

**EX-PARTE DOCUMENTS
FOR
SEPTEMBER 9, 2025
CITY COUNCIL HEARING
Remand #25-1
Nedonna Development
Phase 2 Planned Unit
Development**

To: City Council

Subject: LUBA Decision 2025-001 – Concerns Regarding the Nedonna Wave Development

My neighbors and I have are aware of the recent Land Use Board of Appeals (LUBA) decision 2025-001 concerning the Nedonna Wave Development and we are watching next steps.

LUBA identified two critical errors in the City of Rockaway Beach’s approval process and has remanded the matter back to the City for correction:

1. Improper Authorization of Residential Development in Special Area (SA) Wetlands

LUBA concluded that the SA zone is a base zone, not an overlay zone. As such, its protections are foundational and not subordinate to other zoning designations. The purpose of the SA zone is to conserve significant freshwater wetlands, among other ecological functions. In accordance with Rockaway Beach Zoning Ordinance (RBZO) 3.080, Sections 1–3 and 4(k), SA zones are restricted to low-intensity uses and expressly prohibit residential development. Wetland fill is permitted only for approved uses or those that are water-dependent.

Importantly, the presence of a Wetland Notification Overlay Zone does not alter or override the land use restrictions of the base SA zone. It merely functions as a procedural tool, obligating the developer to notify the Oregon Department of State Lands (DSL) and the U.S. Army Corps of Engineers, and to submit the required permits to the City.

Given the limitations of the City’s zoning and comprehensive plan maps—both of which are small in scale and lacking detail—it is virtually impossible to determine the precise boundaries of the SA zone. A revised and clearly defined SA map is urgently needed. This mapping should be conducted by a neutral third-party expert, unaffiliated with either the developer or the City, to ensure accuracy and impartiality.

2. Incomplete Infrastructure for Phase 2

LUBA also found that required infrastructure improvements for Phase 2 were not completed as mandated.

I found in Exhibit A: Findings of Fact, dated February 11, 2008 (page 11), on-site and off-site improvements were clearly delineated. On page 12, under the heading “Final Plat,” item #1 specifies that the developer was required to complete all improvements within one year of tentative plan approval, unless an extension was granted. No such extension appears in the record. Item #7 under the same heading further requires that all on-site and off-site improvements be completed prior to submission of the final plat. A key off-site improvement listed was the regional sewer pump station—an improvement known not to have been completed at that time.

Furthermore, page 13 of the same document references a wetland delineation report and survey (#WD-06-0246) issued by DSL, valid only until August 1, 2011. To our knowledge, no updated delineation permit was issued after that date. However, public tax lot records available through

the Tillamook County website indicate that homes continued to be constructed in Phase 1 between 2016 and 2018. This raises serious questions, as at least two additional valid wetland delineations would have been required during that time period.

Finally, for a development approved in two phases, a comprehensive build-out schedule should have been included in the Phase 2 documentation. Yet, no such schedule appears in the public record.

For this and many more reasons, the City and Planning Commission should require the developer to start a new application for this development. .

Thank you for your time,

Delta Holderness

Rockaway Beach

Nedonna Wave PUD 24-1

Janet Teshima
David and Riley Rockaway
July 16, 2025

Questions for City Planning Commission
Reregarding the appeal of PUD 24-1 Nedonna Wave (Luba no. 2025-001)

LUBA No. 2025-001 has remanded on 7/2/2025 both first (violations of RBZO 3.080) and second (violation of ORS 92.040) assignments of error.

I would like to know if:

1. The city (Rockaway) concurs with the “Nature of the Decision” and the “Facts” as defined by the opinion written by Bassham
2. If No, which lines are in question?
3. What is Rockaway’s plan? Will council and planning commission take any action prior to a request for review by the applicant?
4. Will this be transparent, open for public review?
5. Does the city have a published process for addressing the remand from LUBA? Can I be provided this document?

Thank you for providing this information.

Best regards,
Janet Teshima
Rockaway Beach, OR 97136

From: Gary Corbin <[REDACTED]>
Sent: Wednesday, July 30, 2025 6:47 AM
To: Charles McNeilly; Penny Cheek; Mary McGinnis; Tom Martine; Kiley Konruff; Pat Ryan
Cc: City Planner; Melissa Thompson
Subject: LUBA Decision implications for Nedonna Beach development application

Dear City Council,

The July 3 decision by the Oregon Land Use Board of Appeals to remand the City of Rockaway's approval of the Nedonna WAVE development application carries several clear implications for the City moving forward.

First, as LUBA made clear, the original application for Nedonna WAVE is expired. The development application process must start over, not simply be "amended" or "reconsidered."

Second, any new application must include a well-defined, specific schedule for completion of all developments.

Third, the SA zone is a true base layer designation. According to state and federal law and the City's own zoning code, no development can occur on the land so designated. WAVE can't develop there even with "offsets."

Going forward, any reapplication for approval must abide by the rules, ordinances, zoning, etc in place at the time of the new application. Further, all of the conditions and stipulations attached to the 2024 provisional approval must continue to be attached to any new proposal. Residents will not accept any rollback in requirements to protect the wetlands, habitat, or neighborhood safety.

The new development should be oriented toward full-timer homes - full-sized lots with ample parking, garages, etc. - rather than STRs. No "pie-shaped" sub-sized lots.

Further, no development in Nedonna—WAVE or otherwise—should be approved until or unless the city or the developer provide a second emergency evacuation ingress/egress route for vehicles in Nedonna.

Finally, since the City has not enacted its proposed ordinance implementing the new FEMA floodzone regulations by the June 30, 2025 deadline (really, December 1, 2024), then Pathway 2 is legally in effect in Rockaway Beach.

The City should not roll back to Pathway 1 (the more lenient option). Only MORE restrictive options should be considered, if any.

Sincerely,
Gary Corbin, Ph.D.

[REDACTED]
Rockaway Beach, OR 97136

Mail printed replies and updates to:
[REDACTED]