**SB 5466 is a "Right to Build" 3-7+ Floor Mixed Use and Residential Apartments across most urban and suburban areas within a half mile of every highway and 3 blocks from any "frequent" bus stop in the Puget Sound Corridor and numerous other areas of the State**

**The proposed House Housing Committee Substitute (striker) for SB 5466 does reduce the coverage areas but is still greatly exceeds any common understanding of "transit-oriented development."**

These buildings would be required within a half mile of a highway HOV lane with a transit stop or commuter/light rail stop; within a quarter mile of any Bus Rapid Transit Stop (5 city blocks); and, within 3 blocks of any "frequent bus stop" (even if it is not yet in existence or if they may be removed in the future), which is what the bill refers to as "station areas":

These 8 and 9 story buildings in Bremerton (left) have a "Floor Area Ratio" ("FAR") of 3.1. The Substitute requires permitting buildings on any lot within the "station area" with a FAR of 3.0. The bill gives away to developers extra height and 100% of the floor area which is rented to small businesses and 3 bedrooms (even if developed as luxury high end penthouses).
Buildings of these heights and bulk in the BelRed-Spring District below, appropriate for the area close to light rail and commuter train stations, would all be required to be permitted within a half mile of an HOV lane with transit stop, or 3 blocks from a city bus stop on an arterial. *Photos and FAR data courtesy of Association of Washington Cities.*

**BelRed – Spring District** The residential (R) in the center-top portion of the image is in the 2.5-3.1 FAR range. The taller office development (O) in the center-bottom and off to the left is about 4.0 FAR.


In the immediate Seattle area, these buildings would be required to be permitted within ten blocks of Rainier Ave light rail and NE 130th St and all current and ST3 proposed stations; within five blocks of I-5, I-405, SR 520, Aurora Ave through Shoreline, 15th NW… within three blocks of Lake City Way and SR 522 through Lake Forest Park, Kenmore and Bothell. See map by Puget Sound Regional Council attached.

**The proposed Substitute is missing**:

a) **Infrastructure considerations**. For middle housing we recognized that some areas within cities lack the **water, sewers, fire service** for increasing middle housing to 6 units per lot.

   SB 5466 requires permitting multistory buildings of at least 3-9 stories which require far more infrastructure.

   But this bill fails to consider how a city and other separate utilities such as a water district are going to serve a four or six to nine story building with dramatically different water pressure and flow needs than may currently exist, fire equipment that is not used in low-rise residential neighborhoods...

   How can the State responsibly mandate that a city serving residential homes or low-rise residential units be required to issue permits for 8 or 9 story buildings without having the fire equipment and staff, without having time to plan and fund upgrading residential water and sewer lines? This truly upends the concept of comprehensive planning and the Growth Management Act.

   5466 extends the right to build high rise buildings much further than the House adopted for middle housing requirements. E2SHB 1110 requires 6 units per lot in a quarter mile of bus rapid transit and rail stations in cities over 75,000. SB 5466 will require massive high-rises a half mile from rail stations and from HOV lane bus stations (regardless of city size).

   In a bizarre twist, SB 5466 requires permitting 3-9 story buildings within 3 blocks of frequent bus stops, while the middle housing bill dropped requiring 4-6 units per lot around a simple bus stop that might not exist a year after the building is opened.

   - **5466 needs to adopt a waiver system for all station areas certified by the Department of Commerce as lacking infrastructure (water, sewer, fire, storm water, etc.).** The language from HB 1110 should be inserted with longer time periods for implementation due to the much greater period of time needed to fund and add infrastructure to support high-rise buildings.
   - The State **needs to adopt as part of 5466 a funding program expanding the Public Works Account with loans and grants** to support cities to be able to pay for the massive increase in infrastructure around station areas, and grants to fund fire equipment and staffing in the operating budget.
   - **Frequent bus stops should be removed as the basis for a right to permit high rise apartments or mixed development buildings of 8-9 stories**.
     - Remove language saying that a <u>planned</u> bus stop, BRT or rail station can serve as the basis of upzoning, since the language gives developers the right to build now, even if the plan is for construction of the station in ten or twenty years. Concurrency is the principle of the Growth Management Act that should be applicable.
     - Require a transit-oriented development element of the comprehensive plan to include how local transit agencies – which are different than the cities doing the planning – will keep in place bus service which is the basis for permitting buildings with hundreds of units.

b) **Missing: Displacement prevention** for low and moderate income residents and communities of color, including a means to avoid areas for a period of time while developing and **applying** anti-displacement programs with the affected communities.

While the proposed Substitute requires mapping of areas at risk for displacement of "residents and businesses" (Sec. 8), and allows for an extension of time, the extension is only for development of a plan. As soon as the plan is adopted on paper, every building application will vest regardless of whether the plan for displacement is actually able to be applied.

**The Substitute PREEMPTS most of the effective tools to prevent displacement or reduce its impact:**

- **If a city has not adopted an affordable housing program for "incentive zoning" with housing fees as of January 1, 2023, Section 6(2) preempts it from ever doing so.**
    - Similar language was amended in HB 1110 to ensure that cities can adopt new affordable housing fees or lower income resident / displaced residents inclusion requirements.
- **The Substitute proposed for 5466 needs to remove all preemption language for affordable housing and displacement tools by cities. There is no reason to have any bar on cities adopting such tools – other than preventing cities from ensuring that units affordable to lower income residents or units reserved for families displaced by the new construction are part of transit-oriented developments.**
    - The allowance for affordable housing or inclusion in Sec. 6(2) should not be limited to programs adopted under RCW 36.70A.540.
- Section 8 fails to ensure that a displacement risk map and rules are in place before developers can submit permit applications. Thus, it allows the right to develop to "vest" regardless of whether the area is then found to be at high risk of displacement.
- The bill requires permitting of large apartment / mixed use buildings at least 3-9 stories high within 3 blocks of frequent bus stops and a half mile of rail transit investments and a quarter mile from bus rapid transit, such as along Rainier Ave S, Aurora Ave, 15th NW and Lake City Way in Seattle. **These areas will face tremendous displacement.**
    - There is not even a provision to prevent demolishing/replacing affordable low-rise multifamily housing that is currently being rented to low-income residents, or to allow a city to adopt extra fees for relocation and returning to the community from which residents are displaced.
    - Should exempt from the 3.0 FAR all lots that currently house low-income residents under any state or local recognized affordable housing program (including if built with federal low income tax credits or state multifamily tax exemption) or non-profit housing.
- Below / attached is PSRC's analysis of areas of high displacement risk for the Puget Sound area.

c) The **bill operates outside the Growth Management Act's comprehensive planning process. It does not ensure that there is a transit-oriented development element in plans**. Thus, there is no coordinated planning for the massive infrastructure upgrades needed to support a right to build multi-story buildings in what are now residential and low-rise areas.

d) **Parking: 80% of Seattleites have vehicles in the city with greatest mobility. 5466 bars requiring any parking (other than a small number of disabled spots, which the bill does not allow the city to ensure are not priced out of range for low-income residents) within a half mile of frequent bus stops, HoV bus stops, bus rapid transit and light / commuter rail stops. This is much further than the increased building required for some of these areas.**
    - Limit parking restriction to buildings within a quarter mile of fixed rail stops and two blocks from BRT.
    - Allow cities to require high rises to include space for EV charging.

e) **Equity: SB 5466 ironically exempts from all upzones any neighborhood with covenants that exclude anything but single-family housing. The most wealthy and racially exclusive areas are exempted. Why?[1] Because developers and realtors want them excluded. Sections 12-15 need to be removed.**

**Definitions and affected areas for multistory upzoned areas:**

Frequent bus stop: any bus stop operating daily with 4 buses per hour weekdays for 10 hours, e.g., 7 am to 5 pm. This may not fully cover rush hours and school transportation. It includes any stop "funded for development," regardless of how far into the future that is.

Station Area: light or other rail station AND any stop on an exclusive bus and HOV lane ("a high capacity transportation system"), including those not yet built but "funded".[2] This includes wide swathes along I-5, I-405, I-90, SR 520 where there are bus and HOV lanes with stations as well as major arterials in large cities and surrounding areas (there is no city size requirement for this to apply).

Any floor area within a station area that is reserved for any "small business" or with three bedrooms, or a childcare automatically gets to add additional height. Those uses get a 100% add-on. But there is only a 50% bonus for areas for housing affordable to persons under 60% median income, permanent supportive housing or in-patient care.

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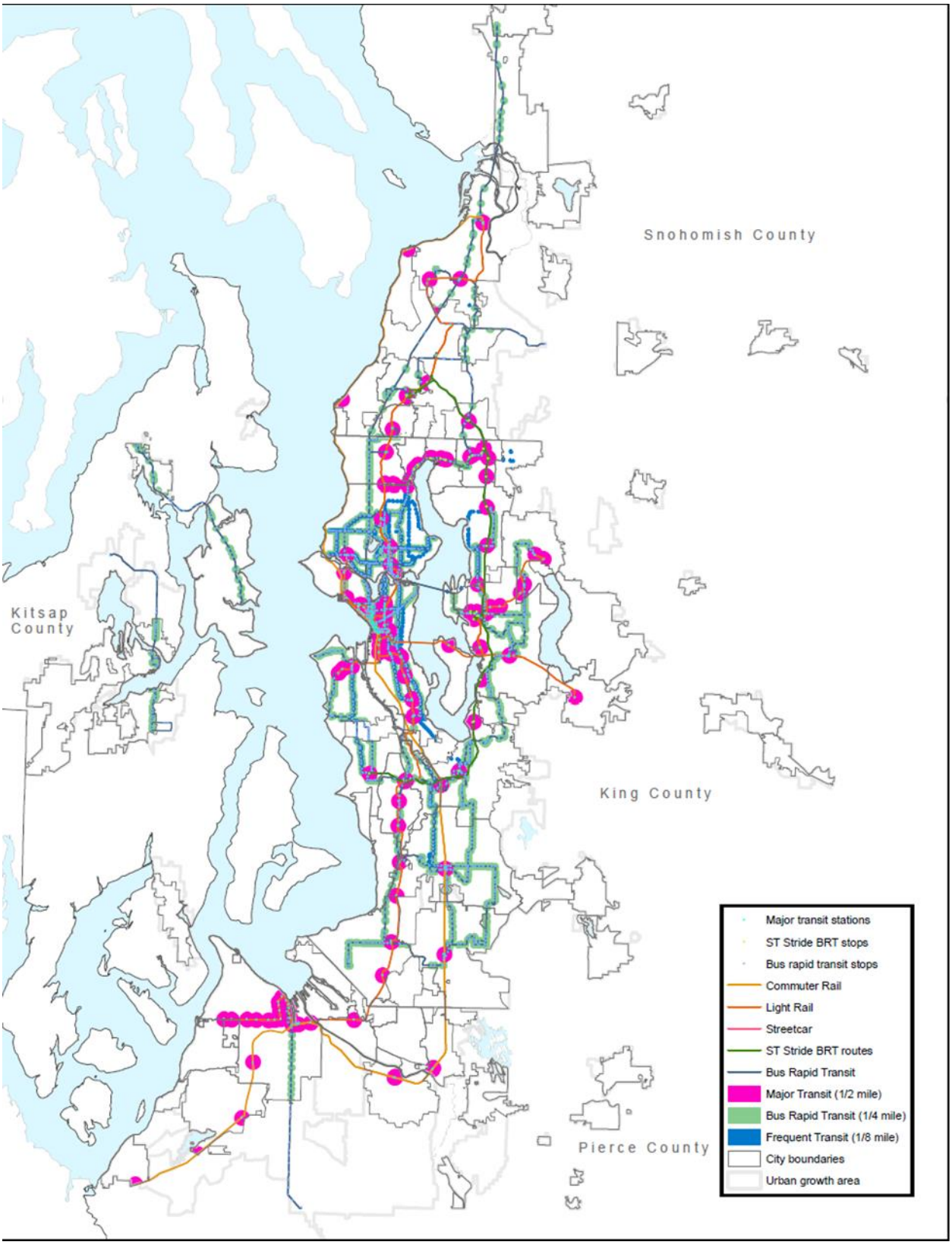
[1] Claims by homeowner associations that they have a constitutional right to not have their exclusive contracts and covenants interfered with are specious. When California applied its middle housing upzone to such communities there were no legal challenges. The Washington Supreme Court is highly unlikely to find that these covenants can preempt the State's interest in housing equity and integration of communities.

[2] RCW 81.105.015(3) "High capacity transportation system" means a system of public transportation services within an urbanized region operating principally on exclusive rights-of-way, and the supporting services and facilities necessary to implement such a system, including interim express services and high occupancy vehicle lanes, which taken as a whole, provides a substantially higher level of passenger capacity, speed, and service frequency than traditional public transportation systems operating principally in general purpose roadways.

We recognized that middle housing requires deferment of areas that lack infrastructure from water, sewer, stormwater to fire service for multistory homes with larger footprints that homes with ADUs. Four to six story buildings require magnitudes more infrastructure. It is not an answer to say that the building permit will be denied since the applicant will have a legal claim that infrastructure must be provided to them because the zoning supports it, and no development regulation may be imposed that would deny construction "on parcels where any other residential use is permissible." (Sec 6(1)). The bill is a developers' lawyers' dream.

5466 creates a legal right to build regardless of policies for climate, tree preservation, pedestrian or open area. See Sec 6(5): "cities planning under RCW 36.70A.040 may not enforce upon any parcel in a station area any development standard that renders it impracticable on that parcel to build a usable structure for the permitted uses at the (i) applicable transit-oriented density or (ii) applicable floor ratio imposed under subsection (3)(c) of this section." The only exceptions are for shoreline master plan, critical area ordinance or historic registry.

Puget Sound Regional Council mapping of areas subject to 3-9 story buildings under proposed substitute for 5466:


Snohomish County
Kitsap County
King County
Pierce County
Major transit stations
ST Stride BRT stops
Bus rapid transit stops
Commuter Rail
Light Rail
Streetcar
ST Stride BRT routes
Bus Rapid Transit
Major Transit (1/2 mile)
Bus Rapid Transit (1/4 mile)
Frequent Transit (1/8 mile)
City boundaries
Urban growth area

Zoom into King County centered on Seattle – all circle and shaded areas have a right to build 3-9 stories, FAR of 3.0 with bonuses: