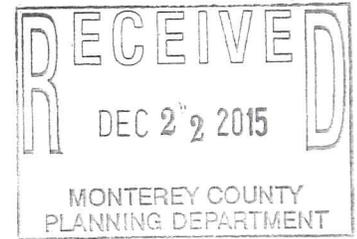


Attachment E

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SPIERING, SWARTZ & KENNEDY

Attorneys at Law
550 Hartnell
Monterey, CA 93940-2890



December 22, 2015

Hand Delivered

Monterey County Board of Supervisors
Salinas California

Re Appeal of Administrative Permit PLN 150582 Sims Six Foot Fence

Attention Clerk of Board of Supervisors

Enclosed please find the original of our client Timothy and Kathleen Rheins Notice of Appeal in connection with Administrative Permit PLN 150582 Please direct all further communications to me Thank you

Sincerely,

A handwritten signature in cursive script that reads "Andrew Swartz".

Andrew Swartz

Enclosure As Stated

cc. Mike Novo
John Ford
Dan Lister
Dave Potter

AHS/as



NOTICE OF APPEAL

*Monterey County Code
Title 19 (Subdivisions)
Title 20 (Zoning)
Title 21 (Zoning)*

*No appeal will be accepted until a written decision is given. If you wish to file an appeal, you must do so on or before * (10 days after written notice of the decision has been mailed to the applicant).
Date of decision * .*

1. Please give the following information:

- a) Your name Timothy and Kathleen Rhein
- b) Address 26387 Isabella Avenue City Carmel Zip 93923
- c) Phone Number 831-626-3232 AND COUNSEL: Andrew H. Swartz
SPIERING, SWARTZ &
KENNEDY

2. Indicate your interest in the decision by checking the appropriate box:

Applicant

Neighbor

Other (please state) _____

550 Hartnell St.
Monterey, CA 93940
831-373-3235

3. If you are not the applicant, please give the applicant's name:

Sims, c/o Anthony Lombardo & Assoc.

4. Indicate the file number of the application that is the subject of the appeal and the decision making body.

5.

File Number	Type of Application	Area
-------------	---------------------	------

a) Planning Commission: _____

b) Zoning Administrator: _____

c) Subdivision Committee: _____

d) Administrative Permit: PLN 150582 Coastal Design Carmel

The decision was issued over the counter. A copy of the approved application is attached.

5. What is the nature of your appeal?

a) Are you appealing the approval or the denial of an application? (Check appropriate box)

b) If you are appealing one or more conditions of approval, list the condition number and state the condition(s) you are appealing. (Attach extra sheets if necessary).

6. Check the appropriate box(es) to indicate which of the following reasons form the basis for your appeal:

There was a lack of fair or impartial hearing; or

The findings or decision or conditions are not supported by the evidence; or

The decision was contrary to law.

You must next give a brief and specific statement in support of each of the bases for appeal that you have checked above. The Board of Supervisors will not accept an application for appeal that is stated in generalities, legal or otherwise. If you are appealing specific conditions, you must list the number of each condition and the basis for your appeal. (Attach extra sheets if necessary).

See attached.

7. As part of the application approval or denial process, findings were made by the decision making body (Planning Commission, Zoning Administrator, Subdivision Committee or Director of Planning and Building Inspection). In order to file a valid appeal, you must give specific reasons why you disagree with the findings made. (Attach extra sheets if necessary).

See attached.

8. You are required to submit stamped addressed envelopes for use in notifying interested persons that a public hearing has been set for the appeal. The Resource Management Agency - Planning Department will provide you with a mailing list.

9. Your appeal is accepted when the Clerk to the Board's Office accepts the appeal as complete on its face, receives the filing fee \$ 70 and stamped addressed envelopes. See attached

APPELLANT SIGNATURE Matthew Rhein Kathleen Rhein DATE 12/22/15 e-mail from Dan Lister

ACCEPTED _____ DATE _____
(Clerk to the Board)

**Attachment to Appeal of the Coastal Design Approval PLN150582
(Sims; APN 009-463-019; 26401 Scenic Road, Carmel, CA)**

(The approved six foot wooden fence on the property bordering Scenic Road¹ effectively obstructs public and private views of the beach and ocean and adversely impacts the character and integrity of the neighborhood.)

1. A Coastal Development Permit is required because the proposed Sims' fence is a "structure" as it is not less than six feet. (Section 20.06.1200.)
2. The fence is not exempt from Coastal Development Permit requirements because it is within 50' of the edge of a coastal bluff. (Section 20.70.120.A.1.)
3. The Coastal Development Permit application for the fence must be considered by the Planning Commission. (Section 20.44.040.E.)
4. The Design Approval finding of "consistency" with the neighborhood character is not the necessary finding. The required finding for Design Approval is "protection" of the neighborhood character. Protection of the neighborhood character essentially requires no harm result to the neighborhood character. Critical to the Scenic Road neighborhood character is the existing openness between properties affording view opportunities both public and private. The original application acknowledged the neighborhood character by proposing only a four foot fence within 25 feet of the road. County planners orally confirmed to Mr. & Mrs. Rhein that fences no higher than four feet would be approved near Scenic Road.
5. The 6 foot height of the proposed fence within 25 feet of Scenic Road intentionally, unfairly and maliciously blocks public and private views from and along Isabella and Scenic Road and offers no privacy protection to the Sims.
6. The approved six foot fence would conflict with the visual integrity of the neighborhood which is a designated scenic area. If six foot fences were permitted up to the edge of the road on all properties along Scenic Road the cumulative impact would dramatically disrupt and alter the integrity and character of the neighborhood.
7. Section 5.3.1 and 5.3.2 of the Carmel Area Land Use Plan states that one of the "*General Policies*" is to protect "4.Exisitng visual access from scenic viewing corridors(e.g. highway 1, Scenic Road..)should be permanently protected as an important component of shoreline access and public recreational use."

¹ Scenic Road is sometimes referred to as Scenic Drive as in the Applicants definition of the Project Address.

FILE #: PIN 150582



**MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY
PLANNING**
168 West Alisal, 2nd Floor, Salinas, CA 93901
Telephone: (831) 755-5025 Fax: (831) 757-9516
<http://www.co.monterey.ca.us/planning>

COASTAL DESIGN APPROVAL APPLICATION FORM

ASSESSOR'S PARCEL NUMBER: 009-463-019-000

PROJECT ADDRESS: 26401 Scenic Drive

PROPERTY OWNER: Sims Telephone: _____
Address: _____ Fax: _____
City/State/Zip: _____ Email: _____

APPLICANT: Anthony Lombardo + Assoc Telephone: 831-751-2330
Address: 144 W. Grublan St Fax: 831-751-2331
City/State/Zip: Salinas CA 93901 Email: Gail@alombardo.com

AGENT: _____ Telephone: _____
Address: Same as above Fax: _____
City/State/Zip: _____ Email: _____

RECEIVED
JUN 17 2015
MONTEREY COUNTY
PLANNING DEPARTMENT

Mail Notices to: Owner Applicant Agent
(Check only one)

PROJECT DESCRIPTION: (Attach Scope of Work) _____
new willow panel screen fence as shown
(approx 60 linear feet at 6' high and 35' linear feet
at 4' high at front yard)

MATERIALS TO BE USED: _____
woven willow fence panels - see
wood stake fence attached

COLORS TO BE USED: _____
Natural willow - see attached

I acknowledge that I will need a building permit and must comply with the Monterey County Building Ordinance and that this approval is for design of the structures and compliance with zoning regulations only.

PROPERTY OWNER/AGENT SIGNATURE: [Signature] **DATE:** 6/10/15

FOR DEPARTMENT USE ONLY

ZONING: MDR 12-D(10)(C2) **LAND USE PLAN:** Coastal LUP
ADVISORY COMMITTEE: _____ **RELATED PERMITS:** _____
PLANNER: _____
WITHIN ARCH BUFFER ZONE? YES NO **ON SEPTIC SYSTEM? (REFER TO EHB)** YES NO
LEGAL LOT: Coastal Bay the Sea YES NO **DOES THIS CORRECT A VIOLATION?** YES NO

FINDINGS:

The project is consistent with the 1982 General Plan, the applicable Land Use Plan and Coastal Implementation Plan, and meets the regulations in Title 20 (Zoning Ordinance-Coastal); and

The design of the proposed project assures protection of the public viewshed, is consistent with neighborhood character, and assures visual integrity without imposing undue restrictions on private property because: materials are natural and does not impact scenic viewshed

DECISION: OVER-THE-COUNTER ADMINISTRATIVE
ACTION: APPROVED DENIED
CONDITIONS: ATTACHED NONE

APPROVED BY: [Signature] **DATE:** 12/11/15

COPY TO APPLICANT: IN PERSON OR MAILED **DATE:** 12/11/15

STATEMENT OF PLANNING SCOPE OF WORK

(COASTAL ONLY)

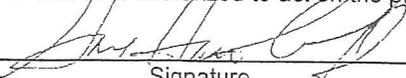
PLEASE CHECK "YES" OR "NO" FOR ALL BOXES

- | Yes | No | |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 1. Project is for residential use. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2. The project is commercial use. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 3. The project is for agricultural use. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 4. The project is for industrial use. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 5. The project is public or quasi/public. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 6. The project includes a subdivision/lot line adjustment. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 7. The project is for cell site, telecom (digital) communication facility/site. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 8. Project includes construction of a new structures. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 9. Project includes enlarging, altering, repairing, moving, improving, or removing an existing structures. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 10. If "yes" describe _____
The project includes demolition work. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 11. If "yes" describe _____
Project includes replacement and/or repair of (50%) or more of the exterior walls of a structure. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 12. Project includes historical structure or a structure more than fifty (50) years old. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 13. Project includes an accessory structure(s)
If "yes" describe _____ |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 14. Project includes the placement of a manufactured home, mobile home, modular or prefabricated unit.
<input type="checkbox"/> Private property <input type="checkbox"/> Park installation _____ (mobile home park) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 15. Project includes retaining walls, sea wall, riprap. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 16. The project includes constructing, enlarging, altering, repairing, moving, improving or removing a septic tank/system. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 17. The project includes constructing, enlarging, altering, repairing, moving, improving or removing a well. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 18. Project is associated with a new or improvements to a water system.
_____ water system _____ number of connections. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 19. Project includes removal of trees.
If "yes", type _____ size _____ number _____ |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 20. Project includes grading, dirt importation, dirt removal, and/or drainage changes. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 21. Project is visible from a public area. (public road, park, slough, beach, trail) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 22. Project is located on a slope/hillside. (30 percent (25 percent-North County) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 23. Project is located within 50 feet of bluff. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 24. Project is located within 100 feet of seasonal or permanent drainage, lake, marsh, ocean, pond, slough, stream, wetlands.
If "yes", describe _____ |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 25. Project includes the use of roofing materials that are different in type and/or color from the original materials.
If "yes", describe _____ |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 26. Project is change or modification to an approved application. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 27. Project involves or includes an existing or proposed trail or easement. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 28. Project involves new, change or modifications to existing utilities and/or power lines. |

PLEASE DESCRIBE COMPLETELY AND FULLY THE PROJECT YOU ARE APPLYING FOR. INCLUDE INFORMATION ON ALL QUESTIONS ANSWERED WITH A "YES". ATTACH ADDITIONAL SHEETS IF NECESSARY.

see 1st page

I hereby certify that the above information is complete and correct. I certify that I am the property owner or that I am authorized to act on the property owner's behalf.



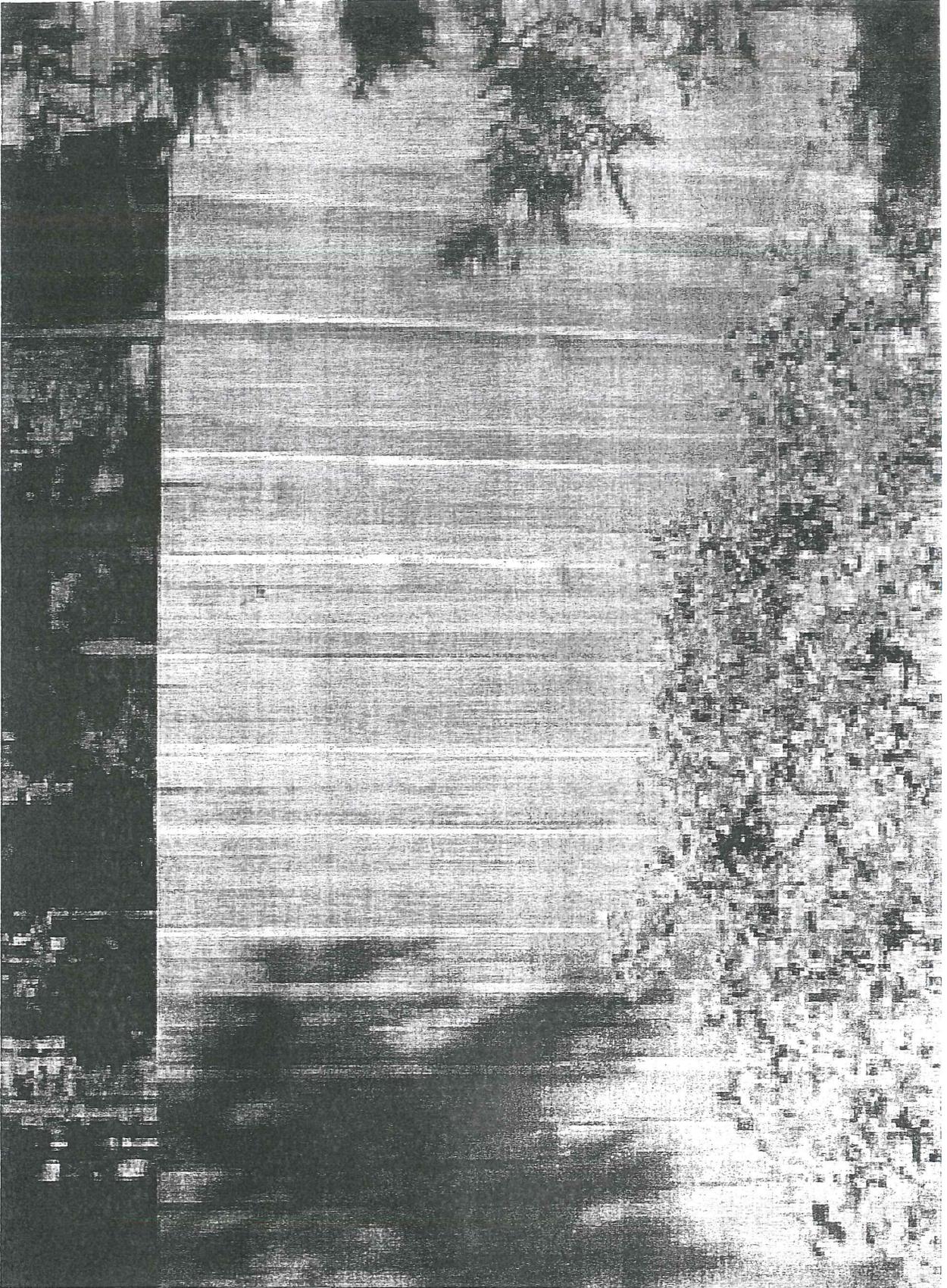
 Signature
 Gail Hatter-Crawford

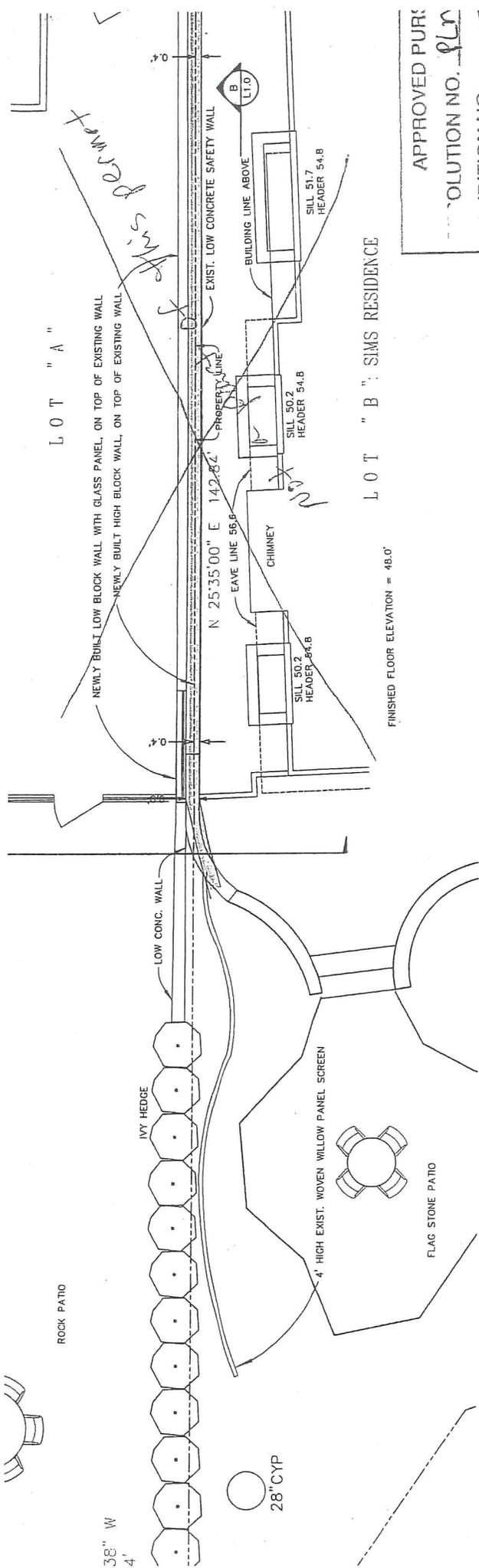
 Print Name

6/16/15

 Date

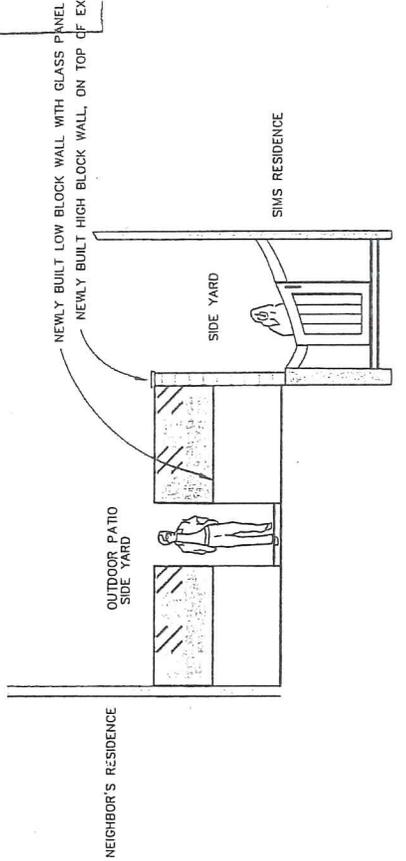
PLN150582



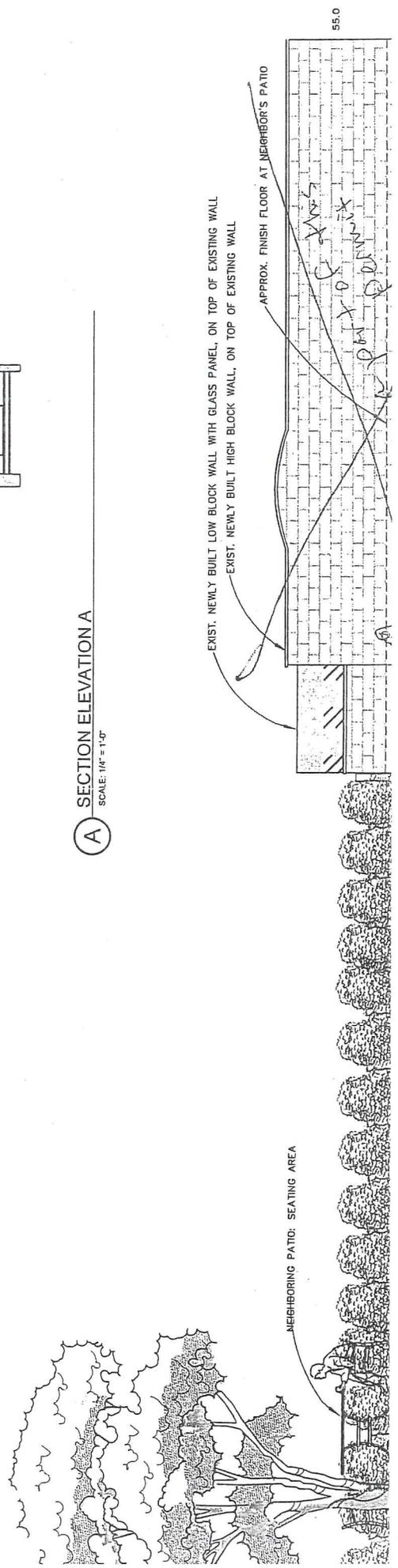


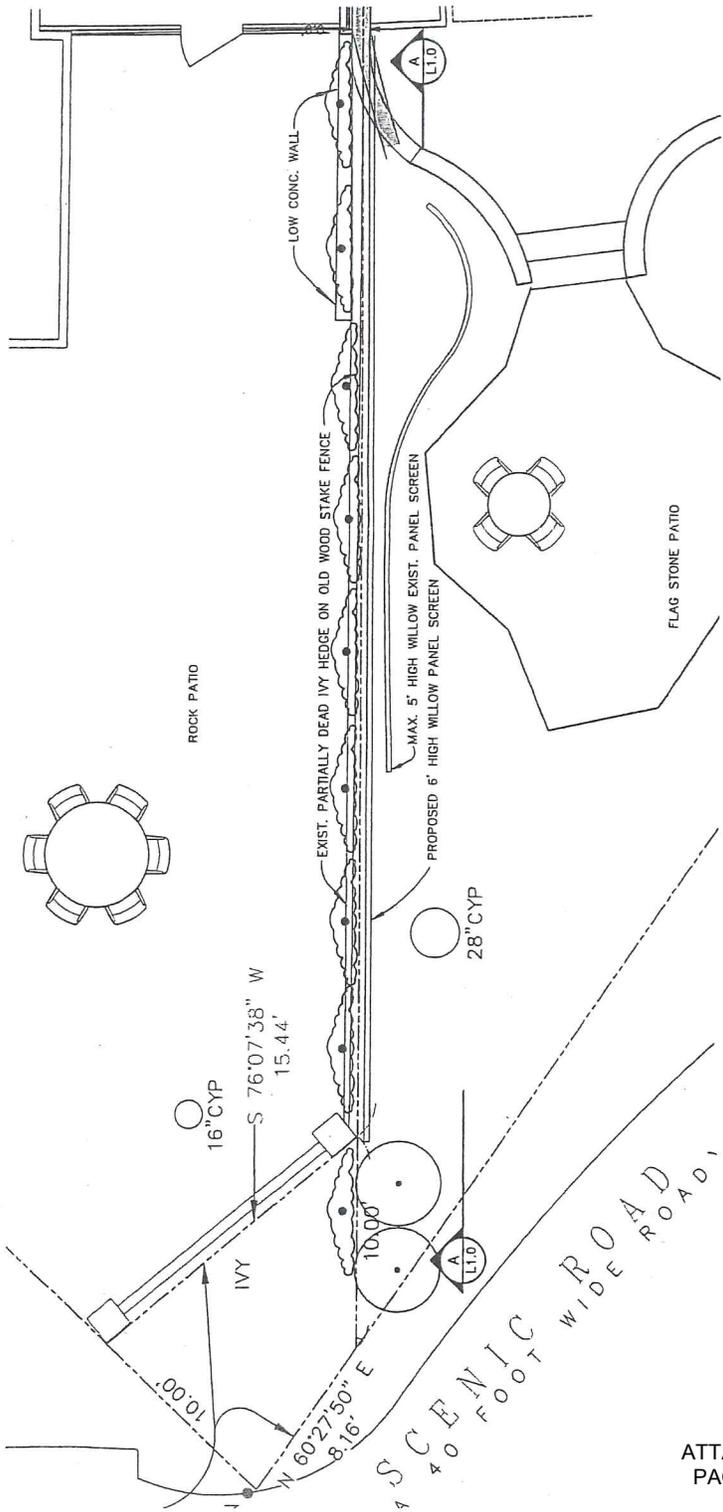
APPROVED PUR:
 OLUTION NO. PLN
 IDITION NO. D.L
 OVED BY: ASBESTOS
RETRIE

S ALONG PROPERTY LINE



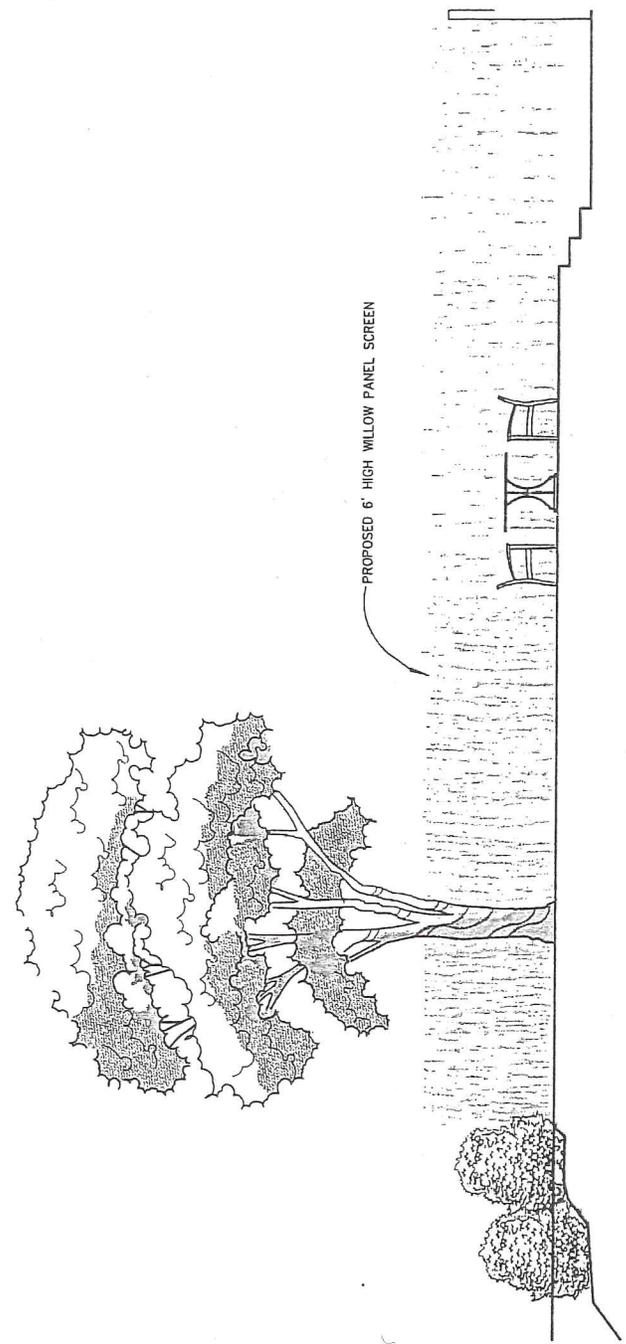
A SECTION ELEVATION A
 SCALE: 1/4" = 1'-0"





2 PLAN VIEW OF FRONT YARDS OF NEIGHBORING SITES ALONG PROPERTY LINE: PROPOSED CONDITIONS
SCALE: 1/4" = 1'-0"

APPROVED PURSU-
OLUTION NO. PL115
ADDITION NO.
OVED BY: A-Lbt.
ASST. MGR
12/4/15



A ELEVATION A-A: PROPOSED WILLOW PANEL SCREENING FROM SIMS RESIDENCE
SCALE: 1/4" = 1'-0"

From: "Lister, Daniel M. x6617" <listerdm@co.monterey.ca.us>
Date: December 16, 2015 at 2:47:27 PM PST
To: "AHSWARTZ@aol.com" <AHSWARTZ@aol.com>
Subject: RE: Ref 150100 Sims Fence Appeal

Andy,

There is no appeal fee if the project is appealable to the Coastal Commission. Pursuant to Section 20.86.080.A.1 of the Zoning Ordinance, the project is appealable to the Coastal Commission because its within 300 feet of a beach; and therefore, no appeal fee is required to be submitted.

Sincerely,

Dan Lister - Assistant Planner
RMA - Planning Department
(831) 759-6617
listerdm@co.monterey.ca.us

From: AHSWARTZ@aol.com [mailto:AHSWARTZ@aol.com]
Sent: Wednesday, December 16, 2015 2:19 PM
To: Lister, Daniel M. x6617
Subject: Ref 150100 Sims Fence Appeal

Dan What is the cost , if any of filing an appeal I am told there is no fee in the Coastal Zone Please advise
thanks Andy Swartz 12/16/2015