

INTERPRETATION REQUEST – Non-Habitable Accessory Structures and Uses Prior to the Establishment of Main Use or Structure for Residential Zoning Districts (Inland)

Applicable Code Sections:

- 21.10 (Regulations for High Density Residential Zoning Districts)
- 21.12 (Regulations for Medium Density Residential Zoning Districts)
- 21.14 (Regulations for Low Density Residential Zoning Districts)
- 21.16 (Regulations for Rural Density Residential Zoning Districts)

Date: July 27, 2012

Requested by: Laura Lawrence

Subject: Permits for non-habitable accessory structures and uses prior to the establishment of a main use or structure in a residential zoning district

What is the Question?

Are discretionary permits always required for non-habitable accessory structures and uses prior to the establishment of a main use or structure?

Short Answer:

Not always. If the non-habitable accessory structure or use is accessory to a permitted (allowed) use, then no discretionary permit is required. However, a building permit or design approval may be required and other zoning regulations will need to be met.

Discussion:

In reviewing the Monterey County Code, Sections 21.10.030, 21.12.030, 21.14.030 (Uses Allowed), and 21.16.030 allow non-habitable accessory structures and accessory uses to any permitted use. "Permitted use" is interpreted as "use allowed." If non-habitable accessory structures and the accessory uses are accessory, or associated with, an allowed use, then no discretionary permit is required. The key word in this case is "non-habitable."

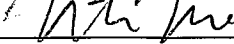
Monterey County Code Sections 21.10.050, 21.12.050, 21.14.050, and 21.16.050 (Uses Allowed, Use Permit Required in Each Case) require use permits for accessory structures and uses prior to the establishment of a main use or structure. In this case, the main use or main structure for the zoning district first needs to be identified. Then, a determination will need to be made to ascertain if the requested accessory structures and/or uses are being established prior to the main uses or structure. One common example from past practice is requiring a use permit for a caretaker unit prior to the main residence being built on the property.

Facts of the situation:

A property owner owns a 5 acre parcel zoned RDR-B-6 across the street from the parcel where their main residence is located. They have installed fencing, electrical service, and water infrastructure for their horses they are keeping on the property. Per Monterey County Code (MCC) Section 21.16.030.K, animal husbandry and small livestock farming are allowed uses provided that not more than one horse, mule, cow, or similar livestock shall be kept per 20,000 square feet of land area. With a 5 acre parcel, up to 10 of these animals are allowed.

The property owner desires to construct a 24 foot x 60 foot stable building on the vacant parcel. MCC Section 21.16.030.E allows non-habitable accessory structures and accessory uses to any permitted uses. Because animal husbandry is a permitted use, the stable, as a non-habitable accessory structure, is also a use allowed with a building permit, if one is required. Because the stable is 1,440 square feet, a building permit would be required.

Interpretation Prepared By: Laura Lawrence

Interpretation/Opinion Confirmed by Managers .