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Public Law Update – AB 821: Resolving General Plan and Zoning Conflicts

On October 11, 2023, Governor Gavin Newsom signed into law Assembly Bill 821 ("AB 821") to allow a development project to move forward in a timely manner where the project complies with the general plan but the local agency's zoning ordinance is inconsistent.

Under existing law, a city or county zoning ordinance must be consistent with its general plan. If a zoning ordinance is amended in a manner that is inconsistent with a local agency's general plan, residents and property owners may bring a civil action against a local agency to enforce compliance with the law, if they do so within 90 days of the laws becoming inconsistent. However, if the local agency amends the general plan in a manner that creates an inconsistency with the existing zoning code, there is no built-in enforcement mechanism. Further, under existing law, a local government must amend their zoning ordinances within a 'reasonable time' which is not defined and therefore leads to different interpretations of what is reasonable.

AB 821 provides that if a development application is consistent with the general plan but not the applicable zoning code, the local agency must either (1) make the zoning consistent with the general plan within 180 days from the receipt of the development application, or (2) approve the development application based on the general plan, not the inconsistent zoning code.

In addition to the current legal remedies available for residents and property owners, AB 821 authorizes residents and property owners within the city or county to bring an action against the local agency within 90 days of the agency's failure to comply with AB 821.

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