

Senate Bill No. 497

CHAPTER 873

An act to amend Sections 65850.5, 66412, 66473.1, 66475.1, 66475.2, and 66499.35 of the Government Code, relating to land use.

[Approved by Governor October 13, 2001. Filed
with Secretary of State October 14, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 497, Sher. Land use: energy conservation.

(1) Existing law prohibits the legislative body of any city or county from enacting an ordinance that prohibits or unreasonably restricts the use of solar energy systems other than for the preservation or protection of the public health and safety.

This bill would make technical, nonsubstantive changes to this provision.

(2) Existing law makes the Subdivision Map Act inapplicable to a lot line adjustment between 2 or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, if the lot line adjustment is approved by the local agency or advisory agency. The act requires a local agency or advisory agency to limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to local zoning and building ordinances.

This bill would make the act inapplicable to a lot line adjustment between 4 or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, if the lot line adjustment is approved by the local agency or advisory agency. The bill would require a local agency or advisory agency to limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable coastal plan, and zoning and building ordinances, as specified.

(3) The Subdivision Map Act requires the design of a subdivision for which a tentative map is required to provide, to the extent feasible, for future passive natural heating or cooling opportunities in the subdivision.

This bill would make technical changes to this provision.

(4) The Subdivision Map Act also requires the subdivider of a subdivision that, as shown on the final map thereof, contains 200 or more parcels, to dedicate additional land as may be necessary and feasible to provide bicycle paths for the use and safety of the residents. A local ordinance may require land within a subdivision, except a subdivision that consists of the subdivision of airspace, to be dedicated or irrevocably offered for dedication for local transit facilities that directly benefit the subdivision residents if the subdivision has the potential for 200 or more dwelling units and the local governing body finds that transit services are or will be made available to the subdivision within a reasonable time.

This bill would require all subdividers to dedicate additional land as may be necessary and feasible to provide bicycle paths for the residents. It would also authorize a local ordinance to require land within any subdivision to be dedicated or irrevocably offered for dedication for local transit facilities, except as specified.

(5) The Subdivision Map Act requires a local agency to issue a certificate of compliance or a conditional certificate of compliance if it determines that real property does not comply with the act or local ordinances enacted pursuant to the act.

This bill would eliminate the provision for issuance of a certificate of compliance and would require the issuance of a conditional certificate of compliance in those instances.

The people of the State of California do enact as follows:

SECTION 1. Section 65850.5 of the Government Code is amended to read:

65850.5. (a) The legislative body of any city or county shall not enact an ordinance that has the effect of prohibiting or of unreasonably restricting the use of solar energy systems other than for the preservation or protection of the public health or safety. This prohibition shall be applicable to charter cities because the promotion of the use of nonfossil fuel sources of energy, including solar energy and energy conservation measures, is a matter of statewide concern.

(b) This section shall not apply to ordinances that impose reasonable restrictions on solar energy systems. However, it is the policy of the state to promote and encourage the use of solar energy systems and to remove obstacles thereto. Accordingly, reasonable restrictions on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency, or that allow for an alternative system of comparable cost and efficiency.



(c) For the purposes of this section, “solar energy system” shall have the same meaning as set forth in Section 801.5 of the Civil Code.

SEC. 2. Section 66412 of the Government Code is amended to read: 66412. This division shall be inapplicable to:

(a) The financing or leasing of apartments, offices, stores, or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks, or trailer parks.

(b) Mineral, oil, or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code.

(d) A lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, if the lot line adjustment is approved by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable coastal plan, and zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to the local general plan, any applicable coastal plan, and zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code.

(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

(g) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a community apartment project, as defined in Section 1351 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 75 percent of the units in the project were occupied by record owners of the project on March 31, 1982.

(2) A final or parcel map of the project was properly recorded, if the property was subdivided, as defined in Section 66424, after January 1,



1964, with all of the conditions of that map remaining in effect after the conversion.

(3) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(4) Subject to compliance with subdivision (e) of Section 1351 of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the project as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the project shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the project.

(h) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a stock cooperative, as defined in Section 1351 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 51 percent of the units in the cooperative were occupied by stockholders of the cooperative on January 1, 1981, or individually owned by stockholders of the cooperative on January 1, 1981. As used in this paragraph, a cooperative unit is “individually owned” if and only if the stockholder of that unit owns or partially owns an interest in no more than one unit in the cooperative.

(2) No more than 25 percent of the shares of the cooperative were owned by any one person, as defined in Section 17, including an incorporator or director of the cooperative, on January 1, 1981.

(3) A person renting a unit in a cooperative shall be entitled at the time of conversion to all tenant rights in state or local law, including, but not limited to, rights respecting first refusal, notice, and displacement and relocation benefits.

(4) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(5) Subject to compliance with subdivision (e) of Section 1351 of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the cooperative as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the cooperative shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the



foregoing provisions shall be binding upon and affect the interests of all parties in the cooperative.

(i) The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a windpowered electrical generation device on the land, if the project is subject to discretionary action by the advisory agency or legislative body.

(j) The leasing or licensing of a portion of a parcel, or the granting of an easement, use permit, or similar right on a portion of a parcel, to a telephone corporation as defined in Section 234 of the Public Utilities Code, exclusively for the placement and operation of cellular radio transmission facilities, including, but not limited to, antennae support structures, microwave dishes, structures to house cellular communications transmission equipment, power sources, and other equipment incidental to the transmission of cellular communications, if the project is subject to discretionary action by the advisory agency or legislative body.

(k) Leases of agricultural land for agricultural purposes. As used in this subdivision, “agricultural purposes” means the cultivation of food or fiber, or the grazing or pasturing of livestock.

SEC. 3. Section 66473.1 of the Government Code is amended to read:

66473.1. (a) The design of a subdivision for which a tentative map is required pursuant to Section 66426 shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

(b) (1) Examples of passive or natural heating opportunities in subdivision design, include design of lot size and configuration to permit orientation of a structure in an east-west alignment for southern exposure.

(2) Examples of passive or natural cooling opportunities in subdivision design include design of lot size and configuration to permit orientation of a structure to take advantage of shade or prevailing breezes.

(c) In providing for future passive or natural heating or cooling opportunities in the design of a subdivision, consideration shall be given to local climate, to contour, to configuration of the parcel to be divided, and to other design and improvement requirements, and that provision shall not result in reducing allowable densities or the percentage of a lot that may be occupied by a building or structure under applicable planning and zoning in effect at the time the tentative map is filed.



(d) The requirements of this section do not apply to condominium projects which consist of the subdivision of airspace in an existing building when no new structures are added.

(e) For the purposes of this section, “feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

SEC. 4. Section 66475.1 of the Government Code is amended to read:

66475.1. Whenever a subdivider is required pursuant to Section 66475 to dedicate roadways to the public, the subdivider may also be required to dedicate additional land as may be necessary and feasible to provide bicycle paths for the use and safety of the residents of the subdivision.

SEC. 5. Section 66475.2 of the Government Code is amended to read:

66475.2. (a) There may be imposed by local ordinance a requirement of a dedication or an irrevocable offer of dedication of land within the subdivision for local transit facilities such as bus turnouts, benches, shelters, landing pads and similar items that directly benefit the residents of a subdivision. The irrevocable offers may be terminated as provided in subdivisions (c) and (d) of Section 66477.2.

(b) Only the payment of fees in lieu of the dedication of land may be required in subdivisions that consist of the subdivision of airspace in existing buildings into condominium projects, stock cooperatives, or community apartment projects, as those terms are defined in Section 1351 of the Civil Code.

SEC. 6. Section 66499.35 of the Government Code is amended to read:

66499.35. (a) Any person owning real property or a vendee of that person pursuant to a contract of sale of the real property may request, and a local agency shall determine, whether the real property complies with the provisions of this division and of local ordinances enacted pursuant to this division. If a local agency determines that the real property complies, the city or the county shall cause a certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate of compliance shall identify the real property and shall state that the division of the real property complies with applicable provisions of this division and of local ordinances enacted pursuant to this division. The local agency may impose a reasonable fee to cover the cost of issuing and recording the certificate of compliance.



(b) If a local agency determines that the real property does not comply with the provisions of this division or of local ordinances enacted pursuant to this division, it shall issue a conditional certificate of compliance. A local agency may, as a condition to granting a conditional certificate of compliance, impose any conditions that would have been applicable to the division of the property at the time the applicant acquired his or her interest therein, and that had been established at that time by this division or local ordinance enacted pursuant to this division, except that where the applicant was the owner of record at the time of the initial violation of the provisions of this division or of the local ordinances who by a grant of the real property created a parcel or parcels in violation of this division or local ordinances enacted pursuant to this division, and the person is the current owner of record of one or more of the parcels which were created as a result of the grant in violation of this division or those local ordinances, then the local agency may impose any conditions that would be applicable to a current division of the property. Upon making the determination and establishing the conditions, the city or county shall cause a conditional certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate shall serve as notice to the property owner or vendee who has applied for the certificate pursuant to this section, a grantee of the property owner, or any subsequent transferee or assignee of the property that the fulfillment and implementation of these conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property.

Compliance with these conditions shall not be required until the time that a permit or other grant of approval for development of the property is issued by the local agency.

(c) A certificate of compliance shall be issued for any real property that has been approved for development pursuant to Section 66499.34.

(d) A recorded final map, parcel map, official map, or an approved certificate of exception shall constitute a certificate of compliance with respect to the parcels of real property described therein.

(e) An official map prepared pursuant to subdivision (b) of Section 66499.52 shall constitute a certificate of compliance with respect to the parcels of real property described therein and may be filed for record, whether or not the parcels are contiguous, so long as the parcels are within the same section or, with the approval of the city engineer or county surveyor, within contiguous sections of land.

(f) (1) Each certificate of compliance or conditional certificate of compliance shall include information the local agency deems necessary, including, but not limited to, all of the following:

(A) Name or names of owners of the parcel.



(B) Assessor parcel number or numbers of the parcel.

(C) The number of parcels for which the certificate of compliance or conditional certificate of compliance is being issued and recorded.

(D) Legal description of the parcel or parcels for which the certificate of compliance or conditional certificate of compliance is being issued and recorded.

(E) A notice stating as follows:

This certificate relates only to issues of compliance or noncompliance with the Subdivision Map Act and local ordinances enacted pursuant thereto. The parcel described herein may be sold, leased, or financed without further compliance with the Subdivision Map Act or any local ordinance enacted pursuant thereto. Development of the parcel may require issuance of a permit or permits, or other grant or grants of approval.

(F) Any conditions to be fulfilled and implemented prior to subsequent issuance of a permit or other grant of approval for development of the property, as specified in the conditional certificate of parcel compliance.

(2) Local agencies may process applications for certificates of compliance or conditional certificates of compliance concurrently and may record a single certificate of compliance or a single conditional certificate of compliance for multiple parcels. Where a single certificate of compliance or conditional certificate of compliance is certifying multiple parcels, each as to compliance with the provisions of this division and with local ordinances enacted pursuant thereto, the single certificate of compliance or conditional certificate of compliance shall clearly identify, and distinguish between, the descriptions of each such parcel.

