

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:)

**NEW RH LLC AND)
BRENT AND KELLY SNOW,)**

Applicants,)

File No. LANDUSE-21-0042

**DECISION APPROVING
APPLICATION FOR PLAT
ALTERATION**

*(Affected Parcels/Project Site:
Tax Parcel Nos. 462353119000 and)
462353101000, also known as Lots F-7 and)
F-7A of the Roche Harbor Resort Village)
Phase 1.3 Subdivision on San Juan Island.))*

S.J.C. DEPARTMENT OF
JUN 08 2021
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 boundary line between two adjacent parcels to increase the size of Lot F-7A (the Snow parcel) by about 1.15 acres with a corresponding decrease in the size of the other parcel. The boundary change would essentially transfer land located between Lagoon Lane and the existing boundary for Lot F-7A to such lot. 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.”

**DECISION APPROVING THE NEW RH LLC AND
SNOW PLAT ALTERATION – LANDUSE-21-0042**

1
2 **Criteria for Plat Alteration Approval.**

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

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

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

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

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

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

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

18 **III. RECORD.**

19 Copies of all materials in the record and a digital audio recording of the open-record
20 hearing conducted for this application are maintained by the County and may be requested or
21 reviewed by contacting the Community Development Department during regular business
22 hours. Given the Covid-19 health proclamations issued by the Governor and local authorities,
23 the hearing occurred on April 28, 2020, using teleconference equipment operated by county
24 staff. Staff confirmed that no one other than hearing participants mentioned herein contacted
25 staff to express an interest in providing testimony or participating in the public hearing.

26 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. The applicants' agent and
architect, Kevin Reeves, explained that the purpose of the requested plat alteration is to
generally take in part of the larger tract of land (Lot F-7) that is within an area now formed
by the access road (Lagoon Lane) and the existing house on the Snow's property (Lot F-7A).
No one else asked to speak during the hearing for this matter. The applicants' agent did not

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

3 The Staff Report, prepared by Ms. Thompson, with 4 pages, dated April 15, 2021,
4 and the 4 Exhibits attached to and described on page 4, are included as part of the Record for
5 this matter. The Exhibits are as follows:

- 6 1. Application materials, including site plan, on Sheet A1.0;
- 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 applicants, New RH LLC and Brent & Kelly Snow, own two adjacent lots,
19 identified as Lots F-7 and F-7A in the Roche Harbor Resort Village Phase 1.3 Subdivision
20 on San Juan Island. (*Staff Report; Ex. 1, Application materials*).

21 3. Lot F-7 is owned by New RH LLC, with about 17.37 acres described as a “future
22 development tract” in the Roche Harbor Master Plan. (*Staff Report, page 1*). Lot F-7A,
23 owned by the Snows, currently has about 2.1 acres and is situated at the end of the access
24 road known as Lagoon Lane. An undeveloped and generally triangular area forming the
25 southernmost portion of Lot F-7 lies between the Snow’s lot and Lagoon Lane as it curves
26 down from the north towards their current boundary line and driveway access point. (*See
Site Plan, Sheet A1.0, included as part of Ex. 1*).

4. In this matter, the applicants seek approval to move the existing boundary lines
between the two lots so the Snow’s parcel would generally take in part of the larger tract of
land (Lot F-7) that is within the triangular area now formed by the access road (Lagoon Lane)
and the existing house on the Snow’s property (Lot F-7A). (Testimony of Mr. Reeves). The
result would be a straight line boundary running east/west, adding about 1.15 acres to the
Snow’s Lot F-7A and decreasing the size of Lot F-7 by the same amount. Lot F-7 will then

1 have about 16.22 acres. *(Staff Report, page 1).*

2 5. This plat alteration does not reduce or increase the total number of lots now in the
3 affected subdivision.

4 6. The application addressed in this decision is a long-plat, aka “subdivision” alteration
5 request, which requires a public hearing before and a decision by the County’s Hearing
6 Examiner. *See SJCC 18.70.080(A)(3).* In accord with Washington law and County codes,
7 the terms “subdivision”, “long-subdivision”, “plat”, and “long-plat” mean the same thing.

8 7. The requested plat alteration will not result in changes that are contrary to applicable
9 county codes and policies, or the public interest. *(Staff Report).*

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

11 8. The applicants initiated their plat alteration process by submitting application
12 materials on or about March 11, 2021, with the materials deemed complete for purposes of
13 review and vesting on the same date. *(Staff Report, page 1; Ex. 1, Application materials).*

14 9. Ms. Thompson confirmed that all applicable notice, posting, and publication
15 requirements have been satisfied for this application, and that the County received no
16 comments or objections to the requested plat alteration. *(See Exhibits 2 and 3; Staff Report,*
17 *page 2; Testimony of Ms. Thompson).*

18 10. 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
20 comments or during the public hearing.

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

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

12. 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 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*

1 parties subject to the covenants providing that the parties agree to terminate or alter the
2 relevant covenants to accomplish the purpose of the alteration of the subdivision or portion
thereof (RCW 58.17.215).

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

6 14. 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 15. SJCC 18.70.080(A)(4) lays out the County's specific criteria for approval of any plat
alteration application, and reads as follows:

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

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

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

15 *c. Any outstanding assessments (if any land within the alteration is part of an assessment*
16 *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

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

18 16. With respect to the plat alteration language found in SJCC 18.70.080(A)(4)(a), the
19 Staff Report credibly explains that: the applicant has provided the information necessary to
20 review the proposal under such requirements; the proposal is not within the county's
designated shoreline area, so no special shoreline considerations or requirements apply; plat
21 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
22 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,*
23 *on page 3*). The Examiner concurs, and finds that the application satisfies approval
criteria(4)(a).

24 17. No members of the public, neighbors, or other outside reviewing authorities submitted
25 any comments questioning or opposing the proposed plat alteration. Following approval of

1 this long-plat alteration, the number of buildable lots in the affected Subdivision will remain
2 the same. Accordingly, the requested plat alteration will not result in changes that are
3 contrary to applicable county codes and policies, or the public interest. Based on these facts
4 and others included in the record, including without limitation the Staff Report and
5 application materials, the Examiner concurs with the staff recommendation of approval, and
6 finds that the application is in the public interest, satisfying approval criteria (4)(b).

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

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

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

22 V. CONCLUSIONS OF LAW.

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

26 2. The applicant's requested change to the affected subdivision, moving the boundary
between Lots F-7 and F-7A as depicted on the site plan included as part of the record 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

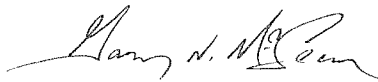
1 criteria. Therefore, the requested plat alteration is approved, as reflected on the proposed Plat
2 Alteration Site Plan, Sheet A1.0, included as part of *Exhibit 1*, dated February 15, 2021 and
3 prepared by Kevin Reeves Architect, PLLC, subject to the following Conditions of Approval:

4 1. Consistent with SJCC 18.70.080(A)(6), the applicant(s) shall produce a
5 revised drawing of the approved alteration to be processed and recorded in the
6 same manner as set forth in the county's code for final plats, found in SJCC
7 Chapter 18.70 (See SJCC 18.70.050(C)(2)(l)(iii));

8 2. All persons with an ownership or security interest in property to be altered
9 must sign the altered plat (See SJCC 18.70.080(A)(6)); and

10 3. The plat alteration approved in this Decision is expressly limited to alter or
11 supersede the existing Roche Harbor Resort Village Phase 1.3 Subdivision on
12 San Juan Island in the specific ways approved and described herein.

13 ISSUED this 7th Day of June, 2021

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15 _____
16 Gary N. McLean
17 Hearing Examiner

18 **Appeals, Valuation Notices**

19 Decisions of the Hearing Examiner are final and not subject to administrative appeal to the San Juan County
20 Council, unless the County council has adopted, by ordinance, written procedures for the discretionary review
21 of such decisions. See Section 4.50 of the San Juan County Home Rule Charter and SJCC 2.22.100.

22 Depending on the subject matter, this decision may be appealable to the San Juan County Superior Court or to
23 the Washington State Shorelines Hearings Board. State law provides short deadlines and strict procedures for
24 appeals and failure to timely comply with filing and service requirements may result in dismissal of any appeal.
25 See RCW 36.70C and RCW 90.58. Persons seeking to file an appeal are encouraged to promptly review appeal
26 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.