

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant(s):	Robert McNeil and Arlene Sund PO Box 713 Lopez, WA 98261	
Agent:	Bob Parish PO Box 314 Lopez, WA 98261	
File No.:	PLPALT-13-0001	S.J.C. COMMUNITY
Request:	Plat Alteration	AUG 29 2013
Parcel No:	252250072 and 73	DEVELOPMENT & PLANNING
Location:	Lopez Island	
Summary of Proposal:	Lot combination combining two lots into one.	
Land Use Designation:	Rural Farm Forest	
Hearing Date:	August 14, 2013	
Application Policies and Regulations:	SJCC 18.70.080	
Decision:	Approved with conditions.	

1 **BEFORE THE HEARING EXAMINER FOR THE COUNTY**
2 **OF SAN JUAN**

3 Phil Olbrechts, Hearing Examiner

4 RE: Robert McNeil and Arlene Sund	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION.
5 Plat Alteration	S.J.C. COMMUNITY
6 (PLPALT-13-0001)	9 AUG 28 2013 LG

7 **INTRODUCTION**

DEVELOPMENT & PLANNING

8 The applicant has applied for approval of a plat alteration to combine two lots. The
9 alteration is approved.

10 **TESTIMONY**

11 Lee McEnery stated that the proposal is to delete a lot line in the Fisherman's Bay
12 Waterfront Tracts subdivision on Lopez Island. The lot line that would be deleted is
13 between parcels 72 and 73. There are no outstanding issues with the application, and
 staff recommends approval.

14 **EXHIBITS**

15 The August 1, 2013 staff report and attached application materials are admitted into
16 the administrative record as Ex. 1.

17 **FINDINGS OF FACT**

18 **Procedural:**

- 19 1. Applicant. The applicants are Robert McNeil and Arlene Sund.
20 2. Hearing. The Hearing Examiner conducted a hearing on the subject
 application on August 14, 2013.

21 **Substantive:**

- 22 3. Site and Proposal Description. The applicants propose to consolidate two
23 adjoining lots owned by them located in the Fisherman Bay Waterfront Tracts
24 subdivision, located on 2000 Bayshore Road on Orcas Island. Specifically the
 applicants propose to eliminate the lot line between lots 72 and 73 of the subdivision.
 The lots are located on the shoreline of Lopez Island at Fisherman Bay.
25 4. Characteristics of the Area. Surrounding land uses are residential.

1 5. Adverse Impacts of Proposed Use. No adverse impacts are apparent from
2 the record. The proposal will create a net public benefit under the policies of the
3 Growth Management Act, Chapter 36.70C RCW, by reducing density outside of an
urban growth area. As testified by staff, the septic system for the lots has been
inspected and found adequate.

4 CONCLUSIONS OF LAW

5 **Procedural:**

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

8 **Substantive:**

9 2. Zoning Designation. The subject property is designated as Rural Farm Forest.

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

13 **San Juan County Code Regulations**

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

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

21 4. The applicants own both lots of the proposed alteration. The staff report notes
22 that no covenants would be violated by the alteration and there is no evidence to the
contrary. Accordingly, this requirement is satisfied.

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

1 5. As noted in the criterion quoted above, plat alterations must meet all requirements
2 of "this chapter", which includes all requirements applicable to preliminary plat
3 applications. The primary requirement for preliminary plat is a finding that the
4 proposal is served by adequate infrastructure. Since the proposal only involves the
5 elimination of a lot line, it is fairly clear that demands on public services and
6 infrastructure will be reduced. The conditions of approval require that the septic
7 system be confirmed as functioning prior to recording of the amended plant.
8 Consequently, it can be determined that the proposal will be served by adequate
9 infrastructure and services as generally required by Chapter 18.70 SJCC. The
10 comprehensive plan does not dictate any minimum densities for the applicable land
11 use designation and no other policies are implicated given the minor nature of the
12 application. The alteration appears to be within the shoreline jurisdiction of the
13 Shoreline Management Act, but shoreline policies and regulations are served by the
14 proposal as it reduces density and hence construction within shoreline areas. This
15 plat alteration decision is supported by hearing examiner written findings and
16 conclusions as required by RCW 58.17.330. The criterion is satisfied.

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

20 6. It does not appear that any agencies other than County staff have commented on
21 the subdivision and no comments would be anticipated for such a minor plat
22 alteration. The proposal is in the public interest because it facilitates infill
23 development of an improved subdivision without any associated adverse impacts and
24 it also reduced density outside of an urban growth area as encouraged by the Growth
25 Management Act, Chapter 36.70A RCW.

SJCC 18.70.080(A)(4)(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

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

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

8. The plat map in the application materials attached to the staff report does not
reveal any dedications within the alteration area that are for the general use of persons
residing with the subdivision and none would typically exist on two private
residential lots.

DECISION

The proposed alteration is consistent with all the criteria for plat alteration and is approved, subject to the following conditions:

1. This subdivision alteration approval allows for the consolidation of Lots 72 and 73 Fisherman Bay Waterfront Tracts 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.

2. The septic system must be inspected to confirm non-failing, prior to recording the map.

3. 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:

4. 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.

5. There may be additional private conditions, covenants or restriction 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.

6. 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 27th day of August 2013.



Phil A. Olbrechts

County of San Juan Hearing Examiner

1 **Effective Date, Appeal Right, and Valuation Notices**

2 Hearing examiner decisions become effective when mailed or such later date in
3 accordance with the laws and ordinance requirements governing the matter under
4 consideration. SJCC 2.22.170. Before becoming effective, shoreline permits may be
5 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.

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

8 Depending on the subject matter, this decision may be appealable to the San Juan
9 County Superior Court or to the Washington State shorelines hearings board. State
10 law provides short deadlines and strict procedures for appeals and failure to timely
11 comply with filing and service requirement may result in dismissal of the appeal. See
12 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.

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