

**LAND USE, DEVELOPMENT, AND
MANAGEMENT ACT AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory S. Bell

House Sponsor: Michael T. Morley

LONG TITLE

General Description:

This bill modifies county and municipal land use provisions.

Highlighted Provisions:

This bill:

▶ modifies county and municipal provisions relating to the notice required for a proposed subdivision or an amendment to a subdivision and makes them apply to amendments only;

▶ modifies county and municipal provisions relating to a hearing and notice requirement for a proposal to vacate, alter, or amend a public street or right-of-way to:

• make the provisions apply to a proposal to vacate some or all of a public street, right-of-way, or easement;

• replace the land use authority with the legislative body as the body responsible to hold a public hearing and provide notice; and

• modify the notice that is required;

▶ eliminates the requirement for a planning commission recommendation on a subdivision plat in certain circumstances when the planning commission is not the land use authority;

▶ provides exceptions to a prohibition against separate ownership or conveyance of a



- 28 parcel designated as a common or community area;
- 29 ▶ modifies county and municipal provisions relating to the vacation, alteration, or
- 30 amendment of a subdivision plat;
- 31 ▶ modifies the basis upon which a land use authority may approve the vacation,
- 32 alteration, or amendment of a plat;
- 33 ▶ modifies county and municipal provisions relating to the vacation or alteration of a
- 34 public street or right-of-way;
- 35 ▶ repeals a redundant provision; and
- 36 ▶ makes technical changes.

37 **Monies Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 None

41 **Utah Code Sections Affected:**

42 **AMENDS:**

- 43 **10-9a-207**, as last amended by Laws of Utah 2006, Chapter 240
- 44 **10-9a-208**, as last amended by Laws of Utah 2006, Chapter 240
- 45 **10-9a-604**, as last amended by Laws of Utah 2006, Chapter 240
- 46 **10-9a-606**, as last amended by Laws of Utah 2007, Chapter 268
- 47 **10-9a-608**, as last amended by Laws of Utah 2006, Chapter 163
- 48 **10-9a-609**, as last amended by Laws of Utah 2007, Chapter 243
- 49 **10-9a-609.5**, as last amended by Laws of Utah 2007, Chapter 243
- 50 **17-27a-207**, as last amended by Laws of Utah 2006, Chapter 240
- 51 **17-27a-208**, as last amended by Laws of Utah 2006, Chapter 240
- 52 **17-27a-604**, as last amended by Laws of Utah 2006, Chapter 240
- 53 **17-27a-606**, as last amended by Laws of Utah 2007, Chapter 268
- 54 **17-27a-608**, as last amended by Laws of Utah 2006, Chapter 163
- 55 **17-27a-609**, as last amended by Laws of Utah 2007, Chapter 243
- 56 **17-27a-609.5**, as last amended by Laws of Utah 2007, Chapter 243

57 **REPEALS:**

- 58 **10-8-8.5**, as last amended by Laws of Utah 1993, Chapter 4

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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-9a-207** is amended to read:

10-9a-207. Notice for an amendment to a subdivision.

~~[(1) Except for an exempt subdivision under Section 10-9a-605, for a proposed subdivision or]~~

(1) (a) For an amendment to a subdivision, each municipality shall provide notice of the date, time, and place of [a public hearing that is:] at least one public meeting, as provided in Subsection (1)(b).

(b) At least ten calendar days before the public meeting, the notice required under Subsection (1)(a) shall be:

~~[(a)] (i) mailed [not less than three calendar days before the public hearing] and addressed to the record owner of each parcel within specified parameters of that property; or~~

~~[(b)] (ii) posted [not less than three calendar days before the public hearing,] on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by.~~

~~[(2) Each municipality shall mail notice to each affected entity of a public hearing to consider a preliminary plat describing a multiple-unit residential development or a commercial or industrial development.]~~

~~[(3)] (2) Each municipality shall provide notice as required by Section 10-9a-208 for a subdivision that involves a vacation, alteration, or amendment of a street.~~

Section 2. Section **10-9a-208** is amended to read:

10-9a-208. Hearing and notice for proposal to vacate a public street, right-of-way, or easement.

(1) For any proposal to vacate[, alter, or amend] some or all of a public street [or], right-of-way, [the land use authority] or easement, the legislative body shall:

(a) hold a public hearing; and [shall]

(b) give notice of the date, place, and time of the hearing [by:], as provided in Subsection (2).

~~[(1) mailing notice as required in Section 10-9a-207;]~~

~~[(2) mailing notice]~~

90 (2) At least ten days before the public hearing under Subsection (1)(a), the notice
91 required under Subsection (1)(b) shall be:

92 (a) mailed to the record owner of each parcel that is accessed by the public street,
93 right-of-way, or easement;

94 (b) mailed to each affected entity; [and]

95 ~~[(3)(a) publishing notice once a week for four consecutive weeks before the hearing]~~

96 (c) posted on or near the street, right-of-way, or easement in a manner that is calculated
97 to alert the public; and

98 (d) published in a newspaper of general circulation in the municipality in which the
99 land subject to the petition is located[; or].

100 ~~[(b) if there is no newspaper of general circulation in the municipality, posting the~~
101 ~~property and posting notice in three public places for four consecutive weeks before the~~
102 ~~hearing;]~~

103 Section 3. Section **10-9a-604** is amended to read:

104 **10-9a-604. Subdivision plat approval procedure -- Effect of not complying.**

105 (1) ~~[(a)]~~ A person may not submit a subdivision plat to the county recorder's office for
106 recording unless:

107 ~~[(i) except as provided in Subsection (1)(b), a recommendation has been received from~~
108 ~~the planning commission;]~~

109 ~~[(ii)]~~ (a) the plat has been approved by:

110 ~~[(A)]~~ (i) the land use authority of the municipality in which the land described in the
111 plat is located; and

112 ~~[(B)]~~ (ii) other officers that the municipality designates in its ordinance; and

113 ~~[(iii)]~~ (b) all approvals are entered in writing on the plat by the designated officers.

114 ~~[(b) Subsection (1)(a) does not apply if the planning commission is the land use~~
115 ~~authority;]~~

116 (2) A subdivision plat recorded without the signatures required under this section is
117 void.

118 (3) A transfer of land pursuant to a void plat is voidable.

119 Section 4. Section **10-9a-606** is amended to read:

120 **10-9a-606. Common or community area parcels on a plat -- No separate**

121 **ownership -- Ownership interest equally divided among other parcels on plat and**
 122 **included in description of other parcels.**

123 (1) A parcel designated as a common or community area on a plat recorded in
 124 compliance with this part may not be separately owned or conveyed independent of the other
 125 parcels created by the plat[-] unless:

126 (a) the parcel is being acquired by the municipality for a governmental purpose; or
 127 (b) the separate ownership or conveyance is approved by the owners of at least 75% of
 128 the parcels on the plat, after the municipality gives its approval.

129 (2) The ownership interest in a parcel described in Subsection (1) shall:

130 (a) for purposes of assessment, be divided equally among all parcels created by the
 131 plat, unless a different division of interest for assessment purposes is indicated on the plat or an
 132 accompanying recorded document; and

133 (b) be considered to be included in the description of each instrument describing a
 134 parcel on the plat by its identifying plat number, even if the common or community area
 135 interest is not explicitly stated in the instrument.

136 Section 5. Section **10-9a-608** is amended to read:

137 **10-9a-608. Vacating, altering, or amending a subdivision plat.**

138 ~~[(1)(a) Subject to Section 10-9a-609.5, and provided that notice has been given~~
 139 ~~pursuant to local ordinance and Section 10-9a-208, the land use authority may, with or without~~
 140 ~~a petition, consider and resolve any proposed vacation, alteration, or amendment of a~~
 141 ~~subdivision plat, any portion of a subdivision plat, or any lot contained in a subdivision plat.]~~

142 (1) (a) A fee owner of land, as shown on the last county assessment roll, in a
 143 subdivision that has been laid out and platted as provided in this part may file a written petition
 144 with the land use authority to have some or all of the plat vacated, altered, or amended.

145 (b) If a petition is filed under Subsection (1)(a), the land use authority shall hold a
 146 public hearing within 45 days after the petition is filed ~~[or, if applicable, within 45 days after~~
 147 ~~receipt of the planning commission's recommendation under Subsection (2);] if:~~

148 (i) any owner within the plat notifies the municipality of ~~[their]~~ the owner's objection
 149 in writing within ten days of mailed notification; or

150 (ii) a public hearing is required because all of the owners in the subdivision have not
 151 signed the revised plat.

152 ~~[(2) (a) (i) The planning commission shall consider and provide a recommendation for~~
153 ~~a proposed vacation, alteration, or amendment under Subsection (1)(a) before the land use~~
154 ~~authority takes final action.]~~

155 ~~[(ii) The planning commission shall give its recommendation within 30 days after the~~
156 ~~proposed vacation, alteration, or amendment is referred to it, or as that time period is extended~~
157 ~~by agreement with the applicant.]~~

158 ~~[(b) Subsection (2)(a) does not apply if the planning commission has been designated~~
159 ~~as the land use authority.]~~

160 ~~[(3)]~~ (2) The public hearing requirement of Subsection (1)(b) does not apply and a land
161 use authority may consider at a public meeting an owner's petition to alter a subdivision plat if:

162 (a) the petition seeks to join two or more of the owner's contiguous, residential lots;
163 and

164 (b) notice has been given to adjacent property owners and pursuant to local ordinance.

165 ~~[(4)]~~ (3) Each request to vacate or alter ~~[a street or alley, contained in a petition to~~
166 ~~vacate, alter, or amend] a [subdivision] plat[;]~~ that contains a request to vacate or alter a public
167 street, right-of-way, or easement is also subject to Section 10-9a-609.5.

168 ~~[(5) Any fee owner, as shown on the last county assessment rolls, of land within the~~
169 ~~subdivision that has been laid out and platted as provided in this part may, in writing, petition~~
170 ~~to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or~~
171 ~~amended as provided in this section and Section 10-9a-609.5.]~~

172 ~~[(6)]~~ (4) Each petition to vacate, alter, or amend an entire plat[;] or a portion of a plat[;
173 ~~or a street or lot contained in a plat]~~ shall include:

174 (a) the name and address of ~~[all owners]~~ each owner of record of the land contained in
175 the entire plat; and

176 ~~[(b) the name and address of all owners of record of land adjacent to any street that is~~
177 ~~proposed to be vacated, altered, or amended; and]~~

178 ~~[(c)]~~ (b) the signature of each of these owners who consents to the petition.

179 ~~[(7)]~~ (5) (a) The owners of record of adjacent parcels that are described by either a
180 metes and bounds description or a recorded plat may exchange title to portions of those parcels
181 if the exchange of title is approved by the land use authority in accordance with Subsection
182 ~~[(7)]~~ (5)(b).

183 (b) The land use authority shall approve an exchange of title under Subsection [~~(7)~~]
184 (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

185 (c) If an exchange of title is approved under Subsection [~~(7)~~] (5)(b):

186 (i) a notice of approval shall be recorded in the office of the county recorder which:

187 (A) is executed by each owner included in the exchange and by the land use authority;

188 (B) contains an acknowledgment for each party executing the notice in accordance with
189 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

190 (C) recites the descriptions of both the original parcels and the parcels created by the
191 exchange of title; and

192 (ii) a conveyance of title reflecting the approved change shall be recorded in the office
193 of the county recorder.

194 (d) A notice of approval recorded under this Subsection [~~(7)~~] (5) does not act as a
195 conveyance of title to real property and is not required for the recording of a document
196 purporting to convey title to real property.

197 [~~(8)~~] (6) (a) The name of a recorded subdivision may be changed by recording an
198 amended plat making that change, as provided in this section and subject to Subsection [~~(8)~~]
199 (6)(c).

200 (b) The surveyor preparing the amended plat shall certify that the surveyor:

201 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
202 Professional Land Surveyors Licensing Act;

203 (ii) has completed a survey of the property described on the plat in accordance with
204 Section 17-23-17 and has verified all measurements; and

205 (iii) has placed monuments as represented on the plat.

206 (c) An owner of land may not submit for recording an amended plat that gives the
207 subdivision described in the amended plat the same name as a subdivision in a plat already
208 recorded in the county recorder's office.

209 (d) Except as provided in Subsection [~~(8)~~] (6)(a), the recording of a declaration or other
210 document that purports to change the name of a recorded plat is voidable.

211 Section 6. Section **10-9a-609** is amended to read:

212 **10-9a-609. Land use authority consideration of petition to vacate or change a plat**
213 **-- Criteria for vacating or changing a plat -- Recording the vacation or change.**

214 ~~[(1) If the land use authority is satisfied that neither the public interest nor any person~~
 215 ~~will be materially injured by the proposed vacation, alteration, or amendment, and that there is~~
 216 ~~good cause for the vacation, alteration, or amendment, the land use authority may vacate, alter,~~
 217 ~~or amend the plat or any portion of the plat, subject to Section 10-9a-609.5.]~~

218 ~~[(2)]~~ (1) The land use authority may approve the vacation, alteration, or amendment of
 219 a plat by signing an amended plat showing the vacation, alteration, or amendment~~[:]~~ if the land
 220 use authority finds that:

221 (a) there is good cause for the vacation, alteration, or amendment; and

222 (b) no public street, right-of-way, or easement has been vacated or altered.

223 ~~[(3)]~~ (2) The land use authority shall ensure that the amended plat showing the
 224 vacation, alteration, or amendment is recorded in the office of the county recorder in which the
 225 land is located.

226 ~~[(4)]~~ (3) If an entire subdivision is vacated, the legislative body shall ensure that a
 227 legislative body resolution containing a legal description of the entire vacated subdivision is
 228 recorded in the county recorder's office.

229 Section 7. Section **10-9a-609.5** is amended to read:

230 **10-9a-609.5. Vacating a street, right-of-way, or easement.**

231 (1) A petition to vacate some or all of a public street, right-of-way, or easement shall
 232 include:

233 (a) the name and address of each owner of record of land that is:

234 (i) adjacent to the public street, right-of-way, or easement; or

235 (ii) accessed exclusively by or within 300 feet of the public street, right-of-way, or
 236 easement; and

237 (b) the signature of each owner under Subsection (1)(a) who consents to the vacation.

238 ~~[(1)(a)]~~ (2) If a petition is submitted containing a request to vacate ~~[or alter any~~
 239 ~~portion]~~ some or all of a street ~~[or alley within a subdivision: (i) the planning commission~~
 240 ~~shall, after providing notice pursuant to local ordinance and Section 10-9a-208, make a~~
 241 ~~recommendation to the land use authority concerning the request to vacate or alter, and (ii) the~~
 242 ~~land use authority],~~ right-of-way, or easement, the legislative body shall hold a public hearing
 243 in accordance with Section 10-9a-208 and determine whether:

244 (a) good cause exists for the vacation [or alteration.]; and

245 ~~[(b) Subsection (1)(a)(i) does not apply if the planning commission has been~~
 246 ~~designated as a land use authority.]~~

247 ~~[(2) If the land use authority vacates or alters any portion of a street or alley, the land~~
 248 ~~use authority]~~

249 (b) the public interest or any person will be materially injured by the proposed
 250 vacation.

251 (3) The legislative body may adopt an ordinance granting a petition to vacate some or
 252 all of a public street, right-of-way, or easement if the legislative body finds that:

253 (a) good cause exists for the vacation; and

254 (b) neither the public interest nor any person will be materially injured by the vacation.

255 (4) If the legislative body adopts an ordinance vacating some or all of a public street,
 256 right-of-way, or easement, the legislative body shall ensure that [the] a plat reflecting the
 257 vacation is recorded in the office of the recorder of the county in which the land is located.

258 ~~[(3)]~~ (5) The action of the [land use authority vacating or narrowing a street or alley]
 259 legislative body vacating some or all of a street, right-of-way, or easement that has been
 260 dedicated to public use [shall operate]:

261 (a) operates to the extent to which it is vacated [or narrowed], upon the effective date
 262 of the [vacating] recorded plat, as a revocation of the acceptance [thereof,] of and the
 263 relinquishment of the [city's fee therein, but the right-of-way and easements therein, if any,]
 264 municipality's fee in the vacated street, right-of-way, or easement; and

265 (b) may not be construed to impair:

266 (i) any right-of-way or easement of any lot owner [and]; or

267 (ii) the franchise rights of any public utility [may not be impaired thereby].

268 Section 8. Section **17-27a-207** is amended to read:

269 **17-27a-207. Notice for an amendment to a subdivision.**

270 ~~[(1) Except for an exempt subdivision under Section 17-27a-605, for a proposed~~
 271 ~~subdivision or]~~

272 (1) (a) For an amendment to a subdivision, each county shall provide notice of the date,
 273 time, and place of [a public hearing that is:] at least one public meeting, as provided in
 274 Subsection (1)(b).

275 (b) At least ten calendar days before the public meeting, the notice required under

276 Subsection (1)(a) shall be:

277 ~~[(a)] (i) mailed [not less than three calendar days before the public hearing] and~~
 278 addressed to the record owner of each parcel within specified parameters of that property; or

279 ~~[(b)] (ii) posted [not less than three calendar days before the public hearing,] on the~~
 280 property proposed for subdivision, in a visible location, with a sign of sufficient size,
 281 durability, and print quality that is reasonably calculated to give notice to passers-by.

282 ~~[(2) Each county shall mail notice to each affected entity of a public hearing to~~
 283 ~~consider a preliminary plat describing a multiple-unit residential development or a commercial~~
 284 ~~or industrial development.]~~

285 ~~[(3)] (2) Each county shall provide notice as required by Section 17-27a-208 for a~~
 286 subdivision that involves a vacation, alteration, or amendment of a street.

287 Section 9. Section **17-27a-208** is amended to read:

288 **17-27a-208. Hearing and notice for proposal to vacate a public street,**
 289 **right-of-way, or easement.**

290 (1) For any proposal to vacate~~[, alter, or amend]~~ some or all of a public street ~~[or],~~
 291 right-of-way, [the land use authority], or easement, the legislative body shall:

292 (a) hold a public hearing; and [shall]

293 (b) give notice of the date, place, and time of the hearing [by:], as provided in

294 Subsection (2).

295 ~~[(1) mailing notice as required in Section 17-27a-207,]~~

296 ~~[(2) mailing notice]~~

297 (2) At least ten days before the public hearing under Subsection (1)(a), the notice
 298 required under Subsection (1)(b) shall be:

299 (a) mailed to the record owner of each parcel that is accessed by the public street,
 300 right-of-way, or easement;

301 (b) mailed to each affected entity; [and]

302 (c) posted on or near the street, right-of-way, or easement in a manner that is calculated
 303 to alert the public; and

304 ~~[(3) (a) publishing notice once a week for four consecutive weeks before the hearing]~~

305 (d) published in a newspaper of general circulation in the county in which the land
 306 subject to the petition is located~~[, or].~~

307 ~~[(b) if there is no newspaper of general circulation in the county, posting the property~~
308 ~~and posting notice in three public places for four consecutive weeks before the hearing.]~~

309 Section 10. Section **17-27a-604** is amended to read:

310 **17-27a-604. Subdivision plat approval procedure -- Effect of not complying.**

311 (1) ~~[(a)]~~ A person may not submit a subdivision plat to the county recorder's office for
312 recording unless:

313 ~~[(i) except as provided in Subsection (1)(b), a recommendation has been received from~~
314 ~~the planning commission;]~~

315 ~~[(ii)]~~ (a) the plat has been approved by:

316 ~~[(A)]~~ (i) the land use authority of the county in whose unincorporated area the land
317 described in the plat is located; and

318 ~~[(B)]~~ (ii) other officers that the county designates in its ordinance; and

319 ~~[(iii)]~~ (b) all approvals are entered in writing on the plat by designated officers.

320 ~~[(b) Subsection (1)(a) does not apply if the planning commission is the land use~~
321 ~~authority.]~~

322 (2) A plat recorded without the signatures required under this section is void.

323 (3) A transfer of land pursuant to a void plat is voidable.

324 Section 11. Section **17-27a-606** is amended to read:

325 **17-27a-606. Common or community area parcels on a plat -- No separate**
326 **ownership -- Ownership interest equally divided among other parcels on plat and**
327 **included in description of other parcels.**

328 (1) A parcel designated as a common or community area on a plat recorded in
329 compliance with this part may not be separately owned or conveyed independent of the other
330 parcels created by the plat[-] unless:

331 (a) the parcel is being acquired by the county for a governmental purpose; or

332 (b) the separate ownership or conveyance is approved by the owners of at least 75% of
333 the parcels on the plat, after the county gives its approval.

334 (2) The ownership interest in a parcel described in Subsection (1) shall:

335 (a) for purposes of assessment, be divided equally among all parcels created by the
336 plat, unless a different division of interest for assessment purposes is indicated on the plat or an
337 accompanying recorded document; and

338 (b) be considered to be included in the description of each instrument describing a
339 parcel on the plat by its identifying plat number, even if the common or community area
340 interest is not explicitly stated in the instrument.

341 Section 12. Section **17-27a-608** is amended to read:

342 **17-27a-608. Vacating, altering, or amending a subdivision plat.**

343 ~~[(1) (a) Subject to Section 17-27a-609.5, and provided that notice has been given
344 pursuant to local ordinance and Section 17-27a-208, the land use authority may, with or
345 without a petition, consider and resolve any proposed vacation, alteration, or amendment of a
346 subdivision plat, any portion of a subdivision plat, or any lot contained in a subdivision plat.]~~

347 (1) (a) A fee owner of land, as shown on the last county assessment roll, in a
348 subdivision that has been laid out and platted as provided in this part may file a written petition
349 with the land use authority to have some or all of the plat vacated, altered, or amended.

350 (b) If a petition is filed under Subsection (1)(a), the land use authority shall hold a
351 public hearing within 45 days after the petition is filed ~~[or, if applicable, within 45 days after~~
352 ~~receipt of the planning commission's recommendation under Subsection (2);] if:~~

353 (i) any owner within the plat notifies the county of ~~[their]~~ the owner's objection in
354 writing within ten days of mailed notification; or

355 (ii) a public hearing is required because all of the owners in the subdivision have not
356 signed the revised plat.

357 ~~[(2) (a) (i) The planning commission shall consider and provide a recommendation for
358 a proposed vacation, alteration, or amendment under Subsection (1)(a) before the land use
359 authority takes final action.]~~

360 ~~[(ii) The planning commission shall give its recommendation within 30 days after the
361 proposed vacation, alteration, or amendment is referred to it, or as that time period is extended
362 by agreement with the applicant.]~~

363 ~~[(b) Subsection (2)(a) does not apply if the planning commission has been designated
364 as the land use authority.]~~

365 ~~[(3)]~~ (2) The public hearing requirement of Subsection (1)(b) does not apply and a land
366 use authority may consider at a public meeting an owner's petition to alter a subdivision plat if:

367 (a) the petition seeks to join two or more of the owner's contiguous, residential lots;
368 and

369 (b) notice has been given to adjacent property owners and pursuant to local ordinance.

370 [~~(4)~~] (3) Each request to vacate or alter [~~a street or alley, contained in a petition to~~
371 ~~vacate, alter, or amend~~] a [~~subdivision~~] plat[;] that contains a request to vacate or alter a public
372 street, right-of-way, or easement is also subject to Section 17-27a-609.5.

373 [~~(5) Any fee owner, as shown on the last county assessment rolls, of land within the~~
374 ~~subdivision that has been laid out and platted as provided in this part may, in writing, petition~~
375 ~~to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or~~
376 ~~amended as provided in this section and Section 17-27a-609.5.~~]

377 [~~(6)~~] (4) Each petition to vacate, alter, or amend an entire plat[;] or a portion of a plat[;
378 or a street or lot contained in a plat] shall include:

379 (a) the name and address of [~~all owners~~] each owner of record of the land contained in
380 the entire plat; and

381 [~~(b) the name and address of all owners of record of land adjacent to any street that is~~
382 ~~proposed to be vacated, altered, or amended; and]~~

383 [~~(c)~~] (b) the signature of each of these owners who consents to the petition.

384 [~~(7)~~] (5) (a) The owners of record of adjacent parcels that are described by either a
385 metes and bounds description or a recorded plat may exchange title to portions of those parcels
386 if the exchange of title is approved by the land use authority in accordance with Subsection
387 [~~(7)~~] (5)(b).

388 (b) The land use authority shall approve an exchange of title under Subsection [~~(7)~~]
389 (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

390 (c) If an exchange of title is approved under Subsection [~~(7)~~] (5)(b):

391 (i) a notice of approval shall be recorded in the office of the county recorder which:

392 (A) is executed by each owner included in the exchange and by the land use authority;

393 (B) contains an acknowledgment for each party executing the notice in accordance with
394 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

395 (C) recites the descriptions of both the original parcels and the parcels created by the
396 exchange of title; and

397 (ii) a conveyance of title reflecting the approved change shall be recorded in the office
398 of the county recorder.

399 (d) A notice of approval recorded under this Subsection [~~(7)~~] (5) does not act as a

400 conveyance of title to real property and is not required for the recording of a document
401 purporting to convey title to real property.

402 ~~[(8)]~~ (6) (a) The name of a recorded subdivision may be changed by recording an
403 amended plat making that change, as provided in this section and subject to Subsection ~~[(8)]~~
404 (6)(c).

405 (b) The surveyor preparing the amended plat shall certify that the surveyor:

406 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
407 Professional Land Surveyors Licensing Act;

408 (ii) has completed a survey of the property described on the plat in accordance with
409 Section 17-23-17 and has verified all measurements; and

410 (iii) has placed monuments as represented on the plat.

411 (c) An owner of land may not submit for recording an amended plat that gives the
412 subdivision described in the amended plat the same name as a subdivision in a plat already
413 recorded in the county recorder's office.

414 (d) Except as provided in Subsection ~~[(8)]~~ (6)(a), the recording of a declaration or other
415 document that purports to change the name of a recorded plat is voidable.

416 Section 13. Section **17-27a-609** is amended to read:

417 **17-27a-609. Land use authority consideration of petition to vacate or change a**
418 **plat -- Criteria for vacating or changing a plat -- Recording the vacation or change.**

419 ~~[(1) If the land use authority is satisfied that neither the public interest nor any person~~
420 ~~will be materially injured by the proposed vacation, alteration, or amendment, and that there is~~
421 ~~good cause for the vacation, alteration, or amendment, the land use authority may vacate, alter,~~
422 ~~or amend the plat or any portion of the plat, subject to Section 17-27a-609.5.]~~

423 ~~[(2)]~~ (1) The land use authority may approve the vacation, alteration, or amendment of
424 a plat by signing an amended plat showing the vacation, alteration, or amendment[;] if the land
425 use authority finds that:

426 (a) there is good cause for the vacation, alteration, or amendment; and

427 (b) no public street, right-of-way, or easement has been vacated or altered.

428 ~~[(3)]~~ (2) The land use authority shall ensure that the amended plat showing the
429 vacation, alteration, or amendment is recorded in the office of the county recorder in which the
430 land is located.

431 ~~[(4)]~~ (3) If an entire subdivision is vacated, the legislative body shall ensure that a
 432 legislative body resolution containing a legal description of the entire vacated subdivision is
 433 recorded in the county recorder's office.

434 Section 14. Section **17-27a-609.5** is amended to read:

435 **17-27a-609.5. Vacating a street, right-of-way, or easement.**

436 (1) A petition to vacate some or all of a public street, right-of-way, or easement shall
 437 include:

438 (a) the name and address of each owner of record of land that is:

439 (i) adjacent to the public street, right-of-way, or easement; or

440 (ii) accessed exclusively by or within 300 feet of the public street, right-of-way, or
 441 easement; and

442 (b) the signature of each owner under Subsection (1)(a) who consents to the vacation.

443 ~~[(1)(a)]~~ (2) If a petition is submitted containing a request to vacate ~~[or alter any~~
 444 ~~portion] some or all~~ of a street ~~[or alley within a subdivision: (i) the planning commission~~
 445 ~~shall, after providing notice pursuant to local ordinance and Section 17-27a-208, make a~~
 446 ~~recommendation to the land use authority concerning the request to vacate or alter; and (ii) the~~
 447 ~~land use authority], right-of-way, or easement, the legislative body shall hold a public hearing~~
 448 in accordance with Section 17-27a-208 and determine whether:

449 (a) good cause exists for the vacation [or alteration.]; and

450 ~~[(b) Subsection (1)(a)(i) does not apply if the planning commission has been~~
 451 ~~designated as a land use authority.]~~

452 ~~[(2) If the land use authority vacates or alters any portion of a street or alley, the land~~
 453 ~~use authority shall]~~

454 (b) the public interest or any person will be materially injured by the proposed
 455 vacation.

456 (3) The legislative body may adopt an ordinance granting a petition to vacate some or
 457 all of a public street, right-of-way, or easement if the legislative body finds that:

458 (a) good cause exists for the vacation; and

459 (b) neither the public interest nor any person will be materially injured by the vacation.

460 (4) If the legislative body adopts an ordinance vacating some or all of a public street,
 461 right-of-way, or easement, the legislative body shall ensure that [the] a plat reflecting the

462 vacation is recorded in the office of the recorder of the county in which the land is located.

463 [~~(3)~~] (5) The action of the [~~land use authority vacating or narrowing a street or alley~~]

464 legislative body vacating some or all of a street, right-of-way, or easement that has been

465 dedicated to public use [~~shall operate~~];

466 (a) operates to the extent to which it is vacated [~~or narrowed~~], upon the effective date

467 of the [~~vacating~~] recorded plat, as a revocation of the acceptance [~~thereof;~~] of and the

468 relinquishment of the county's fee [~~therein, but the right-of-way and easements therein, if any,~~]

469 in the vacated street, right-of-way, or easement; and

470 (b) may not be construed to impair:

471 (i) any right-of-way or easement of any lot owner [~~and~~]; or

472 (ii) the franchise rights of any public utility [~~may not be impaired thereby~~].

473 Section 15. **Repealer.**

474 This bill repeals:

475 Section **10-8-8.5, Effect of vacation or narrowing of street or alley.**

Legislative Review Note
as of 2-13-09 12:23 PM

Office of Legislative Research and General Counsel

S.B. 209 - Land Use, Development, and Management Act Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
