

## CITY OF CARMEL-BY-THE-SEA APPEAL FORM

Appeals to a Board or Commission must be made by completing and submitting an Appeal Form with the City Clerk. Appeals shall be filed within 10 calendar days following the date of action and paying the required filing fee as established by City Council resolution.

Appeals to the City Council must be made by completing and submitting an Appeal Form with the City Clerk. Appeals shall be filed within 10 working days following the date of action and paying the required filing fee as established by City Council resolution.

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Signature of Appellant

Reference Chapter 17:54 of the Carmel-by-the-Sea Municipal Code "Appeals"

City of Carmel-By-The-Sea

JUN 24 2024

9:00 Am revised 1/2020

Office of the City Clerk



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Grounds for Appeal of Planning Commission Decision on DS 21-376 (Mardani)

Dear Mayor Potter and Members of the City Council:

## A. 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.

In my opinion, the Planning and Building Department did not fairly, justly, and objectively present the Mardani project to the Planning Commission and the Planning Commission therefore approved a project which does not meet the requirements of the Carmel Municipal Code and the Carmel Residential Design Guidelines.

In addition, I do not believe that the project is categorically exempt from CEQA as recommended by the Planning and Building Department and (I assume) approved by the Planning Commission.

I apologize in advance for the length of my comments. However, I must ask you to read them in their entirety as the context of the points I raise reinforces their significance.

If you have any doubts and/or questions regarding any matters I raise in this appeal, I can document everything in writing so please let me know if you require me to do so to any greater extent than I have already done.

Ms. Mardani purchased her small, non-conforming cottage on a small, non-conforming lot in 2021 and has been endeavoring to expand it ever since. Much has gone on over the past 2 ½ years and I do not have the skill to convey it more succinctly. Each point I make below has been brought up to the Planning and Building Department time and again. Each point has been systematically trivialized and dismissed. I realize that I am the underdog in this exercise and that the Planning and Building Department (perhaps supported by the City Attorney) will again attempt to find ways to substantiate their questionable positions. But I am not willing to compromise my own personal integrity.

I am not wasting my time and effort (or that of the City) for the fun of it. I have made a conscientious effort to objectively study the project as it has been presented by both the Applicant and the Planning and Building Department to the Planning Commission. After all, Ms. Mardani's property is just next to mine and her cottage is around 2 feet from my fence. Please see attached photos. I am an employee of the Federal Government and I am proud to be a citizen of the United States. I endeavor to uphold the values for which our nation stands and I feel compelled to ask you to promote these values in our village as well. A lack of compliance cannot simply be brushed aside. It is an afront to the integrity of the City's planning process and must be taken seriously and acted upon.

I ask that the City Council review this project and overturn the June 11, 2024 approval of the Planning Commission on the basis that the project does not comply with the applicable requirements as set out under the Carmel Municipal Code and, therefore, should have never been presented to and/or considered by the Planning Commission in the first place.

1. There has been no recent, independent, professional topographical/land survey done on this property and the City failed to request one even though this is required as per CMC;

- 2. Both the Applicant and I believe her lot may be less than 2500 sq ft and that it therefore does not qualify as a legal building site;
- 3. Not only is the property likely to be less than 2500 sq ft, but also it was in the same ownership as one or more adjoining lots of record on February 4, 1948 and thus is also (doubly) disqualified as a legal building site on this basis (even if it were 2500 sq ft);
- 4. Non-conforming setbacks combined with demolition of greater than 50% of a building or structure (a wall is a structure) trigger rebuilding to current code. The entire cottage must therefore be torn down and rebuilt in accordance with current code. This should be determined by calculation and acknowledged up front as part of the planning process;
- 5. I also challenge the Planning and Building Department/Planning Commission's June 11, 2024 decision to categorically exempt the project from CEQA pursuant to Section 15301 (Class 1) Existing Facilities and ask that this also be overturned. It is clear that the project entails more than a 100% increase in floor area and the exemption, therefore, does not apply.

## B. General Grounds for Appeal – Good Governance and Best Practice

My appeal today is an appeal to the City Council to adhere to the principles of good governance and best practice as opposed to making decisions based on other, less noble, criteria. I am asking that the decision on the Mardani project be made fairly, justly, and objectively, unbiased by any personal feelings and/or perceived obligations which I outline below.

Also, fairness, justice, and objectivity should not be compromised by a general fatigue/disinterest on the part of the Planning and Building Department and the Planning Commission brought about by the fact that this project has been presented to them thirteen and five different times, respectively, over a 2 ½ year period. I would ask you to review the last 5-10 minutes of the June 11<sup>th</sup> Planning Commission hearing on Ms. Mardani's property immediately preceding the vote which illustrate my point: the Planning Commission reached, what I would call, a spur-of-the moment consensus seemingly so that they could move on and get this project over and done with.

If a project does not meet the objective requirements of the Carmel Municipal Code, it should not be approved no matter how many times the Planning and Building Department opines favorably and no matter how many times it is presented to the Planning Commission. Compliance, in this case, is an objective legal requirement and not a subjective decision that can be made by the Planning and Building Department or by the Planning Commission.

Furthermore, it is my belief that, as a citizen of Carmel for more than 45 years, the Planning and Building Department as well as the other bodies of the City Government, owe it to me and to my fellow citizens to ensure that they carry out their duties fairly, justly, and objectively to the very best of their abilities. They cannot simply gloss over and dismiss issues that merit in-depth attention; their position of authority dictates an obligation on their part to present matters in a fair, just, and objective manner, particularly to members of the Planning Commission who may not always have the time to familiarize themselves with intricacies of the Carmel Municipal Code.

In this particular case, the Planning and Building Department has consistently come up with justifications to set aside my concerns that the Mardani project does not meet the requirements of the Carmel Municipal Code. They have done this by using opaque, convoluted, subjective reasoning that simply has no basis in the Carmel Municipal Code. In my opinion, their spurious explanations

can only be arrived at by systematically ignoring the facts and can only be understood in the context of motivations which are not rooted in good governance and best practice.

This project has been heard five times by the Planning Commission. Throughout the entire 2 ½ year process, the Planning and Building Department has clearly pronounced itself on the side of the Applicant. They have recommended approval of every set of plans put forward by the Applicant, without reservation, including one that was turned down unanimously by the Planning Commission.

It is incumbent upon the buyer of a property to understand what they are buying, particularly when they purchase a small 562 sq ft cottage on a small non-conforming lot. There is a reason that these three cottages remain today substantially unchanged since they were built in 1946; in these particular circumstances, the Carmel Municipal Code permits demolition, repair, or maintenance, but nothing more.

## C. Specific Grounds for Appeal

My specific concerns, based on my reading of the Carmel Municipal Code and my general knowledge of the project, are briefly set out below (please see also Further Background for additional information):

1. The Planning and Building Department failed to require a recent, independent, professional land survey on this property even though this is a requirement under Clause 17.58.040 of the CMC. The lack of a recent, independent, professional land survey has given rise to several issues (please see also #2 below)

The reason, as I understand it, that a recent, independent, professional survey has not been required by the City is because, in accordance with the CMC, the City accepts plans (which apparently also qualify as land surveys) submitted by a licensed civil engineer. However, under California State licensing requirements (which supersede those of the City), Ms. Mardani's designer/civil engineer does not qualify as a Land Surveyor and therefore is not licensed to provide an official, professional land survey. In any case, Ms. Mardani's designer/civil engineer has never performed or submitted a land survey and the City did not require her, or anyone else, to do so.

The City argues that the stamped plans constitute a land survey, but it has been established that the stamped plans accepted in lieu of a recent, independent, professional land survey were inaccurate in terms of their portrayal of both the east and composite setbacks (please see email correspondence from May 13, 2023 and May 16, 2023 attached as Appendix 1).

#### Clause 17.58.040 – B 2 (b)

Submittal Requirements. The applicant shall submit two copies of a topographic survey prepared by a licensed surveyor or a civil engineer prior to submittal of design plans for design review. The survey shall document property boundaries, topographic contours, the location of all trees over two inches DBH, the outline of all existing structures on the property, the location of any easements, existing access, the edge of pavement for all adjoining streets and all existing areas of site coverage.

The lack of a recent, independent, professional land survey led the Planning Commission to conditionally approve the first set of plans presented to them on April 12, 2023 on the basis that the east and composite setbacks were in compliance with current Code even though they are not.

Please see Further Background below for addition discussion on this point.

2. Both the Applicant and I believe that her lot may be less than 2500 sq ft. A property measuring less than 2500 sq ft is not a legal building site.

To this point, in her email of April 19, 2023 (please see Appendix 2), Ms. Mardani states:

The story start when cass family did a new survey and then changed our joint fence by taking 2 feet from my property. I checked with the city at that time and they had a old survey report which says: only slightly different not the whole 2 feet However, city mentioned we are going with the new survey Cass, without giving me notice they took the old fence done and put the new one. (one morning my tenant called me, what is going on? Your neighbor took the fence down!!!:) Actually the whole conflict with them started at that time.

At that time cass told me you might need to change the fence on the other side, since my lot size is 25X100.

Over my project, my architect also noticed my lot size at this moment is 24X100 Basically instead of having 3 feet set back from your fence, I have 2 feet set back I've been advised to have a survey done to determine the exact property line.

To make a very long story short, after telling the City that she would have her own independent survey undertaken, Ms. Mardani did not follow through, perhaps because she feared the result.

The argument by the City that the lot was 2500 sq ft when it was established in 1888 is irrelevant. Things change over time and what is relevant today is the size of the lot TODAY, not the size of the lot in 1888. Otherwise, why would applicants be required to do a land survey? It would not be necessary if one could simply refer to the 1888 subdivision map or the 1902 subdivision map, but this is not the way things are (normally) done. And it is certainly not the way things should be done. This is not best practice.

Please see Further Background below for additional discussion on this point.

3. Not only is the property likely to be less than 2500 sq ft, disqualifying it as a legal building site, but also under Section 17.10.020 of the CMC, Ms. Mardani's property clearly does not qualify as a legal building site since it was under the same ownership as one or more adjoining lots of record on February 4, 1948. (Please see Appendix 3 for the relevant clause of the Carmel Municipal Code).

Although they have tried hard to refute it, the Planning and Building Department and the City Attorney obviously believe my argument has some merit; the Staff Report of June 11<sup>th</sup> (and the two previous Staff Reports) devote more than half a page to this matter.

The City maintains that although, according to the CMC, the property would not qualify as a legal building site, it does qualify due to the City's interpretation of the intention of the CMC and the fact that the lot was originally legally created as a 2500 sq ft lot. They contend, without objective justification, that the exact wording of the CMC is irrelevant in this case.

But I contend that their interpretation of what they think the CMC was INTENDED to mean is irrelevant. Their interpretation is subjective as opposed to objective. What is relevant is what the CMC actually says and, according to the CMC, as it is written, the lot is not a legal building site because it is almost certainly smaller than 2500 sq ft TODAY, and, on top of that, it was owned by the same person(s) as the adjoining lot on February 4, 1948.

4. The lack of a recent, independent, professional land survey in combination with the survey commissioned by Mr. Cass, her neighbor to the west, also caused me (and presumably the Planning and Building Department and the Applicant) to become aware that Ms. Mardani's cottage is non-conforming in terms of its east and composite setbacks. Under Sections CMC 17.36.030, CMC 17.36.040, CMC 15.04.020, and CMC 17.70.020, non-conforming setbacks combined with demolition of greater than 50% of a building or structure (a wall is a structure) trigger rebuilding to current code (please see Appendix 4 for detail on relevant clauses of the CMC).

The likely requirement to bring the entire cottage up to current code has not been thoroughly researched and acknowledged by the Planning and Building Department. To the contrary, they leave open the possibility, by way of the fact that they have not required any substantiating calculations, that non-conforming walls sitting in the setbacks (there are two) can be substantially demolished (by 50% or more) without requiring them to be rebuilt up to current code. There are many implications related to this lack of clarity upfront including the probability that the greatly increased cost of tearing down the existing structure and rebuilding it up to current code would deter and possibly prohibit the Applicant from undertaking the project.

The City Council will most likely be familiar with the similar case that was the subject of an article in the January 26-February 1, 2024 edition of the Pine Cone with the subtitle "Demolition triggered setback rule".

In the case of a wall constructed in and existing unchanged since 1946, how does one possibly take away windows and doors from one area of a wall and add them in another (filling in the resulting structural deficits and cutting new openings where the windows and doors have been removed and added, both requiring destruction of the cladding inside and out), add insulation, add required fire protection (much more onerous due to the fact that the wall is in the setback), and make necessary changes to the roof above without demolishing more than 50% of the existing structure (the wall) and triggering the requirement to rebuild up to current Code including moving the wall, the foundation, and the roof out of the setback? It is simply not a realistic assumption to believe that the substantial modifications of Ms. Mardani's property as proposed and approved, including those to the 34' east wall in the setback bordering on my property and Mr. Boyd's property, will not trigger the requirement to rebuild the east wall, the west wall, and the entire house up to current Code.

Given the circumstances, this probability should not be left open at the planning stage – the negative repercussions for everyone concerned, particularly for Ms. Mardani, are too significant.

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. Ms. Mardani's former neighbors, 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 and scale back 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 8).

## Is there one set of rules for one applicant and another set of rules for others?

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 non-conforming lot. There is a reason that these three cottages remain today substantially unchanged since they were built in 1946; in these particular circumstances, the Carmel Municipal Code permits demolition, repair, or maintenance, but nothing more.

Please see Further Background below for additional discussion on this point.

5. Staff recommends that the project be found categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1) – Existing Facilities on the basis that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition.

However, it is clear that the project entails more than a 100% increase in floor area and that the exemption, therefore, does not apply. One has only to look at the agenda for the June 11, 2024 meeting that appears on the City website to confirm this.

**DS 21-376 (Mardani):** Consideration of a Final Design Study, DS 21-376 (Mardani), and associated Coastal Development Permit for one-story additions totaling 333 square feet to a one-story, 562-square-foot cottage and construction of a 230-square-foot detached garage in the front yard setback located on Ocean Avenue 4 northeast of Guadalupe Street in the Single-Family Residential (R-1) District. APN: 010-033-011-000.

A recently added "parking pad" composed of a pile of carefully arranged gravel does not constitute a "structure" for the purposes of exemption from CEQA and an attempt to qualify it as such is dishonest at best. I don't know if a "parking pad" such as this would require a permit or not but I do know that it does not appear on any of the 13 sets of plans that I have reviewed, including the most recent, except on the cover page in writing only in the legend in the top righthand corner, and beginning only with the second most recent set of plans submitted. The "parking pad" did not appear, even in writing in the legend on the cover page, in the set of plans considered by the Planning Commission as recently as April 12<sup>th</sup> 2023 because it did not exist at that time. Please see Appendices 5 and 6.

As part of my preparation for this paper, I just went back and downloaded the plans for the April 12<sup>th</sup> 2023 Planning Commission hearing and see now that the parking pad has been

added in red (please check the plans yourselves to see what I mean). I'm not sure what is going on but I have an email (attached as part of Appendix 6) with the original April 12<sup>th</sup> plans attached and they do not show the parking pad.

It would seem to be a recent concoction with the express purpose of avoiding CEQA requirements. It is not an approved structure, it does not appear on the plans, and therefore, it must be excluded from the calculation.

Please see Further Background below for additional discussion on this point.

# D. Supporting Comments by Applicant's Attorney during the Planning Commission Hearing on June 11, 2024

While I am not privy to the arrangement between the Applicant and her attorney, Thomas Trapani's LinkedIn profile states that he is a Senior Trial Counsel at Fidelity National Law Group and that he is one of the Major Claims Counsel for Title Insurance and Escrow Cases. This information begs the question why, if everything is in good order, Ms. Mardani and/or her title company would require the support of an attorney with Mr. Trapani's background. Regardless of the reason that Ms. Mardani and/or her title company would require Mr. Trapani's services:

1. During the recent Planning Commission hearing on June 11th, Mr. Trapani mentioned that the points I am making to the Planning and Building Department and to the Planning Commission are too late in coming, that they are "water under the bridge" (or something to that effect).

He notably did not say that they were invalid. Furthermore, Ms. Mardani did not have an attorney present prior to the two most recent Planning Commission hearings so he may not be aware that I have consistently raised these points in past hearings of the Planning Commission and to the Planning and Building Department.

As a professional Major Claims Counsel for Title Insurance and Escrow Cases, Mr. Trapani will surely understand why I continue to raise the same points; I justifiably feel compelled to bring them up again due to the fact that they have not, up until today, been satisfactorily addressed. They all have major implications with regard to the validity of the Planning Commission's approval.

2. Mr. Trapani also mentioned that Ms. Mardani had been told by the Planning and Building Department that she could expand the 562 sq ft cottage she bought, implying that there were no impediments to her doing so from the viewpoint of the City.

Based on her email to me (please see below and Appendix 7) and discussions I have had with the Applicant, this is true and herein lies what I believe, in my personal opinion, to be a possible reason that the Planning and Building Department appears unjustifiably eager to have this project approved to the extent that it is willing to ignore careful review and analysis as well as to seemingly bend the rules to accommodate shortcomings/inconsistencies in a project that clearly does not meet City standards.

Ms. Mardani states in her email dated November 10, 2023:

My children's father lives in pebble beach. At the time of the divorce I could only afford to buy this house. Before closing the deal I asked seller to give me two weeks to get the

historical evaluation on this property. Seller did not have any reports and when I called city Marnie answered the phone. She checked the lot history and told me I can have maximum 1125sf. However I need a historical evaluation.

The agent said, she thinks it's easy to get a second story permit since there are 4 other second story houses on the block. My intention was clear from day one.

It seems plausible to me that Marnie Waffle, when she answered the phone, told the Applicant that she could expand her small 562 sq ft cottage on a small non-conforming lot (perhaps this was not obvious at the time since no recent, independent, professional survey was available) or that the Applicant interpreted her words in this way. The Applicant was obviously unaware of the intricacies of the planning and building process in Carmel, and therefore the Applicant bought the property based on what Ms. Waffle had told her believing that she could build whatever she wanted up to 1125 sq ft.

If this is the case, I can only imagine how Ms. Waffle must feel when the Applicant's attorney raises this point.

This project has been heard five times by the Planning Commission. Throughout the entire 2 ½ year process, the Planning and Building Department has clearly pronounced itself on the side of the Applicant. They have recommended approval of every set of plans put forward by the Applicant including one that was turned down unanimously by the Planning Commission.

It is incumbent upon the buyer of a property to understand what they are buying, particularly when they purchase a small, non-conforming 562 sqft cottage on a small, non-conforming lot. There is a reason that these three cottages remain today substantially unchanged since they were built in 1946; in these particular circumstances, the Carmel Municipal Code permits demolition, repair, or maintenance, but nothing more.

3. Finally, Mr. Trapani mentioned that Ms. Mardani has made compromises in her plans to appease the neighbors. He mentioned that a lawsuit was filed and then dropped, implying (but carefully not stating) that it was dropped because there was no longer an issue.

It is true that Ms. Mardani has made compromises based on requirements and decisions of the Planning Commission although, notably, the Planning and Building Department did not recommend these changes in their Staff Reports. In spite of these forced compromises, not only has Ms. Mardani angered literally all of her neighbors in the process, but Tim Cass and his daughter, her previous neighbors to the west, made the decision to sell their beautiful, newly renovated property out of utter frustration with their new neighbor and her actions including cutting their significant oak tree illegally and attempting to block off driveway access to their house and the other neighboring cottage.

The Cass Family dropped their lawsuit because they decided it was better for their overall well-being to simply sell their house and move away.

I ask that the City Council review this project and overturn the June 11th approval of the Planning Commission on the basis that it does not comply with the applicable requirements as set out under the Carmel Municipal Code and, therefore, should have never been presented to and/or considered by the Planning Commission in the first place.

| I also challenge the Planning and Building Department/Planning Commission's June 11, 2024 decision to categorically exempt the project from CEQA pursuant to Section 15301 (Class 1) – Existing Facilities and ask that this also be overturned. |
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|  |
| Thank you.   |

## **Further Background**

## The lot does not qualify as a Legal Building Site for two reasons

## Likely to be less than 2500 sq ft

The argument by the City that the lot was 2500 sq ft when it was established in 1888 is irrelevant. Things change over time and what is relevant today is the size of the lot TODAY, not the size of the lot in 1888. Otherwise, why would applicants be required to do a land survey? It would not be necessary if one could simply refer to the 1888 subdivision map or the 1902 subdivision map, but this is not the way things are (normally) done. And it is certainly not the way things should be done. This is not best practice.

# Second, in the very unlikely case that the lot is 2500 sq ft, it is disqualified as a legal building site because it was in the same ownership as one or more adjoining lots of record on February 4, 1948.

Although they have tried hard to refute it, the Planning and Building Department and the City Attorney obviously believe my argument has some merit; the Staff Report of June 11<sup>th</sup> (and the two previous Staff Reports) devote more than half a page to this matter. Staff (with the help of the City Attorney and based on precedent apparently set by Don Freeman, the City Attorney quite a few years back) conclude that, although the lot was owned by the same person(s) as the adjoining lot on February 4, 1948 and thus, according to the CMC, would not qualify as a legal building site, it does qualify due to the City's interpretation of the intention of the CMC and the fact that the lot was originally legally created as a 2500 sq ft lot. They contend, without objective justification, that the exact wording of the CMC is irrelevant in this case.

But I contend that their interpretation of what they think the CMC was INTENDED to mean is irrelevant. Their interpretation is subjective as opposed to objective. What is relevant is what the CMC actually says and, according to the CMC, as it is written, the lot is not a legal building site because it is almost certainly smaller than 2500 sq ft TODAY, and it was owned by the same person(s) as the adjoining lot on February 4, 1948.

The small size has been confirmed by Ms. Mardani, on the advice of her architect, in writing and would be confirmed by a land survey if an independent, professional land survey were to be carried out today. It is a fact that the property was in the same ownership as the adjoining lot on February 4, 1948.

What matters is the size of the lot today and the wording of the CMC as it stands today.

The size of the lot in 1888 or 1902 is not relevant today and the City's interpretation of what the Code was intended to mean is also not relevant.

# Lack of a recent, independent, professional land survey led to the discovery that east side and composite setbacks are non-conforming

In this case, it is important to step back and consider the background as to why a recent, independent, professional land survey should have been required but wasn't and how this fact led to

the inadvertent discovery of Ms. Mardani's non-conforming east and composite setbacks (as acknowledged in her email contained in Appendix 2).

This discovery was made only after the Planning Commission had given its conditional approval to one of Ms. Mardani's previous plans on April 12, 2023. In other words, the Planning Commission was led to make a decision on an erroneous basis because the Planning and Building Department failed to require a recent, independent, professional land survey in the case of Ms. Mardani's project. The previous plan conditionally approved by the Planning Commission on April 12, 2023 incorrectly indicated that the setback of the east wall of Ms. Mardani's house was 3' as required and that the composite setback was 7' even though this is not the case.

The reason, as I understand it, that a recent, independent, professional survey has not been required by the City is because, in accordance with the CMC, the City accepts plans (which apparently also qualify as land surveys) submitted by a licensed civil engineer. However, under California State licensing requirements (which supersede those of the City), Ms. Mardani's designer/civil engineer does not qualify as a Land Surveyor and therefore is not licensed to provide an official, professional land survey. In any case, Ms. Mardani's designer/civil engineer has never performed or submitted a land survey and the City did not require her, or anyone else, to do so.

Notwithstanding the qualifications of her designer/civil engineer, Ms. Mardani's previous drawings as presented to the Planning Commission and conditionally approved, were inaccurate and failed to correctly illustrate the non-conforming setback of the east wall and the non-comforming composite side setbacks of her cottage. After much discussion, Ms. Waffle remembered a survey of Ms. Mardani's lot which had been prepared in the year 2002 by Mark Doolittle showing the non-conforming setbacks.

The event that inadvertently led to the realization of the fact that Ms. Mardani's plans did not accurately portray the non-conforming setback of the east wall and the non-conforming composite setback of her cottage, was the land survey commissioned by her (now previous) neighbor on the west side, Tim Cass. As mentioned above, his survey resulted in him moving his fence up to two feet in some places, according to Ms. Mardani, towards the east into what Ms. Mardani had thought was her property based on the previous fence line. As a result of this, Ms. Mardani feared that her lot was actually smaller than 25' X 100' as expressed in her email to me referenced above and I assume that she then (I am not sure of the exact timing) came to realize that her east wall was non-conforming in that it was sitting in the setback and that the composite setback was non-conforming as well.

To make a very long story short, after telling the City that she would have her own independent survey undertaken, Ms. Mardani did not follow through, perhaps because she feared the result. She apparently came to accept that our neighbor Marc Boyd's fence and my fence are on or within our property lines and that her east wall is in the setback adjacent to our properties. In addition, her composite setback is non-conforming in that it is not 7' as required.

This long, drawn out exercise (at one point the corner post of my fence anchored in concrete was almost dug out of the ground by someone) caused me and Ms. Mardani's two other neighbors (Mr. Cass and Mr. Boyd) a great deal of anxiety. 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 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. Ms. Mardani's former neighbors, 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 and scale back 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 8).

## Is there one set of rules for one applicant and another set of rules for others?

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 non-conforming lot. There is a reason that these three cottages remain today substantially unchanged since they were built in 1946; in these particular circumstances, the Carmel Municipal Code permits demolition, repair, or maintenance, but nothing more.

<u>Consequences of Non-Conforming Setbacks; Demolition of more than 50% of existing walls triggers rebuilding to current code</u>

Under Sections CMC 17.36.030, CMC 17.36.040, CMC 15.04.020, and CMC 17.70.020, non-conforming setbacks combined with demolition greater than 50% of a building or structure (a wall is a structure) trigger rebuilding to current code (please see Appendix 4 for detail on relevant clauses of the CMC)

Another issue I brought up to the City, 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 the nonconforming walls and foundations, and most likely the entire structure (including the foundation) will have to be rebuilt up to current code. This would be a substantial departure from the current plan and this requirement would, therefore, necessarily have to be acknowledged and planned for in advance at the planning stage.

This issue will be familiar to the City Council and is particularly relevant given the article which appeared in the January 26-February 1, 2024 edition of the <u>Pine Cone</u> 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 (please note that a wall is a structure in and of itself) and the fact that, as documented in the article in the Pine Cone, "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."

The Building and Planning Department acknowledge that more than 50 percent of the exterior walls will be demolished. And yet, Ms. Waffle states in several versions of her previous Staff Reports including the most recent, "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. 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.

She will be adding insulation materials. Furthermore, any modification/addition of windows and doors in nonconforming walls, sitting in the setbacks, would lead to the enforcement of strict and prohibitively expensive fire code compliance. Compliance with these requirements would most likely, in and of itself, trigger the 50% demolition rule.

And yet, the Planning and Building Department continue to deny that this is the case based on their own subjective, convoluted, and opaque interpretation of the CMC.

Quoting from the Staff Report dated June 11, 2024, Ms. Waffle states:

Rather than reconstruct the walls to meet minimum setback requirements, the applicant proposes to retain the east wall of the cottage to preserve the setback non-conformity. In accordance with the definition of demolition, this wall is considered demolished even though it is proposed to be retained and is therefore included in the calculation for determining whether 50 percent or more of the exterior walls are being removed. However, because it is being retained, the Code does not require that it be altered to comply with current setback standards. That being said, if the eastern wall is identified for removal in the construction drawings (e.g. for structural reasons or otherwise) or subsequently removed by the contractor during construction, it is required to be rebuilt in conformance with the required setbacks.

In the case of a wall constructed in and existing unchanged since 1946, how does one possibly take away windows and doors from one area of a wall and add them in another (filling in the resulting structural deficits and cutting new openings where the windows and doors have been removed and added, both requiring destruction of the cladding inside and out), add insulation, add required fire protection (much more onerous due to the fact that the wall is in the setback), and make necessary changes to the roof above without demolishing more than 50% of the existing structure (the wall) and triggering the requirement to rebuild up to current Code including moving the wall, the foundation, and the roof out of the setback? It is simply not a realistic assumption to believe that the substantial modifications of Ms. Mardani's property as proposed and approved, including those to the 34' east wall in the setback bordering on my property and Mr. Boyd's property, will not trigger the requirement to rebuild the east wall, the west wall, and the entire house up to current Code.

The CMC is clear: the nonconforming walls must be considered as demolished if an area of more than 50% is modified and, therefore, must be rebuilt in accordance with current code. As the east wall is in the setback, the west wall is also affected due to the fact that the composite setback is also non-conforming. Since more than 50% of all of the exterior walls of the existing structure will be demolished, the entire house, including the east and west walls, must be rebuilt up to current Code.

If the City does not believe this to be the case, why don't they simply require the Applicant's designer/engineer to make a calculation of the percentage of each of these structures/walls that will be demolished?

Related to this issue is the fact that the Planning Commission, in its hearing of February 13, 2024, the hearing prior to the most recent hearing on June 11th, introduced a Required Condition for Concept Acceptance, stipulating that the Applicant "shall increase the side yard setbacks at the front addition to achieve the minimum required composite setback of 7 feet."

In Attachment 2 to the Staff Report dated June 11<sup>th</sup>, the Applicant stated that, "Plan has been revised to achieve the minimum required composite setback of 7 feet."

However, upon checking of the new plans, nothing has changed. The front addition is still exactly the same at 63 sq ft. The Applicant has added "4.3'" on the plan to deceptively indicate that the composite setback (4.3+2.7) will be 7' and has changed Page A.1 to show a front width of 18'1' instead of 18'6" as shown in the previous plan. The Applicant may have even redrawn the line on the plan to indicate that the wall in question has been moved back by 5". (For illustrative proof of this, please refer to Appendices 9 and 10 containing the relevant sections of the plans before and after the supposed satisfaction of the Planning Commission's Condition.)

The fact remains that the front addition measures 63 sq ft according to the new plans even though the wall has supposedly been moved back 5". How can this possibly be correct? Is she planning to move the property line westward? If not, the proposed addition cannot have the same square footage as shown in the previous plan nor can the total square footage of the updated proposed floor area remain the same at 1125 sq ft. Something else in the plan would have had to have changed to make this possible, but needless to say, it has not. The Applicant clearly has no real intention of making this change and the City is clearly giving its tacit approval by not pointing this discrepancy out to the Planning Commission.

This demonstrates another clear lack of oversight on the part of the Planning and Building Department and is another indication of the deficit of care that has allowed the project to progress to this late stage. This failure of compliance cannot simply be brushed aside. It is an afront to the integrity of the City's planning process and must be taken seriously and acted upon.

Compliance, in this case, is an objective legal requirement and not a subjective decision that can be made by the Planning Commission or by the Planning and Building Department.

# A "parking pad" composed of a pile of carefully curated gravel does not constitute a structure that can be included in the calculation of existing floor area for the purposes of CEQA requirements

Staff recommends that the project be found categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1) – Existing Facilities on the basis that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition even though the project entails a 100% increase in floor area

While I am by no means an expert on this, I looked up Section 15301 myself and the project does not qualify for exemption as the addition (not counting the garage) is 333/562 = 59%. Including the garage, it is (333+230)/562 = 100%.

I learned that, for all categorical exemptions, it is the responsibility of the Lead Agency to demonstrate and determine that the proposed action falls within an exempt category, and to support this determination with factual evidence.

Following the Planning Commission hearing on June 11th, I emailed the Planning and Building Department to ask for clarification as to how the Mardani project qualifies for a categorical exemption from CEQA and they confirmed that they are including the "parking pad" in the calculation. Again, I must conclude that this is another example of the City choosing to try to bend the rules in order to facilitate/expedite approval of a project that should be subject to the just, fair, and objective application of existing regulations.

When the existing structure is 562 sq ft and the proposed structure is 1,125 sq ft, adding a new 200 sq ft pile of gravel, calling it a "parking pad", and claiming it as part of the existing structure totaling

762 sq ft cannot be done in good faith. The "parking pad" did not appear in the set of plans considered by the Planning Commission on April 12<sup>th</sup> 2023 because it did not exist at that time and it appears only in words in the legend at the top righthand corner of the cover page (but not in the plans themselves) after that date. It is a recent concoction. It is not an approved structure and therefore must be excluded from the calculation.

Appendix 3

17.10.020 Dimensional Standards – Lots, Parcels and Building Sites.

A. Legal Building Site Required. Parcels not meeting the criteria for legal building sites shall not be issued any building permits, other than permits for demolition, repair or maintenance, until the parcel has been brought into compliance with this section. A parcel of land within the R-1 land use district shall meet one of the following standards to be considered a legal building site:

- 1. At Least 2,500 Square Feet. A single, independent lot of record in existence on February 4, 1948, with at least 2,500 square feet of land area that was not in the same ownership as one or more adjoining lots of record on that date; or
- 2. Two Thousand Five Hundred Square Feet or More. Any lot of record of 2,500 square feet or more, that on February 4, 1948, was in the same ownership as one or more adjoining lots of record and qualifies under one of the criteria below:
  - a. A parcel of land in the form of a rectangle having at least 3,700 square feet, composed of 2,500-square-foot lots of record and/or portions thereof that existed on February 4, 1948, and which have been reconfigured either by a lot line adjustment or by a merger of lots in conformance with CMC 17.10.040, Lot Mergers.
  - b. A parcel of land in the form of a rectangle having at least 5,000 square feet, composed of two or more whole 2,500-square-foot lots of record that existed on February 4, 1948, and which has been formed by a merger of lots in conformance with CMC 17.10.040, Lot Mergers.

**The Community Planning and Building Department Information Handout – Non-Comformities** also states:

The voluntary demolition of any nonconforming building or structure shall require that all new construction on the site meet all requirements for new buildings and structures.

Please also see **CMC 17.36.030, CMC 17.36.040, CMC 15.04.020, and CMC 17.70.020** below (and in Appendices 12, 13, and 14).

## **Relevant sections of the CMC**

#### 17.36.030

- A. A lawful nonconforming structure may be maintained, repaired, or altered as long as such maintenance, repair, or alteration does not increase the nonconformity and all work performed conforms to all of the requirements of this chapter.
- B. Alterations, repairs, or remodeling that enlarge, extend or increase a nonconforming feature of a building shall be prohibited, except as provided in CMC 17.32.100 (D) for historic resources.

## 17.36.040

- D. The demolition of any nonconforming building or structure shall require that all new construction on the site meet all requirements for new buildings and structures.
- E. The substantial alteration of any nonconforming building or structure, that includes removal of any nonconforming building element or structural element, shall require correction of that specific nonconforming building element or structural element in conformance with all requirements for new construction.

## 15.04.020 **Definitions**.

- A. As used in this title, unless otherwise apparent from the context, the following words and phrases shall have the stated meaning:
- 12. "Rebuilding" is the act of making extensive repairs and/or modifications to an existing building or structure. "Rebuilding" shall include, but not be limited to:
- a. The removal/takedown from any building or structure of more than or equal to 50 percent of any of the following:
- i. The external surfaces or cladding of exterior walls; and/or

- ii. The structural framing of exterior walls; and/or
- iii. The roof framing; and/or
- b. Obscuring from view 50 percent or more of the exterior walls or wall cladding of any building or structure through construction of an addition, or by application of an exterior material over the existing exterior material.

Portions of walls, wall cladding, wall framing, or roof framing proposed to be retained shall be considered rebuilt if less than 10 feet in length for walls, wall cladding, or wall framing, or less than 100 square feet of roof framing remain. All such portions of walls, wall cladding, wall framing, or roof framing shall be included in the calculation of the total amount of walls, wall cladding, wall framing, or roof framing and considered rebuilt.

Portions of walls, wall cladding, wall framing, or roof framing that are nonconforming (Chapter 17.36 CMC, Nonconforming Uses and Buildings), and are not proposed for removal/takedown, shall not be included in the calculation of the total amount of walls, wall cladding, wall framing, or roof framing to be retained.

## **17.70.020** Definitions.

The words, terms, and phrases defined in this chapter shall, for all purposes connected with this title, be construed as having the meanings respectively set forth in this chapter.

<u>Demolition</u>. The act of reconstructing, removing, taking down or destroying all or portions of an existing building or structure, or making extensive repairs or modifications to an existing building or structure, if such changes involve removal or replacement of 50 percent or more of both the structural framing and cladding or of the exterior walls within a 24-month period. When determining whether a building or structure is demolished, the following applies:

A. The nonconforming portions of any wall is counted as removed or taken down, even when retention of these portions is proposed.

B. Any continuous run of remaining exterior wall surfaces measuring 10 feet or less in length are counted as removed or replaced.

<u>Structure</u>. A stable assembly of parts. The term "structure" includes, but is not limited to, any building, deck, garage, carport, arbor, fence, wall, stairway, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

Furthermore, based on Ms. Mardani's response included as Attachment 2 to the project Staff Report dated June 11, 2024, it is my considered opinion that this project does not meet the Conditions for Concept Acceptance required by the Planning Commission for final approval even though the Planning and Building Department told the Planning Commission that it did.

I would also like the City Council to know that my appeal is based on my conscientious attempt to objectively study the project as it has been presented by both the Applicant and the Planning and

Building Department to the Planning Commission. I work for an agency of the US Government at the US Embassy in Jakarta and I unfortunately cannot be continuously physically present in Carmel in order to research and obtain answers to my many questions. I must therefore rely on the Planning and Building Department to answer my questions by email and this has proven problematic throughout the 2 ½ years that this project has been moving through the planning and approval process. In the instances where I do receive answers to my queries, I receive them one or two days prior to the hearing by means of the Staff Report or, in some instances, even during the Planning Commission

hearing itself. I then have no possibility to ask relevant questions, get answers to them, and to then respond based on the information received. This is not best practice by any means.

She happens to be my neighbor and her cottage happens to be lying in the setback along our common property line.

Best regards,

Appendix 1 p.1

| Cathryn               |   |
|-----------------------|---|
| From:<br>Sent:<br>To: | Marnie R. Waffle <mwaffle@ci.carmel.ca.us> Saturday, May 13, 2023 7:34 AM Cathryn Re: DS 21, 276 (Mardani)</mwaffle@ci.carmel.ca.us>  |
| Subject:              | Re: DS 21-376 (Mardani)   |
| Hi Cathryn,           |   |
| 0                     | allows a licensed surveyor or civil engineer to prepare the topographic survey. epublishing.com/CA/CarmelbytheSea/#!/Carmel17/Carmel1758.html#17.58.040   |
| b. Submittal I        | Requirements. The applicant shall submit two copies of a topographic surv   |
| design plans          | for design review. The survey shall document property boundaries, topogi  |
|                       | message from Ms. Mardani that she has commissioned a survey using the same ss used, and I should have that document next week.  |
|                       | Marnie R. Waffle, AICP Principal Planner City of Carmel-by-the-Sea (831) 620-2057   |
|                       | Please take our <u>Customer Satisfaction Survey</u> .   |
| On Fri, May 12, 2023  | 3 at 3:41 PM Cathryn < wrote:   |
| Hi Marnie,            |   |
|                       | n a couple of people, the question came up: Have you (the City of Carmel) checked if Pham (I have to<br>ne) is a licensed surveyor?   |
| know that she wou     | nyself. I did check that she is a licensed architect but I didn't check the surveyor part because I didn't all have to be one based on the documents she is stamping and submitting. If she is not, then you of the surveys supposedly done and stamped by her – would that be correct? |
|                       |   |

I will let you know once I check on this, but if you have already checked, please let me know.

Appendix 1 p.2

## Cathryn

From: Marnie R. Waffle < mwaffle@ci.carmel.ca.us>

Sent: Saturday, May 13, 2023 4:26 AM
To: Cathryn

Cc: Tim Cass

Subject: DS 21-376 (Mardani)

Cathryn,

I have attached a scanned copy of the 2002 site survey prepared by Mr. Doolittle. I have noted the discrepancy in the east side yard setback between this survey and the survey prepared by Ngoc Pham. Once I have additional information on which survey is accurate, I will share it with you.

Best regards,

2002 Site Survey.pdf



Marnie R. Waffle, AICP Principal Planner City of Carmel-by-the-Sea (831) 620-2057

Please take our Customer Satisfaction Survey.

Cathryn

Appendix 1 p.3

| From:                             | Marnie R. Waffle < mwaffle@ci.carmel.ca.us>   |
|-----------------------------------|---|
| Sent:                             | Saturday, May 13, 2023 7:41 AM  |
| To:                               | Cathryn   |
| Subject:                          | Re: Pham, Ngoc  |
| I think your re<br>civil engineer | search skills are excellent. And I think you saw my other email that our code allows a to prepare a survey. Let's wait and see what is submitted next week.   |
| x                                 | Marnie R. Waffle, AICP Principal Planner City of Carmel-by-the-Sea (831) 620-2057   |
|                                   | Please take our <u>Customer Satisfaction Survey</u> .   |
|                                   |   |
| On Fri, May 12,                   | 2023 at 4:36 PM Cathryn <   |
| Hi Marnie,                        |   |
| Land Surveyor.                    | atout of when I looked her up. It says she is a licensed Civil Engineer. It does not say she is a licensed If she were, it would say so. Apparently, if she had gotten her license before 1982, she could have been cally. But she got her license in 2013 apparently so, it seems, that she is not a licensed Land Surveyor. |
|                                   | ther she has stamped what you are accepting as a official land survey (for the trees or for any of the sions) or not, it cannot be recognized as being official because she is not correctly licensed. That is what ing.  |
| What do you th                    | nink?   |
| Thanks.                           |   |
| Cathryn                           |   |
|                                   |   |

Appendix 1 p.4

Cathryn From: Marnie R. Waffle < mwaffle@ci.carmel.ca.us> Sent: Tuesday, May 16, 2023 9:46 PM To: Cathryn Subject: Re: Mardani Project I did receive your message yesterday. Was in back to back meetings all day. I only have a few meetings this morning so I can connect with you before lunch. On Tue, May 16, 2023 at 6:42 AM Cathryn wrote: Hi Marnie. I tried to call you yesterday. I am worried. Ms. Mardani does not seem to be telling the truth. She told you that she had contracted the surveyor (Frank) and that you would have a report this week. That is obviously not true. Is she planning to hire another surveyor? I am pretty sure that my fence is not on her property so if she comes up with some survey from a surveyor that is not well-known in Carmel that shows something different (and is not a qualified surveyor like Pham for example) then I will have to engage a surveyor myself I guess. What would you do if you were me? I will try to give you a call later today. Really sorry to bother you, but this is very important to me. My fence has been in the same place for the past 45 years. Mark Dolittle did not find anything wrong and nothing has changed. Most likely, Ms. Mardani's house was not build straight with her property line just as the Cass house was not. She will have to accept this and bear the consequences. But she should be required to get a licensed surveyor in order to get to the bottom of this as this matter has significant consequences. Thanks for keeping a close eye on this. Best regards,

Cathryn

\_\_

Marnie R. Waffle, AICP Principal Planner City of Carmel-By-The-Sea (831) 620-2057 direct (831) 428-3500 mobile mwaffle@cbts.us Appendix 1 p. 5

Appendix 2 p. 1

From: Azadeh Mardani < Sent: Wednesday, April 19, 2023 7:54 AM To: Cathryn Subject: Re: Hello Absolutely! No rush I can wait until to get here. When Cass changed the fence to my side I reached out to city What they had was different than what cass has I believe And city told me , you need a new survey But honestly I didn't do it since I was going through lot of thing as you know However, as I'm getting close to preparing for construction project I think this is the best time to do it. Don't worry about it, when you get here we can figure it out. Blessings, Azadeh Sent from my iPhone > On Apr 18, 2023, at 5:43 PM, Cathryn wrote: > > Hi Azadeh. > I am wondering if you can wait for a couple of weeks until early May when I am in Carmel for the gardener to trim the plants. If it is ok with you, I prefer for him to do it when I am there so that I can tell him how I want them to look (on my side of the fence). It is hard for me to describe it to him without being there. > In case you can't wait, I will ask him to trim them as soon as possible, so please let me know. > For the property lines, I have referred this question to the City and will wait for their response. I have asked them to look for a survey in my file as they must have required that when my house was built. The developer who built it is no longer alive. I may also have one somewhere in my garage. I am just not sure so I have asked them first and will then look at home when I am there. > I believe the division of the lots for the cottages is a bigger, more complex issue which involves how they were all split (officially or unofficially) when the property ceased to be used as a hotel. The records (the City and the County records) just don't seem to add up correctly for those five properties and the entire block as you may know. I am also not sure how the City would suggest checking that. I do not have any experience with this myself. > So, let's wait for them to come back. And let me see if I have a survey once I get to Carmel. I will let you know as soon as possible. > > Best regards, > Cathryn > > ----Original Message---> From: Azadeh Mardani <

|   | Hay April 10, 2022 2:27 AM   |
|---|--|
| > Sent: Wednes                          | day, April 19, 2023 3:27 AM  |
| > To: Cathryn <                         | ray, April 19, 2023 3:27 AM  |
| > Subject: Re: He                       |  |
| > 300,000. (10.110                      |  |
|   | r quick response.  |
| > 111d11K3 101 y0u                      | r quick response.  |
|   | ur Gardner is allowed to the   |
| medas up to my t                        | ur Gardner is allowed to trim my side of fence and inside of backyard. If you know his schedule I can give<br>senant ( she travels a lot and won't be in the cottage by May) her name is Laurie.   |
|   |  |
| > Regarding the                         | property line,   |
| feet However, cit                       | when cass family did a new survey and then changed our joint fence by taking 2 feet from my property. the city at that time and they had a old survey report which says: only slightly different not the whole 2 y mentioned we are going with the new survey Cass, without giving me notice they took the old fence |
| done and put the                        | new one. ( one morning my tenant called me , what is going on ? Your neighbor took the fence y the whole conflict with them started at that time .   |
|   | es told ma you might would be a silver   |
| > other side sing                       | ss told me you might need to change the fence on the<br>se my lot size is 25X100   |
| >                                       | ie my lot size is 25X100   |
|   | t my architect also notice to the description  |
| back from your fe                       | t, my architect also noticed my lot size at this moment is 24X100 Basically instead of having 3 feet set<br>ence, I have 2 feet set back I've been advised to have a survey done to determine the exact property   |
| > Honestly is not                       | on my intention to argue over one feet, but unfortunately my lot is very narrow and would be really  |
| difficult to pass th                    | arough 2 feet hallway even for the gardener to work there.   |
| > On the other ha                       | nd it would be very helpful to determine our property line for the future reference.   |
| >                                       | property line for the future reference.  |
| > Please let me kr                      | now what are you suggesting?   |
| >                                       |  |
| > Thanks                                |  |
| > Azadeh                                |  |
| >                                       |  |
| >                                       |  |
| > Sent from my iP                       | none   |
| >                                       |  |
| >> On Apr 18, 202                       | 3, at 3:08 AM, Cathryn • wrote:  |
| >>                                      | Wiote.   |
| >> Hi Azadeh,                           |  |
| >>                                      |  |
| >> Thanks for your                      | email.   |
| >>                                      |  |
| >> For the plants, j >> Sorry that they | ust let me know what you would like him to do.<br>are growing into your property.  |
| >> Do you want his                      | m to cut them straight in line with my fence so that they do   |
| >> not hang over a                      | t all? And would you mind if he comes on to your property  |
| >> to do the trimm                      | ing?   |
| >>                                      |  |
| >> I will ask him to                    | do it next time he comes to my house, so just let  |
|   | and the man seemed to my mouse, so just let  |

>> me know the answers.

>> For the property line, could you let me know what is the >> issue/confusion? I will start checking into it. This is the first

>> time I have heard about it so please give me some more detail. My

Append: x 2 p.3

>> fence has been in the exact same place since 1978 or 1979 when my >> parents bought the house and as far as I remember it goes all the way >> around my property - I am not sure if I can check the history of that, but I can try once you give me the background. >> Maybe the City has the information in my file. Again, I am not sure >> as I have never looked into it so please let me know what it is about. >> >> I will be coming to Carmel in early May so very soon. >> >> Best regards, >> >> Cathryn >> ----Original Message----->> From: Azadeh Mardani < >> Sent: Tuesday, April 18, 2023 10:41 AM >> To: Cathryn Neighbor/carmel < >> Subject: Hello >> >> Hi Cathryn, 55 >> Hope all is well. I told my gardener to not trim your fern which >> grows on my side. >> I do have a very small space and it does block our way. >> Could you please ask your gardener to trim it. >> >> I know you will be in town next month, there is a confusion with the >> property line as well. >> Have you had a survey done for your property? >>

>> Thanks >> Azadeh

>> >>





# AZADEH MARDANI RESIDENCE APN: 010-033-011-000

SINGLE-FAMILY HOME REMODEL/ADDITION

4 NE GUADALUPE CARMEL, CA 93923 OWNER: AZADEH MARDANI Phone:

INDEX OF DRAWINGS:

G.0 PROJECT DATA, PARCEL MAP SITE
G.1 SITE PLAN
G.2 PRELMINARY SITE ASSESSMENT F PROJECT DATA, PARCEL MAP SITE PHO

EXIST AND PROPOSED FLOOR PLAN
EXIST AND PROPOSED ROOF PLAN
EXIST AND PROPOSED ELEVATIONS

Constitution of the second section of the se Item No. 6 - Easyment for Wires, cables
IIII in 12/03/1974 Reel 9/17 Pg 325 of Officiel Records
Affects said portion as described in the document 6 Ocean Avenue AVENUE (EI) 01 †9 SO 61 20 2) 8 61 9) 2 STREET

BUILDING CODE

BUILDING DATA CONSTRUCTION CLASSIFICATION: V-B

AZADEH MARDANI 408-926-9046 AZADEHMARDANIT@YAHOO.I

ARCHITECT

ADD 333 FRONT AND BACK ADDITION AND 239 SQFT ATTACHED GARAGE

SCOPE OF WORK

T NOT LIMITED TO THE FOLLOW!

EXIST BUILDING HEIGHT: 18"-0" (SINGLE STOR

NES CONSULTANTS
1659 BRANHAM LN
SUITE F PMB 109
SAN JOSE, CA 95118
(510) 962-2008

2019 CAL FORMA BULDING CODE 2019 CAL FORMA RESIDENTIAL CODE 2019 CAL FORMA MECHANICAL CODE 2019 CAL FORMA MECHANICAL CODE 2019 CAL FORMA PLUMBING CODE

STRUCTURAL ENGINE

NES CONSULTANTS, IN 1659 BRANHAM LN SUITE F. PMB 109 SAN JOSE, CA 95118 (510) 957-2008 rftpham-structural@gmail.ec

CIVIL ENGINEER

SPECIAL SYSTEMS

PROJECT SITE

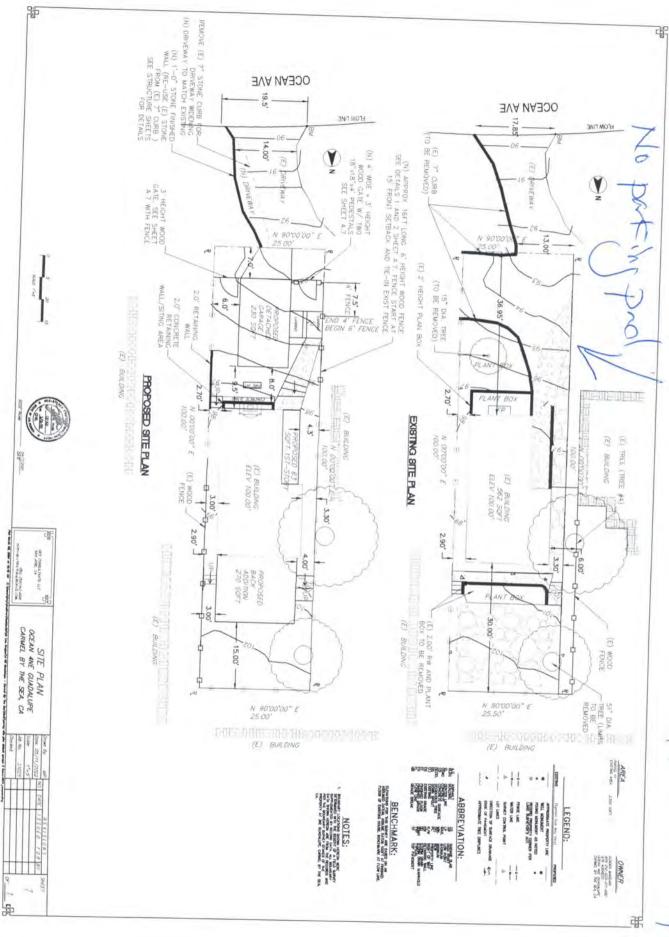
SONING CONSTRUCTION TYPE: CODES

COVER SHEET

PROJECT LOCATION

**多 円面線** 

G.0

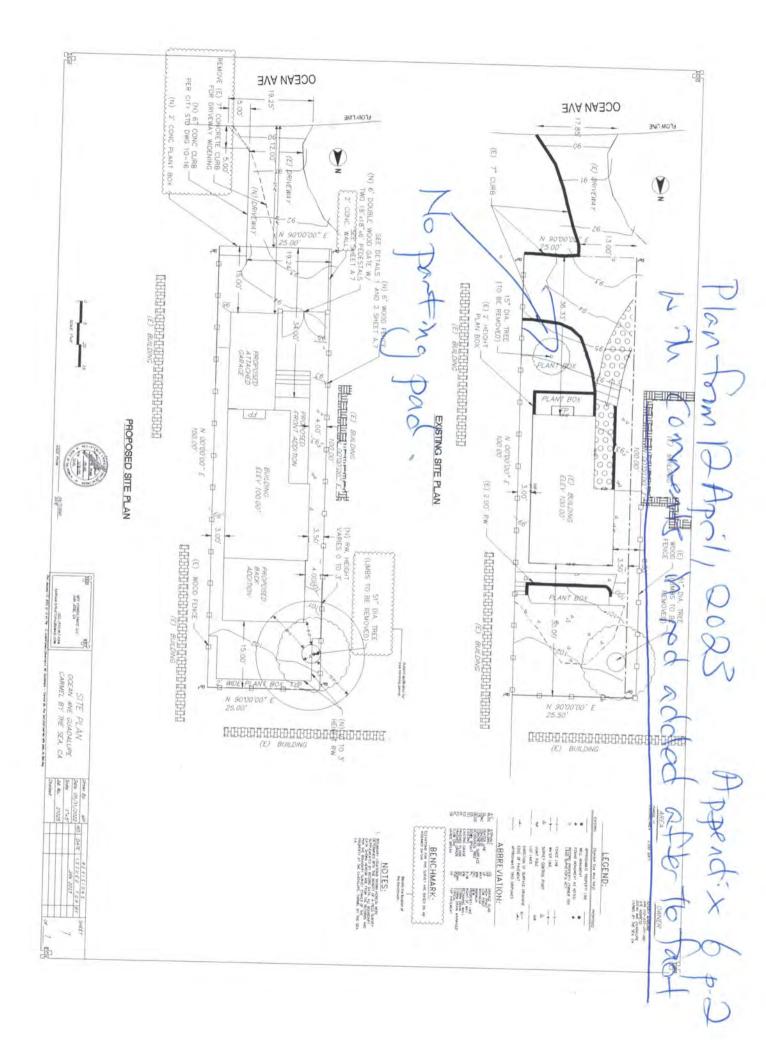


Plan Appaved 11 June 2024

Appendix 5

2

AZADEH MARDANI RESIDENCE 4 NE GUADALUPE CARMEL, CA 93923 N SINGLE-FAMILY HOME REMODEL/ADDITION PROJECT LOCATION APN: 010-033-011-000 OWNER: AZADEH MARDANI Phone: - Eff. Suppose 報報に 中 PROJECT SITE mailte e dans anders om mailte brown. He bord, stat byer fil at even ed brognad in for avair sag eithe, "bowe by brown of the best of the same of the Scale I inch = 36.66 fear 6 AVENUE 01 20 BUILDING CODE INDEX OF DRAWINGS G.1 SITE PLAY SCOPE OF WORK 363 SQFT FRONT AND BACK ADDITION AND 200 SQFT ATTACHED GARAGE. 79 61 20 PRELIMINARY SITE ASSESSMENT Σ 61 9 STREET WARRED OF STORMAN OF EXISTING PRINCIPLES AND THE ARMOR MADE OF EXISTING PRINCIPLES AND SOUTH OF EXI AREA ADDITION
FIRST FLOOR
ATTACHED GARAGE OCCUPANCY CLASSIFICATION: R-3/U CONSTRUCTION CLASSIFICATION: V-8 FIRE SPRINKLERS: N BUILDING DATA: -B) SITE COVERAGE Total Existing Floor Area: 782 SQFT Total Proposed Floor Area 1,125 SQFT 16" for a single story 24" for a two story 363 SQFT 200 SQFT ZONING: STRUCTURAL ENGINEER
NES CONSULTANTS, N.C.
1859 BRANHAM IN
SUITE: Publ 109
SAN JOSE CA. 95118
1510 PAZ-2006
PPPBlant structura #@gmal.com JONSTRUCTION TYPE COOKS: SPECIAL SYSTEMS ARCHITECT
NES CONSULTANTS
1659 BRANHAM IN
SUITE F PAR 109
SAN JOSE CA 84116
(510) 982-2008
Pigham-seveneral@gms.to CIVIL ENGINEER AZADEH MARDANI 408-826-9046 AZADEHMARDANII@YAHOO.GON COVER SHEET G.0 2019 IBC



Email announcing 2th April Appendix 6 p3

From: Sent: Marnie R. Waffle < mwaffle@ci.carmel.ea.us Wednesday, March 29, 2023 8:35 AM

To:

Marnie R. Waffle

Subject: Attachments: Fwd: DS 21-376 (Mardani) - Revised Project Plans 4NE GUADALUPE Planning Drawing Set Jan 2023.pdf

All.

The subject project has been scheduled for concept review by the Planning Commission on **Wednesday**, **April 12th**, **at 4:00 pm**. The meeting will be held in the Council Chambers at City Hall. You can attend in person or via Zoom.

A Tour of Inspection (i.e., site visit) will occur on the day of the meeting between **2 pm and 4 pm**. If you would like the Planning Commission to visit your property to view the project from your perspective, please let me know before April 12th.

The plans submitted on January 17, 2023, will be what the Planning Commission is considering (attached). The meeting agenda and staff report will be published between April 5th and April 7th. I will email you all a link to the agenda and staff report when available.

If you have public comments you would like me to include as an attachment to the staff report, please <a href="mailto:emailth: emailto:emailth: emailto:emailth: emailth: emai

Best regards,



Marnie R. Waffle, AICP Principal Planner City of Carmel-by-the-Sea (831) 620-2057

Please take our Customer Satisfaction Survey.

----- Forwarded message -----

From: Marnie R. Waffle < mwaffle@ci.carmel.ca.us>

Date: Mon, Jan 23, 2023 at 9:03 AM

Subject: Re: DS 21-376 (Mardani) - Revised Project Plans

To: Marnie R. Waffle < mwaffle@ci.carmel.ca.us >

Hello,

You are receiving this email because you have expressed interest in the subject project. The attached plans were submitted to the City on 1/17/23. The plans have not yet been reviewed by staff, and a

Appendix 6 p.4

hearing date <u>has not</u> 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,



Marnie R. Waffle, AICP Principal Planner City of Carmel-by-the-Sea (831) 620-2057

Please take our Customer Satisfaction Survey.

On Fri, Dec 16, 2022 at 3:00 PM Marnie R. Waffle < <a href="mwaffle@ci.carmel.ca.us">mwaffle@ci.carmel.ca.us</a> wrote: Good afternoon,

The applicant has asked the City not to review the attached plans. The MPWMD (water district) confirmed there are not sufficient water credits for the project as proposed. The applicant is working on a redesign and will submit revised plans at a later date.

Best regards,



Marnie R. Waffle, AICP Principal Planner City of Carmel-by-the-Sea (831) 620-2057

Please take our Customer Satisfaction Survey.

----- Forwarded message -----

From: Marnie R. Waffle < mwaffle@ci.carmel.ca.us >

Date: Thu, Dec 15, 2022 at 12:36 PM

Subject: DS 21-376 (Mardani) - Revised Project Plans To: Marnie R. Waffle < <u>mwaffle@ci.carmel.ca.us</u>>

Hello,

You are receiving this email because you have expressed interest in the subject project. The attached plans were submitted to the City on 12/8/22. The plans have not yet been 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 reach out via email to inform you.

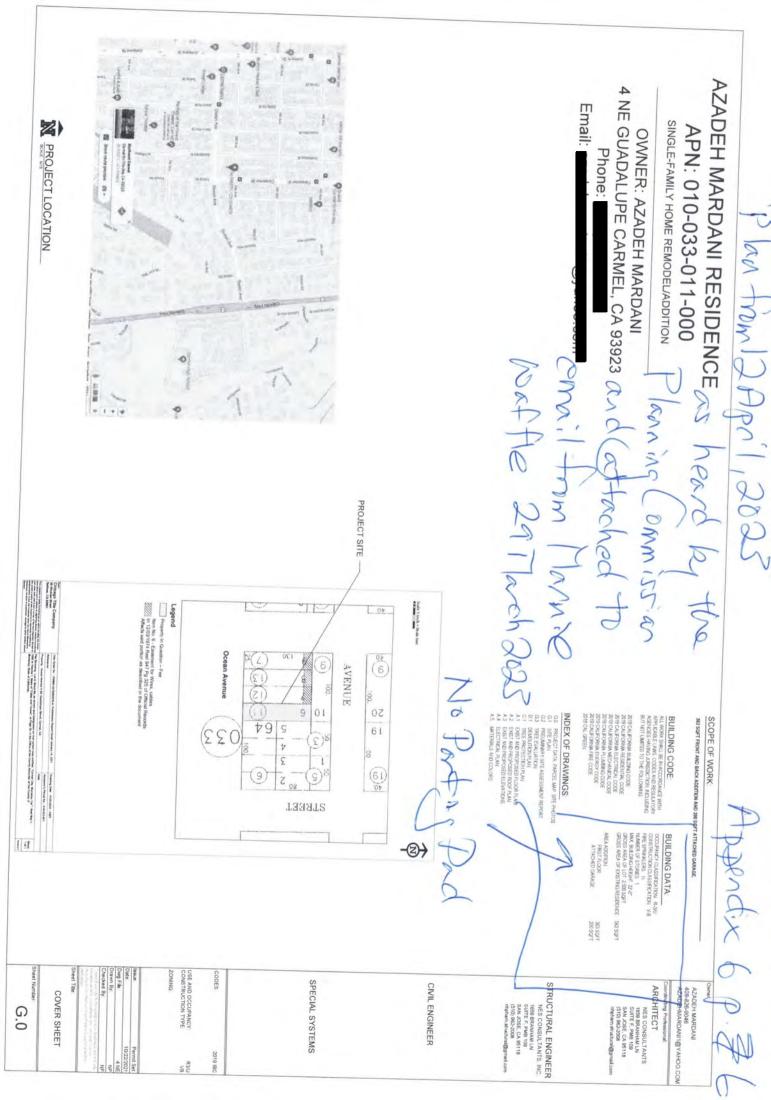
Best regards.

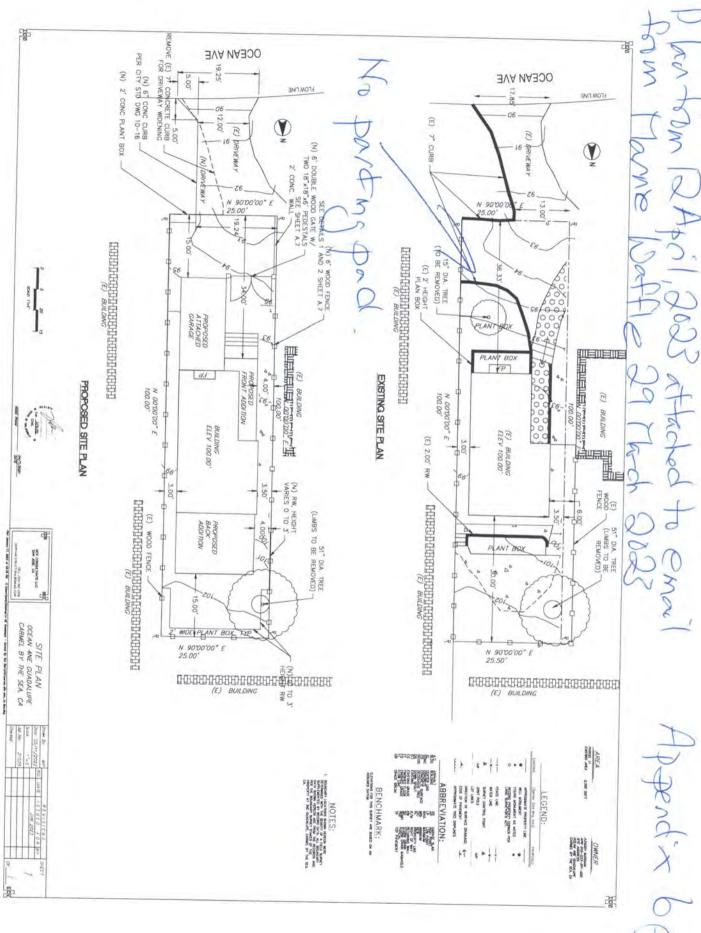


Marnie R. Waffle, AICP Principal Planner City of Carmel-by-the-Sea (831) 620-2057

Please take our <u>Customer Satisfaction Survey</u>.

Appendix 6 p. 5





# Cathryn

Appendix 7

From: Azadeh Mardani <

Sent: Friday, November 10, 2023 1:42 PM

To: Cathryn Neighbor/carmel Subject: Please let me explain

Attachments: image0.jpeg; image1.jpeg; image2.png; Untitled attachment 00348.txt

## Hi Cathryn,

Hope all is well. I reached out to you to explain about the negative vibes that is going around with us regarding my project. Please allow me to express my real feelings about this situation.

My children's father lives in pebble beach. At the time of divorce I could only afford to buy this house. Before closing the deal I asked seller to give me two weeks to get the historical evaluation on this property. Seller did not have any reports and when I called city Marnie answered the phone. She checked the lot history and told me I can have maximum 1125sf. However I need a historical evaluation.

The agent said , she thinks it's easy to get a second story permit since there are 4 other second story houses on the block. My intention was clear from day one.

I got my bachelor in chemistry, then got my dentistry degree from Pécs university of Hungary. I got my registered dental hygiene in alternative practice from UOP, San Francisco in 2007, It's been over 16 years that I work as a RDHAP in Palo Alto, Mountain View and San Jose.

You can find me on Instagram as "azii.coco"

I'd like you to know me more, since I'm not going to sell my house and will be your neighbor perhaps for many years. I am going to tell you more about my personal life when we get to know each other more if we get a chance. Just know that, I'm a nice person and I love you with my whole heart. In my heart there is no reason to feel other than that, even though you don't let me built my house still no hard feelings. Just want to make sure that you know that. It does matter to me!

When I met Rebecca Cass, she told me they are remodeling the house to sell. She said, they already renovated several houses in carmel and if I need help or contractor, she can help me with that. I am pretty positive that was their plan and they did a great job on that and sold it with 50% higher than they bought.

Today, the new owner of middle cottage called me and wants to meet me since she loves the idea of having a nice renovated driveway. Some people may have a different perspective view and some others have same opinion!

The single story plan with rear bedroom, will cost a lot for foundation and roofing. In the other hand, I can't have a windows and I should reduce the celling( they even suggest flat ceiling). Also, I'm losing the whole backyard.

I want to kindly ask you, to think more about this situation. How about I reduce the size of balcony in half, higher balcony wall? Do you think that may work for you? And still proceed with current plan?

Here are my kids pictures, and this is my Instagram account if you like to get some idea about us.

Have a blessed day Azadeh

## Cathryn

Appendix 8 p. 1

From: Timothy Cass <

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 Mandurrago < john@mandurrago.com>

Subject: RE: DS 21-376 (Mardani) - Revised Project Plans 5/24/2023

Date: May 31, 2023 at 4:35:09 PM PDT

To: "

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

From: Marnie R. Waffle < mwaffle@ci.carmel.ca.us>

Sent: Wednesday, May 31, 2023 2:50 PM

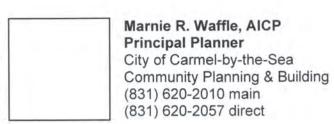
To: Marnie R. Waffle < mwaffle@ci.carmel.ca.us>

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 <u>has not</u> 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.

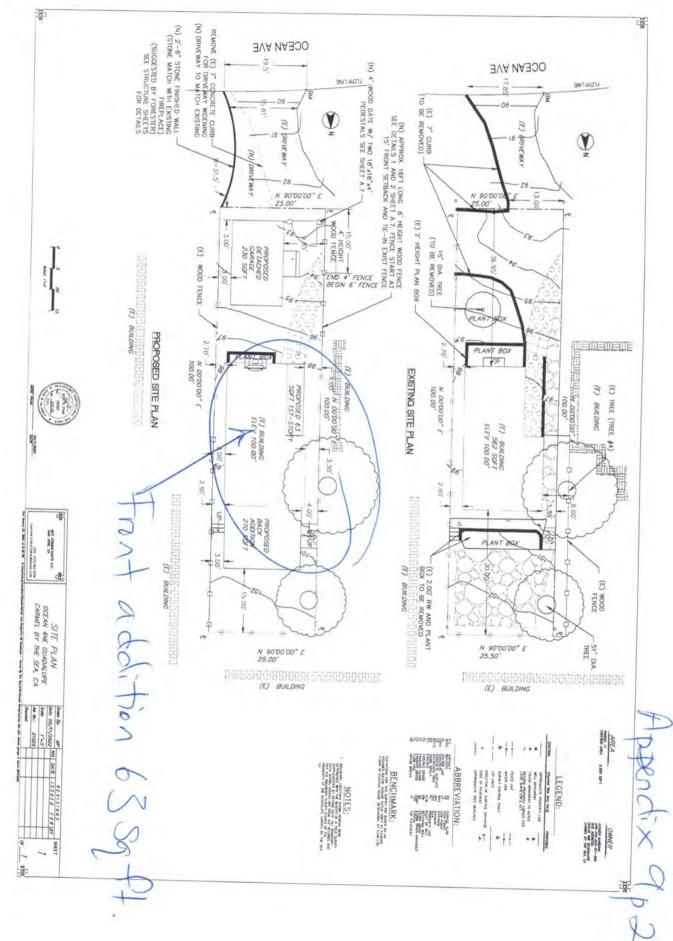
Best regards,

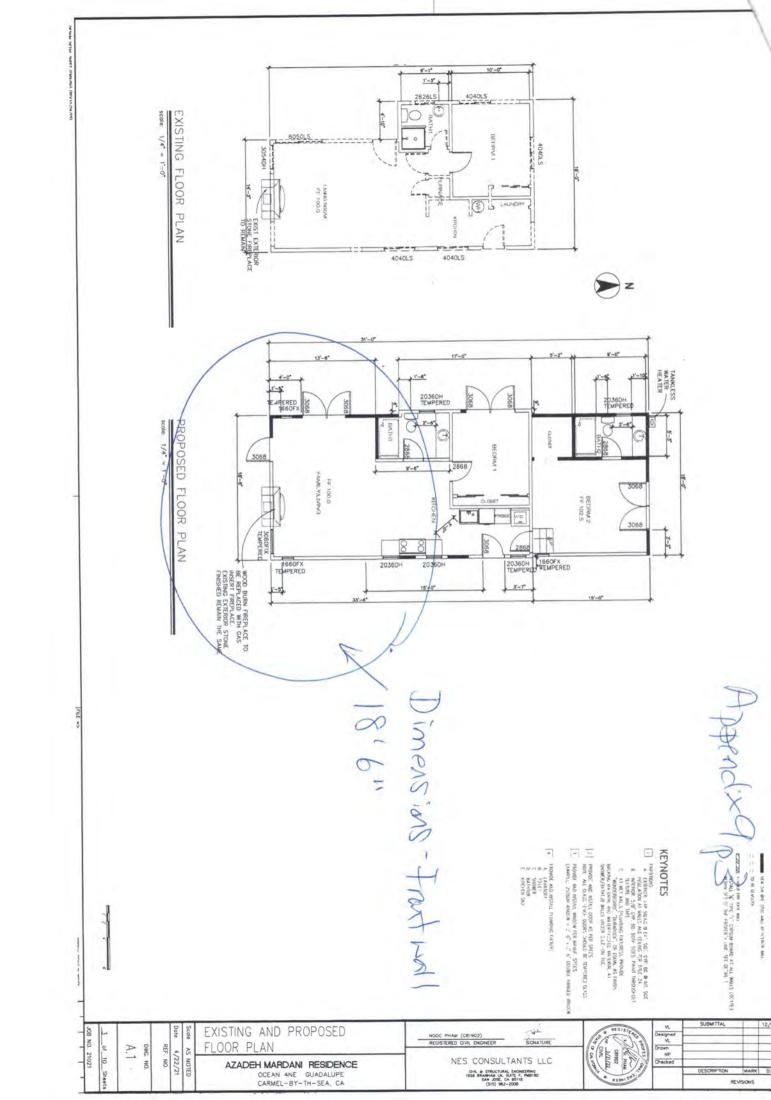


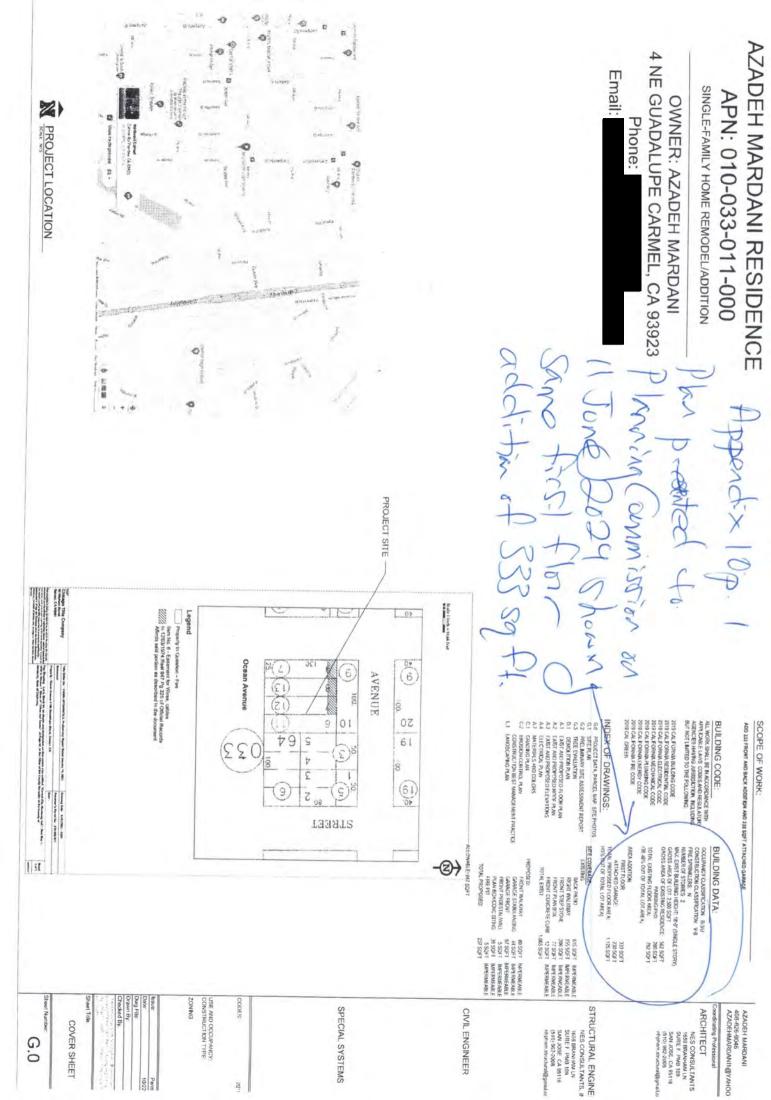
Appendix 8p.2

ALAUEH MARDANI RESIDENCE 4 NE GUADALUPE CARMEL, CA 93923 SINGLE-FAMILY HOME REMODEL/ADDITION APN: 010-033-011-000 OWNER: AZADEH MARDANI PROJECT LOCATION Phone: DAMISSIGN ON BE PROJECT SITE ther addition o way eram matriamatang Pan Basand, 144, Basis 4, sa dawar and anapparad ao dad matria nagaminad, Camad Chy, Monteny, Cari Anad Say, of the expressed despite 1 file 1 Polence, New of Chine and Tomes" on Pape 10; in the Office of the County Garman of the County of San and Camado and Camad 0t (6) 6 AVENUE 9 20 01 79 61 20 GO PROJECTI ANT WREEL MAY SIE PHO)
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NES CONSULTANTS, INC.
1639 BRANNAM IN
SUITE F. PMB 109
SAM JOSE CA 65118
(510) pac-2008
Phipham structural@gmail.com SPECIAL SYSTEMS ARCHITECT
NES CONSULTANTS
1659 BRANAMIN
SUITE F. PURI 109
5710 BZ-2009
5710 BZ-2009
6710 BZ-2009
6710 BZ-2009 CIVIL ENGINEER AZADEH MARDANI 408-828-9046 AZADEHMARDANI1@YAHOO.C COVER SHEET G.0







肾 唱 REMOVE (E) 7" STONE CURB FOR (N) DRIVEWAY WIDENING (N) DRIVEWAY TO MATCH EXISTING (M) 1"-0" STONE FRUSHED— WALL (RE-USE (E) STONE FROM (E) 7" CURB ) SEE STRUCTURE SHEETS FOR DETAILS OCEAN AVE OCEAN AVE 19.5 PLOW LINE FLOW LINE (E) 7" CURB (TO BE REMOVED) 14.00 (N) 4' MDE " 3' HEIGHT WOOD GATE W/ TWO 18"×18"×4' PEDESTALS (II) APPROX 16FT LONG 6' HEIGHT WOOD FENCE SEE DETAILS 1 AND 2 SHEET A.7, FENCE STAPT AT 15' FRONT SETBACK AND TE-IN EXIST FENCE (3) (1) PRIVEWA) GATE SEE SHEET A 7 WITH FENCE SEE SHEET A. 13.00 (E) 2" HEIGHT PLAN BOX (TO BE REMOVED) 4. FENCE + FENCE 2.0' CONCRETE RETAINING -WALL/SITING AREA 6.0 (E) BUILDING PROPOSED SITE PLAN 2.70 2.70' EXISTING SITE PLAN 4.3 BUILDING SQFT IST-ST (E) TREE (TREE (E) BUILDING 100 00' OO' OO' 100.00 (E) BUILDING 562 SOFT ELEV 100.00 as previous plan a 3.30 2.90 2.90 3.30 WAY CONCREMENTS TO 3.00 (E) BUILDING IE! BUILDING BOX TO BE REMOVED SITE PLAN OCEAN ANE GUADALUPE CARMEL BY THE SEA, CA (E) WOOD FENCE 15.00 TREE (LIMBS TO BE REMOVED N 900000" E 25.00 N 90'00'00" E 25,50' MI THE STREET HE SEE HE (E) BUILDING (E) BUILDING ROSEMPT LOCARDAS BOOM HORSE HER STANDING TO THE STANDING TO THE STANDING THE STANDI NAMOGRATIE DES CRAFTICS
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