

Highlights

November 2025 Edition

Highlights for November, 2025 *Subdivision Law and Growth Management*

1. **Eighth Circuit determined landowners' parcel was a single parcel rather than eight subdivided lots.** *Becker v. City of Hillsboro, Missouri*, 125 F.4th 844 (8th Cir. 2025), owners of 176 acres of land annexed to the city brought an action in state court against the city for inverse condemnation under federal and state constitutions and violations of their constitutional rights under § 1983. The landowners alleged that they had been deprived of all economical and productive use of the property as the result of city ordinances requiring them to connect to city water services at their own cost. Following removal, both sides moved for summary judgment. The United States District Court for the Eastern District of Missouri entered summary judgment for the city and the landowners appealed. On appeal, the United States Court of Appeals for the Eighth Circuit held, among other things, that the landowners' parcel would be treated as a single parcel, rather than eight subdivided lots, when considering whether the city land use ordinances prohibiting new private wells within city limits, and prohibiting the use or construction of residences in the city unless those residences were connected to the city water system, constituted a regulatory taking. The land was still characterized as one parcel under local law. The parcel was contiguous, divided only by one road. It would cost more, and thus decrease the value of the property more, to extend the water to all eight proposed subdivided lots than to just one parcel. Finally, the parcel was purchased as one lot, annexed to the city as one lot, and initially advertised for sale as one lot.
2. **Alabama Supreme Court addressed issue of first impression regarding city subdivision regulations.** In *790 Montclair, LLC v. Birmingham Metro, LLC*, --- So.3d ---, 2025 WL 1831112 (Alabama 2025), the owner of land adjacent to land that was the subject of a subdivision plat that had been approved by the city planning commission brought an action against an adjacent landowner and related defendants. The landowner sought to annul or invalidate the subdivision plan. The action was based on the plaintiff landowner's claim that it was not provided with written no-

tice of a public hearing on the proposed subdivision, as required by the city regulations and the state statute. On cross-motions for summary judgment, the Circuit Court entered summary judgment for the adjacent landowner and related defendants. The plaintiff landowner appealed. In a case that presented an issue of apparent first impression, the Alabama Supreme Court affirmed and held that the adjacent landowner strictly complied with the city subdivision regulations and the state statute regarding notice to adjoining property owners as to a public hearing on the proposed subdivision.

3. **California Supreme Court held that conveyance did not “create” a parcel resulting from a “division of land” under exemption to Subdivision Map Act.** In *Cox v. City of Oakland*, 17 Cal.5th 362, 328 Cal.Rptr.3d 875, 562 P.3d 2 (California 2025), a landowner filed a petition for writ of mandate to compel the city to issue a certificate of compliance for a single lot under the Subdivision Map Act. The Superior Court denied the petition, and the landowner appealed. The First District Court of Appeal reversed and remanded with directions to grant the petition. The city’s petition for review was granted. The California Supreme Court held that the conveyance did not “create” a parcel resulting from a “division of land” under the exemption to the Subdivision Map Act. In so holding, the Supreme Court determined that a conveyance occurring prior to the effective date of the Subdivision Map Act’s parcel map filing requirement, which identified the property being conveyed as contiguous land described as “Lot 18, Lot 17, and a portion of Lot 16” on an antiquated subdivision map, did not “create” three separate parcels through a “division of land,” in order for lot number 18 to be considered a parcel entitled to conclusive presumption of legality. Rather, it resulted in a single parcel encompassing all three lots. Therefore, the landowner could not establish subdivision by conveyance under the exemption to the Act. Because lot number 18 had always been conveyed together with at least one other contiguous lot, it was never separated as a distinct unit of land from all other land conveyed. Instead, it remained part of the contiguous land under the sequential owners.
4. **Maryland Appellate Court affirmed county zoning board’s decisions denying petition to redevelop village center.** In *Matter of HRVC Limited Partnership*, --- A.3d ----, 266 Md.App. 391, 338 A.3d 861 (Maryland 2025), a developer petitioned for judicial review of the county zoning board’s decisions denying the petition to redevelop the village center in which the

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developer sought to add a four-story, 230-unit, mixed-use residential apartment building to the center. The developer's subsequent motion for reconsideration was denied. The cases were consolidated. The Circuit Court upheld the board's decisions and the developer appealed. The Appellate Court affirmed, holding that substantial evidence supported the board's conclusion that the redevelopment petition did not satisfy the regulatory requirement that the village center's residential uses "support and enhance, but not overwhelm, other uses in the village center." The board's decision to deny the redevelopment petition was not rendered arbitrary and capricious by its approval of the redevelopment petitions for two other village centers. The board did not apply an incorrect legal standard in considering whether disqualification of a board member based on her allegedly improper manner of questioning might "chill" or discourage board members from asking questions. The developer failed to overcome the general presumption that the board member could and would be able to separate that which might be considered from that which might not. An objective person would not have reasonably questioned the board member's impartiality based on her questioning of the deputy director for the county department of planning and zoning. Finally, an objective person would not have reasonably questioned the board member's impartiality based on her questioning of the developer's vice president.

5. **Maryland Appellate Court approved developer's detailed site plan concerning a development proposal.** In *Matter of Northpoint Realty Partners, LLC*, 265 Md. App. 270, 335 A.3d 115, 2025 WL 1275835 (Maryland 2025), the developer requested judicial review of the reversal by the county council, sitting as the district council, of the planning board's approval of the developer's detailed site plan concerning a development proposal for a commercial/warehouse use submitted pursuant to the newly adopted zoning ordinance. The Circuit Court vacated and remanded. The council appealed. The Appellate Court held that the facts were not in dispute. Thus, the question of the validity of the council's decision to reverse the board's approval of the detailed site plan was a question of law, subject to de novo review. The developer did not fail to exhaust administrative remedies by failing to obtain a new or revised preliminary plan of subdivision (PPS). Revisions to the new ordinance applied retroactively to the action. Finally, the board's approval of the detailed site plan was supported by substantial evidence and was not arbitrary, capricious, or illegal. The Circuit Court decision was affirmed and the matter was remanded to the district council.

6. **New Jersey Appellate Division held that city's amendment to redevelopment plan was not spot zoning.** In *Blackridge Realty, Inc. v. City of Long Branch*, 481 N.J. Super. 183, 332 A.3d 1166 (New Jersey 2025), the real estate developer brought an action against the city and the redeveloper. The real estate developer challenged the legality of an amendment to the city's redevelopment plan and \$2 million payment made by the redeveloper to the city as part of the redevelopment agreement. It was alleged that the city's amendment to the plan amounted to impermissible spot zoning. The Superior Court granted summary judgment to the city and the redeveloper. The developer appealed. The Appellate Division affirmed, determining that the redeveloper's \$2 million payment to the city was authorized under the Local Redevelopment and Housing Law (LRHL). By the time the city amended the plan, the developer's agreement with the city terminated, thereby extinguishing the city's obligation to obtain the developer's consent to amend the plan. The developer was not entitled to an evidentiary hearing regarding the issue of spot zoning. The city's amendment to the plan did not amount to impermissible spot zoning.
7. **New York Appellate Division determined that subdivision of lot would not have negative effect on existing drainage conditions.** In *Denisov v. DeChance*, 236 A.D.3d 905, 229 N.Y.S.3d 588 (New York 2025), subdivision lot owners brought a hybrid article 78 proceeding and action for declaratory relief. They sought review of the town planning board's determination granting the application of an owner of a single lot in the subdivision for authority to subdivide the lot. They also sought judgment declaring that the subdivision covenant was in full force and effect, and that the subject property could not be subdivided without the approval of every lot owner in the subdivision. The Supreme Court, Suffolk County, granted the petition, annulled the determination, and severed the declaratory judgment causes of action. The single lot owner appealed, and the lot owners planning board, and town separately appealed. The Supreme Court, Appellate Division, held that the board's finding, that the application before it was not to repeal covenant, but to act pursuant to covenant, conformed with covenant. Substantial evidence supported the board's determination that subdivision of the lot would not have a negative effect on existing drainage conditions.
8. **North Carolina Court of Appeals found county's reading of ambiguous definition of "new development" in ordinance to be reasonable construction.** In *Adams Homes AEC, LLC v. Stanly County*, --- S.E.2d

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----, 918 S.E.2d 214 (North Carolina 2025), the home builder brought an action against the county for declaratory judgment. The home builder challenged the county's assessment of water system development fees under the county ordinance enacted pursuant to the state statute. The Superior Court denied the home builder's motion for summary judgment and granted the county's cross-motion for summary judgment. The home builder appealed. The Court of Appeals affirmed, finding that the definition of a new development under the ordinance was ambiguous, and the county's reading of the ambiguous definition was a reasonable construction. The county's reading of the ambiguous definition of "new development," in the ordinance and enabling statute, as the number of equivalent residential units in existence, rather than the capacity needed in the future based on recorded maps, was a reasonable construction of the ordinance adopting the system development fees for increased water system capacity necessary for new developments.

9. **South Carolina Court of Appeals affirmed subdivision developer's requested right-of-way variance.** In *John's Marine Service, Inc. v. Oconee County Board of Zoning Appeals*, 445 S.C. 423, 914 S.E.2d 481, 2025 WL 542574 (South Carolina 2025), neighbors appealed the county board of zoning appeals decision to grant the subdivision developer's requested variance to reduce the required road right-of-way width from 50 feet to 31.9 feet to access the peninsula at its narrowest point. The Court of Common Pleas affirmed, and the neighbors appealed. The South Carolina Court of Appeals affirmed, holding that the evidence was sufficient to support the grant of a right-of-way variance for the construction of a private road to access a proposed 19-home subdivision at the end of a peninsula on a lake. There was evidence of the following: that the approach to the property was too narrow for the standard right-of-way; that the other properties did not contain such a pinch point; that the standard right-of-way would require reduction of the subdivision to three homes; and that the impacts on neighboring businesses would be minimal.
10. **Utah Court of Appeals addressed zoning ordinance relating to post-division approval of improper subdivisions.** In *RAPS Investments LLC v. North Logan City*, 571 P.3d 238, 2025 UT App 55, 2025 WL 1201727 (Utah 2025), the purchaser of a lot that was the product of an improper subdivision filed a petition for review of a decision from the city administrative hearing officer. The decision denied his application to build a home on the lot. The First District Court up-

held the hearing officer's decision and the purchaser appealed. The Court of Appeals reversed and remanded, with instructions, holding, among other things, that the zoning ordinance relating to post-division approval of improper subdivisions did not plainly restrict the purchaser's application.

11. **Washington Court of Appeals affirms approval of three preliminary subdivision or plat applications in rural town.** In *Fall City Sustainable Growth v. King County*, 568 P.3d 1129 (Washington 2025), the objector appealed following the county council's decision to sustain the county hearing examiner's approval of three preliminary subdivision or plat applications in a rural town. Although the appeal was taken to the Superior Court, King County, the parties stipulated to transfer of the petitions to the Court of Appeals for review. The Court of Appeals affirmed, holding that the hearing examiner appropriately approved the applications, even though the examiner also determined that the applications were not consistent with the comprehensive plan as to protecting rural character. Nothing in the statute governing a local planning agency's review of, and recommendation regarding, preliminary plats mandates that a hearing examiner deny a plat application that examiner determines fails to conform to the general purpose of a comprehensive plan. The enabling act for hearing examiners does not require hearing examiners to deny a plat application that is not consistent with the comprehensive plan. Also, various county code provisions did not mandate denial of a plat application that was not consistent with the comprehensive plan.