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Before Hearing Examiner
Gary N. McLean

**BEFORE THE HEARING EXAMINER
FOR SAN JUAN COUNTY**

**S.J.C. DEPARTMENT OF
DEC 29 2017
COMMUNITY DEVELOPMENT**

In the Matter of the Application for a)
Plat Alteration filed by)
)
ROBERT AND JEANNE SPREEN)
)
Applicants)
)
(Affected Parcels/Project Site:)
Tax Parcels 361351069, 361351070 and)
361351082, also known as lots 69, 70 and 82)
of the Spring Point Division 2 subdivision,)
generally addressed as 50 Nuthatch Lane)
Deer Harbor, WA 98243))
_____)

DCD File No: PLPALT-17-0001
**DECISION APPROVING
APPLICATION FOR PLAT
ALTERATION**

I. SUMMARY OF DECISION.

The applicants satisfied their burden of proof to obtain approval of their plat alteration application, which would consolidate 3 tax parcels that are also 3 lots within the Spring Point Division 2 subdivision, into a single parcel/lot, all owned by the applicants. The above-referenced plat alteration application is hereby approved.

II. APPLICABLE LAW.

Jurisdiction.

SJCC 18.70.080(A)(3) expressly provides that “[t]he hearing examiner is vested with authority to hear and decide proposals for the alteration of subdivisions pursuant to Chapter 18.80 SJCC and RCW 58.17.330.”

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Criteria for Plat Alteration Approval.

SJCC 18.70.080(A)(4) lays out the County’s specific criteria for approval of any plat alteration application, which reads as follows:

- The alteration of a subdivision shall be approved only if:*
 - a. The application meets the requirements of this chapter, and complies with the applicable policies and requirements of RCW 58.17.330, the Shoreline Master Program, the State Environmental Policy Act, and the Comprehensive Plan;*
 - 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);*
 - 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*
 - d. Any land within the alteration that contains a dedication to the general use of persons residing within the subdivision is divided equitably.*

As discussed below, County staff reviewed the Spreens’ plat alteration application in accord with such provisions, and recommended approval.

III. RECORD.

Copies of all materials in the record and a digital audio recording of the (very brief) open-record hearing conducted for this application are maintained by the County, and may be requested or reviewed by contacting the Community Development Department during regular business hours. The following individuals presented brief testimony under oath at the duly noticed open-record hearing for this matter:

1. Julie Thompson, Planner III, for the San Juan County Department of Community Development; and
2. Robert Spreen, the applicant.

1
2 The following Exhibits were all included as part of the Record, as further described
3 and summarized in the Staff Report.

- 4 A. Staff Report, prepared by Julie Thompson, dated December 14, 2017;
5 1. Application materials;
6 2. Legal ad; and
7 3. Posting and notification verification documents.

8 Upon consideration of all the evidence, testimony, codes, policies, regulations, and
9 other information contained in the file, particularly the unchallenged Staff Report, the
10 undersigned Examiner issues the following findings, conclusions and Decision.

11 **IV. FINDINGS OF FACT.**

12 1. Any statements of fact or findings set forth in previous or subsequent portions of
13 this Decision that are deemed to be findings of fact are hereby adopted and incorporated
14 herein as such.

15 ***Description of the Proposal***

16 2. The Spreens propose to consolidate lots 69, 70 and 82 of the Spring Point Division 2
17 subdivision into a single lot.

18 3. The Spreen residence is located on lot 69. Lot 70 is undeveloped. Lot 82 is where
19 the septic drain field for the Spreen home is located.

20 ***Description of the Site***

21 4. Spring Point Division 2 is an approximately 32-lot subdivision in the southwest
22 portion of Orcas Island that was created at some point in 1969. The area is relatively steep.
23 Many of the lots are developed with single-family residences. Most are fairly heavily treed.

24 ***Process, review, notices, and no opposition***

25 5. The Speens submitted their Plat Alteration application on or about Date October 17,
26 2017, and county staff determined it to be complete on the same date.

1 6. The Staff Report and testimony by County staff confirms that applicable notice
2 requirements were satisfied. Notices regarding the pending application were published on
3 or about November 8, 2017, mailed on or about November 4, 2017, and the site was posted
4 on or about November 6, 2017.

5 7. The public hearing for this matter took place on December 27, 2017. No one
6 submitted any questions or comments regarding the pending application, and no one
7 opposed the matter, via written public comments or at the public hearing.

8 ***How the application meets approval criteria***

9 8. The applicant appeared at the public hearing and offered no objections, exceptions
10 or proposed changes to the Staff Report, or its proposed findings and recommendations.
11 Again, no one opposed the application. Evidence in the record credibly established that the
12 pending plat alteration application meets all applicable approval criteria and should be
13 approved. The Staff Report includes a discussion and analysis of how the application meets
14 various code requirements. The Staff Report findings and statements of fact are all
15 incorporated by reference herein as findings of fact supporting this decision. For the
16 reader's convenience, the most pertinent findings are republished, in part, below.

17 9. SJCC 18.70.080(A)(1) mandates that: *Alterations of subdivisions shall be*
18 *processed in accordance with RCW 58.17.060 and 58.17.215 through 58.17.218. Alteration*
19 *applications shall contain the signatures of the majority of those persons having an*
20 *ownership interest in lots, tracts, parcels, sites or divisions in the subject subdivision or*
21 *portion to be altered." And, "If the subdivision is subject to restrictive covenants which*
22 *were filed at the time of the approval of the subdivision, and the application for alteration*
23 *would result in the violation of a covenant, the application shall contain an agreement*
24 *signed by all parties subject to the covenants providing that the parties agree to terminate*
25 *or alter the relevant covenants to accomplish the purpose of the alteration of the*
26 *subdivision or portion thereof (RCW 58.17.215).*

10. The Staff Report explains that the applicants are the only owners who have an
ownership interest in the lots being altered, and that they signed the application.

11. The subdivision is subject to restrictive covenants. The Spring Point Homeowners
Association recorded an Amended Declaration of Covenants [sic], Conditions, and
Restrictions on May 18, 2017. Article 5, Land Use Restrictions, Section 1, Subdivisions
and Combination, (f), reads as follows:

*"For the purposed of dues and assessments, one or more lots that
have been legally combined will be treated as a single lot. Lots may not be
combined if there is a structure on each lot, if the lots are not adjacent, if
each lot has a water meter, or if one lot has a common drain field. Upon the*

1 receipt of a copy of a recorded San Juan County document indicating a
2 boundary line modification (combination), the treasurer will make
3 appropriate adjustments to the records. In no instance will dues or
4 assessments be refunded if the combination has taken place in the current
5 fiscal year. In subsequent fiscal years, the combined lots will be treated as
6 one. If subsequently separated, all excused fees and assessments become
7 due and payable to the Association before transfer of title.”

8 12. County staff credibly explained that the covenant shown above establishes how
9 combining lots as proposed in this application is not a violation of any restrictive
10 covenants. The Staff Report observed that combining lots seems to be encouraged by the
11 previous paragraph.

12 13. As noted above, SJCC 18.70.080(A)(4) lays out the County’s specific criteria for
13 approval of any plat alteration application, which reads as follows:

14 *The alteration of a subdivision shall be approved only if:*

15 *a. The application meets the requirements of this chapter, and complies with the applicable
16 policies and requirements of RCW 58.17.330, the Shoreline Master Program, the State
17 Environmental Policy Act, and the Comprehensive Plan;*

18 *b. The application satisfactorily addresses the comments of the reviewing authorities and is
19 in the public interest (RCW 58.17.100, 58.17.110, and 58.17.215);*

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

23 *d. Any land within the alteration that contains a dedication to the general use of persons
24 residing within the subdivision is divided equitably.*

25 14. With respect to the plat alteration language found in SJCC 18.70.080(A)(4)(a), the
26 Staff Report credibly explains that: the applicant has provided the information necessary to
review the proposal under such requirements; the proposal is not in the shoreline so there
are no applicable requirements in the Shoreline Master Program; plat alterations are not
subject to the State Environmental Policy Act; and that because land division regulations
were created to further the purposes and objectives of the County’s Comprehensive Plan,
and this application is consistent with the County’s plat alteration requirements, it is in
compliance with the Comprehensive Plan. The Examiner concurs, and finds that the
application satisfies approval criteria(4)(a).

15. No members of the public, neighbors, or other reviewing authorities submitted any
comments questioning or opposing the proposed plat alteration. The application would
reduce development opportunities on two of the three parcels to be consolidated into one.
The Staff Report credibly explains that less development in this area will be in the public

1 interest. Based on the Staff Report, and application materials, the Examiner concurs with
2 the staff recommendation of approval, and finds that the application satisfies approval
3 criteria (4)(b).

4 16. Staff reviewed relevant legal instruments recorded and otherwise applicable to the
5 affected parcels and determined that there are no outstanding assessments on the parcels in
6 question. Therefore, the provisions of approval criteria (4)(c) are not applicable to this
7 matter, or are readily satisfied because there are no assessments to resolve.

8 17. Staff reviewed relevant legal instruments recorded and otherwise applicable to the
9 affected parcels and determined that none of the land within the alteration contains a
10 dedication to the general use of persons residing within the subdivision, so the approval
11 criteria in (4)(d) is not applicable to this matter, or is readily satisfied because there are no
12 dedications to the general use of others to resolve.

13 18. The Staff Report explains that, after approval of this requested plat alteration, the
14 applicant shall produce a revised drawing of the approved alteration (*See* SJCC
15 18.70.050(C)(2)(1)(iii)), to be processed and recorded in the same manner as set forth in the
16 county's code for final plats. All persons with an ownership or security interest in property
17 to be altered must sign the altered plat. Altered plats shall only alter or supersede the
18 original plat in the specific ways approved by the Examiner in this Decision.

19 19. At the conclusion of the public hearing on December 27th, the Examiner announced
20 his verbal determination approving the pending plat alteration application as of such date,
21 noting that a written decision with findings and conclusions would follow on a later date.

22 V. CONCLUSIONS OF LAW.

23 1. Based on testimony and evidence in the Record, particularly the unchallenged Staff
24 Report, and all findings set forth above, the Examiner concludes that the pending plat
25 alteration application is fully supported by substantial and credible evidence.

26 2. The proposed changes to the Spring Point Division 2 subdivision meet the criteria
for approval of a plat alteration.

3. Any legal conclusions or other statements made in previous or following sections of
this document that are deemed conclusions of law are hereby adopted as such, and are
incorporated herein by this reference.

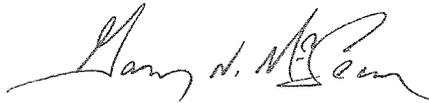
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VI. DECISION.

Based on evidence included in the record for this matter and all findings and conclusions as set forth above, the Spreens' requested plat alteration – to consolidate lots 69, 70 and 82 of the Spring Point Division 2 subdivision into a single lot – meets all applicable review criteria and is hereby approved. In accord with applicable County standards, the applicant is responsible for preparing a new map showing the altered property configuration with new lot line locations, which shall be subject to review by appropriate authorities and recorded as required in SJCC 18.70.080.

This written Decision ratifies and confirms the Examiner's approval of the Spreens' plat alteration application, as announced at the conclusion of the public hearing, retroactive to the date of such hearing, which was December 27, 2017.

ISSUED this 29th Day of December, 2017



Gary N. McLean
Hearing Examiner

Appeals, Valuation Notices

Decisions of the Hearing Examiner are final and not subject to administrative appeal to the San Juan County Council, unless the County council has adopted, by ordinance, written procedures for the discretionary review of such decisions. See Section 4.50 of the San Juan County Home Rule Charter and 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 requirements may result in dismissal of any 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 confer with advisors of their choosing, possibly including a private attorney.

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