

Before Hearing Examiner  
Gary N. McLean

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

In the Matter of the Application for a )  
Plat Alteration filed by )

**DE HARO DEVELOPMENT, LLC** )  
Applicant )

**DCD File No: PLPALT-17-0002**

**DECISION APPROVING  
APPLICATION FOR PLAT  
ALTERATION**

*(Affected Parcels/Project Site:  
Tax Parcels 462352015 and 462352016, also  
known as lots 15 and 16 in the Roche Harbor  
Resort Village, in the northwest corner of San  
Juan Island)* )

**S.J.C. DEPARTMENT OF  
MAR 14 2018  
COMMUNITY DEVELOPMENT**

**I. SUMMARY OF DECISION.**

The applicant satisfied its burden of proof to obtain approval of the requested plat alteration application, which would consolidate 2 tax parcels that are also 2 lots within the Roche Harbor Resort Village Phase 1.1 subdivision, into a single parcel/lot, all owned by the applicant. 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.”

**DECISION APPROVING DE HARO DEVELOPMENT/  
ROCHE HARBOR RESORT VILLAGE  
APPLICATION FOR PLAT ALTERATION  
- PLPALT-17-0002**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**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 pending 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. Lee McEnery, Planner III, for the San Juan County Department of Community Development; and
- 2. Robert Anderson, with Star Surveying, for the applicant.

1 Before the hearing, the Examiner conducted a site visit to the area, and is familiar  
2 with the Roche Harbor resort, and the lots at issue in this matter, having visited the area  
3 many times over the years.

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

- 6 1. Staff Report, prepared by Lee McEnery, dated December 12, 2017;
- 7 2. Application cover sheet;
- 8 3. Proposed alteration map;
- 9 4. Roche Harbor Resort Village Phases 1.1 subdivision (aka long plat),  
10 recorded Aug. 18, 2004, 3 pages; and
- 11 5. Legal notice materials, 10 pages.

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

#### 15 IV. FINDINGS OF FACT.

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

#### 19 *Description of the Proposal*

20 2. De Haro Development, LLC is the owner of the two lots addressed in this Decision,  
21 numbered 15 and 16. In this application, De Haro Development seeks to consolidate two  
22 lots into a single lot, all within the Roche Harbor Resort Village Phase 1.1 subdivision.

23 3. The lots are now undeveloped. They are both located in the southeast corner of  
24 Mossyrock Road and Captain Garthney Lane, in the Roche Harbor Resort area, in the  
25 northwest corner of San Juan Island.

#### 26 *Description of the Site*

4. The Staff Report explains that two lots are located in the newer part of the Roche

1 Harbor Resort development, where new homes have been constructed in conformance with  
2 consistent design standards imposed by the resort. Robert Anderson, with Star Surveying,  
3 testified at the public hearing to explain the circumstances that transpired to make the lots  
4 very difficult to develop, if at all. Mr. Anderson noted that as the newer portions of the  
5 Roche Harbor resort were developed over the last few years, easements, including a utility  
6 easement, was/were created over and across substantial portions of the affected lots,  
7 specifically lot 16, rendering it undevelopable as things stand now. *Testimony of Mr.*  
8 *Anderson; Ex. 3, plat alteration survey by Mr. Anderson, reflecting 5 foot wide utility*  
*easement running through much of one of the affected lots; Ex. 4, illustrating existing lot*  
*configuration, particularly page 129B.* Staff confirmed that the two lots are not usable in  
their current configuration. *Staff Report; Testimony of Ms. McEnery.* This plat alteration  
would consolidate the two lots, resulting in a single, more developable lot. Staff confirmed  
that there are no restrictive covenants or private restrictions that would prevent the  
proposed lot consolidation. *Staff Report, page 2.*

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

10 5. De Haro Development submitted the pending Plat Alteration application on or about  
11 November 8, 2017, and county staff determined it to be complete shortly thereafter.

12 6. The Staff Report and testimony by County staff confirms that applicable notice  
13 requirements were satisfied. Notices regarding the pending application were published on  
14 or about November 29, 2017, mailed on or about the same date, and the site was also posted  
on or about November 29, 2017.

15 7. The public hearing for this matter took place on January 24, 2018. No one  
16 submitted any questions or comments regarding the pending application, and no one  
opposed the matter, via written public comments or at the public hearing.

17 ***How the application meets approval criteria***

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

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

1 applications shall contain the signatures of the majority of those persons having an  
2 ownership interest in lots, tracts, parcels, sites or divisions in the subject subdivision or  
3 portion to be altered.” And, “If the subdivision is subject to restrictive covenants which  
4 were filed at the time of the approval of the subdivision, and the application for alteration  
5 would result in the violation of a covenant, the application shall contain an agreement  
6 signed by all parties subject to the covenants providing that the parties agree to terminate  
7 or alter the relevant covenants to accomplish the purpose of the alteration of the  
8 subdivision or portion thereof (RCW 58.17.215).

9 10. The Staff Report explains that the applicants are the owners of both lots being  
10 altered, and that they signed the application.

11 11. The Staff Report confirms that the requested lot consolidation/plat alteration will  
12 not violate any restrictive covenants applicable to the subdivision. *Ex. 1, at page 3.*

13 12. The Record demonstrates that all notice, publication, and posting requirements were  
14 satisfied prior to the public hearing for this matter. *Ex. 5; Staff Report, at page 3.*

15 13. As noted above, SJCC 18.70.080(A)(4) lays out the County’s specific criteria for  
16 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  
17 policies and requirements of RCW 58.17.330, the Shoreline Master Program, the State  
18 Environmental Policy Act, and the Comprehensive Plan;*

*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);*

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

23 14. With respect to the plat alteration language found in SJCC 18.70.080(A)(4)(a), the  
24 Staff Report credibly explains that: the applicant has provided the information necessary to  
25 review the proposal under such requirements; the proposal is not in the shoreline so there  
26 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

1 compliance with the Comprehensive Plan. The Examiner concurs, and finds that the  
2 application satisfies approval criteria(4)(a).

3 15. No members of the public, neighbors, or other reviewing authorities submitted any  
4 comments questioning or opposing the proposed plat alteration. The application would  
5 reduce development opportunities from two parcels to be consolidated into one. The Staff  
6 Report credibly explains that less development in this area will be in the public interest.  
Based on the Staff Report, and application materials, the Examiner concurs with the staff  
recommendation of approval, and finds that the application satisfies approval criteria  
(4)(b).

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

10 17. Staff reviewed relevant legal instruments recorded and otherwise applicable to the  
11 affected parcels and determined that none of the land within the alteration contains a  
12 dedication to the general use of persons residing within the subdivision, so the approval  
criteria in (4)(d) is not applicable to this matter, or is readily satisfied because there are no  
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  
to be altered must sign the altered plat. Altered plats shall only alter or supersede the  
original plat in the specific ways approved by the Examiner in this Decision.

17 **V. CONCLUSIONS OF LAW.**

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

21 2. The proposed changes to the Roche Harbor Resort Village Phase 1.1 subdivision  
22 meet the criteria for approval of a plat alteration. The request to consolidate Lots 15 and 16  
should be and hereby is approved.

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**VI. DECISION.**

Based on evidence included in the record for this matter and all findings and conclusions as set forth above, De Haro Development's requested plat alteration – to consolidate lots 15 and 16 of the Roche Harbor Resort Village Phase 1.1 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. Further, the applicant shall be responsible for complying with all 5 Conditions of Approval included in the Staff Report on page 5, which Conditions are incorporated by this reference as part of this Decision.

ISSUED this 14<sup>th</sup> Day of March, 2018



\_\_\_\_\_  
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.

**DECISION APPROVING DE HARO DEVELOPMENT/  
ROCHE HARBOR RESORT VILLAGE  
APPLICATION FOR PLAT ALTERATION  
- PLPALT-17-0002**