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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 )

**JAMES AND TAYNA WEITMAN** )

Applicants )

*(Affected Parcel/Project Site: Tax Parcel  
No. 152152007, also known as lot 7 in the  
Decatur Highland Subdivision on Decatur  
Island)* )  
\_\_\_\_\_ )

**File No: PLPALT-18-0002**

**DECISION APPROVING  
APPLICATION FOR PLAT  
ALTERATION**

**SJC DEPARTMENT OF  
JAN 04 2018  
COMMUNITY DEVELOPMENT**

**I. SUMMARY OF DECISION.**

The applicants satisfied their burden of proof to obtain approval of the requested plat alteration application, which would move the building envelope shown on the face of the plat for Lot No. 7 to the east approximately fifteen feet. The subdivision was originally created in 1980 and the building envelopes are shown for each lot on the face of the plat. Each building envelope is a fifty-foot radius circle. The proposed move will not affect the size of the envelope. The lot is currently undeveloped. The existing building envelope is located in the southern half of the parcel, which is more open than the northern part, which is fairly heavily treed. The parcels to the north and south are subdivision common-areas, which are undeveloped forested land. The lot to the east is undeveloped. The lot to the west is already developed. Property owners in the subdivision submitted a written comment supporting the proposed alteration. No one opposed the application. The above-referenced plat alteration application is hereby approved.

**DECISION APPROVING WEITMAN APPLICATION  
FOR PLAT ALTERATION  
- PLPALT-18-0002**

Page 1 of 7

**GARY N. MCLEAN  
HEARING EXAMINER FOR SAN JUAN COUNTY**

SJC DEPARTMENT OF  
JAN 04 2018  
COMMUNITY DEVELOPMENT

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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.”

*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. All individuals who presented brief testimony at the duly noticed open-record hearing for this matter did so under oath. No one submitted any written comments opposing or questioning the merits of the application, and no one appeared at the public hearing to do so. The applicant did not offer any objection or requested changes to

1 the analysis and findings included in the Staff Report, which stands un rebutted for purposes  
2 of this Decision.

3 After the hearing, the Examiner performed an online search of available San Juan  
4 County Assessor maps and records regarding the lot at issue and surrounding properties.

5 The following Exhibits are all included as part of the Record for this matter:

- 6 A. Staff Report, dated October 15, 2018, prepared by Julie Thompson, County  
7 Planner responsible for coordinating review of the pending application;
- 8 1. Application materials;
  - 9 2. Copy of existing plat map, Vol. 5 Page 12;
  - 10 3. Memo from Jeff Sharp, SJC Public Works, dated October 8, 2018;
  - 11 4. Email from Decatur Highlands HOA dated August 23, 2018;
  - 12 5. Legal ad;
  - 13 6. Posting and notification verification; and
  - 14 7. Permit fee receipt, dated August 23, 2018.

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

18 **IV. FINDINGS OF FACT.**

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

22 ***Description of the Proposal***

23 2. The applicants, James and Tayna Weitman, are the owners of Lot No. 7 in the  
24 Decatur Highlands Subdivision, generally located in the Central/Northwest portion of  
25 Decatur Island. In this application, the Weitman's seek to move the building envelope  
26 shown on the face of the plat for Lot No. 7 to the east approximately fifteen feet.

3. The Decatur Highlands Subdivision was originally created in 1980 and the building  
envelopes are shown for each lot on the face of the plat. Each building envelope is a fifty-  
foot radius circle. The proposed move will not affect the size of the envelope.

1 4. The applicants' lot is currently undeveloped, as is the larger lot located immediately  
2 to the east, Lot No. 8. (*Staff Report; Assessor maps and property data*).

3 5. The existing building envelope for the applicants' lot is located in the southern half  
4 of the parcel, which is more open than the northern portion, which is fairly heavily treed.  
The alteration is likely to result in preservation of significant trees that are located in the  
5 existing building envelope.

6 6. The parcels to the north and south are subdivision common-areas, which are  
7 undeveloped forested land. The lots to the west, Lot 6, 5, and 4, are already developed.  
(*Assessor's data*). Property owners in the subdivision submitted a written comment  
8 supporting the proposed alteration, identified as the owners of Lots 4, 5, and 6. (*Ex. 4*).

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

10 7. The applicants submitted the pending Plat Alteration application on or about August  
11 23, 2018, and county staff determined it to be complete on the same date.

12 8. 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 September 12, 2018, mailed on September 7<sup>th</sup>, and the site was also posted on or  
15 about September 11, 2018.

16 9. The duly notice public hearing for this matter took place on October 31, 2018.  
17 Again, no one submitted any questions or comments regarding the pending application, and  
18 no one opposed the matter, via written public comments or at the public hearing.

19 ***How the application meets approval criteria***

20 10. The applicant's agent offered no objections, exceptions or proposed changes to the  
21 Staff Report, or its proposed findings and recommendations. Again, no one opposed the  
22 application. Evidence in the record credibly established that the pending plat alteration  
23 application meets all applicable approval criteria and should be approved. The Staff Report  
24 includes a discussion and analysis of how the application meets various code requirements.  
25 The Staff Report findings and statements of fact are all incorporated by reference herein as  
26 findings of fact supporting this decision.

11. 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  
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.* And, *"If the subdivision is subject to restrictive covenants which*

1 were filed at the time of the approval of the subdivision, and the application for alteration  
2 would result in the violation of a covenant, the application shall contain an agreement  
3 signed by all parties subject to the covenants providing that the parties agree to terminate  
or alter the relevant covenants to accomplish the purpose of the alteration of the  
subdivision or portion thereof (RCW 58.17.215).

4 12. The Staff Report explains that “The applicants are the only owners who have an  
5 ownership interest in the lot being altered. We received an email from Madora Lawson, the  
6 Decatur Highland homeowner’s association president, who reviewed the alteration  
7 application drawing on behalf of the HOA. She said it agrees with the relocation as  
8 reviewed on-site and discussed at their annual meeting”.

9 13. No one submitted any evidence to establish that the proposed alteration might  
10 violate any restrictive covenants applicable to the subdivision.

11 14. The Staff Report and attached exhibits demonstrate that all notice, publication, and  
12 posting requirements were satisfied prior to the public hearing for this matter.

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

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

16 *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;*

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

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

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

26 16. With respect to the plat alteration language found in SJCC 18.70.080(A)(4)(a), the  
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

1 application satisfies approval criteria(4)(a).

2 17. No members of the public, neighbors, or other reviewing authorities submitted any  
3 comments questioning or opposing the proposed plat alteration. The application would  
4 simply move the building footprint to a portion of the lot that is not as heavily-treed. The  
5 Examiner finds that the propose plat alteration is in the public interest. Based on the Staff  
6 Report, and application materials, the Examiner concurs with the staff recommendation of  
7 approval, and finds that the application satisfies approval criteria (4)(b).

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

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

17 20. The Staff Report explains that, after approval of this requested plat alteration, the  
18 applicant shall produce a revised drawing of the approved alteration (See SJCC  
19 18.70.050(C)(2)(l)(iii)), to be processed and recorded in the same manner as set forth in the  
20 county's code for final plats. All persons with an ownership or security interest in property  
21 to be altered must sign the altered plat. Altered plats shall only alter or supersede the  
22 original plat in the specific ways approved by the Examiner in this Decision.

## 23 V. CONCLUSIONS OF LAW.

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

1 The proposed changes to the Lot 7 in the Decatur Highlands Subdivision meet the  
2 criteria for approval of a plat alteration. The request to move the building envelope for Lot  
3 7 to the east approximately 15 feet should be and is hereby approved.

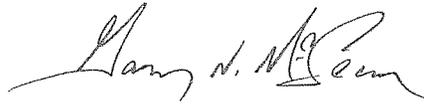
4 3. Any legal conclusions or other statements made in previous or following sections of  
5 this document that are deemed conclusions of law are hereby adopted as such, and are  
6 incorporated herein by this reference.

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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 Weitmans' requested plat alteration – to move the building envelope for Lot 7 to the east approximately 15 feet – 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.

ISSUED this 3<sup>rd</sup> Day of January, 2019



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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.