



January 28, 2021

Dear Senator Caballero,

Thank you for the opportunity to review [SB 9](#), which next week I will recommend the LandWatch board of directors endorse. I believe SB 9 is consistent with [LandWatch's goals](#) to promote higher density, more climate-friendly housing *in cities* throughout the state. Unlike unincorporated areas, cities generally offer easy access to schools, other public services, jobs, shopping, entertainment, and other daily activities. Cities can be designed (or redesigned) for walking, biking and mass transit. Sprawl development in counties can't. Consequently, we recommend modifying SB 9 to focus on denser, city-centered housing.

### **Limitations on inclusion of unincorporated areas in the mandates**

As drafted, the bill would mandate ministerial approval of duplexes and lot splits in both cities and unincorporated areas. We recommend that the two mandates not be extended to unincorporated areas for two reasons. First, density mandates make most sense within urban boundaries. Second, we advise that the marginal benefit of mandating denser housing in rural areas is not significant or likely to result in VMT reductions. If you agree, then section 65852.21(a)(1) and 66411.7(a)(3)(B), which specify what parcels are subject to the mandates, should be revised to strike out the phrase "or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau." Census Bureau maps for Monterey County include significant rural areas that the Census Bureau designates as urbanized where automobiles are virtually mandatory for daily activities. Adding more homes in these areas will increase greenhouse gas emissions and thwart the state's climate goals. Currently 41% of the state's total greenhouse gas emissions are from [transportation](#).

If, however, you believe the mandates should apply to some urbanized unincorporated areas, then we suggest that these areas be further qualified to ensure that they are truly the kind of urbanized areas in which denser development would likely lead to reduced VMT. We propose two additional qualifications, either or both of which could be added to section 65852.21(a)(1) and 66411.7(a)(3)(B). One qualification is based on SB 35, which mandates ministerial approval of certain multifamily housing developments in both incorporated and unincorporated areas. The other qualification is based on a recommendation by the Planning and Conservation League (PCL) for designation of infill sites subject to legislative incentive programs such as CEQA exemptions or streamlining.

First, we propose that the unincorporated area parcels subject to the mandates (but not the incorporated areas parcels) meet the same qualification that was included in SB 35 mandates in Gov. Code section 65913.4(a)(2)(B) and (C), i.e., that in addition to being designated urbanized or urban cluster by the Census Bureau, that they also be (B)A site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this

section, parcels that are only separated by a street or highway shall be considered to be adjoined. (C) A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

Second, we propose that the unincorporated area parcels subject to the mandates (but not the incorporated areas parcels) meet the following qualification for infill definition in programs to incentivize infill development, as suggested in the [Planning and Conservation League's Equitable Infill Incentives Initiative Interim Report](#), January 2020, p. 27: the site is an area with less than 85% of regional average per capita VMT or is in an area within a half-mile of a "major transit stop" or a "high-quality transit corridor" as defined by Public Resources Code sections 21064.3 and 21155.

PCL's Equitable Infill Incentives Initiative Interim Report explains that infill development incentives will work best if they are limited to areas with VMT that is at least 15% below the regional or city average, consistent with the Office of Planning and Research guidance for implementing the SB 743 VMT-based CEQA significance thresholds that are intended to encourage infill development. We believe that mandates to encourage infill should similarly be limited to low VMT areas.

We note that there are other qualifications used to identify the urbanized areas deserving of incentives or mandates for infill housing that could be considered. PCL's Equitable Infill Incentives Initiative Interim Report provides a thoughtful analysis of these alternatives at pages 7 et seq. and Appendix A, which compiles definitions of infill, urban area, urban use, and TOD.

Moving forward we hope the Legislature and Governor look to [Sacramento's recent decision](#) that moves towards allowing four-plexes by right throughout the city. We are aware of the difficulties SB 50 faced and recognize the political challenge of the state considering higher density mandates. Perhaps Sacramento's leadership offers a way forward.

If you have any questions or concerns, I would be glad to schedule a call to talk further about these recommendations. Thank you for your important leadership on SB 9!

Sincerely,



Michael D. DeLapa  
Executive Director