

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicants: Blakely Island Properties, LLC; Blakely Island Marina, LLC; and Hazel Lane LLC
555 12th St, Suite 2130
Oakland, CA 94607

File No.: PLPALT-09-0001

Request: Plat Alteration

Parcel No: 162850064, 160850063, 162850061, 162850060, 162850062, 162850052, 162850051, 162850050, 162850074, 162850082, 162850083, 162850084, 162850085, 162850086, 162850087, 162850143, 162850175, 162850176, 162850173, 162850174, 162850183, 162850183 and 162821001

Location: Blakely Island

Summary of Proposal: Lot line elimination

Land Use Designation: Rural Residential

Hearing Date: May 11, 2011

Application Policies and Regulations: SJCC 18.70.080

Decision: Approved.

S.J.C. COMMUNITY

JUN - 1 2011

DEVELOPMENT & PLANNING

1 only be able to have one single-family residence plus allowed accessory structures.
2 One of the consolidations removes the lot line between lot 143, on which the
3 community events building is located, and tax parcel 162821001, on which the
4 marina store and office is located.

5 San Juan Aviation Estates is a relatively large subdivision located on the north end of
6 Blakely Island. It is developed around the airstrip and the marina. The area is fairly
7 level, rising approximately 100 feet in elevation to the south from the marina to the
8 airstrip. This subdivision is fairly densely developed with single-family residences,
9 to an extent not allowed under the current density designation. It was subdivided in
10 1955.

11 4. Characteristics of the Area. The surrounding area is developed residential
12 and the Blakely Island Airstrip and Marina.

13 5. Adverse Impacts of Proposed Use. None.

14 CONCLUSIONS OF LAW

15 Procedural:

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

20 Substantive:

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

23 3. Permit Review Criteria. The San Juan County Code (“SJCC”) governs the
24 policies and criteria for subdivision alteration. SJCC 18.70.080(A)(4) establishes the
25 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

1 *the relevant covenants to accomplish the purpose of the alteration of the subdivision*
2 *or portion thereof (RCW 58.17.215).*

3 4. The Applicants own all lots subject to consolidation. The covenants do not
4 prohibit or restrict the consolidation except to require approval from the Blakely
5 Island Maintenance Commission. See Covenant No. 17, Blakely Island Covenants,
6 Ex. 2. The Commission has approved the consolidation. Ex. 3.

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

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

13 **SJCC 18.70.080(A)(4)(a):** *The application meets the requirements of this chapter,*
14 *and complies with the applicable policies and requirements of RCW 58.17.330, the*
15 *Shoreline Master Program, the State Environmental Policy Act, and the*
16 *Comprehensive Plan*

17 6. The County Council has authorized the hearing examiner to make a final decision
18 on the application as authorized by RCW 58.17.330. The Comprehensive Plan does
19 not directly address lot line eliminations. The applicable provisions of Chapter 18.70
20 SJCC are addressed in this decision and have been satisfied. The staff report does not
21 identify what measures, if any, were taken to comply with the State Environmental
22 Policy Act ("SEPA"). However, in a prior plat alteration involving lot
23 consolidations, the staff took the position that lot consolidations are exempt from
24 SEPA review. See *Privat*, T PLPALT-11-0003. This determination may not be
25 appealed to the Examiner and is, therefore, outside the Examiner's jurisdiction by
operation of state law. See WAC 197-11.680. The criterion quoted above is satisfied.

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

22 7. The staff report notes no comments from reviewing agencies were received. The
23 alteration is in the public interest because it reduces density outside of urban areas as
24 encouraged by the Growth Management Act.

25 **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

8. The staff report states there are no assessments that will be impacted by this

alteration and there is no evidence to the contrary.

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*

9. There is no land within the alteration that contains a common dedication.

DECISION

The plat alteration application is approved.

Dated this 26th day of May 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 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.

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.