

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Brian and Pamela Kincaid
21821 82nd Ave.
Edmonds, WA 98026

File No.: PLPALT-10-0003

Request: Plat Alteration

Parcel No: 162850100 and 101

Location: 279 Blakely Drive
Blakely Island

Summary of Proposal: Consolidation of two adjoining lots.

Land Use Designation: Rural Residential

Hearing Date: March 3, 2011

Application Policies and Regulations: SJCC 18.70.080(A)

Decision: Approved subject to conditions.

S.J.C. COMMUNITY

MAR 22 2011

DEVELOPMENT & PLANNING

1 **BEFORE THE HEARING EXAMINER FOR THE COUNTY**
2 **OF SAN JUAN**

3 Phil Olbrechts, Hearing Examiner

4 RE: Brian and Pamela Kincaid	FINDINGS OF FACT, CONCLUSIONS
5 Plat Alteration	OF LAW AND FINAL DECISION.
6 (PLPALT-10-0003)	

7 **INTRODUCTION**

8 The Applicant has applied for approval of a plat alteration to eliminate a lot line
9 between two adjoining lots. The application is approved.

10 **TESTIMONY**

11 Lee McEnery, senior planner, summarized the staff report.

12 **EXHIBITS**

13 The exhibits are limited to the staff report dated February 16, 2011 and the
14 application materials.

15 **FINDINGS OF FACT**

16 **Procedural:**

- 17 1. Applicant. The Applicants are Briand and Pamela Kincaid.
18 2. Hearing. The Hearing Examiner conducted a hearing on the subject
19 application on March 3, 2011.

20 **Substantive:**

- 21 3. Site and Proposal Description. The Applicants propose to consolidate lots
22 100 and 101 of San Juan Aviation Estates by eliminating the lot line between them.
23 Both lots are owned by the Applicants.
24 4. Characteristics of the Area. San Juan Aviation Estates is a subdivision of
25 half-acre lots located adjacent to an airstrip on Blakely Island.
26 6. Adverse Impacts of Proposed Use. None. The proposal will reduce
density outside an urban growth area, which is encouraged by the policies of the
Growth Management Act, Chapter 36.70A RCW. The project will have a net positive

1 impact by reducing urban sprawl and reducing demand on urban services in rural
2 areas.

3 CONCLUSIONS OF LAW

4 **Procedural:**

5 1. Authority of Hearing Examiner. The Hearing Examiner, after conducting an
6 open-record public hearing, renders a final decision on the permit.
7 SJCC18.70.080(A)(3).

8 **Substantive:**

9 2. Comprehensive Plan and Zoning Designations. The subject property is
10 designated as Rural Residential.

11 3. Permit Review Criteria. The San Juan County Code ("SJCC") governs the
12 policies and criteria for subdivision alteration. SJCC 18.70.080(A)(4) establishes the
13 criteria for approval. Applicable criteria are quoted below and applied to the
14 application with corresponding conclusions of law.

15 **SJCC 18.70.080(A)(1):** *Alterations of subdivisions shall be processed in accordance
16 with RCW 58.17.060 and 58.17.215 through 58.17.218. Alteration applications shall
17 contain the signatures of the majority of those persons having an ownership interest
18 in lots, tracts, parcels, sites or divisions in the subject subdivision or portion to be
19 altered.*

20 *If the subdivision is subject to restrictive covenants which were filed at the time of the
21 approval of the subdivision, and the application for alteration would result in the
22 violation of a covenant, the application shall contain an agreement signed by all
23 parties subject to the covenants providing that the parties agree to terminate or alter
24 the relevant covenants to accomplish the purpose of the alteration of the subdivision
25 or portion thereof (RCW 58.17.215).*

4. The Applicants own both lots and have signed the application. The staff report
states that no covenants would be violated by the proposal and there is nothing in the
record to suggest otherwise.

SJCC 18.70.080(A)(2): *Notice and Public Hearing. Notice of alterations shall be
consistent with the notice provisions (SJCC 18.80.030) of this code. Mailing
notifications shall also include owners of each lot or parcel of property within the
subdivision to be altered. A public hearing (SJCC 18.80.040) shall be required for
long subdivision alteration proposals.*

5. The staff report states that these notice requirements were followed.

1 **SJCC 18.70.080(A)(4)(a):** *The application meets the requirements of this chapter,*
2 *and complies with the applicable policies and requirements of RCW 58.17.330, the*
3 *Shoreline Master Program, the State Environmental Policy Act, and the*
4 *Comprehensive Plan*

5 6. According to the staff report, a Determination of Non-Significance was issued for
6 the project as required by the State Environmental Policy Act and there was no
7 appeal. The County Council has authorized the hearing examiner to make a final
8 decision on the application as authorized by RCW 58.17.330. The Comprehensive
9 Plan does not directly address lot line eliminations. The applicable provisions of
10 Chapter 18.70 SJCC are addressed in this decision and many are imposed through the
11 conditions of approval. The criterion quoted above is satisfied.

12 **SJCC 18.70.080(A)(4)(b):** *The application satisfactorily addresses the comments of*
13 *the reviewing authorities and is in the public interest (RCW 58.17.100, 58.17.110,*
14 *and 58.17.215)*

15 7. No comments were received from reviewing authorities outside of San Juan
16 County on the application. San Juan staff have concluded that the application meets
17 all applicable regulations as conditioned. In addition, the alteration is in the public
18 interest because it reduces density outside of urban areas as encouraged by the
19 Growth Management Act.

20 **SJCC 18.70.080(A)(4)(c):** *Any outstanding assessments (if any land within the*
21 *alteration is part of an assessment district) are equitably divided and levied against*
22 *the remaining lots, parcels, or tracts, or are levied equitably on the lots resulting*
23 *from the alteration; and*

24 8. There is no evidence of any assessments that will be impacted by this alteration.

25 **SJCC 18.70.080(A)(4)(d):** *Any land within the alteration that contains a dedication*
to the general use of persons residing within the subdivision is divided equitably

9. The staff report states it was unknown whether the subject lots contained any
dedications for general use. There is nothing in the record to suggest that such a
dedication exists or that if it did exist, there is nothing to suggest that the alteration
would affect the dedication. The criterion is satisfied.

DECISION

The application is approved subject to the following conditions:

1. This subdivision alteration approval allows for the consolidation of Lots
100 and 101 into one lot, according to the map in the application materials. This
approval shall expire if the subdivision alteration is not recorded within 60 months of
the approval date. The final alteration application shall be submitted to the

1 Community Development and Planning Department at least 60 days in advance of the
2 expiration date.

3 2. All survey standards and requirements shall be complied with pursuant to
4 SJCC 18.70.070F2.

5 3. All survey standards and requirements shall be complied with pursuant to
6 SJCC 18.70.070F2.

7 **The following conditions shall be shown as restrictions on the face of the plat,
8 in addition to those restrictions and dedications required by SJCC 18.70.100:**

9 4. This subdivision alteration has been approved by the responsible county
10 officials on the premise that each lot will be occupied by no more than one single
11 family dwelling and lawfully related outbuildings. No lot shall be otherwise occupied
12 unless the owner can first demonstrate to the county's satisfaction that the provisions
13 for water supply, sewage disposal, circulation, lot size and related planning
14 considerations are adequate to serve the proposed use. Compliance with this
15 provision shall be effected by written application to the Subdivision Administrator
16 who shall be responsible for coordinating the review of such requests and for making
17 the required determination.

18 5. There may be additional private conditions, covenants or restriction in
19 addition to those shown on the face of this plat. Such private conditions may not be
20 shown on plats. Any private deed restrictions are supplemental to the requirements of
21 this Code. The County shall not be party to any private restrictions.

22 6. If during excavation or development of the site an area of potential
23 archaeological significance is uncovered, all activity in the immediate vicinity of the
24 find must be halted immediately, and the Administrator must be notified at once.

25 Dated this 17th day of March 2011.



Phil Olbrechts
San Juan County Hearing Examiner

23 **Effective Date, Appeal Right, and Valuation Notices**

24 Hearing examiner decisions become effective when mailed or such later date in
25 accordance with the laws and ordinance requirements governing the matter under
consideration. SJCC 2.22.170. Before becoming effective, shoreline permits may be

1 subject to review and approval by the Washington Department of Ecology pursuant to
2 RCW 90.58.140, WAC 173-27-130 and SJCC 18.80.110.

3 This land use decision is final and in accordance with Section 3.70 of the San Juan
4 County Charter, such decisions are not subject to administrative appeal to the San
5 Juan County Council. See also, SJCC 2.22.100

6 Depending on the subject matter, this decision may be appealable to the San Juan
7 County Superior Court or to the Washington State shorelines hearings board. State
8 law provides short deadlines and strict procedures for appeals and failure to timely
9 comply with filing and service requirement may result in dismissal of the appeal. See
10 RCW 36.70C and RCW 90.58. Persons seeking to file an appeal are encouraged to
11 promptly review appeal deadlines and procedural requirements and consult with a
12 private attorney.

13 Affected property owners may request a change in valuation for property tax purposes
14 notwithstanding any program of revaluation.
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