

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

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

Hance (now Sutton) et al,)
)
Applicants)

DCD File No: PLPALT-19-0001

**DECISION APPROVING
APPLICATION FOR PLAT
ALTERATION**

*(Affected Parcels/Project Site:
Tax Parcels 160250801000, 160250601000,
160250702000, and 160250802000, also
known as Blocks 6, 7 and 8 in the Doe Bay
Subdivision, located on Orcas Island)*

S.J.C. DEPARTMENT OF
AUG 15 2019
COMMUNITY DEVELOPMENT

I. SUMMARY OF DECISION.

The applicants satisfied their burden of proof to obtain approval of the requested plat alteration application, which would simply dedicate Lot 2 in Block 8 of the Doe Bay Subdivision as a restricted common area to be used only as a recreational park and beach area for the owners of Lots 1 and 2 of Block 6 and Lot 2 of Block 7 of the same plat. All affected owners support the requested modification. Accordingly, 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 THE DOE BAY PLAT
ALTERATION, HANCE (NOW SUTTON) ET AL.,
APPLICANTS – PLPALT-19-0001**

1 **Criteria for Plat Alteration Approval.**

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

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

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

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

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

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

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

17 **III. RECORD.**

18 Copies of all materials in the record and a digital audio recording of the (very brief)
19 open-record hearing conducted for this application are maintained by the County and may be
20 requested or reviewed by contacting the Community Development Department during
21 regular business hours. Julie Thompson, the designated County Planner assigned to review
22 the pending application, was the only person who appeared and provided testimony under
23 oath at the duly noticed open-record hearing for this matter. No one opposed the application,
24 at the hearing or in writing.

25 The Staff Report, prepared by Ms. Thompson, with 5 pages, dated June 7, 2019, and
26 the 10 Exhibits attached to and described on pages 4 and 5, are included as part of the Record
for this matter. Again, there were no written comments from any neighboring property
owners opposing the pending application.

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

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6 **IV. FINDINGS OF FACT.**

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

10 ***Description of the Proposal***

11 2. The requested plat alteration would dedicate Lot 2, in Block 8 of the existing Doe Bay
12 Subdivision on Orcas Island, as a restricted common area to be used only as a recreational
13 park and beach area for the owners of Lots 1 and 2, in Block 6, and Lot 2, in Block 7, of the
14 same subdivision. (*Staff Report, page 1; Ex. 5, Plat Alteration survey map/site plan, prepared
15 by San Juan Surveying, dated March 18, 2019*).

16 3. The staff report explains that the four lots affected by the requested plat alteration are
17 located in the eastern-most portion of the Doe Bay subdivision (also known as a plat), which
18 was platted at some point in or about 1913. Three of the four affected lots are already
19 developed for residential use. The lot proposed for dedication as a restricted common area
20 (Lot 2 in Block 8) in this application is undeveloped and has not been cleared. (*Staff Report,
21 page 2*).

22 4. The proposed plat alteration will not create any new lots, and it will not consolidate
23 any existing lots. The number of lots in the existing subdivision will remain unchanged.

24 5. Timothy and Elizabeth Hance were the original property owners/applicants who
25 initiated this matter, by their designated agent, Scott Mapstead, with San Juan Surveying,
26 who submitted materials to commence the plat alteration process on or about March 25, 2019.
(*Ex. 1, Application cover sheet, Owner and Agent Information*).

6. At some point, the Hance property was sold to Parker and Kelly (or Karen) Sutton¹.
The Suttons confirmed that they would like to go forward with the requested plat alteration,

¹ Ex. 3 indicates that Ms. Sutton is named Kelly, but the online Assessor's information shows the Suttons as Parker & Karen.

1 by email to Ms. Thompson dated April 25, 2019. (Ex. 3).

2 7. The specific parcel numbers, address (if any), lot/block location in the Doe Bay
3 subdivision, and names of owners for the properties affected by this plat alteration request,
4 are as follows, based on an online visit to the County Assessor's parcel information data for
5 each parcel on the date of this Decision:

- 6 • Parcel No. 160250801000, addressed as 21 Pleasant Street, shown as Lot 1 in both Block 7 and
7 Block 8 of the Doe Bay Subdivision, owned by Parker & Kelton Sutton;
- 8 • Parcel No. 160250802000, no address assigned, shown as Lot 2 in Block 8 of the Doe Bay
9 Subdivision, owned by Parker & Kelton Sutton et al. [**NOTE: this is the parcel to be dedicated
10 as common area in this application*];
- 11 • Parcel No. 160250702000, addressed as 22 NaMi Lane, shown as Lot 2 in Block 7 of the Doe
12 Bay Subdivision, owned by John & Lorraine Pai LLC;
- 13 • Parcel No. 160250601000, addressed as 13 Pleasant Street, shown as both Lots 1 and 2 of Block
14 6 of the Doe Bay Subdivision, owned by Kalman H. and Stephanie S. Axelrod.

15 8. The Staff Report explains that the subdivision is not subject to restrictive covenants,
16 so the owners of the portions of the plat that are affected by the requested plat alteration are
17 the only persons who needed to sign the application. (*Staff Report, page 2, analysis of
18 signature requirement found in SJCC 18.70.080(A)(1)*).

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

20 9. At the public hearing, and in the Staff Report, Ms. Thompson confirmed that all
21 applicable notice, posting, and publication requirements have been satisfied for this
22 application. (*See Exhibits 8 and 9; Staff Report, page 3; Testimony of Ms. Thompson*).

23 10. The public hearing for this matter took place on June 28, 2019. No outside agencies
24 or members of the general public submitted any questions or comments regarding the pending
25 application, and no one opposed the matter, via written comments or at the public hearing.
The only comment from within the County came from the Public Works Department, noting
a minor typo that should be corrected on the future survey map to be recorded after this
application is approved. (Ex. 6).

26 ***How the application meets approval criteria***

11. The applicant's agent did not appear at the public hearing and offered no written
objections, exceptions or proposed changes to the Staff Report, or its proposed findings and
recommendations. None of the applicants appeared at the hearing or offered written
objections to any part of the Staff Report. Again, no one opposed the application. Evidence

1 in the record credibly established that the pending plat alteration application meets all
2 applicable approval criteria and should be approved. The Staff Report includes a discussion
3 and analysis of how the application meets various code requirements. The Staff Report
findings and statements of fact are all incorporated by reference herein as findings of fact
supporting this decision.

4 12. SJCC 18.70.080(A)(1) mandates that: *Alterations of subdivisions shall be processed*
5 *in accordance with RCW 58.17.060 and 58.17.215 through 58.17.218. Alteration*
6 *applications shall contain the signatures of the majority of those persons having an*
7 *ownership interest in lots, tracts, parcels, sites or divisions in the subject subdivision or*
8 *portion to be altered.” And, “If the subdivision is subject to restrictive covenants which were*
9 *filed at the time of the approval of the subdivision, and the application for alteration would*
10 *result in the violation of a covenant, the application shall contain an agreement signed by all*
11 *parties subject to the covenants providing that the parties agree to terminate or alter the*
12 *relevant covenants to accomplish the purpose of the alteration of the subdivision or portion*
13 *thereof (RCW 58.17.215).*

14 13. As noted above, the application was signed by the original owner of the property that
15 is the subject of the dedication made via this requested plat alteration, and the new owners
16 confirmed their desire to continue the application process. *(Staff Report, page 2; Ex. 3).*

17 14. The Staff Report confirms that the requested plat alteration will not violate any
18 restrictive covenants applicable to the subdivision. *(Staff Report, at page 2).*

19 15. The Record demonstrates that all notice, request for outside agency review,
20 publication, and posting requirements were satisfied prior to the public hearing for this
21 matter. *(Exhibits 4, 8 and 9; Staff Report, at page 3).*

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

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

25 *a. The application meets the requirements of this chapter, and complies with the applicable*
26 *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.

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17. 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 within a designated shoreline area, but there are no applicable requirements in the Shoreline Master Program relevant to this proposal; 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. (*See Staff Report discussion, on pages 3 and 4*). The Examiner concurs, and finds that the application satisfies approval criteria(4)(a).

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18. No members of the public, neighbors, or other outside reviewing authorities submitted any comments questioning or opposing the proposed plat alteration. Based on the Staff Report, and application materials, the Examiner concurs with the staff recommendation of approval, and finds that the application is in the public interest, satisfying approval criteria (4)(b).

19. The Staff Report confirms that there are no outstanding assessments on the parcels in question. (*Staff Report, page 4*). 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.

20. Staff correctly determined that the approval criteria in (4)(d) does not apply and has no relevance to this application, because it does not contain a dedication to the general use of all persons in the plat, but only benefiting the two parcels (comprised of 3 lots) as noted above. There are no existing rights for other owners in the existing plat to use Lot 2 in Block 8, so there are no pre-existing dedications that require division, equitable or otherwise.

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

V. CONCLUSIONS OF LAW.

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

2. The proposed changes to the Doe Bay Subdivision meet the criteria for approval of a

1 plat alteration.

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

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6 **VI. DECISION and CONDITIONS of APPROVAL.**

7 Based on evidence included in the record for this matter and all findings and conclusions as
8 set forth above, the requested plat alteration – to dedicate Lot 2 in Block 8 as a restricted
9 common area to be used only as a recreational park and beach area for the owners of Lots 1
10 and 2 of Block 6 and Lot 2 of Block 7 of the Doe Bay Subdivision (as previously amended
11 by a prior plat alteration) — meets all applicable review criteria. Therefore, the requested
12 plat alteration is approved, as reflected on the survey map dated 03/08/2019 and prepared by
13 San Juan Surveying (*included in the Record as Ex. 5*), subject to the following Conditions of
14 Approval:

- 15 1. The applicant(s) shall produce a revised drawing of the approved alteration to
16 be processed and recorded in the same manner as set forth in the county's code
17 for final plats, found in SJCC Chapter 18.70 (*See SJCC 18.70.050(C)(2)(l)(iii)*);
- 18 2. All persons with an ownership or security interest in property to be altered
19 must sign the altered plat; and
- 20 3. The plat alteration approved in this Decision is expressly limited to alter or
21 supersede the existing plat in the specific ways approved and described herein,
22 particularly the proposal description provided in Finding No. 2 above, as depicted
23 on the survey map dated 03/08/2019, included in the Record as Exhibit 5.

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25 ISSUED this 15th Day of August, 2019

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Gary N. McLean
Hearing Examiner

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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.