

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicants: Richard Shorett
2021 Yacht Haven Road
Friday Harbor, WA 98250

Judson Shorett
2023 Yacht Haven Road
Friday Harbor, WA 98250

File No.: PLPALT-10-0001

Request: Plat Alteration

Parcel No: 463554001; 463554002; 463554003; 463554004;
463554005; 463554006.

Location: San Juan Island

Summary of Proposal: Plat Alteration to revise Conditions of Approval

Land Use Designation: Rural Farm Forest

Public Hearing: June 3, 2010

Application Policies and Regulations: SJCC 18.70.080 Plat Alteration

Decision: Approved in part.

S.J.C. COMMUNITY

JUN 21 2010

DEVELOPMENT & PLANNING

1 category identified in the Plan. Ms. Shaw noted that the applicant is proposing a 20
2 yard setback that essentially complies with the roadside view protection requirement,
3 but the applicant otherwise doesn't want to be required to provide the view
4 protection. There is also a requirement to protect pastoral views from Mount Young.
5 The Open Space Atlas protects rural development and forestry practices as allowed.
6 The applicant proposes nonreflective materials to protect pastoral views. The
7 applicant has increased the building envelopes to the area allowed in Rural Farm
8 Forrest areas. She noted that only 30% of the area within these building envelopes
9 may be impervious, which helps maintain rural character. She noted that there is no
10 way to protect views from Mount Young since any development will be visible.

11 The Examiner conducted a site visit at the request of and with the presence of the
12 parties on June 2, 2010. At the site visit the Examiner was informed that tree
13 retention along the adjoining roads of the plat would not impair water views and that
14 there are no homes located upon Mount Young.

15 EXHIBITS

16 The Exhibit List attached to the staff report dated May 19, 2010 was admitted during
17 the hearing. In addition, a June 2, 2010 memo from the Applicant's attorney was
18 admitted as Exhibit 12 during the hearing. Exhibit 13, the published notice of the
19 subject application, was admitted on 6/17/10 along with an email from Julie
20 Thompson and Francine Shaw waiving objection to entry and consideration of the
21 notice.

22 FINDINGS OF FACT

23 Procedural:

- 24 1. Applicant. The applicants are Richard and Judson Shorett, represented by
25 Francine Shaw of the Law Office of Stephanie O'Day. Richard and Judson Shorett
own all of the real property that comprises the Garrison Bay Meadows subdivision.
2. Hearing. The Hearing Examiner conducted a hearing on the subject
application on June 3, 2010. Only the applicant's representatives and staff
participated in the hearing. Upon the consent of the applicant, the hearing was
reopened on June 17, 2008 to admit two emails and the published notice of
application to provide evidence on compliance with Chapter 43.21C RCW (SEPA).

Substantive:

3. Procedural Background. On June 11, 2002, the preliminary plat of
Garrison Bay Meadows was approved by the San Juan County Board of County
Commissioners subject to conditions of approval under Resolution 56-2002. The
disputed conditions are set forth below. The plat was finalized on December 18,
2002.

1 In response to the Washington Supreme Court decision, *Isla Verde Int'l Holdings,*
2 *Inc. v. City of Camas*, 146 Wn.2d 740, 49 P.3d 867 (2002) (holding that the City's
3 30% open space requirement for every proposed subdivision was a tax on
4 development in violation of RCW 82.02.020), the applicants applied for a plat
5 alteration of the Garrison Meadows subdivision in 2002 or 2003. The Hearing
6 Examiner issued a decision in September 2003, approving in part and denying in part
7 the application. Specifically, the Examiner denied the request to delete all references
8 to conservation areas, the specific location of trees in the meadow, and modification
9 to plat restrictions 10 and 12.

7 The applicants then filed an appeal with the Board of County Commissioners. The
8 appeal addressed only those portions of the decision denying the request to invalidate
9 Section 18.70.060(B)(10)(a) SJCC, based upon the *Isla Verde* decision. The Board
10 denied the appeal. Resolution 95-2003. The Commissioner's appeal was sustained
11 on appeal to superior court.

10 Subsequently, the Court of Appeals decided *Citizens' Alliance for Property Rights v.*
11 *Sims*, 145 Wn. App. 649, 187 P.3d 786 (2008), which invalidated KCC 16.82.150.
12 KCC 16.82.150 imposed uniform clearing requirements on rural lots, unrelated to any
13 site-specific evaluation of development impacts. The Court of Appeals determined
14 that KCC 16.82.150 constituted a tax on development in violations of RCW
15 82.02.020.

14 In October 2008, Pat and Stephanie O'Day applied for a two-lot short plat on San
15 Juan Island. The O'Days challenged SJCC 18.70.060(b)(10)(a), citing the ruling in
16 *Sims*. In March 2010, the Superior Court ruled in favor of the O'Days, concluding
17 that SJCC 18.70.060(B)(10)(a) violated RCW 82.02.020. SJCC 18.70.060(B)(10)(a)
18 provides:

18 *At a minimum, 60 percent of the area of the parcel to be divided*
19 *shall be maintained as open space area from which all*
20 *construction related to residential use (houses, residential*
21 *outbuildings, parking and residential landscaping) shall be*
22 *excluded. Wells, septic systems, biofiltration, and ponds approved*
23 *as a pumper supply points, may be placed within the nonbuilding*
24 *area of a parcel.*

22 Relying upon the superior court ruling, the applicants have again applied for a plat
23 alteration, requesting to remove all conditions originally placed on their plat requiring
24 compliance with SJCC 18.70.060(B)(10)(a) and the requirement to set aside, at a
25 minimum, 60% of the land within the plat as conservation area.

4. Site and Proposal Description. The applicant has requested a plat
alteration to Conditions No. 15, 22, #24, and 25. The changes are outlined as follows:

1 **Condition No. 15:** “The following items shall be shown on the face of the altered
2 plat:

3 (a) The clearing line, with the interior marked as “meadow” and the exterior
4 marked as “wooded”.

5 ~~(b) Trees within the meadow.~~

6 (c) Contour lines.

7 (d) Driveways to lots 4, 5 and 6.

8 (e) The non-building ~~conservation~~ areas.

9 The County has agreed with these proposed changes. See Staff Report, p. 3, 5.
10 According to staff, a number of the trees in the meadow have already died and been
11 removed. Staff Report, p. 5.

12 **Condition No. 22:** “The conservation design principles of SJCC
13 18.70.060(B)(10)(b)-(e) shall be fully adhered to and the approved, dimensioned non-
14 building areas shall be shown on the map.

15 The applicants originally proposed to delete the second half of the sentence regarding
16 dimensioned non-building areas. *See April 20, 2010 Letter from Francine Shaw.*
17 However, the applicants subsequently agreed to show the dimensions of the non-
18 building areas on the face of the plat. *Email from Francine Shaw to Julie Thompson*
19 *dated May 18, 2010.*

20 **Condition No. 24:** “Homes shall be sited within the buildable areas to minimize tree
21 cutting and visibility from the public road or any point in English Camp, San Juan
22 Island National Historic Park. Prior to approval of every building permit, the Permit
23 Center shall approve the proposed building site and proposed tree removal, according
24 to the above guidelines. No more than 20% of the trees in excess of 8” dbh located
25 within the “buildable areas” may be removed for development.”

The applicants propose that this condition should be rewritten as follows: “Homes,
residential accessory structures and associated residential outbuildings shall be sited
within designated buildable areas to minimize tree cutting. Prior to issuance of any
building permit, the Community Development and Planning Department shall
approve the proposed building site according to the above guideline.”

Condition No. 25: “Use and maintenance provisions for the non-building
conservation areas: The homeowners shall maintain the central meadow area (shown
on the plat) and retain the woods in the rest of the conservation tract. Tree removal,
trimming and limbing shall be limited in the non-building conservation area. Fences
are allowed in the meadow.”

The applicants originally proposed that this condition be deleted entirely. However,
in the e-mail from Francine Shaw to Julie Thompson on May 18, 2010, the
applicants’ agent stated that the applicants would comply with this condition at the
time of final plat approval.

1 **Proposed Alterations to the Final Plat Map.** The applicants also propose the
2 following modifications to the final plat map in order for the plat to be consistent with
3 the changes to the conditions of approval:

- 4 a. Decrease non-building areas so that at least 30% of each lot is set aside as
5 open space and/or landscape area. (Table 6.2 of the Unified Development
6 Code only requires that 30% of each lot be set aside as open space and/or
7 landscaped area.)
- 8 b. Increase "building areas" up to a maximum of 70% of the area of each lot.
- 9 c. Eliminate references to "conservation areas."
- 10 d. Eliminate tree species, size and location within meadow.
- 11 e. Eliminate language noted on the face of the final altered plat map which
12 states: "The purpose of the plat alteration is to expand the building envelopes
13 on Lots 1 and 4, and to amend the restrictions as shown. No other changes are
14 intended. No new lot corners or stakes have been set. This alteration
15 supercedes the original plat." The applicants propose to substitute the
16 following language: "The purpose of this second plat alteration is to delete all
17 reference to conservation areas, delete references to specific tree location in
18 the meadow, expand "build areas" on all six lots, and amend and/or remove
19 restrictions regarding tree removal. No other changes are intended. No new
20 lot corners or stakes have been set. This alteration supercedes the initial plat
21 filed in Volume 5, Page 114, Book of Plats and the first plat alteration filed in
22 Volume 6, Page 2, Book of Plats."
- 23 f. Eliminate restriction #8.
- 24 g. Revise Restriction #10 on the final altered plat map as follows: "Homes,
25 residential accessory structures and associated residential outbuildings shall be
sited within designated buildable areas to minimize tree cutting. Prior to the
issuance of any building permit, the Community Development and Planning
Department shall approve the proposed building site and proposed tree
removal, according to the above guideline."
- h. Eliminate Restriction #11 entirely.

The site: Garrison Bay Meadows is a subdivision of 6 lots on approximately 60 acres
that was first subdivided in 2002. The site is bounded on the northeast by Heron
Lane and on the south by Yacht Haven Road, both county roads. On these
boundaries, the property is wooded and slopes from the roads up to a broad, cleared,
level-to-northeastward sloping bench. The site is about 100' in elevation, the highest
point in the immediate vicinity. Currently, none of the lots are developed. *See 8.5 x
11 San Juan County Portrait Layout of Garrison Bay Meadows.*

5. Characteristics of the Area. The Hearing Examiner conducted a site visit
on this particular property and notes that the surrounding area is heavily wooded.
The English Camp of the San Juan Island National Historic Park is located, and views
from the mountain are primarily unobstructed forest. *See also 8.5 x 11 San Juan
County Portrait Layout of Garrison Bay Meadows.*

1 6. Adverse Impacts of Proposed Use. The Examiner finds that, as
2 conditioned in this decision, view impacts of the proposed alteration are minimized.
3 Other than aesthetic impacts, there is no evidence in the record of any other adverse
4 impacts or impacts to adequacy of infrastructure and public services.

5 **CONCLUSIONS OF LAW**

6 **Procedural:**

7 1. Authority of Hearing Examiner. The Hearing Examiner, after conducting an
8 open-record public hearing, renders a final decision on applications for plat
9 alterations. SJCC18.70.080(A)(3).

10 **Substantive:**

11 2. Comprehensive Plan and Zoning Designations. The subject property is
12 designated as Rural Farm Forest.

13 3. Compliance with Notice Requirements. County staff advertised the application in
14 accordance with RCW 90.58.140, WAC 173-27-110 and the San Juan County County
15 Code Sections 18.80. Notice of the Public Hearing and SEPA Appeal for the project
16 was properly published on May 12, 2010, posted on-site on May 4, 2010, and noticed
17 to parties of record and adjacent property owners on May 4, 2010. No comments were
18 received on the application.

19 4. Permit Review Criteria. The San Juan County Code ("SJCC") governs the
20 policies and criteria for subdivision alteration. SJCC 18.70.080(A)(4) establishes the
21 criteria for approval.

22 The applicable shoreline policies, use regulations, and criteria are quoted (in italics)
23 and addressed below.

24 **San Juan County Code Regulations**

25 **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 5. In Exhibit 4, p. 2 of the Johnson letter, the applicants assert that they have
4 submitted a letter agreeing to the plat alteration. As determined in the Findings of
5 Fact, the applicants own all of the property comprising the subject subdivision.
6 Accordingly, this requirement is satisfied.

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

11 6. SEPA compliance is a troubling issue with this application. Staff relied
12 exclusively upon the SEPA review conducted for the subdivision approved in 2002.
13 Staff did not formerly adopt the MDNS issued for the 2002 application as arguably
14 required by WAC 197-11-630. However, staff did publish a legal notice, Ex. 13, that
15 provides most of the information required by WAC 197-11-630(2) for a Notice of
16 Adoption. Since WAC 197-11-630(2) only requires that the notice of adoption
17 “substantially” comply with content requirements and there was no objection raised
18 during the hearing regarding SEPA compliance, the Examiner will find the published
19 notice to be sufficient.

20 The Examiner will consider each proposed alteration to the conditions of approval
21 separately. First, the County has agreed to the alteration of condition of approval No.
22 15(b). This change has been agreed upon because many of the trees within the
23 meadow have already died and been removed. See Finding of Fact #4. The retention
24 of 15(b) certainly would have been reasonable and supportable had staff requested it.
25 The identification of trees would be of assistance in monitoring compliance with tree
retention requirements. However, given that 15(b) is largely to facilitate the work of
staff and staff doesn't find it necessary, the Examiner concludes that the elimination
of 15(b) is consistent with permitting criteria.

The requested alterations to Condition No. 22 are allowed in part. Judge Susan K.
Cook's memorandum decision dated March 16, 2010 clearly invalidated SJCC
18.70.060(B)(10)(a). Compliance with this standard can no longer be required as a
condition of approval and reference to this requirement in Condition No. 22 will be
stricken. The applicant has agreed to identify the non-buildable areas on the face of
the plat, apparently thereby dropping its request to remove this requirement from
Condition No. 22. The Examiner agrees that the face of the plat should identify non-
buildable areas. Identification up front as part of final plat approval is most effective
way to ensure that non-buildable areas are coordinated in a manner that complies with
the conservation design requirements of SJCC 18.70.060(B)(10), including that non-
building portions must be contiguous and that open space resources shall be preserved
in a manner that is consistent with the San Juan County Open Space and Conservation
Plan.

1 The alteration of Condition No. 24 is contested. The County staff has argued that this
2 alteration is contrary to the remainder of SJCC 18.70.060(B)(10)(b)-(e). The County
3 has stated that removing the language about “visibility from outside the platted area
4 and removing the restriction on [the] amount of tree removal would essentially ignore
5 the requirement to provide protection.” The County also asserts that the reduction in
6 open space from 60% to 30% has moved the non-building area closer to the road,
7 which potentially increases the visibility from the road. See Staff Report, p. 5.
8 County staff have determined that the most sensitive open space features on this
9 property are (1) the wooded slopes directly adjacent to the roads, and (2) the open
10 meadow. The staff believe that the 80% tree retention requirement of Condition No.
11 24 is necessary to protect these view interests.

12 The applicants have stated, however, that the plat alteration continues to protect these
13 sensitive areas by retaining vegetative screening along the adjacent rights-of-way to
14 preserve views from the County road. The applicants also assert that the alterations
15 keep the building areas inside wooded areas to reduce visibility of future structures
16 from the National Park and adjacent properties. The applicants note that the proposed
17 plat alteration retains 30% open space in a contiguous band of land as required by
18 Table 6.2 of the Unified Development Code for RFF lands, maintains the meadow as
19 a “no build area,” and locates buildable areas so that the contrasting edge between the
20 wooded area and the open meadow remains unbroken by structures. Furthermore, the
21 applicants have agreed that they will construct structures with non-reflective materials
22 and to minimize tree cutting within building areas and visual impacts to views into
23 the site from English Camp. Beyond this, the applicant does not believe it is
24 reasonably possible to further protect views from English Camp.

25 The 80% tree retention and public view corridor requirements of Condition No. 24
are the most difficult requirements to consider in this alteration application. The
Examiner concludes that there is insufficient justification to support the 80%
retention requirement. However, the County has a compelling public interest and
several policies supporting the protection of view corridors from public places. The
Examiner will modify Condition No. 24 to require a more site specific assessment of
view impacts and mitigation to be conducted at the building permit stage of
development.

Unlike the situation in the invalidated 60% conservation requirement, the Examiner
does not have the luxury of relying upon the fact that he has no authority to invalidate
code requirements. This lack of authority was the primary reason Examiner Wick
Dufford did not change this requirement in the first plat alteration request and the
current Examiner fully agrees with this approach. In this case, however, the issue at
hand is a condition, as opposed to a code requirement. For obvious reasons, if
possible, the Examiner should require conditions that both meet County code
requirements and state law requirements. This leaves the Examiner with the difficult
task of determining whether the conditions are consistent with applicable court
opinions.

1 Two court opinions make it abundantly clear that local government has the burden to
2 prove that a condition imposed on development is necessary as a direct result of the
3 proposed development. *See Citizen's Alliance for Property Rights v. Sims*, 145 Wn.
4 App. 649 (2008); *Isla Verde Int'l Holdings v. Camas*, 146 Wn.2d 740 (2002). The
5 *Sims* case is particularly instructive on this issue. The *Sims* case involved King
6 County regulations that imposed no-clear areas of property depending on a variety of
7 factors, leading to overall clearing restrictions on 35 to 50% of lot area. The clearing
8 restrictions were supported by several in-depth scientific studies concluding that the
9 restrictions were necessary to protect environmentally sensitive areas. The court had
10 no disagreement with the conclusion that clearing requirements were necessary to
11 protect the sensitive areas. *See*, 145 Wn. App. At 669-70. However, the court
12 ultimately determined that King County failed to show rough proportionality between
13 the restrictions imposed and the impacts they were designed to address, i.e. there was
14 not a site-specific correlation between the amount of area restricted from
15 development and the actual impacts of the proposed development. The court ruled as
16 follows:

17 KCC 16.82.150 imposes a uniform requirement for cleared areas on each
18 lot, unrelated to any evaluation of the demonstrated impact on
19 development. While the ordinance before us prescribes clearing limits in
20 proportion to the size of the lot, it fails to relate the clearing limit to the
21 nature and extent of the proposed development on the lot.

22 145 Wn. App. At 668.

23 The proposed 80% retention requirement is highly similar to the King County clearing
24 restrictions. Like King County, San Juan County has some compelling reasons to
25 protect its scenic views. Section 3.2.4 of the San Juan County Open Space and
Conservation Plan ("OSCP") contains some detailed policies outlining the significance
of undeveloped pastoral views to San Juan County. Although not specifically
identified in the policies, it is fairly clear that the reason why San Juan County is such
a desirable place to live, has high property values and attracts tourists is because of its
scenic vistas, both on water and land. Just like the onerous design requirements in
Leavenworth and Gilman Boulevard are necessary to protect the economic vitality of
those commercial areas, the scenic protection measures adopted by San Juan County
are necessary to protect the economic vitality and quality of life of its residents.

Also similar to the King County clearing restrictions, San Juan County does not
provide enough site specific justification for its onerous development requirements.
As it can be generally agreed that the King County clearing restrictions protect critical
areas, so too can it be generally agreed that tree retention requirements will succeed in
screening new development from view. But why 80% tree retention for Garrison Bay
Meadows? As with King County, there is nothing in the record to show that this
amount of tree retention is even remotely necessary to achieve view preservation. As

1 noted previously, the County has the burden to prove that its exactions are necessary
2 to mitigate impacts. The County has not met this burden in this case.

3 Although there is insufficient justification to support an 80% tree retention
4 requirement, there is ample room left to craft conditions that meet the intent of the
5 view protection ordinances. Those requirements start with SJCC 18.70.060(B)(10),
6 which requires that subdivisions in rural lands shall protect open spaces and scenic
7 resources. SJCC 18.70.060(B)(10)(b) requires that the significance and sensitivity of
8 open space resources shall be identified by reference to Parts III and IV of the OSCP.
9 Section 3.2.4 of the OSCP provides as follows:

10 Views of Puget Sound, the straits, channels, fjords, small islands, and
11 undeveloped shorelines of the San Juans as well as the lakes contained
12 within the islands are often-mentioned visual resources in the county.
13 Those bounded by the distant Cascade or Olympic Mountains are
14 particularly prized, and if these views occur with a pastoral foreground,
15 they comprise the quintessential San Juan view. These qualities in part
16 define the unique character of the islands. Publicly accessible views with
17 some or all of these characteristics are common and precious *but are
18 easily disrupted by residential or other development.*

19 (emphasis added).

20 The goal of Section 3.2.4 is to “protect significant water and mountain views from
21 blockage or degradation from new construction”. The first objective of this section is
22 to located development to avoid blocking views from public thoroughfares and public
23 places. The second is to locate and/or screen development to reduce its visibility from
24 mountain view landscapes or view corridors. In their approval of the 2001 Garrison
25 Bay application, the County Commissioners appear to have had these policies in mind
when they assessed view impacts from Mount Young as follows:

26 The margins of the property are visible to the public along both county
27 roads. The highest elevation in the area and the focal point from most of
28 this property is Mount Young in English Camp, San Juan Island National
29 Park. From both viewpoints on Mount Young, the view is panoramic and
30 includes the “bay-of-islands” scene, pastoral landscapes to the south, the
31 heavily wooded watershed of Briggs Pond to the east, and the historically
32 open slot on the north half of the Yacht Haven peninsula, looking through
33 to Mosquito Pass. Few individual homes on the Yacht Haven peninsula
34 are actually visible from Mount Young because they are largely located
35 around the shoreline, amongst tree cover and lower elevations than the
subject site. After the panorama from the top of Mount Young, the subject
area is one to which the eye is drawn, due to the comparative lack of
vegetation. Development in the open area would cause unnecessary visual
impact, given that there are alternative sites amongst the trees.

San Juan County Resolution 56-2002, Finding No. 4.

The policies and findings cited above clearly justify and mandate the protection of Mount Young views from disruption by new residential development. Garrison Bay development should be shielded from Mount Young by tree retention. As previously discussed, the record doesn't support an across the board 80% retention requirement. The same protection can be accomplished by a more site specific assessment of proposed development and sight lines to Mount Young. It would be preferable to review the locations of the proposed homes during subdivision review, which is more suited to discretionary review, but the applicant's desire to maximize flexibility at the building permit stage is well taken. Condition No. 24 will be modified to require a site specific assessment of view impacts at the building permit stage of review.

The applicants also contest the staff's designation of the wooded slopes alongside adjoining roads as sensitive open space features. The applicants point out that Appendix 1.7 to the OSCP assigns a low point value to view protection from minor public roads such as Yacht Haven Road and Heron Lane. The applicants are correct that the roads in question do not have high view protection value, but they are still recognized as meriting some protection. Under the fairly subjective standards of view protection and the accompanying reasonableness requirements of RCW 82.02.020 and substantive due process, it is appropriate and necessary to weigh the burden of the condition on the property owner verses the public benefit gained by the condition. In this case the roadside trees no-build areas are located within setback areas that already cannot be developed. As testified during the site visit, no significant views from Garrison Bay Meadows would be impaired by this tree retention. Since even minor road view protection is assigned some value in the OSCP, on balance the retention of trees in the setback areas for this project is justified and appropriate.

Condition of approval #25 is agreed upon by the County and the applicants. The applicants will comply with condition of approval #25 at the time of final plat approval.

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

7. No comments were received from reviewing authorities on the application. In addition, the alterations are in the public interest, as the alterations will retain requirements to minimize tree cutting and seek approval of the Community Development and Planning Department when siting buildings so as to limit tree cutting. Furthermore, alteration of condition of approval #22 makes it clear that the requirements of SJCC 18.70.060(B)(10)(b)-(e) will remain intact.

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*

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1 *the remaining lots, parcels, or tracts, or are levied equitably on the lots resulting*
2 *from the alteration; and*

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

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

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

7 **DECISION**

8 The proposed alterations are consistent with all the criteria for plat alteration. The
9 alterations are authorized as follows:

10 1. The requested modification to Condition No. 15 is granted.

11 2. Condition No. 22 shall provide as follows:

12 *The conservation design principles of SJCC 18.70.060(B)(10)(b)-(e) shall be fully*
13 *adhered to and the approved, dimensioned non-building areas shall be shown on*
14 *the map.*

15 3. Condition No. 24 shall be provide as follows:

16 *Homes shall be sited within the buildable areas to minimize tree cutting*
17 *and visibility from the public road or any point in English Camp, San Juan*
18 *Island National Historic Park. To the extent safe and reasonably*
19 *practicable, any improvements, including lawns and landscaping other*
20 *than trees, shall not be within the sight lines from English Camp or the*
21 *public road. It is anticipated that tree retention will serve as the primary*
22 *means to shield views. Prior to approval of every building permit, the*
23 *Permit Center shall approve the proposed building site and proposed tree*
24 *removal, according to the above guidelines.*

- 1 4. Alteration of Condition No. 25 is not necessary per agreement of the County and
2 the applicants, provided that reference to conservation areas shall be replaced with
3 non-buildable areas.
- 4 5. All references to conservation areas in the conditions of approval and plat
5 restrictions shall be replaced with references to non-buildable or "no build" areas.
- 6 6. Alterations to the final plat map Restrictions, as proposed by the applicant, are
7 granted, except that:
- 8 (a) Restriction #8 shall state the following: "The conservation design
9 principles of SJCC 18.70.060(B)(10)(b)-(e) shall be fully adhered to and
10 the approved dimensioned nonbuilding areas shown on the map."; and
- 11 (b) Restriction #10 shall be identical to revised Condition No. 24.
- 12 (c) Restriction #11 shall be retained, with all references to conservation areas
13 replaced with non-buildable areas.

14 Dated this 8th day of June 2010.



15 Phil Olbrechts
16 County of San Juan Hearing Examiner

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

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

23 This land use decision is final and in accordance with Section 3.70 of the San Juan
24 County Charter, such decisions are not subject to administrative appeal to the San
25 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.

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