

S.J.C. COMMUNITY

MAY 06 2009

**SAN JUAN COUNTY
HEARING EXAMINER**

DEVELOPMENT & PLANNING

FINDINGS, CONCLUSIONS AND DECISION

Applicant: OPAL Community Land Trust and Peter Fisher
P.O. Box 1133
Eastsound, WA 98245

Contact: Lisa Byers
OPAL Community Land Trust
P.O. Box 1133
Eastsound, WA 98245

File No: HE14-09 (09ALT001)

Request: Plat Alteration

Location: 882 Mt. Baker Rd.
Orcas Island

Parcel Nos: 271160000 through 271160027, 271144024 &
271144004

Summary of Proposal: Preliminary plat approval to create 34 lots.

Land Use Designation: Hamlet Residential

Public Hearing: After reviewing the report of the Community
Development and Planning Department a public hearing
was held on April 15, 2009.

**General Policies
And Regulations:** RCW 58.17
SJCC 13.08 Fire Code
SJCC 16.55 Eastsound Subarea Plan
SJCC 18.70 Land Divisions

Decision: The application is approved with conditions.

Findings of Fact

1. A previous plat approval for this 7.36 acre site consisted of 29 lots and a common area. The current application for a plat alteration is intended to create five additional lots.
2. The proposed additional five houses will be clustered and will be connected to public water and sewer systems. Approximately 24% of the land will be covered by impervious surfaces and 76% will be in open space.
3. An updated Department of Health letter indicated the revised proposal was in line with the original approval dated July 2, 2008. Public Works indicated that there is sufficient road and shoulder width to accept the proposed increase in vehicular traffic. The earlier drainage plan for 34 lots had previously been approved by Public Works.
4. There is sufficient reserve water membership in the Eastsound Water Users Association to provide water service to the revised plat. There is sufficient sewer service within the Eastsound Sewer District for the proposed 34 lots.
5. The application proposes a mix of 28 affordable low-income houses and four affordable moderate to middle income houses. There will be approximately 0.46 acres for the two lots that will not have affordable housing. With the affordable housing bonus density of six to eight units per acre, the remaining 6.90 allows well in excess of the 32 units involved in this proposal.
6. With over 76% of the site in open space the minimum 30% open space requirement is met. With a total building footprint in slightly in excess of 10% the proposal meets the 30% maximum building coverage for the total site area.
7. On March 6, 2009 a Mitigated Determination of Non-Significance was issued. Offsite wetland mitigation has been required for impacts to an on-site wetland resulting from construction of Rosehip Road. Both the Washington State Department of Ecology and San Juan County have approved the Wetland Mitigation Plan. There was no appeal from the issuance of the MDNS.
8. Notice of hearing was published March 6, 2009. Mailing occurred on March 25, 2009 and the site was posted on March 13, 2009. A public hearing was held April 15, 2009. At that hearing amended plat dated April 10, 2009 was admitted into evidence as Ex. 1. An e-mail from Sean DeMerritt dated April 13, 2009 was admitted as Ex. 2. Because of the submission of the amended plat the record was held open an additional period of time for Mr. DeMerritt to submit comments regarding the amended plat. That submission occurred April 20, 2009 and is admitted into the record as Ex. 3.

9. The proposed plat alteration is consistent with RCW 58.17 because provisions have been made for open space, drainage, potable water supply and sanitary waste disposal. Each lot provides a usable area for the construction of a dwelling unit and approved septic system. Individual lots are not divided by roads. Stormwater flows will not impact critical aquifer recharge areas.
10. The staff report is incorporated herein by reference as though fully set forth. The analysis and factual statements contained in the staff report are adopted as a finding herein.
11. Any conclusion herein which may be deemed a finding is hereby adopted as such.

Conclusions of Law

1. The Hearing Examiner has jurisdiction over the persons and subject matter of this proceeding.
2. The requirements of the State Environmental Policy Act have been met.
3. Notice was given in compliance with local and state requirements.
4. Properly conditioned the application meets the state and county requirements for preliminary plat approval.
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

Conditions

1. This plat alteration allows the division of 29 lots plus common area into 34 lots plus common area. Plat alteration approval shall expire if it is not recorded within 60 months of the approval date. The final plat alteration application shall be submitted to the Community Development and Planning Department at least 90 days in advance of the expiration date.
2. The applicant shall dedicate 30 feet of right-of-way from the existing centerline of Mt. Baker Road and show the right-of-way by Auditor File Number and in the Dedications and Easements Notes.
3. Rosehip Road shall be constructed to the standards in SJCC 18.60.100.
4. The wetlands and applicable buffers shall be shown on the face of the plat.

5. A restriction shall be placed on the plat map that states that the lots shall provide affordable housing in accordance with SJCC 16.55.205.C.
6. Open space shall be maintained in its natural condition or landscaped.
7. All easements shall be shown on the final plat map.
8. All survey standards and requirements shall be complied with pursuant to SJCC 18.70.070(F)(2).

The following conditions shall be shown as restrictions on the face of the plat:

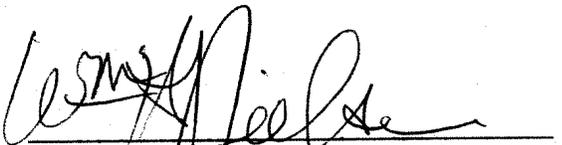
9. Parcels are subject to the Stormwater Site Plan and Construction Stormwater Pollution Prevention Plan that was filed with San Juan County Public Works.
10. Best management practices for controlling erosion and sedimentation shall be used during construction of all roads and structures.
11. All utilities shall be placed underground.
12. All disturbed areas shall be restored to pre-project configurations, replanted with local vegetation, and the vegetation maintained until it is firmly established.
13. This subdivision has been approved by the responsible county officials on the premise that each lot will be occupied a single-family or multiple-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.
14. Maintenance of the roads serving the lots in this subdivision is shared equally by the lot owners served by the roads.
15. There are additional private declarations, conditions, covenants or restrictions in addition to those shown on the face of this plat. If any private declarations, conditions, covenants and/or restrictions appear on the face of this plat, the more restrictive provisions shall govern. Any private deed restrictions are supplemental to the requirements of this code. The County shall not be party to any private restrictions.
16. Any excavation or construction activity will cease immediately if any material of potential archaeological significance is discovered during such excavation or

construction until the administrator is notified and inspections and disposition of the archaeological material is provided for.

Decision

The plat alteration request is approved subject to the conditions set forth above.

DONE this 6th day of May, 2009.


Wm. H. NIELSEN, Hearing Examiner

Appeal

Any appeal of this decision shall be to Superior Court pursuant to the Land Use Petition Act, Chapter 36.70 RCW, within 21 days of the issuance of the decision. See Home Rule Charter, Section 3.70.