



November 9, 2012

Honorable City Council  
P.O. Box 1967  
Olympia, WA 98507-1967

RE: City Council Public Hearing 12-068  
2012 Comprehensive Plan Amendment & Rezone – Trillium Parcel  
3355 Morse Merryman Road, Olympia, Washington

Dear Honorable City Council Members:

On behalf of DR Horton, please accept the following response to public comments on the Trillium proposal for the November 5, 2012, public hearing.

Many members of the public have commented that the Chambers basin currently floods during peak rainfall events as an ongoing condition that has existed well in advance of any development proposal on the Trillium site. However, the same testimony has not established any factual connection that development of the Trillium site in accordance with the City's stormwater manual will affect, let alone exacerbate, flooding, regardless of zoning classification. To the contrary the testimony has established that:

- The stormwater flow rate from the developed site will not exceed the existing condition during a peak event. This is required by the City's stormwater manual. Therefore, the peak flow rate conveyed from the site during a peak event will not increase.
- City staff testified that it does not believe development of the Trillium site will increase flooding in the Chambers basin. This testimony comes after the City's extensive study of this topic during the Chambers Basin moratorium, a moratorium from which the Trillium property was released. This testimony is also consistent with the environmental analysis reflected in the FEIS and other prior staff reviews.
- The future construction of the pipe in Wiggins Road will reduce erosion and sedimentation, increase capacity, and improve stormwater conveyance downstream, to the benefit of properties in the Chambers basin.

The following public comments are provided in italics with our response below.

*Comment Letter: Save LBA Forest and Trails on Trillium Rezone – Seven reasons why Olympia's Stormwater Requirements would not reliably prevent increased flooding due to Trillium forest land clearing.*

1. *Olympia's stormwater standards in fact allow for up to a 10% increase in flood flow durations for 50 % of the flood flow levels above the 2 year flood level. (This is technical, but the bottom line is that the standards themselves allow for a significant increase in peak flow durations. When peak flow increases occur, flooding of vulnerable areas will increase).*

**RESPONSE:** Modeling for stormwater facility sizing is based on a number of weighted factors designed to approximate the pre-development conditions as closely as possible. The ten percent increase is one of many inputs into this modeling process and is not a permanent ten percent increase in the rate stormwater is released from the site. The modeling is intended to approximate, but not exceed, existing discharge rates. Furthermore, this comment is not directed at the rezone of the Trillium property, but rather asks the City Council to question the basics of the City's stormwater modeling, upon which all projects in the City of Olympia are based.

2. *The Olympia standards require that this estimated double volume of stormwater must be released during non-peak flows. However, the increased volume in the ditch during non-peak periods will "in fill" the ditch due to its low gradient and reduce its capacity to absorb floods.*

**RESPONSE:** This statement does not demonstrate a deficiency with the stormwater manual, and the stormwater manual is not the issue that is currently before the City Council. It has not been proven that non-peak stormwater from a future project on the Trillium property will cause flooding. Specifically, stormwater coming off that portion of the Trillium property that falls within Chambers basin flows into the existing ditch/stormwater conveyance system on the west side of Wiggins Road. City staff specifically reviewed this and determined that the west side of Wiggins Road is not prone to flooding during peak events.

3. *The Trillium stormwater flows are planned to be conveyed by hard pipe from Trillium to the Chambers ditch. Hard piping will increase flows into the ditch because it will eliminate some of the local infiltration and storage that currently occurs before the water enters the ditch.*

**RESPONSE:** Future development of the Trillium property under the R 6-12 or R4-8 zoning would not increase peak flows to the "Chambers" ditch or the Wiggins Road system because onsite stormwater controls will be used to limit the peak flow rates. Hard piping does not allow for infiltration like an open ditch does but it does prevent erosion and transporting sediments downstream. Also, the pipe system will increase stormwater capacity overall to the benefit of the adjacent property owners. City staff has testified that it does not believe the west side of Wiggins Road is prone to flooding.

4. *The functioning of a large storm water system for Trillium would critically depend on maintenance to clear wood, leaves and sediment from outlets and retention ponds. Any malfunction is most likely to occur during a storm event, when the already flood prone Chambers ditch is especially vulnerable.*

**RESPONSE:** This public comment does not demonstrate a deficiency in the stormwater manual and is not relevant to a rezone discussion. Development of the Trillium property will require a large storm water system, which is a positive for the City and for Chambers basin, as it will result in more controlled runoff from the site. The City of Olympia will require the implementation of a stormwater maintenance plan that is recorded against the title of the property and is the responsibility of the Home Owner's Association to maintain, or face applicable penalties. Maintenance of the pond and control structure is required quarterly to prevent sediment or debris build-up. The pond will be designed with an emergency overflow in case the control structure becomes obstructed or if rainfall/flows exceed the pond design capacity.

5. *No significant plans or funds are in place to improve the capacity or maintenance of the Chambers ditch.*

**RESPONSE:** This comment describes a condition in the Chambers basin that is not related to the stormwater manual or rezoning the property. Pre-existing conditions in the Chambers ditch do not preclude the requirement to provide upstream storage and flow control facilities to protect downstream properties from stormwater impacts.

6. *The effect of Trillium discharges on the Chambers Ditch has not been adequately studied. The last comprehensive study of the Chambers Ditch occurred in 1995. A 2006 smaller scale study did not consider recent data showing an increase in storm events.*

**RESPONSE:** Any future development proposal on this site will require the analysis of the best available data, including more recent rainfall data such as that from 2006. However, the current topic under consideration is a rezone of the property. Actual discharges and impacts would be reviewed by the City at the time there is a specific development project submitted for review, and as discussed above, the City's stormwater manual will apply. Furthermore, the City has already conducted an extensive study of stormwater in Chambers basin and determined that there was no need to rezone or otherwise restrict development of the Trillium property because the City's stormwater manual will regulate the final design.

7. *The City has very little authority to remedy stormwater problems after an area is zoned. Zoning and Drainage manual establish the limits for impermeable surfaces, forest cover, and requirements for storm water control. Imposing new substantive requirements that mimic zoning under the guise of SEPA is untested and legally problematic.*

**RESPONSE:** This is not an accurate statement. The City's stormwater regulations are the appropriate way for the City to address stormwater concerns and regulate stormwater discharges. Zoning does not prohibit the City from using its police powers in emergency situations, and does not exempt a property from meeting the requirements of the stormwater manual as well as review under the State Environmental Policy Act.

***The Most Prudent Zoning Under Current Conditions:*** *Given the doubling of flows from a Trillium development and the existing impaired capacity of the Chambers ditch to absorb additional flows without flooding, and inability to address fundamental storm water problems after zoning is established, it makes most sense for the Council to take a cautious approach and zone Trillium RLI or R4-CB to maintain forest land cover. The Council took a similar approach in the Ken Lake RLI and the Chambers Basin R4-CB. In neither of those instances, did the City Council find it appropriate simply to rely on the application of the City's drainage manual to protect against future impacts. Here, like there, protective zoning is necessary to minimize the stormwater flows that would have a significant potential to cause flooding.*

**RESPONSE:** The argument that the Trillium site must be downzoned because it will cause increased flooding is not supported in fact, and ignores extensive study by the City during the moratorium from which the Trillium site was released. City staff testified that Trillium site displays no unique characteristics to warrant special zoning, such as high water table or solid rock underlay. Staff also commented that it believes development in accordance with the manual will not increase flooding downstream, and in fact may make the situation better for those downstream.

Comment Letter: *John Cusick letter, November 5, 2012. "Without further study, I believe all the zoning in the basin ought to be low impact, whether "RLI" (2 to 4 units per acre) in Olympia's case or "RLI 2-4" (2 to 4 units per acre), a Thurston County designation still under consideration for the South Olympia and Chambers properties. These "low impact" zoning designations are the only way we can ensure the existing stormwater problems in this basin are not exacerbated."*

**RESPONSE:** Please refer to the final response to the Save LBA Forest and Trails letter above. The City has previously taken the extreme step of placing the Trillium property into a moratorium so that it could take the time to extensively study this issue. Ultimately, after an extended period of time, the City determined that no change to the zoning of the Trillium property was warranted. There is no basis for the City to undertake the same study again.

Comment Letter: *Charles E. Fulcher letter, November 5, 2012, "Increased Traffic congestion caused by adding more vehicles to an already overburdened road system and commute, will make the current situation more difficult and dangerous for other drivers and pedestrians. Wiggins Road is already dangerous, and the wear and tear from heavy vehicles during construction will only make matters worse."*

**RESPONSE:** It is important to remember that the City Council is considering a down zone from NV to a less dense residential zoning. As such any future development under the new zoning would have less of a traffic impact than a development under the current zoning. However, as has been stated previously, the development of the Trillium site at the proposed density of R6-12 would result in substantial transportation improvements constructed with private funding by the developer to the benefit of the surrounding community. These multimodal improvements would be constructed on Morse-Merryman Road, Wiggins Road, and Log Cabin Road. The developer would also pay substantial impact fees toward planned City projects. To the extent the property is significantly downzoned or remains undeveloped would transfer the burden to the public to pay in full for solutions to these ongoing deficiencies.

*Comment Letter: The Rev. Dr John and Dr. Juliet Van Eenwyk, November 5, 2012, "Sprawl: Finally, putting high density developments on the very edge of the Olympia City limits completely defeats the Growth Management Act's determination to reduce sprawl. High density should be placed at the city center, not on the periphery.*

**RESPONSE:** Again it is important to remember that this property has been zoned NV for more than 15 years, and the City Council is now considering is a down zone of the property to a less dense classification. Both the current zoning and the proposed R6-12 or R4-8 zoning are completely consistent with the Growth Management Act. In fact, the Growth Management Act requires that cities plan for this type of more dense development. Also, sprawl is defined in large part by the inefficient use of land outside of City centers. Larger lots for single family home extend the need for more roads, longer utilities, and greater travel distances at a greater cost to the general public. R6-12 and R4-8 are medium density residential zones that are wholly compatible with the surrounding zoning without compromising the growth management principle of efficient use of land.

Thank you for your consideration of these comments. Should you have any questions, please contact me at (425) 656-7442 or at [cferko@barghausen.com](mailto:cferko@barghausen.com).

Respectfully,



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