

DSG Policy Memorandum
Administrative Interpretation
#06-11



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TO: DSG Staff

FROM: Kirsten Taylor, Interim Development Services Director

DATE: November 2, 2006

RE: 10' Building setback from vehicular access easement

The Code Official under Section 19.15.010(C)(5)(a) of the Mercer Island City Code (MICC) makes this administrative policy determination and interpretation of the MICC of Mercer Island.

The purpose of this administrative interpretation is to determine what building setback is required from tracts when a tract is used in part for vehicular access and in part for other purposes .

MICC 19.16.010 broadly defines the term easement as "A grant of one or more of the property rights or privileges by the property owner to and/or for use or protection of a portion of land, by the public, a corporation or another person or entity, that runs with the land".

However, MICC 19.02.020(F)(1) contains a setback requirement for "vehicular access easements" and requires structures be setback a minimum of 10 feet from any easement that affords or could afford vehicular access to a property.

F. Easements. Easements shall remain unobstructed.

1. Vehicular Access Easements. No structures shall be constructed on or over any *vehicular access easement*. A minimum 10-foot setback from the edge of any easement that affords or could afford vehicular access to a property is required for all structures; provided, that improvements such as gates, fences, rockeries, retaining walls and landscaping may be installed within the 10-foot setback so long as such improvements do not interfere with emergency vehicle access or sight distance for vehicles and pedestrians. (Emphasis added).

MICC 19.02.020(F)(1) covers a subset of general easements known as vehicular access easements. This latter term is not defined but the plain language would limit it to those easements that are either currently being used for vehicular access or may be converted to such use in the future.

MICC 19.16.010 also defines a “tract” as “A piece of land designated and set aside as either public or private open space.”

The City received an inquiry regarding a tract where a portion has been used for vehicular access over pavement and a portion dead ends into Lake Washington and will not be used for vehicular access in the future. In this instance, it is appropriate that the 10 foot building setback be measured from the existing pavement. The portion of the tract that has not been historically used for vehicular access and has unlikely vehicular access in the future will not be subject to the 10’ building setback requirement set forth in MICC 19.02.020(F)(1).