

Attachment 4

Response to Planning Commission Questions at September 10, 2012 Deliberations on the Trillium Property Comprehensive Plan and Rezone Request (Case #11-0152, 12-0001)

Below are responses to some of the questions and issues raised by the Planning Commission at their September 10 deliberations, and by some members of the public at the August 20, 2012 public hearing. It is not meant to be an exhaustive response to every issue raised at those meetings, and specifically is not intended to be a comprehensive response to all public comments on the Draft SEIS; that will be provided as part of the Final SEIS.

What Is the Difference Between a SEPA "Project Action" and a "Non-Project Action"?: These phrases are defined SEPA-related terms under State law (and adopted by reference into the Olympia Municipal Code). They are defined at WAC 197-11-704, under the definition of "Action," which appears below. The applicant's request is a non-project action as defined by this section.

"Action.

" (1) "Actions" include, *as further specified below*:

- (a) New and continuing activities (including projects and programs) entirely or partly financed, assisted, conducted, regulated, licensed, or approved by agencies;
- (b) New or revised agency rules, regulations, plans, policies, or procedures; and
- (c) Legislative proposals.

"(2) Actions fall within one of two categories:

(a) **Project actions.** A project action involves a decision on a specific project, such as a construction or management activity located in a defined geographic area. Projects include and are limited to agency decisions to:

- (i) License, fund, or undertake any activity that will directly modify the environment, whether the activity will be conducted by the agency, an applicant, or under contract.
- (ii) Purchase, sell, lease, transfer, or exchange natural resources, including publicly owned land, whether or not the environment is directly modified.

(b) **Nonproject actions.** Nonproject actions involve decisions on policies, plans, or programs.

(i) The adoption or amendment of legislation, ordinances, rules, or regulations that contain standards controlling use or modification of the environment;

(ii) **The adoption or amendment of comprehensive land use plans or zoning ordinances;** [emphasis added]

(iii) The adoption of any policy, plan, or program that will govern the development of a series of connected actions (WAC [197-11-060](#)), but not including any policy, plan, or program for which approval must be obtained from any federal agency prior to implementation;

- (iv) Creation of a district or annexations to any city, town or district;
- (v) Capital budgets; and
- (vi) Road, street, and highway plans.

Thus a comprehensive plan amendment or a rezone is by definition considered a non-project action for the purpose of SEPA review and analysis. State SEPA law requires a broader, more generalized analysis of impacts at the nonproject stage, with a more specific, detailed analysis to be performed when a project proposal is submitted for review. WAC 110-11-442 states in its entirety:

“Contents of EIS on Nonproject Proposals.

“(1) The lead agency shall have more flexibility in preparing EISs on nonproject proposals, because there is normally less detailed information available on their environmental impacts and on any subsequent project proposals. The EIS may be combined with other planning documents.

“(2) The lead agency shall discuss impacts and alternatives in the level of detail appropriate to the scope of the nonproject proposal and to the level of planning for the proposal. Alternatives should be emphasized. In particular, agencies are encouraged to describe the proposal in terms of alternative means of accomplishing a stated objective (see WAC [197-11-060\(3\)](#)). Alternatives including the proposed action should be analyzed at a roughly comparable level of detail, sufficient to evaluate their comparative merits (this does not require devoting the same number of pages in an EIS to each alternative).

“(3) If the nonproject proposal concerns a specific geographic area, site specific analyses are not required, but may be included for areas of specific concern. The EIS should identify subsequent actions that would be undertaken by other agencies as a result of the nonproject proposal, such as transportation and utility systems.

“(4) The EIS's discussion of alternatives for a comprehensive plan, community plan, or other areawide zoning or for shoreline or land use plans shall be limited to a general discussion of the impacts of alternate proposals for policies contained in such plans, for land use or shoreline designations, and for implementation measures. The lead agency is not required under SEPA to examine all conceivable policies, designations, or implementation measures but should cover a range of such topics. The EIS content may be limited to a discussion of alternatives which have been formally proposed or which are, while not formally proposed, reasonably related to the proposed action.”

The WAC goes on to clearly state that the place for a more detailed analysis of impacts is when reviewing a subsequent project proposal. WAC 110-11-443 states in its entirety:

“EIS contents when prior nonproject EIS.

- (1) The provisions for phased review (WAC [197-11-060\(5\)](#)) and use of existing environmental documents, Part Six, apply to EISs on nonproject proposals.
- (2) A nonproject proposal may be approved based on an EIS assessing its broad impacts. When a project is then proposed that is consistent with the approved nonproject action, the EIS on such a project shall focus on the impacts and alternatives including mitigation measures specific to the subsequent project and not analyzed in the nonproject EIS. The scope shall be limited accordingly. Procedures for use of existing documents shall be used as appropriate, see Part Six.
- (3) When preparing a project EIS under the preceding subsection, the lead agency shall review the nonproject EIS to ensure that the analysis is valid when applied to the current proposal, knowledge, and technology. If it is not valid, the analysis shall be reanalyzed in the project EIS.”

What IS the Basis for the Staff Recommendation of R 4-8?: Staff recommends a redesignation and rezone to Residential 4-8 (R 4-8) for the following reasons:

1. The Hearing Examiner found that existing transit service is required for approval of a master plan under NV zoning; the City Council adopted these findings in denying the master plan proposal. OMC 18.05.050 states:

“Rezoning. Land in a NC, NV, UV, COSC, or district [*sic.*] may be rezoned to a residential district (see Chapter 18.58, Rezones and Text Amendments) upon demonstration that the site is not viable for the designated uses due to site conditions, infrastructure or street capacity or--in the case of multiple ownerships--land assembly problems.”

2. The property was zoned R 4-8 before it was given its current NV designation and zoning in 1994-1995.
3. The abutting properties within the City of Olympia are all zoned R 4-8, except for the Bentrige property, which is zoned NV, and is the site of an approved Master Plan for a neighborhood village development. The abutting property to the south, in Thurston County, is the developed Wilderness neighborhood, which is built to a density similar to the density allowed by R 4-8 zoning.
4. R 4-8 is one of the two alternative designations and zoning districts requested by the applicant.
5. Staff review and analysis did not identify another designation or zone district, or combination of designations/districts that staff thought was more appropriate for the site. (This is discussed more fully below.)
6. The City’s stormwater engineering staff is confident that development of the Trillium property at R 4-8 densities in compliance with the City’s adopted drainage standards and requirements, and subject to appropriate conditions of approval, would not worsen the existing downstream flooding in and around the Chambers Ditch and in the Chambers Lake and Wilderness neighborhoods.
7. The R 4-8 zoning district would provide sufficient development potential to help the City meet its growth management population and density targets and would not adversely impact the City’s supply of buildable land.

Why Were Certain Zones Included in the SEIS, and Not Others?: Staff did or did not include various designations and zoning districts for analysis in the Draft SEIS for the following reasons.

1. NV: This is the existing designation/zoning, and as such is the “no action” alternative against which the proposal and other alternatives are compared, and must be included in the SEIS. WAC 197-11-440.5.b(ii) states: “The “no-action” alternative shall be evaluated and compared to other alternatives.”
2. R-6-12 and R 4-8: These are the designations/zones requested by the applicant, and as such also must be analyzed in the SEIS. Staff is recommending R 4-8 because it is the most consistent with the abutting and nearby properties.
3. R-4: Staff chose this designation/zone as a reasonable alternative for inclusion in the SEIS. WAC 197-11-440.5.b and b(i) state:
“(b) Reasonable alternatives shall include actions that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation.
(i) The word “reasonable” is intended to limit the number and range of alternatives, as well as the amount of detailed analysis for each alternative.”
4. RLI: OMC 18.04.020.B.2 states: “Residential Low Impact (RLI). To accommodate some residential development within sensitive drainage basins at densities averaging from two (2) to four (4) units per acre, provided that the development configuration avoids stormwater and aquatic habitat impacts.” Staff understands that this zone was established to be applied to properties that are susceptible to flooding, or that contain aquatic habitat that could be adversely impacted by development at traditional urban densities. The Trillium property fits within neither of these categories. Staff further believes that potential off-site stormwater impacts of development on the Trillium property at densities allowed in the R 4-8 zone can be adequately mitigated at the project level by adherence to the City’s adopted stormwater drainage standards, and that if additional proposal-specific mitigation is necessary it can be imposed as part of the project-level SEPA process. It also is questionable whether redesignation/rezoning to RLI would feasibly approximate the original proposal’s objectives as required by the WAC. (In this case, the proposal is the applicant’s request to redesignate/rezone the property to R 6-12 or R 4-8, both of which allow development at densities higher than allowed in RLI.)
5. R 4CB: Similarly, staff understands that the R 4CB zone was established to be applied to properties that are susceptible to flooding, that have high groundwater, or that contain aquatic habitat that could be adversely impacted by development at traditional urban densities. The Trillium property does not fit within these categories. As noted above, staff further believes that potential off-site stormwater impacts of development on the Trillium property at densities allowed in the R 4-8 zone can be adequately mitigated at the project level by adherence to the City’s adopted stormwater drainage standards, and that if additional proposal-specific mitigation is necessary it can be imposed as part of the project-level SEPA process. It also is questionable whether redesignation/rezoning to R 4CB would feasibly approximate the original proposal’s objectives as required by the WAC. (In this case, the proposal is the applicant’s request to redesignate/rezone the property to R 6-12 or R 4-8, both of

which allow development at densities higher than allowed in R 4CB.)

6. Split Zoning

- a. Jim Lazar Proposal (RM-24 and R-1/5 Split): In his letter dated August 18, 2012, to the Olympia Planning Commission (the "Lazar letter"), Jim Lazar proposed a split-zone alternative consisting of RM-24 (R-24 in the Lazar letter) zoning in a narrow east-west band along an extended Log Cabin Road, with the balance of the Trillium property zoned R-1/5 (R-1 in the Lazar letter), one unit per five acres. We did not include this as an SEIS alternative for the following reasons:
 - 1) This alternative is predicated upon the use of structured parking for the planned multi-family (apartment or condo) development. (Lazar letter, page 2) It is doubtful that the market in Olympia will support structured parking in this location in the foreseeable future. Structured parking can cost \$20-30,000 per parking stall, and typically is used where land prices are so high that it is less expensive to build structured parking than to devote buildable land to surface parking, and where rental rates or sales prices will justify the investment.
 - 2) Without structured parking, the band of multi-family zoning conceptually shown in the Lazar letter would probably need to be substantially wider to accommodate the "approximately 500 dwelling units" cited in the letter. The RM-24 zone allows up to 75% impervious surface coverage.
 - 3) As a general rule, zoning at 1 dwelling unit per five acres within an urban growth area is not considered consistent with the Growth Management Act, and possibly could be challenged on that basis if used by the City in this location.
 - 4) The applicant could challenge this alternative on the basis that it is not a "reasonable alternative" as defined in the WAC (that is, an action "that could feasibly attain or approximate a proposal's objectives"). The proposal is for a rezone to a single-family zone that would allow the development of detached single-family homes, townhomes, and cottage housing; R-6-12 also allows duplexes. Although RM-24 allows these housing types, nowhere near 500 detached single-family, townhome, and duplex dwelling units could be built on the narrow strip of land illustrated in the letter.
 - 5) The concept in the Lazar letter does not take advantage of or reflect the existing ridgeline that divides the Trillium property into a portion that drains east (eventually reaching the Chambers Ditch) and a portion that drains west (and that never enters the Ditch).
- b. Other Split Zoning: The Commission also discussed a split-zoning scenario that divided the zoning along the ridgeline noted above, with the eastern portion of the site (the portion whose drainage eventually reaches Chamber Ditch) designated/zoned RLI or R 4CB. We did not include this as a SEIS alternative for the same reasons (described above) that we did not include a RLI or R 4CB single-zone alternative.