

Question 1

The call of the question is zoning, in particular the need for zoning to be somewhat fluid in order to meet the needs of an ever changing society. What was acceptable three decades ago may no longer be so. Is this legal? To answer this we must first look to the U.S. Constitution, the state constitution, state law, the general plan, any specific plan, and the ordinance itself. Your answer should have explained the need to ensure the ordinance is consistent with any specific plan, that the specific plan must comply with the general plan, etc. Touching on, was this spot zoning, potential avenues of relief, administrative appeals, and legal nonconforming use with a discussion on was the timeframe allotted a sufficient amortization period.

Constitutions

Enumerated	Plenary
U.S. Constitution	California Constitution
5 th Amendment	Article 1 Section 7
10 th Amendment	Article 1 Section 24
14 th Amendment	Article 1 Section 7

Substantive due process: reasonably related to a legitimate governmental interest.

Public health, safety & welfare

Zoning

General plan Specific plan Ordinances

Amendments Variances use or bulk Spot zoning legal, legal nonconforming

Empire College School of Law
Professor Ornell
Real Property – Issue Outline
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Question 2

Bill has three main issues: how can he legally continue to access the sewer line, is there a way he would be able to have his own septic system, will the neighbor be forced to take down the sign.

As for continued access: the concepts of equitable servitudes, easements needed to be explained; to include the creation, elements, and duration. Also, the answer should have touched on the need for a title search, right to maintain, and the remedy for overburdening,

As for the septic system, it is a question of zoning. The relevant issue for Bill is will the government allow him to install the system. Variance, change to the general plan, spot zoning, and administrative appeal comes into play.

The sign issue. Bill wants the sign to be gone. For Bill the relevant issue would be: does the government have the authority to order the removal.

Easement Express (the easement would appear on the neighbor's deed)

Grant or reservation Purchase an easement

Easement appurtenant The property is not landlocked

The law favors land being put to use

Prescription Necessity

Implied from Prior existing use

Irrevocable Licenses or "Easements by Estoppel"

Title insurance Covenants of Title Marketable title

Zoning General plan Specific plan Ordinances
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Does the location of the sign pose an immediate danger to the public, is it an obstruction to the motoring public.

Zoning for aesthesis is acceptable.

What is the significance that it is not content neutral -- 1st Amendment issue
(Political speech is the most protected)