

Local Program Report to the SCC Town of Waxhaw Follow Up, May 23, 2024

On February 21, 2024, a report was presented to the Sedimentation Control Commission (SCC) based on the formal review of the Town of Waxhaw Erosion and Sedimentation Control Program conducted on January 11, 2024. The Commission voted to continue delegation with review with a follow up report to be presented during the 2024 Q2 meeting on May 23, 2024. During the initial review in January the following programmatic issues and corresponding corrective actions were noted.

Issues Noted and Required Actions:

- Documentation of Property ownership was not retained in each project file.
 - Documentation of property ownership should be obtained and retained in each project file.
- The registered agent information was not always included on the FRO form when the FRP was a company or firm.
 - The Town should update their FRO form to clarify that the registered agent information is required whenever a company/firm is the FRP. Staff should also verify the company/firm information with the business registration on the [NC Secretary of State website](#).
- When plans are submitted to the Town, they are reviewed and either approved or, if found to be inadequate, review comments are sent back to the applicant. The Town issued letters of disapproval for some projects that were reviewed during the audit; however, these letters did not always contain language stating the official review decision or notice of the applicant's right to appeal. The Town had recently switched to issuing these letters via email. Through this process, notification of the official review decision was not always being sent back to the applicant within the appropriate timeframes. One of the projects reviewed had been issued a letter of approval and this letter included some modifications that needed to be made to the plan. Letters of approval were also missing language conditioning the approval on the applicant's compliance with Federal and State Water Quality Laws. These letters were also not always dated.
 - Once a complete package is received, the plans should be reviewed, and the official review decision sent to the applicant within 30-days for new plans and 15-days for revised plans. Staff should ensure that review decision letters include all of the required language and resume sending notices of disapproval with the ability to track receipt. Staff should also ensure that all letters are dated. When a plan is found to be approvable but has some minor modifications that are needed, the plan should be approved with modifications and the decision letter should include the necessary language for an approval with modifications.
- Inspections reports are not always completed following an inspection conducted by the Town. Town staff stated that inspections are often conducted weekly or more frequently but are not always documented through an official inspection report. Email correspondence between Town staff and the plan holder regarding needed maintenance

or repairs on site were available in some project files. Staff also stated that when a site was found to be in compliance an inspection report was not completed.

- The Town shall document in writing, including electronic document, and report shall include at a minimum, all information in the model sedimentation inspection report developed by the Commission.
- Maintenance notes for some proposed measures were missing from approved plans.
 - Staff should ensure that plans include specific maintenance notes for all proposed measures prior to approving plans

Follow Up:

During the Continued Review period, Town staff provided updates on the implementation of the changes needed and discussed during the initial review. Staff provided formal inspection reports generated throughout the review period to DEMLR staff. The Town is now requiring that a copy of the property deed is included as part of the complete package. Staff have updated the FRO form to clarify when registered agent information should be included. Staff have also updated their decision letter templates using the templates that DEMLR provides on the Local Program SharePoint site. During the Continued review period from February through April 2024, the Town conducted 2 plan reviews or re-reviews and issued 2 disapprovals. The Town conducted 48 formal inspections and issued no NOV's or CPAs. As of May 1, 2024, the Town reported that they have 20 open projects, 4 of which have not yet begun construction.

Seven Hills Subdivision:

The plan for this project was received and reviewed by the Town during the continued review period. The project consists of a proposed 30.56 acres disturbed for residential development and is located within the Lower Catawba Subbasin of the Catawba River Basin. The Town has not approved the plan for this project yet. The complete package submitted included a draft erosion control plan, a copy of the signed FRO form, a copy of the property deed, design calculations and the Town's erosion control plan checklist. The Town noted discrepancies of the disturbed areas shown on the plan and the area noted on the FRO form among a number of other design items that would need to be addressed before the plan could be approved. The plan for this project had previously been disapproved and the revised plan packaged was received by the Town on March 27, 2024. The Town noted that some items had still not been addressed in this second submittal. A letter of disapproval was issued on April 8, 2024. The review was conducted and notice of the review decision was sent to the applicant within the appropriate timeframe. The letter of disapproval included all the necessary language and was sent with the ability to track receipt.

Blythe Mills Townhomes:

This project consists of 18 acres disturbed for residential development and is located within the Lower Catawba Subbasin of the Catawba River Basin. On the day of the initial review, this project was out of compliance with minor sediment loss noted in two locations and disturbance beyond the approved LOD. Town staff conducted a follow up inspection on 1/29/2024 and noted that use of the areas outside of the LOD had ceased but that a number of repairs noted during the review had not been completed. Staff conducted a formal follow up inspection on 2/27/2024 and noted that the corrective actions from the previous inspections had been completed but that

diversion ditches needed to be regraded to ensure positive drainage to the basins. Town staff continued to monitor this site and conducted formal inspections on 3/28/2024 and 4/30/2024. Staff noted that the site was in compliance during both of these inspections.

Conclusion:

Following the initial review in January, the Town has made the necessary changes to the plan review process and how inspections are documented. Town staff have ensured that once a complete package has been received, the plans are reviewed and notice of the official review decision is sent to the applicant. When plans are disapproved, notice of the disapproval is sent with the ability to track receipt. The Town began documenting formal inspections through an inspection report and has conducted a formal inspection at least monthly on all active projects. Staff continued to conduct frequent inspections and communicate any minor maintenance or repairs to the onsite contacts. When issues persist or violations are noted, staff are generating and issuing a formal inspection report. Staff appear to be conducting adequate plan reviews and noting items that need to be addressed appropriately. The Town has updated their standard construction details to incorporate maintenance notes for each measure and has updated other template letters using the templates provided by DEMLR. Staff are also ensuring that documentation of property ownership is obtained prior to approving a plan. The Town has worked to address the deficiencies noted during the initial audit and have demonstrated their ability to effectively implement their delegated authority.

DEMLR staff recommend to “Continue Delegation” of the Town of Waxhaw Erosion and Sedimentation Control Program. This report has been prepared based on the formal review conducted on January 11, 2024, and the subsequent continued review period. This report will be presented to the SCC during its 2024 Q2 meeting on May 23, 2024.