

To: Process Sub-Committee
From: Derek L. Dougherty, P.E.
Date: 02/28/08
Re: Thoughts on Process Committee Items

First some venting: It is extremely difficult to try to accomplish anything via the "process" which has been set out before us. We have been tasked with trying to accomplish something in a specific timeframe, yet when we request information, it is not forthcoming in a timely manner. When I look at the web site, I do not see our meetings noted. When I look at the postings, information provided takes a week (or so) to make it to the board. When we request documents, so that we may edit them (like the request two Tuesday's ago for a word document), or documents to review (like repeated requests for internal/external audit reports) it doesn't seem to happen. The internal communication among committee members, which was occurring prior to Sunshine being foisted upon us, came to a screeching halt several months ago, and while EPC may be trying to facilitate, it does not appear to be succeeding. I believe that everyone who is on this committee is trying to help (and not earning a living while doing so, I might add), but the way things are set up to function provides roadblocks to accomplishing anything.

Our recent meetings have tasked us with providing some comments to the items which have been put forth before the committee (Items 1.1-1.5). Following my review of those items, and reading Dr. Emery's thoughts, I provide the following:

Draft Item 1.1 – Position paper indicated consensus with no con comments. I agree.
Draft Item 1.2 – Position paper indicated consensus with no con comments. I agree.
Draft Item 1.3 – Position paper indicated consensus with no con comments. I agree.
Draft Item 1.4 – Position paper indicated consensus reached such that **"EPC should be in sync with each municipality's review time frames for any review that it proves necessary for EPC to be involved in."** I agree. Time frames should be spelled out and adopted for all reviews.

Draft Item 1.5 – This item requires some serious thought. As Dr. Emery notes, a portion of the committee feels EPC should be involved later, while another part (mainly the EPC staff who are sitting in on the meetings "moderating") feels the applicant benefits from early involvement.

I can see both sides of this issue and understand that there may be times where early involvement by EPC could/would be beneficial, however, the history of things, from my perspective, has been that the early comments/suggestions that are made by EPC are not BINDING upon EPC, they only serve to "steer" the applicant in a direction EPC thinks they want them to go. The reason given for not being BINDING, is the "lack" of complete, detailed construction plan information which, as Dr. Emery points out, is not available at the early stages, yet EPC's "guidance" causes increased cost to the applicant without any "progress" being made (from the applicant's point of view).

I agree with Dr. Emery that the crux of this issue relates to the concept of "Reasonable Use". This is a very important issue that needs a good definition. I also agree with his thoughts that USEFUL, RELEVANT and (I add) BINDING (in some manner) comments from EPC would provide value.

There needs to be more discussion on how EPC will be involved at each stage of the process (if at all).

Q: Does EPC employ and utilize planners during their review processes? Does EPC review existing and future land use plans? Incorporate them into their decision making process? Usurp the Planning Commission, Zoning Hearing Masters? I am uncomfortable with EPC providing any decisions relating to the acceptable uses on a property.

As Dr. Emery says, "impacts are allowed under a variety of conditions". An example from my perspective: Just because a property is zoned for 100,000 sq feet of commercial, does not mean that 100,000 square feet of commercial can be placed on the property. If the physical parameters of the site are such that meeting all other County codes (row, ADA, Stormwater, Parking, Lighting, Utilities, etc.) leave a 20,000 square foot footprint, then a 5 story building would be allowed by zoning, but not necessarily be cost effective for the developer. Does that necessarily mean a 20,000 square foot impact to wetlands is automatically approved? I don't think so. But in this scenario, a 2-5,000 square foot impact might be justified in the appropriate location for appropriate reasons.

Here's where I think we should be directing our efforts.

Reasonable use needs to be defined.

An ability to link Minimization, Avoidance, Reasonable Use, and Mitigation to the Justification process is needed.

There needs to be more discussion on where EPC should be involved and then determine what their specific involvement is. When EPC is involved and making comments, there should be some way to BIND EPC to their positions.