

Local Program Report to the SCC Town of Clayton Follow up, November 21, 2024

On August 1, 2024, a follow up report was presented to the Sedimentation Control Commission (SCC) based on the formal review and follow up reviews of the Town of Clayton Erosion and Sediment Control Program conducted on July 6, 2023, February 2, 2024, July 6, 2024, and the respective 6-month, 3-month continued review period and the 3-month probationary period. The Commission voted to place the Town's program on probation for another 3 months with a follow up report to be presented during the 2024 Q4 meeting on November 21, 2024. During this probationary period, the Town needed to address the remaining deficiencies listed below which have been noted during the initial and follow up reviews.

- 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 calendar days of receipt of a new plan and within 15-calendar days of receipt of a revised plan. Staff are to ensure that plans are being reviewed and notice of the official review decision is being sent within the statutory timeframes. When a plan is found to be inadequate, notice of the plan's disapproval shall be sent. These notices are to be sent with the ability to track when the applicant has received the notice. These notices should also include language notifying the applicant of their right to appeal the disapproval.
- When the Financially Responsible Party is a company/firm, the registered agent information should be included on the FRO form.

Follow Up:

During the probationary period from August through November, the Town conducted 39 plan reviews or re-reviews, issued 8 approvals and 31 disapprovals. The Town has conducted 178 inspections and issued 5 NOVs. No CPAs, SWOs or building permit/inspection holds were issued during this period. The Town has filled the vacant Stormwater Engineer position and is no longer utilizing a contracted consultant to conduct ESC plan reviews. DEMLR staff conducted a formal follow up review on November 5, 2024. Three recently reviewed project files were reviewed again during this follow up.

1. Country Lane SD:

The plan for this project was reviewed and approved during the probationary period. The most recent complete plan package was received by the Town on 10/10/2024 and the letter of approval was issued on 10/14/2024. The approved plan appeared to be adequate, and the

registered agent information had been included on the FRO form. This plan was reviewed, and the review decision was sent to the applicant within the appropriate timeframe.

2. Ashcroft Section 2 Ph. 7 & 8:

The plan for this project was reviewed and disapproved during the probationary period. The plan for this project had undergone multiple reviews prior to this submittal. The Town received this complete plan package on 10/15/2024. The Town found this plan to be inadequate and issued a formal letter of disapproval on 10/28/2024. The Town utilizes an electronic review system that allows them to provide comments directly on a plan set and send these comments and reasons for disapproval directly back to the applicant. The Town's letter of disapproval does not include the reasons for disapproval but a follow up email with links to the marked-up plan set and summary of reasons for disapproval is sent following the issuance of the letter. The Town will need to ensure that the recipient(s) of the formal letter of disapproval is able to access the reasons for disapproval and track when this information is accessed or received. This plan was reviewed, and the review decision was sent to the applicant within the appropriate timeframe.

3. Shotwell Apartments:

The plan for this project was reviewed and disapproved during the probationary period. This was the first submittal for this project. The complete package was received by the Town on 10/9/2024. The Town found the plan for this project to be inadequate and issued a letter of disapproval on 11/4/2024. The Registered Agent information was not included in the FRO form submitted, and this was noted as one of the reasons for disapproval.

Conclusion:

The Town has filled the vacant Stormwater Engineer position and has transitioned to conducting plan reviews with Town staff and are no longer utilizing a contracted consultant. The Town has made the necessary adjustments to their plan review process to ensure that plans are being reviewed and notice of the official review decision is being sent to the applicants within the appropriate timeframes. The Town should ensure that when plans are found to be inadequate, the reasons for the plan disapproval or a link that can be used to access the list of comments and marked up plan sets with the reasons for disapproval is included in the formal letter of disapproval. Town staff are ensuring that the Registered Agent information is included on the FRO form whenever the financially responsible party is a company. Staff appear to be conducting thorough and comprehensive reviews. During the probationary period, the Town has demonstrated their ability to address deficiencies noted during the previous reviews.

DEMLR staff recommend to Continue Delegation of the Town of Clayton Erosion and Sedimentation Control Program.

This report has been prepared based on the initial formal review and follow up reviews conducted on 7/6/2023, 2/2/2024, 7/6/2024, 11/5/2024, the respective 2-quarter and 1-quarter continued review period, and the two 2-quarter probationary periods. This report will be presented to the SCC on November 21, 2024.