From:	Rebecca Messinger
To:	Cnty 2025 Comp Plan
Cc:	Jose Alvarez; Bart Catching
Subject:	FW: Auditor"s file #s 986065-216, 986067-645,986065-217,986066-535, 986053-102, 986053-103, 986053-104 & 180342-000
Date:	Monday, September 21, 2026 9:10:47 AM
Attachments:	CANN0203.L06.pdf image001.png
Importance:	High

Please see the attached letter from attorney Mark Erickson. Thank you.

Rebecca Messinger
Clerk to the Council
COUNTY MANAGER'S OFFICE

Phone: 564-397-4305
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From: kris@eriksonlaw.com <kris@eriksonlaw.com>
Sent: Friday, September 18, 2026 2:34 PM
To: Jose Alvarez <Jose.Alvarez@clark.wa.gov>; Rebecca Messinger <Rebecca.Messinger@clark.wa.gov>; Bart Catching <Bart.Catching@clark.wa.gov>
Subject: Auditor's file #s 986065-216, 986067-645,986065-217,986066-535, 986053-102, 986053-103, 986053-104 & 180342-000
Importance: High

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Taxpayers may rely upon professional advice to avoid tax related penalties only if contained in a comprehensive tax opinion that conforms to stringent requirements.

All:

Please see the attached correspondence from attorney Mark A. Erikson, pertaining to the matter referenced above.

Thank you,

Kris Eklove
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September 18, 2026

E-MAIL & FIRST CLASS MAIL

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Re: Auditor's file No's: 986065-216, 986067-645, 986065-217, 986066-535 986053-102, 986053-103, 986053-104, and 180342-000

Dear Messrs. Alvarez & Catching, & Ms. Mensinger:

I represent the owners of the above-referenced lots, basically: NCNG, LLC; FYPS, LLC; and individuals who acquired parcels from them. We note from the current zoning map that the above-referenced parcels are all zoned R-10, while lots surrounding them to the east, west and south are zoned R-5. I am concerned that this constitutes spot zoning, defined by the Washington Supreme Court as follows:

> When faced with a challenge to a county's rezone action on the grounds the rezone constitutes an illegal spot zone, the main inquiry of the court is whether the zoning action bears a substantial relationship to the general welfare of the affected community. . . . Only where the spot zone grants a discriminatory benefit to one or a group of owners to the detriment of their neighbors or the community at large without adequate public advantage or justification will the county's rezone be overturned. [1]

I realize that the Board and staff have their "hands full" with the Comprehensive Plan update, but my clients and I were hoping that this oversight my be corrected in the 2025-2045 Comprehensive Plan.

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[1] *Save Our Rural Environment v. Snohomish County*, 99 Wash.2d 363, 368, 662 P.2d 816 (1983); citing: *Parkridge v. Seattle*, 89 Wash.2d 454, 460, 573 P.2d 359 (1978); and *Anderson v. Island County*, 81 Wash.2d 312, 325, 501 P.2d 594 (1972).

In Save Our Rural Environment, the Supreme Court affirmed a rezone to correct spot zoning, ruling as follows:

> Plaintiff's contention this case is factually indistinguishable from *Smith v. Skagit Cy.*, supra, and *Chrobuck v. Snohomish Cy.*, supra, is without merit. . . . Here we have a light manufacturing facility to be located in an industrial park designed to be compatible with the residential nature of the surrounding area. Neither of the sites in *Smith* or *Chrobuck* had utilities, adequate roads, or even existing roads which could be upgraded, nor was there a natural separation of the property from the surrounding area. None of these deficiencies are found in this case. [2]

If a light manufacturing facility located in an industrial park was compatible with the residential nature of the surrounding area, then clearly R-5 zoning is consistent with surrounding R-5 zoning. Until corrected, this situation results in a discriminatory detriment to my clients.

Sincerely,

Mark A. Erickson
Attorney at Law

MAE/ke
CANN0203.L06.wpd

cc: Clients

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[2] *Save Our Rural Environment*, 99 Wash.2d at 369-70.