

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant(s): Davis Head Homeowner's Association
177 Caldwell Drive
Lopez, WA 98261

Agent: Jeff Otis
393 Bobbyann Road
Eastsound, WA 98245

File No.: PLPALT-14-0001

Request: Plat Alteration

S.J.C. COMMUNITY

Parcel No: 241051005 and 241051015

DEC 03 2014

Location: Lopez Island

DEVELOPMENT & PLANNING

Summary of Proposal: Conversion of two residential lots to common areas.

Land Use Designation: Rural Residential 5

Hearing Date: November 12, 2014

Application Policies and Regulations: SJCC 18.70.080

Decision: Approved with conditions.

1 Growth Management Act, Chapter 36.70C RCW, by reducing density outside of an
2 urban growth area.

3 CONCLUSIONS OF LAW

4 **Procedural:**

5 1. Authority of Hearing Examiner. SJCC18.70.080(A)(3) authorizes the hearing
6 examiner to hold hearings and issue final decisions on proposed plat alterations.

7 **Substantive:**

8 2. Zoning Designation. The subject property is designated as Rural Residential 5.

9 3. Permit Review Criteria. SJCC 18.70.080(A)(4) establishes the criteria for
10 approval of plat alterations. Applicable regulations are quoted below in italics and
11 addressed in corresponding conclusions of law.

12 **San Juan County Code Regulations**

13 **SJCC 18.70.080(A)(1):** *Alterations of subdivisions shall be processed in accordance
14 with RCW 58.17.060 and 58.17.215 through 58.17.218. Alteration applications shall
15 contain the signatures of the majority of those persons having an ownership interest
16 in lots, tracts, parcels, sites or divisions in the subject subdivision or portion to be
17 altered.*

18 *If the subdivision is subject to restrictive covenants which were filed at the time of the
19 approval of the subdivision, and the application for alteration would result in the
20 violation of a covenant, the application shall contain an agreement signed by all
21 parties subject to the covenants providing that the parties agree to terminate or alter
22 the relevant covenants to accomplish the purpose of the alteration of the subdivision
23 or portion thereof (RCW 58.17.215).*

24 4. As noted in the staff report, all owners of lots in the Davis Head subdivision have
25 signed the subject plat alteration application. No restrictive covenants are violated by
the proposal. The criteria quoted above are met.

26 **SJCC 18.70.080(A)(5)(a):** *The application meets the requirements of this chapter,
27 and complies with the applicable policies and requirements of RCW 58.17.330, the
28 Shoreline Master Program, the State Environmental Policy Act, and the
29 Comprehensive Plan*

30 5. As noted in the criterion quoted above, plat alterations must meet all requirements
of "this chapter", which includes all requirements applicable to preliminary plat
applications. The primary requirement for preliminary plat is a finding that the
proposal is served by adequate infrastructure. Since the proposal involves a reduction
in density, it is fairly clear that demands on public services and infrastructure will be

1 reduced. Consequently, it can be determined that the proposal will be served by
2 adequate infrastructure and services as generally required by Chapter 18.70 SJCC.
3 The comprehensive plan does not dictate any minimum densities for the applicable
4 land use designation and no other policies are implicated given the minor nature of
5 the application. The alteration may be within the shoreline jurisdiction of the
6 Shoreline Management Act, but shoreline policies and regulations are served by the
7 proposal as it reduces density and hence construction within shoreline areas. This
8 plat alteration decision is supported by hearing examiner written findings and
9 conclusions as required by RCW 58.17.330. The criterion is satisfied.

6 **SJCC 18.70.080(A)(5)(b):** *The application satisfactorily addresses the comments of
7 the reviewing authorities and is in the public interest (RCW 58.17.100, 58.17.110,
8 and 58.17.215)*

9 6. It does not appear that any agencies other than County staff have commented on
10 the subdivision and no comments would be anticipated for such a minor plat
11 alteration. The proposal is in the public interest because it reduces density outside of
12 an urban growth area, as encouraged by the Growth Management Act, Chapter
13 36.70A RCW.

12 **SJCC 18.70.080(A)(4)(c):** *Any outstanding assessments (if any land within the
13 alteration is part of an assessment district) are equitably divided and levied against
14 the remaining lots, parcels, or tracts, or are levied equitably on the lots resulting
15 from the alteration; and*

15 7. The staff report notes there are no assessments that will be impacted by this
16 alteration.

17 **SJCC 18.70.080(A)(4)(d):** *Any land within the alteration that contains a dedication
18 to the general use of persons residing within the subdivision is divided equitably*

18 8. The proposed alteration does not involve the elimination of any dedicated areas.

19 **DECISION**

20 The proposed alteration to convert Lots 5 and 15 of the Davis Head subdivision to
21 common areas as depicted in the plat map of Ex. 1 is consistent with all the criteria
22 for plat alteration and is approved, subject to the following conditions:

23 1. This subdivision alteration approval allows elimination of residential use for Lots
24 5 and 15, which will become common area in the Replat of Lots A, B, C and D Davis
25 Head long subdivision, according to the approved attached map. This 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.

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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 residential lot will be occupied by no more than one single family dwelling and lawfully related outbuildings. Common areas lots, including Lots 5 and 15, shall not be occupied by any dwellings. 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 or restrictions in addition to those shown on the face of this plat. Such private conditions 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.

Dated this 1st day of December 2014.


Phil A. Olbrechts

County of San Juan Hearing Examiner

Effective Date, Appeal Right, and Valuation Notices

1 Hearing examiner decisions become effective when mailed or such later date in
2 accordance with the laws and ordinance requirements governing the matter under
3 consideration. SJCC 2.22.170. Before becoming effective, shoreline permits may be
subject to review and approval by the Washington Department of Ecology pursuant to
RCW 90.58.140, WAC 173-27-130 and SJCC 18.80.110.

4 This land use decision is final and in accordance with Section 3.70 of the San Juan
5 County Charter, such decisions are not subject to administrative appeal to the San
Juan County Council. See also, SJCC 2.22.100

6 Depending on the subject matter, this decision may be appealable to the San Juan
7 County Superior Court or to the Washington State shorelines hearings board. State
8 law provides short deadlines and strict procedures for appeals and failure to timely
9 comply with filing and service requirement may result in dismissal of the appeal. See
10 RCW 36.70C and RCW 90.58. Persons seeking to file an appeal are encouraged to
promptly review appeal deadlines and procedural requirements and consult with a
private attorney.

11 Affected property owners may request a change in valuation for property tax purposes
12 notwithstanding any program of revaluation.
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