



City of Rockaway Beach

Planning Commission Meeting Agenda

Date: Thursday, July 18, 2024
Time: 5:00 P.M.
Location: Rockaway Beach City Hall, 276 HWY 101 - Civic Facility

Watch live stream here: <https://corb.us/live-stream>
View meeting later here: <https://corb.us/planning-commission/>

Join here to attend remotely:

<https://us06web.zoom.us/j/86913977335?pwd=hBTcYYBrf02OTeldX6PLGJ5K4bv9pO.1>

Meeting ID: 869 1397 7335

Passcode: 850485

Dial by your location

253 215 8782 US (Tacoma)

1. CALL TO ORDER – Bill Hassell, Planning Commission President

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

President: Bill Hassell

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

City Councilors: Charles McNeilly, Mayor; and Mary McGinnis, Planning Commission Liaison

4. APPROVAL OF MINUTES

a. June 20, 2024 Meeting Minutes

5. PRESENTATIONS, GUESTS & ANNOUNCEMENTS

a. Presentation: Strategic Plan – SSW Consulting

6. STAFF REPORTS

7. PUBLIC HEARING – None Scheduled

8. CITIZEN INPUT ON NON-AGENDA ITEMS

9. OLD BUSINESS

- a. 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.

10. NEW BUSINESS

- a.** Election of Planning Commission President and Vice-President
- b.** Discussion Regarding Updates to Mobile Food Unit Pods

11. PLANNING COMMISSION COMMENTS & CONCERNS

12. ADJOURNMENT



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 houses 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
Hearing Date: June 20, 2024

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.

A. REPORT OF FACTS

1. Property Location: The subject 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.
2. Lot Size: approximately 2.56 acres.
3. Zoning Designation: R-1 (Single Family Residential Zone), SA (Special Area Wetlands Zone), and PUD (Planned Unit Development) Overlay.
4. Surrounding Land Use: Adjacent to the north is the existing Nedonna Wave Planned Unit Development Phase 1. To the east is undeveloped private land zoned R-1 (Single Family Residential Zone) and Highway 101. To the south is undeveloped private land zoned R-1 (Single Family Residential) and SA (Special Area Wetlands). To the west is White Dove Estates neighborhood, which is zoned R-1 (Single Family Residential).



5. Existing Structures: None, except for utilities installed by the Applicant during the construction of Phase 1, for Phase 2.
6. Utilities: The following utilities serve the subject property:
 - a. Sewer: City of Rockaway Beach
 - b. Water: City of Rockaway Beach
 - c. Electricity: Tillamook P.U.D.
7. Development Constraints: The property contains wetlands that were delineated by a professional wetlands consultant prior to the 2008 approval. As wetlands are not stagnant, according to the Department of State Lands (DSL), the former delineation is no longer valid and expire after a period of five years. At the time of the 2008 approval, the Applicant provided a joint permit from the DSL and the U.S. Army Corps of Engineers. These permits have now expired and will need to be renewed before any disturbance or impacts to the wetlands takes place. If the request is approved, the Applicant will be required to obtain and provide copies of necessary permits from these agencies prior to initiating construction.

In addition, a portion of the subject property is located within the 100-year floodplain as identified on the Flood Insurance Rate Map Panel Number 41057C0218F.

B. EVALUATION OF THE REQUEST

1. General Description of the Proposal: 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.
2. Agency Comments:
 - a. City of Rockaway Beach Engineer: See attached letter from HBH Engineering which identifies issues that will need to be addressed through the more formal engineering review if the request is approved.
 - b. Department of State Lands: See attached Wet Land Use Notice Response which identifies additional reporting and permitting that will need to be completed and obtained prior to any disturbance of the wetland areas.



3. Ordinance Standards: The following substantive criteria apply to this request. To facilitate review, staff comments are in *italicized font*.

Rockaway Beach Zoning Ordinance Section 3.010, Single Family Residential Zone (R-1). In the R-1 zone the following regulations shall apply:

- a. The minimum lot size shall be 3,500 square feet for lots existing at the time of the adoption of Ordinance 235. Lots platted after the adoption of Ordinance 235 shall have a minimum lot size of 5,000 square feet.

The Applicant was approved for a PUD overlay in 2008, allowing for the development of lots lesser than the minimum lot size requirement for the R-1 zone. The Applicant is currently seeking 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, and 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. These additional lots the Applicant seeks to include, which were not included in the original PUD approval, do not meet the minimum lot size requirements for the R-1 zone. It should also be noted that the lots the Applicant seeks to amend which are identified as Lots 14, 15, and 16 on the 2008 approved plan, are also below the minimum lot size requirement. Lot 24 on the 2008 approved plan did meet the minimum lot size requirement for the R-1 zone.

- b. The density of duplexes shall be: for lots existing prior to the adoption of Ordinance 235, a duplex is permitted on a lot with a minimum size of 3,500 square feet, for lots platted after the adoption of Ordinance 235, a duplex is permitted on a lot with a minimum size of 5,000 square feet.

The Applicant indents to construct single-family dwellings, therefore this standard is not applicable.

- c. Minimum lot width is 50 feet, except for lots between 3,500 and 4,999 square feet, the minimum lot width shall be 35 feet.

The Applicant was approved for a PUD overlay in 2008, allowing for the development of lots lesser than the minimum depth requirement for the R-1 zone. The additional lots the Applicant seeks to add to through this modification are also lesser than the minimum width requirement.

- d. Minimum lot depth is 70 feet, except for lots between 3,500 and 4,999 square feet, the minimum lot depth shall be 60 feet.

The Applicant was approved for a PUD overlay in 2008, allowing for the development of lots lesser than the minimum depth requirement for the R-1 zone. The additional lots the Applicant seeks to add to through this modification are also lesser than the minimum depth requirement.

- e. The minimum front yard shall be 15 feet, unless subsection 3.010(3)(h) applies.



This standard is typically reviewed for conformance and applied at the time a building permit is required.

- f. The minimum side yard shall be 5 feet, except that on the street side of a corner lot it shall be 15 feet.

This standard is typically reviewed for conformance and applied at the time a building permit is required.

- g. The minimum rear yard shall be 20 feet, except that on a corner lot it may be a minimum of 5 feet unless subsection 3.010(3)(h) applies. Oceanfront structures shall conform to Section 5.060(1)(b).

This standard is typically reviewed for conformance and applied at the time a building permit is required.

- h. For lots of less than 5,000 square feet in size, but more than 3,500 square feet, the minimum front yard shall be 15 feet and the minimum rear yard shall be 10 feet, except that on a corner lot the rear yard may be a minimum of 5 feet. For lots of 3,500 square feet in size or less, the minimum front yard and rear yard shall be ten feet, except that on a corner lot the rear yard may be a minimum of 5 feet. Notwithstanding the above, oceanfront structures shall conform to Section 5.060(1)(b).

This standard is typically reviewed for conformance and applied at the time a building permit is required. However, it should be noted that the Applicant was approved for a PUD overlay in 2008, allowing for the development of lots lesser than the minimum lot size outlined for the R-1 zone.

- i. The maximum building height shall be 20 feet on the oceanfront and 24 feet elsewhere except east of Highway 101 it shall be 29 feet.

This standard is typically reviewed for conformance and applied at the time a building permit is required.

- j. A minimum of 30% of the lot will be maintained in natural vegetation or landscaping.

This standard is typically reviewed for conformance and applied at the time a building permit is required.

Rockaway Beach Zoning Ordinance Section 3.080, Special Wetlands Area (SA). In the SA zone the following regulations shall apply:

- a. All activities involving construction or alteration in wetlands or aquatic areas shall be reviewed by the Oregon Division of State Lands and the US Army Corps of Engineers to determine permit applicability.

The Application has been provided to DSL for review. The DSL response is attached to this application, outlining additional reporting and permitting necessary for this Application.



- b. The Shorelands Siting Criteria in Section 4.041 shall be applicable to all activities in the SA zone. Nothing in the Shorelands Siting Criteria shall be interpreted to permit uses which are not otherwise allowed in (2) or (3) above.

The Shoreland Siting Criteria applies to developments taking place within 50 feet of the shore of any lake, therefore this criteria does not apply.

- c. Every effort shall be made to use common or community docking facilities prior to construction of an individual, single- purpose dock. Generally, there should be a maximum of one dock every 250 feet. Docks shall not include covered structures or boathouses.

No docks are proposed in this Application, therefore this criteria does not apply.

- d. Access to the water area through wetlands may be constructed in the form of raised walkways on pilings, posts or piers. Where the affected resource agencies (e.g. Oregon Department of Fish & Wildlife) determine the activity to have minimal environmental impacts, trails or paths consisting of clean gravel, bark chips, or other material may be placed through wetlands. Such walkways shall not be wider than eight (8) feet. Wherever possible, trails or walkways shall be constructed for the common usage of a development or group of structures.

The Application does not propose any access to the water areas, therefore this criteria is not applicable.

- e. Removal or control of aquatic vegetation may be permitted, where allowed by the Oregon Department of Fish and Wildlife, in order to provide angler access, or other valid purpose.

The subject property does not provide angler access, therefore this criteria is not applicable.

- f. Dredging shall be allowed only: (i) If a need (i.e., a substantial public benefit) is demonstrated, and; (ii) If the use or alteration does not unreasonably interfere with public trust rights, and; (iii) If no feasible alternative upland locations exist, and; (iv) If adverse impacts are minimized.

Dredging is not proposed as part of this Application, therefore this criteria is not applicable.

- g. When dredging is permitted, the dredging shall be the minimum necessary to accomplish the proposed use.

Dredging is not proposed as part of this Application, therefore this criteria is not applicable.

- h. The timing of dredging operations shall be coordinated with state and federal resource agencies, to protect aquatic and shoreland resources, and minimize interference with recreational fishing.

Dredging is not proposed as part of this Application, therefore this criteria is not applicable.



- i. Piling installation may be allowed only if all of the following criteria are met: (i) A substantial public benefit is demonstrated, and; (ii) The proposed use does not unreasonably interfere with public trust rights, and; (iii) Feasible alternative upland locations do not exist, and; (iv) Potential adverse impacts are minimized.

Piling installation is not proposed as part of this Application, therefore this criteria is not applicable.

- j. Shoreline stabilization measures shall meet the criteria of Section 4.120.

Shoreline stabilization is not proposed as part of this Application, therefore this criteria is not applicable.

- k. Fill may be permitted only if all of the following criteria are met: (i) If required for a water-dependent use requiring an aquatic location, or if specifically allowed in the SA zone, and; (ii) A substantial public benefit is demonstrated, and; (iii) The proposed fill does not unreasonably interfere with public trust rights, and; (iv) Feasible upland alternative locations do not exist, and; (v) Adverse impacts are minimized.

Fill is not proposed as part of this Application, therefore this criteria is not applicable.

- l. Fill shall cover no more area than the minimum necessary to accomplish the proposed use.

Fill is not proposed as part of this Application, therefore this criteria is not applicable.

- m. Projects involving fill may be approved only if the following alternatives are examined and found to be infeasible: (i) Construct some or all of the project on piling; (ii) Conduct some or all of the proposed activity on existing upland areas; (iii) Approve the project at a feasible alternative site where adverse impacts are less significant.

Fill is not proposed as part of this Application, therefore this criteria is not applicable.

- n. Zone Boundary Determination. At such time that a development is proposed in the vicinity of an area designated Special Area Wetlands, the City may require a site investigation to determine the exact location of the zone boundary. The site investigation shall be performed by a qualified agent such as a biologist from the U.S. Army Corps of Engineers or the Division of State Lands.

The Application has been provided to DSL for review. The DSL response is attached to this report, outlining the requirement for an updated site investigation to be conducted by a qualified agent to determine the exact location of the zone boundary.



Rockaway Beach Zoning Ordinance Section 3.092, Flood Hazard Overlay Zone (FHO). In the FHO zone the following regulations shall apply:

- a. All subdivision proposals shall provide engineered plans consistent with the need to minimize flood damage.

The Application has been provided to the City Engineers for review. Comments from the City Engineers are attached this report, outlining all public improvements be constructed within the public right of way. The public right of way is located outside of the flood zone and therefore are consistent with the requirements of minimizing flood damage.

- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

The Application has been provided to the City Engineers for review. Comments from the City Engineers are attached this report, outlining all public improvements be constructed within the public right of way. The public right of way is located outside of the flood zone and therefore are consistent with the requirements of minimizing flood damage.

- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

The Application has been provided to the City Engineers for review. Comments from the City Engineers are attached this report, directing the Applicant to submit an acceptable storm drainage report prior to the final design of the storm drainage system.

- d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

The Application is less than 50 lots and 5 acres, therefore this criteria is not applicable.

Rockaway Beach Zoning Ordinance Section 3.132, Wetland Notification Overlay Zone. In the Wetland Notification Overlay zone the following regulations shall apply:

1. No person shall do any site preparation work in conjunction with a use permitted in the underlying zoning district in which the property is located, without first notifying the City of the proposed action. Site preparation work is defined as any grading, filling, drainage, excavation or tree removal on the subject property.

The Applicant has not taken any site preparation action, with the exception of the approved site preparation completed during Phase 1.



2. The required notification shall take the form of a description of the location of the property and a sketch describing the site preparation work to be undertaken.

The Applicant has not yet applied for any site preparation work with this Application.

3. Upon receipt of the notification, the City shall meet with the applicant and inform him/her that the subject property and proposed site preparation activities may be subject to the jurisdiction of the Department of State Lands and the US Army Corps of Engineers.

As noted in the response from the DSL, additional permitting and review are necessary prior to site preparation work.

4. The applicant shall contact the Department of State Lands and the US Army Corps of Engineers and seek a determination of whether the subject property and proposed site preparation activities are subject to their jurisdiction.

The DSL has noted in their response that permitting from DSL is required and permitting from the U.S. Army Corps of Engineers may be required before site preparation work may begin.

5. If the US Army Corps of Engineers and/or the Department of State Lands determines that it has jurisdiction, the applicant shall receive a permit from these agencies before site preparation work may begin.

The DSL has noted in their response that permitting from DSL is required and permitting from the U.S. Army Corps of Engineers may be required before site preparation work may begin.

6. If the Department of State Lands and/or the US Army Corps of Engineers determines that it does not have jurisdiction, the applicant may begin site preparation work upon presenting the City with a written confirmation of such a determination, and subject to applicable City requirements.

Based upon the response received from DSL on the initial review of the Application, the DSL has determined that it does have jurisdiction, therefore this standard does not apply.

Rockaway Beach Zoning Ordinance Section 3.140 (6), Tsunami Hazard Overlay Zone (TH). In the TH zone the following regulations shall apply:

Evacuation Route Improvement Requirements. Except single family dwellings on existing lots and parcels, all new development, substantial improvements and land divisions in the Tsunami Hazard Overlay Zone shall incorporate evacuation measures and improvements, including necessary vegetation management, which are consistent with and conform to the adopted Tsunami Evacuation Facilities Improvement Plan. Such measures may include:

- a. On-site improvements: (i) Improvements necessary to ensure adequate pedestrian access from the development site to evacuation routes designated in the Evacuation Route Plan in all



weather and lighting conditions. (ii) Frontage improvements to designated evacuation routes that are located on or contiguous to the proposed development site, where such improvements are identified in the Tsunami Evacuation Facilities Improvement Plan. Such improvements shall be proportional to the evacuation needs created by the proposed development.

The Application does not address on-site evacuation route improvements. The current tsunami evacuation route is located at the termination of Riley Street, past Jackson Street. The Applicant has request the City vacate the eastern portion of Riley Street to allow for the future development of an additional lot, which would block the current evacuation route.

- b. Off-site improvements: Improvements to portions of designated evacuation routes that are needed to serve, but are not contiguous to, the proposed development site, where such improvements are identified in the Tsunami Evacuation Facilities Improvement Plan. Such improvements shall be proportional to the evacuation needs created by the proposed development.

The Application does not address off-site evacuation route improvements. The current tsunami evacuation route is located at the termination of Riley Street, past Jackson Street. The Applicant has request the City vacate the eastern portion of Riley Street to allow for the future development of an additional lot, which would block the current evacuation route.

- c. Evacuation route signage consistent with the standards set forth in the Tsunami Evacuation Facilities Improvement Plan. Such signage shall be adequate to provide necessary evacuation information consistent with the proposed use of the site.

The Application does not address tsunami evacuation route signage.

- d. Evacuation route improvements and measures required by this subsection may include the following: (i) Improved streets and/or all-weather surface paths of sufficient width and grade to ensure pedestrian access to designated evacuation routes in all lighting conditions; (ii) Improved streets and paths shall provide and maintain horizontal clearances sufficient to prevent the obstruction of such paths from downed trees and structure failures likely to occur during a Cascadia earthquake; and (iii) Such other improvements and measures identified in the Evacuation Route Plan.

The Application does not provide for evacuation route improvements.

Rockaway Beach Zoning Ordinance Article 10, Planned Unit Development (PUD). The following regulations apply for PUDs:

- 1. Minimum Lot Size. Planned Unit Developments shall be established only on parcels of land which are suitable for the proposed development and are determined by the planning commission to be in keeping with the intent of this ordinance.



In the 2008 approval of the Nedonna Wave Planned Unit Development, the Planning Commission allowed for the creation of minimum lot sizes which were lesser than the parent R-1 zone.

2. Open Spaces. In all residential developments, or in combination residential-commercial developments, 50% of the total area should be devoted to open space. Of this area, 25% of said open space may be utilized privately by individual owners or users of the PUD; however, 75% of this area should be common or shared open space. The Planning Commission may increase or decrease the open space requirement depending on the particular site and the needs of the development. In no case should the open space be less than 40% of the site.

The Application provides for the required open space, most of which is maintained wetlands and public roadways.

3. Density. The density of a planned development shall not exceed the density of the parent zone, except as more restrictive regulations may be prescribed as a condition of the PUD permit. When calculating density, the gross area is used (total area including street dedications). Areas of public uses may be included in calculating allowable density.

As noted in the Applicant's Memorandum, the with the addition of the proposed two additional lots, the density requirement is still met.

4. Subdivision of Lot Sizes. Minimum area, width, depth, and frontage requirements for subdivision lots in a PUD may be less than the minimums set forth elsewhere in City ordinances, provided that the overall density is in conformance, and that lots conform to the approved preliminary development plan.

As noted previously in this report, the minimum area, width, depth and frontage requirements are lesser than the parent R-1 zone. Density is in conformance with the R-1 zone.

5. Off-Street Parking. Parking spaces shall conform to all provisions of this ordinance, except that the Planning Commission may authorize exceptions where warranted by unusual circumstances.

This standard is typically reviewed for conformance and applied at the time a building permit is required.

6. Signs. All signs of any type within a PUD are subject to design review and approval of the Planning Commission. They shall consider each sign on its merits based on its aesthetic impact on the area, potential traffic hazards, potential violation of property and privacy rights of adjoining property owners, and need for said sign.

The Applicant submitted sign approval with the original PUD application. The Applicant is not seeking modification to these signs.



7. Height Guidelines. The same restrictions shall prevail as permitted outright in the zone in which such development occurs, except that the Planning Commission may allow a variance of heights where it is determined that surrounding property will not be harmed.

The Applicant had previously sought and been approved for variances for height for the PUD. Copies of the Variance request are included in the original application materials.

8. Streets and Roads. Necessary streets and roads within the PUD shall be dedicated to the public and constructed to City standards or shall be private roads maintained by an owner's association and constructed to standards as determined by the Planning Commission and City Engineer.

The City Engineer comments attached to this application direct the Applicant to construct all streets to meet or exceed the City of Rockaway Beach Design Standards and Technical Specifications.

9. Dedication and Maintenance of Facilities. The Planning Commission, or on appeal, the City Council may, as a condition of approval for a PUD require that portions of the tract or tracts under consideration be set aside, improved, conveyed or dedicated to the following uses:

- a. Recreation Facilities: The Planning Commission may require that suitable area for parks or playgrounds be set aside, improved, or permanently reserved for the owners, residents, employees or patrons of the PUD.

No recreation facilities are proposed in the Application.

- b. Common Area: Whenever common area is provided, the Planning Commission or City Council may require that an association of owners or tenants be created into a non-profit corporation under the laws of the State of Oregon, which shall adopt such Articles of Incorporation and By-Laws and adopt and impose such Declaration of Covenants and Restrictions on such common areas that are acceptable to the Planning Commission. Said association, if required, may undertake other functions. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to maintain said common areas for the purposes intended. The period of existence of such association shall not be less than 20 years, and it shall continue thereafter and until a majority vote of the members shall terminate it.

The Applicant has provided common open space and CC&Rs included in the Application for the Planning Commission to consider.

- c. Easements: Easements necessary to the orderly extension of public utilities may be required as a condition of approval.



The comments provided by the City Engineer direct all public improvements to be constructed within the existing public right of way or right of way to be dedicated to the City as part of the development.

C. STAFF SUMMARY

The Applicant has requested approval of modifications to the Nedonna Wave Planned Unit Development that was approved by the City of Rockaway Beach in 2008. The requested modifications would allow the Applicant to develop Phase 2 in two sub-phases and to create two additional lots. In addition to these modifications, the Applicant has also requested the City vacate the east stub of Riley Street to form an additional future building lot.

The Memorandum provided with the Application materials contains history of the previously approved application, reasons for the requested modifications, and responses to some of the criteria of the Rockaway Beach Zoning Ordinance.

Staff have solicited comments from other affected agencies and stakeholders, and those comments have been included in the record. Most notably, the City Engineer has identified necessary permitting and improvements to existing City sewer facilities.

In general, necessary public infrastructure improvements that are triggered by a proposed development must be provided by the developer of the project. If approved, conditions of approval related to infrastructure improvements can be attached, which must be met prior to final plat approval.

Staff have identified the substantive criteria for review of the request by the Planning Commission, and included the criteria in this report, along with comments where appropriate. However, at the public hearing any party may provide testimony addressing these criteria or other criteria the party believes is applicable to the request.

D. CONCLUSION

The Planning Commission should carefully consider the request, including all oral and written testimony on record and presented at the public hearing, including comments from the City Engineer, government agencies, and other interested parties. After considering testimony as it relates to this applicable criteria, the Planning Commission will need to make a decision on the request.

If the Commission determines that the modifications to the Nedonna Wave Planned Unit Development meet the standards of the Rockaway Beach Zoning Ordinances, it can make a motion to approve the request, including a statement that generally reflects the facts and rationale relied upon to reach the decision. The motion should also direct staff to prepare findings, conclusions, and a final order to implement the decision.

A motion to deny the request should set forth the general facts and rationale for the decision and direct staff to prepare the final order.

A decision to approve or deny the request will be subject to a 15-day appeal period that will begin after written findings to support the decision have been signed by the Planning Commission Chair.