

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicants: Donald Baker
13706 94th Ave NE
Kirkland, WA 98034

File No.: PLPALT-10-0002

Request: Plat Alteration

Parcel No: 461454043 and44

Location: Pearl Island

Summary of Proposal: Lot line elimination

Land Use Designation: Rural Residential

Hearing Date: December 2, 2010

Application Policies and Regulations: SJCC 18.70.080(A)(4)

Decision: Approved subject to conditions.

S.J.C. COMMUNITY

DEC 20 2010

DEVELOPMENT & PLANNING

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

3 Phil Olbrechts, Hearing Examiner

4 RE: Donald Baker	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION.
5 Plat Alteration 6 (PLPALT-10-0002)	

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, testified that the lot line elimination is for building a
12 larger home. She noted that a joint use dock was approved for the two lots, but that
13 even if the lots are merged, there are still four other lots participating in the joint use.

14 No one else commented on the subdivision.

15 **EXHIBITS**

16 The exhibits are limited to the staff report dated November 29, 2010 and the
17 application materials.

18 **FINDINGS OF FACT**

19 **Procedural:**

- 20 1. Applicant. The applicant is Donald Baker.
- 21 2. Hearing. The Hearing Examiner conducted a hearing on the subject
22 application on December 2, 2010.

23 **Substantive:**

- 24 3. Procedural Background. Baker obtained an approval in 2009 for siting a
25 future home on the northern lot, Lot 43. The map submitted at the time showed a
 home on the southern lot and a proposed home that overlapped the boundary of the
 two lots, which is the reason for the plat alteration request.

1 4. Site and Proposal Description. The applicant has requested a plat
2 alteration to remove the lot line between Lots 43 and 44 of the Plat of Pearl Island,
3 located on Pearl Island. Both lots are owned by the Applicant. A home is currently
4 located upon Lot 44.

5 5. Characteristics of the Area. Pearl Island is a subdivision of one-acre lots
6 adjacent to Roche Harbor resort. Access to the island is by boat.

7 6. Adverse Impacts of Proposed Use. None.

8 CONCLUSIONS OF LAW

9 Procedural:

10 1. Authority of Hearing Examiner. Permits for the alteration of subdivision
11 applications are reviewed and processed by Development Services Department staff,
12 and the Hearing Examiner, after conducting an open-record public hearing, renders a
13 decision on the permit. SJCC18.70.080(A)(3).

14 Substantive:

15 2. Comprehensive Plan and Zoning Designations. The subject property is
16 designated as Rural Residential.

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

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

*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).*

4. The Applicant owns both lots and has 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.

1 **SJCC 18.70.080(A)(2):** *Notice and Public Hearing.* Notice of alterations shall be
2 consistent with the notice provisions (SJCC 18.80.030) of this code. Mailing
3 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.

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

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

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

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

19 **SJCC 18.70.080(A)(4)(c):** *Any outstanding assessments (if any land within the*
20 *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

21 8. There are no assessments that will be impacted by this alteration.

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

24 9. The staff report states it was unknown whether the subject lots contained any
25 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 conditions recommended in the November 29, 2010 staff report.

Dated this 16th day of December 2010.



Phil Olbrechts
County of San Juan Hearing Examiner

Change in Valuation

Notice is given pursuant to RCW 36.70B.130 that property owners who are affected by this decision may request a change in valuation for property tax purposes notwithstanding any program of revaluation.