

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS, AND DECISION

Applicant(s): Kelly Koral/Terry Williams, Agent, Permit Resources
PO Box 1001
Eastsound, WA 98245

on behalf of
Ronald and Heather Rosenberg
9910 - 229th Lane NE
Redmond, WA 98053

File No.: PLPALT-15-0001

Request: Plat Alteration

Parcel No: 172650025

Location: 88 Larkspur Lane, Eagle Lake, Orcas Island

Summary of Proposal: An application for alteration of Lot 25 of the Eagle Lake Long subdivision, shifting the lot to the northeast to allow a remodel

Land Use Designation: Forest Resource 20

Public Hearing: May 28, 2015

Application Policies and Regulations: 18.60 Development Standards
18.70 Land Divisions

Decision: Approved subject to conditions

S.J.C. COMMUNITY

JUN 18 2015

DEVELOPMENT & PLANNING

**BEFORE THE HEARING EXAMINER
FOR SAN JUAN COUNTY**

In the Matter of the Application of

Ronald and Heather Rosenberg

for approval of a Preliminary Plat
Alteration affecting Lot 25 of the Eagle
Lake Subdivision, Orcas Island

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NO. PLPALT-15-0001

S.J.C. COMMUNITY

JUN 18 2015

DEVELOPMENT & PLANNING

SUMMARY OF DECISION

The request for preliminary plat alteration to authorize the shifting Lot 25 of the Eagle Lake subdivision to the northeast within current common area is **APPROVED**, subject to conditions.

SUMMARY OF RECORD

Request:

Ronald and Heather Rosenberg (Applicants) requested preliminary plat alteration to authorize shifting Lot 25 of the Eagle Lake subdivision to the northeast within current common area. The existing single-family residence is located at 88 Larkspur Lane, Orcas Island.

Hearing Date:

The San Juan County Hearing Examiner held an open record public hearing on the request on May 28, 2015. By the agreement of the Applicant representative, the deadline for decision issuance was extended five business days to June 18, 2015.

Testimony:

At the open record public hearing, the following individuals presented testimony under oath:
Lee McEnery, Planner, San Juan County Department of Community Development
Terry Williams, Applicant Representative

Exhibits:

The following exhibits were admitted in the record:

1. Department of Community Development Staff Report to the Examiner, dated May 14, 2015, with the following attachments:
 - A. Land Division Application, received February 27, 2015
 - B. Plat Alteration Site Plan
 - C. Certification by Eagle Lake Community Association, March 15, 2015
 - D. San Juan County GIS map
 - E. Legal descriptions of property transferred between Lot 25 and the Eagle Lake common area
 - F. Plat of Eagle Lake, recorded December 11, 1991

2. Topographic map prepared by GW White Inc. Land Surveying, February 2015
3. Resolution 165-1991, approving Eagle Lake Final Long Plat, December 11, 1991, together with Resolution 99-1988, Preliminary Approval of Eagle Lake Long Plat, August 2, 1988

Upon consideration of the testimony and exhibits submitted at the open record public hearing, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. The Applicants requested approval of a plat alteration that would shift Lot 25 of the Eagle Lake subdivision slightly to the northeast, into an area of common open space. Eagle Lake is northeast of Mount Constitution and Moran State Park. Lot 25 is addressed as 88 Larkspur Lane, Orcas Island.¹ *Exhibit 1; Exhibit 1, Attachments A and B.*
2. The Eagle Lake subdivision was approved in December 1991, creating 100-foot diameter circular lots "designed for vacation homes and rustic cabin type development." *Exhibit 1, Attachment F, Sheet 5.* The 26 circular lots are surrounded by a large forested remainder parcel that is owned in common and maintained as open space by the Eagle Lake Community Association. Lot 25 is located between the cul-de-sac terminus of Larkspur Lane and the northern plat boundary. The subdivision is accessed by Point Lawrence Road. *Exhibit 1; Exhibit 1, Attachments D and F; Exhibit 3.*
3. Although the plat surrounds Eagle Lake, the property subject to the application is not within 200 feet of the ordinary high water mark of the lake or any other waterbody subject to the jurisdiction of the Shoreline Management Act. The property contains slopes greater than 15% in grade that could be geohazards as defined in the San Juan County critical areas ordinance. *Exhibits 1 and 2; Exhibit 1, Attachment F.*
4. The 0.18-acre subject property has a Forest Resource 20 land use designation. It is surrounded on all sides by rural residential development. *Exhibit 1.*
5. The Applicants desire to shift the location of the outline of their circular lot in order to accommodate a remodel of the existing residence. A small portion of a planned addition would extend beyond the existing lot circle to the northeast. When the lot is shifted, an equal portion that was formerly included in the lot would be included in the common open space parcel. *Exhibit 1, Attachments A, B, and C; Williams Testimony.*
6. On March 14, 2015, the Eagle Lake Community Association considered the Applicants' proposed lot relocation at a meeting of the board at which a quorum was present. After reviewing the request, a surveyor's map showing both the existing and proposed lot circle locations, and the proposed addition, the Board voted unanimously to approve the Applicants' request. *Exhibit 1, Attachment C.*

¹ The subject property is known as Tax Parcel 172650025. *Exhibit 1.*

7. The Community Association's approval of the request reflects the homeowners association consent required for plat alteration approval. There are no known outstanding assessments against the property. Planning Staff submitted the position that the requested alteration would be in the public interest because it would not cause Lot 25 to conflict with the requirements of the Unified Development Code or the policies of the Growth Management Act. *Exhibits 1 and 2; McEnery Testimony.*
8. Planning Staff noted that the San Juan County Comprehensive Plan does not contain policies or regulations addressing plat alterations. *Exhibit 1.*
9. Preliminary plat alterations are exempt from review for compliance with the requirements of the State Environmental Policy Act. *Exhibit 1.*
10. The application was submitted February 27, 2015. Notice of application and public hearing was mailed to surrounding property owners on April 1 and posted on-site on April 3, 2015. Notice was published on April 15 and then re-advertised due to continuance on April 29, 2015. The County received no comment on the proposal. *Exhibits 1 and 2; McEnery Testimony.*
11. Notice of the proposal was sent to review agencies. No agency submitted concerns or objections. *Exhibit 1; McEnery Testimony.*
12. Upon review of the complete application materials, Planning Staff determined that the proposal can comply with all applicable criteria and recommended conditional approval. *McEnery Testimony; Exhibit 1.* The Applicant representative waived objection to the recommended conditions. *Williams Testimony.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for plat alterations pursuant to Chapter 36.70.970 of the Revised Code of Washington and Chapters 2.22 and 18.80.100 of the San Juan County Code.

Criteria for Review

Pursuant to SJCC 18.80.100.D(4), requests for subdivision alteration shall be granted only if the following criteria are met:

- a. The application meets the requirements of this chapter, and complies with the applicable policies and requirements of RCW 58.17.330, the Shoreline Master Program, the State Environmental Policy Act, and the Comprehensive Plan;²

² RCW 58.17.330 authorizes the use of a duly adopted hearing examiner system to make decisions regarding plat approval.

- b. The application satisfactorily addresses the comments of the reviewing authorities and is in the public interest (RCW 58.17.100, 58.17.110, and 58.17.215);
- c. Any outstanding assessments (if any land within the alteration is part of an assessment district) are equitably divided and levied against the remaining lots, parcels, or tracts, or are levied equitably on the lots resulting from the alteration; and
- d. Any land within the alteration that contains a dedication to the general use of persons residing within the subdivision is divided equitably.

Conclusions Based on Findings

1. The record contains no evidence that would suggest the proposed relocation of the lot circle within the common open space would render the approved plat out of compliance with the County's subdivision ordinance, state statutes governing plat approval, SEPA, the County's Comprehensive Plan, or the Shoreline Master Program. The relocated lot would not infringe on other lots or the subdivision's outer boundary. There are no outstanding assessments. The relocation of the lot would provide the same amount of common open space by replacing one to one new lot area for old lot area, retaining the same square footage in the lot and in the common open space. Allowing remodeling of the existing residence would be consistent with the public interest. Compliance with requirements of the underlying land use designation (e.g., building height, setbacks, setback to septic, etc) and applicable requirements of the critical areas ordinance, if any, would be ensured through the building permit process for the contemplated remodel.
Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12.

DECISION

Based on the preceding findings and conclusions, the request for preliminary plat alteration to authorize the shifting Lot 25 of the Eagle Lake subdivision at 88 Larkspur Lane, Orcas Island, to the northeast within current common area is **APPROVED**, subject to the following conditions:

1. The instant plat alteration approval allows Lot 25, Eagle Lake to shift to the northeast consistent with the approved map at Exhibit 1, Attachment B. Approval shall expire if the subdivision alteration is not recorded within 60 months of the approval date. The final alteration application shall be submitted to the Community Development and Planning Department at least 60 days in advance of the expiration date.
2. All survey standards and requirements shall be complied with pursuant to SJCC 18.70.070F2.

The following conditions shall be shown as restrictions on the face of the plat in addition to those restrictions and dedications required by SJCC 18.70.100:

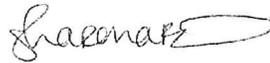
3. This subdivision alteration has been approved by the responsible county officials on the premise that each lot will be occupied by no more than one single family dwelling and lawfully related outbuildings. No lot shall be otherwise occupied unless the owner can

first demonstrate to the County's satisfaction that the provisions for water supply, sewage disposal, circulation, lot size, and related planning considerations are adequate to serve the proposed use. Compliance with this provision shall be effected by written application to the Subdivision Administrator who shall be responsible for coordinating the review of such requests and for making the required determination.

4. There may be additional private conditions, covenants, and restrictions (CC&Rs) in addition to those shown on the face of this plat. Such private CC&Rs may not be shown on plats. Any private deed restrictions are supplemental to the requirements of this Code. The County shall not be party to any private restrictions.
5. If during excavation or development of the site an area of potential archaeological significance is uncovered, all activity in the immediate vicinity of the find must be halted immediately, and the Administrator must be notified at once.

Decided June 17, 2015.

By:



Sharon A. Rice
San Juan County Hearing Examiner