

SENATE BILL REPORT

SB 5611

As Reported by Senate Committee On:
Local Government, February 20, 2025

Title: An act relating to streamlining and clarifying local governments' land use permitting workloads.

Brief Description: Streamlining and clarifying local governments' land use permitting workloads.

Sponsors: Senators Salomon, Trudeau, Frame and Nobles.

Brief History:

Committee Activity: Local Government: 2/17/25, 2/20/25 [DPS].

Brief Summary of First Substitute Bill

- Establishes that, for binding site plans, commercially zoned property includes property that is zoned to permit or conditionally permit any multifamily residential uses.
- Provides that a local government is not prohibited from extending project permit deadlines for any reasonable and certain period of time specified and mutually agreed upon in writing by the application and the local government.
- Establishes that a local government may not deny project permits for certain residential housing units if the deadlines lapse unless at least one specified condition is met.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: That Substitute Senate Bill No. 5611 be substituted therefor, and the substitute bill do pass.

Signed by Senators Salomon, Chair; Lovelett, Vice Chair; Torres, Ranking Member;

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.

Bateman and Goehner.

Staff: Karen Epps (786-7424)

Background: Subdivisions. The process by which land divisions may occur is governed by state and local requirements. Subdivisions are the divisions or redivisions of land into five or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership. Short subdivisions are the division or redivision of land into four or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership.

Binding Site Plans. Binding site plans are an alternative to the subdivision process. Local governments must adopt procedures for binding site plan review and approval by ordinance. A binding site plan may only be used for industrial or commercial use; the lease of mobile homes, tiny homes, or travel trailers; and condominiums.

Exemptions from Subdivision Laws. The following land divisions are exempt from subdivision laws:

- cemeteries and burial plots;
- divisions into lots above a certain size;
- divisions made by testamentary provisions or the laws of descent;
- divisions for industrial or commercial use, lots for mobile homes, and for the development of condominiums when a binding site plan is used;
- divisions by lease where no residential structures other than mobile homes, tiny houses or tiny houses with wheels, or trailers when a binding site plan is used;
- boundary line adjustments where no additional lots are created;
- divisions of land into lots or tracts if certain conditions relating to binding site plans are met, including a statement that development and use of the land will be in accordance with the binding site plan, permits, regulations, and other requirements;
- divisions for property leases for personal wireless services facilities;
- divisions for consumer-owned or investor-owned utilities; and
- divisions into lots or tracts of less than two acres to establish a site for construction and operation of a rural fire district station.

The exemptions are not exempt from zoning and permitting laws and other regulations.

Common Interest Communities. A common interest community (CIC) is a form of real estate in which each unit owner or homeowner has an exclusive interest in a unit or lot and a shared or undivided interest in common area property. Local regulations must not impose a requirement upon a CIC that would not be imposed on a physically identical development under a different form of ownership.

Project Permits. A local government fully planning under the Growth Management Act must follow certain permit procedures to administer permit application processes for project permits. These permits include any land use permit, environmental permit, or license

required from a local government for a project action.

Within 28 days of receiving a project permit application, the local government must determine if a project permit application is complete. If the local government does not make the determination within the allotted time, then the application is deemed to be complete.

After an application is deemed complete, the local government is required to issue a final decision on the application by a certain deadline, with the specific deadline based on the type of project permit application. The local government may exclude project permits that present special circumstances that warrant a different period of review from the deadlines. A local government may also add to or change the types of permits that each deadline applies to, address how consolidated permits may require a different review period than an individual permit application, and provide for how permits of a certain scope or type can be differentiated.

If the local government has not excluded a project permit because of special circumstances or modified the deadline applicable to the permit, then the following deadlines apply:

- for project permits that do not require public notice, the local government must issue a final decision within 65 days of the determination that the application is complete;
- for project permits that require public notice but not a public hearing, the final decision must be issued within 100 days of the determination of completeness; and
- for project permits that require both public notice and a public hearing, the final decision must be issued within 170 days of the determination of completeness.

Except for the review of consolidated permits, the deadline for a decision cannot be modified to be more than 170 days. Certain time periods are excluded from counting toward the deadlines, including:

- the time period between the date a local government requests additional information required to process an application from an applicant and the date that the applicant provides the information;
- the time period after an applicant informs the local government, in writing, that they would like to temporarily suspend review of the project permit application until the time that the applicant notifies the local government, in writing, that they would like to resume the application; and
- the period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.

A local government is not prohibited from extending a deadline for issuing a decision for a specific project permit application for any reasonable period of time mutually agreed upon by the applicant and the local government.

Summary of Bill (First Substitute): Binding Site Plans. For purposes of binding site plans for commercially zoned property, commercially zoned property includes property that is

zoned to permit or conditionally permit any multifamily residential uses. For divisions of land into lots or tracts classified for commercial use that are not subject to the subdivision provisions when a local government has approved a binding site plan, commercially zoned property includes property that is zoned to permit or conditionally permit any multifamily residential uses.

Common Interest Communities. Under CICs, the requirement that local regulations must not impose a requirement upon a CIC that would not be imposed on a physically identical development under a different form of ownership, includes, without limitation, any permitting process such as a binding site plan or a hearing examiner proceeding.

Project Permits. Except for modifications by a jurisdiction, the time periods for local government actions for each type of complete project permit application or project type may not exceed the specified time periods. A local jurisdiction is not prohibited from extending a deadline for issuing a decision for a specific project permit application for any reasonable and certain period of time specified and mutually agreed upon in writing by the applicant and the local government. A local government may not require or request an extension of an applicable deadline for issuance of a decision for a specific project permit application as a condition or an option at the initial submission of a project permit application.

Where a specific project permit application proposes a project action to provide one or more residential housing units within the incorporated areas in an urban growth area, and the deadlines lapse without a required decision or mutually agreed extension, a local government may not deny the project permit or approve the project permit with conditions or restrictions that have a substantial adverse impact on the viability of the project action or the degree of affordability of the project action, unless at least one of the following conditions is met:

- the project permit application has failed to provide all information that the local government requested within the deadlines or failed to make all corrections that the local government requested within the deadlines;
- the denial of the project permit or the approval of the project permit with certain conditions or restrictions is required to comply with state or federal law;
- the project permit proposes development or ground disturbance outside an urban growth area, in a critical area, critical area buffer, or in an area where such disturbance is subject to a shoreline master program; or
- the project permit proposes to site a given land use in an area where that land use is subject to a shoreline master program, comprehensive plan, or zoning ordinance.

EFFECT OF CHANGES MADE BY LOCAL GOVERNMENT COMMITTEE (First Substitute):

- Establishes that, except for certain modifications by a jurisdiction, the time periods for local government actions for each type of complete project permit application or project type may not exceed those specified in this section.

- Modifies the conditions under which a local government may deny or approve with conditions project permits for certain residential housing units if the deadlines lapse to be “subject to a shoreline master program” rather than “not allowed by the local government’s shoreline master program.”

Appropriation: None.

Fiscal Note: Requested on February 14, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill clarifies the practice of using binding site plans in situations that include some residential housing. The bill requires permit extension requests in writing to help avoid conflicts between the planner and the applicant. The bill also has a limited builders remedy so that when a timeline expires without a required decision, the permit cannot be denied or approved in a way that has adverse impact on the viability of the project. This builders remedy is narrowly tailored, applies to new residential units, and is not available when the applicant has been unresponsive or the project application is deficient, when the project proposed development outside the UGA, or when the project proposes to site land use in an area where the land use is not allowed. The bill clarifies that the binding site plan procedure is available for multifamily housing projects like apartments and allows them to be used in commercial zones that allow for multifamily residential uses or mixed-use. The bill removes the ability of local governments to request a permit applicant to waive their right to the timeline and establishes a builder's remedy. The bill provides clarity and efficiency in the land use permitting process, and addresses existing confusion by explicitly allowing multifamily residential uses to qualify for the binding site plan process. The bill addresses permitting roadblocks for condominium structures. The bill includes an accountability measure to ensure that jurisdictions meet the state-mandated timelines and includes a targeted remedy when timelines lapse.

OTHER: The bill contains many clarifying provisions, but the builder's remedy is concerning. The bill adds to penalties that were established under SB 5290, which itself contains strong disincentives for delaying permitting projects, and that bill is still not fully implemented. The bill identifies shorelands as a cause for denial or conditional a project permit, but issuance of these permits may still conflict with specific statutory requirements and appeal timelines for projects in shoreline jurisdiction. The bill uses terms, substantial impact of the viability and degree of affordability that are not defined.

Persons Testifying: PRO: Senator Jesse Salomon, Prime Sponsor; Bill Stauffacher, Building Industry Association of Washington; Riley Bengé, Washington REALTORS; Alex

Harrington, NAIOP Washington State; Alex Hur, Master Builders King & Snohomish county.

OTHER: Curtis Steinhauer, Washington State Association of Counties; Samantha Weinstein, Department of Ecology.

Persons Signed In To Testify But Not Testifying: No one.