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CLARK COUNTY  
WASHINGTON

Development and Engineering Advisory Board

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## MEMORANDUM

**TO:** Board of Clark County Commissioners  
**CC:** Bill Barron, County Administrator  
**FROM:** Steve Madsen, Chair, Development and Engineering Advisory Board *SAB for SM*  
**DATE:** June 27, 2011  
**SUBJECT:** DEAB - Observations on Developer Certification Process

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During the June 2, 2011, Development and Engineering Advisory Board (DEAB) meeting, DEAB formally moved to submit this position paper to the Board of Clark County Commissioners (BOCC). The motion unanimously passed.

On April 6<sup>th</sup> the DEAB attended a workshop that the BOCC held to discuss a potential Developer Certification process. DEAB's understanding is that the BOCC has requested that Clark County staff develop revisions to the permit process which would remove the requirement for final engineering approval.

DEAB is fully supportive of the BOCC's intention to simplify project permitting, such as the recent code retooling and 60-day review process. We also recognize that the final engineering review process has been improved significantly in recent years. However, we do have several specific concerns about the proposed Developer Certification Process. DEAB would be happy to meet with the BOCC to discuss the issues listed below in further detail.

### 1. Code Compliance/Consistency/Interpretation

- Clark County engineering review currently provides a final check to ensure code compliance. Without this check in place, DEAB has concerns about code compliance consistency.
- Currently, there is some flexibility in how codes are interpreted to allow for conditions specific to the site and/or project. Competing/conflicting code section issues sometimes require interpretation and are worked out with staff during the review process. Clark County staff is aware of each of these determinations as projects are reviewed. Removing the final engineering review process could result in inconsistency throughout the county and uncertainty for the engineer and developer in how to apply the code.
- DEAB has concerns about public safety issues following construction, particularly if public improvements are poorly or inconsistently designed and have not been independently checked.

## 2. Cost

- If the new process is optional, Clark County may need to retain staff who are able to complete the final engineering review process which may reduce cost savings to the county.
- If the revised process requires more information and time for preliminary review, it will not result in cost savings for either the county or developer.
- DEAB is concerned that amending the process may increase development costs in Clark County. Private inspection costs may be higher, with DEAB members indicating that inspection costs could triple, particularly if a private engineer/firm needs to guarantee the construction.

## 3. Risk/Insurance/Bonds/Liability

- DEAB members note that there will be a higher overall level of risk to the project, engineer, and developer if county code compliance review is not required. Developers will need to consider this during feasibility analysis of potential projects in the county.
- Will Clark County require engineering firms working on development projects in the county to prove that they have sufficient errors and omissions insurance? Some firms, particularly smaller engineering firms, may not have errors and omissions insurance or may be underinsured.
- DEAB is concerned that engineering firms may not be able to obtain adequate insurance to work on projects in Clark County if there is no final engineering review prior to construction.
- DEAB's developer representative has indicated that it is very difficult to obtain bonding for development projects. Adding bonding requirements to address final engineering could exacerbate this situation.
- If a project is constructed without final county review and code compliance is checked at post-construction review, what is the result if county staff decides there are project components that, in their opinion, do not meet code? Since the project would be complete, what would the outcome be? Would developers be willing to take on this liability?
- If projects are not constructed to code, there could be an increase in the potential for lawsuits to address compliance issues following construction.

DEAB has several suggestions that could be implemented to improve the current final engineering review process and is available to meet with individual Commissioners or at a work session to discuss these suggestions as well as the issues noted in this memorandum.