

**SAN JUAN COUNTY  
HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

Applicants: Johan and Priscilla Privat  
817 Smugglers Cove Road  
Friday Harbor, WA 98250

File No.: PLPALT-11-0003

Request: Plat Alteration

Parcel No: 450353014, 5, 6 and 7.

Location: 817 Smugglers Cove Road  
Friday Harbor, WA

Summary of Proposal: Lot line elimination

Land Use Designation: Rural Residential

Hearing Date: April 7, 2011

Application Policies and Regulations: SJCC 18.70.080

Decision: Approved subject to conditions.

**S.J.C. COMMUNITY**

**APR 22 2011**

**DEVELOPMENT & PLANNING**

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

APR 22 2011

Phil Olbrechts, Hearing Examiner

DEVELOPMENT &amp; PLANNING

RE: John and Priscilla Privat

RE: John and Priscilla Privat	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION.</b>
Plat Alteration (PLPALT-11-0003)	

6                                   **INTRODUCTION**

7  
 8                   The Applicants have applied for approval of a plat alteration to combine four lots into  
 9                   two. The application is approved.

10                                   **TESTIMONY**

11                   Lee McEnery, senior San Juan County planner, noted that all four lots are owned by  
 12                   the Applicants. The applicants were not present. No one wished to testify on the  
 13                   application.

14                                   **EXHIBITS**

15                   The exhibits are limited to the staff report dated March 16, 2011 and the application  
 16                   materials attached to the staff report, all admitted as Exhibit 1. At hearing a plat map  
 17                   depicting the lot combination, dated March 17, 2011, was admitted as Exhibit 2.

18                                   **FINDINGS OF FACT**

19                   **Procedural:**

- 20                   1.           Applicant. The Applicants are John and Priscilla Privat.  
 21                   2.           Hearing. The Hearing Examiner conducted a hearing on the subject  
 22                   application on April 7, 2011.

23                   **Substantive:**

- 24                   3.           Site and Proposal Description. The Applicants propose to combine four  
 25                   lots into two from the North Sunset Point subdivision, located at Friday Harbor. The  
 subdivision predates local land use regulations. The four lots range in size from a  
 half acre to three quarters of an acre.  
 4.           Characteristics of the Area. The lots are surrounded by residential use  
 with shoreline to the west.  
 6.           Adverse Impacts of Proposed Use. None.

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Plat Alteration

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Findings, Conclusions and Decision

## CONCLUSIONS OF LAW

### Procedural:

1. Authority of Hearing Examiner. Permits for the alteration of subdivision applications are reviewed and processed by County staff, and the Hearing Examiner, after conducting an open-record public hearing, renders a decision on the permit. SJCC18.70.080(A)(3).

### Substantive:

2. Comprehensive Plan and Zoning Designations. The subject property is designated as Rural Residential.

3. Permit Review Criteria. The San Juan County Code ("SJCC") governs the policies and criteria for subdivision alteration. SJCC 18.70.080(A)(4) establishes the criteria for approval. Applicable criteria are quoted below and applied to the application with corresponding conclusions of law.

**SJCC 18.70.080(A)(1):** *Alterations of subdivisions shall be processed in accordance with RCW 58.17.060 and 58.17.215 through 58.17.218. Alteration applications shall 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.*

*If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all 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 Applicants own all four lots and have signed the application. The staff report states that no covenants would be violated by the proposal and there is nothing in the record to suggest otherwise.

**SJCC 18.70.080(A)(2):** *Notice and Public Hearing. Notice of alterations shall be consistent with the notice provisions (SJCC 18.80.030) of this code. Mailing notifications shall also include owners of each lot or parcel of property within the subdivision to be altered. A public hearing (SJCC 18.80.040) shall be required for long subdivision alteration proposals.*

5. The staff report states that these notice requirements were followed.

**SJCC 18.70.080(A)(4)(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 6. The County Council has authorized the hearing examiner to make a final decision  
4 on the application as authorized by RCW 58.17.330. The Comprehensive Plan does  
5 not directly address lot line eliminations. The applicable provisions Chapter 18.70  
6 SJCC are addressed in this decision and have been satisfied. The staff report asserts  
7 that plat alterations are exempt from the State Environmental Policy Act. This  
8 determination may not be appealed to the Examiner and is, therefore, outside the  
9 Examiner's jurisdiction. See WAC 197-11.680. The criterion quoted above is  
10 satisfied.

11 **SJCC 18.70.080(A)(4)(b):** *The application satisfactorily addresses the comments of*  
12 *the reviewing authorities and is in the public interest (RCW 58.17.100, 58.17.110,*  
13 *and 58.17.215)*

14 7. The staff report notes all reviewing comments were addressed because the  
15 proposal satisfies all applicable regulations. In addition, the alteration is in the public  
16 interest because it reduces density outside of urban areas as encouraged by the  
17 Growth Management Act.

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

22 8. There are no assessments that will be impacted by this alteration.

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

25 9. The staff report states it was unknown whether the subject lots contained any  
dedications for general use. There is nothing in the record to suggest that such a  
dedication exists or that if it did exist, there is nothing to suggest that the alteration  
would affect the dedication. The criterion is satisfied.

## DECISION

The application is approved as conditioned below due to its compliance with all  
criteria identified in this decision. The plat application is subject to the following  
conditions:

1. This subdivision alteration approval allows for the consolidation of Lots  
14, 15, 16 and 17 into two lots, as depicted in Exhibit 2. This approval shall expire if  
the subdivision alteration is not recorded within 60 months of the approval date. The

1 final alteration application shall be submitted to the Community Development and  
2 Planning Department at least 60 days in advance of the expiration date.

3 2. All survey standards and requirements shall be complied with pursuant to  
4 SJCC 18.70.070F2.

5 3. All survey standards and requirements shall be complied with pursuant to  
6 SJCC 18.70.070F2.

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

9 4. This subdivision alteration has been approved by the responsible county  
10 officials on the premise that each lot will be occupied by no more than one single  
11 family dwelling and lawfully related outbuildings. No lot shall be otherwise occupied  
12 unless the owner can first demonstrate to the county's satisfaction that the provisions  
13 for water supply, sewage disposal, circulation, lot size and related planning  
14 considerations are adequate to serve the proposed use and that the proposed use  
15 complies with all applicable regulations. Compliance with this provision shall be  
16 effected by written application to the Subdivision Administrator who shall be  
17 responsible for coordinating the review of such requests and for making the required  
18 determination.

19 5. There may be additional private conditions, covenants or restriction in  
20 addition to those shown on the face of this plat. Such private conditions may not be  
21 shown on plats. Any private deed restrictions are supplemental to the requirements of  
22 this Code. The County shall not be party to any private restrictions unless expressly  
23 provided for otherwise in the restrictions.

24 6. If during excavation or development of the site an area of potential  
25 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 19<sup>th</sup> day of April 2011.



Phil Olbrechts  
County of San Juan Hearing Examiner

### Effective Date, Appeal Right, and Valuation Notices

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

1 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.

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

4 Depending on the subject matter, this decision may be appealable to the San Juan  
5 County Superior Court or to the Washington State Shorelines Hearings Board. State  
6 law provides short deadlines and strict procedures for appeals, and failure to timely  
7 comply with filing and service requirement may result in dismissal of the appeal. See  
8 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.

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