and, most probably, in my opinion, to maximize her rental/sale income – either immediate or eventual. While Ms. Mardani would not be allowed to convert her second bedroom addition into an ADU or JADU given the fact that she has obtained water credits for this addition under the Second Bathroom Protocol (this Protocol expressly prohibits using the second bathroom to create an ADU or a JADU and requires it to remain within the primary dwelling unit), she could very well convert her

garage into an ADU once water credits become available. In fact, the French doors on the side of the garage are highly unusual as pointed out by one of the Planning Commissioners during the last hearing.

Thank you for your consideration.

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| AREA   | OWNER  |
|--|--|
| APPROX. 16' LONG 6" HEIGHT WOOD FENCE  | APPROX. 16' LONG 6" HEIGHT WOOD FENCE  |
| SEE DETAILS 1 AND 2 SHEET A.7. FENCE START AT 15' FRONT SETBACK AND TIE-IN EXIST FENCE | SEE DETAILS 1 AND 2 SHEET A.7. FENCE START AT 15' FRONT SETBACK AND TIE-IN EXIST FENCE |

**LEGEND:**

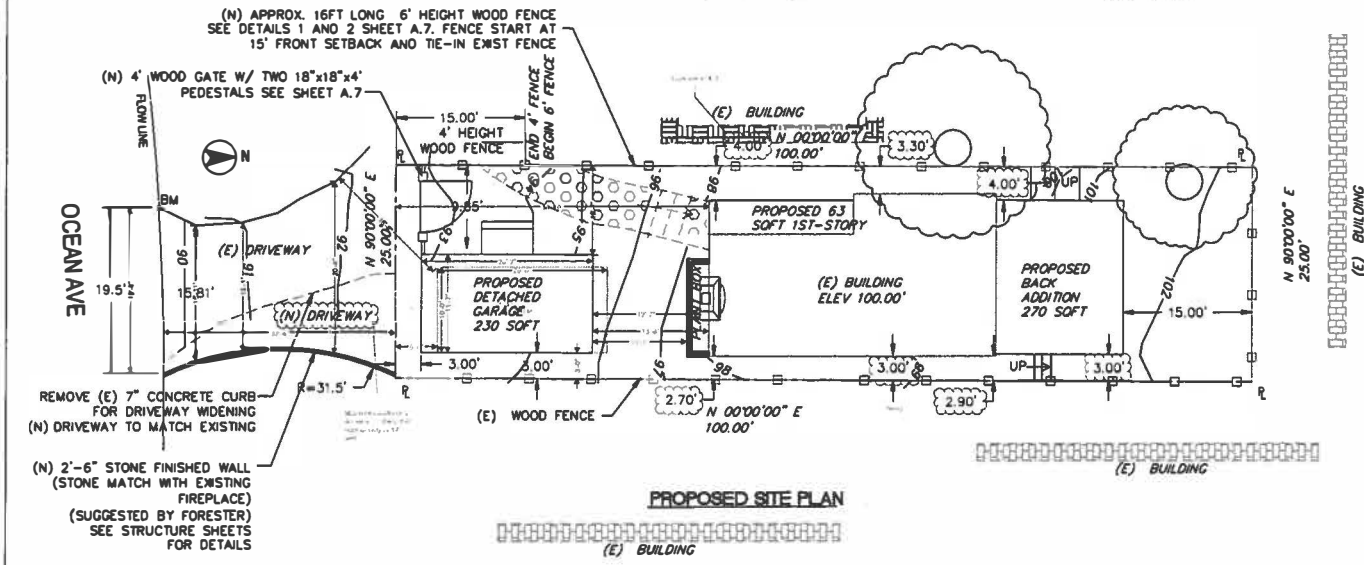
| Symbol    | Description                   | Symbol    | Description                   |
|-----------|-------------------------------|-----------|-------------------------------|
| - - - - - | APPROXIMATE PROPERTY LINE     | ○         | WELL                          |
| ●         | WELL                          | ○         | FIELD SURVEY AS NOTED         |
| ○         | FIELD SURVEY AS NOTED         | ○         | EXISTING DRIVEWAY CENTER FOR  |
| ---       | FENCE LINE                    | ---       | FENCE LINE                    |
| - - - - - | WATER LINE                    | - - - - - | WATER LINE                    |
| ▲         | UTILITY CENTER POINT          | ▲         | UTILITY CENTER POINT          |
| ---       | LOT LINE                      | ---       | LOT LINE                      |
| - - - - - | DIRECTION OF SURFACE DRAINAGE | - - - - - | DIRECTION OF SURFACE DRAINAGE |
| ---       | EDGE OF PARCELS               | ---       | EDGE OF PARCELS               |
| ---       | APPROXIMATE TREE DISPLAYED    | ---       | APPROXIMATE TREE DISPLAYED    |

**ABBREVIATION:**

|    |                |    |              |
|----|----------------|----|--------------|
| BM | BENCHMARK      | EL | ELEVATION    |
| CD | CONCRETE DRIVE | EN | END          |
| CP | CURB POINT     | EX | EXISTING     |
| DR | DRIVEWAY       | FP | FLOOR FINISH |
| EN | END            | GL | GRADE LEVEL  |
| EX | EXISTING       | GR | GRADE        |
| FP | FLOOR FINISH   | HW | HANDRAIL     |
| GL | GRADE LEVEL    | IN | INCH         |
| GR | GRADE          | LN | LINE         |
| HW | HANDRAIL       | PT | POINT        |
| IN | INCH           | RD | ROAD         |
| LN | LINE           | ST | STONE        |
| PT | POINT          | UP | UP           |
| RD | ROAD           |    |              |
| ST | STONE          |    |              |
| UP | UP             |    |              |

**BENCHMARK:**  
ELEVATIONS FOR THIS SURVEY ARE BASED ON AN ADJUDICATED DATUM. ADJURE DATUM HEIGHT AT FINISHED FLOOR OF EXISTING BUILDING. ELEVATIONS AT FLOOR LINE.

**NOTES:**  
1. BOUNDARY LOCATIONS SHOWN HEREIN WERE ESTABLISHED WITH THE BENEFIT OF A FIELD SURVEY SUPERSEDED BY RECORD DATA. ALL BOUNDARY DATA SHOWN HEREIN ARE FROM THE RECORDS AND FOR THE BOUNDARY SURVEY STATION OF THE PROPERTY AT THE GUADALUPE, CARMEL BY THE SEA, CA.



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| Drawn By: | APP        | NO. | REVISIONS |               | SHEET |
|-----------|------------|-----|-----------|---------------|-------|
|           |            |     | DATE      | ISSUED FOR BY |       |
| DATE      | 02/11/2022 |     |           |               | 1     |
| SCALE     | 1"=5'      |     |           |               |       |
| JOB NO.   | 21023      |     |           |               |       |
| CHECKED   |            |     |           |               |       |

10/12/2018 12:00 PM 10/12/2018 12:00 PM 10/12/2018 12:00 PM 10/12/2018 12:00 PM 10/12/2018 12:00 PM 10/12/2018 12:00 PM

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DS 23-221 (Mardani)  
 November 8, 2023  
 Project Data Table  
 Page 1 of 1

| PROJECT DATA FOR A 2,500-SQUARE-FOOT LOT347      |                  |  |   |
|--|------------------|--|---|
| Site Considerations                              | Allowed          | Existing   | Proposed  |
| Floor Area                                       | 1,125 SF (45%)   | 562 SF cottage<br>200 SF parking pad<br>762 SF total | 925 SF cottage<br>200 SF garage<br>1,125 SF total     |
| Site Coverage                                    | 247 SF – 347 SF  | 1,065 SF   | 924 SF  |
| Trees (Upper/Lower)                              | 3/1              | 0/2  | 0/1   |
| Ridge Height (1 <sup>st</sup> /2 <sup>nd</sup> ) | 18'/24'          | 14'-2" / NA  | No change/20'-9"<br>10'-11" garage                    |
| Plate Height (1 <sup>st</sup> /2 <sup>nd</sup> ) | 12'/18'          | 11.58' / NA  | No change/16'-11"<br>8'-9" garage                     |
| Setbacks   | Minimum Required | Existing   | Proposed  |
| Front  | 15'              | 36.95'   | No Change<br>1' Garage                                |
| Composite Side Yard                              | 7' (25%)*        | 6' – 6.20'   | (1 <sup>st</sup> floor)<br>7' (2 <sup>nd</sup> floor) |
| Side Yard  | 3'               | 3.30' (west)<br>2.70' – 2.90' (east)                 | 4' (west additions)<br>3' (east addition)             |
| Rear   | 15'/3'**         | 30'  | No Change   |

\*CMC 17.06.020.B.2 (Fractions). When calculations result in fractions, the results will be rounded as follows: a. Minimum Requirements. When a regulation is expressed in terms of a minimum requirement, any fractional result will be rounded up to the next consecutive whole number.

\*\*The rear setback is three feet for those portions of structures less than 15 feet in height.

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| PROJECT DATA FOR A 2,500 SQUARE FOOT SITE        |                  |  |   |
|--|------------------|--|---|
| Site Considerations                              | Allowed          | Existing   | Proposed  |
| Floor Area                                       | 1,125 SF (45%)   | 562 SF cottage<br>200 SF parking pad<br>762 SF Total | 895 SF cottage<br>230 SF garage<br>1,125 SF Total |
| Site Coverage                                    | 247 SF/347 SF    | 1,065 SF   | 225.5 SF  |
| Trees (Upper/Lower)                              | 3/1              | 0/1  | 1/1   |
| Ridge Height (1 <sup>st</sup> /2 <sup>nd</sup> ) | 18'/24'          | 13.73' / NA  | 13.73' (e) residence<br>12.97' (p) addition       |
| Plate Height (1 <sup>st</sup> /2 <sup>nd</sup> ) | 12'/18'          | 9.9' / NA  | 9.9' (e) residence<br>9.3' (p) addition           |
| Setbacks   | Minimum Required | Existing   | Proposed  |
| Front  | 15'              | 36.95'   | 36'-7" to residence<br>3' to garage               |
| Composite Side Yard                              | 7' (25%)         | 6.2'   | 6.7'  |
| Side Yard  | 3'               | 2.9' NE corner<br>3.3' NW corner                     | 4' north<br>2.7' south                            |
| Rear   | 15'/3'*          | 30'  | 15'   |

\*The rear setback is three feet for those portions of structures less than 15 feet in height.



4

**cathryncusa@gmail.com**

**From:** Timothy Cass <trcass@comcast.net>  
**Sent:** Thursday, June 1, 2023 7:49 AM  
**To:** Cathryn  
**Subject:** Fwd: DS 21-376 (Mardani) - Revised Project Plans 5/24/2023

Cathry, This just came from Marine on the 24th of May. John is my architece. Tim

Begin forwarded message:

**From:** John Mandurrigo <[john@mandurrigo.com](mailto:john@mandurrigo.com)>  
**Subject:** RE: DS 21-376 (Mardani) - Revised Project Plans 5/24/2023  
**Date:** May 31, 2023 at 4:35:09 PM PDT  
**To:** "'trcass@comcast.net'" <trcass@comcast.net>

Marnie :

At first glance it seems that the 35 ft long wall without an offset rule seems to not be followed. A 0'-2" offset on the east side and 0'-8" offset on the west side does not follow the intent of the rule. In the past I was told that a minimum offset would be 24" required. Also, a new roof, new overhang, and new window on the east side violates the existing non-conforming rule as to a min 3' rule. I was told by the Building Department that if we touch such a wall not meeting the minimum 3 ft setback (2.7' is the existing setback) we would have to move the wall back to the required setback.

JM

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**From:** Marnie R. Waffle <[mwaffle@ci.carmel.ca.us](mailto:mwaffle@ci.carmel.ca.us)>  
**Sent:** Wednesday, May 31, 2023 2:50 PM  
**To:** Marnie R. Waffle <[mwaffle@ci.carmel.ca.us](mailto:mwaffle@ci.carmel.ca.us)>  
**Subject:** DS 21-376 (Mardani) - Revised Project Plans 5/24/2023

Hello,

I am sending this email because you have expressed interest in the subject project. The attached plans were submitted to the City on **5/24/2023**. The plans still need to be reviewed by staff, and a hearing date has not been set for this project. The Planning Commission meets regularly on the 2nd Wednesday of each month. Once a hearing date has been scheduled, I will email you to let you know.

Best regards,