

CITY OF ROCKAWAY BEACH

REGULAR PLANNING COMMISSION MEETING

APRIL 26, 2016

CALL TO ORDER Vice President Sheckler called the meeting to order at 6:03 p.m. There were four (4) guests present.

ROLL CALL Present: Greg Baumgart, Penelope Cheek, Lynda Holm, Janet McIntire, Pat Olson and Charles Sheckler. Also present: City Planner Ryan Crater, City Attorney John Putman and Public Works Director Luke Shepard. Absent: Rae Owens.

CONSENT CALENDAR McIntire made a motion, seconded by Baumgart, to approve the minutes of the March 22, 2016, regular Planning Commission meeting as written; McIntire, Baumgart, Sheckler, and Olson voted in favor, Cheek and Holm abstained; motion carried.

CITIZEN INPUT NON-AGENDA ITEMS None.

CONTINUANCE OF APPEAL AAD#15-04 Sheckler stated this was a continuance of the public hearing that was opened at the Planning Commission's special meeting of January 12, 2016. He said this would be the Planning Commission's deliberation toward a decision in the Tai Dang appeal. He stated this followed a joint request by the City and the appellant's attorney to continue the matter for 30-days, to a date not certain. He added this was the first available opportunity after the 30-day extension period had passed. City Attorney John Putman stated that in terms of the continuance there had been no agreement reached during that time, so this would be the time for Planning Commission deliberations. Sheckler asked for any Commission comments. Baumgart stated he understood that the Commission was not to deliberate over the merits of the objection of the predecessor's decision and the only decision to be made was whether the appellant submitted his appeal request in the time allotted. Putman explained this was an administrative appeal to former City Planner Jay Sennewald's decision by letter on May 6, 2015, that the letter/appeal was incomplete, so before the Commission discussed the substantive portion of this they had to determine if that appeal was complete. He further explained there were two laws, the Rockaway Beach Zoning Ordinance (RBZO) that allows for an appeal of an administrative decision and the state statute, which gives a longer period than the City's land use ordinance on a land use appeal. Putman said that Sennewald looked at the state statute and OPRD asked the City to certify that the property was an exception of State Wide Planning Goals and Goal 18. He stated when Sennewald was asked if it complied with state law he considered the City law as well. He explained when Sennewald said he didn't have enough information, he asked the applicant for that information. Putman stated the law says the application would be deemed complete when they provided certain information as

detailed in Sennewald's letter of May 6, 2015. He explained that once the appeal was deemed complete the Planning Commission would get to consider the guts of the matter to reach a conclusion of whether the property was in compliance with Goal 18 laws and then that would be certified to the State. He further explained that if the Commission decided the appeal was not complete, then the issue was over or they could decide that staff was incorrect and want to discuss the matter more. Putman said he did not want to get in the middle of making their decision, but under those circumstances it was an administrative decision. Holm asked if Dang had said no more information was going to be submitted or any of the other options offered to him. Crater stated Dang had submitted the burden of proof and then said he would submit more, but he was not aware of any more information being submitted prior to the deadline. He noted it had been Appeal Issue 2 they had said they would provide a separate burden of proof for, but had not. McIntire asked by saying they would provide an additional burden of proof and then choosing not to, they did not complete the application. Crater stated they were asking him to review something the City did not have. Cheek pointed out that the time had run out. Putman and Crater agreed that the time had run out. Cheek said it should be an easy decision. Putman noted that Dang's attorney had submitted a letter after the close of testimony. He pointed out the Commission had both sides in front of them. McIntire stated Appeal Issue 2, that Dang's consultant had said that more information would follow and she had attended all the hearings and she didn't recall that Dang ever addressed that specific question. Crater stated he didn't recall that either and it was a big question. McIntire said she had expected to hear something about that issue. Putman pointed out that the supplemental staff report had raised the issue. Crater explained that the reason Sennewald hadn't signed off on the OPRD application was because the setback was not correct and they were not able to bring forth information proving that it was. Baumgart asked at what point do they believe City staff and he brought up the fact that they were out of time. Putman noted the dates of Sennewald's letter and Michel's letter warning Dang he was running out of time, which was above and beyond what was required to be done. Baumgart pointed out that when the Commission had the meeting and Kittel represented Dang, there was no discussion whether they had met the time line for the appeal. Putman stated he didn't believe the other side had ever addressed the completeness of the appeal except for Ross Day and that was only in response to the supplemental staff report. He stated the supplemental staff report addressed the issue of completeness, if the Commissioners decided it was complete then they must move to step two to look at the substantive part and whether it meets the Goal 18 exception. Baumgart asked if step 2 was dependent on step 1. Putman replied yes, if it was incomplete on the 181st day after it was received then that was the first time that the decision was made and that stops their analysis because they would have decided the appeal was void. Cheek asked if they were going to make a motion. Putman stated yes, by way of the findings of fact and if they found it incomplete he would prepare a final order based on the Planning Commission decision. He added that if

the Planning Commission decided it was complete Crater and he would develop findings of fact. Cheek stated it was not a difficult decision and she didn't think Dang and his attorney had fulfilled their obligation. Olson agreed with Cheek. Holm pointed out that there was another alternative and Dang didn't want to do that. She said Dang had the option to use cobbles and other materials for rip rap and that didn't have anything to do with what they were doing now. Cheek made a motion, seconded by Holm, to adopt the analysis and decision in the supplemental staff report finding the appeal was void; Cheek, Holm, Olson, Sheckler, McIntire and Baumgart voted in favor; motion carried. McIntire thanked Putman for the work and time he had given the Commission to help them make a decision that was legal.

**PUBLIC HRG.
FOR CU#16-02**

Sheckler stated this hearing was for a request for an approval of Conditional Use permit, CU#16-02. He stated the applicant, City of Rockaway Beach, was requesting approval of the construction of a water booster pump station on the site of the Pacific View Estates (PVE) water reservoir. Crater asked if there were any questions. He explained this Conditional Use was for a public facility which was allowed and was meeting the intent of the zoning ordinance and comprehensive plan. He stated it was necessary for the City to provide water. Cheek asked about the location. Public Works Director Luke Shepard said it would be next to the PVE reservoir. McIntire asked how long it would take to construct. Shepard replied that it would be fairly quick. McIntire asked if there had been any public comment received. Crater said no, it would be in a location where the use existed, would be of minimal impact and he couldn't find anything that would warrant a denial. Sheckler called for a motion. McIntire made a motion, seconded by Holm, to approve Conditional Use #16-02 with findings and the staff report; Cheek, Holm, Olson, Sheckler, McIntire and Baumgart voted in favor; motion carried.

**COMMISSION
COMMENTS &
CONCERNS**

Crater reported there was an upcoming meeting on June 28, 2016 for a public hearing on the Salmonberry Trail. Cheek asked if he had worked on anything that would help bring the building program back to the City. Crater said he and Michel had been discussing the matter and what should be done to accomplish that. Cheek brought up the issue of the Pronto Pup stand. Crater stated the City had had complaints, but the owner had been sensitive to the complaints and he had the necessary number of parking spots and was working to put signs up. Cheek stated she understood there was an odor problem. Crater stated the owner was looking at ways to reduce that, but ultimately there would always be some sort of odor. He stated he had proposed some regulations in the zoning ordinance and hopefully would bring them to the Commission that would help to alleviate problems in the future. Holm suggested clearer language on the definition of a structure. Crater said he had taken Tillamook County's and modified it in addition to how to measure if no structures exist north or south of an oceanfront property.

ADJOURN

Olson made a motion, seconded by Cheek, to adjourn; Cheek, Holm, Olson, Sheckler, McIntire and Baumgart voted in favor; motion carried.
Sheckler adjourned the meeting at 6:44 p.m.

MINUTES APPROVED THIS 24TH
DAY OF MAY, 2016.



Charles Sheckler, Vice President