

MEMORANDUM

TO: Lenwood Smith / Environmental Protection Specialist
US Department of Housing and Urban Development

CC: Sam Powers / Community & Economic Development Director

FROM: Paul D'Angelo / Community Development Program Director
Nancy Williams / Community Development Analyst

DATE: March, 2021

SUBJECT: HUD Environmental Review Monitoring

SUMMARY STATEMENT:

The City of Asheville's Community Development Division was monitored over 2 days in July, 2019. A report of findings dated October 1, 2019, found 4 Environmental findings in our division. Please see below for a response to each finding.

FINDINGS & CORRECTIVE ACTION:

FINDING 1: (Environmental review record) - The city did not consistently consult appropriate environmental data sources (including appropriate resource agency representatives) and provide appropriate documentation to determine or indicate compliance with the applicable laws or authorities listed under 24 CFR 58.5 and 58.6.

CORRECTIVE ACTIONS:

1. The City has developed a detailed, written procedure to ensure that the environmental review process is properly completed for each HUD-funded project before any funds (including non-HUD funds) are committed for choice-limiting actions. This **Environmental Review Policy** is [attached](#) for review and approval by HUD. The City of Asheville Community Development Division, in writing it's Environmental Review Process Procedures, commits to:
 - a. ensuring that no funds (HUD or non-HUD) are committed to proposed projects until the environmental review process is complete;
 - b. defining the scope of each proposed project and determining the appropriate level of environmental review;
 - c. acquiring documentation to support findings regarding required levels of review;
 - d. acquiring documentation to support findings of compliance with the laws and authorities at 24 CFR 58.5 and 58.6. as suggested in the Corrective Action for this Finding;

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- e. acquiring, for Environmental Assessment level projects, documentation to support environmental impacts determinations;
 - f. recording the decision or finding made on the basis of the supporting documentation;
 - g. signing and dating the environmental review (i.e., making the determination of converts to Exempt, cannot convert to Exempt, or Finding of No Significant impact (FONSI); and,
 - h. where applicable, completing the public notification and RROF (Request for Release of Funds) processes outlined at 24 CFR 58.43-45 and 58.70-77.
2. The City of Asheville will submit all of its environmental review records to the Greensboro Field Office Environmental Protection Specialist (currently Mr. Lenwood Smith) for review and determination of environmental compliance via phone or email prior to committing funds (including non-HUD funds), making compliance determinations or FONSI, and publishing/posting notices and submitting RROFs, where applicable, and drawing funds from IDIS. The City understands it will be notified in writing when environmental reviews are being prepared properly and Mr. Smith's review and approval are no longer required.
3. As noted, Nancy Williams (CD Analyst) and Megan Gaskell (as CD Coordinator) attended and satisfactorily completed the Region IV Part 58 Environmental Training in Atlanta from September 10-12, 2019. While HUD does not require additional action for fulfillment of this corrective action, the City does understand that additional actions must be completed for this finding to be closed as notated in Corrective Action 1 & 2. In addition to our responses above, the City brought in an Environmental Consulting firm, MPACT Strategic Consulting LLC, for a full day of training on Friday, November 22, 2019. This training included going through examples of each type of Environmental Review that will then become part of our Environmental Review Policy. The Community Development Division has also appointed an Environmental Review Lead on our team to further review Environmentals conducted by staff. This role of Environmental Review will be filled by the Community Development Program Director. This additional step will help ensure compliance with the regulations and our HUD Field Office.

FINDING 2: (Floodplain Management and Wetland Protection) - The city did not comply with Executive Order 11988: Floodplain Management or Executive Order 11990, as implemented at 24 CFR Part 55.

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CORRECTIVE ACTIONS:

1. Working in partnership with the City of Hendersonville, the Housing Assistance Corporation (Oklawaha Village) deeded the floodplain parcel, Oklawaha Village Lot 23, to the City in order to minimize any impacts and preserve the beneficial values served by the floodplain parcel. The City of Hendersonville placed a permanent restrictive covenant on Oklawaha Village Lot 23 to be dedicated green space and floodway areas to create a stream protection buffer to Mud Creek as part of Hendersonville's Greenway System. The [Restrictive Covenant](#) on Oklawaha Village Lot 23, was recorded 3/17/2020 in Book 3464, Page 640.
2. The Project Manager has noted the file with the appropriate documentation.

FINDING 3: (Environmental Review Record) - The city did not follow the correct procedural order when making Findings of No Significant Impact (FONSI).

CORRECTIVE ACTIONS:

1. Please reference City of Asheville Response to Finding 1, 1-3, including the Environmental Review Policy.
2. Example: **The Cottages of Oklawaha Village**
 - a. The Environmental Assessment Summary Findings and Conclusion determined a Finding of No Significant Impact signed 8/13/2020 by the responsible entity's Certifying Officer, City Manager Debra Campbell.
 - b. The Concurrent Notice FONSI/RROF was then posted on the City's Website.
 - c. The Public Comment Period concluded 8/31/2020.
 - d. The Request for Release of Funds and Certification (HUD -7015.15) signed 9/1/2020 by the Certifying Officer, City Manager Debra Campbell was emailed (per Covid National Emergency Guidance) to HUD Greensboro office 9/1/2020.
 - e. The Objection Period completed 9/17/2020 and the Authority to Use Grant Funds (HUD -7015.16) was signed 9/18/2020.

FINDING 4: The city did not complete a new environmental assessment for the Dodd Meadow project upon learning of the addition of environmental assessment level activities to the project scope.

CORRECTIVE ACTIONS:

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1. Please reference City of Asheville Response to Finding 1, 1-3, including the approved Environmental Review Policy.
2. Per Lenwood Smith's recommendation, Henderson County Habitat is engaging Alpha Environmental to complete the Dodd Meadows environmental assessment for the full 33 acres of the subdivision that includes the effects of the public community center and construction of housing on the adjacent 11-acre parcel, as well as any other parcels that may be added to the proposed development. The City of Asheville's Project Manager for Dodd Meadows is working closely in conjunction with Alpha Environmental and Henderson County Habitat for Humanity, to ensure that the HUD Environmental Assessment Determinations and Compliance Findings for HUD-assisted Projects 24 CFR Part 58 Form are completed to be in compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities. The Environmental Assessment will provide credible, traceable, and supportive source documentation for each authority. Where applicable, the necessary reviews and consultations were obtained and the applicable permits of approvals noted. In addition, the Environmental Assessment will clearly note citations, dates/names/titles of contacts, and page references and attach additional documentation as appropriate. *This full environmental assessment is expected to be finalized towards the end of January 2021.* As with other Environmental Reviews, the City of Asheville will submit the required documentation to Mr. Smith for review. Upon approval the Concurrent FONSI/RROF Notice will be posted for 18 days for public comment to the City's webpage. Followed by the RROF to HUD Greensboro for the public objection period prior to receiving the Authority to Use Grant Funds. .

ENVIRONMENTAL REVIEW - NEXT STEPS

1. Once the City of Asheville is cleared of these findings by HUD, the CD Team will begin internal HEROS (HUD Environmental Review Online System) [Training](#). While not a requirement of HUD as of yet, staff will begin to prepare for this transition to performing ERs online.
2. Continued Environmental Review Training when available.
3. For Environmental Assessments, the City will reserve the right to partner with the developer and their chosen Environmental Firm on the Environmental Assessment which can not only be done in better coordination with the Phase 1, but also be more economical as a soft cost to the developer. In addition, these Environmental Firms are subject matter experts who do Environmental Reviews every day vs. City Staff where an EA may only occur once a year. Other municipalities do this same partnering when it comes to EAs as Best Practice.