

MIKE NOVO  
ZONING ADMINISTRATOR

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

RESOLUTION NO. 040126

A.P. # 009-571-043-000

In the matter of the application of  
**Paul & Phyllis O'Donovan (PLN040126)**

**FINDINGS & DECISION**

for a Coastal Development Permit in accordance with Title 20.140 (Monterey County Coastal Implementation Plan Ordinance) Chapter 20.140 (Coastal Development Permits) of the Monterey County Code, to allow for the replacement of an existing legal non-conforming fence 7 feet tall and approximately 116 feet in length along the portion of the property that fronts Highway 1; and Design Approval. The property is located at 3520 Rio Road, Carmel, at the southwest corner of Highway 1 and Rio Road, Carmel area, Coastal Zone, came on regularly for hearing before the Zoning Administrator on August 26, 2004.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

**1. FINDING: CONSISTENCY and SITE SUITABILITY** – The O'Donovan Coastal Development Permit (PLN040126) as described in Condition #1, and as conditioned, is consistent with the plans, policies, and standards of the Local Coastal Program (LCP). The LCP for this site consists of the Monterey County General Plan, the Carmel Area Land Use Plan, Carmel Area Coastal Implementation Plan (Part 4), Part 6 of the Coastal Implementation Plan, and Part 1 of the Coastal Implementation Plan (Zoning Ordinance). The property is located at 3520 Rio Road, Carmel (Assessor's Parcel Number 009-571-043-000). The parcel is zoned "MDR/2-D (CZ)" or Medium Density Residential, 2 units per acre, Design Approval, in the Coastal Zone.

**EVIDENCE:** (a) The application and plans submitted are found in file PLN040126 at the Monterey County Planning and Building Inspection Department.  
(b) Staff conducted a site visit in June of 2004 to verify that the proposed project complies with regulations in Title 20, as well as policies in the Carmel Area Plan. The proposed project will not have a significant adverse effect on the public viewshed as conditioned.  
(c) The Carmel Unincorporated/Highlands LUAC reviewed the project and recommended approval by a vote of 4-0 on June 7, 2004 with no recommendations or conditions. The LUAC commented on the materials of the fencing, stone columns and the planter box barrier to be constructed on the inside of the fence.  
(d) Staff found the project in compliance under Monterey County Ordinance 20, sections 20.12.030 and 20.68.050.  
(e) The project is located in a high archeological zone however the project has been waived for the report requirement because the Monterey County Planning Department has determined that the area to be developed under this permit is not a potentially sensitive site due to the previous amount of site disturbance and that the project is not in close proximity to any known sites.

(f) The project has been reviewed by the Monterey County Planning and Building Inspection Department, Carmel Highlands Fire Protection District, Monterey County Water Resources Agency, Monterey County Public Works Department, Monterey County Parks Department, and Monterey County Health Department. There has been no indication from these agencies that the site is not suitable. There are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats, or similar areas that would indicate the site is not suitable for the use proposed.

2. **FINDING: CEQA (Exempt)** - The project is exempt from environmental review.  
**EVIDENCE:** (a) CEQA Guidelines Section 15302 categorically exempts replacement or reconstructions to existing structures.  
(b) No adverse environmental effects were identified during staff review of the development application and during the site visit. There are no environmentally sensitive habitats or trees that would be impacted. There are no unusual circumstances related to the project or property. Visual impacts would not be significant.
3. **FINDING: NO VIOLATIONS** - The subject property is in compliance with all other rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of Title 20. Zoning violation abatement costs, if any, have been paid.  
**EVIDENCE:** Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on subject property.
4. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or operation of the use or structure applied for, will not, under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use; or be detrimental or injurious to property and improvement in the neighborhood; or to the general welfare of the County.  
**EVIDENCE:** Preceding findings and supporting evidence.
5. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors but not the California Coastal Commission.  
**EVIDENCE:** Section 20.86.040 of the Monterey County Zoning Ordinance (Title 20).

## DECISION

THEREFORE, it is the decision of said Zoning Administrator that said application for a Coastal Development Permit be granted as shown on the attached sketch, subject to the attached conditions.

**PASSED AND ADOPTED** this 26th day of August 2004.

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ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS. IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90<sup>th</sup> day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Planning Commission in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Salinas.

2. This permit expires two years after the above date of granting thereof unless construction or use is started within this period.