

Carla Hoekzema

From: Steve Szafran
Sent: Monday, March 18, 2019 8:24 AM
To: Carla Hoekzema
Subject: FW: [EXTERNAL] Legal Perspective for De-Facto Spot Zoning - NE 170th St Rezone Proposal
Attachments: Legal Perspective for De-Facto Spot Zoning - NE 170th St Rezone Proposal.pdf

From: Save Shoreline Neighborhoods <saveshorelineneighborhoods@gmail.com>
Sent: Saturday, March 16, 2019 9:54 AM
To: Jessica Simulcik Smith <jsimulcik@shorelinewa.gov>; Steve Szafran <:sszafran@shorelinewa.gov>; Paul Cohen <pcohen@shorelinewa.gov>; Rachael Markle <rmarkle@shorelinewa.gov>; Debbie Tarry <dtarry@shorelinewa.gov>
Subject: [EXTERNAL] Legal Perspective for De-Facto Spot Zoning - NE 170th St Rezone Proposal

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Below and attached is information from a legal perspective for your consideration at Monday's Council meeting on March 18th regarding the privately proposed Comprehensive Plan Amendment and Spot Rezone at 1510 and 1517 NE 170th St, Shoreline, WA.

Under Washington State case law (AGLO 1973 No. 103), this type of "spot zoning" is inevitably illegal, with a few citations provided below:

- *"No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations."*
- *"Spot zoning" merely for the benefit of one or a few or for the disadvantage of some, still remains censurable because it is not for the general welfare . . .'*
- *"In the recent case of Pierce v. King Cy., 62 Wn.2d 324, 382 P.2d 628 (1963), we recognized that all 'spot zoning' is not illegal; however, we follow the general rule that 'spot zoning' is invalid when it is primarily for the private interest of the owner of the property affected, and not related to the general plan for the community as a whole. A zoning ordinance must have for its basis the public health, safety, morals, or general welfare; if not, it is arbitrary, capricious, unreasonable, and consequently void. . . ." (pp. 199-200.)*
- *"...the court in the Pierce case held as follows: . . . Where, as in the present situation, the zoning authority by official legislative action designates two lots for a gasoline service station in the heart of a neighborhood of single-family residences already served by commercial and business facilities or subject to be so served in accordance with a comprehensive plan or scheme, such designation is patently a spot zoning; and where the record discloses no basis for such a zoning in furtherance of the public health, safety, or morals, or a contribution either to the general welfare of the people in the area or at large, the zoning is so clearly a spot zoning as to make it arbitrary, capricious and unreasonable. It was, and is, therefore, void."*

As this proposal meets the definition of spot zoning, we urge you to oppose this proposal and not put it on the docket for further study as that will only **further impact the workload of staff and the lives and general welfare of the neighbors.**

We urge you to **reject this proposal** and **VOTE NO** on Monday for the following reasons:

- Proposal is a spot rezone and inevitably illegal under Washington State law.
- Enforce existing code equally and equitably to all Shoreline Businesses. The proposal would be unfair to law abiding businesses that are at a competitive disadvantage for following the rules.
- Rejected this proposal respects the long-term planning efforts of the City's Comprehensive Plan and zoning.
- Approving the rezone would set a bad precedent for allowing violators of Shoreline code, regulations, and laws to violate them until they get caught, and then just change them if and when they get caught.
- Approving the rezone would set a bad precedent for a cascading affect of rezoning residential properties to community business.
- This spot rezone unfairly creates Social Justice Impacts by affecting those that live on the boundaries of residential areas and near business and industry because of their income or race.
- The community overwhelmingly does not want these residential properties amended & rezoned to community business as over 200 neighbors who live in this area and will be directly affected by the short- and long-term results of this proposal oppose this rezone. This is evidence that the Community, especially those that live near the proposal, do not want this rezone and demonstrates that it is not in the general welfare of the community.

We will be providing an account of the community's opposition prior to Monday's meeting.

Please keep residential neighborhoods, residential. Vote NAY on Monday on this privately initiated spot rezone proposal.

Sincerely,

Save Shoreline Neighborhoods (see signatures for over 200 specific citizens opposing this rezone - coming soon)

p.s., PM/clerk, please add this to the Planning Commission's Feb. 7, 2019 meeting website for this topic.