



# CITY OF CARMEL-BY-THE-SEA

## **APP 24188 (Mardani)** **Appeal of the Planning Commission approval of** **Design Study & Coastal Development Permit**

City Council Meeting

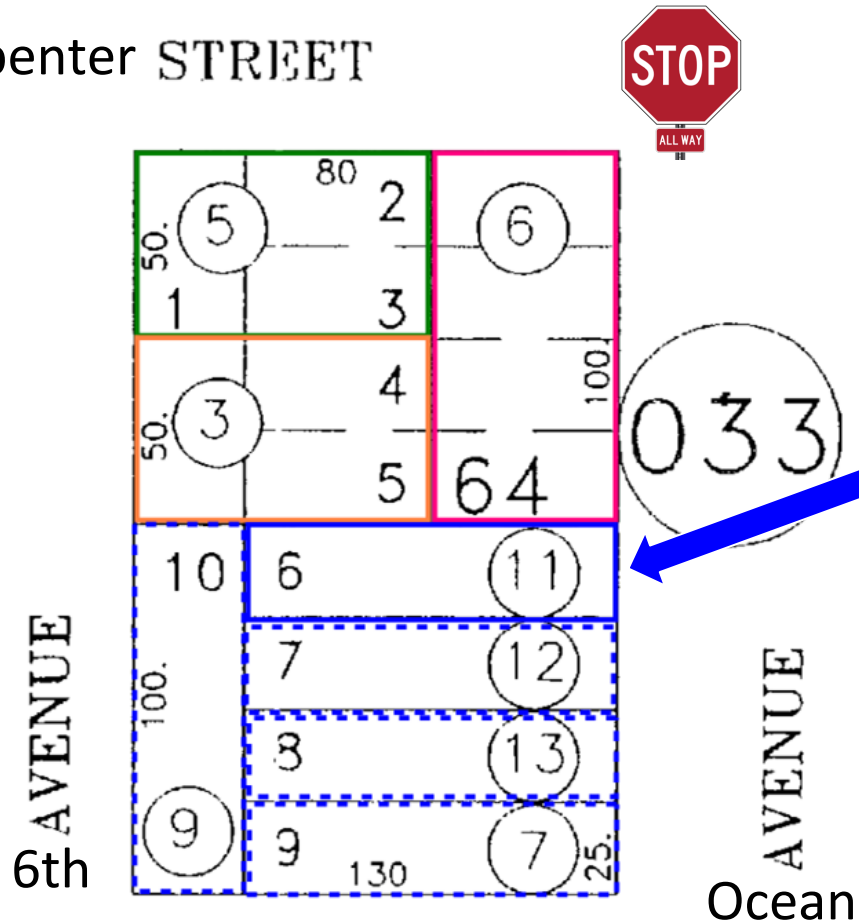
September 10, 2024



# APP 24188 (Mardani)

- North side of Ocean Avenue, 4 east of Guadalupe Street (or 2 west of Carpenter)
- 2,500-square-foot lot (Lot 6)
- 562-square-foot single-story cottage
- Year Built: 1946
- One of five similar cottages built at the same time (Lots 6-10 in blue)
- Proposed additions, detached garage

Carpenter STREET





# APP 24188 (Mardani)

- June 11, 2024 Planning Commission approved Design Study and associated Coastal Development Permit
- June 24, 2024 appeal is filed
- Five appeal contentions
  - Topographical survey
  - Lot size
  - Legal building site
  - Demolition
  - Environmental review
- All five appeal issues were raised and responded to during the Planning Commission's review of the project



# APP 24188 (Mardani)

## **Appeal Issue No 1.**

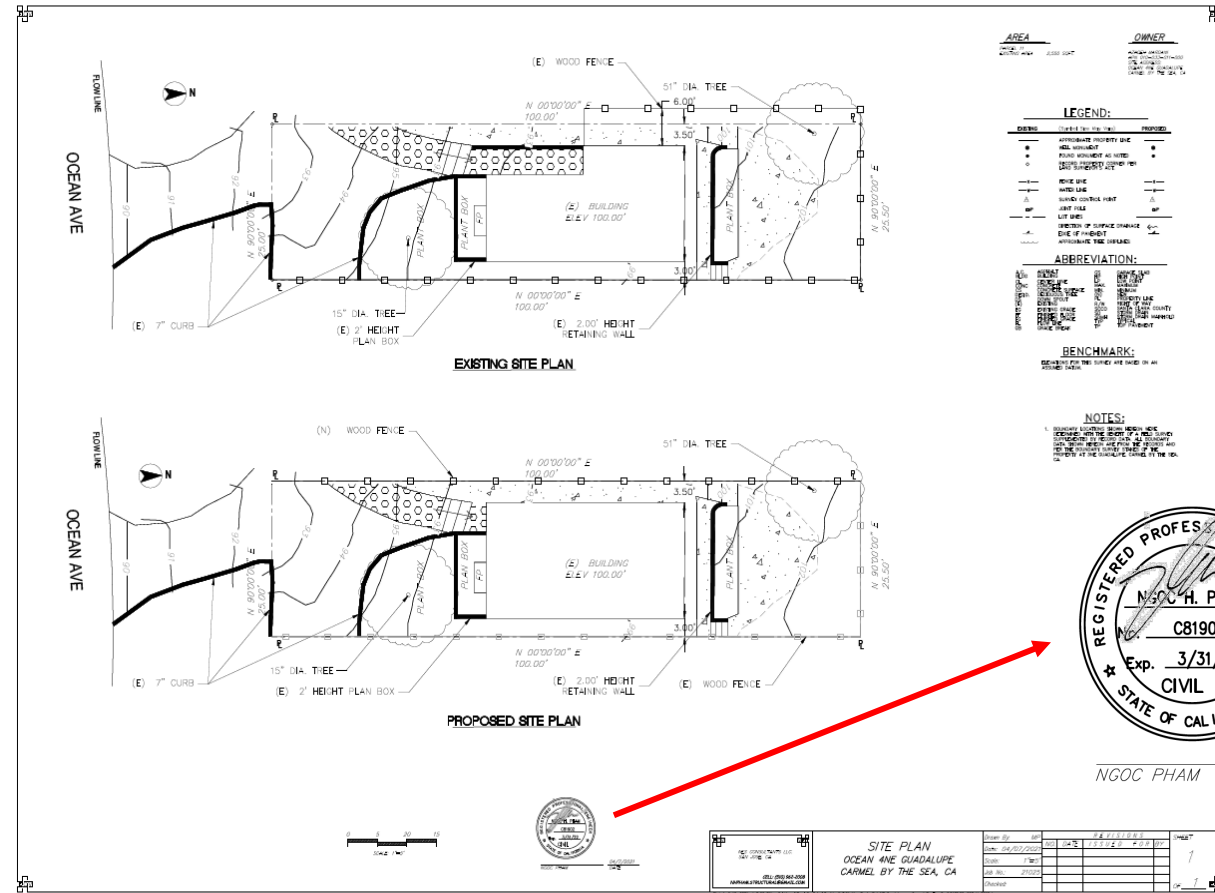
There has been no recent, independent, professional topographical/land survey done on this property and the City failed to request one even though this is required as per CMC.



# APP 24188 (Mardani)

City staff required a topographic survey be submitted in 2021 with the preliminary site assessment application.

The survey was prepared by a licensed engineer consistent with the Carmel Municipal Code.

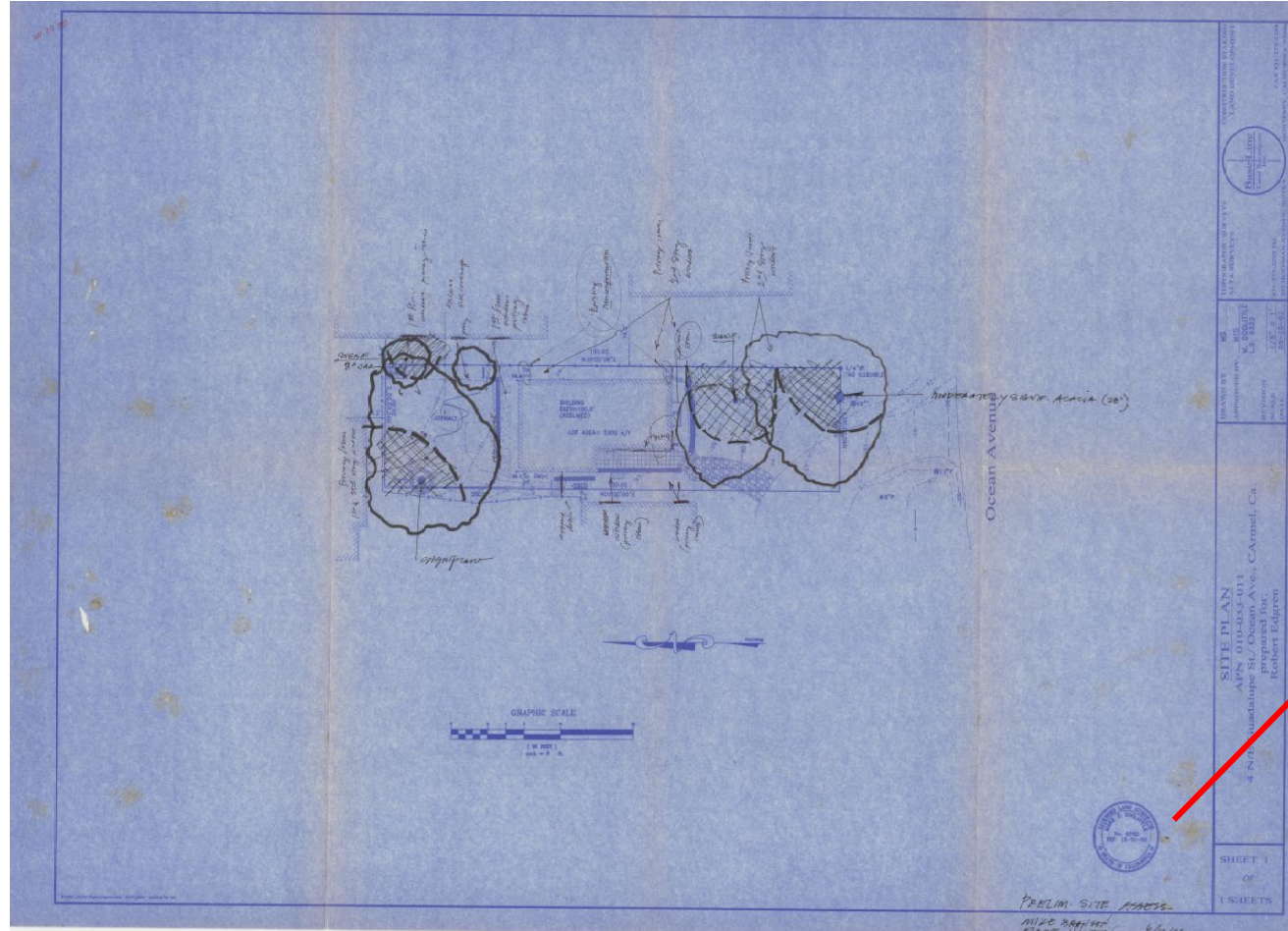






# APP 24188 (Mardani)

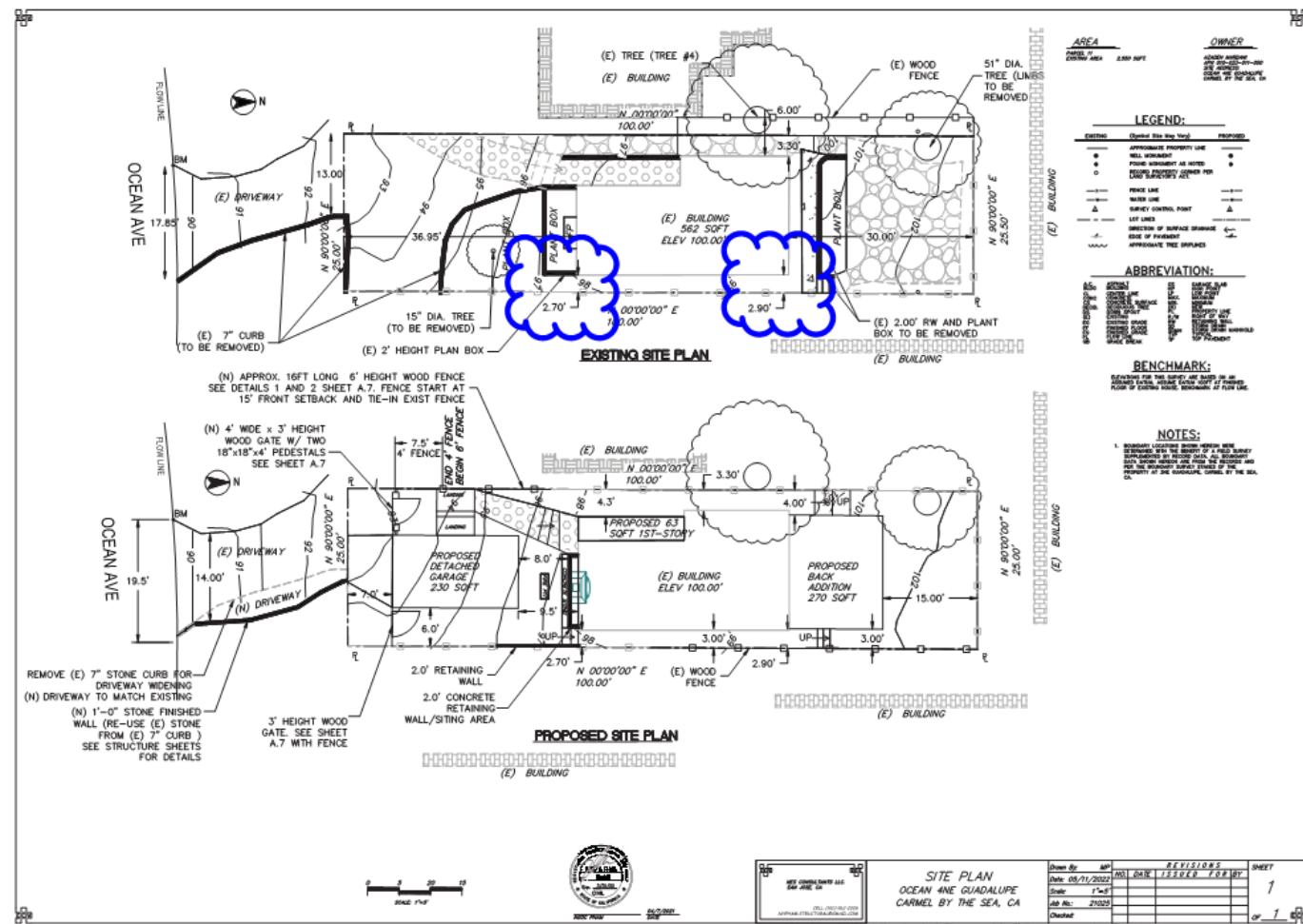
Appellant previously challenged the validity of the 2021 survey based on a 2002 survey (Doolittle) in the property file which showed different setbacks.





# APP 24188 (Mardani)

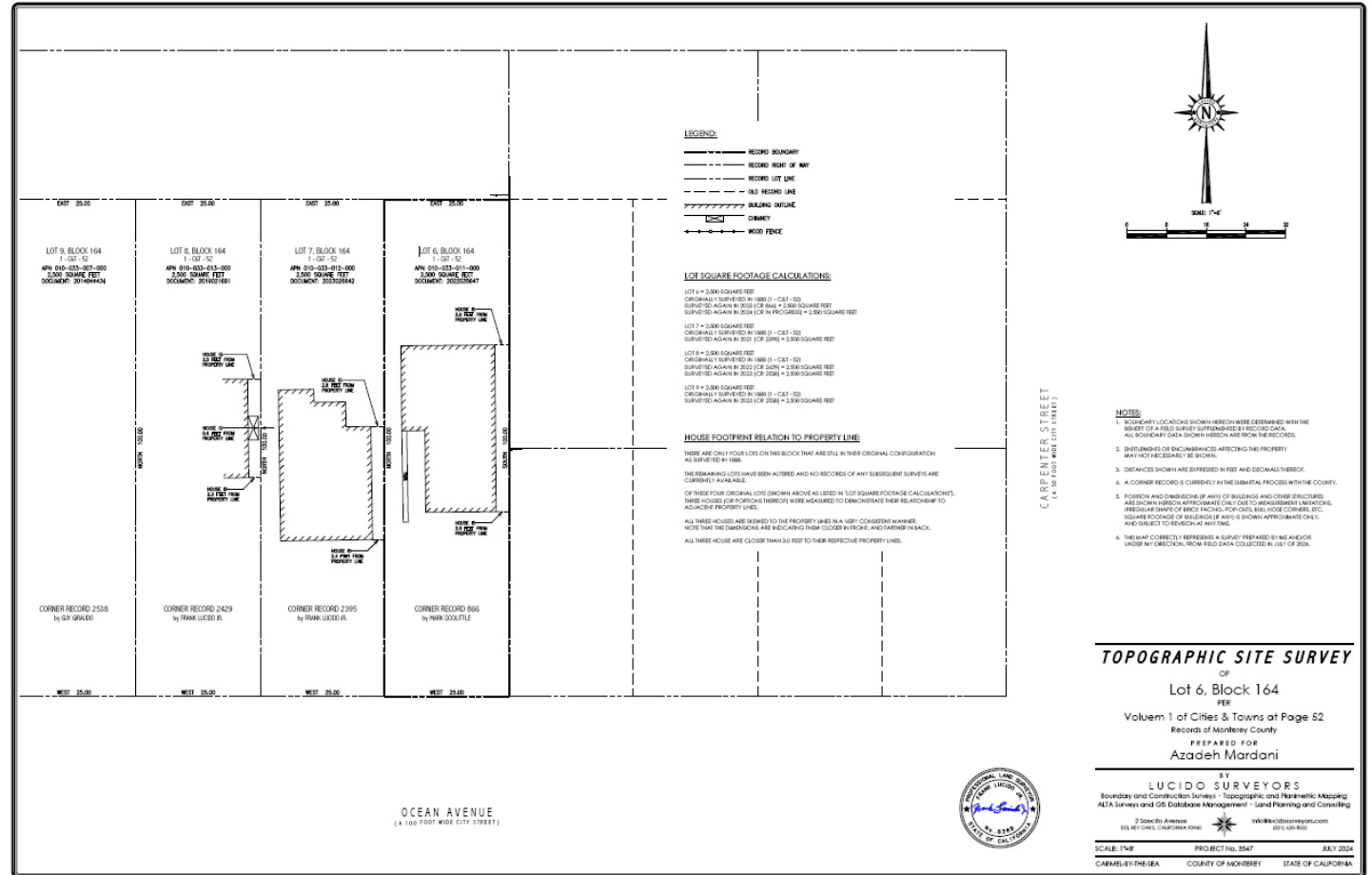
The applicant's licensed engineer revised their survey to be consistent with the 2002 survey.





# APP 24188 (Mardani)

To further address the appellants ongoing concern the applicant voluntarily hired a licensed surveyor (Lucido) who confirmed the accuracy of the 2002 survey.







# APP 24188 (Mardani)

## Appeal Issue No 2.

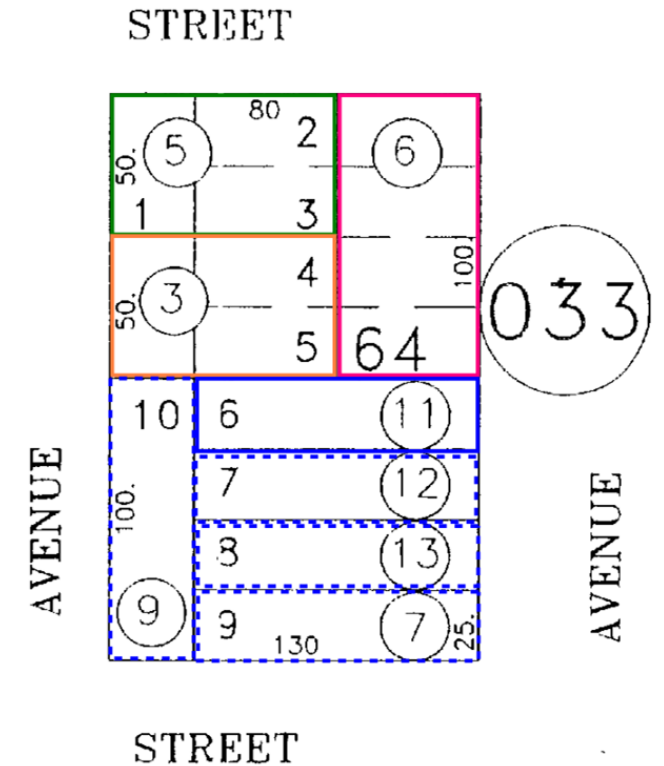
The lot may be less than 2,500 square feet and therefore does not qualify as a legal building site.



# APP 24188 (Mardani)

## Appeal Issue No 3.

Not only is the property likely to be less than 2,500 square feet, 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 2,500 square feet).





# APP 24188 (Mardani)

## CMC 17.10.020.A

**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



# APP 24188 (Mardani)

**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.



# APP 24188 (Mardani)

- Same issue raised in 1970.
- City Attorney William B. Burleigh deemed it a legal building site.
- Reviewed by current City Attorney Brian A. Pierik who also concluded it is a legal building site.

All five cottages were independently developed with single family residences in 1946. All of those residences remain today. Two of the five were approved for additions and alterations further supporting the determination of five legal building sites.





# APP 24188 (Mardani)

## **Appeal Issue No 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.



# APP 24188 (Mardani)

The east wall of the cottage is located 2.7-2.9 feet from the side lot line. Three feet is required.

This nonconforming wall is proposed to be maintained.

Retention of nonconformities is permitted so long as the nonconformity is not expanded.

All new construction will meet all current code requirements including setbacks.

The Carmel Municipal Code does not require that the applicant demolish the entirety of her cottage.

The Planning Commission concurs.



# APP 24188 (Mardani)

## **Appeal Issue No 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.



# APP 24188 (Mardani)

Class 1 exemptions include, the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

The types of existing facilities itemized in CEQA are not intended to be all inclusive of the types of projects which might fall within Class 1. **The key consideration is whether the project involves negligible or no expansion of use.**

The existing use is one single-family residence.

The proposed use is one single-family residence.



# APP 24188 (Mardani)

Appellant challenges the use of subsection (e)(1):

...additions that **do not result in an increase of more than 50 percent of the floor area of the structures before the addition**, or 2,500 square feet whichever is less.

- The existing residence is 562 square feet.
- An additional 200 square feet is reserved for parking.

**Staff erred by including the parking square footage in the total calculation.**

- 50 percent of 562 SF is 281 SF.
- Project additions are 333 SF.
- The increase in floor area is greater than 50 percent.





# APP 24188 (Mardani)

Staff does not take issue with utilizing subsection (e)(2) instead:

...additions that **do not result in an increase of more than 10,000 square feet** if public services and facilities are available and the area is not environmentally sensitive.

- Proposed additions are less than 10,000 square feet.
- Project is served by public services and facilities.
- Project area is not environmentally sensitive.



# APP 24188 (Mardani)

Staff also notes the project is exempt under Class 3, New Construction or Conversion of Small Structures, subsection (a):

- one single-family residence in a residential zone, or
- up to three single-family residences in an urban area.



# APP 24188 (Mardani)

## Recommendation

Adopt Resolution 2024-080 (Attachment 1) **denying Appeal APP 24188 (Mardani) and upholding the Planning Commission's approval** of Design Study DS 21376 (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.