

# NEDONNA WAVE

Subdivision & Planned Unit Development

Prepared for  
Nedonna Development LLC

Prepared by



November 2007



**PROJECT JUSTIFICATION**  
**for**  
**NEDONNA WAVE PLANNED UNIT DEVELOPMENT**

**PROPERTY DESCRIPTION:** The subject property is located near the north end of the Nedonna Beach area and is situated on the east end of Riley Street and south of the newly created Nedonna Meadows subdivision. The property includes Tax Lots 4600 and 9000 in Section 20AB, Township 2 North, Range 10 West of the Willamette Meridian. The Tentative Plat and PUD Plans are presented in 'Appendix A'. The total area of the property is approximately 6.23 acres. A legal description is included with this submittal as 'Appendix B'.

**OWNER / DEVELOPER:** The property is owned by Nedonna Development, LLC, a limited liability corporation represented by Anna Song.

**FINANCING:** The development will be financed by private funds from Nedonna Development, LLC.

**DEVELOPMENT SCHEDULE:** The development of this property will be completed in this calendar year. In general, development will proceed according to the following schedule:

Summer 2007                      Phase I construction with completion by Spring of 2008

**QUANTITATIVE DATA:**

Total Single Family Residential Structures	28 units
Average Parcel Size	3,655 sq.ft.
Min. Allowable Lot Size in Parent zone	±5,000 sq.ft. per lot
Calculated Net Density	82.38%
Existing Wetlands	±1.82 acres
Created Wetlands	±0.51 acres

Additional details of the lot sizes, lot areas, setbacks and other lot-related quantity calculations are presented in 'Appendix D'.

**AGREEMENTS and PERMITS:** The use, maintenance, and continued protection of the planned development and common open space will be governed by a "Declaration of Covenants, Conditions, and Restrictions" to be filed at the time of the final plat. A draft copy of this document is included with this submittal as 'Appendix C'.

All required wetlands delineation and mitigation permits have been received by the applicant. The wetlands mitigation plan has been permitted by the Oregon Division of State Lands and by the US Army Corps of Engineers. The wetlands mitigation work has been completed in accordance with a development permit issued by the City of Rockaway Beach. Copies of all wetlands permits are included in 'Appendix E'.

A separate agreement has been executed and is recorded for the easterly extension of Riley Street along the south end of this subdivision. See 'Appendix G' for a copy of the Reciprocal Easement Agreement for Roadway Extending Riley Street.

**I. Application Information:**

Property Owner: Nedonna Development, LLC; Representative Member: "Anna" Song  
Engineer / Surveyor: HLB Otak, Inc., Ron Larson, PE, PLS  
Location Description: South of Kittiwake Dr., North of Riley St., West of RR, East of McMillan Canal  
Legal Description: Parcel 1 of Partition Plat 1997-20 and Parcel 3 of Partition Plat 1997-57; a portion of vacated Evergreen Street Rockaway Beach Ordinance #98-353  
Assessor's Plat Map: 2N 10W 20AB TL 4600, 4900, 9000  
Property Size: 6.23 acres  
Development Zones: R-1 Zone: 3.9 acres; SA Special Area Wetlands 2.33 acres  
Known Hazards: FHO Zone: A5 Flood Zone; HO Zone: Slopes that exceed 25%; HO Zone: Conditionally Stable Deflation Plain; Wetland Notification Overlay Zone

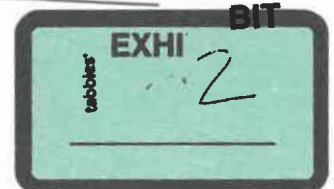
**II. Description of Request:**

PUD #07-19: The property owner requests approval of a 28 lot planned development subdivision on a site 6.23 acre in area. R-1 Zone: 3.9 acres; SA Special Area Wetlands 2.33 acres. The area of property within the SA Zone is determined by a wetland delineation report and survey concurred with by DSL.

VAR #07-20: Concurrent variance application requests a building height of 29 feet for all lots of "Nedonna Wave" excepting lots 25-28. The criteria for a height variance in a Planned Unit Development are specified by Ordinance #143, Section 10.040 (7) Height Guidelines. Applicable criteria "allow a variance of heights where it is determined that surrounding property will not be harmed".

VAR #07-21: Concurrent variance application requests a building height of 36 feet for lots 25 - 28. The criteria for a height variance in a Planned Unit Development are specified by Ordinance #143, Section 10.040 (7) Height Guidelines. Applicable criteria "allow a variance of heights where it is determined that surrounding property will not be harmed".

VAR #07-22: Concurrent variance application requests the deletion of sidewalks from the development. The criteria from which a variance is requested are found in RBZO Article 13, Section 44 (3) Sidewalks which require sidewalks on both sides of all streets except where the Planning Commission has granted a variance. The criteria for variance to subdivision standards are specified by Ordinance #143, Article 13, Sections 47-50 Variance.



7. Improvements required by the Tillamook County Road Department, require the property owner to be financially responsible for paving the unpaved portion of street from Riley Street to Beach Drive, for applying dust treatments; and for road maintenance to the County Road system where necessary to an identified construction access route for the construction traffic.
8. The property owner(s) shall record and file with the City a non-remonstrance agreement to ensure that current and future property owners in the Nedonna Wave subdivision will not remonstrate against the formation of the Local Improvement District (LID) for road improvements to benefit the Nedonna Beach area. Improvements to access to the Nedonna Beach area may include:
  1. The installation of a second access to US Highway 101 suitable for use by pedestrians and vehicles which shall be subject to the approval of applicable regulatory agencies.
  2. When warranted, improvements to the existing access at Beach Street and US Highway 101 which shall be subject to the approval of the applicable regulatory agencies.
  3. When warranted, improvements to the roadways within the area described as Nedonna Beach.

**Final Plat:**

1. The developer shall complete the improvements within one year of tentative plan approval unless an extension is granted by the City to complete improvements. Final plat review shall conform to the procedures of RBZO Article 10 and Article 13.
2. The criteria of RBZO Article 13, Section 11 Procedure for Review, shall be met at the expense of the property owner.
3. The criteria of RBZO Article 13, Section 12 Form of Plat, shall be met at the expense of the property owner.
4. The criteria of RBZO Article 13, Section 13 Information on the Final Plat, shall be met at the expense of the property owner.
5. The criteria of RBZO Article 13, Section 14 Certification, shall be met at the expense of the property owner.
6. The criteria of RBZO Article 13, Section 15 Supplemental Data, shall be met at the expense of the property owner.
7. Consistent with the criteria of RBZO Article 13, Section 16, at the time of the submission of the final plat, the subdivider shall have completed all on-site and off-site improvements to serve the subdivision consistent with an approved improvement agreement.
8. The property owner shall set monuments consistent with RBZO Article 13, Section 45
9. The property owner shall design and record the final survey consistent with RBZO Article 13, Section 45
10. The name of the proposed subdivision shall receive the approval of the County Surveyor or shall be revised as required.

**"FINAL ORDER"**

Property Owner: Nedonna Development, LLC; Representative Member: "Anna" Song  
Engineer / Surveyor: HLB Otak, Inc., Ron Larson, PE, PLS  
Location Description: South of Kittiwake Dr., North of Riley St., West of RR, East of McMillan Canal  
Legal Description: Parcel 1 of Partition Plat 1997-20 and Parcel 3 of Partition Plat 1997-57; a portion of vacated Evergreen Street Rockaway Beach Ordinance #98-353  
Assessor's Plat Map: 2N 10W 20AB TL 4600, 4900, 9000  
Property Size: 6.23 acres  
Development Zones: R-1 Zone: 3.9 acres; SA Special Area Wetlands 2.33 acres  
Known Hazards: FHO Zone: A5 Flood Zone; HO Zone: Slopes that exceed 25%; HO Zone: Conditionally Stable Deflation Plain; Wetland Notification Overlay Zone

**I. Description of Request:**

**APPLICATION # SPUD 2007-19: Approval with Conditions 5-0**

The property owner requests approval of a 28 lot planned development subdivision on a site 6.23 acres in area. R-1 Zone: 3.9 acres; SA Special Area Wetlands 2.33 acres. The area of property within the SA Zone is determined by a wetland delineation report and survey concurred with by DSL.

PLANNING COMMISSION DECISION: Approval with Conditions 5 Approval-0 Denial  
The Planning Commission held a public hearing on the request beginning on November 15, 2007 and continued with agreement by the applicant to November 27, 2007 and January 29, 2008. After receiving staff reports, receiving public testimony, and deliberating about the decision, the Planning Commission voted 5-0 in favor of application #07-19 for a decision of "approval with conditions" based on a finding of consistency of the application with applicable criteria as is required to meet the burden of proof. The property owner and applicant agreed to the conditions for the Planning Commission public hearing record. Final plans shall conform substantively to the approved tentative plan.

**APPLICATION # VAR 2007-20: Approval 5 - 0**

Concurrent variance application requests a building height of 29 feet for all lots of "Nedonna Wave" excepting lots 25-28. The criteria for a height variance in a Planned Unit Development are specified by Ordinance #143, Section 10.040 (7) Height Guidelines. Applicable criteria "allow a variance of heights where it is determined that surrounding property will not be harmed".

PLANNING COMMISSION DECISION: Approval with Conditions 5 Approval-0 Denial  
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**"FINAL ORDER"**

conditions" based on a finding of consistency of the application with applicable criteria as is required to meet the burden of proof. The property owner and applicant agreed to the conditions for the Planning Commission public hearing record. Final plans shall conform substantively to the approved tentative plan.

APPLICATION # VAR 2007-21: Approval 5 – 0

Concurrent variance application requests a building height of 36 feet for lots 25 – 28. The criteria for a height variance in a Planned Unit Development are specified by Ordinance #143, Section 10.040 (7) Height Guidelines. Applicable criteria "allow a variance of heights where it is determined that surrounding property will not be harmed".

PLANNING COMMISSION DECISION: Approval 5 Approval-0 Denial

The Planning Commission held a public hearing on the request beginning on November 15, 2007 and continued with agreement by the applicant to November 27, 2007 and January 29, 2008. After receiving staff reports, receiving public testimony, and deliberating about the decision, the Planning Commission voted 5-0 in favor of application #07-21 for a decision of "approval with conditions" based on a finding of consistency of the application with applicable criteria as is required to meet the burden of proof. The property owner and applicant agreed to the conditions for the Planning Commission public hearing record. Final plans shall conform substantively to the approved tentative plan.

APPLICATION # VAR 2007-22: Approval 5 – 0

Concurrent variance application requests the deletion of sidewalks from the development. The criteria from which a variance is requested are found in RBZO Article 13, Section 44 (3) Sidewalks, which requires sidewalks on both sides of all streets except where the Planning Commission has granted a variance. The criteria for a variance to subdivision standards are specified by Ordinance #143, Article 13, Sections 47-50 Variance.

PLANNING COMMISSION DECISION: Approval with Conditions 5 Approval-0 Denial

The Planning Commission held a public hearing on the request beginning on November 15, 2007 and continued with agreement by the applicant to November 27, 2007 and January 29, 2008. After receiving staff reports, receiving public testimony, and deliberating about the decision, the Planning Commission voted 5-0 in favor of application #07-22 for a decision of "approval with conditions" based on a finding of consistency of the application with applicable criteria as is required to meet the burden of proof. The property owner and applicant agreed to the conditions for the Planning Commission public hearing record. Final plans shall conform substantively to the approved tentative plan.

FINDINGS OF FACT:

The Findings of Fact relied upon by the Planning Commission for decision is attached as **Exhibit "A"**. Conditions of Approval are attached as **"Exhibit B"**.

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**"FINAL ORDER"**

**CASE RECORD:**

The complete case record including the findings of fact is available for review at City Hall by filing a request during regular business hours.

**APPEAL PERIOD:**

A decision of the Planning Commission may be appealed to the City Council by a party to the hearing by filing an appeal within 15 days of the date the final order is signed. The notice of appeal filed with the City shall contain the information outlined in the RBZO Section 11.070(3) and may only be filed concerning criteria that were addressed at the initial public hearing.

  
\_\_\_\_\_  
Dixie Sexton, Planning Commission Chair

  
\_\_\_\_\_  
Date

**"EXHIBIT A: FINDINGS OF FACT"**

**APPLICATION #SPUD 2007-19: CONDITIONS OF APPROVAL**

General Conditions of Approval:

1. All conditions of approval shall be required at the expense of the property owner and shall be designed and installed consistent with the standards of the applicable regulatory agency.
2. All conditions of approval shall be met at the time of final plat approval and consistent with any Subdivision Improvement Agreement approved by the City Council.
3. Conditions of approval are not intended and shall not be misunderstood to violate the requirements of City Standards, Local, State, or Federal Law.
4. Local, State, and Federal Permits may be required and shall be obtained at the expense of the developer as necessary to accomplish conditions of approval.

Building Permits:

1. With each application for building permit, an engineered stormwater drainage plan shall be prepared and installed at the expense of the property owner consistent with City Standards.
2. With each application for building permit, a suitable visual barrier, such as a split rail fence with stainless steel connectors shall be installed on the upland boundary at the expense of the property owner.
3. Each application for building permit shall be certified without disclaimer as consistent with the standards of the Flood Hazard Overlay Zone and the Hazards Overlay Zone by an appropriately qualified professional of record.
4. Pre-construction and post-construction elevation certificates shall be required at the cost of the applicant for each lot within the Flood Hazard Overlay Zone.
5. Site development plans for each lot shall be evaluated for compliance with the standards of applicable criteria. Due to the presence of wetlands, additional local, state, and / or federal permits may be required.
6. Each application for building permit shall be separately evaluated at the date of application for consistency with the standards of the applicable Fire Code and the standards shall be met at the cost of the applicant prior to construction of any dwelling units within the proposed Planned Unit Development.

RBZO Section 3.080, 3.130-3.132; 4.150: SA Zone; Wetland Notification Overlay Zone; Riparian Vegetation

1. The property owner shall provide a design for and shall install a suitable visual barrier, such as a split rail fence, and wetland identification signage along all upland boundaries of all wetland areas preserved as open space where the open space boundary lies adjacent to a public street right-of-way.
2. Each property owner shall install a suitable visual barrier, such as a split rail fence, and wetland identification signage along all upland boundaries of all wetland areas preserved as open space where the open space boundary lies adjacent to a private property line.





**"EXHIBIT A: FINDINGS OF FACT"**

General Improvement Requirements:

1. Improvements required by RBZO Article 13, Section 44, shall be engineered and installed at the cost of the property owner consistent with applicable regulatory standards and the approval requirements of RBZO Article 13, Section 43.
2. All buried utilities shall have flexible connections to the structure to accommodate the large movements and settlements that can occur due to liquefaction of the underlying soils.
3. The responsible engineer of record shall certify without disclaimer of liability that improvements are engineered to meet the standards of the A5 Flood Zone standards.
4. Consistent with Rockaway Beach Ordinance #94-310, the property owner may be eligible for reimbursement of the apportionment of off-site improvements. Requests for reimbursement shall be submitted to the City Council.

Improvement Agreement:

1. Prior to site development and prior to final plat approval, the subdivider shall complete an improvement agreement consistent with RBZO Article 13, Section 16 and shall provide a bond or similar assurance for all work in the public right-of-way to ensure that if the off-site work of the agreement is not completed the city will have sufficient funds to complete the work.
2. Prior to final plat approval, all on-site improvements shall be completed as necessary to serve the project.
3. The design of sewer system improvements shall receive approval of DEQ prior to construction.
4. The design of water system improvements shall receive approval of the Oregon Health Division prior to construction.
5. The property owner shall receive and comply with the conditions of a DEQ 1200-C erosion control permit prior to site development.

Signage:

1. A SA Zone Wetland identification signage kiosk shall be installed at the expense of the property owner in conspicuous locations.
2. Street name signage shall be installed at the expense of the property owner no fewer than two at each intersection to City Standards.
3. "No parking" signage shall be installed within the development where required by the City to City Standards.
4. Signage identifying the development as "Nedonna Wave" may be installed at a suitable location within the subdivision subject to design review and approval of the Planning Commission.

**"EXHIBIT A: FINDINGS OF FACT"**

On-Site Improvements:

Streets:

1. Riley Street shall be platted as a 50' wide public right-of-way extension crossing McMillan Creek into Nedonna Wave and dedicated to the City.
2. Riley Street shall be designed, engineered, and constructed consistent with City Standards.
3. Kittiwake Drive, Song Street, Jackson Street and Duke Street shall be platted as 40' wide public rights-of-way and dedicated to the City.
4. Kittiwake Drive, Song Street, Jackson Street and Duke Street shall be designed, engineered and constructed consistent with City Standards.
5. The property owner shall dedicate to the City that portion of Riley Street which is on their property.
6. The property owner shall be financially responsible for applying effective dust treatments and gravel to the identified construction route and where necessary, for maintenance of and repair of the identified construction route consistent with Tillamook Road Department and City Standards.
7. The property owner(s) shall record and file with the City a non-remonstrance agreement to ensure that current and future property owners in the Nedonna Wave subdivision will not remonstrate against the formation of a Local Improvement District (LID) for road improvements that would benefit the Nedonna Beach Area. The property owner asked that the improvements subject to LID not be specifically enumerated.

On-site Improvements:

1. Improvements shall be installed consistent with the standards of RBZO Article 13, Section 43 Improvement Standards and Approval.
2. RBZO Article 13, Section 44 Improvement Requirements, shall be installed. Sidewalks shall comply with the decision for application #07-22 Variance to delete Sidewalks.
3. A Public Utility Easement shall be dedicated within each lot.
4. Engineered construction plans shall be prepared for on-site improvements for water, fire access, hydrants, and water supply, sewer, stormwater drainage, and streets in general conformance with the approved tentative plan and consistent with City Standards.
5. Power, cable, telephone and other utilities to serve the site shall be installed consistent with all requirements necessary for provision of services and consistent with City Standards.
6. Easements shall be provided where are they required by applicable regulatory agencies for the installation of required utilities.

Off-Site Improvements:

1. A regional sewer pump station and related housing including, but not limited to: 3-phase duplex station with controls, divot crane, on-site generator, telemetry, lighting and fencing shall be installed as necessary to serve the project.

**"EXHIBIT A: FINDINGS OF FACT"**

2. A sewer force main from the regional pump station to White Dove pump station shall be installed as necessary to serve the project.
3. Engineer and install to City Standards the construction of the Riley Street crossing of McMillan Creek. Tie into existing street and utility improvements on Kittiwake Drive as secondary loop access into the subdivision.
4. Engineer and install to City Standards a connection into the existing water mains on Kittiwake Drive (north line of Nedonna Wave) and on the west side of McMillan Creek on Riley Street (beyond the southwest corner of Nedonna Wave) to provide a looped water system through the Nedonna Wave subdivision as necessary to serve the project..
5. Engineer and install to City Standards an extension of the existing 6" diameter White Dove sewer force main from existing discharge manhole at 23<sup>rd</sup> Avenue to a new discharge manhole at 17<sup>th</sup> Avenue as necessary to serve the project. This is required to alleviate surcharging of the 23<sup>rd</sup> Avenue manhole.
6. The project engineer shall submit utility as-built plans in electronic and written format of such quality commonly used in municipality management and consistent with City Standards.

Final Plat:

1. The developer shall complete the improvements within one year of tentative plan approval unless an extension is granted by the City to complete improvements. Final plat review shall conform to the procedures of RBZO Article 10 and Article 13.
2. The criteria of RBZO Article 13, Section 11 Procedure for Review, shall be met at the expense of the property owner.
3. The criteria of RBZO Article 13, Section 12 Form of Plat, shall be met at the expense of the property owner.
4. The criteria of RBZO Article 13, Section 13 Information on the Final Plat, shall be met at the expense of the property owner.
5. The criteria of RBZO Article 13, Section 14 Certification, shall be met at the expense of the property owner.
6. The criteria of RBZO Article 13, Section 15 Supplemental Data, shall be met at the expense of the property owner.
7. Consistent with the criteria of RBZO Article 13, Section 16, at the time of the submission of the final plat, the subdivider shall have completed all on-site and off-site improvements to serve the subdivision consistent with an approved improvement agreement.
8. The property owner shall set monuments consistent with RBZO Article 13, Section 45
9. The property owner shall design and record the final survey consistent with RBZO Article 13, Section 45
10. The name of the proposed subdivision shall receive the approval of the County Surveyor or shall be revised as required.

**"EXHIBIT A: FINDINGS OF FACT"**

(g) *Relation of the proposed development to the surrounding area and the Comprehensive Plan:*

**Finding of Fact:**

**Criteria met**

1. The project is located within the geographic area known as and described by Rockaway Beach as "Nedonna Beach".
2. Tillamook County, the City of Rockaway Beach, and OPRD have jurisdiction over portions of Nedonna Beach.
3. Nedonna Beach is accessed by a pre-existing access at Beach Street.
4. "Nedonna Wave" does not increase the density permitted by the land use zone.
5. The Comprehensive Plan requires that new developments provide City sewer service.
6. The City Subdivision Ordinance requires two accesses into the development where a street will exceed 400 feet and serve more than 18 dwelling units.
7. Kittiwake Drive exceeds 400 feet and serves more than 18 dwelling units.
8. The adjacent development, Nedonna Meadows is required to work with the developer of Nedonna Wave to dedicate an extension and improvement of Riley Street to provide a second access to both Nedonna Wave and Nedonna Meadows.
9. The Nedonna Beach area currently includes approximately 44 permanently occupied homes, 344 single family dwellings, and 162 vacant lots (total 506 lots); the Manhattan Beach Oregon State Park Wayside that provides area for RV parking and tourist access; and the Nedonna Beach County Park.
10. Nedonna Wave proposes to divide R-1 Zone parcels suitable for land division into 28 lots.

(h) *Lot layout.*

**Finding of Fact:**

**Criteria met**

1. The lot layout is consistent with the R-1 Zone modified as is permitted within a Planned Unit Development.

(i) *A schedule if it is proposed that the final development plan will be executed in stages.*

**Finding of Fact:**

**Criteria met**

1. The applicant indicates that the development may be completed in two phases.
2. Improvements will be installed as necessary to serve the development consistent with City Standards prior to final plat approval.
3. RBZO Article 13, Section 16 Improvement Agreement, permits the phased installation of improvements where an improvement agreement is approved by the City Council.

**"EXHIBIT A: FINDINGS OF FACT"**

(2) *The Planning Commission shall consider the preliminary development plan at a public meeting at which time they shall determine whether the proposal conforms to City ordinances. In addition, in considering the plan the Planning Commission shall seek to determine that:*

(a) *There are special physical conditions or objectives of the development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.*

**Finding of Fact:** **Criteria met**

1. The purpose of the Nedonna Wave Planned Unit Development Subdivision is to create lots within large parcels of R-1 Zone property and to conserve tracts of contiguous SA Zone property within open space tracts identified by a visual barrier, such as a split rail fence, and wetland identification signage.

(b) *Resulting development will not be inconsistent with the objectives of the Comprehensive Plan provisions or zoning objectives of the area.*

**Finding of Fact:** **Criteria met**

1. With conditions of approval, and consistent with findings of fact, the proposed project is consistent with the objectives of the Comprehensive Plan.

(c) *The proposed development will be substantial harmony with the surrounding area, including vegetation and topography and any important natural areas such as marshes or wildlife habitat.*

**Finding of Fact:** **Criteria met**

1. The proposed project preserves large SA Zone tracts as Open Space, identifies the standards of the SA Zone and function of wetlands with wetland identification signage, and installs a visual barrier, such as a split rail fence, on the common open space boundary.
2. This area within the FHO and HO Zones requires engineer certification of all site development plans to prevent adverse impacts to the surrounding area.
3. Approval of the lots within a subdivision does not approve building permits.
4. Each building permit will be evaluated for consistency with criteria applicable at the time of building permit application.
5. Prior to approval of the final plat, the property owner shall install a wetland identification signage kiosk in a conspicuous location and a suitable visual barrier, such as split rail fence with stainless steel connections, suitable for the geologic and geographic conditions of the site along open space boundaries which abut public rights-of-way.
6. With application for building permit, the applicant shall ensure that each lot owner shall install a suitable visual barrier such as split rail fence with stainless steel connections, suitable for the geologic and geographic conditions of the site with application for building permit.

**"EXHIBIT A: FINDINGS OF FACT"**

- (d) *The plan can be completed within a reasonable amount of time.*  
**Finding of Fact:** Criteria met
1. The applicant indicates that the development may be completed in two phases.
  2. Improvements will be installed as necessary to serve the development consistent with City Standards prior to final plat approval.
  3. RBZO Article 13, Section 16 permits the phased installation of improvements where an improvement agreement is approved by the City Council.
- (f) *The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.*  
**Finding of Fact:** Criteria met
1. A substantial amount of public testimony, Planning Commission discussion, and testimony from coordinating regulatory agencies has been received for the record about the adequacy of streets adequacy to support the anticipated traffic to ensure that the development will not overload the streets outside the planned area.
  2. In determining reasonable conditions of approval necessary to ensure consistency with this criterion, City Staff has determined that in the Nedonna Beach area 44 homes are currently registered as primary residences.
  3. The City Public Works Department recommends the dedication and improvement of rights-of-way recommended as necessary to serve the development consistent with the standards of applicable criteria.
  4. The County Road Department recommends conditions of approval to mitigate potential impacts of the development to the surrounding area.
    - o Riley Street shall be paved from Nedonna Avenue to Beach Drive.
- (g) *Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.*  
**Finding of Fact:** Criteria met
1. The project site located within a Flood Hazard Overlay Zone and Hazards Overlay Zone requires that site development plans be designed and certified by an appropriately qualified licensed engineer to not adversely impact the site and surrounding property.
  2. Utilities and drainage facilities shall be installed as necessary to serve the development consistent with City Standards.
- (3) *The Planning Commission shall notify the applicant whether in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied with further plan revision.*

**"EXHIBIT A: FINDINGS OF FACT"**

- Finding of Fact:** Criteria met
1. Application for final plat approval shall be made consistent with the criteria of Rockaway Beach Zoning Ordinance Article 10 Planned Unit Development.

...  
**Article 11 Administrative Provisions**

**Section 11.070 Request for Review of a Decision (Appeals)**

- ...  
(2) *A decision of the Planning Commission may be appealed to the City Council by a party to the hearing by filing an appeal within 15 days of the date the final order is signed. The notice of appeal filed with the City shall contain the information outlined in Section 11.070 (3).*

**Article 13 Subdivision Ordinance**

...  
**Subdivision Final Plat: Sections 11-17...**

- Section 11 Procedure for Review...**  
**Section 12 Form of Plat...**  
**Section 13 Information on Final Plat...**  
**Section 14 Certification...**  
**Section 15 Supplemental Data...**  
**Section 16 Agreement for Improvements...**  
**Section 17 Bond...**

...  
**Finding of Fact:** Criteria met

1. Application for final plat approval shall be made consistent with the criteria of Rockaway Beach Zoning Ordinance Article 13 including Sections 11-17.

**PRINCIPLES OF ACCEPTABILITY**

**Section 32 Principles of Acceptability**

*A land division whether by a subdivision, creation of a street, or a partitioning, shall conform to any development plans, shall take into consideration any preliminary plans made in anticipation thereof, and shall conform to the design standards established by this ordinance. The City Engineer shall prepare and submit to the City Council specifications to supplement the standards of this ordinance, based on standard engineering practices, concerning streets, drainage facilities, sidewalks, sewer, and water systems.*

**Section 33 Streets**

- (1) *The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and*

**"FINAL ORDER: EXHIBIT B: CONDITIONS OF APPROVAL"**

**CONDITIONS OF APPROVAL**

**APPLICATION #SPUD 2007-19: CONDITIONS OF APPROVAL**

General Conditions of Approval:

1. All conditions of approval shall be required at the expense of the property owner and shall be designed and installed consistent with the standards of the applicable regulatory agency.
2. All conditions of approval shall be met at the time of final plat approval and consistent with any Subdivision Improvement Agreement approved by the City Council.
3. Conditions of approval are not intended and shall not be misunderstood to violate the requirements of City Standards, Local, State, or Federal Law.
4. Local, State, and Federal Permits may be required and shall be obtained at the expense of the developer to as necessary to accomplish conditions of approval.

Building Permits:

1. With each application for building permit, an engineered stormwater drainage plan shall be prepared and installed at the expense of the property owner consistent with City Standards.
2. With each application for building permit, a suitable visual barrier, such as a split rail fence with stainless steel connectors shall be installed on the upland boundary at the expense of the property owner.
3. Each application for building permit shall be certified without disclaimer as consistent with the standards of the Flood Hazard Overlay Zone and the Hazard Overlay Zone by an appropriately qualified professional of record.
4. Pre-construction and post-construction elevation certificates shall be required at the cost of the applicant for each lot within the Flood Hazard Overlay Zone.
5. Site development plans for each lot shall be evaluated for compliance with the standards of applicable criteria. Due to the presence of wetlands, additional local, state, and / or federal permits may be required.
6. Each application for building permit shall be separately evaluated at the date of application for consistency with the standards of the applicable Fire Code and the standards shall be met at the cost of the applicant prior to construction of any dwelling units within the proposed Planned Unit Development.





**"FINAL ORDER: EXHIBIT B: CONDITIONS OF APPROVAL"**

install a suitable visual barrier such as split rail fence with stainless steel connections, suitable for the geologic and geographic conditions of the site with application for building permit.

5. The property owner shall record Oregon Department of Fish and Wildlife recommended Wetland Deed Restrictions on the Final Plat.

Coordinating Regulatory Agency Approvals:

1. The property owner shall submit all site development plans consistent with the standards of the Rockaway Beach Fire Code, Rockaway Beach Technical Specifications and Design Standards, Tillamook PUD, other Utilities (such as Embarq Telephone and Charter Communications)
2. With application for final plat approval, the property owner shall provide all necessary easements for sewer, drainage, water mains, public utility installations, and other like public purposes consistent with Article 13, Section 34.

General Improvement Requirements:

1. Improvements required by RBZO Article 13, Section 44, shall be engineered and installed at the cost of the property owner consistent with applicable regulatory standards and the approval requirements of RBZO Article 13, Section 43.
2. All buried utilities shall have flexible connections to the structure to accommodate the large movements and settlements that can occur due to liquefaction of the underlying soils.
3. The responsible engineer of record shall certify without disclaimer of liability that improvements are engineered to meet the standards of the A5 Flood Zone standards.
4. Consistent with Rockaway Beach Ordinance #94-310, the property owner may be eligible for reimbursement of the apportionment of off-site improvements. Requests for reimbursement shall be submitted to the City Council.

Improvement Agreement:

1. **Prior to site development and prior to final plat approval, the subdivider shall complete an improvement agreement consistent with RBZO Article 13, Section 16 and shall provide a bond or similar assurance for all work in the public right-of-way to ensure that if the off-site work of the agreement is not completed the city will have sufficient funds to complete the work.**
2. Prior to final plat approval, all on-site improvements shall be completed as necessary to serve the project.
3. The design of sewer system improvements shall receive approval of DEQ prior to construction.

**"FINAL ORDER: EXHIBIT B: CONDITIONS OF APPROVAL"**

4. The design of water system improvements shall receive approval of the Oregon Health Division prior to construction.
5. The property owner shall receive and comply with the conditions of a DEQ 1200-C erosion control permit prior to site development.

Signage:

1. Two SA Zone Wetland identification signage kiosks shall be installed at the expense of the property owner in conspicuous locations.
2. Street name signage shall be installed at the expense of the property owner no fewer than two at each intersection consistent with City Standards.
3. "No parking" signage shall be installed within the development where required by the City consistent with City Standards.
4. Signage identifying the development as "Nedonna Wave" may be installed at a suitable location within the subdivision subject to design review and approval of the Planning Commission.

On-Site Improvements:

Streets:

1. Riley Street shall be platted as a 50' wide public right-of-way extension crossing McMillan Creek into Nedonna Wave and dedicated to the City.
2. Riley Street shall be designed, engineered, and constructed consistent with City Standards.
3. Kittiwake Drive, Song Street, Jackson Street and Duke Street shall be platted as 40' wide public rights-of-way and dedicated to the City.
4. Kittiwake Drive, Song Street, Jackson Street and Duke Street shall be designed, engineered and constructed consistent with City Standards.
5. The property owner shall dedicate to the City that portion of Riley Street which is on their property.
6. The property owner shall be financially responsible for applying effective dust treatments and gravel to the identified construction route and where necessary, for maintenance of and repair of the identified construction route consistent with Tillamook County Road Department standards and City Standards.
7. The property owner(s) shall record and file with the City a non-remonstrance agreement to ensure that current and future property owners in the Nedonna Wave subdivision will not remonstrate against the formation of a Local Improvement District (LID) for road improvements that would benefit the Nedonna Beach Area. The property owner asked that the improvements subject to LID not be specifically enumerated.

On-site improvements:

**"FINAL ORDER: EXHIBIT B: CONDITIONS OF APPROVAL"**

1. Improvements shall be installed consistent with the standards of RBZO Article 13, Section 43 Improvement Standards and Approval.
2. RBZO Article 13, Section 44 Improvement Requirements shall be installed. Sidewalks shall comply with the decision for application #07-22 Variance to delete Sidewalks.
3. A Public Utility Easement shall be dedicated within each lot.
4. Engineered construction plans shall be prepared for on-site improvements for water, fire access, hydrants, and water supply, sewer, stormwater drainage, and streets in general conformance with the approved tentative plan and consistent with City Standards.
5. Power, cable, telephone and other utilities to serve the site shall be installed consistent with all requirements necessary for provision of services and consistent with City Standards.
6. Easements shall be provided where they are required by applicable regulatory agencies for the installation of required utilities.

Off-Site Improvements:

1. A regional sewer pump station and related housing including, but not limited to: 3-phase duplex station with controls, divot crane, on-site generator, telemetry, lighting and fencing shall be installed as necessary to serve the project.
2. A sewer force main from the regional pump station to White Dove pump station shall be installed as necessary to serve the project.
3. Engineer and install to City Standards the construction of the Riley Street crossing of McMillan Creek. Tie into existing street and utility improvements on Kittiwake Drive as secondary loop access into the subdivision.
4. Engineer and install to City Standards a connection into the existing water mains on Kittiwake Drive (north line of Nedonna Wave) and on the west side of McMillan Creek on Riley Street (beyond the southwest corner of Nedonna Wave) to provide a looped water system through the Nedonna Wave subdivision as necessary to serve the project.
5. Engineer and install to City Standards, an extension of the existing 6" diameter White Dove sewer force main from existing discharge manhole at 23<sup>rd</sup> Avenue to a new discharge manhole at 17<sup>th</sup> Avenue as necessary to serve the project. This is required to alleviate surcharging of the 23<sup>rd</sup> Avenue manhole.
6. The project engineer shall submit utility as-built plans in electronic and written format of such quality commonly used in municipality management and consistent with City Standards.

Final Plat:

1. **The developer shall complete the improvements within one year of tentative plan approval unless an extension is granted by the City to complete improvements. Final plat review shall conform to the procedures of RBZO Article 10 and Article 13.**

**"FINAL ORDER: EXHIBIT B: CONDITIONS OF APPROVAL"**

2. The criteria of RBZO Article 13, Section 11 Procedure for Review, shall be met at the expense of the property owner.
3. The criteria of RBZO Article 13, Section 12 Form of Plat, shall be met at the expense of the property owner.
4. The criteria of RBZO Article 13, Section 13 Information on the Final Plat, shall be met at the expense of the property owner.
5. The criteria of RBZO Article 13, Section 14 Certification, shall be met at the expense of the property owner.
6. The criteria of RBZO Article 13, Section 15 Supplemental Data, shall be met at the expense of the property owner.
7. Consistent with the criteria of RBZO Article 13, Section 16, at the time of the submission of the final plat, the subdivider shall have completed all on-site and off-site improvements to serve the subdivision consistent with an approved improvement agreement.
8. The property owner shall set monuments consistent with RBZO Article 13, Section 45
9. The property owner shall design and record the final survey consistent with RBZO Article 13, Section 45
10. The name of the proposed subdivision shall receive the approval of the County Surveyor or shall be revised as required.

**"FINAL ORDER (2)"**

Property Owner: Nedonna Development, LLC; Representative Member: "Anna" Song  
Applicant: Mark Dane, Blue Sky Planning, Inc.  
Engineer / Surveyor: HLB Otak, Inc., Ron Larson, PE, PLS  
Location Description: South of Kittiwake Dr., North of Riley St., West of RR, East of McMillan Canal  
Legal Description: Parcel 1 of Partition Plat 1997-20 and Parcel 3 of Partition Plat 1997-57; a portion of vacated Evergreen Street Rockaway Beach Ordinance #98-353  
Assessor's Plat Map: 2N 10W 20AB TL 4600, 4900, 9000  
Property Size: 6.23 acres  
Development Zones: R-1 Zone: 3.9 acres; SA Special Area Wetlands 2.33 acres  
Known Hazards: FHO Zone: A5 Flood Zone; HO Zone: Slopes that exceed 25%; HO Zone: Conditionally Stable Deflation Plain; Wetland Notification Overlay Zone

**I. Description of Request:**

Exhibit C: Request for Final Plan Approval for Nedonna Wave, a 28-lot Planned Unit Development Subdivision.

PLANNING COMMISSION DECISION: Approval with Conditions 5 Approval-0 Denial  
The applicable criteria and standards against which the application was tested are contained in Exhibit C Findings of Fact. The Planning Commission held a public hearing on the request on May 27, 2008. The Planning Commission voted 6-0 in favor of Final Plan Approval for Application SPUD #07-19 with a decision of "Approval with Conditions" based on findings of fact contained in Exhibit A, Exhibit B, and Exhibit C.

Exhibit D: Request for Modification of Preliminary Plan Approval and Final Plan Approval to develop the site in two stages.

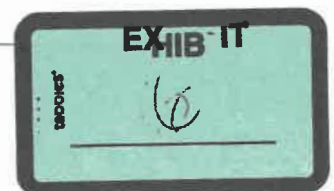
PLANNING COMMISSION DECISION: Approval with Conditions 5 Approval-0 Denial  
The applicable criteria and standards against which the application was tested are contained in Exhibit D Findings of Fact. The Planning Commission held a public hearing on the request on July 22, 2008. The Planning Commission voted 4-0 in favor of Final Plan Approval for Application SPUD #07-19 for a decision of "Approval with Conditions" based on findings of fact.

**FINDINGS OF FACT:**

Findings of Fact relied upon by the Planning Commission for decision are attached as Exhibit A, Exhibit C, and Exhibit D. Conditions of Approval are attached as "Exhibit B".

**CASE RECORD:**

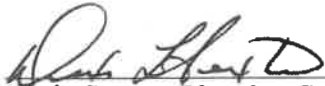
The complete case record including the findings of fact is available for review at City Hall by filing a request during regular business hours.



**"FINAL ORDER (2)"**

**APPEAL PERIOD:**

A decision of the Planning Commission may be appealed to the City Council by a party to the hearing by filing an appeal within 15 days of the date the final order is signed. The notice of appeal filed with the City shall contain the information outlined in the RBZO Section 11.070(3) and may only be filed concerning criteria that were addressed at the initial public hearing.



\_\_\_\_\_  
Dixie Sexton, Planning Commission Chair

08-07-08

\_\_\_\_\_  
Date

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**"EXHIBIT C: Findings of Fact: Final Plan Approval"**

5. *The property owner shall receive and comply with the conditions of a DEQ 1200-C erosion control permit prior to site development.*

**Findings of Fact:**

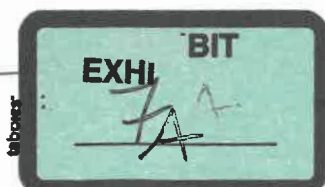
**Improvement Agreement:**

- (1), (2) Prior to final plat approval, all on-site improvements shall be completed as necessary to serve the project unless an improvement agreement is approved by the City Council consistent with Rockaway Beach Zoning Ordinance (RBZO) Article 13, Section 16 with a bond required by (RBZO) Article 13, Section 17. The City Engineer shall indicate full compliance with criteria and the applicable conditions of approval at the time the City Engineer affixes signature to the final subdivision plat.
- (3) The City Engineer, approving engineered construction plans in writing and noting such approval on construction plans has accepted sewer system construction plans as consistent with these applicable criteria. The City Engineer shall indicate full compliance with criteria and the applicable conditions of approval at the time the City Engineer affixes signature to the final subdivision plat.
- (4) The City Engineer, approving engineered construction plans in writing and noting such approval on construction plans has accepted water system construction plans as consistent with these applicable criteria. The City Engineer shall indicate full compliance with criteria and the applicable conditions of approval at the time the City Engineer affixes signature to the final subdivision plat.
- (5) The City Engineer, approving engineered construction plans in writing and noting such approval on construction plans has accepted the DEQ 1200-C erosion control permit consistent with these applicable criteria. The City Engineer shall indicate full compliance with criteria and the applicable conditions of approval at the time the City Engineer affixes signature to the final subdivision plat.

**Conclusions:** Criteria met for final plan approval as described in findings of fact.

**Signage:**

1. *Two SA Zone Wetland identification signage kiosks shall be installed at the expense of the property owner in conspicuous locations.*
2. *Street name signage shall be installed at the expense of the property owner no fewer than two at each intersection consistent with City Standards.*
3. *"No parking" signage shall be installed within the development where required by the City consistent with City Standards.*
4. *Signage identifying the development as "Nedonna Wave" may be installed at a suitable location within the subdivision subject to design review and approval of the Planning Commission.*



**"EXHIBIT C: Findings of Fact: Final Plan Approval"**

- consistent with any improvement agreement approved by the City Council.
- (6) Prior to approval of the final subdivision plat, the project engineer shall submit utility as-built plans in electronic and written format of such quality commonly used in municipality management and consistent with City Standards.
- (1, 2, 3, 4, 5, 6) The City Engineer shall indicate full compliance with criteria and the applicable conditions of approval at the time the City Engineer affixes signature to the final subdivision plat.
- Conclusions:** Criteria met for final plan approval as described in findings of fact.

**Final Plat:**

1. *The developer shall complete the improvements within one year of tentative plan approval unless an extension is granted by the City to complete improvements. Final plat review shall conform to the procedures of RBZO Article 10 and Article 13.*
2. *The criteria of RBZO Article 13, Section 11 Procedure for Review, shall be met at the expense of the property owner.*
3. *The criteria of RBZO Article 13, Section 12 Form of Plat, shall be met at the expense of the property owner.*
4. *The criteria of RBZO Article 13, Section 13 Information on the Final Plat, shall be met at the expense of the property owner.*
5. *The criteria of RBZO Article 13, Section 14 Certification, shall be met at the expense of the property owner.*
6. *The criteria of RBZO Article 13, Section 15 Supplemental Data, shall be met at the expense of the property owner.*
7. *Consistent with the criteria of RBZO Article 13, Section 16, at the time of the submission of the final plat, the subdivider shall have completed all on-site and off-site improvements to serve the subdivision consistent with any approved improvement agreement.*
8. *The property owner shall set monuments consistent with RBZO Article 13, Section 45*
9. *The property owner shall design and record the final survey consistent with RBZO Article 13, Section 45*
10. *The name of the proposed subdivision shall receive the approval of the County Surveyor or shall be revised as required.*

**Findings of Fact:**

**Final Plat:** Criteria required to be met prior to final subdivision plat approval.

1. *Prior to final plat approval, and within one year of preliminary plan approval on January 29, 2008 and July 22, 2008, the developer shall complete the improvements within one year of tentative plan approval unless an extension is granted by the City to complete*
-



**"EXHIBIT C: Findings of Fact: Final Plan Approval"**

improvements. Final subdivision plat review shall conform to the procedures of RBZO Article 10 and Article 13.

2. Prior to final subdivision plat approval, and within one year of preliminary plan approval on January 29, 2008 and July 22, 2008, the criteria of RBZO Article 13, Section 11 Procedure for Review, shall be met at the expense of the property owner.
3. Prior to final subdivision plat approval, and within one year of preliminary plan approval on January 29, 2008 and July 22, 2008, the criteria of RBZO Article 13, Section 12 Form of Plat, shall be met at the expense of the property owner.
4. Prior to final subdivision plat approval, and within one year of preliminary plan approval on January 29, 2008 and July 22, 2008, the criteria of RBZO Article 13, Section 13 Information on the Final subdivision plat, shall be met at the expense of the property owner.
5. Prior to final subdivision plat approval, and within one year of preliminary plan approval on January 29, 2008 and July 22, 2008, the criteria of RBZO Article 13, Section 14 Certification, shall be met at the expense of the property owner.
6. Prior to final subdivision plat approval, and within one year of preliminary plan approval on January 29, 2008 and July 22, 2008, the criteria of RBZO Article 13, Section 15 Supplemental Data, shall be met at the expense of the property owner.
7. Prior to final subdivision plat approval, and within one year of preliminary plan approval on January 29, 2008 and July 22, 2008, the subdivider shall have completed all on-site and off-site improvements to serve the subdivision consistent with RBZO Article 13, Section 16.
8. Prior to final subdivision plat approval, and within one year of preliminary plan approval on January 29, 2008 and July 22, 2008, the property owner shall set monuments consistent with RBZO Article 13, Section 45
9. Prior to final subdivision plat approval, and within one year of preliminary plan approval on January 29, 2008 and July 22, 2008, the property owner shall design and record the final survey consistent with RBZO Article 13, Section 45.
10. Prior to final subdivision plat approval, and within one year of preliminary plan approval on January 29, 2008 and July 22, 2008, the name of the proposed subdivision shall receive the approval of the County Surveyor or shall be revised as required.

**Conclusions: Criteria met for final plan approval as described in findings of fact.**

**Planning Commission Decision: Modification Exhibit D July 22, 2008:**

**Conditions of Approval:**

1. ***Two Final Plats: Renumbered Lots 1 – 8 shall be permitted as Phase One of the Nedonna Wave Final Plat subject to the applicable conditions of preliminary development and tentative plan approval. Renumbered Lots 9 - 28 shall be permitted as Phase Two of the Nedonna Wave Final Plat subject to the applicable conditions of preliminary development and tentative plan approval.***

**"EXHIBIT C: Findings of Fact: Final Plan Approval"**

2. *Open Space for Phase One Site and Open Space for the Total Site Area of both phases calculated together: The application shall devote Open Space to equal 50% of Phase One and Open Space shall equal 50% of the total site area for both Phase One and Phase Two calculated together. For each Phase One and both Phase One and Phase Two calculated together, Common Open Space shall equal a minimum of 75% of the total site open space and private Open Space may be 25% of the Total Open Space where it can where it can be devoted on the final plat.*
3. *Prior to approval of the final plat, all improvements for Phase One shall be installed consistent with City Standards and Final Orders and corresponding Exhibits A, B, and C which will continue to apply in their entirety except where amended specifically in this Final Order and findings of fact, Exhibit D. Conditions which continue to apply include but are in no way limited to the recordation of deed restrictions, open space, certification of engineering, and the submittal of as-built plans in electronic and written format of such quality commonly used in municipality management and consistent with City Standards.*
4. *The Two Phase request limits the development of Phase One to eight (8) lots and Phase Two to twenty (20) lots and does for that limitation serve only to specifically postpone the installation of the remaining utilities in Riley Street east of Kittiwake, regional sewer pump station and related housings included but not limited to : 3 phase duplex station with controls, divot crane, onsite generator, telemetry, lighting and fencing; the extension of the existing 6" diameter White Dove Sewer manhole at 17<sup>th</sup> Avenue as necessary to serve the project to and to alleviate surcharging of the 23<sup>rd</sup> Avenue Manhole; and Paving remainder of Riley Street east of Kittiwake, and Jackson Street.*

**Findings of Fact:**

1. Findings of fact for the July 22, 2008 Final Order Exhibit D to request modified preliminary and final plan approval to permit development in two stages, Phase One, an eight (8) lot phase and Phase Two, a twenty (20) lot phase are described in the findings of fact Exhibit D.

**Conclusions:**            **Criteria met for final plan approval as described in findings of fact.**

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**"EXHIBIT D: Modified Preliminary and Final Approval for a Two Phase Development"**

**III. Applicable Criteria:**

**Rockaway Beach Zoning Ordinance (RBZO)**

Article 10 Planned Unit Development

Article 11 Administrative Provisions

**IV. Staff Summary of Findings of Fact:**

Preliminary Development Plan and Tentative Plan approval for Applications #2007-19 Nedonna Wave 28-Lot Planned Unit Development Subdivision, and concurrent applications #2007-20, #2007-21, and #2007-22 are provided in Final Order and Exhibit A Findings of Fact, Exhibit B Conditions of Approval adopted for the January 29, 2008 Planning Commission decision and Final Order and Exhibit D Findings of Fact adopted for the July 22, 2008 Planning Commission decision.

Final Plan approval for Application #2007-19 the Nedonna Wave 28-Lot Planned Unit Development Subdivision are provided in Final Order and Exhibit C Findings of Fact for Final Plan approval adopted for the Planning Commission decision of May 27, 2008 and Final Order and Exhibit D Findings of Fact adopted for the July 22, 2008 Planning Commission decision.

Final Order and Exhibits A, B, C, and D Findings of Fact apply in their entirety except where specifically amended.

The applicable criteria for Application #2007-19 Modification of Tentative Plan and Final Plan Approval for a Two Phase Development for the Nedonna Wave 28-Lot Planned Unit Development Subdivision are found in RBZO Article 10, Section 10.040 (2) Open Space, 10.050 (1) (i) a schedule, if it is proposed that the development plan will be executed in stages, and Section 10.060 (1) which requires submittal of the final plan within one year or permits submittal for the first unit when submission in stages has been authorized by the Planning Commission.

*RBZO Article 10, Section 10.040 (2) Open Space:* Evidence provided and described in these findings of fact indicates that open space criteria can be met by the imposition of reasonable conditions of approval to require the devotion of Open Space on the final plat. As a condition of approval the application shall devote Open Space to equal 50% of Phase One and Open Space shall equal 50% of the total site area for both Phase One and Phase Two calculated together. For each Phase One and both Phase One and Phase Two calculated together, Common Open Space shall equal a minimum of 75% of the total site open space and private Open Space may be 25% of the Total Open Space where it can where it can be devoted on the final plat.

*RBZO Article 10, 10.050 (1) (i) a schedule, if it is proposed that the development plan will be executed in stages, and Section 10.060 (1)(2)* which requires submittal of the final plan within one year or permits submittal for the first unit when submission in stages has been authorized by the Planning Commission. The application for a modification to the preliminary development



**"EXHIBIT D: Modified Preliminary and Final Approval for a Two Phase Development"**

plan and final plan approval requests a two stage development plan that is substantively consistent with the approved preliminary development plan and final development plan and continues to meet applicable criteria as described in findings of fact. The applicant need not enumerate all improvements and conditions of approval consistent with City Standards and Final Orders and corresponding Exhibits A, B, and C, and these findings of fact Exhibit D as they continue to apply in their entirety except where amended specifically in these findings of fact and this modification does not relieve them of the responsibility imposed during these previous public hearing processes.

**Staff Conclusions:**

1. Evidence is submitted that the application to develop Application #2007-19 in two phases will meet applicable criteria with the imposition of reasonable conditions of approval.
2. Prior to approval of the final plat, all improvements for Phase One shall be installed consistent with City Standards and Final Orders and corresponding Exhibits A, B, C, and D which continue to apply in their entirety except where amended specifically in these findings of fact.
3. The request to develop Application #2007-19 in two stages, Phase 1 (8) lots and Phase 2 (20) lots is the only subject of this Planning Commission decision and as such said criteria are the only subject of any appeal.

A decision of the Planning Commission may be appealed to the City Council by a party to the hearing by filing an appeal within 15 days of the date the final order is signed. The notice of appeal filed with the City shall contain the information outlined in Section 11.070 (3).

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**"EXHIBIT D: Modified Preliminary and Final Approval for a Two Phase Development"**

4. Construct road ditches/swales on Duke "Street, Song Street, Kittiwake Drive and on Riley Street west of Kittiwake as per plans.
5. Construct permanent street barricade at east end of Song Street.
6. Remove temporary gate on Kittiwake at north end of Nedonna Wave subdivision.
7. Relocate temporary gate on Riley Street to new east end of pavement, approximately 30 feet east of CL-CL intersection of Riley and Kittiwake.
8. Install street signs for Duke "Street, Song Street, Kittiwake Drive and on Riley Street west of Kittiwake as per plans.

**Subdivision Final Plat**

1. Plat Phase One as eight lots (none of which will need new regional sewer pump station). Plat all streets in the entire subdivision; dedicate all streets to the public.
2. City will request separate dedication of southerly portion of Riley Street ROW by adjoining property owner in accordance with Riley Street Road Agreement. [Ron Larson emailed signed agreement to Shawn Vincent and Sabrina Pearson on 05/14/08.]

**Wetlands Signage and Visual Barrier/Fencing**

1. Install two wetlands notification signs as per Tentative Plat conditions of approval [SAI Design has requirements for the signs and for the visual barrier/fence.]
2. Install Visual Barrier/Fence adjacent to wetlands areas that adjoin the public ROW in Phase One. Tentative Plat Conditions of Approval require property owners to install visual barrier/fence where private property is adjoining wetlands.

**Power and Street Lighting**

1. Pay TPUD fee for power service to Phase One (for nine lots; power will be stubbed out to Open Space "C" at this time in anticipation of a future change to allow one lot on that Open Space.) Obtain letter of service availability from TPUD for eight lots in Phase One.
2. Install Street Lighting for Phase One, as per Sheet U1 of approved plans – minimum of two (2) street lights. One at SE corner of Duke St. and Song St. One at NE corner of Kittiwake and Song Street.

**PHASE II:**

In Phase 2, the property owner requests to plat Lots 9 - 28 and proposes to complete the improvements listed in this report for PHASE II.

1. A regional sewer pump station and related housings included but not limited to : 3 phase duplex station with controls, divot crane, onsite generator, telemetry, lighting and fencing shall be installed as necessary to serve the project.
  2. A sewer force main from the regional pump station to the White Dove pump station shall be installed as necessary to serve the project.
-

**"EXHIBIT D: Modified Preliminary and Final Approval for a Two Phase Development"**

3. Engineer and install to City standards, and extension of the existing 6" diameter White Dove Sewer manhole at 17<sup>th</sup> Avenue as necessary to serve the project. This is required to alleviate surcharging of the 23<sup>rd</sup> Avenue Manhole.
4. The project engineer shall submit utility as-built plans in electronic and written format of such quality commonly used in municipality management and consistent with City Standards.
5. Paving remainder of Riley Street east of Kittiwake, and Jackson Street.
6. Not all conditions of approval for Phase One are enumerated in this proposed phase plan.
7. The Two Phase request limits the development of Phase One to eight (8) lots and Phase Two to twenty (20) lots and does for that limitation serve only to specifically postpone the installation of the remaining utilities in Riley Street east of Kittiwake, regional sewer pump station and related housings included but not limited to : 3 phase duplex station with controls, divot crane, onsite generator, telemetry, lighting and fencing; the extension of the existing 6" diameter White Dove Sewer manhole at 17<sup>th</sup> Avenue as necessary to serve the project to and to alleviate surcharging of the 23<sup>rd</sup> Avenue Manhole; and Paving remainder of Riley Street east of Kittiwake, and Jackson Street.

**Conclusion:**

The applicant need not enumerate all improvements and conditions of approval consistent with City Standards and Final Orders and corresponding Exhibits A, B, C, and D as they continue to apply in their entirety except where amended specifically in these findings of fact and this modification does not relieve them of the responsibility imposed during these previous public hearing processes.

**Conditions of Approval:**

1. Prior to approval of the final plat, all improvements for Phase One shall be installed consistent with City Standards and Final Orders and corresponding Exhibits A, B, C, and D which continue to apply in their entirety except where amended specifically in these findings of fact. Conditions which continue to apply include but are in no way limited to the recordation of deed restrictions, open space, certification of engineering, and the submittal of as-built plans in electronic and written format of such quality commonly used in municipality management and consistent with City Standards.
2. The Two Phase request limits the development of Phase One to eight (8) lots and Phase Two to twenty (20) lots and does for that limitation serve only to specifically postpone the installation of the remaining utilities in Riley Street east of Kittiwake, regional sewer pump station and related housings included but not limited to : 3 phase duplex station with controls, divot crane, onsite generator, telemetry, lighting and fencing; the extension of the existing 6" diameter White Dove Sewer manhole at 17<sup>th</sup> Avenue as necessary to serve the project to and to alleviate surcharging of the 23<sup>rd</sup> Avenue Manhole; and Paving remainder of Riley Street east of Kittiwake, and Jackson Street.

...

**"EXHIBIT D: Modified Preliminary and Final Approval for a Two Phase Development"**

**Section 10.060 Procedure - Final Approval**

...

**Section 10.060 Procedure - Final Approval**

- (1) *Within one year after concept approval or modified approval of a preliminary development plan, the applicant shall file a final plan for the entire development, or when submission in stages has been approved, for the first unit of the PUD, with the Planning Commission. The final plan shall conform in all respects with the approved preliminary development plan. The final plan shall include all information included in the preliminary development plan plus any requirements set forth by the Planning Commission.*
- (2) *Upon receipt of the final development plan, the Planning Commission shall examine such plan and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved preliminary development plan or require such changes in the proposed development or impose such conditions as are, in its judgment, necessary to insure conformity to the applicable criteria*

...

**Findings of Fact:**

1. The application provides a preliminary and final plan that is substantively consistent with the approved preliminary development plan and continues to meet applicable criteria as described in these findings of fact.
2. Final Orders and corresponding Exhibits A, B, C, and D continue to apply in their entirety except where amended specifically in these findings of fact and this modification does not relieve them of the responsibility imposed during these previous public hearing processes.

**Conclusion:** Criteria met for final plan approval as described in findings of fact.

**Section 11.070 Appeals**

...

- (2) *A decision of the Planning Commission may be appealed to the City Council by a party to the hearing by filing an appeal within 15 days of the date the final order is signed. The notice of appeal filed with the City shall contain the information outlined in Section 11.070 (3).*

**Findings of Fact:**

The request for modification reviews only the criteria applicable to the request to develop Application #2007-19 in two stages, Phase 1 (8) lots and Phase 2 (20) lots

**Conclusion:**

The request to develop Application #2007-19 in two stages, Phase 1 (8) lots and Phase 2 (20) lots is the only subject of this Planning Commission decision and as such said criteria are the only subject of any appeal.

**"FINAL ORDER (3)"**

Property Owner: Nedonna Development, LLC; Representative Member: "Anna" Song  
Applicant: Mark Dane, Blue Sky Planning, Inc.  
Engineer / Surveyor: HLB Otak, Inc., Ron Larson, PE, PLS  
Location Description: South of Section Line Rd., North of Riley St., East of McMillan Canal  
Legal Description: Parcel 1 of Partition Plat 1997-20 and Parcel 3 of Partition Plat 1997-57; a portion of vacated Evergreen Street Rockaway Beach Ordinance #98-353  
Assessor's Plat Map: 2N 10W 20AB TL 4600, 4900, 9000  
Property Size: 6.23 acres  
Development Zones: R-1 Zone: 3.9 acres; SA Special Area Wetlands 2.33 acres

**APPLICATION REQUEST:**

Final Approval of Application #SPUD 07-19 Nedonna Wave, a twenty-eight (28) residential lot Planned Unit Development (PUD) Subdivision, which adds the overlay zone designation P.U.D. to the City of Rockaway Beach Zoning Map and limits site development to that consistent with Final Orders (1), (2), and (3) and Findings of Fact Exhibits A, B, C, D, and E:

**CITY COUNCIL DECISION:** Approval with Conditions 5-0 Approval  
The City Council held a public hearing on August 13, 2008. City Planner Sabrina Pearson presented the findings of fact referenced herein as Exhibit E and explained that final approval of Application #SPUD 07-19 adds the overlay zone designation and limits development to that consistent with Final Orders (1), (2), and (3) and Findings of Fact Exhibits A, B, C, D, and E. A letter of correspondence from Richard and Evelyn Huston was declared by Mayor Phipps to not be applicable to the Council decision. No testimony was received in opposition or support of the application. Councilor Watts made a motion seconded by May to approve the application of P.U.D. to the zoning map for this site. The motion carried with a yes vote from Watts, May, Daugherty, McFarlane, and Swanson.

**FINDINGS OF FACT:**

The City Council relied upon Final Orders (1), (2) and (3) and Findings of Facts attached as Exhibit A, Exhibit B, Exhibit C, Exhibit D, and Exhibit E.

Exhibit A: Preliminary Plan Approval with Conditions on January 29, 2008;  
Exhibit B: Preliminary Plan Approval Conditions of Approval on January 29, 2008;  
Exhibit C: Final Plan Approval on May 27, 2008, and  
Exhibit D: Preliminary Plan and Final Plan Approval for a modification to permit the Subdivision to be developed in two stages, Phase One an eight (8) lot subdivision final plat and Phase Two a twenty (20) lot subdivision final plat.  
Exhibit E: August 13, 2008 City Council Final Approval to add P.U.D. to the Zoning Map

Final Order (1) Exhibits A and B  
Final Order (2) Exhibits C and D  
Final Order (3) Exhibit E

**CASE RECORD:**

The complete case record including the findings of fact and the official minutes of the meeting is available for review at City Hall by filing a written request during regular business hours.





**"FINAL ORDER (3)"**

**APPEAL PERIOD:**

The decision of the City Council to issue final approval for application #SPUD 07-19 to add the overlay zone designation P.U.D. may be appealed to the Land Use Board of Appeals (LUBA) by filing a notice of intent to appeal consistent with the provisions of Oregon Revised Statutes (ORS) 197.805 to ORS 197.860 within 21 days of the date the final order is signed.

  
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Lisa M. Phipps, Mayor

9.18.08  
\_\_\_\_\_  
Date

**IV. Summa of Findin of Fact:**

Rockaway Beach Zoning Ordinance Section 10.060 Procedure - Final Approval (3) requires that after final concept approval by the Planning Commission the PUD application is sent to the City Council for consideration for final approval.

Rockaway Beach Zoning Ordinance Section 10.070 requires that an approved PUD shall be identified on the zoning map with the letters "PUD" in addition to the abbreviated designation of the parent zone.

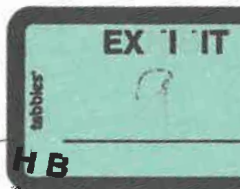
Rockaway Beach Zoning Ordinance Section 10.080 (1) requires that building permits in a PUD shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for processing as an amendment to this ordinance.

The decisions for Application #07-19 Nedonna Wave a 28-Lot Planned Unit Development Subdivision and concurrent applications #07-20 VAR #07-20 concurrent variance to permit a building height of 29 feet for all lots of "Nedonna Wave" excepting lots 25-28, #07-21 concurrent variance to permit building height of 36 feet for lots 25 - 28, and #07-22 concurrent variance to delete sidewalks from the development are represented by Final Orders and Exhibits A, B, C, and D.

**V. Summa of Process:**

Application #2007-19 Nedonna Wave, a 28-Lot Planned Unit Development Subdivision is submitted for three public hearing processes, each with a decision from applicable decision body required to complete the Planned Unit Development application process.

- (1) **COMPLETED:** The First Public Hearing Process  
Prelimin Develo ment Plan A roval:  
The application completed the first public hearing process for Preliminary development plan when Approval with Conditions was granted by the Planning Commission on January 29, 2008 Exhibit A and B and with a modification on July 22, 2008 Exhibit D to the approved tentative plan and final plan at a public hearing before the Planning Commission duly noticed by publication and mailing to request modified preliminary and final plan approval to permit development in two stages, Phase One, an eight (8) lot phase and Phase Two, a twenty (20) lot phase. All approvals shall conform to the approved Preliminary Development Plan as approved by Final Orders Exhibit A, Exhibit B and Exhibit D.
- (2) **COMPLETED:** The Second Public Hearing Process  
Plannin Commission Final Plan A roval: pp



The application completed the second public hearing process for Final Plan approval when at a duly noticed public hearing on May 27, 2008, the Planning Commission issued a decision of Approval with Conditions for the request of Final Plan Approval with Exhibit C Findings of Fact which describe conformance of site development plans with the approved Preliminary Development Plan of Final Order and Findings of Fact Exhibit A and Exhibit B and when at a duly notice public hearing on July 22, 2008, the Planning Commission issued a decision of Approval with Conditions for the request for a modification to the approved preliminary plan and final plan approval to permit development in two stages, Phase One, an eight (8) lot subdivision plat and Phase Two, a twenty (20) lot subdivision plat with Exhibit D Findings of Fact which describes conformance with applicable criteria.

- (3) **CURRENT REQUEST:**     The Third Public Hearing Process  
City Council Final Plan Approval:     The Third Public Hearing Process  
After Planning Commission approval, the application completes the third public hearing process by submittal to the City Council for final plan approval and to add the letters "PUD" to the Zoning Map. This PUD Zoning Map designation will identify that site development is limited to that consistent with the decision for Application #07-19 Nedonna Wave Planned Unit Development Final Orders and Exhibits A, B, C, and D.
  
  - (4) **ADMINISTRATIVE PROCESS:**     Subdivision Final Plat Approval:  
The Subdivision Final Plat approval process is an administrative process. Subdivision Final Plat approval will be provided only after all improvements are completed consistent with adopted regulatory standards conditions of approval are met consistent with Final Orders and Exhibits A, B, C, and D.
  
  - (5) **ADMINISTRATIVE PROCESS:**     Building Permits:  
The process for review and approval of building permits is an administrative process. Building Permits will not be issued until the Subdivision Final Plat recordation is complete and consistent with adopted regulatory standards regulating the issuance of building permits. Building permits shall be only issued consistent with the decision for Application #07-19 Nedonna Wave Planned Unit Development Final Orders and Exhibits A, B, C, and D.
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**VI. Findings of Fact:**

**(RBZO) City of Rockaway Beach Zoning Ordinance**

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**Article 10 Planned Unit Development**

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**Section 10.060 Procedure - Final Approval**

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(3) *After final concept approval by the Planning Commission, the PUD application will be sent to the City Council for consideration for final approval.*

Findings of Fact:

1. At a duly noticed public hearing on May 27, 2008, the Planning Commission issued a decision of Approval with Conditions for the request of Final Plan Approval with Exhibit C Findings of Fact which describe conformance of site development plans with the approved Preliminary Development Plan of Final Order and Findings of Fact Exhibit A and Exhibit B
2. At a duly notice public hearing on July 22, 2008, the Planning Commission issued a decision of Approval with Conditions for the request for a modification to the approved preliminary plan and final plan approval to permit development in two stages, Phase One, an eight (8) lot subdivision plat and Phase Two, a twenty (20) lot subdivision plat with Exhibit D Findings of Fact which describes conformance with applicable criteria.
3. Having received approval from the Planning Commission, the application is submitted to the City Council for final approval.

Conclusions: The application to the City Council has completed the process for Final Approval.

**Section 10.070 Mapping**

*An approved PUD shall be identified on the zoning map with the letters "PUD" in addition to the abbreviated designation of the parent zone.*

Findings of Fact:

1. City Council approval is necessary to add the designation "PUD" to the Zoning Map.
2. After final approvals are provided for the project, the approved PUD shall be identified on the Zoning Map with the letters "PUD" in addition to the abbreviated designation of the Parent Zone.

Conclusions: City Council approval of the application for final approval will add the letters "PUD" to the Zoning Map.

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**Section 10.080 Adherence to Approved Plan and Modification Thereof**

(1) *Building permits in a PUD shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for processing as an amendment to this ordinance.*

**Findings of Fact:**

1. No changes to the approved preliminary development plan are requested with this application for Final Approval.
2. Any changes in the approved plan shall be submitted to the Planning Commission for processing as an amendment to this ordinance.
3. The decisions for Application #07-19 Nedonna Wave a 28-Lot Planned Unit Development Subdivision and concurrent applications #07-20 VAR #07-20 concurrent variance to permit a building height of 29 feet for all lots of "Nedonna Wave" excepting lots 25-28, #07-21 concurrent variance to permit building height of 36 feet for lots 25 – 28, and #07-22 concurrent variance to delete sidewalks from the development are represented by Final Orders and Exhibits A, B, C, and D.

**Conclusions:** The PUD Zoning Map designation will identify that building permits shall be only issued consistent with the decision Final Orders and Exhibits A, B, C, and D for Applications #07-19, #07-20, #07-21, and #07-22 for Nedonna Wave a 28-Lot Planned Unit Development.

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# Initial "Nedonna Wave" Timeline

