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## Local Government Committee

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### HB 2311

**Brief Description:** Addressing notice requirements for land use applications and decisions.

**Sponsors:** Representatives Pollet and Tarleton.

#### Brief Summary of Bill

- Finds that due process requires notice of certain land use decisions to be given to adjacent landowners and residents, and declares the Legislature's intent that the Land Use Petition Act's (LUPA) statute of limitations does not run until notice is provided.
- Adds to the LUPA a new date of issuance, the date that notice of certain land use decisions is effective, that triggers the beginning of the 21-day statute of limitations under the LUPA.
- Requires cities with a population of 500,000 or more to provide notice to adjacent landowners and residents of the following land use decisions: (1) applications for and approval of boundary line adjustments; and (2) applications for and approval of preliminary short plats of short subdivisions.
- Defines the term "adjacent landowners and residents."

**Hearing Date:** 1/20/14

**Staff:** Michaela Murdock (786-7289).

#### **Background:**

##### Short Subdivisions.

A "subdivision" is the division or re-division of land into five or more lots, tracts, parcels, sites, or divisions of land for the purpose of sale, lease, or transfer of ownership. By statute, a "short subdivision" is a subdivision of four or fewer lots; however, the legislative authority of any city or town may increase a short subdivision to a maximum of nine or fewer lots.

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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 a part of the legislation nor does it constitute a statement of legislative intent.*

A preliminary short plat for a short subdivision (PSP) is an approximate drawing of a proposed short subdivision showing its general layout, and is the basis for the approval or disapproval of the general layout of a short subdivision. The "final plat" is the final drawing of the subdivision that is filed with the county auditor and contains all elements and requirements prescribed by statute and local regulations. The legislative body of a county, city, or town is required to adopt regulations and procedures for the summary approval of short plats and short subdivisions.

#### Boundary Line Adjustments.

In general, persons wishing to divide land must apply to a county, city, or town for a subdivision or short subdivision. However, some divisions of land, such as boundary line adjustments (BLA), are exempt from the subdivision process. A BLA alters or adjusts boundary lines between platted or unplatted lots, or both. A BLA does not create any new lots, tracts, parcels, sites, or divisions of land, and does not create any lots, tracts, parcels, sites, or divisions of land that contain insufficient area and dimension to meet minimum requirements for the width and area of a building site.

#### The Land Use Petition Act.

With limited exceptions, the Land Use Petition Act (LUPA) is the exclusive means of judicial review of land use decisions. The term "land use decision" is defined in the LUPA. It means a final determination by a local jurisdiction's (*i.e.*, a county, city, or incorporated town) body or officer with the highest level of authority, including those with authority to hear appeals, to make a determination on:

- an application for a project permit or other governmental approval required to improve, develop, modify, sell, transfer, or use real property, with some exceptions;
- an interpretative or declaratory decision regarding the application to a specific property of zoning, ordinances, or rules regulating the improvement, development, modification, maintenance, or use of real property; and
- the enforcement of ordinances regulating the improvement, development, modification, maintenance, or use of real property.

A petition for review under the LUPA is commenced with the timely filing of a petition in superior court. A petition is timely filed only if it is filed and served on specified parties within 21 days of the date on which a land use decision is issued. The date a land use decision is issued is the date on which one of the following events or actions takes place: (1) three days after a written decision is mailed or, if not mailed, the date that a written decision is publicly available; (2) the date a legislative body passes an ordinance or resolution making the land use decision; or (3) if neither of the first two events apply, the date the decision is entered into the public record.

Washington courts strictly adhere to the 21-day timeline and will dismiss untimely petitions without consideration of the petition's merit. If a land use decision subject to the LUPA is not challenged within the 21-day period, the decision becomes unreviewable and collateral actions challenging the particular decision will not be permitted.

The LUPA does not contain any requirement that persons aggrieved or adversely affected by a land use decision (other than permit applicants or owners of the property at issue), or who would

be aggrieved or adversely affected by a reversal or modification of the land use decision, receive notice that such a decision is pending or has been issued.

**Summary of Bill:**

The Legislature declares that due process requires that certain landowners and residents receive notice of land use decisions related to a BLA or a PSP. The Legislature also declares its intent that the 21-day statute of limitations under the LUPA does not begin to run until notice of such land use decisions is provided in accordance with statute.

For purposes of determining the date of issuance for a land use decision, and correspondingly, the date on which the 21-day period for filing petitions for review begins, a fourth triggering event is added to the statute. If the land use decision relates to a PSP approval or approval of a BLA in a city with a population of 500,000 or more, the date of issuance is the date that notice of the decision is effective.

Notice is required for land use decisions related to a PSP approval and approval of a BLA in cities with a population of 500,000 or more. When a city receives a complete application for either type of land use decision, the city must provide notice of the application to all adjacent landowners and residents and an opportunity to submit comments. Notice that a BLA or a PSP has been approved must also be given to all adjacent landowners and residents.

Cities must adopt regulations and procedures for providing notice; however, at a minimum, notice must be mailed to each adjacent landowner and resident, and posted on the property subject to the land use decision. Notice is effective three days after being mailed or on the date it is posted, whichever is later.

The term "adjacent landowners and residents" is defined to mean those owners, residents, or owners and residents of real property within 300 feet of the property subject to the land use decision.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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