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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: )  
 )  
 **WAYNE AND DEBORAH OVE,** )  
 Applicants, )  
 )  
 (*Affected Parcels/Project Site:* )  
 *Tax Parcel Nos. 141769017000 and* )  
 *141769018000, also known as Lots 17 and 18* )  
 *of the Plat of Pavay's Salt-Water-Front* )  
 *Tracts and Marine View Acres, Snug Harbor* )  
 *Subdivision on Lopez Island).* )  
 \_\_\_\_\_ )

S.J.C. DEPARTMENT OF  
JUN 08 2021  
COMMUNITY DEVELOPMENT

**File No. LANDUSE-21-0020**

**DECISION APPROVING  
APPLICATION FOR PLAT  
ALTERATION**

**I. SUMMARY OF DECISION.**

The applicants satisfied their burden of proof to obtain approval of the requested plat alteration application, which would: remove the boundary line between and merge their two abutting parcels into a single parcel for future construction of a new residence. The applicants own the two affected parcels 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.”

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 open-record  
19 hearing conducted for this application are maintained by the County and may be requested or  
20 reviewed by contacting the Community Development Department during regular business  
21 hours. Given the Covid-19 health proclamations issued by the Governor and local authorities,  
22 the hearing occurred on April 28, 2020, using teleconference equipment operated by county  
23 staff. Staff confirmed that no one other than hearing participants mentioned herein contacted  
24 staff to express an interest in providing testimony or participating in the public hearing. Julie  
25 Thompson, the designated County Planner assigned to review the pending application,  
26 appeared and provided testimony under oath during the hearing, briefly summarizing the  
application and her recommendation of approval. The applicant’s agent, Anna Meyer, with  
Star Surveying, explained that the applicants own 3 lots in the same plat, lots 17, 18, and 19,  
and that the lots are served by a well approved to serve two homes, so this application to  
consolidate two lots into one will eliminate the need for a new water source if all three lots  
were to be developed. No one else asked to speak during the hearing for this matter. The  
applicants’ agent did not question or challenge any of the analysis 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 April 28, 2021,  
2 and the 4 Exhibits attached to and described on page 4, are included as part of the Record for  
3 this matter. The Exhibits are as follows:

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

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

#### 11 IV. FINDINGS OF FACT.

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

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

16 2. The applicants, Wayne and Deborah Ove, own three adjacent lots, identified as Lots  
17 17, 18, and 19 in the Replat of the Supplemental Plat of Pavey's Salt-Water-Front Tracts and  
18 Marine View Acres Subdivision on Lopez Island. (*Staff Report; Testimony of Ms. Meyer*).

19 3. In this matter, the applicants seek approval needed to eliminate the boundary line  
20 between Lots 17 and 18, to merge and create a single parcel for future development of a  
21 single home. The affected lots are assigned San Juan County Tax Parcel Nos. 141769017000  
22 and 141769018000. (*Ex. 1, application materials, including Star Surveying preliminary site  
23 plan for proposed plat alteration date 01-05-2021, showing orientation of applicants' lots  
24 and location of the boundary to be removed between lots 17 and 18; San Juan County  
25 Assessor online records for the property*).

26 4. 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,  
the terms "subdivision", "long-subdivision", "plat", and "long-plat" mean the same thing;  
similarly, the terms "short-subdivision" and "short-plat" mean the same thing.

5. The requested plat alteration will not increase the number of buildable lots within the  
plat – instead, once this long plat alteration approved, the lot count in the affected subdivision  
will be reduced by one. The requested plat alteration will not result in changes that are

1 contrary to applicable county codes and policies, or the public interest. In fact, the result may  
2 be to reduce demand on local potable water supplies, as this plat alteration will reduce the  
3 number of buildable lots in the subdivision by one. The current well serving the applicants'  
4 three lots is only approved to serve two homes, so with this plat alteration, the two remaining  
5 lots will have an adequate source of water without need to find an additional water source.  
(*Testimony of Ms. Meyer*).

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

7 6. The applicants initiated their plat alteration process by submitting application  
8 materials on or about February 5, 2021, with the materials deemed complete for purposes of  
9 review and vesting on the same date. (*Staff Report, pages 1 and 2; Ex. 1, Application*  
10 *materials*).

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

14 8. No outside agencies or members of the general public submitted any questions or  
15 comments regarding the pending application, and no one opposed the matter, via written  
16 comments or during the public hearing.

17 9. There is no evidence in the record that would serve as a basis to deny the pending  
18 application.

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

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

25 11. SJCC 18.70.080(A)(1) mandates that: *Alterations of subdivisions shall be processed*  
26 *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 were*  
*filed at the time of the approval of the subdivision, and the application for alteration would*  
*result in the violation of a covenant, the application shall contain an agreement 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).*

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

6 13. As noted above, Staff confirmed that proper notices were published, mailed, and  
7 posted in accord with applicable County codes, and the public hearing for this matter occurred  
8 on April 28, 2021, satisfying requirements found in SJCC 18.70.080(A)(2).

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

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

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

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

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

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

22 15. With respect to the plat alteration language found in SJCC 18.70.080(A)(4)(a), the  
23 Staff Report credibly explains that: the applicant has provided the information necessary to  
24 review the proposal under such requirements; the proposal is not within the county's  
25 designated shoreline area, so no special shoreline considerations or requirements apply; that  
26 the plat alteration proposal will eliminate a residential lot, reducing the potential for  
additional residential development in this particular subdivision; 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. Following approval of  
18 this long-plat alteration, the end result will reduce the number of buildable lots in the affected  
19 Subdivision by one. Accordingly, the requested plat alteration will not result in changes that

1 are contrary to applicable county codes and policies, or the public interest. Based on these  
2 facts and others included in the record, including without limitation the Staff Report and  
3 application materials, the Examiner concurs with the staff recommendation of approval, and  
4 finds that the application is in the public interest, satisfying approval criteria (4)(b).

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

8 18. The Staff Report explains that none of the land affected by this proposed plat  
9 alteration is covered by any dedication to the general use of persons in the same subdivision.  
10 Accordingly, approval criteria in (4)(d) either does not apply and has no relevance to this  
11 application, or if it does, based on facts set forth above, it is hereby deemed satisfied.

12 19. SJCC 18.70.080(A)(6) provides that: after approval of this requested plat alteration,  
13 the applicant shall produce a revised drawing of the approved alteration (*See* SJCC  
14 18.70.050(C)(2)(l)(iii)), to be processed and recorded in the same manner as set forth in the  
15 county's code for final plats; all persons with an ownership or security interest in property to  
16 be altered must sign the altered plat (emphasis added); and altered plats shall only alter or  
17 supersede the original plat in the specific ways approved by the Examiner in this Decision.  
18 Conditions of approval have been included to assure compliance with these code  
19 requirements for all plat alterations.

## 20 V. CONCLUSIONS OF LAW.

21 1. Based on testimony and evidence in the Record, particularly the unchallenged Staff  
22 Report, and all findings set forth above, the Examiner concludes that the pending plat  
23 alteration application is adequately supported by a preponderance of credible evidence.

24 2. The applicant's requested change to the affected subdivision, merging Lots 17 and 18  
25 into a single lot, meets the criteria for approval of a plat alteration.

26 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.

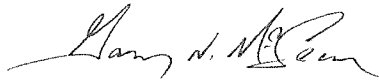
## VI. DECISION and CONDITIONS of APPROVAL.

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 "*Preliminary  
Long Plat Alteration*" draft instrument dated 01-05-2021 and prepared by Star Surveying  
(*included in the Record as part of Ex. 1*), subject to the following Conditions of Approval:

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- 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)(i)(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 Replat of the Supplemental Plat of Pavey’s Salt-Water-Front Tracts and Marine View Acres Subdivision on Lopez Island in the specific ways approved and described herein.

ISSUED this 7<sup>th</sup> Day of June, 2021



\_\_\_\_\_  
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.