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## Local Government Committee

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### HB 1084

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

**Sponsors:** Representatives Pollet, Tarleton, Ryu, Santos and Gregerson.

#### Brief Summary of Bill

- Declares the Legislature's intent in modifying notice requirements for certain land use applications, approvals, and decisions, and provisions of the Land Use Petition Act (LUPA).
- Creates a new notice requirement applicable in cities with a population of 500,000 or more planning under the Growth Management Act for land use applications, approvals, or decisions concerning: (1) short plats and short subdivisions; (2) lot line or boundary adjustments; and (3) permits or licenses that authorize a change of the use property and will have a probable significant impact which, absent approval of the license or permit, would not be foreseeable under established, applicable regulations.
- Modifies the LUPA to provide that, for specified land use decisions, the 21-day statute of limitations for filing a LUPA petition does not begin to run until notice is effective in accordance with local project review statutory provisions.

**Hearing Date:** 1/15/15, 1/22/15

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

#### **Background:**

##### Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities.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 29 counties,

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and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA.

The GMA directs jurisdictions that fully plan under the GMA to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans for cities planning under the GMA are required to include specific elements such as a land use element and a housing element.

#### Land Use and Zoning - Cities.

Cities are authorized by statute and the Washington Constitution to adopt, administer, and enforce regulations related to land use and the development of real property within their jurisdictions. Cities may divide their jurisdictions into zones and, within each zone, regulate and restrict elements such as the location and use of buildings, structures, and land for residence, trade, industrial, agricultural, and other purposes; the height, bulk, number of stories, size, construction, and design of buildings and structures; and the density of population.

Property owners and developers may seek to avoid or change various land use and zoning requirements by applying for certain permits, such as rezones and conditional uses. A rezone permit grants an applicant a change in the use of property established under city regulations or ordinances. A rezone may change how the property can be used and what can be built on the property. Rezones may be site specific or for a whole area or neighborhood. A conditional use is a use that is permitted in a zone only upon review and approval, rather than as a matter of course. An example of a conditional use could be the siting of a fire or police station in a single-family residential zone.

#### Local Project Review.

Under local project review statutory provisions, cities are required to establish a review process that: (a) combines the processes for environmental review and project permit review; and (b) provides for no more than one open record hearing and one closed record appeal, except for certain appeals under the State Environmental Protection Act. Cities planning under the GMA must meet additional requirements. They must establish an integrated and consolidated project permit review process that contains elements specified in statute, such as providing notice of application completeness, notice of applications, and notice of decisions. Each local government is encouraged to adopt additional project review provisions to provide prompt, coordinated review and to ensure accountability.

Statute defines "project permit" as any land use or environmental permit or license required from a local government for a project action, including building permits, subdivisions, conditional uses, and site-specific rezones authorized by a comprehensive plan or subarea plan.

#### Short Subdivisions.

A "subdivision" is the division or re-division of land into five or more lots for the purpose of sale, lease, or transfer of ownership, while a "short subdivision" is the division of land into four or fewer lots. The legislative authority of any city or town may increase a short subdivision to a maximum of nine or fewer lots. A preliminary short plat for a short subdivision is an approximate drawing of a proposed short subdivision showing its general layout, and is the basis for approval or disapproval of the project. 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.

#### Boundary Line Adjustments.

A boundary line adjustment (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 building sites.

#### 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 county, city, or incorporated town's body or officer with the highest level of authority, including those with authority to hear appeals, to make a determination on: applications for a project permit or other governmental approval; an interpretative or declaratory decision regarding the application to a specific property of zoning, ordinances, or rules; 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 within 21 days of the date the land use decision is issued. The decision issuance date is: (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.

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

The Legislature finds that due process requires adjacent landowners and residents to receive notice of land use applications, approvals, and decisions related to three specified types of land use actions. The Legislature also declares its intent that the 21-day statute of limitations under the LUPA does not begin to run until notice of a land use decision is provided in accordance with applicable statute.

The LUPA provisions governing the date of issuance for land use decisions, for purposes of determining when the LUPA's 21-day statute of limitations begins to run, are amended. If the land use decision is made by a city with a population of 500,000 or more planning under the GMA, and it concerns one of three types of land use projects, the date of issuance is three days after notice is mailed to adjacent landowners and residents, or the date notice is posted on the property, whichever is later. The three types of projects concern:

- short plats and short subdivisions;
- lot line or boundary adjustments; and
- permits or licenses that authorize a change of the use property and will have a probable significant impact which, absent approval of the license or permit, would not be foreseeable under established, applicable regulations.

Cities with a population of 500,000 or more planning under the GMA are required to provide notice of applications, approvals, and decisions concerning the three types of applicable projects, as well as an opportunity to comment and participate in hearings, to 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.