



**CLARK COUNTY  
STAFF REPORT**

**DEPARTMENT/DIVISION:** Public Works / Development Engineering

**DATE:** August 21, 2012

**REQUEST:** Consider a resolution implementing an optional pilot program that places the responsibility for final engineering review of development projects with developers and their consultant team.

**CHECK ONE:** \_\_\_\_\_ Consent \_\_\_\_\_ Chief Administrative Officer XX Hearing

**PUBLIC WORKS GOALS:**

- Provide safe and efficient transportation systems within Clark County
- Continue responsible stewardship of public funds
- Promote family-wage job creation and economic development to support a thriving community
- Maintain a desirable quality of life
- Improve environmental stewardship and protection of natural resources
- Increase partnerships and foster an engaged, informed community
- Make Public Works a great place to work

**BACKGROUND:** The Board of County Commissioners (BOCC) initiated this proposal. The BOCC would like an optional pilot program to reduce developers' project timelines and costs (both county permits and consultant charges). Eliminating the requirement for county review of construction plans accomplishes both of these goals. The professional engineer stamp on construction plans places the liability for problems on the professional engineer.

**COMMUNITY OUTREACH:** During 2011, the BOCC held two public work sessions on the topic. The Development and Engineering Advisory Board (DEAB) also addressed the proposal at numerous meetings during 2011 and 2012. A majority of DEAB members do not support the proposed pilot program; DEAB's August 2, 2012, motion is attached.

Notice of the public hearing was advertised by the Board's office and also emailed to a distribution list of interested development engineering stakeholders.

**BUDGET AND POLICY IMPLICATIONS:** If the pilot program is implemented, developers electing to waive the county's review of construction plans will not pay final engineering review fees. The Development Engineering program's development fee revenue will decrease. During the term of the pilot program, staff that perform these construction plan reviews will be reassigned to Public Works capital projects. A detailed budget analysis of the program will be completed after the pilot program has been in place.

The primary policy implication for this pilot program is the potential risk that poor quality public transportation and stormwater facilities will be constructed. It also may be difficult to require developers to correct errors after construction is complete.

If the Board later decides to make this a permanent program after evaluating the performance of the pilot process, the Title 40 Unified Development Code will need revisions.

**FISCAL IMPACTS:**  Yes (See Attached Fiscal Impacts Form)  No

PW12-076

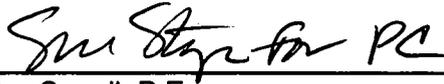
**ACTION REQUESTED:** Consider adopting the attached resolution following the public hearing. The draft resolution recommends an effective start date for the pilot program of September 3, 2012.

**DISTRIBUTION:** Please forward a copy of the adopted resolution to Sue Stepan, Public Works Development Engineering.



\_\_\_\_\_  
Sue Stepan, P.E.  
Development Engineering Program Manager

APPROVED: Aug. 21, 2012  
CLARK COUNTY, WASHINGTON  
BOARD OF COMMISSIONERS



\_\_\_\_\_  
Peter Capell, P.E.  
Public Works Director/County Engineer

SAS

**RESOLUTION NO. 2012- 08-08**

**A resolution implementing an optional pilot program that places the responsibility for final engineering review of development projects with developers and their consultant team.**

1       **WHEREAS**, the Board of County Commissioners finds that Clark County and its  
2 citizens are experiencing severe economic hardship due to the local and national  
3 economy; and

4       **WHEREAS**, the Board of County Commissioners recognizes the substantial  
5 amount of administrative effort that has been invested by the public and private sector in  
6 obtaining land use approvals for development; and

7       **WHEREAS**, the economy continues to suffer, and reducing administrative time  
8 and costs would provide relief to developers; and

9       **WHEREAS**, an optional pilot program that places the responsibility for final  
10 engineering review of development projects with developers and their consultant teams is  
11 justified to avoid hardship to developers; and

12       **WHEREAS**, an optional program would provide an alternative to the final  
13 engineering review in Clark County Title 40 Unified Development Code; and

14       **WHEREAS**, under the optional program, county staff are available to provide  
15 technical assistance at hourly rates allowed in Title 6 Application and Service Fees; and

16       **WHEREAS**, the Board discussed a conceptual Developer Certification process at  
17 work sessions on April 6 and September 14, 2011, and directed county staff to prepare an  
18 optional pilot program for Board consideration; and

19       **WHEREAS**, following a duly advertised public hearing the Board finds that  
20 adoption of this resolution will further the public welfare; now, therefore,

21           **BE IT ORDERED, RESOLVED, AND DECREED BY THE BOARD OF**  
22 **COUNTY COMMISSIONERS OF CLARK COUNTY, STATE OF**  
23 **WASHINGTON, AS FOLLOWS:**

24 **Section 1. Optional Developer Certification Pilot Program.** An optional, pilot  
25 Developer Certification Process provides an alternative to county final engineering  
26 review of developer-constructed projects. The process moves the engineering  
27 responsibility for these functions to the property owner and his/her team of developers,  
28 design consultants, and contractors.

29       1. Overview of Pilot Program

30           a. Optional participation. Developers may choose to waive final engineering  
31           reviews (ENG permit type) under the terms of this pilot program, or  
32           choose to undergo the current county review process.

33           b. Timeline:

34                   i. The pilot program will be evaluated approximately one year after  
35                   the effective date.

36                   ii. Depending on the pilot program's success, the pilot may be  
37                   continued, a permanent program implemented, or the Developer  
38                   Certification process ended.

39                   iii. Projects that start construction under the terms of the pilot program  
40                   will continue with the process, even if the program later changes or  
41                   is stopped.

- 42 c. Projects eligible for the pilot program generally include those with  
43 construction plans prepared by professional engineers, including "Final  
44 Engineering Review" for short plats, subdivisions, and site plans.
- 45 d. There is no limit to the number of projects that could participate in the  
46 pilot program.
- 47 e. The following projects are not eligible for the pilot program and will  
48 receive traditional county review:
- 49 i. Projects not subject to both a preliminary and final land use  
50 approval process, such as grading (GRD) and special drainage  
51 projects.
- 52 ii. Projects using the Fastlane or expedited 60-Day Review process,  
53 because these have a mandatory concurrent preliminary and final  
54 engineering review.
- 55 iii. Special permits, such as floodplain reviews (FLP), critical aquifer  
56 recharge area reviews (CARA), geological hazard reviews (GEO),  
57 and road modifications (EVR).
- 58 iv. Traffic signals and signing/stripping plans (other aspects of the  
59 project, however, may be eligible to participate in the Developer  
60 Certification pilot process).
- 61 v. Drainage reviews for single family residences.

62 2. Developer Steps to Participate in the Pilot Program

- 63 a. All property owners are eligible to participate in the pilot program. The  
64 county will not screen applicants and will not keep an eligibility list.

- 65           b. "Statement of Developer Intent". When a property owner/developer  
66           chooses to use the Developer Certification process and the preliminary  
67           land use process has not started, the property owner/developer must  
68           declare his/her intent to participate in the program prior to the preliminary  
69           land use application "fully complete" determination.
- 70           c. "Developer Preconstruction Certification ". Prior to the preconstruction  
71           conference, the property owner/developer, design consultants, and  
72           contractor will be required to sign a county standard form that states: (1)  
73           the design and development satisfy the land use decision, county code, and  
74           county standards, including NPDES stormwater permit standards, and (2)  
75           that the contractor acknowledges the construction documents were not  
76           reviewed by the county, except for documents that the county must review  
77           as an NPDES permittee.
- 78           d. "Developer Post-Construction Certification". Prior to construction  
79           provisional acceptance (prior to final platting and granting of occupancy),  
80           all parties, including the property owner/developer, design consultants,  
81           and contractor will be required to sign a county standard form that states  
82           the constructed project satisfies the land use decision, county code, and  
83           county standards including NPDES stormwater permit standards.
- 84                    i. The property owner, who certifies that the overall project meets all  
85                    conditions, codes, and standards including NPDES stormwater  
86                    permit standards.

87                   ii. All engineering design consultants (such as civil and geotechnical  
88                   engineers), certifying with a professional stamp that the design  
89                   meets all conditions, codes, and standards including NPDES  
90                   stormwater permit standards.

91                   iii. The contractor, who certifies that the project was constructed per  
92                   the property owner's final construction documents including  
93                   NPDES stormwater permit standards.

94           3. Design Consultant Insurance. The Architect/Engineer(s) must provide evidence  
95           of the following insurance requirements prior to scheduling the preconstruction  
96           conference and verified again with the "Developer Post-Construction  
97           Certification":

98                   a. An original ACORD Form with the Commercial General Liability (CGL)  
99                   Insurer (or BOP), Broker of Record, Insurance Limits(s), Renewal Dates,  
100                   Deductible (less than or equal to \$25,000 unless authorized otherwise by  
101                   County Risk Management), and \$1,000,000 of Annually Renewing  
102                   Occurrence Based Coverage. A "Claims Made Policy" is NOT acceptable  
103                   for the CGL.

104                   b. Errors and Omissions (E and O) Coverage. These are usually Claims Made  
105                   Policies and tail coverage equaling the applicable statute of limitations is  
106                   required. The Deductible will be less than or equal to \$25,000 unless  
107                   authorized otherwise by County Risk Management, and \$1,000,000 of  
108                   Annually Renewing E and O Coverage.

109                   c. In the case where these underlying insurance policies are expended due to

110 excessive defense and/or indemnity claims, before renewal, the  
111 Architect/Engineer warrants and guarantees the coverage limit(s), to include  
112 indemnity and defense costs up to the listed limit, from its own resources  
113 regardless of coverage status due to cancellation, reservation of rights, or  
114 other no-coverage-enforce reasons. Coverage shall not contain any  
115 endorsement(s) excluding nor limiting Product/Completed Operations,  
116 Contractual Liability or Cross Liability or Workers' Compensation.

117 d. All policies shall be endorsed to state that coverage will not be suspended,  
118 voided, canceled or reduced without a 30 day written notice by mail to  
119 Clark County. It is the Architect/Engineer's responsibility to provide  
120 evidence of continuing coverage during the overlap periods of the policy  
121 and the certification.

122 e. Should the Architect/Engineer provide an Umbrella or Excess Coverage  
123 for any of the associated coverage(s), they shall be written in a "Follow  
124 Form" manner and Clark County Washington shall be listed and endorsed  
125 as an Additional Insured for the CGL.

#### 126 4. Hourly Billing

127 a. After completion of the land use decision and prior to the preconstruction  
128 conference, Development Engineering staff are available to provide  
129 technical assistance on an hourly basis to the property owner or his/her  
130 designee when requested.

- 131           b. Hourly billing will also apply if the standard fee is exceeded for the new  
132           reduced-level plan reviews required for stormwater that occur during  
133           "preliminary review".
- 134           c. Deposits. If the developer requests county engineering staff assistance  
135           prior to construction, a \$200 deposit is required.
- 136           d. Hourly billing rates by job classification are published annually by Public  
137           Works Development Engineering.
- 138           e. The county will prepare a final invoice prior to the preconstruction  
139           conference. The preconstruction conference will not be held until county  
140           receipt of any outstanding balances. Refunds will be granted for costs less  
141           than the deposited amount.

142       5. Engineering Reviews

- 143           a. This proposal may change the current preliminary engineering review  
144           (land use) process performed with Community Development. For new  
145           developments, the applicant will be required to submit construction  
146           drawings to enable county staff to determine compliance with NPDES  
147           permit requirements.
- 148           b. Preliminarily approved projects. Projects previously granted preliminary  
149           approval may participate in the Developer Certification process following  
150           Post-Decision Review to update stormwater plans in compliance with  
151           current NPDES stormwater permit requirements and related judicial  
152           orders.

153 c. Certain issues are currently addressed during final engineering review will  
154 need resolution prior to the preconstruction conference under this optional  
155 process. These include:

- 156 i. Floodplain reviews (FLP), critical aquifer recharge area reviews  
157 (CARA), and geological hazard reviews (GEO).
- 158 ii. Details for road modifications (EVR) that sometimes occur during  
159 final engineering review.
- 160 iii. Completion of third party agreements that document property  
161 disputes, easements, access issues, etc.
- 162 iv. Survey discrepancies, such as property lines and location of  
163 historical centerlines.

164 6. Construction Inspection

- 165 a. County inspection will occur similar to the current practice and level of  
166 service.
- 167 b. Project inspection fees will be based on the standard Title 6 Development  
168 Inspection Fee Schedule; hourly billing will not apply.
- 169 c. Preconstruction conference is required.

170 7. Maintenance Bond

- 171 a. The property owner or his/her designee will provide the county with a  
172 two-year maintenance bond for all constructed public infrastructure, to  
173 guarantee that the accepted work is maintained properly.
- 174 b. The maintenance bond amount will be the same as the current practice, ten  
175 (10) percent of the public facilities valuation.

176 c. The bond period starts at provisional acceptance.

177 **Section 2. Effective Date.** This resolution shall be effective on September 3, 2012, and  
178 shall expire upon adoption of a new resolution following consideration of this matter by  
179 the Clark County Board of County Commissioners or on December 31, 2014, whichever  
180 is earlier.

181 **Section 3. Instructions to Clerk.** The Clerk to the Board shall:

- 182 1. Record a copy of this resolution with the Clark County Auditor.
- 183 2. Transmit a copy of this resolution to the state within ten days of its adoption
- 184 pursuant to RCW 36.70A.106.
- 185 3. This resolution is temporary in nature and is not to be codified.

186

ADOPTED this 21<sup>st</sup> day of August, 2012.

BOARD OF COMMISSIONERS  
FOR CLARK COUNTY

Attest:

Rebecca J. Jilka  
Clerk to the Board

By: Marc Boldt  
Marc Boldt, Chair

*Approved as to form,*

Copy received only:  
ANTHONY F. GOLIK  
Prosecuting Attorney

By: \_\_\_\_\_  
Steve Stuart, Commissioner

Christopher Horne  
Christopher Horne  
Deputy Prosecuting Attorney

By: \_\_\_\_\_  
Tom Mielke, Commissioner