TO: DSG Staff
FROM: Steve Lancaster, Development Services Director
DATE: June 1, 2007
RE: Impervious surface calculation for Single Family lots
CC: City Attorney

MICC Section(s) Interpreted: 19.02.020(D)

ISSUE
Shall the area within an access easement be included in the area of the lot used for the purpose of calculating compliance with impervious surface coverage limitations?

FINDINGS

- The Code Official, pursuant to MICC 19.15.010(C)(5)(a) of the Mercer Island City Code (MICC), is authorized to make this administrative interpretation subject to the procedures established by MICC 19.15.020(L). The Development Services Group Director or the Director's duly authorized designee is designated as the Code Official under Section 19.16.010.

- MICC 19.16.010 defines "impervious surfaces" to include "driveways, streets, parking areas and other areas, whether constructed of gravel, pavers, pavement, concrete or other material, that can reasonably allow vehicular travel" and further defines "street" as "An improved of unimproved public or private right-of-way or easement which affords or could be capable of affording vehicular access to property."

- MICC 19.02.020(D)(1) establishes maximum impervious surface limits for lots in single family zones, ranging from 20% to 40% depending on slope.

- MICC 19.16.010 defines "lot" as "A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law to be used, developed or built on as a unit."
MICC 19.02.020(A) establishes minimum lot areas for the various single family zones. MICC 19.02.020(A)(2) states: "In determining whether a lot complies with the lot area requirements, the following shall be excluded: the shorelands part of any such lot and the part of such lot which is part of a street" (emphasis supplied).

CONCLUSIONS

Confusion has arisen concerning whether a part of a lot that is a private street must be excluded from the area of the lot used in calculating impervious surface coverage limitations. This confusion is due to the provisions of MICC regarding calculation of minimum lot area.

If "lot area" for the purpose of calculating impervious surface coverage is considered to be the same as "minimum lot area," a significant hardship would be created for a specific class of single family lots (those providing private access to neighboring lots). This is due to the fact that under MICC 19.02.020(A)(2), the geographic area of any private street or access easement is subtracted from the calculation, while MICC 19.02.020(D)(1) requires that any driveway or other impervious surface within such easement must be included in the calculation. By including this area in the numerator of the equation while removing it from the denominator, impervious surface within a private street or access easement would essentially be "double-counted" when compared to other impervious surfaces.

It is important to note that this situation arises due to an ownership issue as opposed to the physical quantity of impervious surface (and related impacts) associated with an individual home. Similarly situated homes whose access is provided by a publicly owned street or by an easement crossing another's property do not suffer this hardship.

It is not necessary to consider "lot area" for the purpose of calculating impervious surface coverage to be the same as "minimum lot area." The subsection determining how to calculate minimum lot area (MICC 19.02.020(A)) specifically states this calculation is for the purpose of "determining whether a lot complies with the minimum lot area requirements" established within that same subsection. The subsection specifying how to calculate impervious surface coverage includes no reference to "minimum lot area" but instead refers simply to a "lot." It is therefore appropriate to refer to the general definition of "lot" which would include the entire area of "a designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law to be used, developed or built on as a unit."

INTERPRETATION

The area within an access easement or private street shall be included in the area of the lot used for the purpose of calculating compliance with impervious surface coverage limitations. The appropriate calculation is as follows:

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\text{Impervious Surface Coverage} = \frac{\text{Impervious surfaces, including those on any part of the lot which is part of a street}}{\text{Lot area, including any part of the lot which is part of a street}}
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