



City of Rockaway Beach

Planning Commission Meeting Minutes

Date: Thursday, June 20, 2024

Location: Rockaway Beach City Hall, 276 HWY 101 - Civic Facility

1. CALL TO ORDER

Planning Commission President Hassell called the meeting to order at 5:00 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Start time: [05:00:43 PM \(00:00:26\)](#)

[Position #2 - Stephanie Winchester: Present](#)

[Position #3 - Pat Olson: Present](#)

[Position #7 - Georgeanne Zedrick: Present](#)

[Position #5 - Bill Hassell: Present](#)

[Position #1 - Zandra Umholtz: Present](#)

[Position #4 - Sandra Johnson: Present](#)

[Position #6 - Nancy Lanyon: Present](#)

President: Bill Hassell

Commissioners: Sandra Johnson, Nancy Lanyon, Pat Olson, Zandra Umholtz, Stephanie Winchester and Georgeanne Zedrick

Council Members Excused: Charles McNeilly, Mayor; and Mary McGinnis, Planning Commission Liaison

Staff Present: Luke Shepard, City Manager; Mary Johnson, City Planner; and Melissa Thompson, City Recorder

4. APPROVAL OF MINUTES

Start time: [05:01:27 PM \(00:01:10\)](#)

City Recorder Thompson noted corrections to the minutes.

Johnson made a **motion**, seconded by Olson, to approve the May 16, 2024 minutes as amended.

The **motion carried** by the following vote:

[Position #4 - Sandra Johnson: Motion](#)

[Position #3 - Pat Olson: 2nd](#)

[Position #2 - Stephanie Winchester: Approve](#)

[Position #3 - Pat Olson: Approve](#)

[Position #7 - Georgeanne Zedrick: Approve](#)

[Position #5 - Bill Hassell: Approve](#)
[Position #1 - Zandra Umholtz: Approve](#)
[Position #4 - Sandra Johnson: Approve](#)
[Position #6 - Nancy Lanyon: Approve](#)

5. PRESENTATIONS, GUESTS & ANNOUNCEMENTS

6. STAFF REPORTS

Start time: [05:02:18 PM \(00:02:00\)](#)

City Planner Johnson provided updates on permits issued by the Planning Department in May, the grand opening of the Anchor Street Park, and public engagement opportunities for the Salmonberry Trail project.

7. PUBLIC HEARING

Start time: [05:03:25 PM \(00:03:08\)](#)

a. **CU #24-1: Consideration of an Application for Conditional Use at 137 South Beacon Street (Tillamook County Assessor's Map # 2N1032CC Lot #6300) for a Single Family Dwelling in the C-1 Commercial Zone.**

Hassell opened the public hearing at 5:04 p.m.

Hassell read opening statements, public hearing disclosure statements and procedures, and testifying instructions. He explained that the Applicants are Shannon and Alex Smith. The property is located at 137 South Beacon Street, Rockaway Beach and is further identified on Tillamook County Assessor's Map # 2N1032CC Lot. The Hearing will be on an application requesting approval for conditional use of 137 South Beacon Street. The Applicants own the property on South Beacon Street which is zoned C1 – Commercial. The Applicants seek to demolish the current residential structure and construct a new, two-story home on the property for residential use. The Rockaway Beach Zoning Ordinance requires single-family dwellings to be permitted conditionally in the C1 zone.

Hassell invited Commissioners to declare any bias or conflicts of interest. None were declared and there were no challenges from the audience on the basis of bias.

Hassell invited Commissioners to declare any ex-parte contact. Zedrick, Lanyon, Olson and Johnson declared site visits.

City Planner Johnson presented the Staff Report, introducing it with a PowerPoint presentation. (A copy of the presentation is included in the hearing record.)

In response to Commissioner questions, City Planner Johnson clarified the following:

- A rectangle on the site plan drawing represented a deck.
- The proposed design could accommodate future potential commercial use.
- The shed shown on the drawing was no longer present.

- There was only one home on the property.
- Two parking spaces would be required for the residence.
- Commercial parking requirements are dependent on the proposed commercial use.
- The existing structure was currently unoccupied.
- A variance is not required to build to the maximum permitted height within a zone, but Commissioners could condition an approval if it was a concern.

Lanyon expressed concerns about commercial shortfalls referenced in the Comprehensive Plan indicating that the City has a shortfall of approximately five commercial acres and land that is currently designated for residential use will need to be re-designated for commercial land.

City Planner Johnson reported that no written correspondence was received.

Applicant's Presentation: Agent for the Applicants, Ryan Boslin, stated he had no comments.

Testimony in support of the application: None

Testimony in opposition to the application: None

Testimony that is neutral or questions: None

Applicants' rebuttal: None

Commission questions: None

City Planner Johnson commented that she appreciated Lanyon's comments regarding the Comprehensive Plan, but she interpreted that portion of the Comprehensive Plan to be in reference primarily to lots that abut Hwy 101. While she appreciated the desire to retain commercial space, Johnson explained that she didn't expect there to be much commercial traffic on South Beacon.

Lanyon commented that she interpreted the intent of the Comprehensive Plan was to promote and reassign residential to commercial.

Right to Final Written Argument: The Agent for the Applicant retained the right to submit final written arguments.

At 5:33 p.m. Winchester made a **motion**, seconded by Zedrick, to close the Public Hearing and keep the record open until June 27, 2024 for additional written arguments.

Winchester clarified for Commissioner Johnson that the applicant retained the right to submit final written argument.

The **motion carried** by the following vote:

[Position #2 - Stephanie Winchester: Motion](#)

[Position #7 - Georgeanne Zedrick: 2nd](#)

[Position #2 - Stephanie Winchester: Approve](#)

[Position #3 - Pat Olson: Approve](#)
[Position #7 - Georgeanne Zedrick: Approve](#)
[Position #5 - Bill Hassell: Approve](#)
[Position #1 - Zandra Umholtz: Approve](#)
[Position #4 - Sandra Johnson: Approve](#)
[Position #6 - Nancy Lanyon: Approve](#)

b. PUD #24-1: Consideration of an Application from Nedonna Development LLC, for a modification to the Planned Unit Development that was approved by the City in 2008 for the property identified on Tillamook County Assessor's Map as 2N1020AB Tax Lots 10200, 10400, and 10500.

Start time: [05:36:46 PM \(00:36:29\)](#)

Hassell opened the public hearing at 5:37 p.m.

Hassell read opening statements, public hearing disclosure statements and procedures, and testifying instructions. He explained that the Applicant is Nedonna Development LLC, and Agent for the Applicant is Dean N. Alterman. The property is located on Kittiwake Drive north of Riley Street and South of Song Street in Nedonna Beach. The property is identified as Tillamook County Assessor's Map #2N1020AB Lots # 10200, 10400, and 10500. The Hearing will be on an application requesting a modification to the Nedonna Wave Planned Unit Development that was approved by the City of Rockaway Beach in 2008.

The Applicant seeks the following modifications to Phase 2 of the 2008 approval:

1. To develop Phase 2 in two sub-phases, instead of one phase;
2. To create two lots instead of one lot at the north end of Jackson Street (identified as lot 24 on the 2008 approved plan), identified as lots 21 and 22 on the plans submitted with the Application;
3. To create four lots instead of three lots at the northeast corner of Kittiwake Drive and Riley Street (identified as Lots 14, 15, and 16 on the 2008 approved plan), identified as lots 13, 14, 15 and 16 on the plan submitted with the Application; and
4. Provide that when the owner of the land to the south extends Jackson Street south into that property, the City will vacate the east stub of Riley Street, so that Riley Street will terminate in a T intersection with Jackson Street, and the vacated stub can be combined with Tract E to form an additional building lot.

Hassell invited Commissioners to declare any bias or conflicts of interest. Umholtz stated that does not have any bias, but acknowledged that she is a resident in Nedonna.

Hassell invited Commissioners to declare any ex-parte contact. Zedrick declared a site visit on June 19th to Phase 1 and met DSL wetland consultant Christine McDonald and botanist Kurt Hetheroff who were working on an undeveloped area of Jackson Street. They showed her the area of studies and findings. Zedrick declared that while on site, she also met Anna Song, who inquired if she had any questions. Zedrick stated that she responded that she didn't have any questions at that time, and if she did, she would ask them at the hearing. Winchester declared she

had made a site visit since the application was submitted, but not since seeing the application. Commissioner Johnson declared that she made a site visit but didn't see or speak with anyone while in the area.

City Planner Johnson presented the Staff Report, along with a PowerPoint presentation. (A copy of the presentation is included in the hearing record.)

Johnson reviewed agency comments in the presentation. Johnson noted that written public testimony was distributed to the Commission. City Recorder Thompson read aloud additional correspondence received after the hearing commenced from Nancy Webster and Susan Norris. Webster's testimony included a request to hold the record open for additional testimony. (Copies of all correspondence are included in the hearing record.)

In response to Commissioner questions, City Planner Johnson clarified the following:

- The previous 2008 approval still stands, and the modification requests should be considered. The previous approval remains valid regardless of whether the modifications are approved.
- The language provided in the Planned Unit Development (PUD) section of the Zoning Ordinance calls out only the first phase of a development, so the approval remains valid indefinitely. Johnson couldn't speak to whether that was standard throughout the state.
- Tract F is east of Kittiwake Drive and would have 13 lots if approval was granted. Tract G is west of Kittiwake Drive and would be developed second. Tract E was not included in the current request and was reserved for potential future development.
- There was no illustration on the map for the Applicant's request regarding the end of Riley Street.
- The request was to modify the preliminary plat.
- The applicant could address questions regarding lot numbers and the subdivision name.
- The number of homes developed in Phase 1 was not readily available.
- There should be a tsunami evacuation plan for any new development. Whether it was done in partnership with the City was to be determined.
- The request was to vacate the stub of Riley Street previously dedicated to the City so that they could create another building lot. The City Planner's concern at this time is that it is the one evacuation route. The engineer also had concerns regarding state fire code requirements for vehicle turn-around. The City Planner would not recommend approving the request and suggested it be brought back at a later time.
- The city's short-term rental ordinance would apply within the areas of Nedonna Beach that are within city limits. Some portions are outside city limits. The proposed development was within city limits.
- Any previously approved height variances would remain valid for lots that will change in size. Any lots changing in size would require a new application for height variances.
- Frontage requirements referenced in the HBH Consulting Engineer's comments apply to the R1 zone, but are not required due to the PUD overlay. The density requirement is the only one that still exists outside the PUD overlay.
- Staff recommendations include recommendations for traffic study, but does not require a second access outright. There's no trigger for automatically requiring a second egress, but a traffic study could make it apparent and would be seen in final plat approval.
- Open space signage was required the original approval, but the application does not include any sign modification requests.

- Phase 1 tracts A and F were reserved for common space. Roadways are also common open space. Tracts B and E are also dedicated to common space.
- Restrictive covenants for open space could be made a condition of approval.

Lanyon expressed concern about the numerous issues that the Applicant needed to address.

Applicant's Presentation: The Agent for the Applicants, Dean Alterman, gave testimony on the request.

In response to questions regarding the property name and lot numbers, Alterman provided that the entire property is a subdivision called Nedonna Wave Phase 1, consisting of numbered lots, plus tracts A through G. The part that will be subdivided through the application will be called Nedonna Wave Phase 2, and the numbering of the lots will continue where it left off in Phase 1. The entire property is now legally named Phase 1.

Alterman commented that it was a very long-term project and expressed appreciation to City Planner Johnson for explaining the history of the project. Alterman stated the issue today was that this is property that 16 years ago was approved for 28 lots, and Mrs. Song is seeking approval to make 30 lots, still within the density standard as it existed and as exists today. It is not a brand new approval, it is approval to carry out the next step.

In response to written correspondence and Commissioner questions, Alterman provided the following comments:

- Until sometime within the last 10 months, there were no signs identifying an evacuation route. A current sign on Riley Street points into a public street and behind it is Tract E, which was approved for future development. A sign doesn't make it a route. Alterman referred to an evacuation route map that didn't show a route on Riley Street. It wasn't a route and wasn't a condition, and there was no easement for it.
- The decision must be based on criteria. The PUD overlay substitutes for lot-by-lot dimensional standards, and the PUD overlay standard applies to the application.
- With respect to wetlands, all of the fill was done in accordance with permits from 2008, with possible exceptions on a few corners. The area being developed was already filled and mitigated, creating new wetlands. They are not proposing a net loss of wetlands. They have recently learned that a portion of Jackson Street is now a wetland. Mrs. Song would mitigate loss of new wetland in whatever process DSL required.
- Regarding objections to traffic, there are currently roughly 210 homes north of Western Street and they are proposing what might be an additional 8% burden. The number of new lots is not large in relation to the number of houses that are already in place.
- If recommended by a traffic study, Mrs. Song would be willing to install traffic calming devices. People don't come to the beach to drive faster; they come to the beach to relax and slow down.
- A second evacuation route would be nice, but there isn't a place to construct it today. It would require ODOT approval, developer approval, and would require permission from the owner as it is not Mrs. Song's land.

Alterman requested that the record be held open to submit additional testimony on wetlands, and to review the proposed conditions, including the requirement for the force main to connect pump stations.

In response to Commissioner questions, Alterman provided the following:

- The number of lots proposed for development in the area originally identified as lots 14, 15, and 16 was three, and is now four. The number of lots proposed in the area originally identified as lot 24 was one and is now two.
- The Applicant is not asking to vacate the east end of Riley now. They are raising the issue in advance. If the property to the south is developed and extends Jackson Street to the south, and hammerhead is no longer needed, the Applicant requests that the City listen to a request at that time to vacant Riley Street. A decision doesn't have to be made today.
- The tsunami evacuation route will need to be addressed in the period when the record remains open as it was a surprise to landowner. The evacuation sign not there in August.
- Tract E was never granted for an evacuation route. It was identified as land for future development in 2008.
- CC&Rs are in place for Phase 1 homes and the submitted CC&Rs are based closely on existing CC&Rs.
- The height variance applied only to the most eastern tier of lots since they were next to an embankment and the railroad. With the splitting of the two lots on Jackson Street, the lot closer to the railroad track would have the benefit of the variance, and the lot closer to the wetlands would not. The variance would need to be reviewed to determine if a change in lot size would affect the variance.
- The PUD overlay allows proposed lots to be arranged differently as long as they fit within the overall lot cap and approved area.
- The density would be increased, but still below the maximum 32 lots approved.
- White Dove estates is not included in this project or application.
- Common area space is being provided in tract A, tract B, tract D, and some in tract F which is being subdivided. It satisfies the requirement.

Umholtz stated that the Agent for the Applicant said that the City was not required to approve the east stub of Riley Street vacation, but it is part of application request. Alterman concurred, but noted that the vacation would require City Council approval.

Hassell called for recess at 7:20 p.m. Hassell called the meeting back to order at 7:30 p.m.

Testimony in support of the application:

- Bill Howard, contractor for Anna Song, stated that his original contract with Song was for the entire subdivision in a single phase. He stated that subdivisions are done in phases and the first phase is usually the mass grading phase. Grading and 90% of the utility work was completed, including building the wetlands and some of the filling of the wetlands. Howard stated that as far as he knew, Song had completed that portion of her responsibility.

Testimony in opposition to the application:

- Mark Magistrole, Kittiwake Drive resident, challenged the notion that an approval is perpetual, stating there were many changes in 16 years. He shared concerns regarding life and fire safety and evacuation. Magistrole was concerned that excavation appeared to have begun. He expressed concern about noticing. He inquired if any development was planned east of Kittiwake and north of Song.
- Tom Heckenberry, White Dove Ave. resident, referred to provisions of the tsunami hazard overlay. Heckenberry stated that the evacuation route was established by the Nedonna Beach Neighborhood Association (NBNA) in 2009. He noted that signs had been posted a long time. He stated signs do get taken down, and he works with the County to replace them. Heckenberry referred to the DOGAMI map that identified Riley as an evacuation route, and noted the southern route would not provide timely evacuation for older residents. Heckenberry proposed that any additional houses opened the opportunity to consider the sufficiency of tsunami evacuation route. He noted that the east end of Riley Street was the evacuation route.
- Danny Wilhelmi, Chiefton Drive resident, stated the biggest issue is inundation and flooding. He stated a stormwater management plan must be required. He shared concerns erosion and inadequacy of the installed storm drainage. Wilhelmi stated McMillan Creek was not adequate for drainage and that additional houses will reduce natural drainage.
- Ken Bragg, Chiefton Drive resident, stated the biggest concern was evacuation. The two current ways to evacuate are barely adequate, and those with disabilities would not be able to get out in time, especially since there was only one road out at the end of Nedonna. Bragg said the Applicant should be required to add ADA access for tsunami evacuation.
- Gary Corbain, Kittiwake Drive resident, stated there was an evacuation sign 12 years ago on Riley Street pointing to the evacuation route, and signs had been present just about all the time in the past 12 years. Corbain shared additional concerns that evacuation had begun, and that new wetlands had developed. He noted that nesting eagles and beaver colonies were present, and deer habitat had been plowed under. Corbain stated he wanted the property to be developed in a good faith manner.
- Nancy Webster, White Dove Ave. resident, expressed concerns about egress from the neighborhood. Webster stated she had attended the 2008 hearings and there were concerns at that time regarding the lack of egress. She said at that time ODOT determined that the only way was an overpass on Hwy 101. Webster shared additional concerns about flooding in area, and concern that additional fill of wetlands will result in more flooding. Webster stated that a 15-foot buffer for McMillan Creek was insufficient.
- Delta Holderness, Song Street resident, expressed concerns about traffic and pedestrian safety. She said the statement that people drive slower at the beach is crazy, and a child was hit in neighborhood last summer. Holderness referred to her written testimony, suggesting roadway pedestrian markings and speed limits. She suggested that the development create more STRs which would create more traffic and cause evacuation issues. Holderness encouraged the Commission to require the subdivision application to be considered from beginning.

- Jerry Lislow, Beach Drive resident, stated he was a founding member of NBNA. He stated that the HBH report suggested that the fire code indicated that more than 30 properties would require another ingress/egress. Lislow stated there was precedent, as there was another 50-unit development that required new ingress/egress to Hwy 101. He stated that the request should be denied if it was not possible.
- Sue Sharp, White Dove Ave. resident, expressed concerns about allowing more house when there were issues with water quantity.
- Frank Imbrie, White Dove Ave. resident, commented on the history of the White Dove development and bankruptcy, when properties were put on the list for auction. Imbrie suggested that Anna Song picked up property for \$30,000 and proceeded with the project. Imbrie stated the Commission was cleaning up the mess and hoped they would do a good job.

Applicant's Rebuttal: Agent for the Applicant stated that a second access would be nice, but was an impossible condition to put on a single project, and wasn't tied to the criteria for the application. Alterman stated they would submit additional information regarding wetlands to demonstrate that they met the criteria. He added that he believed Mrs. Song paid more than \$30,000 for the property.

Commission Questions: Commissioner Johnson inquired whether the ORS 92.040 cited in testimony that required subdivision applications that are more than 10 years old to be considered from the beginning also applied to PUDs. City Planner Johnson stated that after consulting with the city attorneys, and given the case law, there was nothing indicating that a subdivision could be denied after a 10-year period unless it was specifically called out in the code.

Right to Final Written Argument: The Agent for the Applicant reserved the right to submit additional written arguments.

Winchester made a **motion**, seconded by Johnson, to continue the Public Hearing to 5:00 p.m. on June 27, 2024.

The **motion carried** by the following vote:

- [Position #2 - Stephanie Winchester: Motion](#)
- [Position #4 - Sandra Johnson: 2nd](#)
- [Position #2 - Stephanie Winchester: Approve](#)
- [Position #3 - Pat Olson: Approve](#)
- [Position #7 - Georgeanne Zedrick: Approve](#)
- [Position #5 - Bill Hassell: Approve](#)
- [Position #1 - Zandra Umholtz: Approve](#)
- [Position #4 - Sandra Johnson: Approve](#)
- [Position #6 - Nancy Lanyon: Approve](#)

8. CITIZEN INPUT ON NON-AGENDA ITEMS

No audience members wished to comment.

9. OLD BUSINESS – None Scheduled

10. NEW BUSINESS – None Scheduled

11. PLANNING COMMISSION COMMENTS & CONCERNS

Start time: [08:05:54 PM \(02:55:27\)](#)

Shepard confirmed for Winchester that Commissioner comments could be made at the next meeting.

Zedrick commented that Anchor Street Park looked fun.

Lanyon commented that she looked forward to next week. Lanyon stated that generally speaking Rockaway Beach should be thoughtful about future actions.

Olson stated he had no joys or concerns.

Hassell said the Anchor Street Playground was an incredible place and was state of the art. He commended Public Works for completing striping and signage.

12. ADJOURNMENT

Start time: [08:06:38 PM \(02:56:11\)](#)

Olson made a **motion**, seconded by Zedrick, to adjourn the meeting at 8:08 p.m.

The **motion carried** by the following vote:

[Position #3 - Pat Olson: Motion](#)

[Position #7 - Georgeanne Zedrick: 2nd](#)

[Position #2 - Stephanie Winchester: Approve](#)

[Position #3 - Pat Olson: Approve](#)

[Position #7 - Georgeanne Zedrick: Approve](#)

[Position #5 - Bill Hassell: Approve](#)

[Position #1 - Zandra Umholtz: Approve](#)

[Position #4 - Sandra Johnson: Approve](#)

[Position #6 - Nancy Lanyon: Approve](#)

MINUTES APPROVED THE
18TH DAY OF JULY 2024

William Hassell, President

ATTEST

Melissa Thompson, City Recorder

DRAFT



DEAN N. ALTERMAN
ATTORNEY

D: (503) 517-8201
DEAN@ALTERMAN.LAW

July 4, 2024

By e-mail only (cityplanner@corb.us)

Rockaway Beach Planning Commission
C/o Mary Johnson, City Planner
276 Highway 101 South
Rockaway Beach, Oregon 97136

Re: Application of Nedonna Development, LLC (Anna Song)
Phase 2 approval for Nedonna Wave planned unit development
Your file no. PUD #24-1
Our File No. 5701.001

Dear Chair Hassell and Commission Members:

I'm submitting this letter on behalf of Nedonna Development, LLC (Anna Song), the applicant for the approval of Phase 2 of Nedonna Wave, with modifications. This letter is the applicant's final legal argument.

Compliance with the city zoning code

None of the public comment was directed toward any of the applicable criteria from the Rockaway Beach zoning code. As your city planner stated in the public hearing, the city must make its decision based solely on the applicable criteria of the city code.

Compliance with private covenants

Two commenters said that several of the houses in Phase 1 did not comply with a private covenant that required each house to have a garage. Private covenants are not land use ordinances and are not land use criteria.

Cities and counties are not required to enforce private covenants, and in any case whether the individual houses in Phase 1 comply with the private

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covenants for Phase 1 is a matter for the homeowners in Phase 1 to enforce against their neighbors, if they should so choose.

Wetlands questions

Four or five commenters said that Phase 2 will reduce the wetlands that Mrs. Song was required to build as part of her approval of Phase 1.

Mrs. Song completed the wetland mitigation for all phases of the property when she built Phase 1. She has submitted evidence from her excavation contractor, Bill Howard, and from her wetlands consultant, Christine McDonald, to show that Phase 2 won't reduce any wetlands except for the accidental wetland area in Jackson Street, which is an unimproved public street and not part of the applicant's property.

One commenter, Susan Norris, described three pools of water, which based on her estimated measurements have a total surface area of about 350 square feet or less. She said that one is on the north side of Riley Street east of Kittiwake Drive, one is on the east side of Kittiwake about 70 feet from (north of) Riley Street, and one is on the east side of Kittiwake near Song Street. (Susan Norris letter of June 20, 2024.)

You may compare Ms. Norris's description to the wetlands delineation of Christine McDonald that I included in my memorandum to you of June 27. Ms. Norris's first area, at Riley and Kittiwake, corresponds to the area that Ms. McDonald circled in blue. It lies between Riley Street and the two southernmost lots on the east side of Riley Street (Lots 13 and 14), not in the area to be developed.

Ms. Norris describes the second pool as being about 70 feet north of Riley Street, which would put it on the north side of proposed Lot 13, in the common open space.

Ms. Norris described the third pool as being east of Kittiwake near Song Street. That area is also common open space, and is not included in any of the proposed lots.

Nesting eagles

One commenter said that bald eagles nest in the wetland area. Mrs. Song does not propose to alter the wetland area.

The ten-year time limit of ORS 92.040

Several commenters suggested that the city's approval of the Nedonna Wave planned unit development is no longer valid because the city approved the PUD more than ten years ago, and in their view ORS 92.040(3) sets a ten-year time limit before approvals of PUDs expire.

ORS 92.040 applies only to subdivisions and partitions. The present application is an application to subdivide property in accordance with the current zoning of the property, which includes the PUD overlay, and in accordance with the current zoning code.

Summary

Mrs. Song and her company have demonstrated compliance with the applicable criteria from your zoning code. She and I ask that you approve her application for Phase 2 of the Nedonna Wave PUD.

Very truly yours,

ALTERMAN LAW GROUP PC

Dean N. Alterman

Dean N. Alterman

Copy: Mrs. Anna Song (e-mail only)



**CITY OF ROCKAWAY BEACH
PLANNING COMMISSION ACTION**

STAFF REPORT

Case File #PUD-24-1

APPLICANT: Nedonna Development LLC

AGENT FOR APPLICANT: Dean N. Alterman

REQUEST: The Applicant is requesting a modification to the Nedonna Wave Planned Unit Development that was approved by the City of Rockaway Beach in 2008. The Applicant seeks the following modifications to Phase 2 of the 2008 approval:

1. To develop Phase 2 in two sub-phases, instead of one phase;
2. To create two lots instead of one lot at the north end of Jackson Street (identified as lot 24 on the 2008 approved plan), identified as lots 21 and 22 on the plans submitted with the Application;
3. To create four lots instead of three lots at the northeast corner of Kittiwake Drive and Riley Street (identified as Lots 14, 15, and 16 on the 2008 approved plan), identified as lots 13, 14, 15 and 16 on the plan submitted with the Application; and
4. Provide that when the owner of the land to the south extends Jackson Street south into that property, the City will vacate the east stub of Riley Street, so that Riley Street will terminate in a T intersection with Jackson Street, and the vacated stub can be combined with Tract E to form an additional building lot.

STAFF RECOMMENDATION

Approval of the Applicants requests to (1) develop Phase 2 in two sub-phases, instead of one phase, (2) create two lots instead of one lot at the north end of Jackson Street, numbered as lots 21 and 22 on the plans submitted with this application, and to (3) create four lots instead of three lots out of the lots numbered as 13, 14, 15, and 16 on the plans submitted with this application, with conditions as identified below; and

Denial of the Applicants request to vacate the east stub of Riley Street at Jackson Street.

In the event of an approval, Staff offer the following conditions for the Commissioner's consideration:

1. Approval is based upon the submitted plan. Any substantial change in the approved plan shall be submitted to the City of Rockaway Beach as a new application for a PUD amendment.
2. The Applicant shall submit drafts of appropriate deed restrictions or protective covenants to provide for the maintenance of common areas and to assure that the objectives of the PUD shall be followed.



3. The Applicant shall record a deed restriction or other covenant applicable to each lot in the subdivision, in a form acceptable to the State of Oregon Fish and Wildlife Department, that indemnifies ODFW for any damage or inconvenience to persons, real property, or personal property caused by big game and furbearing animals.
4. The Applicant shall submit evidence that all required improvements of Section 44 of the Rockaway Beach Subdivision Ordinance have been met.
5. The Applicant shall submit evidence that the requirements for monuments and survey as identified in Section 45 and 46 of the Rockaway Beach Subdivision Ordinance have been met.
6. Within one year the Applicant shall submit a final portion plat in conformance with the approved plan and Sections 30 and 31 of the Rockaway Beach Subdivision Ordinance. The Planning Commission, upon written request by the Applicant, may grant an extension of the tentative plan approval for a period of one year. Failure to obtain a time extension or final plat approval prior to expiration of the tentative plan shall render the tentative plan approval void. Such yearly time extensions will be necessary until all phases of the development have been granted final plat approval.
7. Any utilities serving the development shall be installed underground.
8. All public underground utilities including, but not limited to, water, gravity sanitary sewer, sanitary sewer force main, and storm drainage, installed on Phase 2 or for future use by Phase 2 or have not been used since constructed, shall be tested at the expense of the Applicant and accepted by the City Engineer.
9. All stream crossings, including utilities, are to comply with fish passage requirements. The Oregon Department of Fish and Wildlife shall approve in advance any stream crossing.
10. The development shall avoid entering City designated riparian setback of 15' for McMillan Creek. If site constrains will not allow for this, the Applicant coordinate with Oregon Department of Fish and Wildlife to develop a plan to mitigate for these impacts and shall provide evidence of approval. Any development within these areas which could result in a loss of fish and wildlife habitat would require that the impact be mitigated consist with current habitat mitigation standards.
11. The Applicant shall construct all public improvements, not limited to sewer, water, storm and street design, and construction shall meet or exceed the City of Rockaway Beach Design Standards and Technical Specifications. The cost for plan review by the City Engineer shall be the responsibility of the Applicant/Developer.
12. The Applicant shall submit an acceptable storm drainage report prior to final design of the storm drainage system, including basin map and flow rates, for review by the City Engineer.
13. The Applicant shall provide evidence that a 1200C Permit has been obtained from the Oregon Department of Environmental Quality for erosion control prior to grading and construction of the development.



14. The Applicant shall provide evidence that all sanitary sewer designs have received written approval from the Department of Environmental Quality, including a pre-design report for the new regional pump station to serve the development.
15. The Applicant shall provide the following off-site improvements:
 - a. Regional sanitary sewer pump station and related infrastructure including, but not limited to the following: three-phase submersible duplex pump station with controls, davit crane, on-site generator, telemetry, lighting, and fencing. The tract on which the pump station is to be located is to be dedicated to the City.
 - b. Sanitary sewer force main from the regional pump station to the existing White Dove pump station.
 - c. Extend the White Dove sanitary sewer force main from NW 23rd Avenue to the pump station at NW 17th Avenue.
 - d. All public improvements shall be constructed within the existing public right-of-way or right-of-way that will be dedicated to the City as part of this development.
16. The Applicant shall provide a traffic study for the development, including peak season and emergency evacuation needs, as well as the intersection of US Highway 101 and Beach Street.
17. The Applicant shall complete a wetland delineation to be reviewed and approved by the Department of State Lands to determine if there is a change in the wetland boundaries and if a wetland removal-fill permit is required. This delineation shall be sufficiently sized to include both Phases 2 and 3. The approval from the Department of States Lands must be current (no more than 2 years old).
18. The Applicant shall submit evidence that all necessary permits and approval from the U.S. Army Corps of Engineers and Oregon Department of State Lands have been obtained for impacts to wetlands in accordance with the approval plan.
19. The Applicant shall submit evidence of approval from the State Fire Marshall for all fire hydrant locations, street widths, and applicable Fire Code requirements.
20. Prior to final plat approval, the Applicant shall be responsible for providing and installing all improvements including sewer, water, street, stormwater management facilities, streetlights, street name signs, and street trees in accordance with Subdivision Ordinance Section 44 entitled Improvements Required, and in accordance with the City Engineer approved plans.
21. The Applicant shall be responsible for all costs necessary for off-site public infrastructure improvements that are triggered by the proposed development.
22. The Applicant shall establish a homeowner's association for the development, and all open space within the development shall be owned and maintained by the homeowner's association. The required homeowner's association shall be responsible for any and all necessary stormwater maintenance facilities



that serve the development. The required homeowner's association shall be responsible for maintaining the storm water quality tracts.