ARTICLE:

THE NEW PROVISIONS FOR MULTIPLE-UNIT HOUSING IN SINGLE-FAMILY ZONES: THE "END OF SINGLE-FAMILY HOUSING" OR JUST ANOTHER MINIMALLY EFFECTIVE BUT OVERCOMPLICATED EFFORT TO ADDRESS THE DEFICIT OF AFFORDABLE HOUSING IN CALIFORNIA?

By Karl E. Geier[*]

On September 16, 2021, Governor Newsom signed two bills that take effect on January 1, 2022, and are intended to foster more intensive residential development in existing single-family zoned areas. One of these, Senate Bill 9, requires a local government to allow construction of at least two dwelling units on each lot in an otherwise single-family zone, and to permit subdivision of such lots into two separate saleable parcels as of right, with each process required to be ministerial in nature, which effectively exempts such two-unit construction projects and "urban lot splits" from environmental review under the California Environmental Quality Act (CEQA).[1] The other, Senate Bill 10, authorizes (but does not require) a local government to adopt a zoning ordinance that will allow up to 10 residential units on each parcel, if the property is in a "transit rich area" or an "urban infill site," as defined. SB 10 also provides an express exemption from CEQA review for the adoption of the ordinance and an implicit exemption from CEQA review for the local agency's approval of compliant projects with 10 or fewer residential units pursuant to such an ordinance.[2] The two bills together are intended to address the shortage of affordable housing in California, and for that reason, both declare that they address a matter of statewide concern, not local concern, and are applicable to all cities and counties, including charter cities and counties.[3]

Taken together, the two bills are yet another installment of the ongoing effort of the state legislature to encourage, if not compel, the construction of additional housing units to meet the needs of an expanding population in California. Whether these bills, on a macro basis, will materially affect the supply of housing and reduce the accumulated deficit of new housing construction to meet demand is questionable. However, on a micro basis, they may provide

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some property owners, and even a few developers, with a potential avenue to increase densities on their existing properties in spite of existing single-family zoning restrictions, and are discussed in detail in this article for that reason.

SB 9: The "Duplex," "Urban Lot Split," and "Fourplex" Bill

SB 9 adds two provisions to the Government Code that separately address zoning standards and subdivision criteria for eligible single-family lots. One provision, Gov. Code, § 65852.21, requires a local government to permit a proposed housing development containing no more than two residential units within a single-family zone under a ministerial approval process, without discretionary review or a hearing, if the development meets a number of criteria spelled out in the statute.[4] The other provision, Gov. Code, § 66411.7, amends the Subdivision Map Act by expressly requiring the ministerial approval of an urban lot split creating two parcels out of one existing eligible single-family residential parcel, and also requires the local agency to allow for construction of a minimum of two residential units on each of the two resultant parcels.[5] For all eligible single-family lots (including those that result from such an "urban lot split"), the local agency may impose "objective zoning standards, objective subdivision standards, and objective design review standards" that do not otherwise conflict with the statute.[6] It may not impose any such objective standards, however, in such a manner as to "have the effect of physically precluding the construction of up to two units," or that would "physically preclude either of the two units from being at least 800 square feet in area," with limited exceptions for minimal setback requirements of up to four feet from side and rear lot lines other than where the existing footprint of a structure is less than that distance.[7]

In effect, the two new Government Code provisions of SB 9 allow for the development of up to four residential dwelling units on an existing single-family parcel if the lot is also split in two as part of the proposal, and for that reason has been characterized as allowing the construction of a four-plex on a single-family lot. Among other things, the lot need not have been developed with an existing single-family residence in order to qualify; the only requirement is for the lot to be in an existing single-family zone.[8] However, in order for four units to be developed under the law, the structures must either be physically separate single-family or duplex structures located on each lot, or if contained in a single structure or adjoining structures, the local agency can require the units to be constructed in accordance with code provisions allowing

for separate conveyance of the two lots.[9] This provision may allow for an attached condominium or townhouse fourplex in the form of a common interest development, but it is not explicit in this regard.

In many cases, the original lot or the two resulting lots also would qualify for construction of an accessory dwelling unit or a junior accessory dwelling unit under Gov. Code, §§ 54842.2 or 54852.22. SB 9 includes a provision to limit the proliferation of additional dwelling units under these alternate mechanisms, by providing that the local agency is not required to permit accessory dwelling units and junior dwelling units on parcels that "use both the authority contained within [Section 65852.21] and the authority contained in Section 66411.7."[10] This would still appear to allow for the construction of an additional primary unit as well as at least one accessory dwelling unit or junior accessory dwelling unit on an existing single-family parcel that is not split into two parcels under Section 66411.7. However, Section 66411.7 specifically provides that a local agency is not required to permit any parcel created by an urban lot split to have more than two dwelling units of any kind.[11] This limitation would apply to both parcels that are the product of a lot split under the authority of that section, and does not distinguish between a parcel that has an existing residence or unit and the other parcel that consists wholly of new construction.

While the thrust of SB 9 is to allow the creation of two to four residential dwelling units on any existing parcel in a single-family zone,[12] it does not require the local agency to permit such developments in all instances. There is a lengthy list of exclusions from the benefits of the new law.

First, the parcel does not qualify unless it is located within a city that includes an urbanized area or urbanized cluster, or if it is in unincorporated territory, it must be wholly within the boundary of an urbanized area or urbanized cluster (both as designated by the United States Census Bureau).[13]

Second, the parcel cannot have one of several qualifications that would disqualify it for consideration under the streamlined ministerial approval process specified in Gov. Code, § 65913.4, which include areas of prime farmland, wetlands, high fire severity, hazardous waste sites, earthquake fault zones, or special flood hazard areas or floodways, and some natural areas and endangered species habitat areas.[14] (Most of these characteristics would be unusual in an urban setting, but a local government would not be required to approve multiple dwelling units or lot splits if they are present.).

Third, the development cannot be located in a historic district or property included in the State Historic Resources Inventory or within a site designated or listed by a city or county ordinance as a city or county landmark, historic property, or district.[15]

Fourth, a Coastal Development Permit (CDP) is still required for property that is located in the Coastal Zone, and the approval of the CDP by the local agency (and presumably by the Coastal Commission, if applicable) is not subject to the mandatory requirements of either the duplex provision or the urban lot split provision, although the local agency is not required to hold a public hearing for CDPs pertaining to housing developments that otherwise qualify for the ministerial approval process of SB 9.[16]

Fifth, there is a fairly complicated provision that is designed to preserve existing housing units and effectively limits the ability of an owner of existing rental housing to exercise the full benefits of SB 9. The law would not allow invocation of the ministerial approval process by a developer who contemplates the "demolition or alteration" of any existing housing that is occupied by a tenant or is subject to an affordable housing ordinance or recorded affordability restrictions, as defined.[17] Although the law generally does not disqualify a development that will require demolition of an existing owner-occupied residence in connection with the development of two to four units as described above, it does disqualify a development that will require "demolition or alteration" of any existing housing unit that has been occupied by a tenant within the past three years.[18] This effectively precludes the exercise of the enhanced ministerial development rights of SB 9 by a developer who assembles multiple properties over a period of time and continues to rent them out before engaging in a contemporaneous demolition and reconstruction of multiple units on several existing parcels, with or without a lot split as contemplated. Even for owner-occupied or vacant housing not occupied by a tenant during the preceding three years, a development will not qualify for the mandatory ministerial approval process of SB 9 if it contemplates the demolition of more than 25 percent of the existing exterior structural walls as part of a development of more than one unit on a parcel.[19] This later provision may be altered by local ordinance allowing demolition of more than 25 percent of exterior walls, in which case the mandatory ministerial approval process will apply despite the required demolition, but there is no local option to allow such demolition or alteration of existing rent-restricted, rent-controlled, or tenant-occupied housing.[20]

Sixth, for any urban lot split, the local agency is required to obtain an affidavit from the applicant that he or she intends to occupy one of the housing units as their personal residence for a minimum of three years from the date the urban lot split is approved.[21] This effectively limits use of the urban lot split to those owner-occupants who are willing to have additional units on their existing property while continuing to reside there, or who wish to build their own private unit while constructing additional units for others. While there is an exemption from this owner-occupancy limit if the applicant is a qualified nonprofit corporation or community land trust,[22] other private investor-developer applicants are essentially precluded from seeking an urban lot split to create marketable housing units on separate parcels. (The local agency cannot, however, require additional units created by the urban lot split to be owner-occupied,[23] but may prohibit any unit from being used for short-term rentals of 30 days or less.[24]) Other restrictions on urban lot splits preclude the law's use where either the parcel is the product of a prior urban lot split *or any adjacent parcel* has been the subject of an urban lot split by the same owner or one acting in concert with that owner.[25] And in no event can an urban lot split be obtained if the development contemplates the demolition of an existing unit on a parcel that was previously withdrawn from the rental housing stock under the provisions of Gov. Code, §§ 7060 et seq. within the preceding 15 years.[26] In short, SB 9's allowance of "urban lot splits" will be of use only for individual owner-occupied properties that have not previously been rented or subject to rent control in the jurisdiction.

Finally, even a housing development or urban lot split that satisfies all of the statutory requirements and is not disqualified under one of the above criteria may nevertheless be disapproved by the local agency (a) if it is not in compliance with objective zoning standards, objective subdivision standards, or objective design review standards,[27] or (b) if the local agency makes a written finding, based on a preponderance of the evidence, that the proposed housing development or urban lot split would have a specific, adverse impact, as defined, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.[28] Neither of these gives a local agency much flexibility to deny or condition project approval. Imposition of the local agency's "objective standards" cannot have the effect of requiring any increased setback beyond those of an existing structure or one to be constructed in the same location as an existing structure, or of imposing a setback of more than four feet from side or rear lot lines, nor

of effectively precluding physical construction of two dwelling units or precluding either unit from being at least 800 square feet in area.[29] Also, the local government may not impose requirements for dedication of rights of way or construction of offsite improvements as a condition of a parcel map for an urban lot split,[30] although it may require easements for public services and utilities, access to the public right of way, and off-street parking of no more than one space per unit as part of the development (or no off-street parking in the case of some parcels in transit-oriented areas or car share-serviced areas, as further defined).[31]

Under case law in related contexts, the restriction to "objective" standards would likely be interpreted as prohibiting the application of any subjective or vague standard that requires the exercise of personal judgment or discretion by the building official. The courts of appeal have shown a pronounced willingness to construe the ambit of local decision making very narrowly under such statutory language. In the recent case of *California Renters Legal Advocacy and Education Fund v. City of San Mateo*,[32] the similar provision of Gov. Code, § 65589.5, subd. (j) was applied stringently against a city that attempted to invoke setback requirements to disapprove a commercial building. The courts in that case, as well as an earlier decision under the similar language of Gov. Code, § 65913.4, *Ruegg & Ellsworth v. City of Berkeley,*[33] made it clear that in such cases, the court will determine for itself whether the applicable ordinances, plans, and policies of a local agency are "subjective" or "objective," and will not defer to the local agency's interpretation of its own ordinances, plans, and policies in this regard.

Likewise, the required demonstration of specific adverse effects on public health or safety that cannot be mitigated or avoided likewise will be very difficult for a local agency to achieve. The local agency bears the burden of introducing evidence to support the finding, and the effects must be serious in nature and not simply aesthetic or general welfare standards applicable to discretionary land use decisions. The "specific adverse effect" provision places the burden of demonstrating particular, identified, and unavoidable or nonmitigable effects squarely on the local agency, reversing the usual standard for review of local agency decisions that generally upholds the agency if any substantial evidence on the record supports its decision, even if other evidence outweighs the agency's evidence. This reversal of the usual standard of proof also has been upheld in other contexts,[34] and the aforementioned *City of San Mateo* and *City of Berkeley* cases indicate the willingness of the courts to enforce

such statutory reversals of the usual principles of California land use and municipal law rigorously against charter cities as well as general law cities and counties. And there is little doubt that the drafters of SB 9 were well aware of the judicial treatment of the similar language in these other statutes or that it would be borne out in the legislative history of SB 9.

SB 10: The "10-unit Multiplex Rezoning" Statute

SB 10 creates a streamlined mechanism for local agencies to rezone any parcel of land in the jurisdiction for up to 10 residential units without review under the California Environmental Quality Act, but unlike SB 9, which may apply in virtually any existing urbanized setting, the same is not true of SB 10. In the first place, SB 10 only *authorizes* a local agency (city or county) to adopt an ordinance "upzoning" a parcel for up to 10 units of residential density per parcel; it does not directly *require* any local agency to enact such an ordinance.[35] Thus, unlike SB 9, a developer proposing to have increased density residential zoning under the streamlined process still must have a willing legislative body (city council or county board of supervisors) to achieve that objective.

In the second place, SB 10 only applies where the parcel to be rezoned is in either a "transit-rich area" or an "urban infill site," as defined.[36] It also requires a finding by the legislative body that the increased density authorized by the ordinance is consistent with the agency's obligation to affirmatively further fair housing objectives under Gov. Code, § 8899.50.[37] These objectives generally pertain to achieving equity in housing availability, addressing discrimination, segregation, economic disparities, and unequal housing opportunities among persons based on race, ethnicity, religion, national origin, and the like.[38] This will necessitate a parcel-by-parcel review of the location and existing conditions in the area and a determination of whether the statutory criteria are met.

For purposes of SB 10, a "transit-rich" area is a parcel located within one-half mile of a major transit stop, as defined, or a parcel on a high quality bus corridor, as defined.[39] An "urban infill site" (which need not be located in a transit-rich area), is defined as one where at least 75 percent of the site adjoins parcels developed with existing urban uses, and which is located within a city that includes an urbanized area or urban cluster, or if located in an unincorporated area, the parcel itself must be entirely within an urbanized area or urban cluster as designated by the United States Census Bureau.[40] In addition, an "urban infill site" must already be zoned for residential use or residential mixed-use

development, or must have a general plan designation allowing residential use or a mix of residential or nonresidential uses with at least two-thirds of the square footage of the development (not the site) designated for residential use.[41] (These existing planning and zoning requirements evidently do not apply if the site is in a "transit-rich area"). Also, the parcel may not be located within a very high fire hazard severity zone or fire hazard severity zone, unless the site has adopted fire hazard mitigation measures applicable to the development under local and state standards and mitigation measures, as defined.[42] If publicly owned, the parcel cannot have been designated by an initiative measure for park or recreational purposes or as permanent open space.[43]

Other than these basic criteria for eligibility, there are few restrictions on the local government's ability to rezone for up to 10 residential units regardless of size limits or height limits under current zoning. Adoption of such a rezoning ordinance, and any related amendment to the general plan or other local regulations related to the rezoning ordinance, is declared not to be a "project" for purposes of CEQA,[44] and therefore is exempt from review under CEQA, which has been the major complaint of local agency groups about the legislation, because it eliminates the potential for long, drawn-out environmental review processes and litigation to delay implementation of a project conforming with zoning. Projects in areas with height limitations may be facilitated by the ordinance, which is expressly allowed by SB 10 to specify the height restriction applicable to the upzoned parcel.[45]

The zoning density increases fostered by SB 10 will dovetail into related provisions of law that force local agencies to streamline the approval process for smaller residential projects consisting of between three and 10 units. Projects in infill locations rezoned for up to 10 units under SB 10 will usually qualify for approval as of right without discretionary approvals such as conditional use permits under Gov. Code, § 65589.4, if they include the requisite affordability component under that statute.[46] These requirements have been strengthened by SB 478, which makes it harder for local agencies to withhold or condition approval of such smaller projects by restricting the application of certain floor ratio standards or minimum lot sizes to smaller housing development projects that are located in multifamily or mixed use zones.[47] (Specifically, SB 478 prohibits a local agency from requiring an FAR of less than 1.0 on a project with three to seven units, or less than 1.25 on a project with eight to 10 units).[48]

SB 10 also includes provisions that essentially freeze the new upzoned density

of a parcel to prevent a subsequent reduction of allowable units on the parcel. The rezoning under SB 10 may not decrease density under existing zoning,[49] and once the rezoning has been adopted, the legislative body may not thereafter reduce the density.[50] Any effort to repeal or amend the rezoning adopted for a parcel under SB 10 is not exempt from CEQA review, and must consider the change applicable to the parcel prior to adoption under the ordinance.[51] In general, once the local government adopts an ordinance rezoning a parcel for up to 10 units of housing, it becomes very difficult to downzone the property to a reduced density or for a non-residential use. Further, the statute implicitly allows up to a total of 14 units on a parcel by expressly excluding up to two accessory dwelling units and up to two junior accessory dwelling units from the 10-unit limitation.[52]

However, the CEQA exemption and opportunity for rezoning under the statute cannot be exercised in a manner that either initially or by subsequent additional rezonings results in more than 10 residential units being approved for the parcel (determined without including up to two accessory dwelling units and two junior accessory dwelling units[53]); if that occurs, the action is not subject to ministerial approval as of right and is not exempt from review as a project under CEQA.[54] A project also cannot be divided into smaller projects in order to exclude the project from that limitation.[55]

SB 10 also includes provisions specifically intended to minimize the effect of local NIMBY laws and initiative measures on the availability of a rezoning to allow increased residential density. The local legislative body is authorized to adopt a rezoning ordinance under SB 10 regardless of the limitations of any "local restrictions on adopting zoning ordinances" that would limit its authority to do so, whether those local restrictions were adopted by the jurisdiction's governmental bodies or by the initiative process.[56] This is the apparent effect of the language in the primary authorizing language of the statute. Even if the existing density permissible under current zoning has been limited by a local initiative measure, SB 10 expressly authorizes the local legislative body to override the initiative measure by a two thirds vote.[57] Whether this state-mandated override of existing restrictions imposed by local initiative power is enforceable may require litigation to resolve.

Another aspect of SB 10 that may require judicial interpretation or legislative clarification is the relationship of a rezoning ordinance allowing up to 10 units on a particular parcel to the spot zoning doctrine. The authorizing language of

SB 10, in Gov. Code, § 65913.5, subd. (a)(1), grants the local legislative body authority to zone a parcel for up to 10 units of residential density per parcel, "[n]otwithstanding any local restrictions on adopting zoning ordinances."[58] Whether this means the local agency can disregard the uniformity requirements applicable to zoning districts under other existing statutes is potentially subject to debate.[59] Under cases such as *Sacramentans for Fair Planning v. City of Sacramento,*[60] a local agency's rezoning of a particular parcel will be upheld as a valid exercise of the police power even if the effect is to treat similar properties differently, so long as the zoning regulation is rationally related to a legitimate state interest.[61] Most likely, in the face of the legislative declarations of the need for additional housing to satisfy the severe housing shortage in California, as contained in SB 9, SB 10, and other recent legislation, the claim that allowing 10-unit residential multiplexes surrounded by other single-family or lower-density multifamily residential zoning is somehow violative of the uniformity requirement will fail, but it is an issue with limited case law to date.

A further question lurking in the intricacies of the state planning and zoning law is whether a local agency that fails to plan for and rezone sufficient property for 10-unit multiplexes as authorized by SB 10 may be in violation of its obligation to plan for and induce construction of its regional fair share of a range of housing types and thereby find its housing element out of compliance under Gov. Code, § 65583. Local compliance with the state-mandated requirement to accommodate additional housing in existing lower-density bedroom communities and suburbs has been spotty at best. The state legislature's continuing efforts to force local agencies to realistically plan for and allow construction of a range of housing types, not just single-family housing, could be augmented by a state-initiated effort by the Department of Housing and Community Development or the Office of the Attorney General to compel local agencies to exercise their authority under SB 10 in order to avoid sanctions for failure to adequately accommodate affordable or higher-density housing under other laws. Such an effort by the state government may seem to conflict with the general language of Gov. Code, § 65913.5, subd. (a)(1), which is permissive only and does not mandate adoption of an upzoning to 10 units unless the local legislative body elects to do so. However, another bill signed by the Governor on September 28, 2021, AB 215, enhances the authority of the DHCD and the Attorney General to bring an action to force local agencies to comply with state law, including those who may be violating the Housing Crisis Act of 2019 (which contains the streamlined approval process applicable to qualifying residential development

projects that comply with objective pre-existing standards), and in some cases, to force such local agencies to adopt more pro-development policies and to comply with existing state requirements in order to avoid state-imposed sanctions.[62] This potentially may enable the state to compel local agencies to adopt SB 10 upzoning on a broad basis in order to demonstrate to DHCD that they are accommodating their regional fair share of a range of housing types and meeting their affirmative obligation to "affirmatively further fair housing" as required under Gov. Code, § 65583, subd. (c)(9), and related provisions of law.

Conclusion

The overriding objective of both SB 9 and SB 10 is not merely to induce or compel local agencies to lift single-family zoning restrictions, but also to facilitate the construction of additional housing in California. However, the restrictions and limitations of both bills will reduce their effectiveness in achieving that ultimate objective. As a practical matter, the right to increase residential density under SB 9 is limited to owner-occupied single-family zoned property with no allowance for demolition and replacement of existing rental housing and no allowance for land assembly and achieving the financial efficiencies of a larger project with simultaneous construction of multiple additional homes on multiple parcels under common control. These limitations preclude its use for large-scale redevelopment of existing low density development into higher density urban uses by professional developers who can achieve economies of scale and improve affordability.

While some owner-occupant homeowners undoubtedly will find it useful, SB 9 is unlikely to provoke massive and widespread changes in existing single-family areas; at most it will result in scattered and incremental changes on a lot-by-lot basis, and many homeowners will have no interest in utilizing its benefits at all. SB 10 is likewise restricted to parcel-by-parcel upzoning and will be of no benefit to developers attempting larger projects involving parcel aggregations and construction of multiples of 10 units in urban areas. Again, the utility of upzoning under SB 10 may be advantageous to some parcel owners, including smaller developers who acquire existing parcels with the objective of building multiple unit housing with minimal delays by CEQA review, but its use likewise will be incremental, parcel-by-parcel, and slow to change the character of existing neighborhoods. Even with the enhanced authority of the state to compel increases in density and relaxed development policies under other housing

legislation in 2021, neither SB 9 nor SB 10 is likely to result in widespread, large-scale private development of multiple-unit housing in existing single-family neighborhoods.

For both bills, in more affluent, high-value single-family communities, the possible economic inducements afforded by increased density are unlikely to outweigh the economic and lifestyle benefits to individual homeowners of maintaining their existing single-family uses, with space and personal privacy unavailable with an increased unit count on their existing acreage. As a result, it can be anticipated that the cost of eligible land to investor-developers who are competing with personal use homebuyers will deter use of both bills in more affluent residential neighborhoods, although there may be some benefit for homeowners and small developers in some more urban, less affluent areas where existing development at lower density may evolve into higher density residential communities over time. Whether this is consistent with the policy objectives of the bills' sponsors is unknown.

ENDNOTES:

[1]2021 Stats., Ch. 162 (SB 9), adding Gov. Code, §§ 65862.21 and 66411.7, and amending Gov. Code, § 66452.6, all effective January 1, 2022.

[2]2021 Stats., Ch. 163 (SB 10), adding Gov. Code, § 65913.5, effective January 1, 2022.

[3]Gov. Code, § 65913.5, subd. (f) (as to SB 10); 2021 Stats., Ch. 162 (SB 9), § 4 (uncodified).

[4]Gov. Code, § 65852.21, subd. (a).

[5]Gov. Code, § 66411.7, subds. (a), (b).

[6]Gov. Code, §§ 65852.21, subd. (b)(1), 66411.7, subd. (c)(1).

[7]Gov. Code, §§ 65852.21, subd. (b)(2), 66411.7, subd. (c)(2).

[8]See Gov. Code, §§ 65852.21, subd. (a), 66411.7, subd. (a)(3)(A). See also § 65853.21, subd. (i)(1): "A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit."

[9]Gov. Code, § 65852.21, subd. (k).

[10]Gov. Code, § 65852.21, subd. (f).

[11]Gov. Code, § 66511.7, subd. (j).

[12]Gov. Code, §§ 65852.21, subd. (a), 66411.7, subd. (a)(3)(A).

[13]Gov. Code, §§ 65852.21, subd. (a)(1), 66411.7, subd. (a)(3)(B).

[14]Gov. Code, §§ 65852.21, subd. (a)(2), 66411.7, subd. (a)(3)(C) (both requiring that the parcel satisfies the requirements of Gov. Code, § 65913.4, subds. (a)(6)(B) through (a)(6)(K)).

[15]Gov. Code, §§ 65852.21, subd. (a)(6), 66411.7, subd. (a)(3)(E).

[16]Gov. Code, §§ 65852.21, subd. (k), 66411.7, subd. (o).

[17]Gov. Code, §§ 65852.21, subds. (a)(3)(A), (a)(3)(B), 66411.7, subd. (a)(3)(D)(iv).

[18]Gov. Code, §§ 65852.21, subd. (a)(3)(C), 66411.7, subds. (a)(3)(D)(i), (a)(3)(D)(ii).

[19]Gov. Code, § 65852.21, subd. (a)(5).

[20]Gov. Code, § 65852.21, subd. (a)(5).

[21]Gov. Code, § 66411.7, subd. (g)(1).

[22]Gov. Code, § 66411.7, subd. (g)(2).

[23]Gov. Code, § 66411.7, subd. (g)(3).

[24]Gov. Code, § 66411.7, subd. (h).

[25]Gov. Code, § 66411.7, subds. (a)(2)(F), (a)(2)(G).

[26]Gov. Code, § 66411.7, subd. (a)(2)(D)(iv). The provisions of Gov. Code, §§ 7060 et seq. permit a property owner to evict tenants and cease offering the property for rental, and the limitations of SB 9 on subsequently utilizing an urban lot split for such properties are designed to prevent a termination of rentals to avoid the other limitations on demolition of rental housing or rent-regulated housing imposed by SB 9 in order to construct new, higher density housing.

[27]Gov. Code, §§ 65852.21, subd. (b)(1), 66411.7, subd. (c)(1).

[28]Gov. Code, §§ 65852.21, subd. (d), 66411.7, subd. (d).

[29]Gov. Code, §§ 65852.21, subds. (b)(2), (b)(3), 66411.7, subds. (c)(2), (c)(3).

[30]Gov. Code, § 66411.7, subd. (b)(3).

[31]Gov. Code, § 66411.7, subd. (e). Under subd. (e)(3), the local government is prohibited from requiring any off-street parking where the property is within one-half mile walking distance of a high quality transit corridor or major transit stop, as further defined, or within one block of a car share vehicle; otherwise, the local government may require "up to one space per unit" as a condition of an urban lot split.

[32]*California Renters Legal Advocacy and Education Fund v. City of San Mateo*, 68 Cal. App. 5th 820, 2021 WL 4129452 (1st Dist. 2021).

[33]*Ruegg & Ellsworth v. City of Berkeley*, 63 Cal. App. 5th 277, 277 Cal. Rptr. 3d 649 (1st Dist. 2021).

[34]*California Renters Legal Advocacy and Education Fund v. City of San Mateo*,

supra, 68 Cal. App. 5th at 843, 2021 WL 4129452 (citing cases from contexts other than the land use and zoning context). See also *Honchariw v. County of Stanislaus*, 200 Cal. App. 4th 1066, 1074-1075, 132 Cal. Rptr. 3d 874 (5th Dist. 2011).

[35]Gov. Code, § 65913.5, subd. (a).

[36]Gov. Code, § 65913.5, subd. (a)(1)

[37]Gov. Code, § 65913.5, subd. (b)(3).

[38]See Gov. Code, § 8899.50, cited in Gov. Code, § 65913.5, subd. (b)(3).

[39]Gov. Code, § 65913.5, subd. (e)(2). See Gov. Code, § 65913.5, subd. (e)(1) (defining "high-quality bus corridor") and Pub. Resources Code, § 21064.3 (defining "major transit stop").

[40]Gov. Code, § 65913.5, subd. (e)(3).

[41]Gov. Code, § 65913.5, subd. (e)(3).

[42]Gov. Code, § 65913.5, subd. (a)(4)(A).

[43]Gov. Code, § 65913.5, subd. (a)(4)(B).

[44]Gov. Code, § 65913.5, subd. (a)(1).

[45]Gov. Code, § 65913.5, subd. (a)(1).

[46]Gov. Code, § 65589.4.

[47]Gov. Code, § 65913.11, subds. (a), (b), enacted by 2021 Stats., Ch. 363 (SB 478), § 3, effective January 1, 2022.

[48]*Id.*

[49]Gov. Code, § 65913.5, subd. (d)(1).

[50]Gov. Code, § 65913.5, subd. (d)(2).

[51]Gov. Code, § 65913.5, subd. (c)(2).

[52]See Gov. Code, § 65913.5, subd. (c)(3).

[53]Gov. Code, § 65913.5, subd. (c)(3).

[54]Gov. Code, § 65913.5, subd. (c)(1).

[55]Gov. Code, § 65913.5, subd. (c)(4).

[56]See Gov. Code, § 65913.5, subd. (a)(1).

[57]Gov. Code, § 65913.5, subd. (b)(4).

[58]Gov. Code, § 65913.5, subd. (a)(1).

[59]Gov. Code, § 65852.

[60]*Sacramentans for Fair Planning v. City of Sacramento*, 37 Cal. App. 5th 698, 250 Cal. Rptr. 3d 261 (3d Dist. 2019).

[61]*Id.*

[62]Gov. Code, § 65585, subds. (j), (k), (l), as amended by 2021 Stats., Ch. 342 (AB 215), § 1, effective January 1, 2022.

