

## RULE 3510

March 9, 2005

Approved By: 

### DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

Rule: 3510	Lot Status, as Effected by Public Road Right of Way which Bisects the Property, may be the Request Granted upon the Request of the Property Owner
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**LEGISLATIVE HISTORY:** Adopted August 21, 1995 as POL 3510, repromulgated pursuant to SCC 30.82 Rulemaking on March 9, 2005.

**SEE ALSO:** N/A

**SCC APPLICABILITY:** Chapter 30.41B SCC

**PURPOSE:** This policy rule outlines the requirements to be met in obtaining Lot Status for properties separated by a public right-of-way. The acquisition of a public right-of-way, by the County, which physically bisects a parcel of property, is not a subdivision of the property under County or State subdivision law.

#### RULE SUMMARY:

1. Lot Status may be Granted to the Property on Either Side of a Public Right-of-Way Upon Request of the Property Owner, if the Public Road Right-of-Way was Established by Dedication or Grant of a Fee Simple Title, Subject to all of the Following Conditions:
  - a) The public road right-of-way must physically bisect the property;
  - b) The public right-of-way was established prior to September 12, 1972, and fee simple title is dedicated or deeded to the public;
  - c) The resulting lots on either side of the public right-of-way shall:
    - (i) meet all current applicable zoning code requirements, or
    - (ii) have met the zoning code requirements in effect on the date of the establishment, and have not been divided or altered in violation of applicable County subdivision and zoning ordinances since such establishment.
2. The County does not Grant Lot Status where the Right-of-Way is Merely an Easement.

When the public right-of-way is an easement only, the underlying property owners own the underlying fee interest. The easement does not create an intervening strip of property in separate ownership, and does not defeat lot contiguity, since the ownership of the underlying fee estate is continuous. A right-of-way, held for road purposes, which was acquired by seven or more years of public maintenance under RCW 36.75.070 or ten or more years of public use under RCW 36.75.080, is clearly an easement only. Easements may also be created by dedication or deed.

3. For the Purposes of this Policy, Establishment of Public Road Right-of-Way and Transfer of Title (Item 1.b. above) may be Accomplished by any of the Following:
  - a) The public right-of-way was established by dedication or deed of fee simple title prior to September 12, 1972, (irrespective of whether the right-of-way was open and maintained); or
  - b) The road was established as an open and maintained public right-of-way prior to September 12, 1972, and, at some time subsequent to establishment, fee simple title was dedicated or deeded to the public and was accepted by the county; or

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- c) The road was established as an open and maintained public right-of-way prior to September 12, 1972, and the current owner of the fee simple estate offers and conveys fee simple dedication of the road right-of-way to the county and said dedication is accepted by the county.