HOUSE BILL ANALYSIS
SSB 5070

Title: An act relating to development regulations for reasonable use exceptions.

Brief Description: Allows reasonable use exceptions for permits for development of certain lands.

Sponsors: Senators Haugen and McCaslin

Hearing Date: March 26, 1997

Background:

Designation of Certain Lands Under the Growth Management Act

The Growth Management Act (GMA) established a variety of requirements for counties and cities. Under the GMA, two sets of population and growth factors determine whether a county and cities within a county are required to plan under all GMA requirements.

The GMA requires certain counties and the cities within them to use an agreed-upon procedure to adopt a *county-wide planning policy*. This policy establishes a "framework" from which certain counties and cities in the county develop and adopt *comprehensive plans*, which must be *consistent* with the county-wide planning policy. The GMA requires counties to address certain issues in the comprehensive plan (land use, housing, capital facilities plan, utilities, rural designation, transportation).

All counties and cities, regardless of whether they plan under the GMA, are required to *designate* agricultural lands with long-term commercial significance for agriculture, forest lands with long-term commercial production of timber, mineral resource lands with long-term significance for mineral extraction, and critical areas. *All* counties and cities must also *protect* critical areas through development regulations.

After designating agricultural, forest, and mineral resource lands, all *GMA* counties and cities must adopt development regulations to *conserve* those lands but cannot adopt regulations that prohibit uses legally existing on any land before the county adopted the

regulations. The development regulations must assure that the use of lands adjacent to agricultural, forest, or mineral resource lands will not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these lands.

Integration of the GMA and the State Environmental Policy Act (SEPA)

In 1995, the Legislature amended the GMA to integrate permit procedures and environmental review required under the SEPA.

Local governments planning under the GMA are required to establish an integrated and consolidated project permit process that can be included in its development regulations. Development regulations must establish time periods for local government actions on specific project permit applications, must provide timely and predictable procedures to determine whether a completed project permit application meets the requirements of those development regulations, and must specify the contents of a completed project permit application.

Summary of Bill:

A county or city's development regulations adopted for the protection of critical areas and agricultural, forest, and mineral resource lands are required to provide for a *reasonable use exception*. The reasonable use exception is granted under the following limited circumstances:

(1)   When the application of development regulations unreasonably and substantially restricts economic use of a parcel; and

(2)   No other remedy is available.

The reasonable use exception is intended to be a tool used at the discretion of the permitting authority when these two circumstances are present.

The reasonable use exception will not be granted to a project permit applicant who has caused the loss of economic use of the property. In addition, the use sought must pose no threat to the public safety and health, and there can be no other reasonable use of the land which would have a lesser impact than the use sought. The relief granted must be the minimum necessary to accommodate both the reasonable use of the property and to protect the interest promoted by the regulations.

Affected cities and counties must adopt the development regulations with a reasonable use exception *substantially in compliance* with these requirements by January 1, 1998.

Fiscal Note: None requested.