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CLARK COUNTY
WASHINGTON

COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Permit Center Customers and Staff
FROM: Martin Snell, Director
DATE: January 19, 2012
SUBJECT: Issuing Permits and Authorizations – Guidance

On Dec. 28, 2011, a federal District Court judge issued an order enjoining the prospective issuance of “permits and authorizations” that do not comply with condition S.5.C.5 of the Phase I Municipal Stormwater Permit. On Jan. 9, 2012, based on advice from the Prosecuting Attorney’s office, I issued a memorandum to provide guidance to customers and staff regarding how the county would comply with the court order. Following additional legal analysis, this memorandum replaces the Jan. 9 memo.

The county determines development application compliance with stormwater regulations during final engineering plan review. Once plans are approved, stormwater facilities are constructed according to the plans. Therefore, as stated in more detail below, the county will not issue permits for applications that did not receive engineering plan approval prior to the date of the court’s order unless they comply with condition S.5.C.5.

In response to the injunction, the County will review and permit development and construction as follows:

Land Divisions and Site Plans

1. **Final engineering approval by Dec. 28, 2011** – Applications for land divisions and site plans that received final engineering approval prior to Dec. 28, 2011 are not affected by the injunction. Applications meeting this condition will be reviewed routinely with existing procedures by the county’s Community Development and Public Works departments.
2. **No final engineering approval by Dec. 28, 2011** – Applications for land divisions and site plans that did not receive final engineering approval prior to Dec. 28, 2011 must comply with the state default pre-developed condition for flow control, as defined in Appendix 1 of the Phase I Municipal Stormwater Permit. Projects designed to meet this criterion will be reviewed routinely with existing procedures by the county’s Community Development and Public Works departments.
3. **Review fees** – No additional fees will be charged to review the engineering plans for projects currently under engineering review if the plans are modified to meet the state’s default pre-developed condition for flow control, as defined in Appendix 1 of the Phase I Municipal Stormwater Permit. Routine fees will be charged for engineering review of projects whose plans have not been submitted for final engineering approval. No fees will be charged for post-decision review for projects that have received preliminary approval, but whose plans must be modified because of the injunction.

Building Permits

1. **Building Permits** – Clark County will approve building permits for development that drains to a stormwater facility that received final engineering approval prior to Dec. 28, 2011. Clark County also will approve building permits that comply with the state's default pre-developed condition for flow control, as defined in Appendix 1 of the Phase I Municipal Stormwater Permit.
2. **Review fees** – Building permits currently under review will not be charged additional fees to review building plans if they are modified to meet the default pre-developed condition for flow control, as defined in Appendix 1 of the Phase I Municipal Stormwater Permit.

Permits for Other Activities

1. **Other permits** – Applications for permits associated with site plans, land divisions and building projects, as well as for stand-alone activities, will be reviewed following routine procedures. These might include, but are not limited to, permits for grading and critical areas, shorelines and construction inspection. Staff will review these permits for applicability of flow control requirements. If the stormwater flow control requirements are applicable and thresholds in the county code are exceeded, the projects must comply with the default pre-developed condition for flow control, as defined in Appendix 1 of the Phase I Municipal Stormwater Permit. Permits that do not meet these conditions must be modified in order to be approved.
2. **Review fees** – Permits currently under review will not be charged additional fees to review their plans if they are modified to meet the default pre-developed condition for flow control, as defined in Appendix 1 of the Phase I Municipal Stormwater Permit.

Activity	Not subject to injunction	Subject to injunction
Land division	Has received final engineering approval prior to 12/28/2011	Has not received final engineering approval prior to 12/28/2011
Site plan	Has received final engineering approval prior to 12/28/2011	Has not received final engineering approval prior to 12/28/2011
Single family residential and remodel	Drains to a stormwater facility that received final engineering approval prior to 12/28/2011	Does not drain to a stormwater facility that received final engineering approval prior to 12/28/2011
Commercial and multifamily	Drains to a stormwater facility that received final engineering approval prior to 12/28/2011	Does not drain to a stormwater facility that received final engineering approval prior to 12/28/2011