

# **NOTICE OF PUBLIC HEARING**

## **BEFORE THE LATAH COUNTY BOARD OF COMMISSIONERS**

**Tuesday, July 16<sup>th</sup>, 2013**

**5:30 p.m.**

As per Idaho Code 67-6509 and 67-6511 the Latah County Board of Commissioners will hold a public hearing on Tuesday July 16th, 2013 in Room 2-B of the Latah County Courthouse, Moscow, Idaho, to receive comments on:

Amending Latah County Land Use Ordinance #269 as follows: modify Section 2 to add a definition of “aliquot description/aliquot parts”; modify Section 8.01 to change the requirements for land divisions in the Agriculture/Forest zoning designation and to add a section that allows limited transfers of building permits and land divisions.

Interested parties are encouraged to attend. Accommodations for individuals who qualify under the ADA are available upon request. Notice to acquire accommodations must be made 3 working days prior to the hearing to the Planning Department. This hearing will be held pursuant to the Latah County Hearing Procedures Ordinance and under authority of the Idaho Local Land Use Planning Act.

Additional information on this request is available from the Planning Department at the Latah County Courthouse, 522 S. Adams Room 205, Moscow, Idaho, (208) 883-7220. Written comments will be accepted at the above office or at [www.latah.id.us/pb](http://www.latah.id.us/pb) prior to the public hearing. The current ordinance and the full proposal can be viewed at [www.latah.id.us/pb](http://www.latah.id.us/pb)

Michelle Fuson  
Director

(This is a public service announcement only)

# DRAFT OF MODIFICATIONS TO SECTION 8.01 OF THE LATAH COUNTY LAND USE ORDINANCE

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## DIVISIONS OF PROPERTY

### SECTION 8.01 LAND DIVISIONS

Land divisions are only allowed in the Agriculture/Forest Zone. Land divisions are allowed only if the requirements as listed in this Section of the ordinance are met.

#### 8.01.01 DEFINITION OF EXISTING AND NEW PARCELS

All parcels of land recorded or approved by the Planning Department on or before January 1, 1997 shall be considered existing parcels. "Parcels of land recorded" is defined as a contiguous quantity of land recorded as the property of persons or entities, each of which is named in a single instrument conveying ownership thereof, and which has been separately conveyed from any adjoining quantity of land, whose boundaries are defined in the last recorded instrument of conveyance of such parcel which was recorded prior to January 1, 1997. Conveyance of title, or contracts which provide for conveyance of title, to portions of existing parcels which are executed after January 1, 1997, shall be deemed to create new parcels, except when transferred as a boundary line adjustment in accordance with Section 8.05 of this ordinance. To be eligible for one residential building permit or commercial building permits under Sections 3.01.01 and 3.01.02 of this ordinance, these new parcels shall be created in compliance with the provisions of this ordinance. Roads that cross parcels that are listed in the Assessor's database as a category 19 or that are owned or maintained by the North Latah County Highway District or South Latah Highway District do not divide a parcel into separately eligible building sites and are themselves not parcels. Highways and freeways owned by the State of Idaho or the United States that existed prior to January 1, 1997 divide eligible parcels, creating two eligible parcels, if the highway or freeway deeds show a "fee simple" ownership by the State or Federal Government or if parcels on either side were transferred prior to January 1, 1997 and defined the property boundary as the highway or freeway. Highways and freeways owned by the State of Idaho or the United States that were developed or rerouted after January 1, 1997 do not divide a parcel and in no case create separately eligible building sites or eligible parcels. To be eligible for building permits, existing parcels that are listed as having undivided interest or percentages of interest between parties must be divided in accordance with Section 8.01 of this ordinance, including by the owners that have interest in the parcel.

#### 8.01.02 DEFINITION OF PRODUCTIVE SOIL TYPES

For purposes of this Article, productive soil types are defined as those mapped soils from the 1981 "Soil Survey of Latah County Area, Idaho", U.S. Department of Agriculture, and any subsequent amendments or updates of this survey as published by the U.S. Department of Agriculture, including soil type # 3, 4, 8, 12, 13, 14, 15, 16, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 37, 44, 45, 50, 51, 52, 53, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65 and soils on all lands not included in that soil survey. All maps are located in the Latah County GIS system. Less productive soil types are defined as all remaining soil types.

#### 8.01.03 ELIGIBILITY FOR LAND DIVISION IN THE AGRICULTURE/FOREST ZONE BASED ON SIZE OF EXISTING PARCEL

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Existing parcels of at least 10 acres, regardless of soil type, are eligible for one division. Existing parcels of at least 160 acres, regardless of soil type, are eligible for one additional land division for each 160 acre portion of the existing parcel.

## 8.01.04 ELIGIBILITY FOR LAND DIVISION IN THE AGRICULTURE/FOREST ZONE BASED ON SOIL TYPE

Existing parcels with 40 or more acres of less productive soil types are eligible for one additional land division.

## ~~8.01.03 ELIGIBILITY FOR LAND DIVISION IN THE AGRICULTURE/FOREST ZONE BASED ON SOIL TYPE~~

~~Existing parcels with at least 10 but less than 40 acres of less productive soil types are eligible for one land division. Existing parcels with 40 or more acres of less productive soil types are eligible for two land divisions. No new parcel approved under the provisions of this Section shall include more than five acres of productive soil as determined by the maps set forth in Section 8.01.02.~~

## ~~8.01.04 ELIGIBILITY FOR LAND DIVISION IN THE AGRICULTURE/FOREST ZONE BASED ON SIZE OF EXISTING PARCEL~~

~~Existing parcels of at least 160 acres, regardless of soil type, are eligible for one land division for each 160 acre portion of the existing parcel.~~

## 8.01.05 REQUIREMENTS FOR APPROVAL

For a land division to be approved by the Planning Department and for any parcel that is a product of a land division to be eligible for one residential building permit or commercial building permits under Sections 3.01.01 or 3.01.02 of this ordinance, the following requirements must be met:

1. Submittal of a completed application form and fee shall be made by the owner of the affected property to the Planning Department;
2. The number of proposed new parcels cannot exceed the number allowed by Section 8.01.03 and 8.01.04 of this ordinance;
3. The proposed new parcel(s) and the remnant parcel must be at least one acre in size;
4. Each proposed new parcel and the remnant parcel shall have a building site outside of a designated flood hazard area that will accommodate the placement of a residence, any accessory buildings, a well, and a sewage disposal system;
5. The applicant must show that adequate sewage disposal facilities can be located on each new parcel and the remnant parcel by submitting to the Planning Department written approval from the North Central District Health Department;
6. Each new parcel and remnant parcel shall have a designated building site that is no larger than 2 acres where all residential structures shall be placed. The building site and all

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- structures shall be placed in a manner to preserve productive farm land, commercial timber stands, streams, riparian areas, and other unique natural features to ensure the rural nature of Latah County is preserved, that agriculture and forest industries are protected from residential growth, and to ensure that natural resources are protected as set forth as goals and policies in the comprehensive plan. When it is unfeasible to create a parcel that will preserve such features, the applicant shall work with the Planning Department to create a building site that will be the most consistent with the goals and policies set forth in the Latah County Comprehensive Plan;
7. The applicant must show that adequate access is provided to each new parcel and the remnant parcel by having frontage to a public road, or by an easement, at least 25 feet in width, approved by the Latah County Surveyor, which connects to a public road. Any easement used to meet this requirement shall be located such that it will allow conformance with Section 9.01 of this ordinance. Any easement used to meet this requirement shall be recorded prior to approval of the land division. To limit access points onto roadways, shared easements (shared driveways) are required when feasible. The applicant shall work with the Planning Department and the appropriate jurisdiction owning or maintaining the public road to determine the location of shared driveways. No division may include driveways entering directly onto state highways maintained by the Idaho Transportation Department unless there is no other option. When there is no other option, the applicant shall use a single access point and obtain multi-use access approval from ITD. If there is no feasible way to use a single access point, the applicant may apply for one or more additional access points onto the State highway, but must first obtain a variance from the Zoning Commission to do so following the procedures set forth in section 8.02.01.5.A through 8.02.01.5.C of this ordinance. Written approval for each access point, either direct or by easement, from the jurisdiction owning or maintaining the public road is required. ~~The applicant must also demonstrate that they have access to the public road for each parcel, either direct or by easement, by submitting to the Planning Department written approval from the jurisdiction owning or maintaining the accessed public road for each access point.~~ In addition to meeting the requirements of Section 9.01.02.4, all shared private driveways shall have a graveled surface of at least 20 feet wide. A driveway map must be submitted to the Planning Department and approved prior to approval of the division;
  8. The legal description must be approved by the Latah County Surveyor on a form provided by the Planning Department and recorded upon the Planning Department's final approval. If any required easement crosses property owned by the same person the easement may be included and recorded on this form. If a parcel is not able to be divided into aliquot parts and described via an aliquot description, a legal description shall be created and a survey may be required at the discretion of the county surveyor;
  9. Any approved "new" buildable parcel shall become an "existing parcel" 30 years after it was created;
  10. The applicant shall provide to the Planning Department a site plan for each parcel drawn to scale. The site plan shall include the size, dimensions, and location of each parcel and building site, the potential or actual location and plans for the wells or water system, septic systems, residences, other structures, easements, driveways and regulatory setbacks. Each 2-acre building site shall be placed so it will accommodate all regulatory setbacks, the septic

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system, a residence, any accessory structures related to the residential use, and such that it will be in compliance with Section 8.01.05.4 of this ordinance.

## 8.01.06 CHANGES IN PREVIOUSLY APPROVED PARCELS

The Planning Department may approve changes to the boundaries of an approved parcel, **driveway plan or building site** only if the changed parcel, **driveway plan, building site**, any other parcels that were a result of this land division, and the remnant parcel meet all of the requirements of Section 8.01 of this ordinance. The applicant must submit new signed agency approval forms from the jurisdiction owning or maintaining the accessed public road for each access point, North Central District Health Department, and Latah County Surveyor for the adjusted parcel to the Planning Department. Road access and septic approvals may be waived by the Planning Department if the site conditions for which the previous approvals were based remain unaffected by the boundary line changes. Latah County Surveyor approval shall not be waived.

## 8.01.07 EXISTING HOMES ON ELIGIBLE PARCELS

When application for a land division is made for an existing parcel that has one or more existing homes located on it, the existing non-conforming homes must come into conformance with Section 3.01.01.6 of this ordinance, unless prior to the land division the individual receives approval(s) under Section 3.01.02.11 or Section 3.01.02.14 of this ordinance to allow more than one home on one of the new parcels.

## 8.01.08 DIVISION OF PARCELS, NON-COMPLIANCE, AGRICULTURE/FOREST ZONE

The parcel(s) created from the division of a new parcel, or the parcel(s) created from the division of an existing parcel not eligible for division under the provisions of Sections 8.01.02 or 8.01.03 of this ordinance, shall not be eligible for residential or commercial building permits unless the owner of the new parcel receives County approval for rezoning and a subdivision plat.

If an existing eligible parcel that is not eligible for division under the provisions of Sections 8.01.03 or 8.01.04 of this ordinance is divided outside of the provisions of this ordinance, and a residential building permit has not been issued for the existing eligible parcel, the owner of the existing eligible parcel may be eligible for one residential building permit on the portion of the parcel they retain, so long as that portion meets the size and setback requirements, or they may relinquish the one residential building permit eligibility to one of the new parcels, so long as the new parcel meets the size and setback requirements.

If an existing parcel is divided without making application to the Planning Department and without complying with this ordinance, and that division was completed in such a manner that it could comply with the provisions of this ordinance, and the existing parcel was eligible for a land division under this ordinance at the time the division was completed, a land division application may be made by all current owners of the properties previously involved to retroactively bring this division into compliance with this ordinance.

## 8.01.09 DEADLINE FOR COMPLETION OF APPLICATION

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The applicant for land division shall have all approvals required by Section 8.01 returned to the Planning Department within six months of initial application. The Planning Department may provide one extension not to exceed six months upon written request of the applicant.

## 8.01.10 COMPLIANCE WITH DESIGN STANDARDS

All parcels, buildings, improvements, and driveways located in an approved land division shall comply with Section 9.01 of this ordinance. Failure to comply with these design standards will make the affected parcels ineligible for building permits.

## 8.01.11 NON-CONTIGUOUS SAME OWNERSHIP PARCELS

Non-contiguous parcels in the Agriculture / Forest zoning designation under the same ownership may move residential building permits and land divisions subject to the following:

1. Any parcel that is located in the Agriculture/Forest zoning designation that is eligible for a land division or a building permit is considered a conveying parcel.
2. Any parcel owned by the same person(s) as the conveying parcel in the Agriculture/Forest zoning designation is considered an acquiring parcel.
3. Any parcel that is located in the Agriculture/Forest zoning designation that is eligible for a land division (conveying parcel) or a building permit may use that land division or building permit on property owned by the same person(s) (acquiring parcel) in the Agriculture/Forest zoning designation subject to the following conditions:
  - A. Ownership of both the conveying and acquiring parcels must have been established prior to the approval of this ordinance;
  - B. Submittal of a completed application form and fee shall be made by the owner of the affected properties to the Planning Department. Such fee shall be the same as for a land division under Section 8.01 of this ordinance;
  - C. The conveying and acquiring parcels cannot be in a platted subdivision;
  - D. The conveying parcel must have areas that would enhance or protect the goals of the Comprehensive Plan to preserve the rural character of Latah County, conserve streams, floodplains, wetlands, wooded areas, and other areas of natural significance, open space, protect wildlife habitat, preserve recognized sites and areas with cultural, scenic, or natural significance, to move development away from hazardous areas, enhance contiguity to agricultural lands suitable for long-range farming and ranching operations, and/or protect and preserve active farm and forest grounds;
  - E. The area of the acquiring parcel where the building site or division is conveyed shall not consist of active farm, ranch or forest grounds, areas including floodplain, wetlands, and natural hazard areas, shall be in a location that has an established rural fire district or will be provided fire protection by enacting a written agreement with a municipal or established rural fire district, shall be in locations such as to preserve

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the rural character of Latah County, and shall be placed in a manner to allow contiguity for farming and other land operations;

- F. No more than one building permit and one division, or two divisions, may be conveyed from any existing parcel or eligible remnant parcel (conveying parcel) to an acquiring parcel. No acquiring parcel can accept more than one building permit and one division, or two divisions;
- G. For a building permit or land division transfer to be approved by the Planning Department and for any parcel that is a product of a transfer to be eligible for one residential building permit or commercial building permits under Sections 3.01.01 or 3.01.02 of this ordinance, the requirements of this section and of Section 8.01.05 must be met;
- H. Any transfers made under this section shall be required to obtain final approval, contingent on compliance with Section 8.01.11 of this ordinance, by the Latah County Planning Department. In order for the acquiring parcel to obtain building permit eligibility, a “record of transfer” shall be recorded with the County Recorder. A form for such shall be provided by the Latah County Planning Department. No “record of transfer” shall be recorded without final approval from the Latah County Planning Department.

## **Add to Section 2 (Definitions Section of the Land Use Ordinance):**

Aliquot description/aliquot parts: The Public Land Survey System shows that each township/range intersection includes thirty-six one mile squares known as sections. Sections can be described in more detail, using quarter sections, quarter-quarter sections, and smaller. Aliquot parts are a way to describe legal subdivisions of a section by division into halves or fourths ad infinitum. "Aliquot" means "contained in something else an exact number of times."