

**Memorandum in Opposition to
Application for Alteration of Subdivision/SEPA Addendum
Permit Number: PLN13551I FSUBA
SPRA
Project Name: Grow Community Phase 3**

This opposition is filed before the City of Bainbridge Island, Department of Planning & Community Development (the "City"), with respect to the above referenced application for Alteration of Subdivision/SEPA Addendum, Permit Number PLN13551I FSUBA, SPRA relating to the Grow Community Phase 3 (the "Application").

I respectfully request that the Application be suspended pending consent of 67% of the members of the Grow II Neighborhood Association (the "Association") for the reasons stated below.

1. My name is Henry J. Mohrman, Jr. I reside at and own with my wife in community Unit L-304 of the Sage Condominium, 363 Ambrose Lane NW, Bainbridge Island, Washington 98110. The Sage Condominium is part of the Grow Community II. Accordingly, I have standing to bring this opposition to the City.
2. I have the right to vote on matters presented to the members of the Association under Section 4.5 of the Amended and Restated Declaration of Covenants, Conditions, Restrictions, Reservations and Easements for Grow Community II, filed June 18, 2015 in Kitsap County (the "CC&R's").
3. The Application is predicated on Amendment No. 7 to the CC&R's ("Amendment No. 7"), dated April 29, 2021, purporting to "change the unbuilt portion of Phase 2 of Grow Community II", which amendment required the approval of 67% of the votes in the Association under Section 15.3 and Section 15.5 of the CC&R's.
4. As an owner and voter in the Association, I am materially and adversely affected by the alteration of the subdivision, by the following elements, and others not yet identified. First, the alteration rescinds the dedication of a 10-foot right of way to Shepard Way NW, which expanded Shepard Way to its current width, necessary for traffic flow in and out of the Grow II community and access to the development by emergency vehicles. Second, the alteration rescinds the 10-foot public pedestrian easement adjacent to the right of way, necessary for safe pedestrian passage through the Grow II property along Shepard Way. I use Shepard Way for ingress and egress from my property in the Sage Condominium, and I use the path along Shepard Way to walk in the neighborhood.

5. Amendment No. 7 recites in its preamble that it is “approved by Owners holding 67% of the votes in the Grow Communities II Neighborhood Association . . . “

6. No vote of the owners of the Association was ever held.

7. No consent of the owners of the Association was ever requested.

8. No consent of 67% of the votes in the Association was ever tallied.

9. I was never asked to participate in an election to vote on the Amendment, nor asked to consent to the Amendment. I have not consented to the Amendment.

10. The opinions of counsel for the project submitted to the City on July 8, 2021 and October 27, 2021 do not recite the fact that no consent was obtained, nor claim that the recitation in Amendment No. 7 was unnecessary.

11. Neither counsel for the project nor counsel for the City has suggested that Amendment No. 7 be corrected in the records of Kitsap County to reflect the fact that no consent was obtained.

12. This defect in the Amendment taints each and every submission to the City from Bainbridge Community Development LLC and Bainbridge 14 LLC. In particular, Bainbridge 14 LLC has no standing to make submissions to the City, because its purported interest in the subdivision depends upon the defective Amendment.

13. This Application should be suspended until the necessary consent of 67% of the votes in the Association has been obtained.

Respectfully submitted,

Henry J. Mohrman, Jr.

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Unit L-304
Bainbridge Island, WA 98110