

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: )

**HARBORTYME LLC AND CHANDLER )  
FAMILY TRUST, )**

Applicants, )

**File No. LANDUSE-20-00086**

**DECISION APPROVING  
APPLICATION FOR PLAT  
ALTERATION**

*(Affected Parcels/Project Site:  
Tax Parcel Nos. 461455001000 and  
461455002000, also known as Lots 1 and 2 in  
the Tarte Compound Subdivision, located  
along the northeast shore of Roche Harbor,  
on the northwest corner of San Juan Island).* )

SJC DEPARTMENT OF  
SEP 03 2010  
COMMUNITY DEVELOPMENT

**I. SUMMARY OF DECISION.**

The applicants satisfied their burden of proof to obtain approval of the requested plat alteration application, which would: merge a portion of Lot 1 of the Tarte Compound Subdivision into Lot 2 in the same subdivision. The other portion of Lot 1 is to be merged into Lot 3 of the Company House short plat, which is not part of this Decision, and is subject to review in a separate application for alteration of a short subdivision. The two affected owners are the applicants in this matter, and obviously support the requested plat alteration. 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.

**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  
HARBORTYME/CHANDLER TRUST PLAT  
ALTERATION – LANDUSE-20-0086**

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2  
3 **Criteria for Plat Alteration Approval.**

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

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

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

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

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

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

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

19 **III. RECORD.**

20 Copies of all materials in the record and a digital audio recording of the open-record  
21 hearing conducted for this application are maintained by the County and may be requested or  
22 reviewed by contacting the Community Development Department during regular business  
23 hours. Given the Covid-19 health proclamations issued by the Governor and local authorities,  
24 the hearing occurred on July 22, 2020, using teleconference equipment operated by county  
25 staff. Staff confirmed that no one other than hearing participants mentioned herein contacted  
26 staff to express an interest in providing testimony or participating in the public hearing. Julie  
Thompson, the designated County Planner assigned to review the pending application,  
appeared and provided testimony under oath during the hearing, briefly summarizing the  
application and her recommendation of approval; noting that this application is part of the  
property owners' plan to eliminate Lot 1, with a portion merging with Lot 2, and the  
remainder merging with Lot 3 via a separate short plat alteration application. No one else  
asked to speak during the hearing for this matter. Neither of the applicants or their agent  
appeared during the hearing, and they did not submit any written materials questioning or

1 challenging any of the analysis included in the Staff Report. No one opposed the application,  
2 at the hearing or in writing.

3 The Staff Report, prepared by Ms. Thompson, with 4 pages, dated July 7, 2020, and  
4 the 4 Exhibits attached to and described on page 4, are included as part of the Record for this  
5 matter. The Exhibits are as follows:

- 6 1. Application materials;
- 7 2. Legal ad, publication of notice regarding application;
- 8 3. Public Notices, materials confirming mailing & posting of legal notice; and
- 9 4. Receipt confirming payment of application fees.

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

#### 13 IV. FINDINGS OF FACT.

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

#### 17 *Background; Description of the Proposal*

18 2. The Tarte Compound Subdivision is a nine (9) lot long-subdivision, originally created  
19 and recorded in 1991. (*Staff Report, page 1*). The subdivision is located on the northeast  
20 shore of the entrance into Roche Harbor, on the northwest corner of San Juan Island.

21 3. Harbortyme LLC is the current owner of Lot 2 in the Tarte Compound Subdivision,  
22 the site of the original Tarte family compound itself, addressed as 105 Claramar Drive, and  
23 assigned San Juan County Tax Parcel No. 461455002000. (*Ex. 1, application materials; San  
24 Juan County Assessor online records for the property*).

25 4. Lot 1 in the Tarte Compound Subdivision lies to the north of Lot 2. Lot 1 is mostly  
26 undeveloped, with no house on the site, and largely covered by trees. (*Staff Report; Site visits  
by the Examiner for other matters*). The Chandler Family Trust is the current owner of Lot  
1. (*San Juan County Assessor online records for the property; Ex. 1, application materials,  
proposed plat alteration map*).

5. The application addressed in this decision is a long-plat, aka "subdivision" alteration  
request, which requires a public hearing before and a decision by the County's Hearing  
Examiner. See *SJCC 18.70.080(A)(3)*. In accord with Washington law and County codes,

1 the terms “subdivision”, “long-subdivision”, “plat”, and “long-plat” mean the same thing;  
2 similarly, the terms “short-subdivision” and “short-plat” mean the same thing.

3 6. The pending application would merge a portion of Lot 1 of the Tarte Compound  
4 Subdivision into Lot 2 in the same subdivision. The other portion of Lot 1 is to be merged  
5 into Lot 3 of the neighboring Company House short plat, which is not part of this Decision,  
6 and is subject to review in a separate application for alteration of a short subdivision. (*Staff  
7 Report; Ex. 1, application materials*). The applicants are Harbortyme LLC and the Chandler  
8 Family Trust, the owners of the two lots affected by this plat alteration request.

9 7. The requested plat alteration will not increase the number of buildable lots within the  
10 plat – instead, once this long plat alteration and the concurrent short plat alteration are  
11 approved, the lot count in the Tarte Compound Subdivision will be reduced by one. The  
12 requested plat alteration will not result in changes that are contrary to applicable county codes  
13 and policies, or the public interest.

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

15 8. The applicants initiated their plat alteration process by submitting application  
16 materials on or about April 28, 2020, with the materials deemed complete for purposes of  
17 review and vesting on or about May 19, 2020. (*Staff Report, pages 1 and 2; Ex. 1, Application  
18 materials*).

19 9. Ms. Thompson confirmed that all applicable notice, posting, and publication  
20 requirements have been satisfied for this application. (*See Exhibits 2 and 3; Staff Report,  
21 page 2; Testimony of Ms. Thompson*).

22 10. No outside agencies or members of the general public submitted any questions or  
23 comments regarding the pending application, and no one opposed the matter, via written  
24 comments or during the public hearing.

25 11. The applicants and their agent failed to appear and participate in the public hearing,  
26 delaying this decision because the Examiner had to search through available county assessor  
records to answer questions not addressed in the application materials, which could have  
easily been answered by the applicant’s agent.

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

12. Despite the applicants’ failure to appear, evidence in the record, confirmed using  
publicly-available assessor records, credibly established that the pending long plat alteration  
application meets all applicable approval criteria and should be approved. No one opposed  
the application. The Staff Report includes a discussion and analysis of how the application

1 meets various code requirements. The Staff Report findings and statements of fact are all  
2 incorporated by reference herein as findings of fact supporting this decision.

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

13 14. Based on the application materials, all of the owners of the affected lots fully support  
14 the pending plat alteration request. (*Ex. 1, application materials*). County Staff confirmed  
15 that there are no restrictive covenants that would be violated by this proposed long-plat  
16 alteration. (*Staff Report, page 2*). Accordingly, the pending application satisfies all  
17 requirements found in SJCC 18.70.080(A)(1).

18 15. As noted above, Staff confirmed that proper notices were published, mailed, and  
19 posted in accord with applicable County codes, and the public hearing for this matter occurred  
20 on July 22<sup>nd</sup>, satisfying requirements found in SJCC 18.70.080(A)(2).

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

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

24 *a. The application meets the requirements of this chapter, and complies with the applicable*  
25 *policies and requirements of RCW 58.17.330, the Shoreline Master Program, the State*  
26 *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.*

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

1 review the proposal under such requirements; the proposal is within the county's designated  
2 shoreline area, but since the plat alteration proposal will eliminate a vacant residential lot  
3 between two other residential lots, the proposal will reduce the potential for additional  
4 residential development in this particular subdivision; plat alterations are not subject to the  
5 State Environmental Policy Act; and that because land division regulations were created to  
6 further the purposes and objectives of the County's Comprehensive Plan, and this application  
7 is consistent with the County's plat alteration requirements, it is in compliance with the  
8 Comprehensive Plan. (See Staff Report discussion, on page 3). The Examiner concurs, and  
9 finds that the application satisfies approval criteria(4)(a).

10 18. No members of the public, neighbors, or other outside reviewing authorities submitted  
11 any comments questioning or opposing the proposed plat alteration. Following approval of  
12 this long-plat alteration and the applicants' separate short plat alteration application, the end  
13 result will reduce the number of buildable lots in the Tarte Compound Subdivision by one.  
14 The additional land merged into the adjoining lots from Lot 1 will serve as a buffer between  
15 the existing homes on Lots 2 and 3. Accordingly, the requested plat alteration will not result  
16 in changes that are contrary to applicable county codes and policies, or the public interest.  
17 Based on these facts and others included in the record, including without limitation 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).

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

24 20. The Staff Report explains that there is no financial gain or loss to any persons residing  
25 in the subdivision, and that at the time of the application, all owners of all lots agreed to  
26 pursue this requested plat alteration. All covenants, conditions and restrictions that apply to  
the Tarte Compound Subdivision and the Company House short subdivision will still apply  
to the remaining lots. (Staff Report, page 4). Accordingly, approval criteria in (4)(d) either  
does not apply and has no relevance to this application, or if it does, based on facts set forth  
above, it is hereby deemed satisfied.

21 21. SJCC 18.70.080(A)(6) provides that: after approval of this requested plat alteration,  
22 the applicant shall produce a revised drawing of the approved alteration (See SJCC  
23 18.70.050(C)(2)(1)(iii)), to be processed and recorded in the same manner as set forth in the  
24 county's code for final plats; all persons with an ownership or security interest in property to  
25 be altered must sign the altered plat (emphasis added); and altered plats shall only alter or  
26 supersede the original plat in the specific ways approved by the Examiner in this Decision.  
Conditions of approval have been included to assure compliance with these code  
requirements for all plat alterations.

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**V. CONCLUSIONS OF LAW.**

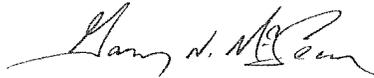
- 1. Based on testimony and evidence in the Record, particularly the unchallenged Staff Report, and all findings set forth above, the Examiner concludes that the pending plat alteration application is adequately supported by a preponderance of credible evidence.
- 2. The applicant's requested change to the Tarte Compound Subdivision, originally created in 1991, meets 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.

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

Based on evidence included in the record for this matter and all findings and conclusions as set forth above, the requested plat alteration meets all applicable review criteria. Therefore, the requested plat alteration is approved, as reflected on the "Plat Alteration of 1/2 Lot 1 and Modified Lot 2, Tarte Compound [Subdivison]" draft instrument dated 4/6/2020 and prepared by San Juan Surveying (included in the Record as part of Ex. 1), subject to the following Conditions of Approval:

- 1. Consistent with SJCC 18.70.080(A)(6), 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 must sign the altered plat (See SJCC 18.70.080(A)(6)); and
- 3. The plat alteration approved in this Decision is expressly limited to alter or supersede the existing Tarte Compound Subdivision in the specific ways approved and described herein.

ISSUED this 3<sup>rd</sup> Day of September, 2020



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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.