



## Legislation Details (With Board Report)

**File #:** 16-216      **Name:** Sims Design Approval Appeal  
**Type:** General Agenda Item      **Status:** Scheduled PM  
**File created:** 2/10/2016      **In control:** Board of Supervisors  
**On agenda:** 2/23/2016      **Final action:**

**Title:** Public hearing to:  
a. Consider an appeal by Timothy and Kathleen Rhein from a decision of the Resources Management Agency Planning Director approving an application (Sims/PLN150582) for a Design Approval for a six-foot tall redwood fence located along the side yard property line of 26401 Scenic Road, Carmel, California (APN 009-463-019-000), Carmel Land Use Plan Area;  
b. Find the application categorically exempt under the California Environmental Quality Act;  
c. Deny the appeal and approve the application (Sims/PLN150582) for a Design Approval for a six-foot tall redwood fence located along the side yard property line of 26401 Scenic Road, Carmel, California.  
(Appeal, PLN150582/Sims Design Approval, 26401 Scenic Road, Carmel)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Board Report, 2. Attachment A - Discussion, 3. Attachment B - Draft Board Resolution, 4. Attachment C - Vicinity Map, 5. Attachment D - Design Approval Application with Plans (PLN150582), 6. Attachment E - Notice of Appeal (December 22, 2015), 7. Completed Board Order

Date	Ver.	Action By	Action	Result
2/23/2016	1	Board of Supervisors	continued	

Public hearing to:

- a. Consider an appeal by Timothy and Kathleen Rhein from a decision of the Resources Management Agency Planning Director approving an application (Sims/PLN150582) for a Design Approval for a six-foot tall redwood fence located along the side yard property line of 26401 Scenic Road, Carmel, California (APN 009-463-019-000), Carmel Land Use Plan Area;
- b. Find the application categorically exempt under the California Environmental Quality Act;
- c. Deny the appeal and approve the application (Sims/PLN150582) for a Design Approval for a six-foot tall redwood fence located along the side yard property line of 26401 Scenic Road, Carmel, California.  
(Appeal, PLN150582/Sims Design Approval, 26401 Scenic Road, Carmel)

**PROJECT INFORMATION:**

**Planning File Number:** PLN150582  
**Owner:** James and Catherine Sims  
**Project Location:** 26401 Scenic Road, Carmel  
**APN:** 009-463-019-000  
**Agent:** Anthony Lombardo & Associates  
**Plan Area:** Carmel Area Land Use Plan  
**Flagged and Staked:** No  
**CEQA Action:** Categorically Exempt

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Adopt a Resolution (**Exhibit B**) to:

1. Deny the appeal by Timothy and Kathleen Rhein from a decision of the Resources Management Agency Planning Director approving an application (Sims/PLN150582) for a Design Approval for a six-foot tall redwood fence located along the side yard property line of 26401 Scenic Road, Carmel;
2. Find the application categorically exempt under CEQA; and
3. Approve the application (Sims/PLN150582) for a Design Approval for a six-foot tall redwood fence along the side yard property line of 26401 Scenic Road, Carmel, subject to the conditions of approval.

SUMMARY:

On December 22, 2015, consistent with the appeal regulations in the Design Control Overlay District in the Zoning Ordinance, an appeal of the Director of RMA-Planning's approval of the Design Approval application was submitted to the Clerk of the Board (**Attachment E**). The appeal was made by Andrew Swartz representing Timothy and Kathy Rhein (now being represented by John Bridges), neighbors of the Sims, who share the side yard property line along which the fence is proposed. The basis of the appeal is that the fence impacts public and private views of the shoreline and ocean from the intersection of Isabella Avenue and Scenic Road (a designated scenic corridor), the fence impacts the existing neighborhood character and integrity, and the fence requires a Coastal Development Permit because it is within 50 feet of a coastal bluff. (See **Attachment A** for a detailed discussion of all contentions).

The Design Approval was approved on December 11, 2015 after it was evaluated for consistency with the Visual Resources Section of the Carmel Area Land Use Plan. Staff determined the fence will not impact public views from the nearby designated viewshed, Scenic Road. The new fence will be made of redwood which is consistent with the color and materials of other fences found in the neighborhood and along Scenic Road. Therefore, the project is consistent with the Design Control Overlay District regulations requiring the location and design to not impact the existing neighborhood character, viewshed or visual integrity of the area. (See **Attachment A** for a detailed discussion).

Staff recommends denial of the Rhein appeal and approval of the Sims Design Approval Application because the proposed fence is consistent with the Carmel Area Land Use Plan and Chapter 20.44 (Design Control) of the Monterey County Zoning Ordinance.

DISCUSSION:

A detailed discussion is provided in **Attachment A**. This discussion includes a description of the permitting history on the Rhein property which includes a masonry wall between the two houses. The Sims contested the height of the wall, appealing to the Planning Commission, at which time, the Planning Commission directed that the Rhein Coastal Administrative Permit be scheduled for a hearing to determine if the wall is in compliance with the submitted plans and approved permit.

OTHER AGENCY INVOLVEMENT:

No other agency involvement.

FINANCING:

Funding for staff time associated with this project has been provided through payment of the Design Approval application. The project is appealable to the Coastal Commission; and therefore, no appeal fees were applied.

Prepared by: Dan Lister, Assistant Planner, ext. 6617

Approved by: Mike Novo, AICP, RMA-Planning Director, ext. 5192

Carl P. Holm, AICP, Resource Management Agency Director

This report was prepared reviewed by John Ford, Planning Services Manager.

The following attachments on file with the Clerk of the Board:

Attachment A	Discussion
Attachment B	Draft Board Resolution with Conditions of Approval
Attachment C	Vicinity Map
Attachment D	Approved Design Approval Application with plans (PLN150582)
Attachment E	Notice of Appeal (December 22, 2015)

cc: Front Counter Copy; Board of Supervisor's (16); County Counsel; Mike Novo, Director-RMA Planning Department; Carl Holm, Director of the Resource Management Agency; John Ford, Planning Services Manager; James and Catherine Sims, Owner; Tony Lombardo and Associates, Owner's Representative; Timothy and Kathy Rhein, Appellant; Andrew Swartz of Spiering, Swartz & Kennedy, Appellant's Representative; The Open Monterey Project; LandWatch; Project File PLN150582.