

## **Local Program Report to the SCC Town of Huntersville, February 21, 2023**

On January 24, 2023, personnel from NCDEQ, DEMLR conducted a formal review of the Town of Huntersville Erosion and Sedimentation Control Program. The Town of Huntersville program was initially delegated on 8/14/2019. The Town requires an erosion and sediment control plan for all projects disturbing 1 acre or greater. Jurisdiction of the program covers the Town of Huntersville's corporate limits and extraterritorial jurisdiction (ETJ). During the 2022 calendar year, the Town conducted 179 plan reviews or re-reviews, issued 42 plan approvals and 137 disapprovals. The Town utilizes an electronic permitting system to accept and review the erosion control plans as part of the overall construction plan set. Once a plan set has been reviewed and either approved or disapproved within the system, the review cycle is complete. When plans are found to be inadequate and disapproved, review comments are sent through the permitting system. However, an official notice of disapproval is not being sent. Under this current process the statutory timeframes for plan review and notification of the plan review decision are not always met. During the 2022 calendar year, the Town also conducted 965 inspections and issued 6 NOVs and 2 Stop Work Orders/building permit holds. Staff stated that a final close out inspection approval is required prior to issuing a Certificate of Occupancy. The Town will also place holds on building permit issuance to residential lots as an additional tool to bring sites into compliance. The Town has 10 staff who contribute approximately 2.75 full time equivalents (FTE) to the program. At the time of our review the Town had 86 open projects. During our review, we looked at three project files and conducted site inspections on those projects.

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

### **1. Huntersville Town Center:**

This project consists of 10.1 acres disturbed for mixed residential and commercial development. The project file contained the approved plan, letter of approval, design calculations, previous inspection reports and the FRO form. A copy of the property deed was missing from the project file. The initial complete application for this project was received by the Town on 10/5/2021 and went through 5 review cycles before being approved on 8/9/2022. Following each review cycle, official notice of the plan review decision in accordance with G.S. 113A-61 was not issued. The approved plan appeared to be adequate. Construction on this project began in December of 2022 and the Town had conducted 3 inspections prior to our review. No NOVs or CPAs had been issued to this project. The Town requires initial ESC measures to be installed and approved by Town inspectors prior to allowing a project to move into mass clearing and grading. During our review of this project initial measure installation was still underway. The perimeter measures had been installed and the basins were under construction. The skimmer device and baffles had been installed in one basin, but the emergency spillway still needed to be installed and the area stabilized. Excavation of the larger basin was underway. During the most recent inspection conducted on 1/20/2023 the Town had noted a minor sediment loss below the area where the larger skimmer basin was being

installed. The silt fence and silt fence outlet at this location had been repaired and wattles had been installed to contain the lost sediment until cleanup operations could be completed. The contractor had placed the skimmer outlet of the nearly completed basin through a silt bag as an additional measure. The construction entrance had been installed and appeared to be functioning. Portable toilets had been placed too close to a storm drain and needed to be moved at least 50 ft away or down stream of any storm drain inlet or basin. The stockpile from the basin excavation had been placed adjacent to the smaller basin and needed to be moved or have silt fence installed around the toe of the pile. Only the areas necessary for installation of measures had been disturbed. The contractor had completed repairs previously noted and there were no signs of further loss. However, this site was out of compliance for needing to move the portable toilets and stockpiles the proper distance away from inlets and basins and to complete the sediment loss cleanup.

## **2. Oak Grove Hill Ph. 1 & 2:**

This project consists of 32.97 acres disturbed for residential development. The project file contained the approved plan, letter of approval, design calculations, previous inspection reports and the FRO form. A copy of the property deed and a landowner consent letter was missing from the project file. The initial complete application for this project was received by the Town on 5/15/2020 and went through 4 review cycles before being approved on 1/26/2021. Following each review cycle, official notice of the plan review decision was not issued. The approved plan appeared to be adequate. Construction on this project began in February of 2021 and the Town had conducted 27 inspections prior to our review. The Town conducted an inspection on 1/3/2023 and found that one area had been cleared and graded without installation of the erosion control measures or approval from the Town. Maintenance and stabilization needs were also noted. The Town issued an NOV on 1/11/2023 and gave a deadline for compliance of 1/23/2023. During our review we conducted a partial inspection of this site due to time constraints. The basin in the area that had been cleared had been installed, however, a rock pad below the skimmer device needed to be installed. A silt bag had been installed at the skimmer device outlet as well. Drop inlet protection measures needed stone added per the construction detail in the approved plan. The Town conducted a follow up inspection on 1/27/2023 and found that while progress had been made, some corrective actions listed in the NOV had not yet been completed. The Town issued a Notice of Continuing Violation (CNOV) on 1/31/2023.

## **3. Huntersville Community Preschool/Daycare:**

This project consists of 2.68 acres disturbed for commercial development. The project file contained the approved plan, letter of approval, design calculations, previous inspection reports and the FRO form. A copy of the property deed and a landowner consent letter was missing from the project file. The initial complete application for this project was received by the Town on 10/4/2021 and went through 4 review cycles before being approved on 5/10/2022. Again, following each review cycle, official notice of the plan review decision was not issued. The approved plan appeared to be adequate. Construction on this project began in July of 2022 and the Town had conducted 7 inspections prior to our review. No NOV or CPAs had been issued to this project. During our review vertical construction was underway and

grading was continuing. The skimmer basin had been installed and appeared to be well maintained. Slopes that had recently been graded adjacent the basin had been tracked properly and check dams had been installed in diversion ditches. Slopes along the perimeter of the building needed to be stabilized. The Town had previously noted that inlet protection measures were installed with improper materials. Some inlet protection measures had been reinstalled properly while others still needed to be installed per the approved plan. The construction entrance appeared to be functioning but would need to be maintained soon to prevent tracking into the road. Overall, this site was in compliance. No signs of offsite sedimentation were noted.

### **Positive Findings:**

During the review DEMLR Staff noted positive aspects about the Town of Huntersville Local Erosion and Sedimentation Control Program including:

- The Town requires a preconstruction meeting for all projects.
- The Town requires that all the initial erosion and sediment control measures are installed and approved by Town staff prior to issuing the grading permit and allowing for mass grading to begin.
- The Town implements “Enhanced Erosion Control Requirements” within the McDowell Creek and Mountain Island Lake sub-watersheds. These requirements include the use of high hazard silt fence with wire backing and stone entrenchment along wetlands, streams, lakes and other water bodies, a more restrictive timeframe for ground stabilization, matting of diversions and basins, a larger basin design volume requirement, and others.
- The Town requires proof of the NCG01 Certificate of Coverage prior to scheduling a preconstruction meeting and monitors for and provides guidance on potential violations. The Town is also regularly reviewing the weekly self-inspection records for all projects.

### **Issues Noted and Required Actions:**

During the review DEMLR Staff found that the Town of Huntersville Erosion and Sedimentation Control Program had deficiencies including:

- Plans are being reviewed within 21 days during each review cycle per an internal policy. However, adequate notification of the plan review decision is not sent back to the applicant within the appropriate timeframes. When plans are found to be inadequate, an email is sent to the applicant, but it does not provide the ability to track receipt of the notice by the applicant. Since the construction plans are reviewed by multiple departments, the letter of approval is not always sent upon finding that the Erosion and Sediment Control Plan is found to be adequate. The Letter of approval is not issued until all departments have approved their respective portions of the construction plans.
- Documentation of property ownership and a letter of landowner consent when the Financially Responsible Party (FRP) and the landowner differ, were not obtained, and retained in the project files.

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

- 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 or 15 days of a revised plan. G.S. 113A-61(b) and MOA Part III.C.1 & 3. The Town must review plans and send official notice of the plan review decision to the applicant within the appropriate timeframes. When plans are disapproved, official notice of the disapproval must be sent with the ability to track receipt by the applicant. The applicant has the right to appeal this decision if a request for a hearing is made within 15 days of receiving the notice of disapproval.
- Documentation of land ownership must be obtained prior to approval of a plan. 15A NCAC 04B.0118(c). 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 and not conduct the land-disturbing activity. G.S. 113A-54.1(a). The Town should obtain documentation of land ownership for all projects and written landowner consent when applicable. These items should be retained in the project file. The Town revised the FRO form in August of 2022 to include the requirement for a landowner consent agreement when the FRP and landowner differ. The Town has also created a letter of consent template available on their website. These changes were made after all the plans we reviewed had been approved.

### **Conclusion:**

During the review DEMLR staff found that the Town of Huntersville locally delegated erosion and sedimentation control program had a few deficiencies. The plan review process will need to be adjusted to ensure that the statutory timeframes for plan reviews and proper notification requirements are met. The Town has revised their FRO form to include a statement requiring a landowner consent letter and has provided a template letter for applicants to use on their website. This revision was made after the plans we reviewed had already been approved. Plan reviewers should ensure that this consent letter is provided in all cases when the landowner and FRP differ. The Town should retain documentation of property ownership within each project file. All the approved plans we reviewed appeared to be adequate and Town staff demonstrated their knowledge and ability to conduct adequate plan reviews and noted all areas seen by State staff while onsite. The Town implements enhanced erosion control requirements in the respective watershed areas. These additional requirements impose more restrictive design standards and provide an added level of protection for the surrounding waters. The Town uses the hold of building permits and certificates of occupancy as additional tools to bring sites into compliance. Town staff have demonstrated a comprehensive understanding of the NOV and enforcement procedures. The Town has also updated their local ordinance in accordance with the most recent Model Ordinance. The Town has demonstrated their knowledge, experience, and ability to effectively implement the local program's delegated authority. DEMLR Staff recommends to Continue Delegation of the Town of Huntersville Erosion and Sedimentation Control Program.

This report has been prepared based on the formal review of the Town of Huntersville local program conducted on January 24, 2023 and will be presented to the Sedimentation Control Commission during its 2023 Q1 meeting on February 21, 2023.