

ITEM #: 31
DATE: 09-24-24
DEPT: P&H

COUNCIL ACTION FORM

**SUBJECT: MAJOR SITE DEVELOPMENT PLAN FOR GRADING AND PAVING
WITHIN THE ENVIRONMENTALLY SENSITIVE OVERLAY 1205 AND 1399
S. DAYTON AVENUE**

BACKGROUND:

David & Toni Wheelock, the owners of the property at 1205 South Dayton Avenue, are seeking approval of a Major Site Development Plan with an Environmental Assessment for the enlargement of a pond located within the Environmentally Sensitive Overlay (O-E) at 1205 South Dayton Avenue and 1399 South Dayton Avenue. (See Attachment A). The proposal is in response to a code enforcement notice to the property owner for work that was previously performed without permits. The O-E for this property is the Skunk River floodway.

The site consists of multiple parcels comprising 93.54 acres on land zoned Agricultural (A). The focus of the Major Site Development Plan is the pond and adjacent area near the shoreline located south and west of the single-family home. The pond was originally constructed in 2005 as part of the East Hickory Park Subdivision. The site consists of a single-family home with outbuildings and some agricultural land mixed with meadow and trees.

The Environmentally Sensitive Overlay (O-E) requires that any activity that includes a Development Use as described in Chapter 9.4(2) is subject to Major Site Plan Review. All development activity must also meet all floodplain development and environmental standards for it to be approved. In this case the enlargement of the pond falls within extraction of materials such as sand, gravel and other materials that is defined as a development use.

Late last year, staff observed that the pond within the O-E Overlay (Environmental Overlay) had been enlarged and altered on the west and north edges of the pond. The work included enlarging the size of the pond to the north by 27,600 square feet and construction of a paved trail along the north and west sides of the pond. A small island on the west side of the pond was connected to the shoreline by way of fill placement.

Normally, a Major Site Development Plan and Floodplain Development permit would be required to be reviewed and approved before any development activity takes place. Staff contacted the owner and informed them of what needed to be demonstrated as well as the need for approval of a Major Site Plan and Floodplain development permit to avoid a municipal infraction. (See Attachment B)

Staff has reviewed the grading and layout that has resulted from the work and determined that no rise was created as a result of the work that took place on site. Staff has visited the site and walked the areas that were disturbed as part of the project. The owner's engineer has submitted cut and fill calculations as well as a Site Plan of the pond and adjacent area. **Staff has reviewed these calculations and concurs with the findings that the work meets flood plain regulations. The Iowa Department of Natural Resources has also reviewed the site plan cut and fill calculations and agrees with staff's findings regarding no rise in the flood level. (See Attachment B)**

As per the standards in the O-E Overlay to identify and avoid or mitigate impacts to environmental resource, an Environmental Assessment has been completed by Impact 7G on behalf of the owner. **The Assessment has determined that no adverse impact to wetlands or other environmentally sensitive areas and environmental resources (See Attachment C) occurred with the expansion of the pond or associated work adjacent to the pond. The assessment noted that some grading work impacted a small amount of wetland area less than 0.1 acre. However, the report indicated that the impact was minimal and did not have any adverse impact on the wetland.**

The US Army Corps of Engineers has reviewed an environmental permit submitted by the owner's engineer for the work that was done. The Corps of Engineers has determined that the project and associated work require neither notification nor review from the Corps, as the affected area is not considered Water of the United States subject to its review authority.

A more in-depth analysis of the project and the Major Site Development Plan criteria are attached in the addendum of this report.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

At the September 4 Planning & Zoning Commission Meeting the Commission reviewed the Major Site Development Plan. Staff explained the plan and findings to the Commission. The owner's engineer spoke. The Planning & Zoning Commission voted 6-0 to recommend approval of the Major Site Development Plan to City Council.

ALTERNATIVES:

1. Approve the Major Site Development Plan for 1205 South Dayton Avenue on the basis that the Plan meets the O-E Overlay and Major Site Development Plan standards.
2. Deny the Major Site Development Plan for 1205 South Dayton Avenue on the basis that the plan does not meet the Major Site Development Plan standards, and the O-E Overlay standards were not met.
3. Defer action on this item and request more information from staff.

CITY MANAGER'S RECOMMENDED ACTION:

The proposed Major Site Development Plan has been reviewed and is found to meet Environmentally Sensitive Overlay district (O-E) Development standards as well as Floodplain Development standards, and all other City standards subject to the conditions listed above. An Environmental Assessment Report has been completed and reviewed by staff. Staff concurs with the finding of the report that there is no adverse impact to the Environmentally Sensitive Overlay. Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1.

Staff has advised the owner to seek permits before doing work of this nature in the floodplain and environmentally sensitive areas in the future so any impacts to floodplain standards or environmental standards can be evaluated and addressed in advance.

ATTACHMENT(S):

[Addendum.pdf](#)
[Attachment A- Location & Zoning Map.pdf](#)
[Attachment B Site Plan Activities.pdf](#)
[Attachment B Existing Conditions & Survey.pdf](#)
[Attachment B- Cut Fill.pdf](#)
[Attachment C- Environmental Assessment Report.pdf](#)
[Attachment C- Environmental Assessment Cont..pdf](#)
[Attachment D- Chapter 9 Excerpt.pdf](#)
[Attachment E- OE Standards Excerpt.pdf](#)