

Local Program Report to the SCC City of Archdale, May 23, 2023

Personnel from NCDEQ, DEMLR conducted a formal review of the City of Archdale Erosion and Sedimentation Control Program on March 9th and 29th, 2023. The City of Archdale was last reviewed on 11/29/2017. The City requires an erosion and sediment control plan for all projects disturbing greater than one acre. The City also requires a sketch plan for projects disturbing greater than 10,000 square feet and financially responsible party information for all projects regardless of size. The jurisdiction of the program encompasses the City of Archdale corporate limits. During the previous year from March 2022 through February 2023, the City conducted 5 reviews and issued 5 approvals. During this period no NOV's or CPAs were issued and no holds on building permits were utilized. The City program consists of 1 staff member who contributes approximately 0.17 full time equivalent. At the time of our review, staff were not tracking when a complete erosion and sediment control plan package was being received and therefore could not demonstrate that plans were being reviewed and the decision sent within the statutory timeframes. Staff stated that they will communicate any review comments which need to be addressed to the designer but do not issue an official disapproval when plans are found to be inadequate. Staff stated that they maintain a weekly and often daily presence onsite; however, inspections are not currently being documented adequately. At the time of our review the City had seven open projects. During our review of the program, DEMLR staff reviewed three project files and conducted site inspections on those projects.

The following is a summary of the projects that were reviewed:

1. Project Red Oak:

This project consists of 17.5 acres disturbed for industrial development and is located within both the Lower Yadkin sub-basin of the Yadkin Pee Dee River basin and the Deep sub-basin of the Cape Fear River basin. The project file contained the approved plan, certificate of approval, design calculations, a copy of the property deed and the FRO form. Written consent from the landowner for the financially responsible party to submit the erosion and sediment control plan and conduct the land-disturbing activity was not obtained. The date the complete application was received by the City was not noted. The certificate of approval for this project was issued on 12/22/2022. The certificate of approval did not include language conditioning the approval on compliance with federal and state water quality laws, nor did it include notice of the City's right to conduct periodic inspections. No NOV's or CPAs had been issued to this project prior to our review. Diversion ditch outlets were shown to be bypassing baffles in one basin and maintenance notes were not included for all proposed measures in the approved plan. The plan for this project had been revised in the field to relocate the construction entrance. However, the new location was not within the original limits of disturbance. Staff stated that they had given verbal approval for this change but had not required a revised plan to show the new construction entrance and a change in the limits of disturbance. In multiple places on the approved plan, the construction sequence referenced the incorrect plan review authority (i.e., NCDEQ instead of the City of Archdale).

On the day of our review, perimeter measures had been installed and installation of the new construction entrance was underway. It was observed in multiple locations that sediment had

been deposited beyond the limits of disturbance during the silt fence installation. These piles of sediment needed to be removed and placed back within the limits of disturbance and any disturbed areas re-stabilized. Mass grading had not begun as the initial erosion control measures had not been installed and approved by the City. Overall, this site was in compliance, but the City should request that the plan holder submit a revised plan showing the new construction entrance and limits of disturbance.

2. Royal Pines Ph. 5:

This project consists of 25.2 acres disturbed for residential development and is located within the Lower Yadkin sub-basin for the Yadkin Pee Dee River basin. The project file contained the approved plan, certificate of approval, design calculations, and the FRO form. A copy of the property deed was missing from the file. The certificate of approval for this project was issued on 2/1/2021 and did not contain all the necessary language. No NOV's or CPAs had been issued to this project prior to our review. The approved plans showed diversion ditch outlets bypassing baffles in basins and did not show means of stable conveyance into the basins.

On the day of our review, lot pads had been graded and inactive areas had been stabilized. The flexible pipe of the skimmer arm had cracked, and the skimmer was not functioning properly. Baffles needed to be extended to an adequate height as the basin had been excavated to the permanent basin design depth. The basin forebay also needed to be cleaned out. One section of silt fence had been removed and it appeared that a formerly permitted waste area had been accessed. This area was not included within the limits of disturbance of the current plan. Seed and straw had been placed along the disturbed path within the site. The developer stated that their grader had dumped materials offsite and then retrieved said materials upon discovery by the developer. City staff were unaware of this activity. Any remaining materials dumped offsite should be removed and the areas disturbed stabilized. A stockpile had been placed adjacent to a smaller basin to be used for fill once removal of the basin is approved. This stockpile was placed on top of the perimeter diversion and no additional perimeter measures were installed. Silt fence or another perimeter measure should be installed in this area to ensure that no offsite sedimentation will occur. Rills which had formed between lot pads needed to be repaired and re-stabilized. Silt sacks had been installed within the curb inlets and appeared to be functioning and well-maintained. However, weep holes had been installed to allow for water to access the drains until the final lift of asphalt was added which bypassed the silt sacks. Overall, this site was out of compliance. The City conducted a follow up inspection on 4/10/2023 and found that all corrective actions had been completed.

3. Hafele Warehouse Expansion:

This project consists of 5.2 acres disturbed for industrial development and is located within the Deep sub-basin of the Care Fear River basin. The project file contained the approved plan, certificate of approval, design calculations, and the FRO form. The FRO form for this project had been signed by a notary but was not sealed. The certificate of approval for this project was issued on 4/5/2022 and again did not contain all the necessary language. No NOV's or CPAs had been issued to this project prior to our review. The approved plan showed the removal of an existing gravel driveway but did not include the entire area within the limits of disturbance.

On the day of our review, construction and final stabilization was nearing completion. One section of silt fence appeared to have been run over or buried and would need to be removed once vegetation was established. Remaining disturbed areas were being stabilized. Overall, this site was in compliance.

Positive Findings:

During the review DEMLR staff noted positive aspects about the City of Archdale Erosion and Sedimentation Control Program including:

- The City has a more restrictive criterion as to when an Erosion and Sediment Control plan is required. An erosion and sediment control plan is required for all projects disturbing greater than one acre. The City also requires a sketch plan for projects disturbing greater than 10,000 square feet and financially responsible party information for all projects regardless of size.
- The City is providing reference to the NCG01 permit and requires that coverage is obtained prior to allowing construction to begin.
- The City requires that perimeter and initial erosion control measures are installed and approved prior to the commencement of mass grading.

Issues Noted and Required Actions:

During the review DEMLR staff found that the City of Archdale Erosion and Sedimentation Control Program had deficiencies including:

- Documentation of property ownership was not retained in all project files and written landowner consent was not obtained when the financially responsible party and landowner differed.
- The City is not currently tracking when a complete erosion control plan package is received and cannot demonstrate that plans are being reviewed and the review decision sent to the applicant within the statutory timeframes.
- Plans did not include all areas to be disturbed within the approved limits of disturbance. When the disturbed limits needed to be revised for the significant deviation of measures from the approved plan, a revised plan was not required by the City. Specific maintenance notes were not included for all proposed measures.
- The Certificate of Approval was missing language conditioning the approval upon compliance with State and Federal water quality laws and did not include notice of the program's right to inspect.
- Though staff stated that they maintain a weekly and often daily presence on site, inspections are not being adequately documented.

The City shall implement the following changes to correct the deficiencies found during the review and noted above:

- Documentation of land ownership must be obtained prior to approval of a plan. 15A NCAC 04B.0118(c). A copy of the property deed should be retained in each project file.
- Except for certain utility construction, if the applicant is not the owner of the land to be disturbed, the erosion and sediment control plan must include the landowner's written

consent for the applicant to submit a plan to conduct the land-disturbing activity. G.S. 113A-54.1(a). When the landowner and financially responsible party differ, written consent from the landowner should be obtained and retained in the project file.

- Once a complete application is received, plans are to be reviewed and the person submitting the plan notified that it has been approved, approved with modifications, or disapproved within 30 days of receipt of a new plan and within 15 days of receipt of a revised plan. G.S. 113A-61(b) and MOA Part III.C.1 & 3. Staff should document when a complete plan package is received and ensure that the plans are reviewed, and notification of the review decision is being sent to the applicant within the statutory timeframes. If plans are not found to be adequate within the statutory timeframes the plans should be disapproved. Once a complete package has been received, the 30-day review timeframe begins, and additional requirements related to stormwater or other city departments cannot delay or pause the review timeframe. The applicant has the right to appeal a disapproval or approval with modifications if written demand for a hearing is made within 15 days after receiving written notice of the disapproval or approval with modifications. G.S. 113A-61(c). Notice of disapproval or approval with modifications should be sent with the ability to track when the applicant has received the notice to ensure any request for appeal has been made in accordance with the statutory timeframe.
- Plans should include all information necessary to ensure that they can be approved in accordance with 15A NCAC 04B.0107(a) & (c) and 15A NCAC 04B.0118(d)(1) pursuant to the basic plan objectives under 15A NCAC 04B.0106. Staff should ensure that plans include construction details and maintenance notes for all proposed measures prior to approving plans. Plans should delineate the limits of disturbance which encompass all areas where proposed disturbances may occur. Once construction has begun, if it is determined that the approved limits of disturbance are inadequate or new areas need to be disturbed, a revised plan shall be required and approved by the City.
- Language is to be included within the certificate of approval that shall condition approval of a draft erosion and sedimentation control plan upon the applicant's compliance with federal and state water quality laws, regulations, and rules. G.S. 113A-61(b1) and MOA Part III.C.4.d. Certificates of approval shall also include notice of the right of inspection by the local program. G.S. 113A-61.1(a) and MOA Part III.C.4.c. City staff stated that this language has since been added to their Certificate of Approval and will be included moving forward.
- City staff currently use an electronic reporting system to facilitate communication between those conducting the land disturbing activity, the public and city staff. However, the current process does not adequately document the onsite conditions nor the state of compliance when inspections are conducted. The City shall document inspections in writing, including electronic documents, and reports shall include, at a minimum, all information in the model sedimentation inspection report developed by the Commission. MOA Part III.D.2 & 3. City staff stated that inspections would be documented using the template inspection report provided by DEMLR and then will be uploaded to the electronic reporting system moving forward.

Recommendations:

DEMLR staff has also compiled a list of recommendations that would help to improve the program:

- The City has recently updated their local ordinance to reflect the changes made in the 2020 Model Ordinance. The City should update the local ordinance to reflect the most recent changes made in the 2021 Model Ordinance. It is also recommended to remove sections which appear in the Model Ordinance but are not applicable to the City. Sections which do not pertain to the City such as Trout Buffers and the Falls Lake Watershed can be removed from the local ordinance.

Conclusion:

During the review, DEMLR staff noted that the City of Archdale locally delegated erosion and sedimentation control program had a number of deficiencies. The City will need to adjust its plan review process to ensure that plans are reviewed, and the applicant notified of the review decision within the statutory timeframes. Once a complete application is received, the plan review timeframe cannot be held up for any other approval or non-erosion control requirement. When reviewing plans, staff should ensure that the proposed limits of disturbance encompass all areas which will be disturbed. If the limits of disturbance must change during the construction, the City should require a revised plan and ensure that the change or addition of disturbed areas are adequately protected. Staff indicated that they maintain a frequent presence onsite; however, the current electronic system used to note inspections does not capture the conditions onsite nor provide the appropriate information to document the inspection findings. Since the audit, City staff have begun to issue an official inspection report through their electronic system and should continue to do so moving forward. Staff stated that language conditioning the plan approval on compliance with water quality laws and giving notice of the City's right to inspect the land disturbing activity has been added to the certificate of approval. DEMLR staff recommends to "Continue Delegation with Review" for a period of 6-months of the City of Archdale locally delegated program with a follow up report to be presented during the 2023 Q4 meeting.

This report has been prepared based on the formal review of the City of Archdale Erosion and Sedimentation Control Program conducted on March 9th and 29th, 2023. This report will be presented to the Sedimentation Control Commission during its 2023 Q2 meeting on May 23, 2023.