

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

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

**CHRIS DAHL (FOR GREEN BUILDING )  
INNOVATIONS CORP.) (OWNER OF )  
LOTS 3, 4 AND 5); AND )  
**MICHAEL MITCHELL & JOLENE )  
HOFFMAN (OWNERS OF LOTS 1 AND 2), )****

Applicants )

*(Affected Parcels/Project Site: )  
Tax Parcels 271161001-5, also known as )  
Lots 1 through 5 in the Hurley Long Plat/ )  
Subdivision, located in the SE Corner of the )  
Aviator Drive and Seaview Street intersection )  
west of the airport on Orcas Island) )*

**File No. LANDUSE-19-0162**

**DECISION APPROVING  
APPLICATION FOR PLAT  
ALTERATION**

S.J.C. DEPARTMENT OF

JAN 21 2020

COMMUNITY DEVELOPMENT

**I. SUMMARY OF DECISION.**

The applicants satisfied their burden of proof to obtain approval of the requested plat alteration application, which would: 1) Modify the current boundaries for all 5 lots in the existing plat; 2) Add an access easement serving lots 3, 4 and 5, extending south onto a portion of Lot 1; 3) Consolidate Lots 3 and 4 into a single lot, while maintaining both building envelopes; and 4) Modify the building envelopes on Lots 4 and 5; all in the existing 5-lot Hurley Long Plat / Subdivision created in 2008, on Orcas Island. The applicants are the only parties with an ownership interest in the five affected lots, and they all signed the application, meaning that all affected owners support the requested modification. After public notice and expiration of applicable comment periods, no one opposed or questioned the pending application. Accordingly, the above-referenced plat alteration is hereby approved.

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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 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. Julie Thompson, the designated County Planner assigned to review the pending application, appeared and provided testimony under oath at the duly noticed open-record hearing for this matter held on December 18, 2019. Christopher Dahl appeared at the hearing for one of the applicants, Green Building Innovations Corp., the owner of Lots 3, 4, and 5. Mr. Dahl also testified under oath and explained that the lots are under contract for sale. He did not question or challenge any of the analysis or recommended conditions included in the Staff Report. No one opposed the application, at the hearing or in writing.

1 The Staff Report, prepared by Ms. Thompson, with 4 pages, dated December 3, 2019,  
2 August 12, 2019, and the 6 Exhibits attached to and described on page 4, are included as part  
3 of the Record for this matter. And additional exhibit, number 7, was accepted into the record  
4 at the public hearing. That item is a revised, proposed plat alteration survey map dated Dec.  
10, 2019. Again, there were no written comments from any neighboring property owners  
opposing the pending application.

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

#### 8 IV. FINDINGS OF FACT.

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

##### 11 *Description of the Proposal*

12 2. The requested plat alteration would:

- 13 1) Modify the current boundaries for all 5 lots in the existing plat;
- 14 2) Add an access easement serving lots 3, 4 and 5, extending south onto a portion of Lot 1;
- 15 3) Consolidate Lots 3 and 4 into a single lot, while maintaining both building envelopes; and
- 16 4) Modify the building envelopes on Lots 4 and 5;

17 all in the existing 5-lot Hurley Long Plat / Subdivision created in 2008, on Orcas Island. (*Staff Report,*  
18 *page 1; Nov. 19, 2019 letter from San Juan Surveying, explaining the intent of the proposed alteration,*  
19 *included in the record as part of Ex. 1, application materials; Ex. 7, updated plat alteration survey*  
*map, dated 12/10/2019).*

20 3. The affected subdivision is known as the Hurley Long Plat, created in May of 2008.  
21 (*Ex. 2, copy of original plat*). The Hurley Plat currently includes just five (5) lots, with lots  
22 1 and 2 owned by Michael Mitchell & Jolene Hoffman, and lots 3, 4, and 5 owned by Green  
Building Innovations Corp., represented by Chris Dahl. (*Ex. 1, application materials; Online*  
*SJCo Assessor records verified by the Examiner*).

23 4. The Hurley Plat is relatively small, with just less than an acre of total acreage, located  
24 in the southeast corner of the Aviator Drive and Seaview Street intersection, just west of the  
25 airport, on Orcas Island.

1 5. All of the owners of lots in the subdivision (M. Mitchell/J. Hoffman, and C. Dahl)  
2 signed the application materials, satisfying requirements found in SJCC 18.70.080(A)(1).  
(*Ex. 1, application materials*).

3 6. Three of the existing lots are already developed with single family homes. The other  
4 vacant lots include specific “building envelopes” allowing for two more structures within  
such footprints. (*Staff Report, page 2; Ex. 2, original plat map*).

5 7. While the list of alterations may appear significant on first reading, the practical  
6 affect is minimal – there will be no additional density or building sites in the plat if this  
7 alteration is approved. Instead, the justification for the requested alteration is to correct  
8 driveway access for several lots, apparently modifying some boundaries and easements to  
better meet ‘as-built’ conditions on the site. Obviously, all of the requested changes are  
acceptable to the property owners, because they all signed the application.

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

10 8. The applicants initiated their plat alteration process by submitting complete  
11 application materials on or about September 19, 2019. (*Staff Report, page 2; Ex. 1,*  
*Application materials*).

12 9. Ms. Thompson confirmed that all applicable notice, posting, and publication  
13 requirements have been satisfied for this application. *See Exhibits 4 and 5; Staff Report, page*  
14 *2; Testimony of Ms. Thompson.*

15 10. The County’s Public Works staff submitted a written comment that is included in the  
16 record as Exhibit 3, explaining that concurrency review is not required for this proposal,  
17 because the plat alteration would not increase density or development potential within the  
subdivision. In fact, the number of lots would decrease.

18 11. No outside agencies or members of the general public submitted any questions or  
19 comments regarding the pending application, and no one opposed the matter, via written  
comments or at the public hearing.

20 ***How the application meets approval criteria***

21 12. Evidence in the record credibly established that the pending plat alteration application  
22 meets all applicable approval criteria and should be approved. No one opposed the  
23 application. The Staff Report includes a discussion and analysis of how the application meets  
24 various code requirements. The Staff Report findings and statements of fact are all  
incorporated by reference herein as findings of fact supporting this decision.

25 13. SJCC 18.70.080(A)(1) mandates that: *Alterations of subdivisions shall be processed*

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

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

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

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

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

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

21 *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 15. 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 within a designated  
26 shoreline area, so 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 page 3*). The Examiner concurs, and finds that the application  
satisfies approval criteria(4)(a).

16 16. No members of the public, neighbors, or other outside reviewing authorities submitted  
17 any comments questioning or opposing the proposed plat alteration. Based on the Staff  
18 Report, and application materials, the Examiner concurs with the staff recommendation of  
19 approval, and finds that the application is in the public interest, satisfying approval criteria  
20 (4)(b). The Examiner further concurs with Staff in finding that fewer parcels provides less  
21 opportunity for development, that relocated an access road will not add additional impervious  
22

1 surfaces but better utilize the layout of the plat, all of which is in the public interest.

2 17. The Staff Report confirms that there are no outstanding assessments on the parcels in  
3 question. (*Staff Report, page 4*). Therefore, the provisions of approval criteria (4)(c) are not  
4 applicable to this matter, or are readily satisfied because there are no assessments to resolve.

5 18. Staff correctly determined that the approval criteria in (4)(d) does not apply and has  
6 no relevance to this application.

7 19. The Staff Report explains that, after approval of this requested plat alteration, the  
8 applicant shall produce a revised drawing of the approved alteration (*See* SJCC  
9 18.70.050(C)(2)(l)(iii)), to be processed and recorded in the same manner as set forth in the  
10 county's code for final plats. All persons with an ownership or security interest in property  
11 to be altered must sign the altered plat. *Id.* Altered plats shall only alter or supersede the  
12 original plat in the specific ways approved by the Examiner in this Decision. *Id.*

#### 13 V. CONCLUSIONS OF LAW.

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

17 2. The proposed changes to the Hurley Long Plat / Subdivision meet the criteria for  
18 approval of a plat alteration.

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

#### 22 VI. DECISION and CONDITIONS of APPROVAL.

23 Based on evidence included in the record for this matter and all findings and  
24 conclusions as set forth above, the requested plat alteration meets all applicable review  
25 criteria. Therefore, the requested plat alteration is approved, as reflected on the preliminary  
26 survey map dated 12/10/2019 and prepared by San Juan Surveying (*included in the Record  
as Ex. 7*), subject to the following Conditions of Approval:

1. The applicant(s) shall produce a revised drawing of the approved alteration to  
be processed and recorded in the same manner as set forth in the county's code  
for final plats, found in SJCC Chapter 18.70 (*See* SJCC 18.70.050(C)(2)(l)(iii));

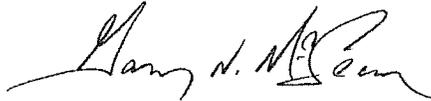
2. All persons with an ownership or security interest in property to be altered

1 must sign the altered plat; and

2 3. The plat alteration approved in this Decision is expressly limited to alter or  
3 supersede the existing plat in the specific ways approved and described herein,  
4 particularly the proposal description provided in Finding No. 2 above, as depicted  
5 on the preliminary survey map dated 12/10/2019, included in the Record as  
6 Exhibit 7.

7 4. Because the proposed survey map for the requested plat alteration fails to  
8 provide sufficient detail to explicitly state in words the terms of the proposed  
9 access easement(s) intended to serve several lots as described in the application  
10 materials, the final drawing submitted for review, signature and recording must  
11 be revised to include words on the face of the altered plat, detailing the terms of  
12 easement(s) depicted on the plat alteration survey map, the specific uses and  
13 purposes of such easement(s), any express limitations, and the lot(s) benefited or  
14 burdened by same. Consistent with county code language regarding review and  
15 approval for final plat documents, including SJCC 18.70.070, the Director is  
16 delegated specific authority to review and approve final easement language  
17 needed to satisfy this condition.

18 ISSUED this 21<sup>st</sup> Day of January, 2020

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20 \_\_\_\_\_  
21 Gary N. McLean  
22 Hearing Examiner

23 **Appeals, Valuation Notices**

24 Decisions of the Hearing Examiner are final and not subject to administrative appeal to the San Juan County  
25 Council, unless the County council has adopted, by ordinance, written procedures for the discretionary review  
26 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.