

**SANTA CRUZ COUNTY PLANNING DEPARTMENT POLICY/ORDINANCE
INTERPRETATION**

Interpretation No.: SETBACKS-ROAD (Setbacks from a paved road located outside a right of way)

Effective Date: February 22, 2010

Originally Issued:

Questions:

Should setbacks be measured from the edge of a paved road, when the road is located outside of a deeded vehicular right-of-way and is located closer to the structure than the deeded right-of-way?

**Applicable Ordinance Section(s)
And/or General Plan/LUP Policy(ies)**

13.10.700-Y

9.70.030-H

13.10.321(a)

INTERPRETATION:

When a paved traveled road serving two or more parcels is located outside a deeded vehicular right-of-way, and is located closer to an existing or proposed structure than the deeded vehicular right-of-way or property line, then setbacks shall be measured from the edge of the paved road. Areas to the side of the road used for parking shall not be considered as part of the road. In rare cases, a survey may be required to determine the edge of the paved road.

Reason:

The County Code establishes minimum front, side and rear yard setbacks for structures, with setback requirements varying according to the zone district. The Zoning Ordinance (Section 13.10.700-Y) defines a “yard” as

A required setback space adjacent to a front, side, or rear property line or right-of-way, within which no structure may be built.

Although the definition for yard establishes setbacks either from the property line or right-of-way, whichever is closer to the structure, the Zoning Ordinance does not provide a definition for a right-of-way. However, a right-of-way is defined elsewhere in the County Code, in Section 9.70.030-H, as:

“... all land or interest therein, which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to the use of the general public for road and street purposes.”

This definition categorizes land which by usage is reserved or dedicated for road and street purposes as a right-of-way, including any traveled road which has not been legally deeded as a right-of-way. Since Chapter 9.70 sets forth rules and regulations to control encroachments within county-maintained roads, then it is appropriate to apply this definition for a right-of-way in determining setbacks from roads, and to consider a traveled road that has been established by usage rather than by deed as a right-of-way for setback purposes.

Classifying a traveled road that has been established by usage rather than by deed as a right-of-way for setback purposes is also consistent with the purpose of establishing setbacks. The primary purposes of requiring minimum setbacks from a right-of-way are to ensure that sight distance is not obstructed, to protect occupants from noise, fumes, and other objectionable influences, and for residential properties to provide adequate light, air and privacy (see Section 13.10.321(a)). If a structure was allowed a zero setback from a traveled road that is not a legally deeded right-of-way, then the safety and well-being of current and future occupants of the property or of those traveling on the road could be threatened. To protect safety and well-being, and as is consistent with the definition of right-of-way in County Code Section 9.70.030-H, setbacks are established either from the legally deeded right-of-way or from the edge of traveled portion of the road, whichever is closer to the existing or proposed structure.

Tom Burns, Planning Director

Date