

July 7, 2014

**OFFICE OF THE HEARING EXAMINER  
CITY OF BAINBRIDGE ISLAND, WASHINGTON**

**REPORT AND RECOMMENDATION TO THE CITY COUNCIL**

**Project:** Grow Community Phase I  
*Subdivision Amendment and Boundary Line Adjustment Applications*

**File numbers:** SUBA13551 and BLA13551C

**Applicant:** Bainbridge Community Development LLC  
710 John Nelson Lane  
Bainbridge Island, WA 98110  
  
*represented by Ryan Vancil, Attorney*  
266 Ericksen Avenue NE  
Bainbridge Island, WA 98110

**Location of Subject Property:** At the southeast corner of Grow Avenue and Wyatt Way.

**Zoning and Comprehensive Plan Designations:** R-14, 3100 square feet per unit

**Environmental Review:** A SEPA Mitigated Determination of Non-significance was issued May 27, 2014. No appeals were filed.

**Request:** The eight acre project received approval as a phased, Tier II Built Green 5 Housing Design Demonstration Project (HDDP) through an underlying site plan & design review (SPR) land use permit on March 9, 2012 for the development of 131 residential units, a potential school and community center. The original approval divided the

site into three phases. The first phase consisted of three acres at the corner of Grow Avenue and Wyatt Way and is currently under construction. Following the SPR approval, a first phase HDDP subdivision (SUB13351)(Grow Community I) was approved on August 24, 2012.

The subdivision amendment (SUBA13551) proposes slight adjustments to the open space and parking tracts of the Grow Community I subdivision to align with a concurrently approved Grow Community II subdivision and is subject to City council approval based on a Hearing Examiner recommendation. The boundary line adjustment (BLA13551C) supports the subdivision amendment.

## FINDINGS OF FACT

### 1. Site Characteristics:

#### Tax Assessor Information:

- A. Tax Lot Numbers: 5595-000-025-0001(Open Space) & 5595-000-026-0000 (Parking Tract)
- B. Owners of Record: Bainbridge Community Development LLC
- C. Lot Size: .71 (OS, pre amendment) to .68 acres and .45 (PT, pre amendment) to .38 acres
- D. Land Use: Residential.

### 2. BIMC 2.16.160.M describes the process for amending a final plat:

#### *Amendment to Approved Long Subdivision.*

*1. Proposals for alteration of a subdivision shall follow the provisions of RCW 58.17.215. Alterations of a subdivision are also subject to the provisions of RCW 64.04.175, except as described in subsection S.2 of this section.*

*2. The contents and procedures for minor alterations of open space and/or open space usage in an approved final long subdivision shall be administratively reviewed consistent with the procedures and requirements of BIMC 2.16.030.*

### 3. RCW 58.17.215 authorizes the alteration of a final plat, as follows:

*When any person is interested in the alteration of any subdivision or the altering of any portion thereof, except as provided in RCW 58.17.040(6), that person shall submit an application to request the alteration to the legislative authority of the city, town, or county where the subdivision is located. The application shall contain the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be 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.

Upon receipt of an application for alteration, the legislative body shall provide notice of the application to all owners of property within the subdivision, and as provided for in RCW 58.17.080 and 58.17.090. The notice shall either establish a date for a public hearing or provide that a hearing may be requested by a person receiving notice within fourteen days of receipt of the notice.

The legislative body shall determine the public use and interest in the proposed alteration and may deny or approve the application for alteration. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

After approval of the alteration, the legislative body shall order the applicant to produce a revised drawing of the approved alteration of the final plat or short plat, which after signature of the legislative authority, shall be filed with the county auditor to become the lawful plat of the property.

This section shall not be construed as applying to the alteration or replatting of any plat of state-granted tide or shore lands.

4. BIMC 2.16.090.D provides the criteria for approval of a boundary line adjustment:

*Decision Criteria.*

1. An application for a boundary line adjustment may be approved or approved with conditions if no additional lot is created and no lot is created that contains insufficient area and dimensions to meet the minimum requirements for area, width and depth for a building site in the zone in which the property is located. If these criteria are not satisfied, then the criteria in subsection D.2 of this section must be met or the boundary line adjustment may not be approved.

2. If the criteria in subsection D.1 of this section are not met, the application for boundary line adjustments may be approved or approved with conditions if:

a. After the adjustment, each lot involved retains its status prior to the adjustment as a developed or undeveloped lot and as a conforming or nonconforming lot; or

b. After the adjustment, a nonconforming lot that is permitted to be developed under BIMC 18.30.050 may become a conforming lot.

*3. The director shall not approve an application for a boundary line adjustment if the director determines that the adjustment is being used, either individually or in combination with other adjustments, to achieve a result that would otherwise require a short or long subdivision approval.*

*4. A boundary line adjustment may be approved even if it results in a lot that contains a pre-existing accessory structure without a related primary structure.*

5. As documented by the Planning staff report, the proposed boundary line adjustment between the approved subdivision and the neighboring lots to the east will neither create an additional lot nor create a lot that contains insufficient area and dimensions to meet the minimum requirements for the zone. The adjustment allows for a realignment of the parking tract as approved by the City Council on October 23, 2013. The boundary line adjustment results in a reduction of approximately 4,500 square feet to the approved subdivision to accommodate the proposed changes, which translates to a reduction of ten automobile parking spaces in Phase I.

6. The subdivision amendment will result in a minor decrease in area for the Parking Tract. No relevant ownership changes have occurred since the time of initial subdivision application and approval.

7. Public notice requirements have been met. The City and applicant stipulated that the record created at the June 19, 2014, public hearing for Grow Community Phase II applications (file nos. SUB13551B, CUP13551, SPRA13551C) was to be adopted as the record for the plat alteration and boundary line adjustment applications heard concurrently therewith. No one opposed the instant applications, which are purely procedural in effect.

## **CONCLUSIONS**

1. The public use and interest will be served by approval of the proposed plat alteration. The requirements of RCW 58.17.215 have been met.
2. The requirements of BIMC 2.16.090.D for approval of a boundary line adjustment have been satisfied.

## **RECOMMENDED DECISION**

The subdivision amendment and boundary line adjustment applications for the Grow Community Phase I (file nos. SUBA13551 and BLA13551C) for development located at the southeast corner of Grow Avenue and Wyatt Way are GRANTED, subject to the following conditions of approval:

1. No development shall be authorized by this approval that conflicts or is inconsistent with the conditions imposed by the decision for Grow Community Phase II (file nos. SUB13551B, CUP13551, SPRA13551C) issued July 7, 2014. Specific conditions applicable to this approval are specified below.
2. The boundary line adjustment and long subdivision amendments shall be recorded with the final plat approval for Grow Community II (Condition # 37).

3. Sheet 3 of 3 of the Boundary Line Adjustment shall revise the table for Lot Areas from Parking Tract to Open Space Tract (Condition # 38).

RECOMMENDED July 7, 2014



Stafford L. Smith, Hearing Examiner  
City of Bainbridge Island

The exhibit list prepared by the Clerk of the Hearing Examiner's Office is attached.

**EXHIBIT LIST**

**Grow Community**

**SPRA13551C – CUP13551 – SUB13551B  
SUBA13551B – BLA13551C**

Staff Contact:  
Heather Beckmann  
Associate Planner

Public Hearing: June 19, 2014  
Location: City Hall

Hearing Examiner: Stafford L. Smith

<b>NO.</b>	<b>DOCUMENT DESCRIPTION</b>	<b>DATE</b>
1	Application – SPRA13551C	10/23/2013 (Received)
2	Application – CUP13551	10/23/2013 (Received)
3	Application – SUB13551B	10/23/2013 (Received)
4	Application – SUBA13551B	10/23/2013 (Received)
5	Application – BLA13551C	10/23/2013 (Received)
6	Grow Community Phase 2 Utility Report	10/23/2013 (Received)
7	Preliminary Geotechnical Report (Dated January 29, 2010)	10/23/2013 (Received)
8	Notice of Revised Applications & New Applications/SEPA Comment Period	12/13/2013 (Dated)
9	Legal Notice	12/13/2013 (Published)
10	Certificate of Posting	12/17/2013 (Dated)
11	Bainbridge Island Fire Department Memo	03/14/2014 (Dated)
12	Project Report (presented to the Planning Commission on 5/22/14)  <b>ATTACHMENTS</b>  A. Grow Community II Boundary Line Adjustment dated October 16, 2013. B. Grow Community Phase II Plan Set dated May 9, 2014. C. Preliminary Plat of Grow Community II dated February 13, 2014 D. Public Participation Question and Answers, July 2013. E. Design Review Board Minutes, August 19, 2013 Regular Meeting. F. SEPA Checklist as provided with application date stamped October 23, 2013. G. Design Review Board Minutes, December 2, 2013 Regular Meeting. H. Compilation of comments received during the two public comment periods. I. Memo from the Assistant Chief Luke Carpenter, dated March 14, 2014. J. Transport Impact Analysis for Grow Community Phase II Addendum Update dated February 9, 2014. K. Third Party Traffic Review Comments, Response from RTC & the City date stamped May 8, 2014.	05/16/2014 (Dated)

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**Grow Community**

**SPRA13551C – CUP13551 – SUB13551B  
SUBA13551B – BLA13551C**

Staff Contact:  
Heather Beckmann  
Associate Planner

Public Hearing: June 19, 2014  
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NO.	DOCUMENT DESCRIPTION	DATE
	L. Design Review Board Minutes, April 7, 2014 Regular Meeting. M. HDDP Checklist date stamped October 23, 2013. N. Grow Community Phase II, Site Plan Review Amendment, Subdivision & Conditional Use date stamped April 25, 2014. O. Tree Assessment by Katy Bigelow dated September 20, 2013. P. RTC Transportation Consulting Parking Analysis date stamped April 30, 2014 Q. Design Review Board Design Guidelines Checklist -Multi-Family Design Guidelines for R-8 & R-14 zoning districts – date stamped October 23, 2013. R. Design Review Board Design Guideline Checklist – Commercial and Mixed-Use Design Guidelines for All Zoning Districts date stamped October 23, 2013 S. Grow Community Site Plan Review Power Point Presentation Excerpt from February 9, 2012 Special Planning Commission Meeting. T. Department of Public Works – Operations & Maintenance Binding Commitment Limited Reservation for Water and Sewer System Capacity date stamped October 23, 2013. U. DRAFT DRB minutes from March 5, 2014.	
13	Davis Studio Architecture Comments Letter	04/04/2014 (Received)
14	MDNS	05/27/2014 (Dated)
15	Notice of Public Hearing and Certification of Distribution	05/30/2014 (Published)
16	Planning Commission Minutes	05/22/2014 (Dated)
17	Project Report	06/13/2014 (Dated)
18	Comment Letter from Jacobsen	05/19/2014 (Dated)
19	RTC Traffic Impact Analysis	03/03/2014 (Dated)
20	PowerPoint Presentation - Applicant	06/19/2014 (Dated)
21	PowerPoint Presentation - City	06/19/2014 (Dated)
22	Declaration of Easement	10/09/2012 (Dated)