

Local Program Report to the SCC City of Jacksonville, Continued Review Follow-up

On May 4, 2021, a report was presented to the Sedimentation Control Commission based on the formal review of the City of Jacksonville Erosion and Sedimentation Control Program conducted on March 25, 2021. The Commission voted to “Continue Delegation with Review for 6 months.” During the March 25th review, the following issues and required actions that the program should implement to address said issues were noted:

Previous Issues Noted:

- While the plans were reviewed, the applicant was not always notified of the plan review decision within the 30-day time frame. Comments were sent back to the designer when plans were found to be inadequate, but official notice of disapproval of the current submitted plan was not being made within the required timeframe.
- A copy of the property deed and the design calculations were not included in every project file.
- A landowner-builder consent agreement was not obtained when the landowner and financially responsible party (FRP) differ.

Required Actions:

- Once a complete application is received, plans are to be reviewed, and the applicant 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. When disapproving a plan, a formal disapproval letter should be sent out within 30 days of receiving the complete application via Certified Mail. All decision letters should acknowledge the date when the complete application or revised plan was received.
- Documentation of land ownership must be obtained prior to approval of a plan. A copy of the property deed should be kept on file with each project. 15A NCAC 04B.0188(c). When plans are submitted as a whole package and then split for the respective department reviews, a copy of all relevant plan items including the measure design calculations, narrative, existing conditions, deed, etc. should be kept in the E&SC file as well as kept with any other departments.
- 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 for and conduct the land-disturbing activity. G.S. 113A-54.1(a). A letter of consent/landowner-builder agreement letter should be obtained in all cases where the party conducting the land disturbance and landowner of record differ.

Follow-Up Update:

During the Continued Review period from May 2021 through September 2021, the City conducted 9 plan reviews, issued 3 approvals and 6 disapprovals. During this period the City conducted 221 inspections and has not issued any NOV’s or CPAs. The City currently has 7 staff which contribute 4 full time equivalents to the erosion control program and 11 open projects.

Following our initial review, the City has begun to require a copy of the property deed and a letter of consent/landowner-builder agreement, if applicable, be submitted as part of the complete application. The City is now sending out official letters of disapproval within 30-days of receiving the complete application when a plan is reviewed and found to be inadequate. All relevant application items are being kept in the E&SC file as well as with any other department files when applications are submitted as a package and must be split for different departments to review. DEMLR staff has conducted oversight inspections with City staff throughout the review period and received periodic updates from the City.

The following is a short update based on the inspections conducted by the City following the site inspection conducted on the day of the March review and updates given by City and DEMLR staff.

1. Springfield Park Apartments:

This project consists of 10.5 acres disturbed for residential development. This project was found to be out of compliance on the day of the March 25th review for failure to maintain perimeter measures, failure to provide groundcover on inactive or completed areas and minor sediment loss into the roadside ditch where water line boring had recently been conducted. City staff found that all areas of concern were addressed during the next inspection. Throughout the Continued Review period City inspectors found this site to be out of compliance at times for measures needing maintenance. No sediment loss was noted at any time during this time. A recent inspection conducted by the City on August 4, 2021, found this site to be out of compliance needing maintenance on inlet protections throughout, and slopes near the inlet to a basin needing to be repaired and stabilized. The following inspection conducted on August 16, 2021, found all corrective actions had been addressed and the site to be in-compliance.

2. MSA Expansion:

This project consists of 7.1 acres disturbed for industrial development. This project was found to be out of compliance on the day of the March 25th review for failure to provide adequate groundcover throughout the site and failure to install and maintain measures. The City continued to monitor this site, noting maintenance and stabilization needs as they were observed by inspectors. This project has since completed construction and the City is now monitoring for permanent vegetation to be established before releasing the project. On the most recent inspection conducted on October 6, 2021, the site was found to have approximately 55% vegetation density and sections of silt fence needed to be maintained.

3. Gateway Marketplace:

This project consists of 27.4 disturbed acres for commercial development. This project was under an NOV during the day of the March 25th review for failure to stabilize one small area along the front ditch line of the project. During the initial review, construction for this project had been completed. The City continued to monitor this project and work with the Property Manager and contractor to address the area of concern. This site remained out of compliance until August. Due to the Covid-19 complications and the changes in the contractor working on the project and no signs of sediment loss during this time, the City did not pursue further enforcement. The City denied an ESC plan submitted for further development on this parcel due to the open NOV. After which, the FRP hired a new contractor to address the areas of concern.

The City found this site to be in compliance during an inspection conducted on August 23, 2021. During an inspection conducted by the City on September 28, 2021, the sod used to stabilize the slope had slid down and rills were starting to form. The City found this area to had been addressed during the following inspection conducted on October 20, 2021. The slope had been repaired, seeded, and matted.

4. East Carolina Dental:

This is a commercial development project. This project was not reviewed during our initial March 25th review. The City found this site to be out of compliance during an inspection conducted on June 9, 2021 for maintenance needed on perimeter silt fence. The City found these areas to be addressed during a follow up inspection conducted on June 16, 2021. Overall, inspection reports for this project showed compliance and quick response to areas of concern noted by the City.

Conclusion:

During the continued review period, DEMLR staff has received periodic updates from the City and noted the improvements made by the program. The City of Jacksonville has taken steps to address the deficiencies found and implement some of the recommendations made by DEMLR staff during the March 25, 2021, review. The City is now sending official letters of disapproval when plans are found to be inadequate. A copy of the property deed and a landowner/builder consent agreement, when applicable, are now required as part of the application packet and a copy of all application documents are being kept in the ESC file in cases where multiple departments require the documents for review. DEMLR staff has conducted oversight inspections with City staff and found that inspections were being conducted properly. City staff has made the necessary changes to address the deficiencies noted during the initial review and demonstrated their knowledge and ability to effectively implement the local program's delegated authority.

Based on the formal review conducted on March 25, 2021, and the Continued Review period, DEMLR staff recommends to "Continue Delegation" of the City of Jacksonville Local Erosion and Sedimentation Control Program. This report will be presented to the Sedimentation Control Commission (SCC) on November 4, 2021.