



## CITY OF ROCKAWAY BEACH CITY COUNCIL ACTION

### HISTORICAL RECORD

Case File #Remand-25-1

Hearing Date: September 9, 2025

### TIMELINE OF EVENTS:

1. On October 30, 2007, subject to Section 10.050, Planning Commission held the first hearing to review the preliminary development plan of a 28 lot PUD 07-19. Evidence was not presented at this meeting. A motion passed to continue the hearing.
2. On November 15, 2007, the Planning Commission held the continued hearing for PUD 07-19 and received testimony and the staff report presented by the City Planner, Sabrina Pearson. The Planning Commission passed a motion to continue the Public Hearing until November 27, 2007.
3. On November 27, 2007, the Planning Commission continued the hearing for PUD 07-19 and received additional testimony. The Planning Commission passed a motion to continue the Public Hearing until December 4, 2007<sup>1</sup>.
4. On December 10, 2007, the Planning Commission meeting was cancelled due to storm and power outage.
5. **On January 29, 2008**, in a public hearing, the Planning Commission reviewed the preliminary development plan for 28-lot PUD 07-19, as well as three variance applications related to the PUD. The preliminary development plan was approved with conditions. This approval led to the adoption of Final Order (1), Exhibit A, and Exhibit B on February 8, 2008.
6. **On May 27, 2008**, subject RBZO Section 10.060, Planning Commission held the first hearing to review the final approval of the 28 lot PUD 07-19. The Final Plan was approved with conditions “based on findings of fact contained in Exhibit A, Exhibit B, and Exhibit C.”
7. **On July 22, 2008**, the Planning Commission held a hearing for the request to modify the Preliminary Plan and Final Plan approval for PUD 07-19 to allow for two phases. Phase 1 included an 8 lot PUD, and Phase 2 included a 20 lot PUD. The request to modify the Tentative Plan and Final Plan was approved with conditions as stated in Exhibit D. This approval led to the adoption of Final Order (2).
8. On August 13, 2008, in a public hearing, the City Council reviewed a request to add the letters “PUD” to the Zoning Map, per RBZO 10.070. The request to add the PUD designation was approved. This approval led to the adoption of Final Order (3) and Exhibit E on September 15, 2008.

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Emphasis Added on dates referenced most in the Staff report.

<sup>1</sup> The date appears to be an error as the next scheduled meeting was December 10, 2007.



**October 30, 2007**

**Planning Commission Meeting**

**CITY OF ROCKAWAY BEACH**  
**SPECIAL PLANNING COMMISSION MEETING**

**OCTOBER 30, 2007**

**CALL TO ORDER** Chair Sexton called the meeting to order at 6:15 P.M.

**ROLL CALL** Members present: Dixie Sexton, Rodney Breazile, Charles Sheckler, Rae Owens, and Dennis Porter. Members absent: John Orloff. Staff in attendance: Interim City Manager John Williams, Police Chief Ed Wortman and City Planner Sabrina Pearson. There were forty-two (42) guests in attendance.

**APPROVAL OF MINUTES** Porter made the motion to approve the Minutes of September 25, 2007; seconded by Sheckler. Motion passed with a unanimous vote.

Owens made the motion to approve the Minutes of October 23, 2007; seconded by Sheckler. Motion passed with a unanimous vote.

**PUBLIC HEARING** Tai Dang – Application #07-09 (continued) for Nedonna Estates Planned Unit Development, Map 2N 10W 20AC, Tax Lots 3000, 3100, 3200, 3300, 3400, 3500, Partition Plat 1998-9, Parcels 1-3, Partition Plat 1998-7, Parcels 1-3, and a portion of 2N10 and Index, Tax Lot 518, 47 Lots, R-1, Single Family.

Sexton introduced the hearing.

**Challenge to PC Jurisdiction** None.

**Conflict of Interest/ Personal Bias** Breazile recused himself because of a conflict of interest.

**Ex Parte/Site Visit** Owens, Sexton, Sheckler, Porter stated they had visited the site.

**Applicant** Tai Dang, applicant and developer of Nedonna Estates Planned Unit Development, stated that it was his goal to minimize any impacts on wetlands as a result of the development. He stated that the two variances previously approved by the Planning Commission will help achieve that goal. He stated that he realizes a primary concern of the neighbors is the fact that there is only one

access/egress to Nedonna Beach and that this development will increase the traffic impact. He said that he is committed to dedicating land that is part of his property in order to build a road that eventually will serve as a second access/egress to/from Nedonna Beach. He said that he has already begun conversations with ODOT to this end.

Ron Larson, HLB-OTAK, made a further presentation on behalf of the applicant. He showed several maps locating the development in relation to existing wetlands and streets. He reiterated the applicant's desire to minimize any impacts on the wetlands.

He said that when the application was first heard by the Planning Commission in July 2007 the presentation included a bridge on Western Street. He said that after further research and work with city staff that has been changed to a box culvert. The box culvert will require a permit from the Division of State Lands.

Larson said that the city has a 12" PVC water main and a 6" sewer force main that crosses the property. They serve all of Nedonna as well as larger sections of the city. The water line is the main feed for the Scenic View reservoir. The City wants both of these lines to be in dedicated rights of way for purposes of servicing and maintaining them. As part of this development the applicant is willing to relocate the services.

Larson said that there is a water line that runs under McMillan Creek. The access to it needs to be in a street right of way. One of the reasons this application includes the extension of Western Street is in order for this water line to be in a public right of way. He said that he realizes the residents of Nedonna do not favor improving Western Street, but it is proposed in response to the city's needs. He said the Fire Department also wants the access that would be achieved by improving Western Street. He said that once the improvements to Western St. are completed the variance from the cul de sac standards will go away.

Larson addressed the issue of a second access/egress to Nedonna. He said that the Traffic Impact Study done by Kittelsohn and Assoc. was done as a part of this project and is included with the application as Appendix H. He said that based on the study ODOT has determined there is no need for a second access/egress. He said that from his conversations with ODOT it seems unlikely that a



second access/egress would not be approved. It is more likely ODOT would approve a restricted access/egress that would be opened only in the case of an emergency. He said that the best way to address the access issues of Nedonna would be to form an LID or Road district with both the city and the county participating. He said that in this way all parties who benefit would participate in the planning. Larson said that the applicant, Tai Dang, as part of the CC&Rs of the development will require each of the owners of lots in the Nedonna Estates development to not remonstrate against the development of any future LID. Larson said that the best location for intersecting Hwy. 101 is 250' south of Western St. The applicant will build a 5' pedestrian access at this point as part of the development. It will be within the 40' road right of way that will be dedicated as part of this project.

Larson said the subdivision request meets all of the requirements except for the provisions granted by the two variances approved previously by the Planning Commission. He said the only fill will be in the McMillan Creek area and a permit from the Corps of Engineers will be required. He said the flood zone requirements are met as described on pp. 11-13 of the application. Larson said that a geologic study of the property has been completed. Lots 46 & 47 will need further study due to steeper slopes due to the railroad embankment. He said storm drainage will include swales. Additional asphalt width will be created at fire hydrants as requested by the fire department for purposes of maneuverability.

Larson said the lot dimensions for a Planned Unit Development meet all requirements and all of the requirements for the Subdivision Plat have been met. He said Lots 15 and 16 and 45 and 46 are flag lots but will still meet the requirements of having at least a 25' street access.

Larson said the CC&Rs have been crafted so as to preserve wetlands. The wetlands will be fenced to protect them and signage will be provided to notify the public about the significance of wetlands. Details are included in Appendix G of the application.

Larson concluded by saying the application meets all of the requirements and the applicant accepts all of the conditions for approval applied by the city.

#### **Staff Report**

Pearson read and summarized her staff report and findings of fact. She highlighted several points:

wetlands delineation was completed and is part of the application; the city has received a letter of concurrence from DSL

The city will make application to ODOT and the Port of Tillamook for approval of a second access to Nedonna as part of the condition of approval that dedicates a 40' road right of way on the applicant's land.

A Transportation Impact Study has been completed; it included examination of other locations intersecting with Hwy 101.

Both onsite and offsite improvements will be completed as a condition of approval.

**Correspondence**

There was additional correspondence from: T. Jay Rogers, Nedonna Beach Homeowners Association (Richard Huston, Chairman), Jerry Lyslo, Kathy Tysinger, and an article from the Oregonian dated October 28, 2007. All are included in the record.

**Public Comment -  
Pro**

None.

**Public Comment –  
Con**

Jerry Lyslo, 25855 Beach Drive, Rockaway Beach, representing the Nedonna Beach Neighborhood Association.

Did the Traffic Impact Study include a possible disaster event? Larson, HLB/OTAK, responded that the study included midday and end-of-day traffic analyses. It did not address disaster event impacts except for indirect comments.

Richard Huston, 26165 David Avenue, Rockaway Beach, Nedonna Beach Neighborhood Assn.

Has the Rockaway Beach Planning Commission applied to ODOT for a second access? Williams, Interim City Manager, said that conversations with ODOT have begun but there has been no formal application.

Tom Sutherland, 26185 David Ave., Rockaway Beach.

Why is the city requiring a second access as a part of the application?

Standing water referred to in the applicant's presentation is not due to vegetation, but it is due to the fact the wetlands have been 50% filled.

Protection of wildlife referred to in the applicant's presentation is not possible because the habitat has already been destroyed.

Jerry Lyslo, 25855 Beach St., Rockaway Beach.

He presented a picture for the record of the Beach St. access to Hwy 101 with a truck blocking the entrance.

He said there needs to be a second full access/egress to Nedonna Beach. He said the city needs to make a formal application for one. If the second access is not allowed, the project should not be approved to go forward. He said he is concerned with what happens in the case of an emergency. He said a bad situation already exists and should not be worsened by approving a new subdivision that will add to the traffic impact.

Evelyn Huston, 26165 David Ave., Rockaway Beach.

Has the county approved the extension of Western Ave.?

Has the Traffic Impact Study been reviewed and approved by ODOT?

Does the second access have approval from ODOT Rail?

Has it been considered that ODOT Rail can close Beach St. at any time?

Mike Mulvey, 8825 Western Ave., Rockaway Beach.

On the 4<sup>th</sup> of July most of the Nedonna Beach houses were occupied. He toured the neighborhood taking note of the fireworks in the area. He said the fire department would have had difficult access. He said there needs to be further exploration of difficulties for access in case of emergency.

Jill Mulvey, 8825 Western Ave., Rockaway Beach.

Why is the proposed access/egress not going to be at the north end of Nedonna Beach?

She said she opposes the development.

## **Final Staff Comments**

Pearson said that ODOT did review and concur in writing with the Traffic Impact Study.

Pearson said that any proposal for an overpass or underpass connecting Nedonna to Hwy 101 would involve a great deal expense and would first need to be included in the ODOT Improvement Plan for funding. She said that could take a long while. She said a second access has been examined since the beginning of this application. She said to achieve a second access requires a dedicated road right of way. The applicant is committed to providing that. She said that the location of the second access is dictated by the elevations and kind of land where the access would

intersect Hwy 101. She said that a level grade crossing is the most likely to be completed in a timely fashion. She said that the formation of an LID would enable all concerns to be addressed. She said that the dedication of a 40' road right of way is one of the conditions of approval of this application.

Pearson said that there is no documentation of the accumulation of standing water that identifies the causation of that condition.

Pearson clarified that it is the City Manager, not the City Planner who signs the final plat. It is the Planning Commission Chair who signs the final order.

### **Close Public Testimony**

Sexton closed public testimony. As members of the audience became unruly and the chair was unable to establish order, Sexton requested everyone leave chambers except for the parties that were directly concerned with this hearing. She announced that the hearing was closed to the public at this particular time and she wanted all to vacate the room except the interested parties, the applicant, members of the Planning Commission, staff, and representatives of the media.

### **Rebuttal Pro**

Larson said that he wished to make some clarification about the 40' road right of way to be dedicated by the applicant. He said that it would extend from Western St. approximately 250' south. At such time as the property applicant has reserved for future development is improved the right of way would be extended to it. Meanwhile a 5' wide gravel pedestrian access would be developed. If the future area gets developed the developer would then make improvements to meet road standards.

Tai Dang thanked the Planning Commission for its consideration. He reiterated that he would not do anything that would jeopardize the residents of Nedonna Beach. He said he will not hesitate in the dedication of the 40' road right of way to the city.

### **Final Staff Comments**

Pearson read the staff recommendation of approval with conditions and then read the conditions from the staff report. Pearson asked the applicant if he wished the record to remain open for seven days for any additional information or documentation. Tai Dang responded that it was not necessary.

Pearson asked Planning Commission members if they wished the record to remain open for seven days for any additional information or documentation. Planning Commission members responded that it was not necessary.

**Public Hearing  
Closed**

Sexton closed the public hearing.

**PC Discussion  
& Consideration**

Porter said he thought it would be a good idea with requests to both ODOT and the Port for a second access to Nedonna Beach. Pearson said that ODOT will not require it based on the information they have. Owens said that in the case of a tsunami vehicle access/egress will not even be an issue. Owens asked if the developer is going to improve the road right of way that is being dedicated. Pearson said that the developer will make improvements that include a 5' pedestrian path. She said that such time as a road is approved, the developer has agreed to share in the cost of the road development.

**PC Decision**

Porter made a motion to approve Application #07-09 with the conditions stipulated in the City Planner's report and the findings of fact; Sheckler seconded the motion. Porter, Owens, Sexton and Sheckler voted in favor; motion carried.

Pearson announced that any person who is a party of record may appeal the decision within fifteen (15) days to the city council.

**Public Hearing**

**Anna Song – Application #07-19, Planned Unit Development, for Nedonna Waves. Parcel 1 of Partition Plat 1997-20 and Parcel 3 of Partition Plat 1997-57 and a portion of vacated Evergreen Street Rockaway Beach Ordinance #98-353. Plat Map 2N 10W 20AB TL 4600, 4900, 9000.**

Owens made the motion to continue the hearing; seconded by Porter. Owens, Porter, Sexton and Sheckler voted in favor of the motion. Motion passed.

**Zoning  
Amendments**

Sexton said that this topic will be part of the Planning Commission meeting on November 27.

**Comprehensive  
Plan Amend.**

Pearson said a special meeting needed to be scheduled to review

and discuss the Buildable Lands Inventory and Comprehensive Plan Amendments. It was agreed to schedule a special meeting on December 10, 2007 at 6 p.m.

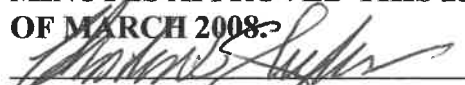
**Commissioners  
Concerns**

It was suggested that Rules and Regulations of conduct at Planning Commission meetings be created and made available to persons attending the meetings.

**Adjournment**

Sexton adjourned the meeting at 8:47 p.m.

**MINUTES APPROVED THIS 25<sup>TH</sup> DAY  
OF MARCH 2008:**

  
Dixie Sexton, Chair

  
John Williams, Interim City Manager



**November 15, 2007**

**Planning Commission Meeting**

**CITY OF ROCKAWAY BEACH**  
**PLANNING COMMISSION MEETING**

**NOVEMBER 15, 2007**

**CALL TO ORDER** Chair Sexton called the meeting to order at 6:00 P.M.

Sexton welcomed John Orloff onto the Rockaway Beach Planning Commission.

**ROLL CALL** Members present: Dixie Sexton, Rodney Breazile, Charles Sheckler, Dennis Porter, John Orloff and Rae Owens. Staff in attendance: City Planner Sabrina Pearson. There were thirty nine (39) guests in attendance.

**APPROVAL OF MINUTES** Breazile made a motion, seconded by Porter, to approve the minutes of the July 24, 2007, Regular Planning Commission Meeting; Breazile, Orloff, Sexton, Sheckler, Owens, and Porter voted in favor; motion carried.

Pearson asked to postpone consideration of the minutes of the October 30, 2007, Regular Planning Commission meeting. Sexton noted a correction to those minutes stating that the minutes should reflect that, when clearing the room, she had stated that those guests who had signed in on the list and lived within 200 feet of the concerned property could stay.

**PUBLIC HEARING** Anna Song – Nedonna Wave Subdivision #07-19, Map 2N10-20AB, Tax Lots 4600, 4900, 9000, Partition Plat 1997-20, Parcel 1, Partition Plat 1997-57, Parcel 3, and a portion of Vacated Evergreen Street Ordinance #98-353, 28 Lots, R-1, Single Family Zone

Sexton introduced the hearing.

**Conflict of Interest/ Personal Bias** Breazile recused himself because of a conflict of interest.

**Ex Parte/Site Visit** Owens, Sexton, Porter, Orloff and Sheckler stated they had visited the site.

**Challenge to PC Jurisdiction** Mike Mulvey, 8825 Western Street, stated that he challenged the entire Planning Commission, including Pearson, because he believed that the Planning Commission's decisions did not support the community.

Shirley Laviolette, 27550 Hwy. N. 101, stated her belief that sanctions are in order against the Planning Commission. Sexton explained what happened at the October 30, 2007, Planning Commission meeting. Pearson explained the appeal process and stated that the Planning Commission would be re-hearing the Public Hearing of October 30, 2007, at their November 27, 2007, Regular Planning Commission meeting.

**Staff Report** Pearson read and explained her staff report and applicable criteria.

**Applicant Presentation** Ron Larson, HLB-OTAK, presented for the applicant. Larson went over maps he had placed on the easel and gave an overview of the proposed 28 lot subdivision. Larson stated that all required wetland-related permits had been secured and he explained the applicants handling of the wetlands as open-space. Larson stated that all criteria for



open-space and density had been met. Larson explained the mitigation plan. Larson noted there would be access from Kittiwake Drive to Riley Street. Larson also stated that it is not possible to access Hwy. 101 from this property and that both this development and the proposed Nedonna Wave Subdivision would be needed to provide another access to Hwy. 101. Larson commented on the City's proactive approach to gaining a secondary access to Nedonna by using these developments. Larson stated that the transportation plan that was discussed at the October 30, 2007, Planning Commission meeting was also applicable to this development. Larson explained why this is the best location for a second access due to wetland locations, the topography of other locations, ownership issues, and visibility. Larson then explained the proposed CC&Rs (Covenants, Conditions, and Restrictions) and that the Homeowners Association would own the wetlands and described the fence and sign barrier being proposed. Larson gave an overview of the types of homes to be built and explained about the height variances being requested, the reasons they are needed, and how they had met the applicable criteria. Larson then explained the reason for their request to delete the need for sidewalks in the proposed subdivision and how they had met the applicable criteria.

Sexton asked if anyone had questions of the applicant's presenter.

John Orloff expressed concern about the amount of time needed to evacuate the concerned area. Larson explained that it would depend on the traffic level on Hwy. 101 and gave an example scenario. Larson stated that a second exit would cut the time in half.

Dick Haney, 26640 David Avenue, gave an example of the time it would take to evacuate. Sexton stated that everyone in Rockaway Beach had the same situation concerning Hwy. 101 if evacuated.

Mike Mulvey, 8825 Western Street, stated that he had seen evidence in the wetlands of moved stumps and bulldozer action. Larson explained that mitigation and replanting had not been finished yet. Anna Song and Kristine Hayes explained that thousands of plants had been planted so far and the planting must be done at the right time of the year. Larson explained how the mitigation wetlands was being created and why, stating that most of the fill was to create roads.

Shirley Laviolette, 27550 Hwy. N. 101, expressed concern about the use of culverts, that work was being done before approval, and that wetlands should not be parks and beautiful as the applicant had described. Pearson explained how a developer could address wetland legally and that the applicant was working with other government entities, also. Laviolette stated that she had asked at City Hall about this activity and no one knew what was going on. Pearson explained that she knew about the activity. Larson noted the dates of the State permits and explained about the required five year monitoring requirement. Larson then explained how the use of culverts was chosen and that the decision was made with other state entities involved.

Evelyn Huston, 26165 David Avenue, asked why a developer would go to all of this expense prior to subdivision approval. Larson stated that he had no direct answer to that question.

Richard Huston, 26165 David Avenue, asked about a sixty foot right of way that he believes is actually one hundred feet. Huston then asked about the Covenants. Huston asked about additional access permits. Pearson stated that there does not have to be a public right of way to apply for an access and explained. Pearson stated that the traffic impact study was not complete and that recommended condition had not yet been met. Pearson referred to her staff report and explained. Huston stated that no one had applied to get permits from ODOT Rail. Pearson stated that was hear-say only and explained her meeting last Friday. Huston asked about dedication of a public right of way as a condition of approval. Pearson and Larson explained that the applicant would donate the access to the City. The City would ask for the second access. Huston asked if there were wetlands in the proposed access area. Pearson explained. Huston stated that he believed the Rail Road right of way was 100 feet wide. Larson stated that he believed it was sixty feet wide.

Ann Walker, Oregon Department of Forestry, asked who would develop the location of the proposed second access and what the Fire Marshal's position was. Upon Planning Commission consensus, Pearson read an email from the State Fire Marshal into the record. Larson explained how the location of the proposed second access was chosen and who was in on the decision. Larson then went over his discussions with ODOT. Walker suggested the City have some Fire Wise Workshops. Pearson explained the role of the City Fire Chief in development.

Jack Ferris, 26400 Beach Drive, stated that it was the responsibility of the Planning Commission and the rest of the City Government to ensure the health, safety, and welfare of residents.

John Kennedy, 26480 Beach Drive, asked if the members of the Planning Commission had read the PSI Report, which states it is not a good idea to develop in the proposed area, and explained. Kennedy stated that no one had addressed mold and that the report states it is a high risk. Kennedy asked what would be done to address this concern. Larson stated that this is a common statement that is added to most reports on the Oregon Coast and explained about air-tight structure building and how Oregon Building Codes are addressing it. Kennedy stated that the moisture of this area was a concern because of building on wetlands.

John Dawson, 26125 Nedonna Avenue, read a statement concerning trust in government. Dawson stated that safety is the goal of the Nedonna Beach residents and asked if he made sense. Pearson responded "yes".

Tom Sutherland, 26185 David Ave., asked if the area at Section Line Street toward Jetty Creek had been looked at as an exit. Sutherland then referred to Bob Riley stating that he had been refused by the Planning Commission to any further development without a second exit to Hwy. 101. Pearson responded that she had taken the State Fire Marshal to look at that sight and he had said no to that location. Pearson explained Statewide Planning Goal 18 and that it does not allow development past Section Line Street. Pearson then stated that she had not heard of Bob Riley. Larson stated that he had looked at the topography north of Section Line Street and explained his concurrence with what

Pearson had said. Larson then stated that he had many discussions with Robert Riley in his office and was not aware of any application that Riley had made to the City.

Steve Hursey, 26759 White Dove Avenue, asked if both proposed subdivisions must be granted to be able to provide this second access. Sexton replied “yes”.

Frank Imbrie, 26773 White Dove Avenue, asked if the Planning Commission was going to declare a moratorium. Sexton stated that the City Council would need to address that issue. Pearson explained how that would need to be handled. Imbrie expressed concern about added traffic. Pearson explained.

Jerry Lyslo, 25855 Beach Drive, asked what would happen if this subdivision was not approved. Lyslo asked if the two proposed developments would join up as one in the future. Anna Song stated that there was no connection between hers and the other proposed development. Song explained her support for providing a second access. Song stated that there were no plans for future joining of the two properties. Song then gave an overview of her plans for the development. Pearson explained that if the Planning Commission did not approve this development, the applicant could appeal to the City Council and then to LUBA (Land Use Board of Appeals). Pearson stated that if the development was not approved, it would remain as private property. Pearson then stated that the applicant currently meets all state and local laws. Sexton explained.

John Clancy, 26390 Geneva Avenue, expressed concern about the safety of the proposed access.

Karl Nulton, 8795 Riley Street, asked if the proposed access would be an entrance or for emergencies only. Larson stated that it would probably be for emergencies only. Pearson went over her contacts with ODOT and their responses. Pearson then explained the process to get the access in any form.

Noho Marchesi, 26769 White Dove Avenue, asked who would pay the cost of the access. Pearson explained that the developer would pay for the access, but there would be a cost per lot assessment of perhaps \$400.00 to pay for the crossing of the railroad and a possible LID (Local Improvement District).

Jill Mulvey, 8825 Western Street, expressed concern about drinking water well damage. Larson stated that he was not aware of that problem and explained the history of those wells and their problems and the solutions. Larson stated that he doubted the construction caused the problem and explained. Mulvey expressed concern for wildlife because of changes to the creek. Larson explained. Mulvey stated that wetlands that are made to look beautiful are not the same as natural wetlands. Larson explained about enhancement of wetlands.

## Correspondence

Wilson went over the additional correspondence that had come in since the Planning Commission packets had been sent out. Pearson noted comments in several letters.

Ann Massey, 8775 Western Street, asked if it could possibly be a free and clear access. Pearson asked Massey to put that request in writing for later comment. Pearson explained how an emergency-only exit works.

Ferris stated that they were putting the cart before the horse.

Sexton stated that the public testimony portion of this public hearing would begin at the next Planning Commission meeting. Pearson read the rules and procedures of public testimony. Steve Hursey stated that he could not be at the next meeting and would like the opportunity to speak in favor.

**Public Comment -  
Pro**

Steve Hursey, 26759 White Dove Avenue, and lots 24, 25, 26, 3, 4, and 5 of Nedonna Meadows, stated that real fire protection in the area would require completion of Kittiwake Drive and completion of the water-main extension. Hursey stated that he had constructed wetlands and explained the requirements to create wetlands and habitat improvements. Hursey stated that he wants a second access and the Planning Commission must approve this subdivision and the second subdivision in this area to get the access route. Hursey stated that he supports approval of this proposed subdivision.

Orloff made a motion, seconded by Porter, to continue Public Hearing #07-19 Anna Song – Nedonna Wave Subdivision, Map 2N10-20AB, Tax Lots 4600, 4900, 9000, Partition Plat 1997-20, Parcel 1, Partition Plat 1997-57, Parcel 3, and a portion of Vacated Evergreen Street Ordinance #98-353, 28 Lots, R-1, Single Family Zone until the November 27, 2007, regular Planning Commission meeting. The applicant was asked if she would agree to the continuation. Anna Song expressed that she wanted to finish the hearing tonight adding that she would dedicate the street. Larson stated that the applicant would do her part and that this would be a solution to the access problem. Larson also stated that all improvements would have to be in place before permits were granted and that all conditions of approval would also be met first. Sexton, Porter, Orloff, Owens, and Sheckler voted in favor; motion carried.

Sexton instructed the Planning Commission that there were to be no ex parte conversations by the members until the next meeting.

Sexton adjourned the meeting at 9:15 PM

**MINUTES APPROVED THIS 27<sup>TH</sup>  
DAY OF NOVEMBER, 2007.**

  
Dixie Sexton, Chair

  
John Williams, Interim City Manager



**November 27, 2007**

**Planning Commission Meeting**

**CITY OF ROCKAWAY BEACH**  
**PLANNING COMMISSION MEETING**

**NOVEMBER 27, 2007**

**CALL TO ORDER** Chair Sexton called the meeting to order at 6:00 P.M.

**ROLL CALL** Members present: Dixie Sexton, Dennis Porter, Rodney Breazile, Charles Sheckler, Jon Orloff, and Rae Owens. Staff in attendance: Interim City Manager John Williams. There were forty-one (41) guests in attendance.

Sexton announced a change in the agenda to hear Application #07-09 Nedonna Estates Subdivision first.

Williams stated the Planning Commission, at the request of the applicant, needed to open and continue public hearing Brock, Lester – Variance #07-18, requesting a variance to minimum lot size to permit the re-plat of a property in the (R-2) Residential Zone.

Breazile made a motion, seconded by Porter, to continue Public Hearing Brock, Lester – Variance #07-18, Requesting a variance to minimum lot size to permit the re-plat of a property in the (R-2) Residential Zone until the January 22, 2008, regular Planning Commission meeting; Sexton, Sheckler, Breazile, Porter, Orloff, and Owens voted in favor; motion carried.

**APPROVAL OF MINUTES** Sexton entertained a motion to approve the minutes of the special Planning Commission meeting of November 15, 2007.

Porter made a motion, seconded by Owens, to approve the minutes of the November 15, 2007, regular Planning Commission meeting; Breazile, Orloff, Sexton, Sheckler, Owens, and Porter voted in favor; motion carried.

Williams announced Pearson's absence due to illness.

**PUBLIC HEARING** Tai Dang – PUD #07-09, Nedonna Estates Planned Unit Development, Map 2N10-20AC, Tax Lots 3000, 3100, 3200, 3300, 3400, 3500, Partition Plat 1998-9, Parcels 1-3, Partition Plat 1998-7, Parcels 1-3, and a portion of 2N10 & Index, Tax Lot 518, 47 Lots, R-1, Single Family Zone (This was a re-hearing of this application from the initial hearing of October 30, 2007.)

Sexton opened the public hearing.

Breazile recused himself because of a conflict of interest.

**Ex Parte/Site Visit** Owens, Porter, Sexton, Orloff, and Sheckler stated they had visited the site.

**Challenge to PC Jurisdiction** None

**Staff Report** Sexton stated that Pearson was not present to read her staff report, but all Planning Commission members had received it in their packets and it is a part of the public record.

**Applicant  
resentation**

Ron Larson, HLB-OTAK, presenter for the applicant, stated that the presentation was the same as on October 30, 2007, and requested that the staff report, applicant presentation, and public input up until 8:00 p.m. from October 30, 2007, be included in the record. Larson presented and explained an assessor's map with both Nedonna Wave and Nedonna Estates developments super-imposed on it to show the proposed secondary access.

Sexton asked for clarification on how much of the access the applicant would be providing. Porter asked if all plotted lots on the map were buildable. Larson responded that they were not and explained. Owens asked if the access needed to be completed before homes could be built in the development. Larson responded that it did not. Williams stated that the City had a preliminary positive response from ODOT (Oregon Department of Transportation) for getting an emergency secondary access and explained. Orloff expressed concern about an emergency-only egress. Larson explained that a right-turn refuge or deceleration lane may be possible at Beach Street. Larson went on to state that ODOT was seeing the need for a second restricted access. Discussion followed concerning evacuation from the area. Owens asked about the area of the proposed access between the development and the highway. Sexton asked for clarification about the walkway planned to be put in first. Sexton then asked Williams if the City would pay to have the road and crossing put in. Williams stated that it was reasonable that the City would entertain a petition from Nedonna residents to form an L.I.D. (Local Improvement District). Williams also stated that the County would have to sign off on it.

Tai Dang, the applicant, stated that he planned to build his own house in the development and would not put his neighbors at risk. Dang stated that he is part of the solution to bring the area a second access. Dang explained his cost in putting in the street to the access. Dang stated that he would work hard with City staff to make the second access happen.

**Correspondence**

Sexton noted the additional correspondences and stated that they are all part of the public testimony.

**Public Comment -  
Pro**

None

**Public Comment -  
Con**

Gillian Holbrook, 8845 Central Court, read a letter into the record concerning temporary variances.

Ron Dove, 26771 White Dove Avenue, stated that there should be no more building until ODOT signs off on the access road. Dove asked who would be paying for the rest of the access. Dove then stated that if the developer is creating the problem, he should have to pay the whole cost and not have an L.I.D.

Marie Dove, 26771 White Dove Avenue, stated that they were told ten years ago by Mr. Dingas that there would be a second access put in and it is hard to believe what developers say after that.

Richard Huston, 26165 David Avenue, stated that the developer does not plan to build an access and that no one has applied to ODOT for an access. Huston stated that the railroad will not take the responsibility for a walkway. Huston asked if any action had been taken on the letter requesting a moratorium. Huston explained his conversation with the Ethics Commission concerning the October 30, 2007, Planning Commission meeting.

Clyde Barnhill, 26295 Nedonna Avenue, stated that the need for the second access is recognized by all concerned, but will not be easy. Barnhill addressed funding issues and stated his belief that there will never be an additional access unless a moratorium is put in place.

John Tarnasky, 25940 Beach Drive, stated that the proposed emergency exit is just a band-aid. Tarnasky stated that the need is for something bigger and permanent. Tarnasky asked about putting a road along the railroad to Jetty Fishery. Williams stated that the City Engineer is going to be studying that option.

Mike Mulvey, 8825 Western Street, stated that the walking path would not be accessible to the elderly or handicapped if made of gravel. Mulvey stated that safety issues should be taken care of before any more developments are approved. Mulvey recommended a moratorium until the problems are solved. Mulvey expressed his concerns for the wetlands. Mulvey stated that there needs to be a second exit.

Jerry Lyslo, 25855 Beach Drive, stated that it would expedite the project if the developer would put in the whole road and the access. Lyslo stated that this should be a condition of approval. Lyslo went on to say that if the Nedonna Subdivision was proposed today, they would be directed to have two accesses because one access could become blocked. Lyslo referred to Oregon Statewide Planning Goal #7, which prescribes protection of life and property from natural disasters and hazards.

John Dawson, 26125 Nedonna Avenue, stated that they do appreciate the work being done by the Planning Commission. Dawson told Dang that the Nedonna residents feel that he is responsible to put the road in.

Jill Mulvey, 8825 Western Street, stated it is a travesty to consider developments without a second access first and urged a moratorium until the second access is in.

Gary Brown, 25720 Nedonna Avenue, asked why the County is not involved in this. Williams stated that information is sent to the County.

Marie Dove, 26771 White Dove Avenue, asked how this would affect their homeowner's insurance.

Evelyn Huston, 26165 David Avenue, stated that if the Planning Commission approves this, it would endanger the Nedonna property owners and show that they are not concerned about them. Sexton responded that just the fact that the Planning Commission members are there as volunteers shows that they care.



**Rebuttal - Pro**

Larson stated the applicant understands the comments about endangering the Nedonna residents, but feels he is actually providing a solution. Larson stated that this is different from the Dingas situation because they will have written conditions of approval. Larson stated that the conversations with ODOT have been informal, but positive. Larson stated that he believed ODOT would be reluctant to put in a full access. Larson stated that the developer's requirement is for two accesses, which everyone who lives there would benefit from, and therefore all should be part of the solution and share the cost of the second access. Larson stated that the County has had input in this development and explained the traffic impact study. Larson stated that the County is supportive of the second access and that the County Public Works Director was at the October 30, 2007, Planning Commission meeting. Larson stated that the second access would be a positive for homeowner's insurance and that more fire hydrants in the area will help, also.

Tai Dang stated that he had met Mr. Dingas and that Mr. Dingas had sold what he did not own. Dang also expressed his agreement to the concerns about needing to pave the walkway. Dang stated that he has two accesses to his development in Nedonna.

**Rebuttal -Con**

Gary Brown, 25720 Nedonna Avenue, stated that the County should be responsible for the access.

**Final Staff  
Comments**

Sexton stated that the staff recommendations are written in the staff report.

Sexton asked if anyone would like to ask for a continuance of this public hearing. No one expressed interest.

**Close Public  
Testimony**

Sexton closed the public testimony.

Sexton discussed putting off consideration and a decision until a future time. Williams stated that the Planning Commission may want Pearson to be present during consideration.

Porter made a motion, seconded by Owens, to close public hearing Tai Dang – PUD #07-09, Nedonna Estates Planned Unit Development, Map 2N10-20AC, Tax Lots 3000, 3100, 3200, 3300, 3400, 3500, Partition Plat 1998-9, Parcels 1-3, Partition Plat 1998-7, Parcels 1-3, and a portion of 2N10 & Index, Tax Lot 518, 47 Lots, R-1, Single Family Zone until a future time; Orloff, Sexton, Sheckler, Owens, and Porter voted in favor; motion carried.

Sexton discussed continuing this hearing until December 4, 2007.

Owens made a motion, seconded by Orloff, to continue Public Hearing - Tai Dang – PUD #07-09, Nedonna Estates Planned Unit Development, Map 2N10-20AC, Tax Lots 3000, 3100, 3200, 3300, 3400, 3500, Partition Plat 1998-9, Parcels 1-3, Partition Plat 1998-7, Parcels 1-3, and a portion of 2N10 & Index, Tax Lot 518, 47 Lots, R-1, Single Family Zone until the December 4, 2007, special Planning Commission meeting; Sexton, Sheckler, Porter, Orloff, and Owens voted in favor; motion carried.

Sexton announced that the public record was closed, and directed the Planning Commission members to have no ex parte contact until the December 4, 2007, meeting.

Sexton announced a ten-minute recess at 7:30 p.m.

Sexton brought the meeting back to order at 7:40 p.m.

**PUBLIC HEARING Anna Song – Nedonna Wave Subdivision #07-19, Map 2N10-20AB, Tax Lots 4600, 4900, 9000, Partition Plat 1997-20, Parcel 1, Partition Plat 1997-57, Parcel 3, and a portion of Vacated Evergreen Street Ordinance #98-353, 28 Lots, R-1, Single Family Zone (Continued from the November 15, 2007, Special Planning Commission Meeting)**

Sexton reopened the hearing.

**Public Comment -  
Con**

Jerry Lyslo, 25855 Beach Drive, asked about the County's involvement. Lyslo stated that Pat Oaks, Tillamook County Road Department, sent a letter to the City dated 6-22-07 to which the City never responded. Lyslo stated that a copy of that letter was attached to correspondence from the Nedonna Neighborhood Association. Lyslo gave an overview of the County's concerns addressed in the letter and then summarized the Nedonna Neighborhood Association's stand of not approving the subdivisions.

Richard Huston, 26165 David Avenue, asked if any action had been taken on the moratorium petition. Sexton stated that they had not had a chance to because they had just received it.

Tom Sutherland, 26185 David Avenue, stated that he was annoyed with the engineer because Larson was only giving generalizations and not stating who he talked to and where. Sutherland also asked where Larson got his figures.

John Dawson, 26125 Nedonna Avenue, stated his belief that there was a conflict of interest with Larson and ODOT.

Clyde Barnhill, 26295 Nedonna Avenue, stated that he does not believe a drivable access will occur unless there is a moratorium on development.

Evelyn Huston, 26165 David Avenue, stated that she met with ODOT on November 19, 2007, and was told by them that ODOT is not in favor of the access and will not give access to cross the railroad because of liability. Huston presented a letter from ODOT stating that no application or comments have been submitted.

Jill Mulvey, 8825 Western Street, read a letter into the record. Mulvey expressed her concern for safety and stated that there must be a north-end egress before another development is approved. Mulvey expressed her concern for the wetlands and stated that she is totally opposed to the developments. Mulvey asked for a peak-period traffic impact study and a study of delineated wetland concerns.

Mike Mulvey, 8825 Western Street, stated that everyone has a different idea of what beautiful is. Mulvey discussed man-made versus natural wetlands and expressed concern about the loss of balance in nature. Mulvey stated that there were two accesses in the meeting room for those at this meeting and only one for all of those living in Nedonna. Mulvey stated that a moratorium is needed.

**Rebuttal – Pro**

Larson addressed the June 22, 2007, letter from the County and stated that the questions were answered in the traffic impact study. Larson stated that all of the required permits are in the Planning Commission folders and that the person involved is stated on the forms. Larson explained mitigation and stated that all prior development was permitted. Larson went over all of the permits, who issued them, and the dates. Larson stated that it was Pearson who had the discussion with the Port of Tillamook Bay, not himself. Larson stated that a development permit from the City was granted after the State permits were granted and that they are in compliance. Larson explained mitigation ratios and what they mean, stating that a 1.5 to 1 ratio is very common and that it is controlled by the State. Larson stated that Steve Wilson of ODOT's Salem office is who he discussed the access with concerning emergency versus full and he will email the information to the City. Larson presented a map of the concerned railroad portion and a June 2, 1909, deed record of the width of the railroad right-of-way from Tillamook County. Larson then presented a modern-day map and went over it with the Planning Commission and stated that right-of-way widths vary.

Tom Sutherland, 26185 David Avenue, stated that Larson uses square feet in his mitigation references and should be using cubic footage.

Larson referenced the mitigation permit application to explain cubic yards and area to determine ratio stating most wetlands are on a horizontal plane. Larson went over the fill permit, the mitigation permit, and the mitigation stating it was a ten-month process.

Richard Huston, 26165 David Avenue, addressed the discrepancy in the railroad right-of-way width. Huston stated that the traffic impact study is not complete and explained.

Larson responded that the traffic impact study has been submitted and is on ODOT's desk and explained. Larson then explained about the traffic impact analysis. Larson explained ODOT's rural approach policy of having a right-hand deceleration lane. Larson stated that the study has not been finalized. Larson stated that he would look into the railroad right-of-way width discrepancy.

Jerry Lyslo, 25855 Beach Drive, commented on Pat Oaks' letter concerning disasters.

Sexton asked when the traffic impact study would be final. Huston replied that it would be final twenty-six days from yesterday.

Williams asked Larson if ODOT would require a right-hand deceleration lane regardless. Larson explained and stated that he was not sure.

Larson thanked the Planning Commission for their consideration and hard work. Larson stated that the applicant's donation of land for the access would be in a written agreement.

**Rebuttal –Con**

Mike Mulvey, 8825 Western Street, told about a dangerous situation he had slowing down to turn into Nedonna without a deceleration lane. Sexton directed him to go to the next City Council meeting and tell the Council about it.

Richard Huston, 26165 David Avenue, stated that the crossing is substandard. Sexton directed him to go to the City Council with his concern, also.

Sexton asked the Planning Commission if they had any questions. None were expressed.

**Final Staff  
Comments**

Sexton stated that the staff recommendations are written in the staff report.

Jill Mulvey asked that the record remain open for additional correspondence.

Owens made a motion, seconded by Orloff, to close public hearing Anna Song – Nedonna Wave Subdivision #07-19, Map 2N10-20AB, Tax Lots 4600, 4900, 9000, Partition Plat 1997-20, Parcel 1, Partition Plat 1997-57, Parcel 3, and a portion of Vacated Evergreen Street Ordinance #98-353, 28 Lots, R-1, Single Family Zone until a future time; Orloff, Sexton, Sheckler, Owens, and Porter voted in favor; motion carried.

Jill Mulvey asked that the public record for the previous hearing also remain open for additional correspondence.

Orloff made a motion, seconded by Owens, to keep the public record open for public hearing Tai Dang – PUD #07-09, Nedonna Estates Planned Unit Development, Map 2N10-20AC, Tax Lots 3000, 3100, 3200, 3300, 3400, 3500, Partition Plat 1998-9, Parcels 1-3, Partition Plat 1998-7, Parcels 1-3, and a portion of 2N10 & Index, Tax Lot 518, 47 Lots, R-1, Single Family Zone; Orloff, Sexton, Sheckler, Owens, and Porter voted in favor; motion carried.

Larson asked for clarification. Williams stated that the public record of both public hearings would remain open for seven days for written comments.

Owens made a motion, seconded by Porter, to continue Public Hearing Anna Song – Nedonna Wave Subdivision #07-19, Map 2N10-20AB, Tax Lots 4600, 4900, 9000, Partition Plat 1997-20, Parcel 1, Partition Plat 1997-57, Parcel 3, and a portion of Vacated Evergreen Street Ordinance #98-353, 28 Lots, R-1, Single Family Zone until the December 4, 2007, special Planning Commission meeting; Sexton, Sheckler, Porter, Orloff, and Owens voted in favor; motion carried.

**PLANNING  
COMMISSION  
CONCERNS**

The Planning Commission decided to schedule a special Planning Commission meeting on January 8, 2008, to go over the proposed zoning amendments.

Owens asked how conditions of approval are followed up on. Williams explained that Pearson takes care of that. Owens expressed concern about trees being removed on

Quadrant Street that were to be left in place. Williams stated that he would speak to Pearson about it.

**STAFF  
COMMENTS**

None expressed.

Sexton thanked Williams for his guidance.

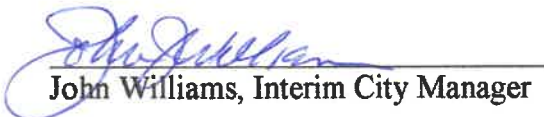
**ADJOURN**

Orloff made a motion, seconded by Porter, to adjourn this meeting of the Rockaway Beach Planning Commission; Breazile, Porter, Orloff, Owens, Sexton, and Sheckler voted in favor; motion carried.

Sexton adjourned the meeting at 8:40 PM

**MINUTES APPROVED THIS 7<sup>TH</sup>  
DAY OF JANUARY 2008.**

  
\_\_\_\_\_  
Dixie Sexton, Chair

  
\_\_\_\_\_  
John Williams, Interim City Manager



**December 10, 2007**

**Planning Commission Meeting**

**PLANNING COMMISSION MEETING**

SCHEDULED 12/10/07

CANCELLED DUE TO STORM & POWER  
OUTAGE

RESCHEDULED FOR 12/20/07

CANCELLED AGAIN



**January 29, 2008**

**Planning Commission Meeting**



**CITY OF ROCKAWAY BEACH**  
**SPECIAL PLANNING COMMISSION MEETING**

**JANUARY 29, 2008**

**CALL TO ORDER** Chair Sexton called the meeting to order at 6:00 P.M.

**ROLL CALL** Members present: Dixie Sexton, Rodney Breazile, Charles Sheckler, Dennis Porter, Jon Orloff, and Rae Owens. Staff in attendance: Interim City Manager John Williams, City Planner Sabrina Pearson. There were fifteen (15) guests in attendance.

**APPROVAL OF MINUTES** Sexton entertained a motion to approve the minutes of the Planning Commission meeting of January 22, 2008.

Porter made a motion, seconded by Owens, to approve the minutes of the January 22, 2008, Planning Commission meeting. Breazile, Orloff, Sexton, Sheckler, Owens, and Porter voted in favor; motion carried.

**PUBLIC HEARING** Application #07-19, Anna Song for Nedonna Development LLC, requests approval of concurrent applications: Application #07-19, a 28-Lot Planned Unit Development Subdivision tentatively named "Nedonna Wave"; Application #07-20, Variance to Building Height RBZO Section 10.040 (7) to permit a building height of 29 feet for lots 1-24; Application #07-21, Variance to Planned Unit Development RBZO Section 10.040 (7) Building Height to permit a building height of 36 feet for lots 25-28; Application #07-22 Variance to RBZO Article 13 Section 44 (3) Sidewalks to delete requirement for sidewalks on both sides of each street.

Sexton reopened and introduced the hearing and the variance requests being considered.

**Challenge to PC Jurisdiction** None

**Conflict of Interest/ Personal Bias** Breazile recused himself because of a conflict of interest.

**Ex Parte/Site Visit** None since the last hearing before continuation.

**Staff Report** Pearson gave an overview of her staff report, reading and explaining the applicable criteria and staff summary of findings of fact.

**Correspondence** A letter in opposition from Stephen Lebsack was noted and entered into the record.

**Applicant Presentation** Anna Song thanked the residents, Planning Commission, and staff for their input and work on this project.

Ron Larson, HLB-OTAK, presenting for the applicant, stated that this was a continuation of the public hearing and no changes had been made. Larson explained that they have met all of the requirements of the subdivision ordinance for a planned unit development, all of the criteria of the preservation of wetlands, and have in place their approved mitigation plan. Larson stated they comply with all of the relevant requirements of the R-1 Single Family Residential Zone, comply with the requirements of the SA Special

Wetlands Zone, and have the Army Corp of Engineers' approval and the Department of State Lands' approval. Larson stated that the Flood Hazard Zone applied and all requirements would be met during construction. Larson stated the Geologic Hazard Overlay Zone applies to a few lots on the extreme east edge near the railroad and that the Geologic Hazard report they submitted addresses all of those. Larson added that access requirements, clear vision areas, and the Planned Unit Development area and density requirements are met. Larson then explained the variances being requested and the reasons for the requests.

Mark Dane, Blue Sky Planning, representing Anna Song and Nedonna Wave, stated that he agreed to the findings, but asked for some clarifications. Dane and Larson asked for the following changes:

1. In the staff report, Application #SPUD 07-19, Recommended Conditions of Approval, Page 7, General Conditions of Approval, Item 1, add the words "unless otherwise stated" after the words "All conditions of approval."
2. In the staff report, Application #SPUD 07-19, Recommended Conditions of Approval, Page 7, General Conditions of Approval, Item 2, add the word "applicable" between the words "All" and "conditions".
3. In the staff report, Application #SPUD 07-19, Recommended Conditions of Approval, Page 7, RBZO Section 3.080, 3.130-3,132; 4.105; SA Zone; Wetland Land Use Notification Zone; Riparian Vegetation, Item 2, add the words "or rope" after the words "split rail".
4. Larson asked for the language to be changed from "dedicated" to "demonstrated." in the staff report, Application #SPUD 07-19, Recommended Conditions of Approval, Page 9, Open Space, Item 1, explaining that 25% of the 50% of the site can be in private open space, which is basically the yards, and the applicant cannot dedicate that yard space on individual lots.
5. In the staff report, Application #SPUD 07-19, Recommended Conditions of Approval, Page 9, Open Space, Item 2, change the word "agency" to "party" to allow for some flexibility. Larson then explained the need for the words "dedicated," "dedication," and "re-dedicate" to be changed to "conveyed," "conveyance," and "re-conveyance."
6. In the staff report, Application #SPUD 07-19, Recommended Conditions of Approval, Page 10, Improvement Agreement, Item 2, add the words "or bonded" after the words "shall be completed".
7. In the staff report, Application #SPUD 07-19, Recommended Conditions of Approval, Page 10, On-Site Improvements, Item 1, add the words "Specifically" Nedonna Wave will dedicate that portion of right-of-way located on the development site as shown on the approved construction plans and their submitted tentative plat." after the words "dedicated to the City." Larson explained the

reciprocal easement agreement, which states that upon request from the City, the property owners will promptly dedicate.

8. In the staff report, Application #SPUD 07-19, Recommended Conditions of Approval, Page 11, Off-Site Improvements, Item 3, Dane noted that this should be retained, but will depend on which project goes first.
9. In the staff report, Application #SPUD 07-19, Recommended Conditions of Approval, Page 12, Off-Site Improvements, Item 7, the applicant would like this entire condition to be struck. Dane explained that this portion of Riley Street is three blocks from Nedonna Wave and the adjacent lots are vacant. Larson and Dane explained why the applicant should not have to pave this stretch of roadway and presented pictures of the area.
10. In the staff report, Application #SPUD 07-19, Recommended Conditions of Approval, Page 12, Off-Site Improvements, Item 8, strike all the wording after “improvements to benefit the Nedonna Beach area.” to simplify the issue.
11. In the staff report, Application #SPUD 07-19, Findings of Fact, page 13, Staff Findings, Item 2, the issue date for the DSL issued authorization should be October 17, 2006.
12. In the staff report, Application #SPUD 07-19, Findings of Fact, page 20, (8) Streets and Roads, Item 1 (5), Duke Street will be dedicated as a 40’ wide right-of-way, not a 50’ right-of-way.
13. In the staff report, Application #VAR-2007-22 Requests a Variance to Delete Sidewalks from the Development, (g), Findings of Fact, page 23, Item 8, change “extension” and “improvement” to “extend” and “improve”. Pearson explained that it ties to improvement agreement.
14. In the staff report, Application #SPUD 07-19, Findings of Fact, page 28, Principles of Acceptability, (9) Cul-de-sac, Item 2, Dane asked for clarification.
15. Larson stated they would like to have the ability to consolidate lots in the future, subject to submittal to the City for approval. Dane stated that any changes would not affect the dedicated open space, the right-of-way, or the improvements; but would allow flexibility to adjust lines to meet the density. Larson referred to page 7, under Building Permits and to Future Development, stating that PUD ordinances are silent on lot line adjustments and they would like the ability to come to the City to have lot line adjustments approved by the regular process. Larson stated they would like to have the ability to partition some lots if the need arises, noting that according to page 16, item 6, in staff findings, they can plat up to 33 lots. Larson explained that the partition plat process would come back to the City and would need to be approved. Larson suggested the language “Lots created by this subdivision may be partitioned, adjusted, or consolidated in the future with no change, no decrease to the open space, up to the maximum allowed

density of 33 lots subject to the requirements of the partition plat process or the lot line adjustment process established by the City of Rockaway Beach.” Dane stated that this would allow them to make minor adjustments as necessary. Larson stated that nothing in the PUD Ordinance says you cannot do this. Williams responded that there is nothing in the PUD Ordinance that says that you can either. Pearson stated that she would address that.

**Staff  
Response**

To address change request #15, Pearson read from article 10, section 10.060, Procedure of Final Approval, Zoning Ordinance, page 101, and stated that either the final plan needs to conform to the approved preliminary development plan or they need to submit for revisions at the same time. Pearson stated that if it does not conform, the City will re-notice and explained. Pearson further explained about the handling of changes.

Pearson explained that change request #1 was not necessary.

Pearson explained that change request #2 was already covered under Improvement Agreement, Section 16 of Article 13.

Pearson stated that there is a lot line adjustment process and explained.

Concerning change request #3, Pearson explained that a rope would be considered a suitable visual barrier.

Concerning change requests #4 and #5, Pearson expressed her concern that the designated open space in private yards not be turned into parking areas. Pearson explained that the language needs to be consistent and that the word “dedicated” is not required under the PUD ordinance. Pearson stated that some limitation needs to be placed on this to protect the open space. Larson explained that when open space is created on the final plat, it is dedicated in that it is created as open space. Larson went on to explain that this is the only tract on the final plat that has a use attached to it. Larson stated that it is dedicated and the dedication creates the individual lots and those lots can be conveyed. Larson continued that typically, the developer would convey open space whether it is wetlands or not to the HOA, but in this particular case, if the HOA goes away, it ensures that it is not just reverted to the County for back taxes. Pearson stated that she agreed with the words “dedicated,” “dedication,” and “re-dedicate” being changed to “conveyed,” “conveyance,” and “re-conveyance.”

Concerning change request #7, Pearson responded that adding the requested sentence on page 10, On-Site Improvements, would not change the intent of the condition. Pearson stated that she would not change that condition of approval, but would add a condition that addresses their concern.

Concerning change request #6, Pearson stated that the word “bonded” could be added where requested because it is already part of the language of the ordinance. Pearson stated that this is covered under Article 13, Section 16.

Concerning change request #9, after it was noted that the wording here should be changed to “on Riley Street from Nedonna Avenue to Beach Drive”, Pearson noted that

the requirement to pave Riley Street from Nedonna Avenue to Beach Drive was stated in the letter from Tillamook County. After discussion, Pearson stated that staff would evaluate if it was necessary for that part of Riley Street to be paved.

Concerning change request #10, Pearson concurred with deleting the noted wording and to putting in the language “a Nedonna Beach area local improvement district or road district,” and including the language “IGA (intergovernmental agreement)” to include the entire area.

Concerning change request #12, Pearson stated that the change would be made.

Larson asked for different language on page 18, item 2 of Open Spaces. Pearson stated that staff would work with it so that the language is consistent.

**Public Comment -  
Pro**

None

**Public Comment -  
Con**

Jerry Lyslo, 25855 Beach Drive, stated that this development would cause Riley Street to become the busiest street in Nedonna and, therefore, it was important that it be paved. Lyslo also expressed concern about the height variances being requested.

Nancy Webster, 8845 Central Court, expressed concern about disappearing wetlands, the use of fill, building ponds, and redirecting streams.

**Staff Response**

Pearson explained the criteria for granting a height variance. Pearson stated that the intent was to protect the remaining wetlands and explained the visual barrier and signage proposed.

Owens asked Pearson who polices the development of the site. Pearson explained.

After discussion, it was determined that if the written record was left open, the public hearing must be continued. The applicant decided against requesting that the written record be left open.

Porter asked about open-space as private property. Pearson read and explained the applicable zoning information.

**Rebuttal – Pro**

Dane stated that their request for variances was to allow for a better streetscape and variety. Dane presented pictures of home examples from appendix I. Dane further explained their reasons for requesting height variances. Discussion followed concerning development of the area near the railroad tracks. Dane stated that the development's CC&Rs (Covenants, Conditions, and Restrictions) would restrict the houses to only the four designs presented. Owens asked Pearson if there was a geologic hazard report for that area. Pearson responded that there was and that a copy of it was in the information he had received. Larson stated that the wetland mitigation had been permitted by the state and more wetlands would be created and planted. Larson explained that Katherine Harris with the Army Corp of Engineers was overseeing the project. Anna Song

explained that 9000 plants and trees would be planted in March, and that they were required to monitor the wetland and report to the Army Corp of Engineers for five years.

Sexton called for a recess at 7:39 p.m.

Sexton called the meeting back to order at 7:47 p.m.

**Final Staff  
Comments**

Pearson explained the concerns that the applicant had expressed to her.

Dane requested that the public hearing and record be closed.

**Close Public  
Testimony**

Sexton closed the public testimony.

**PC Discussion  
& Consideration**

Sexton stated that the Planning Commission would consider each variance request separately.

Sexton read variance request 07-19 and asked for a motion.

Porter made a motion, seconded by Owens, to approve Application #07-19, a 28-Lot Planned Unit Development Subdivision tentatively named "Nedonna Wave" with conditions as stated in the staff report; Sheckler - yes, Porter -yes, Orloff -yes, Owens - yes, Sexton - yes; motion carried.

Sexton read variance request 07-20 and asked for a motion.

Orloff made a motion, seconded by Porter, to approve Application #07-20, Variance to Building Height RBZO Section 10.040 (7) to permit a building height of 29 feet for lots 1-24; with conditions as stated in the staff report; Sheckler explained that he understood the need for this variance. Owens asked if other developments in the area had been granted height variances. Pearson responded that Nedonna Meadows has a height variance of 29 feet. Owens asked if any development to the west had been granted a height variance. Pearson explained how the subdivision ordinances differ from those for a planned unit development. Sexton expressed concern about setting a precedent. Pearson explained the criteria for granting variances. Owens asked about impact on the views of the lots to the west and asked if there were going to be trees in between the properties. Pearson explained. Sexton called for the question. Sheckler - yes, Porter - yes, Orloff -yes, Owens -yes, Sexton - yes; motion carried.

Sexton read variance request 07-21 and asked for a motion.

Porter made a motion, seconded by Orloff, to approve Application #07-21, Variance to Planned Unit Development RBZO Section 10.040 (7) Building Height to permit a building height of 36 feet for lots 25-28 with conditions as stated in the staff report; Orloff asked about the height difference between the proposed houses and the railroad. Dane explained. Sexton asked for clarification on the type of houses to be built. Owens asked why the lots were made smaller. Dane explained. Owens asked about the open space on Jackson Street and if it would be treed. Larson explained. Dane explained the

types of trees to be planted and why they were chosen. Sexton called for the question. Sheckler - yes, Porter -yes, Orloff -yes, Owens -yes, Sexton - yes; motion carried.

Sexton read variance request 07-22 and asked for a motion.

Owens made a motion, seconded by Porter, to approve Application #07-22 Variance to RBZO Article 13 Section 44 (3) Sidewalks to delete requirement for sidewalks on both sides of each street with conditions as stated in the staff report; Orloff asked for clarification and if any other development had been required to put in sidewalks. Pearson responded that they had not and explained. Sexton called for the question. Sheckler - yes, Porter -yes, Orloff -yes, Owens -yes, Sexton - yes; motion carried.

Williams asked the Planning Commission to consider amending the motion for Variance 07-19 to strike the words “for paving the unpaved portion of street from Riley Street to Beach Drive” in the staff report’s Recommendations of Approval, Off-Site Improvements #7, as requested by the applicant.

Orloff asked for clarification. Pearson explained. Dane explained that all of Riley Street is already paved except for the one block stretch between Nedonna Avenue and Beach Drive, which they are asking to not have to pave. Orloff asked what the logical exit route from the development would be. Sexton asked if the bordering property owners would have to pave that stretch of Riley Street in the future if developed. Pearson explained that they would. It was noted that those lots are not buildable until sewer or septic is available for them. Pearson stated that if the applicant does not pave that area, they should be required to apply dust treatment. Owens suggested they regravel and treat the area. Sheckler asked if this would go against the County requirement. Pearson explained. Owens asked about fixing potholes. Pearson explained.

Orloff made a motion, seconded by Porter, to amend the previous motion approving Application #07-19, a 28-Lot Planned United Development Subdivision tentatively named “Nedonna Wave” to state: with conditions as stated in the staff report except for the deletion of the words “for paving the unpaved portion of Riley Street from Nedonna Avenue to Beach Drive” in the staff report’s Recommendations of Approval, Off-Site Improvements #7; Sheckler asked for clarification of which part of Riley Street would be paved. It was noted that Riley Street is already paved except for this area. Sexton called for the question. Sheckler - yes, Porter -yes, Orloff -yes, Owens -yes, Sexton - yes; motion carried.

**Appeal Information** Sexton read the appeal information into the record, noting that any appeal would be to the City Council. Pearson explained further.

#### **PLANNING COMMISSION CONCERNS**

Sexton stated that she would make reservations for all of the Planning Commission members for the training in Tillamook. Williams explained about the training. Sexton stated that she would type up a list of Planning Commission names and phone numbers. Pearson stated that she would bring Bay City’s Code of Conduct to the next meeting. Breazile expressed concern about Goal 5, Safe Harbor, and asked that the Planning Commission ask the City Council to send it back to them for further review. Williams stated that he was asking the City Council to have a work-session about this and

explained the Mayor's concerns. Williams stated that the work-session would possibly be a week from Wednesday and would be open to the public. Williams encouraged the Planning Commission members to attend. Williams stated the need for another member on the Planning Commission and asked the Planning Commission members to try to recruit a qualified applicant. Pearson asked about the possibility of changing the ordinances to allow for one member to be from the City's urban growth area. Williams stated that he would look into State Law to see what it says. Porter asked about encouraging someone from Lake Lytle Estates to apply. Discussion of this followed. Williams stated that he expected to work in Rockaway Beach for six months, but anticipates needing to stay an extra two months and reconsider at that time. Discussion followed concerning the recruitment process for a new City Manager. Sexton asked about solutions for accessing the League of Oregon Cities' web site. Williams stated that he was waiting for a call back and would pass along information when he got it.

**ADJOURN**

Orloff made a motion, seconded by Breazile, to adjourn this meeting of the Rockaway Beach Planning Commission; Breazile, Owens, Sexton, Porter, Orloff, and Sheckler voted in favor; motion carried.

Sexton adjourned the meeting at 8:17 PM.

**MINUTES APPROVED THIS 26<sup>TH</sup>  
DAY OF FEBRUARY, 2007.**

  
\_\_\_\_\_  
Dixie Sexton, Chair  
\_\_\_\_\_  
John Williams, Interim City Manager





**May 27, 2008**

**Planning Commission Meeting**

CITY OF ROCKAWAY BEACH  
REGULAR PLANNING COMMISSION MEETING

MAY 27, 2008

**CALL TO ORDER** President Dixie Sexton called the meeting to order at 6:00 p.m. There were twenty-three (23) guests present.

**ROLL CALL** Present: Dixie Sexton, Dennis Porter, Charles Sheckler, Sue Luce and Rodney Breazile. Absent: Jon Orloff. Also present: City Manager Cliff Jensen, City Planner Sabrina Pearson and Administrative Assistant Terri Michel.

**PUBLIC HEARING** Public Hearing for Multi-Family Siting Review #07-24, for a 3-unit multifamily dwelling and Variance #07-25 a request for a variance to off-street parking requirements for the multifamily dwelling located at the corner of Hwy. 101 and Hollyhock Street, 1N10-5CC, Tax Lot 7300, was opened by City Planner Sabrina Pearson. She briefly covered the rules applicable to review of the Multi-Family Siting Review and the Variance. President Dixie Sexton stated this hearing was being re-opened for the applicant S. Kem Design & Construction. Pearson presented the staff report noting the applicant, the property owner, location, legal description, and a description of the request. She listed the applicable criteria. She then briefly covered the staff summary and findings of fact. Representative for S. Kem Design & Construction Neal Japport, 3040 SW Hollins Court, Portland, Oregon, explained that the applicant was willing to provide sidewalks on Hollyhock Street and Hwy. 101 with ADA access and storm drainage addressed. He stated the structure will have screening to the east by a 6' fence, which will limit delivery times for any business on the lower floor. He noted that sidewalk details are in the engineering package as well as signage for all parking. He stated they had also submitted a lighting plan describing when lights would be on during business hours and when they would go off and has included a landscaping plan. Japport noted that all parking spaces would be full size with the exception of one compact. He added that he is expecting to have to place no parking signs on Hollyhock Street. City Manager Cliff Jensen asked how many businesses were proposed in the building. Japport stated possibly one or two. Pearson suggested that Japport reduce the size of the business to reduce the number of required

parking spaces. Japport explained that if they only did the residential portion of the structure they would have more than enough parking and they would be accepting of that idea. Pearson asked if he would be willing to withdraw the application for the variance to parking. Japport stated that he would and withdrew the variance request #07-25. Leroy Tucker, Twin Rocks resident, was present to express his and his neighbors concerns with the project stating that they had issues with the parking and the impacts to Hollyhock Street. Discussion continued regarding the recommendation to improve Hollyhock Street, screening of the project, but still allowing for clear vision and that no parking will be allowed along Hollyhock Street. Sally Bosserman, next door neighbor to the proposed project, stated that their property adjoins Kem's and that a portion of their back porch is on Kem's property noting that for fire and safety purposes she and her husband would need access to get in and out of their dwelling. Michele Aeder, First Student Schoold Bus Services, asked if the tenants will be aware that there are 16 school buses going in and out with back up alarms going early in the morning. She additionally noted her concern with the parking. Japport described the project saying the building would be pushed into the southeast corner of the property and a 6' cedar good neighbor screening fence on the east property line would be installed and then low growing landscaping so as not to block views. With Variance #07-25 withdrawn Pearson recommended approval of Multi-Family Siting Review #07-24 with conditions as listed on page 2 of 8 of the staff report adding that the applicant shall install a good neighbor fence and that they will address the encroachment to the east prior to getting a building permit.

**Close Public  
Testimony**

Sexton closed the public hearing to public testimony.

**PC Discussion &  
Consideration**

Rodney Breazile agreed with the withdrawal of the variance, but expressed his concern regarding traffic flow due to other development to the east. Pearson pointed out that the development Breazile is concerned about is outside the City's Urban Growth Boundary (UGB). Rae Owens expressed his concern with parking being allowed on Hwy. 101. Japport stated he would be more than happy to place no parking signs on Hwy. 101. Charles Sheckler stated that he was happy with the project now that the variance to

parking had been withdrawn. Sue Luce made a motion, seconded by Breazile, to accept the proposal for a multi-family dwelling with conditions and findings of fact; roll call vote, Luce – yes, Breazile – yes, Owens – yes, Sheckler – yes, Porter – yes, and Sexton – yes; motion carried.

**PUBLIC HRG.  
MFS #08-09**

Sexton opened the public hearing for Multi-Family Siting Review #08-09 for the siting of a 3-unit townhome located on Hwy. 101, north of Minnehaha Street, 1N10-5CC, Tax Lot 2100.

**Challenge to PC  
Jurisdiction**

There was no challenge to the Planning Commission's jurisdiction in this matter.

**Conflict of Interest/  
Personal Bias**

There was no conflict of interest or personal bias expressed by members.

**Ex Parte/ Site Visit**

There was no ex parte contact by any member and they had all performed site visits to the property.

**Staff Report**

Pearson presented the staff report noting the applicant, property owner, legal description and location, zone and the description of the request. She read the applicable criteria and briefly covered the staff summary and findings of fact.

**Presentation by  
Applicant**

Applicant David Kelso, 28450 SW Willow Creek Drive, Wilsonville, Oregon, stated he was speaking on behalf of the property owners of record. He presented to the Planning Commission the elevation drawings of the proposed 3-unit townhome building. He explained that the plans for the structure are designed in such a manner that the first floor could be utilized in the future for commercial use. He presented the landscaping plan, which he stated includes native vegetation. He described the parking plan stating there will be 2 full parking spaces outside each 1-car garage for a total of 3 spaces for each unit. Kelso went over the site plan showing the division of lots, access easement, open space and sidewalks. Owens asked if the ingress and egress would be fairly steep. Kelso stated no, that the lot is flat and even with the Hwy.

**Correspondence**

None.

<b>Public Comment-Pro</b>	Gillian Holbrook, Nedonna Beach property owner, asked how the applicant will deal with getting hearty native plants for the site. Sexton suggested Kelso meet with Holbrook to discuss good native plant selections. Pearson pointed out that the applicant is not required to maintain the area with plants, but is required to maintain it as open space.
<b>Final Staff Comments</b>	Pearson gave her final staff comments recommending approval of the request based on the findings of fact and with the 12 conditions listed in the staff report on page 4 of 9.
<b>Close Public Testimony</b>	Sexton closed the public testimony portion of the hearing.
<b>PC Discussion and Consideration</b>	<u>Breazile made a motion, seconded by Luce, to approve Multi-Family Siting Review #08-09 with conditions based on the findings of fact; roll call vote, Breazile – yes, Luce – yes, Sexton – yes, Owens – yes, Porter – yes and Sheckler – yes; motion carried.</u> Sexton announced the appeal period.
<b>PUBLIC HRG. NEDONNA WAVE SPUD#07-19</b>	Sexton stated that the purpose of this second public hearing required to review the Nedonna Wave Planned Unit Development Subdivision is to evaluate whether the final site development plans are consistent with the approved preliminary development plan.
<b>Challenge to PC Jurisdiction</b>	There was no challenge to the Planning Commission's jurisdiction.
<b>Conflict of Interest/ Personal Bias</b>	Breazile stepped down for this hearing due to a personal interest. Remaining members had no conflict of interest or personal bias.
<b>Ex Parte Contact/ Site Visit</b>	There was no ex parte contact expressed and all had performed site visits.
<b>Staff Report</b>	Pearson covered the staff report giving the property owner name, location and legal description, property size and the development zones. She gave a description of the request and read the applicable criteria into the record. She went over the staff summary, the public hearing process and read into the record staff's recommendation for a Planning Commission decision. Mark Dane, 1705 SW Taylor,

Portland, Oregon representative for Nedonna Wave, stated he had been working with the project engineer Ron Larson, HLB Otak, and property owner Anna Song and has reviewed the staff report. He stated that as the Planning Commission can see staff is recommending approval. He stated they will comply with all the conditions and will answer any questions the Planning Commission might have. Richard Huston, 26165 David Ave., expressed his concerns regarding the Intergovernmental Agreement between ODOT and the City and County for another ingress and egress to Nedonna Beach and asked if there had been a traffic analysis done. Larson stated there had been no traffic analysis done with this project. Bill Gemmett, a Nedonna Beach resident, expressed his concern with regard to the continuation of using Nedonna Ave. as the one access to Nedonna Beach stating he was opposed to this project. Ruth McDonald, 1408 Tenihigh Way, Sacramento, California, stated that as a second homeowner in Nedonna Beach her perception is that the work on this project completed to date is failing with respect to wetland protection. She stated that she thinks it is essential that the natural beauty be preserved. Dane addressed Huston's concern by stating that there is currently no signed agreement for a second access. He stated the second access that Tai Dang, Nedonna Estates, is going to provide is delayed because of an appeal. He stated that as far as the wetlands, they have planted and have approval from the Department of State Lands (DSL) and the Army Corps of Engineers (ACOE) and it is being overseen by the City. He noted he understands people's concerns, but they are complying. Porter asked if there had been any on site inspections from the State or the City. Dane stated there was on site approval when they were moving forward and DSL and ACOE won't come in until the end to observe if it has been done correctly. Gemmett asked if it would be the County's or the City's expense to fix the roads from the impacts of the trucks. Dane pointed out that they are providing improvements, which require a bond and a maintenance bond. Huston stated that if the current crossing is proved to be dangerous, Song will fix it. Sexton and Porter pointed out that Huston's comment had nothing to do with Song's project it was tied to Dang's. Larson pointed out that the document Huston, et al, should be looking at is a document of record stating that Song is

financially responsible for dust control and repair of damaged streets.

**Close Public  
Testimony**

Sexton closed the public hearing.

**PC Decision**

Sexton called for a motion. Luce made a motion, seconded by Porter, to approve the project as enumerated in the staff report and findings of fact; roll call vote. Luce – yes, Porter – yes, Owens – yes, Sexton – yes, and Sheckler – yes. Breazile abstained; motion carried.

**PC TRAINING**

An agenda was provided to members by the Department of Land Conservation and Development (DLCD) for training to be held June 14, 2008, at City Hall in the Council Chambers. The instructor will be Mitch Rohse, AICP. Sexton noted she would be unable to attend the training.

**RB TRANS.  
SYSTEM PLAN**

A draft Transportation System Plan was provided to the City for review and the City is requested to choose a consultant selection process. Sexton suggested a workshop for this matter. Pearson stated that the next agenda wasn't heavy, so it could be discussed at that time. She pointed out that the Planning Commission had seen the draft Transportation System Plan and she would like their comments, next will be the selection of a consultant. Porter stated he didn't see any kind of written description of how the consultant will do the analysis. He stated they need to identify costs and funding sources.

**PC CONCERNS**

Sexton stated she has wanted the minutes to be kept up to date and there are no minutes in this packet. She stated she hoped in the future the minutes would be current. City Manager Cliff Jensen stated that it was interesting Sexton should bring that up as the City is purchasing a lap top computer, which will mean the minutes will be done faster and they will be placed on the website. Sexton suggested using a Leo for an internship. Jensen stated he would bring the idea up at a staff meeting noting that there is a certain amount of training involved and it could create more work for staff. Porter suggested taking it one step further by looking into the Community College for help. Jensen noted that these were good ideas. Breazile stated he knows staff is busy, but he would like an updated ordinance book.

**STAFF  
CONCERNS**

Pearson asked that any Planning Commission member who had comments on the Transportation System Plan write them down and bring them to her. Jensen noted that Gemmett had made a good point concerning the repair of damaged roads and that it is good to follow up to make sure it is done.

**ADJOURN**

Porter made a motion, seconded Breazile, to adjourn the Meeting; Porter, Breazile, Luce, Porter, Owens and Sheckler voted in favor; motion carried. Sexton adjourned the meeting at 8:10 p.m.

MINUTES APPROVED THIS 28TH  
DAY OF OCTOBER, 2008



Dixie Sexton, President



Clifford Jensen, City Manager





**July 22, 2008**

**Planning Commission Meeting**

**CITY OF ROCKAWAY BEACH**  
**PLANNING COMMISSION MEETING**

**JULY 22, 2008**

**CALL TO ORDER** President Sexton called the meeting to order at 6:00 P.M.

**ROLL CALL** Members present: Dixie Sexton, Rae Owens, Rodney Breazile, Charles Sheckler, and Sue Luce. Members absent: Dennis Porter. Staff in attendance: City Manager Cliff Jensen, City Planner Sabrina Pearson, and City Engineer Mike Henry. There were sixteen (16) guests in attendance.

**PUBLIC HEARING – #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**

Sexton opened and introduced the hearing.

**Challenge to PC Jurisdiction** None

**Conflict of Interest/ Personal Bias** Breazile recused himself citing a conflict of interest.

**Correspondence** Jensen noted the updated staff report that was given to the Planning Commission members tonight.

**Applicant Presentation** Mark Dane, Blue Sky Planning, Inc., gave overview of what the applicant is planning to do in the first phase.

**Staff Report** Pearson gave an overview and explanation of the staff report and noted the revisions of the staff report. Pearson stated the applicant is requesting a two-stage development and explained. Pearson went over the applicable criteria, conditions of approval, and staff summary of findings of fact as stated in the staff report. Pearson explained the open space requirement. Pearson then explained Exhibit D: Modified Preliminary and Final Approval for a Two Phase Development and the staff conclusions listed within. Pearson emphasized that the request to develop application #2007-19 in two stages and the applicable criteria are the only subjects of this Planning Commission decision. She added that this is the only criteria to be considered tonight and is the only subject of appeal. Pearson introduced the findings of fact for Exhibit D, read, and explained the conditions of approval.

**Public Comment - Pro** Ron Larson, HLB Otak surveyor and engineer representing the applicant, presented a map of the approved plat and the proposed phases. Larson explained the water line location, which will provide connectivity for water flow in the development.

**Public Comment - Con** Richard Huston, 26165 David Avenue, asked what he could appeal. Huston then told of a notice of noncompliance from the Army Corps of Engineers. Pearson stated this issue is not part of the criteria being considered at tonight's hearing. Sexton reiterated that nothing else concerning the Nedonna Wave development is being considered at this hearing. Huston asked what else he could appeal. Pearson stated that only the question of whether the Nedonna Wave will be developed in phases is being considered at this

hearing. Sexton stated she would be reading the appeal information at the conclusion of the hearing.

**Rebuttal –  
Pro**

None.

**Final Staff  
Comments**

Pearson stated her recommendation of approval of two-staged development as described with conditions as listed in the staff report and read those conditions as stated from the staff report.

**Close Public  
Testimony**

Sexton closed the public testimony.

**PC Discussion  
& Consideration**

None

**PC Decision**

Luce made a motion, seconded by Owens, to approve #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 with conditions as stated in the staff report; Sexton called for the question. Owens - yes, Luce – yes, Sheckler – yes, Sexton - yes; motion carried.

Sexton read the appeal information into the record.

**ELECTION OF  
OFFICERS**

Luce nominated Sexton as President of the Planning Commission. Breazile seconded the nomination. Owens, Luce, Sheckler, Breazile, and Sexton voted in favor. Sexton was elected as President of the Planning Commission.

Sheckler nominated Porter as Vice President of the Planning Commission. Sexton seconded the nomination. Owens, Luce, Sheckler, Breazile, and Sexton voted in favor. Porter was elected as Vice President of the Planning Commission.

**ADJOURN**

Sexton adjourned the meeting at 6:34 P.M.

**AMENDMENT WORKSHOP (The City Planner's staff report is attached for reference.)**

Sexton opened the amendment workshop at 6:34 P.M.

Pearson introduced the process to recommend and amend zoning ordinances. Pearson then explained that the amendments are written in legislative format and that the new text is in bold font and the deleted text is in italic font within brackets.

**Section 1.030 Definitions:**

Pearson explained the information concerning native plants and recommended keeping information on native plants available at City Hall for the public to access.

Pearson next went over the sections concerning garages and open space.

Ron Larson, engineer with HLB Otak, expressed concern about the size recommendation for private garages being too small and recommended an 11 foot by 20-foot size instead. Dave Farr, Farr West Realty, stated that the cost of a house would be driven up if garages were required for all new homes. Larson stated that the size should be the same as that of a required parking space. Discussion followed of reasons for various sizes of garages. (Turned on tape here.) Pearson stated having written reasons to go with the recommended changes would be a good idea. Jensen noted that native plants are more likely to grow here when planted here. Luce suggested using the word “local” along with native. Owens expressed concern about the definition of “plant” and suggested using the word “vegetation” instead.

#### Section 2, C-1 Commercial Zone Standards:

Pearson went over the suggested amendments to RBZO 3.050.(3) Standards. Larson asked for clarification on how the first story would be measured and suggested using “second floor” instead of “first story.” Pearson explained the reasoning for the amendment was to plan for commercial use on the first floor. Larson suggested alternate wording such as stating a minimum ceiling height on the first floor. Larson explained how building codes might impact amendment (g) of this section.

#### Section 3, Flood Hazard Overlay Zone

Breazile expressed his concerns. Pearson stated there is still time to go over the proposed changes. Farr asked for clarification and also expressed concerns. Pearson asked them to please give comments to the City for consideration. Larson explained recent changes to state building codes, which affect building in a velocity zone. Larson asked how the proposed changes would affect building height requirements in velocity zones.

#### Section 4, Multifamily Siting Criteria

Pearson read the proposed wording of (6) and (7). Larson asked for a definition for impervious and asked if crushed rock would be allowed. Pearson stated she would bring back a definition. Farr asked for clarification for (6). Luce asked if there would be consequences if someone exceeded the time limit. Larson offered other wording and explained how building codes affect this and offered suggestions for site work time frames. Larson stated that the time of the year could affect site plan completion because of landscaping concerns. Pearson suggested adding wording, which would state that extensions could be applied for. Larson suggested using the same wording as the building code uses.

Sexton stated appreciation for those in attendance providing suggestions.

#### Section 5, Off-Street Parking and Off-Street Loading Requirements

Concerning (13), Pearson commented on the parking exempt zone. Larson offered wording to help clarify the area. Jensen suggested listing the streets that are parking-exempt.

Pearson read proposed amendment (16). Larson made a suggestion to define the word “site” or change to a different word.

Pearson read proposed amendment (17). Discussion followed on the reason for this addition. Larson stated that corner lots should be specified. Pearson stated she would discuss this with the Public Works Supervisor, Shawn Vincent.

Pearson read and explained proposed amendment (18). Larson recommended putting a drawing into the ordinance here for clarification.

Pearson read the proposed changes to (19)(a). Farr expressed concern about enforcement. Pearson referred back to (5) and explained. Breazile stated that he did not feel it is right to impose this on the public and explained. Owens expressed concern about enforcement. Sexton stated that the issue came up because of the requirement for manufactured homes to have garages or carports. Discussion followed on how the requirement came about. Sexton suggested not requiring anything of manufactured homes that is not required of stick-built homes. Sexton stated consistency is important. Breazile again stated he would not like to impose this on the public. Owens and Luce concurred. Sheckler commented on the cost of vehicles and the need to keep cars in garages, and stated that it cannot be legislated and should be left up to the individual. Luce expressed concern that this would not be enforceable. By consensus, the Planning Commission decided to remove the requirement for garages on all homes including manufactured homes.

#### Section 6, Street and Drainage Standards

Pearson read proposed amendment (5) concerning storm water drainage. Larson recommended changes to the wording of this amendment. Larson asked when a storm drainage plan would be required. Pearson explained. Larson gave an example of a difficult situation. Pearson explained the reasoning for this proposed requirement. Kristine Hayes, SAI Design & Build, suggested including when a plan needs to be submitted into the amendment. Larson stated the need for clarification concerning the reference to building a street and suggested stating a minimum requirement. Pearson recommended some other wording to consider. Luce asked for clarification on if this would be required when significant changes occur to a building.

#### Section 7, Design review board

Pearson gave an overview. Discussion followed of this proposed amendment. Pearson explained the reasons for proposing (2), (3), and (4) and commented on the reference to the City Building Official. Discussion of having a citizen member followed. Jensen asked for clarification of the result of administrative decisions. Larson asked why this amendment was being proposed. Pearson explained. Larson asked when someone would need to apply to the design review board and stated the need for specific guidelines. Sexton stated the need for specific guidelines for the design review board to meet and make decisions. Discussion of this followed. Hayes commented on the design standards listed in RBZO Section 4.085, Design Standards. Larson stated that the City Planner should be listed in (4) in addition to the City Manager. Luce stated the need to address temporary signs also. Larson recommended Pearson look at Manzanita's design review process and their standards. Other changes to the wording were also suggested. Jensen asked if someone having a tarp up would fall under this jurisdiction. Larson explained. Discussion followed.

Design standards were presented by Pearson who stated that they are arbitrary standards. Larson will send Manzanita's design standards to Pearson for consideration. Discussion followed of when someone would go before the Design Review Board. Larson explained. Owens gave a history of the efforts to have design review standards in Rockaway Beach. Discussion followed of making the process go smoothly. Breazile stated that people would need to know what is preferred before they begin the building process. Larson commented on standards for commercial structures.

Pearson stated Sections 8 and 9 had been discussed previously.

#### Section 10, Land Use Zone Amendments

Pearson explained the proposed amendments. Setback changes were discussed. Clear vision areas were addressed with the need to maintain 15 foot setbacks on corner lots. The need to allow for exceptions was also discussed. Pearson will provide a drawing at the next meeting. Utility easement widths were considered. Public works supervisor, Shawn Vincent will be consulted concerning this.

Section 12, Nonconforming Uses

Pearson explained that the change is from one to two years to address insurance or litigation situations.

Section 11, General Provision Regarding Accessory Uses

Owens asked about proposed amendment (3), stating that he was not in favor of imposing the extra costs onto the public. Pearson stated this would only apply to new structures. Owens explained the cost involved in building a stick-built building instead of a pole building. Pearson stated that this would be a design standard. Discussion of why this was being suggested followed. Discussion of changing the word "style" followed.

Pearson will make the suggested changes and present them to the Planning Commission at their next meeting.

The timeline and process to seek approval of the proposed changes was discussed.

**PLANNING  
COMMISSION  
SUBCOMMITTIES**

Sexton will stay on the Design Review Board.

**PLANNING  
COMMISSION  
CONCERNS**

Owens asked about enforcement of riparian zone rules. Pearson stated that the person in question is in violation. Pearson explained the abatement process. Jensen stated the two properties at issue would be looked into.

**STAFF  
CONCERNS**

None noted.

**ADJOURN**

Sexton made a motion, seconded by Breazile, to adjourn this meeting of the Rockaway Beach Planning Commission; Breazile, Owens, Luce, Sexton, and Sheckler voted in favor; motion carried.

Sheckler adjourned the meeting at 8:37 P.M.

**MINUTES APPROVED THIS 26<sup>TH</sup>  
DAY OF AUGUST, 2008.**

  
Dixie Sexton, Chair

  
Cliff Jensen, City Manager

9/30/08



**August 13, 2008**

**Planning Commission Meeting**

CITY OF ROCKAWAY BEACH  
REGULAR CITY COUNCIL MEETING

AUGUST 13, 2008

**CALL TO ORDER** Mayor Phipps called the meeting to order at 6:03 p.m. There were eleven (11) guests present.

**ROLL CALL** Present: Lisa Phipps, Louann Swanson, Ray McFarlane, Dave May, Ruth Daugherty, and Terry Watts. Also present: City Attorney Joel Sacks, City Planner Sabrina Pearson, Public Works Supervisor Shawn Vincent and City Manager Cliff Jensen.

**CITIZEN INPUT** None.

**CONSENT OF AGENDA** City Council approved the agenda as written.

**APPROVE MINUTES** Daugherty made a motion, seconded by May, to approve the minutes of the July 23, 2008, regular City Council meeting as written; Daugherty, May, McFarlane, Swanson and Watts voted in favor; motion carried.

**PUBLIC HEARING** Before the Council is a request from Nedonna Dev. LLC representative member Anna Song, for Nedonna Wave for final approval of a Planned Unit Development (PUD) and to add the letters "PUD" to the Zoning Map. The PUD Zoning Map designation will identify that the site development is limited to that consistent with the decisions for Application #07-19, #07-20, #07-21, and #07-22 Nedonna Wave Planned Unit Development Final Orders and Exhibits A, B, C, and D. Mayor Phipps opened the hearing for the request.

**Challenge to CC Jurisdiction** None.

**Conflict of Interest/ Personal Bias** None.

**Ex Parte/Site Visit** No ex parte contact and site visits were done.

**Staff Report** City Planner Sabrina Pearson presented the staff report and briefly covered the information for the Council. She noted the applicable criteria were included, the applicant has complied with criteria and the criteria were read into the record at the Planning Commission hearing. She described the location of the development and the legal description of the property for the record. She noted the acreage of uplands and wetlands, which have been delineated. Pearson discussed infrastructure improvements to be included in Phase 1. Mayor Phipps asked if Phase 1 included 8-lots and all the improvements and if the second phase is not completed there would be just the 1 phase with 8 lots. Pearson stated yes, that could happen and that



is why Phase 1 is a stand alone phase. Mayor Phipps stated the only question before the Council tonight is to apply the PUD.

**Applicant  
Presentation**

Ron Larson, engineer for Anna Song, explained the difference for this land use action as being that the Council must approve the zone change to have PUD on the plat map, which the Planning Commission has already done. He stated the Planning Commission approved the project and then the phasing earlier, but because of the City ordinance it must come before the Council for the legislative decision to have PUD designated on the map. Larson stated the density doesn't change, lot sizes don't change, and there is lots of open space devoted to preserve the wetlands. He noted the justification in the findings of fact for Council's information.

Mayor Phipps read the correspondence in opposition of this project submitted by Richard & Evelyn Huston into the record. She offered a copy to Larson.

**Public Comment  
Pro – Con**

No one spoke in opposition or in support.

**Applicant Rebuttal**

Larson addressed Huston's concerns expressed in the letter pointing out that this was already approved by the Planning Commission. He noted the Army Corps issues are being addressed and are in the process. He stated he is not aware of a letter from ODOT from the date indicated in Huston's letter. Larson stated he knows the issues involved, but this was not a condition of approval from the Planning Commission. He pointed out that there will be two exits for Phase 1 and all public rights-of-way will be developed. He noted that Charles Gilbert's, ODOT, reference has to do with Beach Street development, but it came in after tentative plat approval.

**Final Staff  
Comments**

Pearson stated that the Corps permit exists and staff knows there is active work being done. She stated it is a condition of approval. She noted that the February 28, letter from ODOT is after the approval date. She added that there are no requirements from ODOT for development of the intersection. She stated in letter the of March 2008, it is a condition that the developer pays for all improvements.

**Close Public  
Testimony**

Mayor Phipps closed the hearing. She noted the letter from Huston is not applicable to the overlay designation. Watts made a motion, seconded by May, to approve the application of the PUD to the zoning map for this site; roll call vote; Watts - yes, May - yes, Daugherty - yes, McFarlane - yes and Swanson - yes; motion carried.

**Close Hearing**

Mayor Phipps closed the hearing.

**STANFIELD VAR.  
REQUEST**

Mayor Phipps noted there had been a change in the agenda and John Stanfield would not be making a request tonight for a variance to the City of Rockaway Beach's road improvement standards for a section of S.

Falcon Street to construct a private residence.

**IGA BETWEEN  
THE CITY &  
N-K-N SCH. DIST.**

Jay Kosik, Superintendent of Neah-Kah-Nie School District #56, was present to discuss the possibility of the City and the School District entering into an intergovernmental agreement (IGA) to collect the recently approved excise tax for residential and commercial improvements. He explained that the tax can only be used for capital improvements, which include acquisition of land, construction, reconstruction or improvement of school facilities, acquisition or installation of equipment, furnishings or other tangible property, payment for architectural, engineering, legal or similar costs related to capital improvements or any other expenditure for assets that have a useful life of more than one year, payment of obligations and related costs of issuance that are issued to finance or refinance capital improvements and payment of obligations issued to finance or refinance capital improvements as defined above. He stated the tax would be implemented in regard to new construction at a rate of \$1.00 per square foot and can also be collected on nonresidential construction. He stated he was present to ask the Council to enter into this IGA between the City and School District. Mayor Phipps explained that the tax will be \$1.00 per square foot for residential construction and \$.50 per square foot for commercial construction and the School District is asking the City to collect the tax. Kosik agreed with her explanation further explaining that the City will collect the tax on a separate check and forward the check to School District then the School District will give back 1% for administrative costs. He noted that at this time they don't know how much the excise tax will garner annually. Kosik stated that the City of Manzanita, Garibaldi and Bay City have all agreed to the IGA, Nehalem and Wheeler haven't made a final decision and Rockaway Beach would be the 4<sup>th</sup> city to agree to an IGA. May asked if District 56 will enter into an agreement with those outside City limits. Kosik stated they would through an IGA with Tillamook County. Daugherty asked what the costs incurred would be. Jensen explained that 1% of what is collected would be returned to the City for administrative costs so it wouldn't cover costs. He stated that it should be simple to collect; however, because the City already has the square footage of a structure being built. He stated staff will need to be trained to collect the checks and get them to the School District, but it won't be that much more expense to the City. He stated he believes it will be a step saver for the client and it will help the County. He added that he would recommend approval. Watts stated that the Council is in agreement with this tax, but the School District asks the City for something and now he is going to ask for something of the School District. Watts pointed out to Kosik some previous requests for support from the School District and that the City always has supported them, but was disappointed in them when Relay for Life wanted to use the bathrooms were told no. He noted that there seems there should be more public use available. Mayor Phipps stated that there had been portable toilets available, so the School's bathrooms weren't an issue. Swanson thought the tax seemed high. Kosik stated he feels it's too high, not a good fix, and that the 1% won't be

enough to cover administrative costs, but it was the legislature's decision. He noted that they had been thrown a crumb, but no fix. Kosik addressed Watts' concern by telling him the School had allowed Relay for Life to use the track and field, but the bathrooms are a facility use and would need to be cleaned and opened up and manned while open. He stated Mark Sybouts had dealt with the matter while he was gone and Sybouts did what he thought was the right thing to do. Watts stated he would like to partner with the School District and ask that the City and District start working together to have gym open during the rainy season that is coming. May stated he didn't think the City should hold the checks for a month and the School District should set up a bank account for the City to deposit the checks into. Jensen stated he believes it will be easiest to take the checks to them once a week. Watts made a motion, seconded by May, to approve the intergovernmental agreement between the City of Rockaway Beach and the Neah-Kah-Nie School District to collect and remit construction excise tax; Watts, May, Daugherty, McFarlane and Swanson voted in favor; motion carried.

#### **REVIEW OF CITY CHARTER**

City Attorney Joel Sacks explained that he had tried to address the Council's previous comments for changes in the City Charter as being the mayor's position having a 2 year term, but he had been told Council had decided on a 4 year term. Mayor Phipps read that portion from the minutes of the July 23, 2008, meeting. Council decided to revote on the length of the mayor's term. Councilors Daugherty, McFarlane, Swanson and Watts wanted a 2 year term, May was approving of a 4 year term. Sacks pointed out that he had made all other changes the Council had requested. Mayor Phipps pointed out a numbering problem with the sections. McFarlane suggested Section 39, regarding the City Recorder position be removed. Council agreed with his recommendation. Daugherty asked if when people receive their ballots will the changes be in bold print and do they get the entire document or just the portion where the changes occur. Sacks stated he had already submitted the ballot title to the Headlight Herald and it will read "to approve the City Charter" and will also be posted publicly until the election. Watts made a motion, seconded by May, to present the City Charter to the voters as moved and approved by the Council; roll call vote, Watts – yes, May – yes, Daugherty – yes, McFarlane – yes and Swanson – yes; motion carried. City Manager Cliff Jensen stated the proposed Charter will be posted on the internet and put in Headlight Herald a few times prior to the election. Mayor Phipps suggested it be placed in the City newsletter.

#### **PRESENTATION BY R. HUSTON**

Mayor Phipps noted to the Council that Richard Huston, who had requested to be on this agenda, had asked to be placed on a future agenda instead of tonight.

#### **LOC REQ. FOR CC PRIORITIES**

Council received in their packets a request from the League of Oregon cities for the Council to select priorities for the 2009 Legislative Session. Mayor Phipps noted that the Council was to select 4 choices from the list

provided by LOC. Watts stated he was in strong support of item G on page 2 that allows increased flexibility in the use of transient room tax (TRT) that would allow the City to use TRT in ways other than what have been designated. McFarlane felt the need to protect telecommunications and TRT. Daugherty was supportive of items F, G and H, which are related to finance and taxation. May stated he was in support of anything for transportation and road systems. Mayor Phipps noted the revamping of the ethics policy, item I, under General Government. Swanson noted that everything is geared for big cities and is disheartening, but the ethics policy needs to be addressed. McFarlane listed his choices as items F, changes to the property tax system, G, changes to allow flexibility in TRT use, Q, alternative revenue system for telecommunications and I, an ethics policy that protects the interest of the public. Daugherty listed her choices as items F, G and H, statutory authority to allow cities to create service districts within city boundaries. May listed his choices as items F, G, H and S, support of a city transportation package for preservation funding shortfall. Jensen pointed out item U, which is the establishment of a Water Supply, Conservation and Reuse Construction Fund. Discussion continued. The Council's final 4 choices were items F, G, U and S.

**UGB RESIDENTS  
AS PC MEMBERS**

Up for discussion was allowing Urban Growth Boundary (UGB) residents to be on the Planning Commission. McFarlane stated he is not in favor of changing the ordinance to allow UGB residents to be members of the Planning Commission. May stated he wasn't in favor of it either. Daugherty, who had been supportive of the idea, stated she was not going to fight this battle and had changed her mind. Swanson noted the City lets the police live outside the city limits and Council always has troubles filling positions on committees. She added that the Council may be over looking good people. Mayor Phipps commented that the police don't make legal decisions. Watts agreed with Swanson that there are people that want to participate and he thinks they should be part of the process. Daugherty asked City Attorney Joel Sacks if it could be done legally. Sacks stated that legally the Council could get good people from Lincoln County to come here to be on committees. He suggested another way to address this is to have one representative from the UGB. McFarlane stated a UGB resident can have a piece of the process by coming to the meetings and discussing the issues. Watts agreed this wouldn't be a problem if the Council could readily fill committee seats. He stated he thinks the Council is afraid of losing control, but he doesn't think they will lose control. Discussion continued regarding the UGB and annexation of the UGB. Watts stated he would like further discussion of this matter on a future agenda. Watts, Swanson, and Daugherty agreed to further discussion May and McFarlane opposed.

**HUNGER  
RELIEF**

Council received in their packets a copy of a letter to the Mayor from Patti Whitney-Wise, Executive Director for Oregon Hunger Relief Task Force (OHRTF) along with a flyer from OHRTF.

## STAFF REPORTS

Jensen stated that at the last Council meeting he had asked what was known about the internet service regarding if there were any verbal agreements to pay for the service. He stated he had received no additional information, but has had a conversation with Jack Crider, the former General Director for the Port of Tillamook Bay Railroad, and he will pursue that a little bit. He stated he believes that at some point the City will have to pay them some money, but nothing retroactively. Jensen reported that the meeting is being recorded tonight and there is new equipment that was installed by Jeffery Stevens, L-CAN TV. He noted that if the new system works this will be the best buy for the City. He reported that Channel 4 has been empty lately because the equipment in Lincoln City went dead. He added that Stevens had brought the programming schedule and copies are available and it will be posted on the City's website. Jensen stated that Jack Root who has been the City's Emergency Manager wants to step back from the position and will be transitioning over a one year time period. He noted that he will put word out that the City is looking for someone to fill that position. Jensen stated that Rockaway Beach has lots of lakes that seem to be dying and he is pursuing improvements to lakes to try to restore them to better condition. Watts mentioned the program through Tillamook Estuary Partnership to help with docks on Crescent Lake. Mayor Phipps noted that this is something Council has been working toward for a number of years. Swanson mentioned that there are no docks on Lake Lytle at this point in time as they are all damaged. Jensen explained that he believes the State is moving docks from Nehalem to Lake Lytle. Daugherty asked about Seaview Lake and improvements that a citizen wanted to make to the lake. Jensen stated he had talked with the citizen, Jack Brownlee, about the improvements he would like to make and also to Art Lafrance, 488 S. Anchor Street, who is concerned about the condition of Clear Lake. He asked who on the Council will be going to LOC Conference. Daugherty and McFarlane will go to the conference. Watts noted the problem with the conference being before the election. Jensen stated he wanted to alert Council that the Jetty Creek Water Treatment Plant needs upgrades, the estimated cost being 1.9 million. He noted that the Council will need to be looking at a rate increase soon to cover costs. Jensen reported that the Beach Street improvements, which started before he was hired, had included an Intergovernmental Agreement (IGA) between the City and ODOT. He explained that ODOT wrote the IGA and were adamant about the City complying with it, but ODOT thought that all of Nedonna Beach was in the City and once they realized it is not all annexed into the City, they let it go and will only come back to the City for improvements if that entire area is annexed. Jensen stated that the ordinance codification had not been done well. He stated after a discussion with staff, he is finding it will need to be reworked if it can be salvaged at all. He found a letter from the Tillamook County Parks Dept. asking for letter of support to upgrade trailer sites at Barview Park. He stated he called the Parks Dept. and they want the City's support so they can apply for grants. He stated it means a lot to them and the visitors at Barview Park support Rockaway Beach

economically. He added that he didn't want to write the letter without the Council's support. Council agreed to have Jensen write the letter. Jensen announced that this Friday there will be an LOC small cities meeting in the Civic Facility. McFarlane noted that there will be two meetings this Friday. Jensen noted that Chief Wortman could not be here, but wanted him to read a letter/report into the record.

Public Works Supervisor Shawn Vincent made mention of a new submittal for a subdivision coming up called Spring Creek. He described the subdivision as east of the City park and to be built in phases. He noted that it will go through the east end of the City park. He stated that if this continues, they will be putting through streets in the park that weren't vacated. He reported that the McMillan Creek reservoir is done and the only thing lacking is the fence surrounding the reservoir. Vincent stated he would be meeting with Tillamook PUD to get a final decision on power to the Lions Club for a generator. He reported the crews are on PVE working on the road improvements and will be done this week with the paver lined up for this week. He stated that this was probably the last year for the playground equipment in the City park that was installed in the mid 1980s. He noted it is of wood design and is failing. He stated that he will spend the rest of the year looking for volunteers to help with the equipment and if there are any ideas before next budget year, please let him know. McFarlane stated he will bring information from the LOC conference to Vincent. Vincent noted that the playground has the most expensive and liable equipment that the City will own. Mayor Phipps suggested looking into the Ford Family Foundation, which likes to fund these types of projects. Vincent reminded members that he wants their comments on the water conservation plan by the end of the month.

**CC CONCERNS**

Swanson stated the barbeque done by the Police Dept. was wonderful, but there was a lack of chairs for seating. She expressed her concern regarding damage being done to the wall behind the Council table. She noted the new Headlight Herald reporter in attendance and asked that Rockaway Beach be mentioned in the paper more often.

**MAYOR'S  
REPORT**

None.

**EXECUTIVE  
SESSION**

Mayor Phipps adjourned to executive session at 7:50 p.m.

**REGULAR  
SESSION**

Mayor Phipps adjourned to regular session at 8:14 p.m. Council directed staff to continue negotiations on the purchase of the parking lot and to continue looking at different options for financing.

**ADJOURN**

Mayor Phipps adjourned the meeting at: 8:15 p.m.

MINUTES APPROVED THIS 27TH  
DAY OF AUGUST, 2008.

  
\_\_\_\_\_  
Lisa Phipps, Mayor  
\_\_\_\_\_  
Cliff Jensen, City Manager



# Final Order (1)



**"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  
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 #07-20 for a decision of "approval with

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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



## **Final Order (2)**

**"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:**

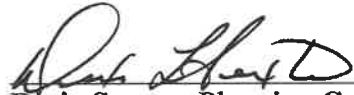
The complete case record including the findings of fact is available for review at City Hall by filing a request during regular business hours.

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**"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



## **Final Order (3)**

**"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.

  
\_\_\_\_\_  
Lisa M. Phipps, Mayor

9.19.08  
\_\_\_\_\_  
Date



# Exhibit A

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

### **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 Unit 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.

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

**III. Applicable Criteria:**

**(ORS) Oregon Revised Statutes**

ORS 227.350            Notice of Wetland Development; exception; approval by City  
ORS 227.522            Local government to approve subdivision...or construction; conditions

City of Rockaway Beach Technical Specification and Design Standards, April 2001  
Rockaway Beach Fire Code April 2005: International Fire Code with Oregon 2005 Amendments

**(RBCP)            City of Rockaway Beach Comprehensive Plan**

(pg. 14-18)    Nedonna Beach Exception Justification  
(pg. 29)       Land Use Element, I. Beaches and Dunes, Policies 1-15  
(pg. 34)       Coastal Shorelands Policies 1, 2, 5, 6, 7  
(pg. 19b)      Coastal Shorelands Map Number 2, Beaches and Dunes  
(pg. 36)       Natural Features  
(pg. 21a)      Natural Features, Map Number 4, Potential Hazard Area  
(p. 42)        Land Use Categories (G) Special Area Wetlands Zone (SA), Policy (2) (A), (D)  
(p. 44)        Land Use Categories (L) Open Space, Scenic...Areas and Natural Resources (2)

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

Section 3.010       R-1 Zone Single Family Residential  
Section 3.080       SA Zone Special Area Wetlands  
Section 3.092 – 3.097 Flood Hazard Overlay Zone  
Section 3.100 – 3.112 Hazards Overlay Zone  
Section 3.130 – 3.132 Wetland Notification Overlay Zone  
Section 4.010       Access  
Section 4.020       Clear Vision Areas  
Article 10           Planned Unit Development  
Article 11           Administrative Provisions  
Article 13           Subdivision Ordinance

**Acronyms that may be used within this report:**

"COE" US Army Corps of Engineers; "DSL" Oregon Department of State Lands; "DEQ" Oregon Department of Environmental Quality; "ODFW" Oregon Department of Fish and Wildlife; "RBZO" Rockaway Beach Zoning Ordinance; "RBCP" Rockaway Beach Comprehensive Plan; "BFE" Base Flood Elevation; "SA Zone" Special Area Wetlands Zone; "R-1 Zone" Single Family Residential Zone; "PUD" Planned Unit Development; "HO Zone" Hazards Overlay Zone; "FHO Zone" Flood Hazard Overlay Zone

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

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

The Nedonna Wave Planned Unit Development Subdivision requests the approval of 28 lots within the R-1 Zone. The application has been designed to meet the applicable criteria. No residential structures are proposed with this land division and no applications for residential structures will be accepted by the City until the final plat is approved as consistent with this tentative plan application. After final plat recording, each building permit will be evaluated for consistency with criteria applicable to a residential structure. Additional conditions other than those specified in this report may be imposed for consistency with applicable criteria.

In providing a decision for the application, the Planning Commission has to answer several key questions:

1. Does the project meet the criteria for a Planned Unit Development Subdivision in the R-1 Zone?
2. Have the signage and open space, subject to design review and approval of the Planning Commission been appropriately designed to meet the needs of the site?
3. Will surrounding property be harmed if two variances to height are granted?
4. Does the application meet the criteria for a variance to the requirement to install sidewalks along both sides of all streets?
  - (1) Are there exceptional or extraordinary circumstances that apply to the property resulting from tract size, shape, topography over which the property owners have no control?
  - (2) Is the variance necessary for the preservation of a property right of the applicant substantially the same as owners of other properties in the same vicinity possess?
  - (3) Would the variance be detrimental to the purposes of this ordinance, property in the same vicinity, or otherwise conflict with the objectives of any city plan or policy?; and
  - (4) Is the variance the minimum necessary to alleviate any hardship?

#### **R-1 Zone Single Family Residential and Planned Unit Development**

The density of Nedonna Wave is calculated by the amount of property within the R-1 Zone. Lot width, depth, and frontage requirements are reduced where permitted within a Planned Unit Development. The purpose of permitting these reductions is to consolidate and permanently preserve contiguous tracts of Open Space.

#### **SA Zone Special Area Wetlands**

The SA Zone wetlands present on the site have been consolidated for permanent preservation after receiving required authorizations from Oregon DSL, US Army Corps of Engineers, Oregon DEQ, and applicable regulatory agencies. The amount of wetlands has been increased by approximately half an acre.

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

A visual barrier is to be installed along the upland boundaries of the Open Space tracts to identify their location and deter adverse impacts of improper use. Wetland identification signage is to be installed at a conspicuous location identifying the zone and function of the wetland open space tracts.

#### Riparian Vegetation

A 15 foot setback will be maintained from the boundary of all creeks within the development.

#### Flood Hazard Overlay Zone

The area within the project is affected by the A-5 Flood Hazard Overlay Zone with a Base Flood Elevation of 12 feet mean sea level and is defined by a topographical survey.

All improvements, all site development, and all proposed structures shall be certified by an appropriately qualified professional as consistent with the standards of the Flood Hazard Overlay Zone to prevent adverse impacts to the site and surrounding area.

#### Hazard Overlay Zone

A geologic site investigation report is submitted to describe hazards within the project area. A feasible engineering solution shall be provided to eliminate each hazard to the site and surrounding area. All site development plans shall be certified as consistent with the standards of the Hazard Overlay Zone.

#### Planned Unit Development

The project requests a Planned Unit Development to cluster development outside of sensitive natural areas and natural hazards.

The Planned Unit Development is a provision included in the City Zoning Ordinance to promote efficient land use of the buildable lands inventory in areas impacted by natural resources.

Nedonna Wave will dedicate a minimum of 50% of the total site to open space. Of said open space, 75% is common open space designed to provide contiguous tracts of wetland and wildlife habitat and 25% is utilized by private property owners in yards. In the common open space tracts, 37.5% of the site, in order to identify the boundaries of the open space and prevent unintentional degradation of this sensitive area currently used by others for dog walking, a visual barrier, such as a split rail fence, will be installed along the upland boundaries of the open space with wetland identification signage in a conspicuous location identifying the important natural features.

#### Planned Unit Development Variance to Building Height #VAR 2007-20 and #VAR 2007-21

Within a Planned Unit Development, criteria for a variance are specified by Ordinance #143, Section 10.040 (7). The Planning Commission may permit a variance to building height where it

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

is determined that surrounding property will not be harmed. The variance criteria of Article 6 do not apply to a variance requested to building height within a Planned Unit Development.

#### Subdivision

The project proposes the subdivision of a Planned Unit Development. The standards of the City Subdivision Ordinance and Oregon Revised Statutes Chapter 92 shall apply to approval of the final plat.

#### City of Rockaway Beach Technical Specifications and Design Standards

The City of Rockaway Beach Technical Specifications and Design Standards specify the requirements for installation of on-site and off-site improvements for streets, stormwater drainage, and water and sewer facilities as necessary to serve the project.

Necessary streets, utilities, and easements to serve the development shall be dedicated to the public, engineered and constructed at the expense of the developer.

#### Improvements

Improvements are specified for the entire project. The phased installation of improvements may be permitted when an improvement agreement is approved by the City Council.

Necessary improvements shall be installed prior to approval of the final plat unless an improvement agreement is approved by the City Council.

#### Subdivision Variance Application #VAR-2007-22

A variance to delete sidewalks from this development is requested by the applicant. Criteria for a variance are specified by Ordinance #143, Article 13, Section 48.

#### Building Permits

Each application for building permit shall be evaluated for consistency with standards applicable at the date of application for building permit. Standards of applicable criteria shall be met at the expense of the applicant.

#### Oregon Fire Code

The approval of an application for Planned Unit Development Subdivision does not relieve the requirement that each lot be evaluated at the date of application for building permit for consistency with the standards of the Oregon Fire Code

#### Conditions

Staff recommends that the impositions of reasonable conditions are necessary to ensure project consistency with the standards of applicable criteria.

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

**V. PLANNING COMMISSION DECISIONS:**

**Application #VAR 2007-20: Approval with Conditions 5-0**

#VAR 2007-20: Concurrent variance application requests a building height of 29 feet for all lots of "Nedonna Wave" excepting lots 25-28.

**Description of Decision:**

After holding a public hearing on the application on January 29, 2008, the Planning Commission determined that the criteria for a height variance in a Planned Unit Development specified by Ordinance #143, Section 10.040 (7) Height Guidelines are met by the determination that surrounding property will not be harmed.

**APPLICATION #VAR 2007-21: Approval with Conditions 5-0**

#VAR 2007-21: Concurrent variance application requests a building height of 36 feet for lots 25 – 28.

**Description of Decision:**

After holding a public hearing on the application on January 29, 2008, the Planning Commission determined that the criteria for a height variance in a Planned Unit Development specified by Ordinance #143, Section 10.040 (7) Height Guidelines are met by the determination that surrounding property will not be harmed.

**APPLICATION #VAR 2007-22: Approval with Conditions 5-0**

#VAR 2007-22: Concurrent variance application requests a variance to delete the requirement of RBZO Article 13 Subdivision, Section 44 Improvements, (3) Sidewalks from the project. Sidewalks are required unless a variance is approved by the Planning Commission.

**Description of Decision:**

After holding a public hearing on the application on January 29, 2008, the Planning Commission determined that the criteria for a variance governed by RBZO Article 13, Section 48 Variance Criteria are met as the streets of Nedonna Wave are not at this time intended to be heavily traveled.

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

The local government shall approve an application necessary for the subdivision or construction on any land that is consistent with the comprehensive plan and applicable land use regulations or shall impose reasonable conditions on the application to make the proposed activity consistent with the plan and applicable regulations.

The Planning Commission approves application #SPUD 2007-19 with conditions necessary to make the proposed activity consistent with the plan and applicable regulations.



**"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"**

RBZO Section 3.092-3.097: Flood Hazard Overlay Zone: A5 Flood Zone: Base Flood Elevation 12 feet

1. Engineered construction plans shall be designed to ensure that flooding will not be increased in the area by the development and to prevent adverse impacts from site development.
2. All site development shall be consistent with the standards of the Flood Hazard Overlay Zone and the FIRM National Flood Insurance Program.
3. Certification of plan consistency with the standards of the Flood Hazard Overlay Zone shall be submitted prior to site development and upon completion of site development and shall include:
  1. Engineered plans for site development certified in writing by the responsible geotechnical engineer as suitable to avoid adverse flood hazard impacts to the site and surrounding property.
  2. A post-construction elevation certificate for the site, structures, and an updated topographic survey shall be completed as necessary by a professional land surveyor.

RBZO Section 3.100-3.114: Hazards Overlay Zone:

1. Prior to construction, site development plans shall be certified in writing by the appropriately qualified responsible and licensed professional as consistent with the standards of applicable criteria, as being consistent with site investigation reports and as being designed to prevent adverse impacts to the site and surrounding area.
2. Certification reports documenting completion of work without disclaimer of liability shall be submitted to the City.
3. A feasible engineering solution shall be provided that is certified to prevent potential development hazards to the site and surrounding area.
4. All development shall conform substantially to geologic hazard and engineering geologic report recommendations.
  - (1) Geologic Hazard Report: Dune Hazard and Geologic Hazard Report #704-65012-1 dated February 20, 2006 by PSI, Incorporated, Warren Krager, RG, CEG, and Charles Lane, PE.
  - (2) Geotechnical Engineering Report: Geotechnical engineering recommendations dated May 3, 2006 by HLB Otak, Ron Larson, PE, PLS, and Jason Morgan, PE.

Vegetation Removal

1. Vegetation removal shall be limited to the area necessary for construction.
2. All exposed sand areas shall be maintained in vegetation and / or replanted as soon as practical following construction.
3. A 15 foot riparian setback shall be maintained from McMillan Creek consistent with City Standards.

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

Grading and Erosion Control:

1. Grading and erosion control recommendations shall be adhered to as provided by PSI, Incorporated, HLB Otak, and City Technical Specifications and Design Standards.
2. During construction, the disturbed sand on the site shall be protected from movement by wind by covering with a thin layer of crushed rock or by using fabric fencing. Excavated materials shall not be stockpiled on the site overnight.
3. All lots shall be graded to provide positive flow away from the building and off the site into the approved roadside bio-conveyance ditches. All driveways shall drain directly into approved roadside bio-conveyance ditches. All run off shall be treated in an approved bio-conveyance ditch prior to entering of wetlands and natural drainage channels.

Open Space

1. A minimum of 50% of the site shall 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 and 75% of said open space, 37.5% of the site, shall be dedicated / conveyed as common open space in tracts. Suitable assurances shall be provided to ensure that private open space shall be maintained consistent with applicable criteria.
2. Open Space tracts shall be dedicated to a non-profit Homeowners Association or other suitable organization and a provision included in the dedication to re-dedicate the open space to a suitable organization should the Homeowners Association expire.
3. A permanent maintenance agreement shall provide financial assurance that common open space shall be continuously, perpetually and permanently maintained consistent with applicable criteria.
4. Prior to approval of the final plat, the property owner shall install two wetland identification kiosks, signage, and a suitable visual barrier, such as a 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. 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.
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 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.

**"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 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.

**"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"**

**VI. Findings of Fact:**

**(ORS) Oregon Revised Statutes**

**ORS 227.522**      ***Local government to approve subdivision...or construction; conditions***  
*The local government shall approve an application for a permit, authorization or other approval necessary for the subdivision or partition of or construction on any land that is consistent with the comprehensive plan and applicable land use regulations or shall impose reasonable conditions on the application to make the proposed activity consistent with the plan and applicable regulations. A local government may deny an application that is inconsistent with the comprehensive plan and applicable land use regulations that cannot be made consistent through the imposition of reasonable conditions of approval.*

**Finding of Fact:**      Criteria met

1. The application meets the applicable criteria.
2. The statement "Criteria met" in these findings of fact indicates that the application meets the applicable criteria and that reasonable conditions of approval are imposed to ensure that there is full understanding between the applicant and the administrators the development of the site through the final plat shall be consistent with adopted regulatory standards and the recommendations of appropriately qualified professionals.

**ORS 227.350**      ***Notice of Wetland Development; exception; approval by City***

...

**Finding of Fact:**      Criteria met

1. A wetland delineation report and survey is submitted with the development application.
2. The Oregon Department of State Lands (DSL) issued authorization #WD-06-0246 on August 1, 2006 as written concurrence with the wetland delineation valid for five years until August 1, 2011.
3. All activities involving construction or alteration in wetlands are reviewed by the Oregon Department of State Lands and the US Army Corps of engineers to determine permit applicability.
4. The applicant requested authorization to relocate wetlands to larger contiguous holdings suitable for preservation and management.
5. Joint Permit Application #36702 received authorization from DSL #36702-RF, from the Army Corps #2006-00395 and from the City FP#07-05.

***City of Rockaway Beach Technical Specifications and Design Standards, April 2001***

...

**Finding of Fact:**      Criteria met

1. All improvements required to serve the Planned Unit Development subdivision shall be completed consistent with City of Rockaway Beach Technical Specifications and Design Standards.

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

***Rockaway Beach Fire Code April 2007: International Fire Code with Oregon 2007 Amendments***

...

**Finding of Fact:**                      Criteria met

1. All improvements required to meet fire code standards for the Planned Unit Development shall be completed consistent with City Fire Code Standards.
2. Each request for building permit application shall be reviewed by the fire chief to ensure adequate access and water supply consistent with fire code.

**(RBCP)              City of Rockaway Beach Comprehensive Plan**

***(pg. 14-18)      Nedonna Beach Exception***

...

**Finding of Fact:**                      Criteria met

1. The Nedonna Beach Exception is adopted by the City and is acknowledged by the State to permit development of property within Nedonna Beach when development meets the standards of applicable criteria or can meet the criteria through the imposition of reasonable conditions of approval.

***(pg. 29)              Land Use Element                      Beaches and Dunes Policies 1-15***

...

**Finding of Fact:**                      Criteria met

1. Beaches and Dunes Policies 1-15 are implemented through Rockaway Beach Zoning Ordinance #143, as amended. As indicated by the application and these findings of fact, the development shall continue to meet applicable criteria, which include:
  - a. Section 3.092-3.097 Flood Hazard Overlay Zone;
  - b. Section 3.100 – 3.114 Hazard Overlay Zone;

***(pg. 34)              Coastal Shorelands Policies 1, 2, 5, 6, and 7***

...

**Finding of Fact:**                      Criteria met

1. Coastal Shorelands Policies 1, 2, 5, 6, and 7 are implemented through Rockaway Beach Zoning Ordinance #143, as amended. As indicated by the application and these findings of fact, the application shall continue to meet applicable criteria, which include:
  - a. Section 3.092-3.097 Flood Hazard Overlay Zone;
  - b. Section 4.150 Riparian Vegetation;
  - c. Article 10 Planned Unit Development, by clustering development to protect identified wetlands, wildlife habitat and other identified coastal shoreland resources.

***(pg. 35)              Hazards Policies 1, 2, 3***

...



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

**Finding of Fact:** Criteria met

1. Hazards Policies 1, 2, 3 are implemented through Rockaway Beach Zoning Ordinance #143 as amended. As indicated by the application and these findings of fact, the application shall continue to meet applicable criteria, which include:
  - a. Section 3.092-3.097 Flood Hazard Overlay Zone;
  - b. Section 3.100 – 3.114 Hazard Overlay Zone.

**(pg. 36)      *Natural Features Policies 1, 2, 3***

...

**Finding of Fact:** Criteria met

1. Natural Features Policies 1, 2, 3 are implemented through Rockaway Beach Zoning Ordinance #143, as amended. As indicated by the application and these findings of fact, the application shall continue to meet applicable criteria, which include:
  - (a) Section 3.100 – 3.114 Hazard Overlay Zone;
  - (b) Section 4.150 Riparian Vegetation which requires the protection of drainage ways;
  - (c) Section 4.065 Street and Drainage Standards
  - (d) Article 10 Planned Unit Development which encourages cluster development as a method for minimizing development impacts in areas with sensitive natural features.
  - (e) RBZO, Article 13, Section 41 Lands Subject to Inundation

**(pg. 19b)      *Map Number 2      Beaches and Dunes***

...

**Finding of Fact:** Criteria met

1. Rockaway Beach Comprehensive Plan Map Number 2 Beaches and Dunes identifies the area as containing area of Conditionally Stable Dunes.

**(pg. 21a)      *Map Number 4 Potential Hazard Areas***

...

**Finding of Fact:** Criteria met

1. Rockaway Beach Comprehensive Plan Map Number 4 Potential Hazard Area identifies the area as containing area of wetlands and high ground water.

**(pg. 22b)      *Map Number 6 Forest Lands, Scenic and Natural Areas***

...

**Finding of Fact:** Criteria met

1. Rockaway Beach Comprehensive Plan Map Number 6 identifies the area as containing area of wildlife habitat.

**(p. 42)      *Land Use Categories (G) Special Area Wetlands Zone (SA), Policy (2) (a)***

...

**Finding of Fact:** Criteria met

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

1. Land Use Categories (G) Special Area Wetlands Zone Policies 2 (a) and 2 (d) are implemented through Rockaway Beach Zoning Ordinance #143, as amended. As indicated by the application and these findings of fact, the application shall continue to meet applicable criteria, which include:
  - c. Section 4.150 Riparian Vegetation, trees and plants that grow on the shoreline shall be disturbed as little as possible.

***(p. 44) Land Use Categories (L) Open Space, Scenic...Areas and Natural Resources (2)***

...

**Finding of Fact:** Criteria met

1. Land Use Categories (L) Open Space, Scenic and Historic Areas, and Natural Resources Policy 2, indicates that although wetlands within the application area are not protected through Statewide Planning Goal 5, these areas may still require a permit from the US Army Corps of Engineers and DSL.
2. Joint Permit Application #36702 received authorizations from DSL #36702-RF, from the Army Corps #2006-00395 and from the City FP#07-05 to permit a relocation of wetland areas.

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

***Section 3.010*** ***R-1 Zone Single Family Residential***

...

***Section 3.080*** ***SA Zone Special Area Wetlands***

...

**Finding of Fact:** Criteria met

The Planned Unit Development preliminary development plan meets the quantitative criteria of the R-1 Zone with quantitative modifications permitted by Article 10 Planned Unit Development when the overall density is consistent with the parent zone.

1. In a planned unit development, lot areas, depth, width, and frontage are permitted reduced standards from those required for new lots in the R-1 Zone when the overall site density is consistent with parent zone standards.
2. The parent zone is described as the R-1 Zone and the SA Zone.
3. Density is based upon the gross area of the R-1 Zone property.
4. The area of property ownership is 6.23 acres. R-1 Zone area is 3.9 acres, 169,884 square feet, and the SA Zone area is 2.33 acres.
5. The area of property within the SA Zone is defined by wetland delineation and survey concurred with by DSL on August 1, 2006 valid until August 1, 2011.
6. The R-1 Zone has an outright residential single family density of one lot per 5,000 square feet ~8.71 lots per acre a gross density of 33 lots.
7. The SA Zone has an outright residential single family density of 0 lots per acre.

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

8. Site dimension tables illustrate the quantitative data of the proposed planned unit development.

***Section 3.092 – 3.097 Flood Hazard Overlay Zone***

...

**Finding of Fact:** Criteria met

1. The criteria of Section 3.092-3.097 Flood Hazard Overlay Zone have been met and shall continue be met by a condition of development that requires that all infrastructure and development shall be certified by appropriately qualified professionals to meet the criteria of the flood hazard overlay zone.
  - a. A pre-construction elevation certificate identifies the site as within the A5 Flood Zone with a Base Flood Elevation of 12 feet above mean sea level.
  - b. The development application identifies the areas impacted by flood hazards with the submittal of a topographic survey.
  - c. All site development plans shall be designed, engineered, and certified by an appropriately qualified engineer to prevent adverse flood hazard impacts to the site and surrounding area.
  - d. Engineered plans shall include a stormwater drainage management plan.

***Section 3.100 – 3.114 Hazards Overlay Zone***

...

**Finding of Fact:** Criteria met

1. The criteria of Section 3.100 – 3.114 Hazards Overlay Zone has been and shall be met by a condition of development that requires that all infrastructure and site development plans shall be certified by appropriately qualified professionals to meet the criteria of the Hazard Overlay Zone and to prevent adverse impacts to the site and surrounding property.
  - a. The development application identifies geologic hazards by providing a geologic site investigation report #704-65012-1 dated February 20, 2006 by PSI, Incorporated, Warren Krager, RG, CEG, and Charles Lane, PE.
  - b. The development provides mitigation methods for identified geologic hazards by providing geotechnical engineering recommendations report dated May 3, 2006 by HLB Otak, Ron Larson, PE, PLS, and Jason Morgan, PE.
  - c. Feasible engineering solutions to the identified hazards are required to be submitted and reviewed at the cost of the developer prior to site development.
  - d. All plans shall be certified in writing by the responsible qualified licensed professional as being consistent with applicable criteria to prevent adverse impacts to the site and surrounding area and the findings and recommendations of the site investigation reports.
  - e. The City shall charge a plan review fee to work with the City Planner, the City Public Works Director and the City Engineer to ensure site development plans adequately address potential hazards.

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

**Section 4.010            Access**

...

**Finding of Fact:                      Criteria met**

1.        Each lot is proposed to abut upon a street for at least 25 feet.

**Section 4.020            Clear Vision Areas**

...

**Finding of Fact:                      Criteria met**

1.        The design of the preliminary development plan prevents the location of structures within required clear vision areas.

**Section 4.150            Riparian Vegetation**

...

**Finding of Fact:                      Criteria met**

1.        The criteria of Section 4.150 Riparian Vegetation require that a fifteen feet setback be maintained from the mean high water of McMillan Creek.
2.        The mean high waterline of McMillan Creek is surveyed by HLB Otak, Ron Larson, PLS.

**Article 10            Planned Unit Developments**

...

**Finding of Fact:                      Criteria met**

**Section 10.040            Development Standards**

...

**Finding of Fact:                      Criteria met**

**(1)        Minimum Site Size:**

...

**Finding of Fact:                      Criteria met**

1.        The planned unit development is established on a site consistent with the parent zones and modifications permitted to quantitative requirements consistent with Article 10 Planned Unit Development as indicated in the Findings of Fact.
2.        The Oregon Department of Fish and Wildlife requests that a deed restriction be placed into a covenant to the deed of each lot in the subdivision that states:
  - *This property is in an area of known big game and furbearing animal use. Any and all future owners of this property agree to indemnify and hold harmless [the City and] the Oregon Department of Fish and Wildlife for any damage and or inconvenience caused by these animals to persons, real property, and / or personal property. This agreement shall inure in perpetuity to all successors, assignors, and heirs. This agreement cannot be deleted without prior contact and agreement in writing by [the City and] the Oregon Department of Fish and Wildlife.*

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

**(2) Open Spaces:**

...

**Finding of Fact:** Criteria met

1. In this residential development, 50% of the total site area, 3.12 acres, is devoted to open space. Of this area, 25% of said open space may be utilized privately by individual owners or users of the PUD; 75% of said open space shall be common open space.
2. Of the 6.23 acres of total property ownership, 37.5% of the site shall be dedicated / conveyed as common open space in tracts. Suitable assurances shall be provided to ensure that private open space shall be maintained consistent with applicable criteria.

**(3) Density:**

...

**Finding of Fact:** Criteria met

1. The permitted density of the site based on the gross site area, total area including street dedications is met by the application.
2. The R-1 Zone, 3.9 acres, ~169,884 square feet of the site, permits a density of one residential lot per 5,000 square feet. Total site density permitted is 33 lots.
3. The SA Zone, 2.33 acres, ~101,495 square feet of the site, permits a density of zero residential lots.

**(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 preliminary development plan.*

**Finding of Fact:** Criteria met

1. Minimum area, width, depth, and frontage requirements for subdivision lots in the PUD are less than the minimum set forth for subdivision lots in the R-1 Zone where quantitative reductions are permitted.
2. Density is consistent with the parent zone
3. Lots of the final plat shall conform to the preliminary development plan.

**(5) Off-Street Parking:**

...

**Finding of Fact:** Criteria met

1. Off-street parking shall be met at the time of application for building permit.

**(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, and potential violation of property and privacy rights of adjoining property owners, and need for said sign.*

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

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

1. Street signs shall be consistent with City Standards for each street; and
2. The applicant submits a copy of proposed opens space signage for a Wetland Identification kiosk to be located in a conspicuous location.

**(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 to height where it determines that surrounding property will not be harmed.*

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

1. The R-1 Zone permits an outright building height of 24' feet for single family dwelling units at this site.
2. Two height variances are requested:
  - (1) Application #07-20: Height variance request is for 29 feet, lots 1-24
  - (2) Application #07-21: Height variance request for 36 feet, lots 25-28

**(8) *Streets and Roads:***

1. Necessary streets and roads within the PUD will be dedicated to the public and constructed consistent with City Technical Specifications and Design Standards and Rockaway Beach Fire Code.
2. Necessary streets include the dedication and improvement of:
  - (1) Kittiwake Drive: Dedication and extension of an existing 40' wide right-of-way
  - (2) Riley Street: Dedication and extension of an existing 50' wide right-of-way
  - (3) Jackson Street: Dedication of a new 40' wide right-of-way
  - (4) Song Street: Dedication of a new 40' wide right-of-way
  - (5) Duke Street: Dedication of a new 40' wide right-of-way

**(9) *Dedication and Maintenance of Facilities:***

**(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.*

**Staff Findings:**                      **Criteria met by the imposition of conditions of approval**

1. The applicant proposes a delineation of open space within the SA Zone by a suitable visual barrier such as a split rail fence and wetland identification signage that will describe the permitted uses of wetland open space.
2. Additional open space is dedicated within the boundaries of each lot for private use by the owners and residents.

**(b) *Common Area***

...

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

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

1. Of the required open space 75% will be dedicated in Open Space Tracts to a non-profit corporation or other suitable agency for permanent reservation and maintenance.
2. If the non-profit corporation expires, the final plat shall dedicate the common open space to a suitable public agency.
3. A permanent maintenance agreement

**(c) *Easements:***

...

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

1. A public utility easement is provided with the property boundaries of each lot that will be utilized for the location of power, telephone and cable service lines.
2. Prior to final plat approval, easements will be provided where necessary to meet the applicable criteria of City Standards.

**(10) *Approvals:***

...

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

1. The City Engineer, City Public Works Director, and City Planner have reviewed the preliminary development plan for general conformance with City Standards for the provision of water, sewer, stormwater drainage, and street construction in regard to approval of the proposal.
2. The City Fire Chief has reviewed the project for consistency with fire code, access and water supply requirements.
3. Each building permit shall be reviewed for consistency with Fire Code access and water supply requirements applicable at the date of request.
4. The applicant shall work with the power company, the phone company, the cable company, the City and other utilities to install necessary improvements consistent with the standards of applicable criteria.

***Section 10.050 Procedure Preliminary Development Plan***

- (1) *The applicant shall submit four copies of the preliminary development plan to the Planning Commission prior to formal application for rezoning... This plan and any written statements shall contain at least the following information.***

**(a) *Proposed land use and densities***

...

**Staff Findings:** **Criteria met**

**(b) *Location and approximate dimension and height of structures:***

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

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

**TWO APPLICATIONS FOR VARIANCE TO BUILDING HEIGHT ARE REQUESTED:**

- (1) **Application #VAR-2007-20 requests a variance to 29 feet for all lots excepting lots 25-28.**
- (2) **Application #VAR-2007-21 requests a variance to 36 feet for lots 25-28.**

(c) *Plan for the use...of recreation use open ...or common open spaces:*

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

(d) *Maps showing existing features of site and topography:*

...  
**Staff Findings:** Criteria met

1. A wetland delineation report and survey map is submitted as concurred with by DSL showing the location of wetland areas.
2. A topographical survey map is submitted showing the location of areas of A5 Flood Hazard with a Base Flood Elevation 12 feet and the location of steep slopes that exceed 25%.

(e) *Proposed method of utilities service including drainage:*

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

1. Preliminary development plans provide proposals for utilities service and drainage.
2. Utilities service shall be provided by the developer as necessary to serve the proposed development consistent with City Standards.

(f) *Road and circulation plan including off-street parking:*

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

1. The project dedicates, extends and constructs to City standards Riley Street a 50' wide public right-of-way, Kittiwake Drive a 40' wide public right-of-way, Jackson Street a 40' wide public right-of-way, Song Street, a 40' wide public right-of-way, and Duke Street, a 40' wide public right-of-way.
2. Off-street parking shall be met at the time of building permit application.



**"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*

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

*to the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents, and curves appropriate for the traffic to be carried considering the terrain. Where location is not shown in a development plan, the arrangement of streets shall either:*

- (a) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or*
- (b) Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.*

**Finding of Fact:**

**Criteria met**

1. Streets extensions, dedications, and improvements proposed for Kittiwake Drive and Riley Street provide for the continuation of existing principal streets in the surrounding area.
2. The extension of Kittiwake Drive to Riley Street provides looped access and deletes the temporary cul-de-sac permitted for Nedonna Meadows application #ESPUD 2003-04.
3. The applicant proposes the dedication and improvement of Song Street, Jackson Street, and Duke Street to serve the development.
4. Due to the location of wetlands within the project boundaries, street widths for Kittiwake Drive, Jackson Street, Duke Street and Song Street are permitted a 40' wide public right-of-way.

**(2) Street Widths:**

...

**Finding of Fact:**

**Criteria met**

1. *Kittiwake Drive* is the dedication of a 40' wide public right-of-way.
2. *Riley Street* is the extension of a 50' wide public right-of-way.
3. *Song Street* is the dedication, extension, and improvement of a 40' wide public right-of-way.
4. *Jackson Street* is the dedication, extension, and improvement of a 40' wide public right-of-way.
5. *Duke Street* is the dedication, extension, and improvement of a 40' wide public right-of-way.

**(3) Alignment:**

...

**Finding of Fact:**

**Criteria met**

**(4) Future Street Extension:**

...

**Finding of Fact:**

**Criteria met**

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

(5) Intersection Angles:

...

**Finding of Fact:** Criteria met

(6) Existing Streets:

...

**Finding of Fact:** Criteria met

(7) Reserved Strips:

...

**Finding of Fact:** Criteria met

(8) Half Streets:

**Finding of Fact:** Criteria met

1. No half streets are proposed.

(9) Cul-de-sac:

*A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a circular turnaround.*

**Finding of Fact:** Criteria met by the imposition of conditions of approval

1. The improvement of Kittiwake Drive to Riley Street is required for the addition of any lots to Kittiwake Drive, a street that exceeds 400 feet and serves more than 18 dwelling units.
2. A temporary variance was granted for decision #ESPUD 2003-04 with the condition that the developer work with this project site to provide access consistent with RBZO Article 13 Subdivision Ordinance, Section 33 Streets (9) Cul-de-sac.

(10) Alleys:

**Finding of Fact:** Criteria met

1. No alleys are proposed.

(11) Grades and Curves:

**Staff Findings:** Criteria met by the imposition of conditions of approval

(12) Marginal Access Streets:

**Finding of Fact:** Criteria met.

1. No marginal access streets are proposed.

(13) Street Names:

**Staff Findings:** Criteria met by the imposition of conditions of approval

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

1. All street names shall be approved by the City with the final decision by the County Surveyor consistent with the established street pattern and to avoid duplication and confusion.

...

**Section 34 Utility Easements**

*Easements for sewer, drainage, water mains, public utility installations, including overhead or underground systems, and other like public purposes shall be dedicated reserved or granted by the land divider in widths not less than five (5) feet on each side of the rear lot or parcel lines, alongside lot or parcel lines and in planting strips wherever necessary, provided that easements of width, such as for anchorage, may be allowed when the purposes of easements may be accomplished by easement of lesser width as approved by the City.*

**Finding of Fact:** Criteria may be met by conditions of approval

1. A 5' wide PUE is provided within the boundaries of each lot directly adjacent to each 50' public right-of-way.
2. Where additional utility easements are necessary, the applicant shall provide them with the final plat.

**Section 35 Building Sites**

(1) **Size and Shape:**

*The size, width, shape and orientation of building sites shall be consistent with the residential lot size provisions of the Development Code...*

**Finding of Fact:** Criteria met

1. The size, width, shape, and orientation of building sites are consistent with the R-1 Zone residential lot size provisions with quantitative modifications permitted within a Planned Unit Development Subdivision.

(2) **Access:**

*Each lot and parcel shall abut upon a street other than an alley for a width of at least 25 feet.*

**Finding of Fact:** Criteria met

1. Each lot and parcel abuts upon a street for a width of at least 25 feet.

(3) **Through Lots and Parcels:**

**Finding of Fact:** Criteria met

1. No through lots are proposed.

(4) **Lot and Parcel Side Lines:**

**Finding of Fact:** Criteria met

1. Lot and parcel side lines run at right angles to the street as far as is practicable.

**Section 36 Blocks**

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

**(1) General:**

*The length, width and shape of blocks shall take into account the need for adequate building site size and street width and shall recognize the limitations of the topography.*

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

1. The length, width, and shape of the blocks are generally designed to be located outside of the SA Zone property.
2. The limitations of topography in the development of blocks include the location of large contiguous tracts of SA Zone property, property within the A5 Flood Zone, and high groundwater.
3. A geologic site investigation report describes the limitations of the topography for which feasible engineered solutions will be required prior to site development.

**(2) Size:**

*No block shall be more than 1,000 feet in length between street corner lines unless...the topography or the location of adjoining streets justifies an exception. A block shall have sufficient width to provide for two tiers of building sites unless topography or the location of adjoining streets justifies an exception.*

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

1. Blocks do not exceed 600 feet in length between public rights of way.

**(3) Walkways:**

*The applicant may be required to dedicate and improve ten foot walkways across blocks over 600 feet in length or to provide access to school, park, or other public areas.*

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

1. Blocks do not exceed 600 feet in length between public rights of way.
2. Pedestrian access is provided within public rights of way.
3. Pedestrian walkways to the common open space, permitted with standards within the SA Zone, are not proposed at this time and may be developed at a later date to serve the development.

**Section 37      *Large Building Sites***

...

**Staff Findings:**                      **Criteria met**

1. No large building sites likely to be redivided are proposed.

**Section 38      *Water Courses***

*The land divider shall, subject to riparian rights, dedicate a right-of-way for storm drainage purposes, conforming substantially with the lines of any natural water course or channel, stream or creek that traverses the subdivision or partitions, or, at the option of the land divider, provide, by dedication, further and sufficient easements or construction, or both to dispose of the surface and storm waters.*



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

**Staff Findings:** Criteria may be met by conditions of approval

1. McMillan Creek is located west of and adjacent to the proposed development. McMillan Creek was dedicated as a public right-of-way with the Seventh Addition to Nedonna Beach.
2. Natural drainage ways traverse the proposed development. An engineered storm drainage system shall be designed and certified to ensure that the development will not adversely impact natural drainage ways, the proposed development or the surrounding area.
3. SA Zone wetlands are preserved in large contiguous tracts in the proposed development.
4. An engineered storm drainage system shall be designed and certified to ensure that the SA Zone wetlands will continue to receive an adequate water supply consistent with the wetland characteristics.
5. Consistent with the requirements of DEQ for developments that disturb over one acre of land, an engineered storm water drainage plan and engineered erosion and sedimentation control plan shall ensure that non-point source pollutants will not adversely impact the wetlands and aquatic areas.

...

***Section 41 Land Subject to Inundation***

**Finding of Fact:** Criteria met

1. The site is located within an A5 Flood Zone subject to flood hazard by or collection of storm water.
2. The site investigation report submitted with application describes high groundwater hazards.
3. An adequate system of storm drainage management designed and certified by an appropriately qualified engineer to prevent adverse impacts to the site and surrounding area shall be installed to serve the "Nedonna Wave" development.
4. High groundwater hazards are described in the geologic site investigation report submitted with development application

***Section 42 Proposed Name of Subdivision***

...

**Finding of Fact:** Criteria met

1. The County Surveyor has the decision of final approval for all subdivision names.

***IMPROVEMENTS***

***Section 43 Improvement Standards and Approval***

...

**Finding of Fact:** Criteria met

1. Improvement standards and approval requirements are described by RBZO Article 13, Section 43.

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

***Section 44 Improvement Requirements***

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

1. Improvements of Section 44 as described by findings of fact and conditions of approval shall be installed at the expense of the applicant at the time of subdivision and include:

(1) Streets:

...

(2) Structures:

...

(3) Sidewalks:

*Sidewalks shall be installed along both sides of each street and in pedestrian ways unless a variance has been granted by the Planning Commission.*

**VARIANCE APPLICATION #VAR-2007-22 REQUESTS TO DELETE  
SIDEWALKS FROM THE "NEDONNA WAVE" DEVELOPMENT.**

(4) Sewers:

...

(5) Water:

...

(6) Railroad Crossings:

...

(7) Underground Utilities:

...

(8) Street Lighting:

...

(9) Street Trees:

...

(10) Street Name Signs:

...

(11) Improvement of Easements:

...

(12) Off-Site Street Improvements:

...

***Section 45***

***Monuments:***

...

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

1. All monuments shall be set by the property owner prior to final plat approval consistent with the requirements of ORS Chapter 92 and RBZO Article 13, Section 45.

***Section 46***

***Survey Requirements:***

...

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

**Finding of Fact:** Criteria met

1. The Final Survey Plat shall be submitted consistent ORS Chapter 92, with RBZO Article 13, Section 46, and applicable conditions of approval.

**Section 47 - 50:** **Subdivision Variance:**

...

**Finding of Fact:** Criteria met

**VAR #2007-22:** The property owner requests approval of concurrent variance application to delete sidewalks required on both sides of each by RBZO Article 13, Section 44 (3) consistent with the criteria of RBZO Article 13, Sections 47-50 Variance.

***Article 13 Section 47 Variance Procedure***

...

- (4) *The Planning Commission shall make a decision on the variance request in accordance with section 11.060 (6) of the Zoning Ordinance.*
- (5) *A decision of the Planning Commission may be appealed to the City Council in accordance with Section 11.070 of the Zoning Ordinance.*

...

***Article 13 Section 48 Variance Criteria***

*Variances to the requirements of this ordinance may be granted where the following criteria are met:*

- (1) *Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same vicinity, and result from tract size or shape, topography or other circumstances over which the owners of property since enactment of this ordinance have had no control.*

**Finding of Fact:** Criteria met

Sidewalks in this location are a source of fill in an A5 flood zone and where they are determined to be unnecessary could be deleted to reduce impacts to the site.

- (2) *The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same vicinity possess.*

**Finding of Fact:** Criteria met

Subdivisions of the Nedonna Beach Area have not been required to install sidewalks where streets are not planned for heavy use as collector or arterial streets.

- (3) *The variance would not be materially detrimental to the purposes of this ordinance, or to property in the vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy.*

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

**Finding of Fact:**

**Criteria met**

The Rockaway Beach Comprehensive Plan provides policies for sidewalks.

Housing Policies states that (1) *Street, sidewalk and other development and subdivision improvement standards should be realistically sized so as to not add undue costs to housing development. Street widths and paving techniques should reflect the density of development, the projected traffic loads, whether the development will be a permanent or vacation use, and the character of the surrounding streets.*

Special Transportation Needs Policy (1) states that "*Sidewalks should be constructed along all heavily traveled streets, including US Highway 101...*" The streets of this development are currently intended for local medium volume residential use and are not planned for collector or arterial street designation. The nature of the Nedonna Beach area is second home and vacation use. City water billing accounts and County Tax Assessor records indicate that approximately 44 of the homes in this area are considered primary residences.

- (4) *The variance requested is the minimum variance which would alleviate hardship.*

**Finding of Fact:**

**Criteria met**

Staff recommends that approval of a variance to sidewalks at this time is the minimum variance.



## Exhibit B

**"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"**

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.

RBZO Section 3.092-3.097: Flood Hazard Overlay Zone: A5 Flood Zone: Base Flood Elevation 12 feet

1. Engineered construction plans shall be designed to ensure that flooding will not be increased in the area by the development and to prevent adverse impacts from site development.
2. All site development shall be consistent with the standards of the Flood Hazard Overlay Zone and the FIRM National Flood Insurance Program.
3. Certification of plan consistency with the standards of the Flood Hazard Overlay Zone shall be submitted prior to site development and upon completion of site development and shall include:
  1. Engineered plans for site development certified in writing by the licensed responsible geotechnical engineer as suitable to avoid adverse flood hazard impacts to the site and surrounding property.
  2. A post-construction elevation certificate for the site and an updated topographic survey shall be completed by a professional land surveyor.

RBZO Section 3.100-3.114: Hazards Overlay Zone:

1. Prior to construction, site development plans shall be certified in writing by the appropriately qualified responsible licensed professional as consistent with the standards of applicable criteria, as being consistent with site investigation reports and as being designed to prevent adverse impacts to the site and surrounding area.
2. Certification reports documenting completion of work without disclaimer of liability shall be submitted to the City.
3. A feasible engineering solution shall be provided that is certified to prevent potential development hazards to the site and surrounding area.
4. All development shall conform substantially to geologic hazard and engineering geologic report recommendations.

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

- (1) Geologic Hazard Report: Dune Hazard and Geologic Hazard Report #704-65012-1 dated February 20, 2006 by PSI, Incorporated, Warren Krager, RG, CEG, and Charles Lane, PE.
- (2) Geotechnical Engineering Report: Geotechnical engineering recommendations dated May 3, 2006 by HLB Otak, Ron Larson, PE, PLS, and Jason Morgan, PE.

Vegetation Removal:

1. Vegetation removal shall be limited to the area necessary for construction.
2. All exposed sand areas shall be maintained in vegetation and / or replanted as soon as practical following construction.
3. A 15 foot riparian setback shall be maintained from McMillan Creek consistent with City Standards.

Grading and Erosion Control:

1. Grading and erosion control recommendations shall be adhered to as provided by PSI, Incorporated, HLB Otak, and City Technical Specifications and Design Standards.
2. During construction, the disturbed sand on the site shall be protected from movement by wind by covering with a thin layer of crushed rock or by using fabric fencing. Excavated materials shall not be stockpiled on the site overnight.
3. All lots shall be graded to provide positive flow away from the building and off the site into the approved roadside bio-conveyance ditches. All driveways shall drain directly into approved roadside bio-conveyance ditches. All run off shall be treated in an approved bio-conveyance ditch prior to entering of wetlands and natural drainage channels.

Open Space:

1. A minimum of 50% of the site shall 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 and 75% of said open space, 37.5% of the site shall be dedicated / conveyed as common open space in tracts. Suitable assurances shall be provided to ensure that private open space shall be maintained consistent with applicable criteria.
2. Open Space tracts shall be dedicated to a non-profit Homeowners Association or other suitable organization and a provision included in the dedication to re-dedicate the open space to a suitable organization should the Homeowners Association expire.
3. A permanent maintenance agreement shall provide financial assurance that common open space shall be continuously, perpetually and permanently maintained consistent with applicable criteria.
4. Prior to approval of the final plat, the property owner shall install two wetland identification kiosk signage 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. Each lot owner shall



**"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.



# Exhibit C

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

**I. Application Information:**

Property Owner: Nedonna Development, LLC; Representative Member: "Anna" Song  
Applicant: Mark Dane, Blue Sky Planning, Inc.  
Engineer / Surveyor: HLB Otak, Inc, Ron Larson, PE #9943, PLS  
Location Description: West on Beach Street to Nedonna Avenue; Nedonna Avenue to Section Line Road; Section Line Road to Kittiwake Drive OR Riley Street to Kittiwake Drive  
Legal Description: Parcel 1 of Partition Plat 1997-20 and Parcel 3 of Partition Plat 1997-57; a portion of Evergreen Street vacated by Rockaway Beach Ordinance #98-353  
Assessor's Plat Map: 2N 10W 20AB, Tax Lots 4600, 4900, and 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; Lots 25-28 contain slopes that exceed 25%; HO Zone: Deflation Plain; Wetland Notification Overlay Zone

**II. Description of Request:**

The applicant requests from the Planning Commission Final Plan approval for Application #SPUD 07-19 Nedonna Wave a twenty-eight (28) residential lot Planned Unit Development Subdivision.

**III. Applicable Criteria:**

<b>(RBZO)</b>	<b>City of Rockaway Beach Zoning Ordinance</b>
<b>Article 10</b>	<b>Planned Unit Development</b>
	Section 10.060 Final Plan Approval (1), (2)
	Section 10.070 Mapping
	Section 10.080 Adherence to the Approved Plan and Modification Thereof

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

**Applicable Criteria Application #07-19 Final Orders Exhibits A, B, C, D Findings of Fact:**

Application #07-19: Nedonna Wave a 28-Lot Planned Unit Development Subdivision

Concurrent Applications #07-20, #07-21, #07-22

Final Order

Exhibit A Findings of Fact

Exhibit B Conditions of Approval

Final Order (2)

Exhibit C Findings of Fact

Exhibit D Findings of Fact

Engineered Construction Plans

City Engineer Approval of Engineered Construction Plans

Approved Preliminary Development Subdivision Plan

DSL File #: 36702

Wetland Delineation #: WD 2006-0246

**(ORS) Oregon Revised Statutes**

ORS 227.350 Notice of Wetland Development

ORS 227.522 Local government to approve subdivision...or construction; conditions

City of Rockaway Beach Technical Specifications and Design Standards, April 2001

Rockaway Beach Fire Code: April 2007, International Fire Code with Oregon 2007  
Amendments

**(RBCP) City of Rockaway Beach Comprehensive Plan**

Nedonna Beach Exception Justification

Land Use Element, I. Beaches and Dunes, Policies 1-15

Coastal Shorelands Map Number 2, Beaches and Dunes

Natural Features

Natural Features Map Number 4, Potential Hazard Area

Land Use Categories (G) Special Area Wetlands Zone (SA), Policy (2) (A), (D)

Land Use Categories (L) Open Space, Scenic...Areas and Natural Resources (2)

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

Section 3.010 R-1 Zone Single Family Residential

Section 3.080 SA Zone Special Area Wetlands

Section 3.092 – 3.097 Flood Hazard Overlay Zone

Section 3.100 – 3.112 Hazards Overlay Zone

Section 3.130 – 3.132 Wetland Notification Overlay Zone

Section 4.010 Access

Section 4.020 Clear Vision Areas

Article 10 Planned Unit Development

Article 11 Administrative Provisions

Article 13 Subdivision Ordinance

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

**V. Planning Commission Decision: 6-0**

The Planning Commission approves the Nedonna Wave Final Plan consistent with the conditions of approval approved by the City Planning Commission in their decision on January 29, 2008 and July 22, 2008 and described in the Final Order Exhibit A, Findings of Fact and Conditions of Approval of Exhibit B, these findings of fact Exhibit C and the specific modification of Exhibit D on July 22, 2008 to permit a two-stage development based on the following conclusions:

- (1) Final Plan Approval: 28 Lot Planned Unit Development Subdivision:  
Conditions of Final Plan approval are met by the submittal of final site development plans for a 28-lot Planned Unit Development Subdivision to permit development in two stages, Phase One, an eight (8) lot phase and Phase Two, a twenty (20) lot phase consistent with Planning Commission approved preliminary development and final development plans.
  - (2) City Engineer Approved Construction Plans for Work Completed to Date:  
The City Engineer has affixed his signature to approved construction plans for work completed to date.
  - (3) City Engineer to Approve Construction Plans for Work Remaining Prior to Construction:  
For work not yet completed, conditions of construction plan approval are based on adopted regulatory standards. Prior to construction of remaining improvements, the City Engineer shall affix his signature to approve construction plans for work remaining and require certification consistent with applicable regulatory standards.
  - (4) Final Order Conditions of Approval shall be met Prior to Final Plat Approval: Prior to final subdivision plat approval, all conditions of approval shall be met consistent with applicable criteria and the conditions of approval described in the Final Order and Findings of Fact Exhibit A, Exhibit B, Final Order (2), Exhibit C, and the modification of Exhibit D to permit a two stage development.
  - (5) Final Order Improvements shall be completed prior to Final Plat approval:  
Prior to final subdivision plat approval, all improvements shall be completed consistent with Rockaway Beach Zoning Ordinance (RBZO) Article 13 Subdivision Ordinance, Section 16 Agreement for Improvements.
  - (6) City signature on the Final Plat certifies compliance with adopted regulatory standards:  
The City shall affix signature to the final subdivision plat when all improvements constructed are in full compliance with applicable criteria and the conditions of approval, all improvements have been certified as required by applicable regulatory agencies, and , all conditions of approval are met consistent with Findings of Fact Exhibit A, B, C and D.
-



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

**V. Findings of Fact:**

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

...

**Article 10      *Planned Unit Development***

...

**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.*

**Findings of Fact:**

1.      The applicant submits a final plan consistent in all respects with the approved preliminary development plan. The final plan has been affixed with the stamp "Approved" and signed by the City Engineer.
2.      Additional information included in the preliminary development plan includes documentation required prior to final subdivision plat approval in the conditions approval. These items are enumerated in these findings of fact in the Section "Conditions of Approval" and shall be met prior to the City affixing their signature for final subdivision plat approval.

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

- (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 Planning Commission shall examine the final 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

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

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

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.*

**Findings of Fact:**

**General Conditions of Approval:**

- (1) Conditions of approval described herein shall be met prior to final subdivision plat approval except where noted in this report.
- (2) All improvements shall be completed as described herein and consistent with approved plans prior to final subdivision plat approval unless an improvement agreement is approved by the City Council.
- (3) Final certifications for all improvements shall be approved by the city prior to final subdivision plat approval.
- (4) All Permits shall be obtained for all improvements consistent with local state and federal law prior to final subdivision plat approval and consistent unless an improvement agreement is approved by the City Council.

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

**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.*
-

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

**Findings of Fact:**

**Building Permits:**

- (1, 2, 3, 4, 5, 6): Conditions of approval are not applicable to final plan approval. The applicant shall ensure compliance at the time of building permit approval.

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

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.*

**Findings of Fact:**

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

- (1) Item (1): Shall be met prior to final subdivision plat approval.
  - (a) Design of the rope fence is included with application for final plan approval.
  - (b) Install a suitable visual barrier adjacent to wetland areas prior to final subdivision plat approval.
  - (c) Install wetland identification signage prior to final subdivision plat approval.
- (2) Item (2) shall be completed with each building permit. This condition will be added to the requirements for each building permit.

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

RBZO Section 3.092-3.097: Flood Hazard Overlay Zone: A5 Flood Zone: Base Flood Elevation 12 feet

1. *Engineered construction plans shall be designed to ensure that flooding will not be increased in the area by the development and to prevent adverse impacts from site development.*
  2. *All site development shall be consistent with the standards of the Flood Hazard Overlay Zone and the FIRM National Flood Insurance Program.*
-

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

3. *Certification of plan consistency with the standards of the Flood Hazard Overlay Zone shall be submitted prior to site development and upon completion of site development and shall include:*
  1. *Engineered plans for site development certified in writing by the licensed responsible geotechnical engineer as suitable to avoid adverse flood hazard impacts to the site and surrounding property.*
  2. *A post-construction elevation certificate for the site and an updated topographic survey shall be completed by a professional land surveyor.*

**Findings of Fact:**

**RBZO Section 3.092-3.097: Flood Hazard Overlay Zone: A5 Flood Zone: Base Flood Elevation 12 feet**

- (1, 2) The City Engineer, approving plans for construction in writing and noting such approval on construction plans has accepted the plans as consistent with the applicable criteria
- (3) Criteria may be met prior to final subdivision plat approval
  - (a) Provide required certifications from the responsible geo-technical engineer prior to final subdivision plat approval
  - (b) Provide a post-construction elevation certificate for the site.
  - (c) Provide an update topographic survey prior to final subdivision plat approval.

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

**RBZO Section 3.100-3.114: Hazards Overlay Zone:**

1. *Prior to construction, site development plans shall be certified in writing by the appropriately qualified responsible licensed professional as consistent with the standards of applicable criteria, as being consistent with site investigation reports and as being designed to prevent adverse impacts to the site and surrounding area.*
  2. *Certification reports documenting completion of work without disclaimer of liability shall be submitted to the City.*
  3. *A feasible engineering solution shall be provided that is certified to prevent potential development hazards to the site and surrounding area.*
  4. *All development shall conform substantially to geologic hazard and engineering geologic report recommendations.*
    - (1) *Geologic Hazard Report: Dune Hazard and Geologic Hazard Report #704-65012-1 dated February 20, 2006 by PSI, Incorporated, Warren Krager, RG, CEG, and Charles Lane, PE.*
    - (2) *Geotechnical Engineering Report: Geotechnical engineering recommendations dated May 3, 2006 by HLB Otak, Ron Larson, PE, PLS, and Jason Morgan, PE.*
-

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

**Findings of Fact:**

**RBZO Section 3.100-3.114: Hazards Overlay Zone:**

- (1, 3, 4) The City Engineer, approving plans for construction in writing and noting such approval on construction plans has accepted the plans as consistent with the applicable criteria of the Hazards Overlay Zone.
- (2) The City Engineer shall indicate compliance with criteria 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.**

**Vegetation Removal:**

1. *Vegetation removal shall be limited to the area necessary for construction.*
2. *All exposed sand areas shall be maintained in vegetation and / or replanted as soon as practical following construction.*
3. *A 15 foot riparian setback shall be maintained from McMillan Creek consistent with City Standards.*

**Findings of Fact:**

**Vegetation Removal:**

- (1, 3) Criteria met for site development as shown on approved construction plans.
- (2) Criteria shall be met prior to final subdivision plat approval. All exposed sand areas shall be maintained in vegetation and / or replanted as soon as practical following construction.

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

**Grading and Erosion Control:**

1. *Grading and erosion control recommendations shall be adhered to as provided by PSI, Incorporated, HLB Otak, and City Technical Specifications and Design Standards.*
  2. *During construction, the disturbed sand on the site shall be protected from movement by wind by covering with a thin layer of crushed rock or by using fabric fencing. Excavated materials shall not be stockpiled on the site overnight.*
  3. *All lots shall be graded to provide positive flow away from the building and off the site into the approved roadside bio-conveyance ditches. All driveways shall drain directly into approved roadside bio-conveyance ditches. All run off shall be treated in an approved bio-conveyance ditch prior to entering of wetlands and natural drainage channels.*
-

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

**Findings of Fact:**

**Grading and Erosion Control:**

- (1, 2, 3) The City Engineer, approving plans for construction in writing and noting such approval on construction plans has accepted the plans as consistent with the applicable criteria
- (1, 2, 3) The City Engineer shall indicate compliance with criteria 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.**

**Open Space:**

1. *A minimum of 50% of the site shall 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 and 75% of said open space, 37.5% of the site shall be dedicated / conveyed as common open space in tracts. Suitable assurances shall be provided to ensure that private open space shall be maintained consistent with applicable criteria.*
2. *Open Space tracts shall be dedicated to a non-profit Homeowners Association or other suitable organization and a provision included in the dedication to re-dedicate the open space to a suitable organization should the Homeowners Association expire.*
3. *A permanent maintenance agreement shall provide financial assurance that common open space shall be continuously, perpetually and permanently maintained consistent with applicable criteria.*
4. *Prior to approval of the final plat, the property owner shall install two wetland identification kiosk signage 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. 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.*
5. *The property owner shall record Oregon Department of Fish and Wildlife recommended Wetland Deed Restrictions on the Final Plat.*

**Findings of Fact:**

**Open Space:**      **Criteria shall be met prior to final subdivision plat approval**

- (1) A minimum of 50% of the site shall be dedicated as open space on the final subdivision plat prior to final subdivision plat approval.
  - (2) On the final subdivision plat: Open Space tracts shall be dedicated to a non-profit Homeowners Association or other suitable organization and a provision included in the dedication to re-dedicate the open space to a suitable organization should the Homeowners Association expire.
-

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

- (3) On the final subdivision plat: The open space dedication shall describe financial responsibility for the maintenance of open space. A recorded permanent maintenance agreement shall describe maintenance and financial responsibility. The recordation number shall be noted on the final subdivision plat prior to final subdivision plat approval.
- (4) Prior to approval of the final subdivision plat, the property owner shall install two (2) wetland identification signs and the approved visual barrier along open space boundaries that abut public rights-of-way. 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.
- (5) The property owner shall record Oregon Department of Fish and Wildlife recommended Wetland Deed Restrictions on the final subdivision plat.

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

**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)*

**Findings of Fact:**

**Coordinating Regulatory Agency Approvals:**

**Item 1:**           **Criteria met for site development as shown on approved construction plans.**

- (1) The City Engineer, approving engineered plans for construction in writing and noting such approval on construction plans has accepted the plans as consistent with these applicable criteria. The City Engineer shall indicate compliance with criteria at the time the City Engineer affixes signature to the final subdivision plat.
- (2) With application for final subdivision 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.

**Conclusions:**           **Criteria met for final plan approval as described in 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.*
-

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

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.*

**Findings of Fact:**

**General Improvement Requirements:**

- (1) The City Engineer, approving engineered plans for construction in writing and noting such approval on construction plans has accepted the plans as consistent with these applicable criteria. The City Engineer shall indicate compliance with criteria at the time the City Engineer affixes signature to the final subdivision plat.
- (2) The City Engineer shall indicate compliance with criteria 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 construction plans and 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) It is the responsibility of the property owner to apply for reimbursement consistent with Rockaway Beach Ordinance #94-310 for of the apportionment of off-site improvements. Requests for reimbursement shall be submitted to the City Council.

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

**Improvement Agreement:**

1. *Prior to site development and prior to final subdivision 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.*
-



**"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"**

**Findings of Fact:**

**Signage:**

- (1) Prior to approval of the final subdivision plat, the property owner shall install two (2) wetland identification signs and the approved visual barrier along open space boundaries that abut public rights-of-way.
- (2) Prior to final subdivision plat approval, Street name signage shall be installed at the expense of the property owner no fewer than two at each intersection consistent with City Standards. 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) Prior to final subdivision plat approval, "No parking" signage shall be installed within the development where required by the City consistent with City Standards. 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) Identification signage for Nedonna Wave is not required. At any time such identification signage is made, the request shall be made to the City Planning Commission.

**Conclusions:**           **Criteria met for final plan approval as described in 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 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.*
-

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

**Findings of Fact:**

**Streets:**

1. On the final subdivision plat, 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, 4) The City Engineer, approving plans for construction in writing and noting such approval on construction plans has accepted construction plans as consistent with the applicable criteria
- (2, 4) 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. On the final subdivision plat, 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. On the final subdivision plat for the Nedonna Wave Subdivision, property owners shall dedicate to the City that portion of Riley Street that is on their property within Nedonna Wave subdivision boundaries.
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.

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

**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.*
-

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

6. *Easements shall be provided where they are required by applicable regulatory agencies for the installation of required utilities.*

**Findings of Fact:**

**On-site improvements:**

- (1, 2, 3, 4, 5, 6, 7) The City Engineer, approving engineered plans for construction in writing and noting such approval on engineered construction plans has accepted construction plans as consistent with the applicable criteria.
- (1, 2, 3, 4, 5, 6, 7) 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.

**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.*

**Findings of Fact:**

**Off-Site Improvements:**

- (1, 2, 3, 4, 5) Prior to approval of the final subdivision plat, all improvements shall be installed consistent with the conditions of approval contained herein and
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**"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
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**"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



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

**I. Application Information:**

Property Owner:	Nedonna Development, LLC: Member, "Anna" Song
Applicant:	Mark Dane, Blue Sky Planning, Inc
Applicant Engineer / Surveyor:	HLB Otak, Ron Larson, PE, PLS
Legal Description:	Partition Plat: 1997-20, Parcel 1; Partition Plat 1997-57, Parcel 3; and Portion of Vacated Evergreen Street Ordinance #98-353

**II. Description of Request:**

The property owner requests modified preliminary development plan approval and final plan approval for Application SPUD #07-19 Nedonna Wave a 28 Lot Planned Unit Development to allow the application to be developed in two phases. Concurrent Final Orders and corresponding Exhibits A, B, and C will continue to apply in their entirety except where modified specifically in these findings of fact Exhibit D.

Application #2007-19 Nedonna Wave, a 28-Lot Planned Unit Development Subdivision;  
Application #2007-20 A Variance to delete sidewalks from the development;  
Application #2007-21 A Variance to increase building height; and  
Application #2007-22 A Variance to increase building height

Exhibit A: Findings of Fact Planning Commission Preliminary Development Plan and Tentative Plan Approval of said applications January 29, 2008.  
Exhibit B: Conditions of Approval said Applications #2007-19  
Exhibit C: Findings of Fact Planning Commission Final Plan Approval May 27, 2008  
Exhibit D: Findings of Fact Planning Commission Modification to allow Two (2) Phases

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 including those of 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 shall be reflected in the Final Order and Exhibit D Findings of Fact for Modification of Tentative Plan and Final Plan Approval for a Two Phase Development.

Phase 1: An 8 Lot Planned Unit Development Subdivision  
Phase 2: A 20 Lot Planned Unit Development Subdivision

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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

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**"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).

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

**V. Staff Recommendation: Approval with Conditions**

1. Two Final Plats: 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. 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.
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.

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

**VI. Findings of Fact:**

**Rockaway Beach Zoning Ordinance**

...

***Section 10.040                      Development Standards***

...

***(2)      Open Space;***

*In all residential developments...50% of the total area should be devoted to open space. Of this area 25% of said open space may be used privately by individual owners or users of the PUD; however, 75% of this area should be common or shared open space...*

...

**Findings of Fact:**

1. Open space is addressed in these findings of fact as open space is required to be dedicated in sufficient area consistent with the methodology and calculation of Section 10.040 (2).
  2. Open space shall equal 50% of the total site area. Of the required Open Space, a minimum of 75% shall be Common Open Space 25%, may be private open space in yard area where it can be devoted on the final plat.
  3. The total site area of Phase One is ~160,159 square feet (~3.68 acres). Phase One requires 50%, ~78,625.5 square feet (~1.84 acres) of open space devotion. Of the total open space, a minimum of 75%, ~58,969 square feet shall be common open space and private open space may equal up to 25%, ~19,656 square feet where it can be devoted on the final plat.
    - a. The Phase One application devotes 65,438 square feet of common open space and 14,772 square feet of private open space for a total of 80,210 square feet of Open Space. Phase One Open Space criteria are met.
  4. Total site area remaining in Phase 2 will be ~70,314 square feet (~1.61 acres) and will require the devotion of ~1.61 acres of open space. When the open space is devoted for Phase 2, the total of Phase 1 and Phase 2 Open Space shall constitute 50% of the site, Common Open Space shall constitute 75% of the total Open Space and Private Open Space shall constitute 25% of the total Open Space.
    - a. The Phase Two application devotes 38,725 square feet of common open space and 31,003 square feet of private open space for a total of 69,728 square feet of Open Space. When calculated with the Open Space areas devoted in Phase One, the Phase Two Open Space criteria are met.
  5. The total site area is ~271,217 square feet (~6.23 acres) that permits the development of ~135,608.5 square feet (~3.115 acres), 50% of site area and requires the devotion of ~135,608.5 square feet (~3.115 acres), 50% of site area, as Open Space. Of the required Open Space, a minimum of 75%, ~101,706.375 square feet (~2.34 acres) shall be Common Open Space and up to 25%
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**"EXHIBIT D: Modified Preliminary and Final Approval for a Two Phase Development"**

~33,902.125 square feet (~0.77 acres) may be devoted as private Open Space where it can be devoted on the final plat.

- a. The application for both Phase One and Phase Two devotes a total of 104,174 square feet of common open space and 45,725 square feet of private open space for a total of 149,938 square feet of open space. Open Space criteria are met.

**Conclusions:**

1. Application evidence 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.

**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.

***Section 10.050 Procedure – Preliminary Development Plan***

- (1) *...This plan and any written statements shall contain at least the following information:*
- (i) *A schedule, if it is proposed that the development plan will be executed in stages.*

...

**Findings of Fact:**

1. The applicant submits a request to phase the final development plan in two stages, Phase One and Phase Two.
2. In Phase I, the property owner requests to plat Lots 1 – 8 as shown on the revised preliminary development plan and proposes to complete the improvements listed in this report for PHASE I.

**Sanitary Sewer System Improvements**

1. Add new 4" diameter. sewer service for Hursey property. Install strap-on tee just north of MH #1, then 45° bend to extend sewer service to Hursey property, TL 9100.
  2. No core drill on MH #1, therefore, no Poly Coat required on MH #1.
  3. Add standard 8" diameter. cleanout in ROW of Song Street on end of existing 8" diameter. sewer service out of MH #1. Add frame and grate for this CO as per std City CO detail. Install 8" x 4" reducer and 4" cap as sewer service to Hursey property, TL 9100.
  4. Core drill MH#2 for new 8" diameter. sewer main to south of MH #2. Install Kore-N-Seal for new 8" sewer main. Construct new smooth channel in base of MH #2.
  5. Install Poly Coat on interior of MH #2 after MH work above is complete.
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**"EXHIBIT D: Modified Preliminary and Final Approval for a Two Phase Development"**

6. Remove existing sewer main from Sta. 10+80 to +/-11+95 in order to install new sewer main from MH #2 to new CO at Sta. 11+68.
7. Install new 8" diameter. sewer main from MH #2 south to new 8" diameter. CO at Sta. 11+68. Install two new 4" diameter sewer services to lots 3 and 4 (original lot # system).
8. Install new 4" diameter. sewer service to Open Space 'C' (for possible future lot).
9. Install 8" diameter. sewer plug just north of MH #3.
10. Construct loop to south (remaining in Riley St. ROW) on existing White Dove force main.
11. Abandon existing sewer main that crosses below SD culvert. Fill with sand.
12. Pressure test all sewer mains on Duke Street, Song Street and Kittiwake Drive. Do NOT pressure test sewer on Jackson Street and on Riley Street east of Kittiwake Drive.
13. Vacuum test MH #1, #2, #3, #4 and #5.
14. NOTE: City is prepared to accept the above portions of the sewer system where sewer mains will be completed and covered with final asphalt pavement.

**Water System Improvements**

1. Install one 3/4" diameter. water service to Hursey property Tax Lot 9100. Length and location of this water service is of no consequence to City Staff. Run parallel and perpendicular to ROW lines.
2. Install new 3/4" diameter water service to Open Space 'C' (for possible future lot).
3. Engineer & Install to City Standards a connection into the existing water mains on Kittiwake Drive (north of Nedonna Wave) and on the west side of McMillan Creek on Riley Street ( to provide a looped water system through the Nedonna Wave subdivision necessary to serve the project.
4. Pressure test and disinfect entire water system for the entire subdivision.

**Street and Road Improvements**

1. Re-grade all roadway subgrade on Duke "Street, Song Street, Kittiwake Drive and on Riley Street west of Kittiwake.
  2. Install geotextile support fabric, base rock, crushed rock and asphalt pavement on Duke "Street, Song Street, Kittiwake Drive and on Riley Street west of Kittiwake to tie into existing pavement on Riley Street west of McMillan Creek. Extend geotextile support fabric, base rock, crushed rock and asphalt pavement on Riley Street approximately 30 feet east of CL-CL intersection of Riley and Kittiwake, in order to construct "tee" intersection rather than "L" intersection at Riley and Kittiwake. Extend geotextile support fabric, base rock, crushed rock and asphalt pavement on Riley Street approximately 195 feet west of CL-CL intersection of Riley and Kittiwake to tie into existing pavement on Riley Street west of McMillan Creek.
  3. NOTE: Box culvert improvements, as may be required, are at the direction of Tillamook County Public Works Department. This requirement has yet to be determined. Ron Larson to contact Leanne Welch at TCPWD to resolve this subject.
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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.
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**"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.

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**"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.

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