

ZONING ADMINISTRATOR INTERPRETATION

DATE: November 28, 2007

CODE SECTION: 17.71.110 - Nonconforming Lots

QUESTION NEEDING INTERPRETATION: Subsection 17.71.110.A states, "A nonconforming lot of record that does not comply with the current access, area, or dimensional requirements of this Zoning Code for the zoning district in which it is located, shall be considered to be a legal building site if it meets one of the criteria specified by this Section." Is a lot that does not have any street access a grandfathered lot under this subsection? What does "access" mean?

INTERPRETATION:

Subsection 17.71.110.A establishes a procedure for determining whether a nonconforming lot is a legal building site and can be developed. The question that has come up is whether a lot that has no street access (either as frontage or through an easement) is to be considered to be a legal building site under the Zoning Code.

The Zoning Code definition of lot states that in order to be a lot, it had to have frontage upon a street.

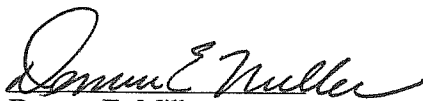
Lot. A legally established lot of land under one ownership with frontage upon a street.

The intent of the Zoning Code is to require that lots have street access (this includes access through a private street or easement) for the lot to be considered a legal building site. The Zoning Code allows for flag lots in hillside areas under very specific circumstances. The "pole" portion of the flat lot is considered the access and a flag lot is required to meet the following:

- a. A minimum 20 feet, and a maximum 25 feet of frontage and width shall be maintained throughout the length of the pole.
- b. A minimum 12-foot wide paved driveway shall be maintained throughout the entire length of the pole.

It is my interpretation that the intent of Subsection 17.71.110.A is to say that if the existing access (this access could be an easement) is less than what the Zoning Code requires, then it qualifies as a legal building site under this section of the Code. A flag lot that has a pole portion that does not meet the minimum 20 feet width or is wider than 25 feet would be considered a legal building site because it has "access" even if it is nonconforming in terms of width.

An existing lot with no access is not a grandfathered lot under this provision. The creation of a new "access" would create a new flag lot and would have to meet the current standards for flag lots contained in Section 17.40.050 - Flag Lot Development Standards. It should be noted that flag lots are not allowed outside the Hillside Overlay District.


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