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## Housing Committee

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### HB 1517

**Brief Description:** Promoting transit-oriented development.

**Sponsors:** Representatives Reed, Taylor, Ramel, Berg, Peterson, Stonier, Walen, Wylie, Simmons, Fitzgibbon, Chapman, Berry, Slatter, Mena, Barkis, Rule, Duerr, Gregerson, Chambers, Bateman, Cortes, Doglio, Pollet, Low, Fosse and Tharinger; by request of Office of the Governor.

#### Brief Summary of Bill

- Establishes that fully planning cities may not enact or enforce any new development regulation within a station area or station hub that prohibits the siting of multifamily residential housing on parcels where any other residential use is permissible, with some exceptions.
- Prohibits fully planning cities from enacting or enforcing any new development regulation within a station area or station hub that imposes a maximum floor area ratio of less than the transit-oriented density or imposes a maximum residential density, measured in residential units per acre or other metric of land area.
- Prohibits cities and counties planning under the Growth Management Act from requiring off-street parking as a condition of permitting development within a station area.
- Requires the Department of Transportation to provide technical assistance and establish grant programs.
- Expands the categorical exemption for infill development.

**Hearing Date:** 2/7/23

**Staff:** Serena Dolly (786-7150).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

### Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes said to be "fully planning" under the GMA.

Counties that fully plan under the GMA are required to designate urban growth areas (UGA) within their boundaries sufficient to accommodate a planned 20-year population projection range provided by the Office of Financial Management. Each city located within a planning county must be included within a UGA. Urban growth must be encouraged within the UGAs, and only growth that is not urban in nature can occur outside of the UGAs. Each UGA must permit urban densities and include greenbelt and open space areas.

### Comprehensive Plans.

The GMA directs fully planning jurisdictions to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA.

The GMA also establishes 14 goals in a nonprioritized list to guide the development of comprehensive plans and development regulations of counties and cities that plan under the GMA. The transportation goal encourages efficient multimodal transportation systems based on regional priorities and coordinated with county and city transportation plans. The housing element must ensure the vitality and character of established residential neighborhoods. Among other things, the housing element must include:

- an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth;
- adequate provisions for existing and projected needs of all economic segments of the community;
- identification and implementation of policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion of housing caused by local policies, plans, and actions; and
- establishment of antidisplacement policies.

Fully planning cities are encouraged to take an array of specified planning actions to increase residential building capacity. This may include, for example:

- authorizing a development in one or more areas of certain size that include at least one train station served by commuter rail or light rail with an average of at least 50 residential units per acre that require no more than an average of one on-stop parking space per two

- bedrooms in the portions of multifamily zones located within the area; or
- authorizing a development in one or more areas of certain size and population that include at least one bus stop served by a scheduled bus service of at least four times per hour for 12 or more hours per day with an average of at least 25 residential units per acre that require no more than an average of one on-site parking space per two bedrooms in portions of the multifamily zones located within the area.

#### Limits on Minimum Residential Parking Requirements.

For housing units that are affordable to very low-income or extremely low-income individuals, and are located within one-quarter mile of a transit stop that receives transit service at least two times per hour for 12 or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or three-quarters of a space per unit. For market rate multifamily housing units that are located within one-quarter mile of a transit stop that receives transit service from at least one route that provides service at least four times per hour for 12 or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or three-quarters of a space per unit.

Cities and counties may establish a requirement for more than one parking space per bedroom for market rate multifamily housing, if the jurisdiction has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit.

As of July 1, 2021, fully planning cities under the GMA may not require the provision of off-street parking for accessory dwelling units within one-quarter mile of a major transit stop, such as a high-capacity transportation system stop, a rail stop, or certain bus stops, unless the city determines that on-street parking is infeasible for the accessory dwelling unit.

#### Average Minimum Density Requirements.

Floor area ratio is the measurement of a building's floor area in relation to the size of the lot or parcel on which the building is located. Minimum density specifies a minimum size, or floor area ratio, for new development.

#### State Environmental Policy Act.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. Government decisions identified as having significant adverse environmental impacts must then undertake an environmental impact statement (EIS). Under SEPA, certain nonproject actions are categorically exempt from threshold determinations and EISs in rule. Examples of categorical exemptions include various kinds of minor new construction and minor land use decisions.

#### *SEPA Categorical Exemptions for Infill Development*

Counties and cities fully planning under the GMA may establish categorical exemptions from SEPA to accommodate infill development. Under the infill development categorical exemption,

cities and counties may adopt categorical exemptions to exempt government action related to development that is new residential development, mixed-use development, or commercial development up to 65,000 square feet, proposed to fill in a UGA when:

- current density and intensity of the use in the area is roughly equal to or lower than called for in the goals and policies of the comprehensive plan;
- the action would not clearly exceed the density or intensity of use called for in the goals and policies of the comprehensive plan;
- the local government considers the specific probable adverse environmental impact of the proposed action and determines that those specific impacts are adequately addressed by other regulations, comprehensive plans, ordinances, or other local, state, and federal laws and rules; and
- the comprehensive plan was previously subjected to environmental analysis through an EIS.

#### Homeowners' Associations and Common Interest Communities.

A homeowners' association (HOA) is a legal entity made up of members who are owners of residential real property located within the association's jurisdiction and who are required to pay dues for the upkeep of the association and common areas. An association can also adopt rules and regulate or limit the use of property by its members.

A common interest community (CIC) is similar to an HOA and is made up of member-owners who are obligated to pay for the taxes, maintenance, or other costs of common areas. Like an HOA, a CIC can also regulate or limit the use of property by its members, including by adopting rules to establish and enforce construction and design criteria as well as aesthetic standards. A CIC may generally only be terminated by the agreement of at least 80 percent of the members. A restrictive covenant, or a restrictive deed, is a restriction or limitation of the use of the property that runs with the land.

#### **Summary of Bill:**

#### Development Regulations Within a Station Area or Station Hub.

A station area is comprised of all parcels fully or partially within a three-quarter mile radius of a major transit stop. A station hub is comprised of all parcels fully or partially within a one-quarter mile radius of a major transit station. Parcels must be fully within a UGA to be included in a station area or hub. Any parcels without possible or practicable pedestrian access to the major transit stop except by travel outside of the station area or hub, such as the intervening presence of a river or interstate highway that prevents direct pedestrian access between the parcel in question and the major transit stop, is excluded.

Cities planning under the GMA may not enact or enforce any new development regulation within a station area or station hub that:

- prohibits the siting of multifamily residential housing on parcels where any other residential use is permissible;
- imposes a maximum floor area ratio of less than the transit-oriented density for any use

- otherwise permitted within a station area or station hub;
- imposes a maximum residential density, measured in residential units per acre or other metric of land area within a station area or station hub; or
- renders a parcel in a station area impracticable to build a usable structure for permitted uses at the transit-oriented density or floor area ratio except for:
  - development standards contained in a shoreline master program or critical area ordinance; or
  - for any parcel that is nonconforming with local subdivision standards or is listed in the Washington Heritage Register or the National Register of Historic Places.

Within any station area or station hub, any maximum floor area ratio must include an increased density bonus of 50 percent for affordable housing for households with incomes at or below 60 percent area median income or for long-term inpatient care for behavioral health services. Child care facilities, a small business with fewer than 50 employees, and residential units with at least three bedrooms in multifamily housing that are within a station area must not be counted toward floor area ratio limits.

As an alternative, cities may designate parts of a station area or station hub to enact or enforce floor area ratios that are more or less than the transit-oriented density if the following conditions are met:

- the average maximum floor area ratio of all buildable land within a station area or station hub is no less than the transit-oriented density;
- no part of a station hub is subject to a maximum floor area ratio that is less than 1.0; and
- no part of a station area is subject to a maximum floor area ratio that is less than 0.5.

If a city has enacted a development regulation that imposes a maximum floor area ratio of less than the transit-oriented density or a maximum residential density within a station area or station hub, the city must enforce and apply the development regulation consistent with this Act instead.

A city that has not adopted local antidisplacement measures in its comprehensive plan as part of the housing element must do so within a station area within nine months of the effective date of the act.

#### Parking.

Cities and counties planning under the GMA may not require off-street parking as a condition of permitting development within a station area, except for off-street parking that is permanently marked for the exclusive use of individuals with disabilities. If a project permit application within a station area does not provide off-street parking, the proposed absence of parking may not be treated as a basis for issuance of a determination of significance pursuant to SEPA.

#### Technical Assistance and Grant Program.

The Washington State Department of Transportation (WSDOT) must:

- create a new division within its agency or expand an existing division within its agency to provide technical assistance and award planning grants to cities;

- provide compliance review of any transit-oriented development regulations; and
- mediate or help resolve disputes between WSDOT, local governments, and project proponents regarding land use decisions and processing development permit applications.

A city enacting new development regulations on a maximum floor area ratio or maximum residential density within a station area or station hub may apply for planning grants from and consult with WSDOT for purposes of obtaining technical assistance and compliance review with adoption of development regulations.

WSDOT must establish and administer a competitive grant program, in consultation with the Department of Commerce (Commerce), to assist with financing housing projects within rapid transit corridors and prioritize eligible projects by occupancy date, with a target occupancy date of December 31, 2025, and consider certain criteria when prioritizing projects, such as those that:

- are comprised of the largest percentage of affordable units;
- have a high concentration of units affordable to households with incomes at or below 50 percent area median income;
- abide by antidisplacement measures, if appropriate; or
- include units with additional bedrooms or are intended for occupancy by families with multiple dependents.

State agencies, local governments, and nonprofit or for-profit housing developers are eligible to receive grant awards, and grant awards may be used for project capital costs and infrastructure costs and to address gaps in project financing that would prevent ongoing or complete project construction. Eligible housing projects must meet the following requirements:

- be within one-quarter mile of a rapid transit corridor;
- comply with floor area ratio or net density minimums;
- produce at least 100 units of housing; and
- include a covenant on the property requiring at least 20 percent of units remain affordable for households with incomes at or below 80 percent of area median income for at least 99 years.

The Transit-Oriented Development Housing Partnership Account is created in the custody of the State Treasurer, and the Secretary of WSDOT or their designee may authorize expenditures from the account. WSDOT must adopt rules if necessary.

Grants to cities to facilitate transit-oriented development may:

- be used to pay for the costs associated with EISs, planned action ordinances, subarea plans, the use of other tools under GMA or SEPA, and local code adoption and implementation; and
- only fund efforts that address environmental impacts and consequences, alternatives, and mitigation measures to allow the analysis to be adopted by applicants for development permits within the geographic area analyzed in the plan.

In consultation with WSDOT, Commerce must prioritize applications for grants to facilitate

transit-oriented development that maximize certain policy objectives, including:

- the total number of housing units authorized for new development in station areas, with specific attention to station hubs;
- plans that exceed transit-oriented densities for station areas and station hubs;
- plans in areas that eliminate on-site parking requirements; and
- existence or establishment of incentive zoning, inclusionary housing, use of the multifamily tax exemption, or other tools to promote low-income housing in the area.

#### State Environmental Policy Act.

The categorical exemption for infill development is expanded to include a project action that:

- is related to a proposed development that would fill in a station hub or station area;
- is related to a proposed multifamily residential development, mixed-use development, or commercial development; and
- is not inconsistent with the applicable comprehensive plan, and does not clearly exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan.

A categorical exemption for sustainable transit-oriented development applies even if it differs from the categorical exemptions adopted by Department of Ecology rules.

#### Common Interest Communities.

Governing documents and declarations of common interest communities, including those such as condominiums and home owner associations, within cities that adopt development regulations related to maximum floor area ratios and maximum residential density provisions, may not prohibit construction or development of multifamily housing or transit-oriented density within a station area or require off-street parking that is inconsistent or in conflict with the parking provisions within a station area.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.