

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant(s): Lahari
437 Potlatch Drive
Deer Harbor, WA 98243

File No.: PLPALT-11-0004

Request: Plat Alteration

Parcel No: Lot A: 260752008, Lot C: 260752009

Location: Orcas Island

Summary of Proposal: Lot combination

Land Use Designation: Deer Harbor Hamlet Residential 2 units/acre

Hearing Date: January 11, 2012

Application Policies and Regulations: SJCC 18.70.080

Decision: Approved subject to conditions.

S.J.C. COMMUNITY

FEB 21 2012

DEVELOPMENT & PLANNING

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

3 Phil Olbrechts, Hearing Examiner

4 RE: Lahari	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION.
5 Plat Alteration 6 (PLPALT-11-0004)	

7 **INTRODUCTION**

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

10 **TESTIMONY**

11 Mike Jonas clarified that Lahari owns lots A and C but is selling the surrounding lots
12 to Pearl. Lahari wants to take the square footage of lot A and attach it to Lot C.
13 There will be no reduction in surrounding open space.

14 **EXHIBITS**

15 The December 22, 2011 staff report and attached application materials are admitted
16 into the administrative record as Ex. 1.

17 **FINDINGS OF FACT**

18 **Procedural:**

- 19 1. Applicant. The Applicant is Lahari.
20 2. Hearing. The Hearing Examiner conducted a hearing on the subject
21 application on January 11, 2012.

22 **Substantive:**

- 23 3. Site and Proposal Description. The Applicant proposes to consolidate two
24 lots located in the Harbor Uplands subdivision, located off of Potlatch Drive on Orcas
25 Island. The lots are both circles of 0.26 acres each located on a 7.45 acre common
 space tract of the subdivision. The lots are separate by common space and the area of
 Lot A will be moved to consolidate with and adjoin Lot C to form a 0.52 acre lot.
 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
4 urban growth area.

5 CONCLUSIONS OF LAW

6 **Procedural:**

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

9 **Substantive:**

10 2. Comprehensive Plan and Zoning Designations. The subject property is
11 designated as Deer Harbor Hamlet Residential 2 units/acre.

12 3. Permit Review Criteria. The San Juan County Code (“SJCC”) governs the
13 policies and criteria for subdivision alteration. SJCC 18.70.080(A)(4) establishes the
14 criteria for approval.

15 The applicable regulations are quoted in italics and addressed below.

16 **San Juan County Code Regulations**

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

22 *If the subdivision is subject to restrictive covenants which were filed at the time of the
23 approval of the subdivision, and the application for alteration would result in the
24 violation of a covenant, the application shall contain an agreement signed by all
25 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).*

4. The Application was filed by the owners of Lots A and C, Lahari, and Exhibit 1
includes a letter from OPAL, the owners of the intervening common space,
concurring with the alteration. The staff report notes that no covenants would be
violated by the alteration and there is no evidence to the contrary. Accordingly, this
requirement is satisfied.

SJCC 18.70.080(A)(5)(a): *The application meets the requirements of this chapter,
and complies with the applicable policies and requirements of RCW 58.17.330, the*

1 *Shoreline Master Program, the State Environmental Policy Act, and the*
2 *Comprehensive Plan*

3 5. Plat alterations are exempt from SEPA and are not expressly addressed in the
4 comprehensive plan. The comprehensive plan does not dictate any minimum densities
5 for the applicable land use designation and no other policies are implicated given the
6 minor nature of the application. The alteration is not located within the shoreline
7 jurisdiction of the Shoreline Management Act. This plat alteration decision is
8 supported by hearing examiner written findings and conclusions as required by RCW
9 58.17.330. The criterion is satisfied.

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

13 6. No agency comments are specifically identified in the staff report, but it appears
14 that the department of health had commented on septic compliance since staff have
15 apparently recommended a condition requiring that septic systems be inspected to
16 ensure they aren't failing as a condition of approval. No other comments are
17 discernible from the record and staff states that all comments are satisfied by
18 compliance with development standards.

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

23 7. There are no assessments that will be impacted by this alteration.

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

8. The total amount of open space will remain the same and will not affect the pre-existing division of common space ownership.

21 DECISION

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

24 1. This subdivision alteration approval allows for the consolidation of Lots A
25 and C, as proposed in the plat alteration map filed 11/30/11 in Ex. 1. 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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This land use decision is final and in accordance with Section 3.70 of the San Juan County Charter, such decisions are not subject to administrative appeal to the San Juan County Council. See also, SJCC 2.22.100

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

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