



City of Rockaway Beach

Special City Council Meeting Agenda

Date: Tuesday, September 9, 2025
Time: 5:30 P.M.
Location: Rockaway Beach City Hall, 276 Hwy 101 - Civic Facility

Join here to attend remotely:

<https://us06web.zoom.us/j/84561326849?pwd=1JziGtKQxrGmMvTrxEkjDrHh3pxb6K.1>

Meeting ID: 845 6132 6849

Passcode: 671770

Dial by your location

253 215 8782 US (Tacoma)

How to Provide Public Testimony:

- In Person – sign-up sheet and instructions will be located on the table outside of the meeting room.
 - Virtually on Zoom – use the “raise hand” feature when the Mayor announces it is time to do so.
-

1. CALL TO ORDER – Charles McNeilly, Mayor

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. CONSENT AGENDA – None scheduled

5. PRESENTATIONS, GUESTS & ANNOUNCEMENTS – None Scheduled

6. STAFF REPORTS – None Scheduled

7. PUBLIC HEARING

- a. Application on Remand by the Land Use Board of Appeals (LUBA) No. 2025-001 on July 2, 2025 related to Application of Nedonna Development for Phase 2 Planned Unit Development approval: #PUD-24-1. The Case File for this matter is #Remand-25-1.

8. CITIZEN INPUT ON NON-AGENDA ITEMS – None Scheduled

9. OLD BUSINESS – None Scheduled

10. NEW BUSINESS – None Scheduled

11. ITEMS REMOVED FROM CONSENT AGENDA – None Scheduled

12. COUNCIL CONCERNS – None Scheduled

13. MAYOR’S REPORT – None Scheduled

14. ADJOURNMENT



**CITY OF ROCKAWAY BEACH
CITY COUNCIL ACTION**

STAFF REPORT

Case File #Remand-25-1
Hearing Date: September 9, 2025

APPLICANT: Nedonna Development LLC

AGENT FOR APPLICANT: Dean N. Alterman

A. NATURE OF THE APPLICATION:

In 2008, the City of Rockaway Beach approved Nedonna Development LLC's application #SPUD-07-19 for the creation of a phased, 28-lot development, with Planned Unit Development overlay. The City approved the preliminary development plan in early 2008. The Applicant applied for and received final approval for the first phase of the Planned Unit Development within one-year after receiving final approval of the preliminary plan. The Applicant recorded the plat of Nedonna Wave Phase 1 on February 2, 2009 (Plat C-573, Tillamook County Plat Records).

Final Order (1) includes the approval with conditions of all 28 lots of the planned development subdivision.

In 2024, the Applicant submitted application #PUD-24-1 to plat Nedonna Wave Phase 2 and requested modifications to the approved final plan, as follows:

1. To plat Phase 2 as two separate sub-phases – Phase 2 and Phase 3. Phase 2 would consist of the 11-lots east of Kittiwake Drive, numbered from 9 to 19 and would be taken from what is now Tract F. Phase 3 would be the 9-lots west of Kittiwake Drive, numbered 20 to 28.
2. To create two lots instead of one lot at the north end of Jackson Street, identified as lots 21 and 22 on the plans submitted with the application.
3. To create four lots instead of three lots at the northeast corner of Kittiwake Drive and Riley Street, identified as lots 13, 14, 15, and 16 on the plans submitted with the application.
4. Provide that when the owner of the land to the South extends Jackson Street South into that property, the City will vacate the East stub of Riley Street, so that Riely Street will terminate in a T intersection with Jackson Street, and the vacated stub can be combined with Tract E to form an additional building lot.



A public hearing was held before the Planning Commission on June 20, 2024 to consider the application. During the public hearing, the Applicant withdrew the request regarding the vacation of the East stub of Riley Street. Following the public hearing, the Planning Commission denied the request to plat Phase 2 as two separate sub-phases and approved the Applicant's request for the creation of the additional lots. Notice of the Planning Commission Decision was issued on August 1, 2024 and provided to all parties of record.

On August 14, 2024, the City of Rockaway Beach received an appeal of the Planning Commission decision filed by Oregon Shore Conservation Coalition. On November 20, 2024, City Council considered the challenges and denied the appeal on all grounds and found that the Planning Commission's July 18, 2024 decision on application #PUD-24-1 is affirmed.

On January 2, 2025, Oregon Shore Conservation Coalition provided notice of intent to appeal City of Rockaway Beach "Findings, Conclusion and Final Order: Appeal #24-1," which was then revised on January 14. On July 2, 2025, the Land Use Board of Appeals (LUBA) sustained two assignments of error and concluded that a remand is appropriate to allow the City of Rockaway Beach to adopt more adequate findings, per OAR 661-010-20 0071(2)(a) (Final Opinion and Order, No. 2025-001, July 2, 2025) (LUBA Final Order).

On July 30, 2025, the Applicant, Nedonna Development, LLC, requested for City Council to proceed with the application on remand by the LUBA remand No. 2025-001.

B. EVALUATION OF REMAND

On July 2, 2025, LUBA sustained two assignments of error and concluded that a remand is appropriate to allow the City of Rockaway Beach to adopt more adequate findings, per OAR 661-010-20 0071(2)(a).

The Planning Commission and City Council's 2008 PUD decisions are final and not subject to review. Any error made by the Planning Commission at that time cannot be amended or appealed today. On review is the two subjects of error remanded to the City:

1. At issue in the first assignment of error is the determination of which parts of the property are subject to the SA zone and whether any portion of the new proposed lots (See Appendix A) are in the SA zone. For this purpose, a map that determines the location of the zone boundary between the R1 zone and the SA zone is necessary.
2. At issue in the second assignment of error is the determination of whether or not the original 2008 PUD approval is valid. More specifically, the second assignment of error requires a determination of whether Final Plat condition 1 included in Exhibit B was applied to the second phase of the PUD as modified in 2008.



C. ASSIGNMENT OF ERROR 1

RELEVANT FACTS: ASSIGNMENT OF ERROR 1

1. The single-family residential (R-1) is a base zone, which prescribes a list of permitted and conditional uses allowed in the zone.
2. According to LUBA, the Special Area Wetland (SA) zone is also a base zone, prescribing a list of permitted and conditional uses. *See* LUBA Final Order.
3. The SA zone does not list residential development as either a permitted or conditional use.
4. The Wetland Notification Overlay Zone is different than the Special Area Wetland (SA). The Wetland Notification Overlay Zone does not change or limit any uses allowed in the base zone. It provides a mechanism for requiring the applicant for development to notify DSL and the Corps and, if based on a delineation those agencies determine they have jurisdiction, supply the city with required permits.
5. The Rockaway Beach zoning map is combined with its comprehensive plan map.
6. The relevant processes for determining zone boundaries can be found in Section 2.030, Section 2.050, Section 3.080 (5), and Section 5.010.
 - a. Section 2.030. Location of Zones. States: “The boundaries for the zones listed in this ordinance are indicated on the 'Rockaway Beach Zoning Map' which is hereby adopted by reference. The boundaries shall be modified in accordance with zoning map amendments which shall be adopted by reference.”
 - b. Section 2.050. Zone Boundaries. States: “Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, center lines of street or railroad rights-of-way, or such lines extended.”
 - c. Section 3.080 (5) Zone Boundary Determination. States: “At such time that a development is proposed in the vicinity of an area designated Special Area Wetlands, the City may require a site investigation to determine the exact location of the zone boundary. The site investigation shall be performed by a qualified agent such as a biologist from the U.S. Army Corps of Engineers or the Division of State Lands.”



- d. Section 5.010. Zone Boundaries. States: “If a zone boundary as shown on the map divides a lot between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot lies, provided that this adjustment involves a distance not to exceed 20 feet from the mapped zone boundary.”
7. The relevant processes for amending zone boundaries can be found in RBZO Article 9. The Criteria for approval of a zoning map amendment can be found in Planning Process Policy 7 of the Rockaway Beach Comprehensive Plan.

STAFF FINDINGS: ASSIGNMENT OF ERROR 1

1. The assumption that zone boundaries will always be located on section lines, subdivision lines, lot lines, center lines of street or railroad rights-of-way, or such lines extended is incorrect as evidenced by Section 5.010 of the RBZO.
2. In 2008, the applicant did not initiate an amendment to the zoning map nor did the City Council review or approve a zoning map amendment as outlined in RBZO Article 9. Approval of the PUD application and the PUD overlay designation did not amend nor did they change the location of any zone boundary lines.
3. The Planning Commission and City Council’s 2008 PUD decision is final and not subject to review. The Planning Commission and City Council may have erred in 2008 by allowing residential development in the SA zone, regardless, that decision stands today.
4. The present issue, as outlined in the first assignment of error remanded to the City of Rockaway Beach, is to determine which parts of the property are subject to the SA zone and whether any portion of the new proposed lots (See Appendix A) are in the SA zone.
5. In 2008, the Planning Commission and City Council repeatedly found that 3.9 acres of the site was zoned as R-1 and that 2.33 acres were zoned as SA. The Planning Commission and City Council did not specify the physical location of these zones, nor did they reference the zoning map to make that determination, rather, they stated that the area of the property within the SA zone was determined by a wetland delineation report and survey concurred with by DSL. This lack of specification is evident by the absence of base zone abbreviation assignment to the PUD overlay approved by City Council in Final Order (3). The exact locations of PUD-R1 and PUD-SA have not been included in the historic record.



6. In 2008, the Planning Commission may have erred in relying on the wetland delineation report rather than on the Comprehensive Plan and Zoning Map dated February 1992 in making their determination of the applicable zones.
7. LUBA asks that the City adopt findings that rely on the Comprehensive Plan and Zoning Map dated February 1992 to determine the correct application of Section 3.080 (5).
8. The physical Comprehensive Plan and Zoning Map dated February 1992 has not been updated since its adoption. However, zone amendments have taken place that are not reflected on the physical map. Section 2.040 outlines the timeframe by which the zoning maps is physically updated.
 - a. Section 2.040. Zoning Map states: “Whenever sufficient authorized map amendments have been adopted, a revised zoning map shall be prepared. At a minimum, it shall be at the time of periodic review.”
9. When the site in question (Appendix B) is overlaid with the physical Comprehensive Plan and Zoning Map dated February 1992, it becomes apparent the zoning map is not adequate to accurately assess the zoning designation of the site (See Appendix C). Several geographic features, such as the centerline of roads, the location of city limits, the railroad, and the highway cannot accurately be placed on the zoning map. With some distortion of the zoning map, these features can be more accurately placed (See Appendix D). The accuracy of this overlay methodology is imprecise, and does not reflect the regular process the City employs to determine the zone designation of any given lot in the Rockaway Beach Urban Growth Boundary.
10. As best practice, historically, City Staff have relied on a parcel specific zoning map GIS layer created in 2015. This is the most up to date map that reflects zoning changes that have taken place after 1992. This map is publicly available on the City of Rockaway Beach website, <https://corb.us/>, and is part of the Tillamook County’s GIS tool, which is also publicly available, <https://www.tillamookcounty.gov/gis>
11. In absence of a legible, accurate representation of zone boundaries on the property, the City believes use of the GIS tool is reasonable and appropriate to accurately determine the location of the SA zone on the property. See *Willamette Oaks LLC v. Lane County*, 64 Or LUBA 328, 344 (2011) (finding use of the GIS map, rather than Goal 5 map wetland boundaries, was appropriate because GIS map was not “inaccurate” or different in any material respect from the Goal 5 map).



12. The GIS zoning layer for the area in question is included in Appendix D. The proposed lots are located in the areas mapped as the SA zone in the City's GIS tool (Appendix E).

STAFF SUMMARY: ASSIGNMENT OF ERROR 1

Upon a close inspection of issues relevant to the first assignment of error, Staff finds the following:

The Special Area Wetland (SA) is a base zone, which does not list residential development as either a permitted or conditional use. In 2008, the applicant did not initiate an amendment to the zoning map nor did the City Council review or approve a zoning map amendment. In 2008, the Planning Commission and City Council found that 3.9 acres of the site was zoned as R-1 and that 2.33 acres were zoned as SA. In 2008, the Planning Commission and City Council did not specify the physical location of these zones, nor did they reference the zoning map to make that determination, rather, they stated that the area of the property within the SA zone was determined by a wetland delineation report and survey concurred with by DSL. The Planning Commission and City Council may have erred in 2008 by allowing residential development in the SA zone, regardless, the Planning Commission and City Council's 2008 PUD decision is final and not subject to review. **The present issue is to determine which parts of the property (See appendix A) are subject to the SA zone and whether any portion of the new proposed lots are in the SA zone.**

In the remand, LUBA asks that the City adopt findings that rely on the Comprehensive Plan and Zoning Map dated February 1992 to determine the correct application of Section 3.080 (5). When the site in question (Appendix B) is overlaid with the physical Comprehensive Plan and Zoning Map dated February 1992, it becomes apparent the zoning map is not adequate to accurately assess the zoning designation of the site (See Appendix C). The accuracy of distorting the zoning map to better align different markers (See Appendix D) in an overlay is imprecise, and does not reflect the regular process the City employs to determine the zone designation of any given lot. As best practice, City Staff have historically relied on a parcel specific zoning map GIS layer created in 2015. In absence of a legible, accurate representation of zone boundaries on the property, the City believes use of the GIS tool is reasonable and appropriate to accurately determine the location of the SA zone on the property.

STAFF CONCLUSION: ASSIGNMENT OF ERROR 1

Based on the facts listed above, Staff concludes that:

1. The Special Area Wetland (SA) is a base zone, which does not list residential development as either a permitted or conditional use.



2. The City believes use of the GIS tool is reasonable and appropriate to accurately determine the location of the SA zone on the property.
3. The proposed lots are located in areas mapped as the SA zone in the City's GIS tool (Appendix E)

D. ASSIGNMENT OF ERROR 2

RELEVANT FACTS: ASSIGNMENT OF ERROR 2

1. ORS 92.040(2) states that: "After September 9, 1995, when a local government makes a decision on a land use application for a subdivision inside an urban growth boundary, only those local government laws implemented under an acknowledged comprehensive plan that are in effect at the time of application shall govern subsequent construction on the property unless the applicant elects otherwise."
2. ORS 92.040(3) states that: "A local government may establish a time period during which decisions on land use applications under subsection (2) of this section apply. However, in no event shall the time period exceed 10 years, whether or not a time period is established by the local government."
 - a. ORS 92.040(3) does not make land use decisions expire; rather, it states that a City can allow an Applicant whose application was approved to choose between the old rules and the new rules for up to 10 years after the application is approved. This interpretation was supported by the ruling in *Claus v. City of Sherwood* (LUBA No. 2022-080, filed on March 9, 2023) and in *Athletic Club of Bend, Inc. v. City of Bend*, 239 Or App 89 (2010).
3. Section 10.050 of the Rockaway Beach Zoning Ordinance (RBZO) provides procedures for the preliminary development plan of a PUD.
 - a. Section 10.050(1)(i) states that the preliminary development plan for a PUD must include: "A schedule, if it is proposed that the final development plan will be executed in stages."
 - b. Section 10.050(2)(d) of the Rockaway Beach Zoning Ordinance states that, in considering the plan, the Planning Commission shall seek to determine whether: "The plan can be completed within a reasonable period of time."
4. Section 10.060 of the RBZO provides procedures for the final approval of the PUD.



- a. Section 10.060(1) states that “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 authorized, 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 plan, plus the following:...”
 - i. Section 10.060(1)(d) requires that the final plan include “Preliminary subdivision plan if property is to be subdivided.”
5. Section 5 of the Subdivision and Land Partition Ordinance (Subdivision Ordinance) provides the procedures for a subdivision. Section 5, 6, and 7 all refer to a tentative plat as a “tentative plan.”
6. Section 11 of the Subdivision Ordinance provides the procedures for a Final Plat review.

STAFF FINDINGS: ASSIGNMENT OF ERROR 2

1. There are four distinct processes at issue:
 - a. **Preliminary Development Plan** (RBZO Section 10.050), also referred to as Preliminary Plan (Historical Record)
 - b. **Final Plan** (RBZO Section 10.060)
 - c. **Tentative Plan** (Subdivision Ordinance Section 5), also referred to as Preliminary Subdivision Plan (RBZO Section 10.060(1)(d)) and Tentative Plat (Historical Record)
 - d. **Final Plat** (Subdivision Ordinance Section 11)
2. In Planning Commission’s January 29, 2008 approval of PUD 07-19, certain conditions of approval, including Final Plat Condition 1, were included in the Final Order (1) as Exhibit B.
3. In Exhibit B, the Final Plat Condition 1 reads:

“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.”

The tentative plan referred to here is not the same process as a preliminary plan as per RBZO 10.050, rather, it refers to a process outlined in Section 5 of the Subdivision and Land Partition Ordinance.



4. On May 27, 2008, the Planning Commission approved the Final Plan for the 28-lot PUD. In doing so, the Planning Commission also approved the preliminary subdivision plan, also referred to as the tentative plan, for all 28 proposed lots (See Appendix I).
5. On July 22, 2008, the Planning Commission approved a modification of the PUD to allow for phasing with conditions for approval. These conditions of approval – including Final Plat Condition 1 – were included in the Final Order (2) as Exhibit B.
6. For clarity, Exhibit B included in Final Order (1) and Final Order (2) are the same document.
7. The Applicant (See Applicant Testimony and Rebuttal Page 008) argues that the City implicitly modified Final Plat Condition 1 when it authorized Nedonna Development to develop the PUD in stages instead of all at once, because that modification implicitly authorized Nedonna Development to build the improvements for each stage with that stage, as is customary for subdivisions.
8. As is relevant to interpreting this Final Plat Condition 1, the Planning Commission’s adopted findings of fact from the July 22, 2008 public hearing, titled “Exhibit D: Modified Preliminary and Final Approval for a Two Phase Development,” addressed the question of a development schedule, specifically (**emphasis added**):

*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 plan and final plan approval requests a two stage development plan that is substantially 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.***

The emphasized language suggests that the City did not authorize any implicit changes as the Applicant suggests.



9. The question then becomes whether Final Plat Condition 1 in Exhibit B was specifically amended in the findings of fact included in Exhibit D, which allowed for the phasing of the 28-lot PUD per the Planning Commission's decision on July 22, 2008.

10. In the Exhibit D, Finding No. 4, states that (**emphasis added**):

“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 housing included but not limited to : 3 phase duplex station with controls, divot crane, onsite generator, telemetry, lighting and fencing; the extension of existing 6” diameter White Dove Sewer manhole at 17th Avenue as necessary to serve the project to and to alleviate surcharging of the 23rd Avenue Manhole; and Paving remainder of Reily Street east of Kittiwake, and Jackson Street.”

11. Beyond Finding No. 4, Exhibit D is silent on the period of time the installation of the remaining utilities would be postponed for, and thus, does not specifically amend Final Plat Condition 1 in Exhibit B. Instead, Finding No. 4 sets a new start date from which the one-year would be calculated from (July 22, 2008).

12. Further discussion at the August 13, 2008 City Council hearing is relevant to analyzing the Final Plat Condition 1. During the August 13, 2008 City Council Hearing, in which the City Council approved adding the PUD designation to the zoning map, a public conversation between the City Planner, Sabrina Pearson, and the Mayor, Lisa Phipps, was recorded in which the Mayor asked the Planner about the timelines for both phases of the PUD. In that conversation, the Planner mentions the applicants considering an extension for Phase Two of the PUD: “We already have the final set division plat [...] and it is their intention to complete those in phase 1 fairly quickly. They have spoken with us about potentially extending phase 2 through 2011” (Appendix J). This would imply that a deadline did in fact exist for Phase Two of the PUD. The transcript of the conversation is included in Appendix J. This evidence helps illuminate the City's intention for the application of Exhibit B.

13. The Applicant additionally argues that Final Plat Condition 1 applies to the tentative plans for a plat or phase of the PUD, and not the Final Plan of PUD 07-19 itself, approved under Final Order (2). In other words, the one-year period begins when the city issues a “tentative plan approval for a plat or phase of the PUD” and that the Final Order (2) was not a tentative plan approval, rather that was a final approval. Page 008 of Applicant Testimony and Rebuttal document.

14. On July 22, 2008, however, the City modified the Preliminary Plan approval, the Tentative Plan approval, and the Final Plan approval for PUD 07-19 concurrently. Exhibit D is titled “Modified Preliminary and Final Approval for a Two Phase Development.” Additionally, the motion passed



by the Planning Commission on July 22, 2008 was 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.”

In other words, in this matter, the City does not see a distinction between the “tentative plan approval,” as suggested by Final Plat Condition 1 or Exhibit D, and the Final Plan approval for PUD 07-19.

15. Further, Exhibit D’s findings suggest that the City intended for Final Plat Condition 1 to carry over to Phase 2, and apply based on the original tentative plan approval. Section V(1) of Exhibit D applied the original preliminary development and tentative plan approval conditions of the January 29, 2008 decision to both phases of the PUD. That Section V(1) states:

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

16. The City interprets reference to “tentative plan approval” in Exhibit D as intentional. It is consistent with the language under Final Plat Condition 1, which specifically requires improvements to be constructed within one year of “tentative plan approval.” Additionally, the description of phase 2, lots 9-28, is established by reference to the tentative plan first approved on May 27, 2008, and later subject to phasing on July 22, 2008.
17. Exhibit D modified the Tentative Plan approval to allow for phasing of that Tentative Plan. It did not limit the original Tentative Plan, approved on May 27, 2008, to either Phase. This suggests that the City did not require the Applicant to seek an additional “tentative plan approval” per Section 10.060(1)(d) of the RBZO for Phase Two as the Final Plan approval for Phase Two took place on July 22, 2008.
18. This interpretation is supported by #PUD-24-1. In the 2024 PUD application, the Applicant sought to modify the Final Plan and the tentative plan, which was first approved on May 27, 2008, and later subject to phasing on July 22, 2008. The Applicant did not seek Tentative Plan review as per Section 5 of the Subdivision Ordinance.
19. The one-year period began when the city issued its approval for #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, within Exhibit D conditions (Final Order (2)), on July 22, 2008.



20. Altogether, a reasonable, plausible interpretation of Final Plat Condition 1 is that it applies to the original tentative plan approval, which took place on May 27, 2008 and was modified on July 22, 2008. If the City intended for a different time period to apply (e.g., preliminary or tentative phase approval), then it could have said so.

STAFF SUMMARY: ASSIGNMENT OF ERROR 2

Upon a close inspection of issues relevant to the second assignment of error, Staff finds the following:

Nothing contained in Oregon Revised Statutes or the Rockaway Beach Zoning Ordinance would cause land use decisions to expire. In 2008, the Planning Commission erred in failing to require the applicant to submit a development schedule as is required by RBZO Article 10, 10.050 (1) (i). The Planning Commission and City Councils 2008 PUD decisions are final and not subject to review. At issue today is whether Exhibit B: Final Plat Condition 1 was met and whether that condition was intended to extend to Phase Two of the PUD.

Exhibit B set conditions for approval for Phase 2 of the PUD, unless those conditions were specifically amended in Exhibit D. A finding included in Exhibit D notes that Phase Two of the PUD served only to specifically postpone the installation of the remaining utilities. However, Exhibit D did not specifically amend the Final Plat requirement for the PUD to complete the improvements within one year of a “tentative plan approval.” Additionally, Exhibit D modified the Tentative Plan approval to allow for phasing of that Tentative Plan, it did not limit the original Tentative Plan, approved on May 27, 2008, to either Phase. Suggesting that the condition for approval timeframe of one year for improvements was postponed from May 27, 2009 to July 22, 2009, and no condition was set which required the applicant to seek an additional Tentative Plan approval for Phase Two per Section 10.060(1)(d) of the RBZO.

STAFF CONCLUSION: ASSIGNMENT OF ERROR 2

Based on the facts listed above, Staff concludes that:

1. Exhibit D applied Exhibit B: Final Plat condition 1 to Phase Two of the PUD.
2. The one-year period began when the city issued its approval for #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 and the application condition was not met by July 22, 2009.



3. Therefore, because the above condition of approval was not timely met, #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 is no longer valid.

E. CONCLUSION

Based on the findings and conclusions presented in this report, Staff support the conclusion to REVERSE the Planning Commission's July 18, 2024 decision on application #PUD-24-1 and, in doing so, DENY application #PUD-24-1.

Appendix A



Appendix B

Joint Permit Application
 Nedonna Development LLC, Nedonna Wave Planned Unit Development
 Rorick Environmental Services, 503-668-8660

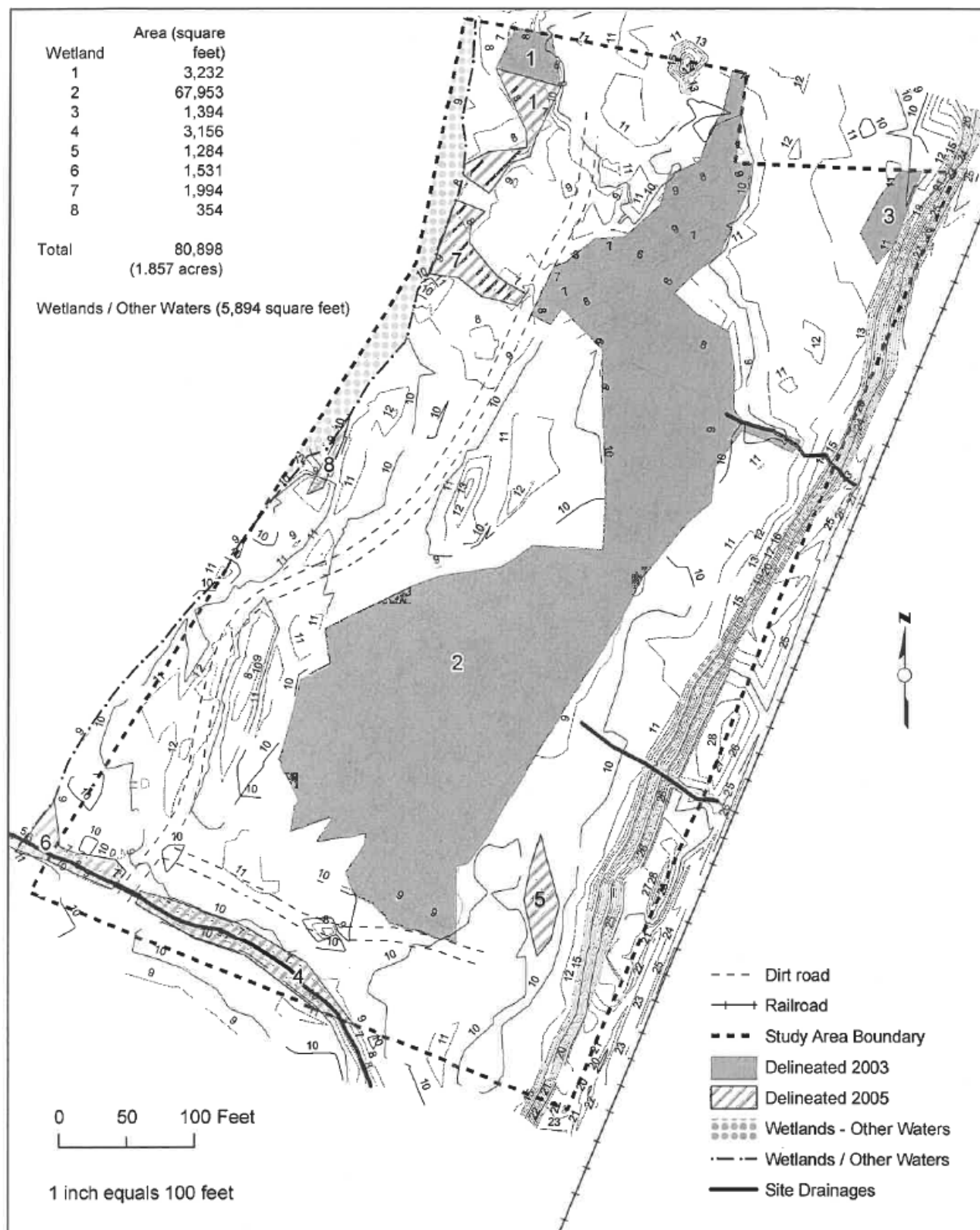


Figure 5 Wetlands map (revised 7-26-06).

Appendix C

Nedonna Development LLC, Nedonna Wave Planned Unit Development
Rorick Environmental Services, 503-668-8660

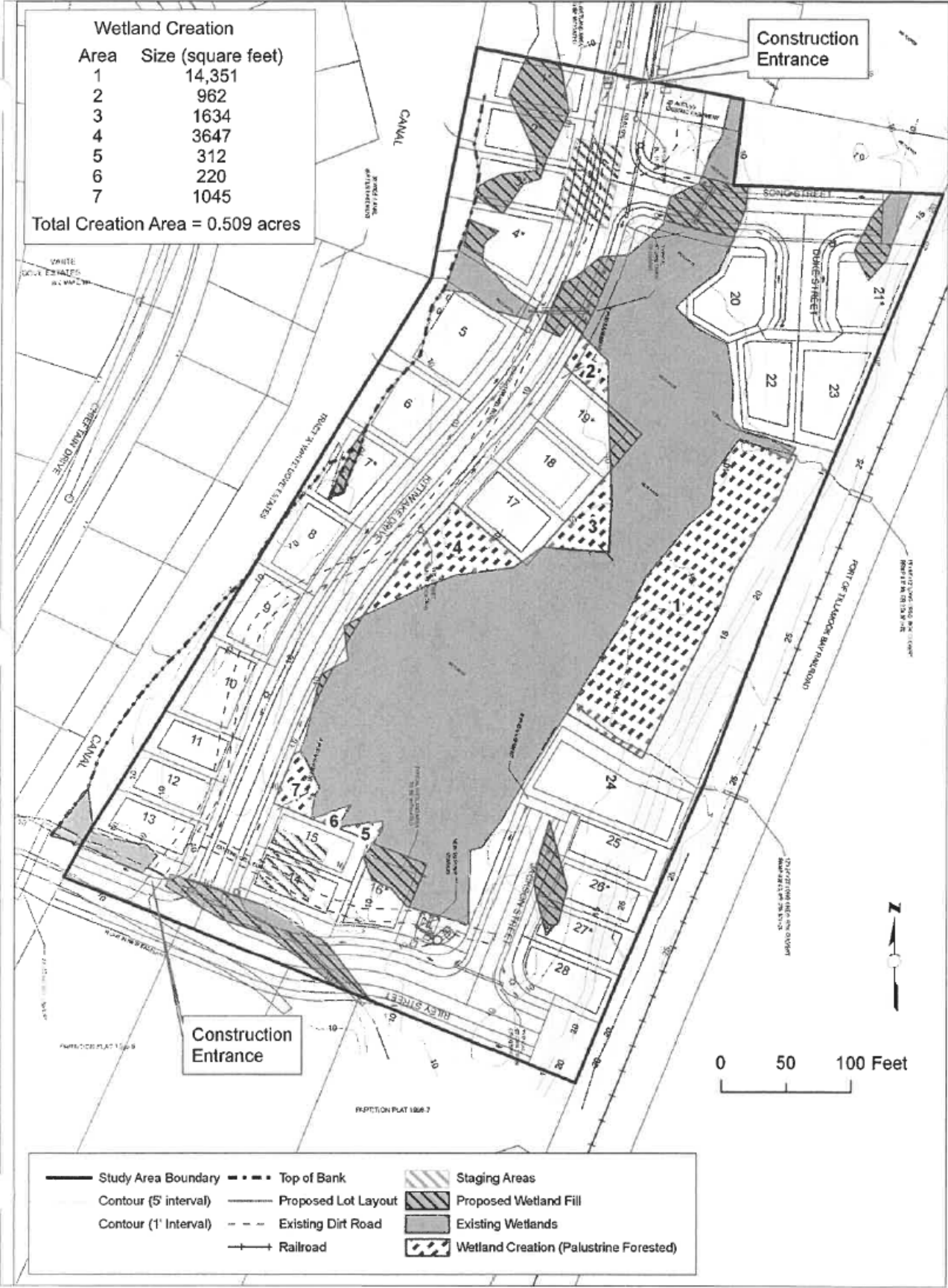
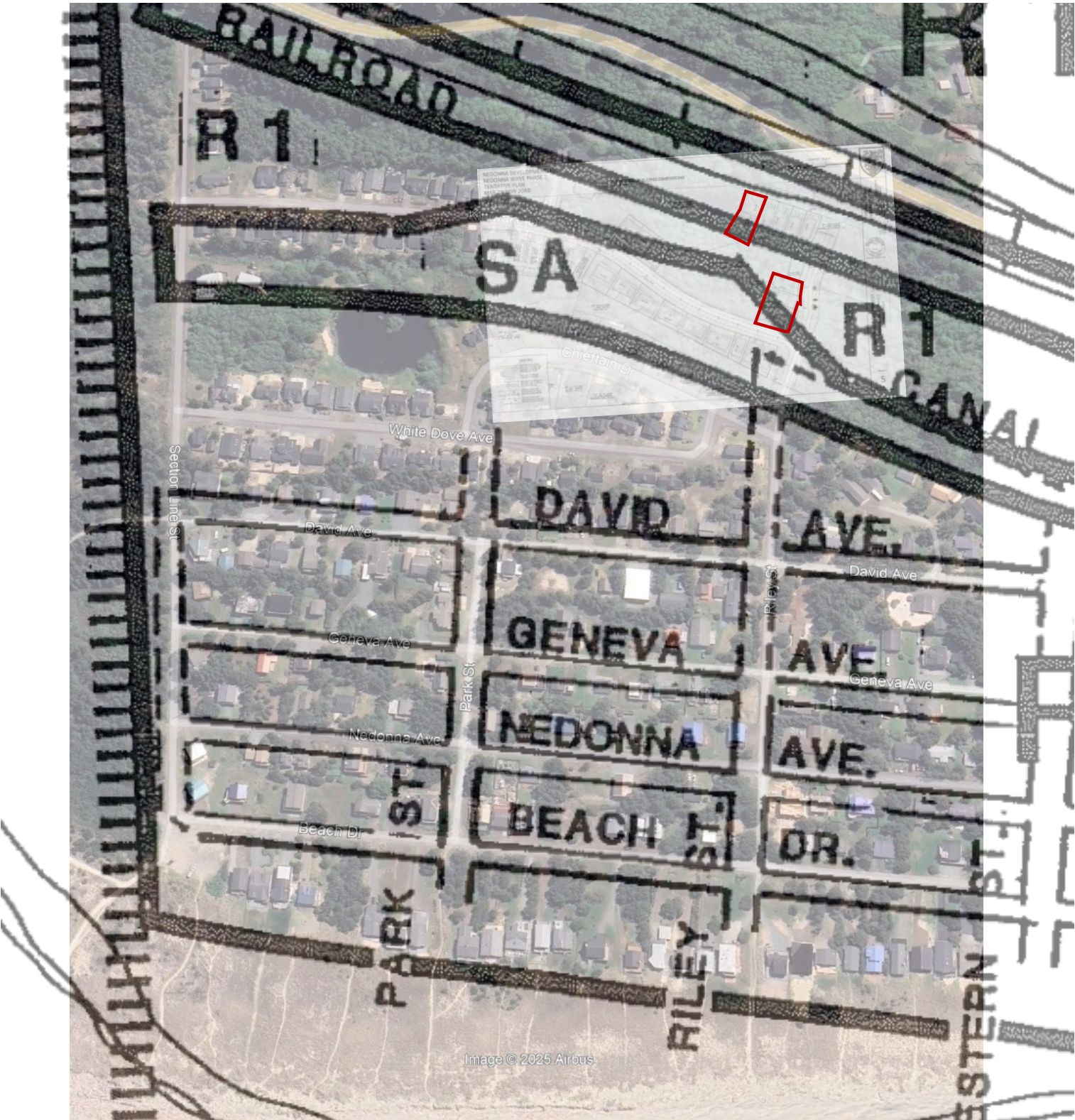


Figure 10 Site plan and proposed alternative.

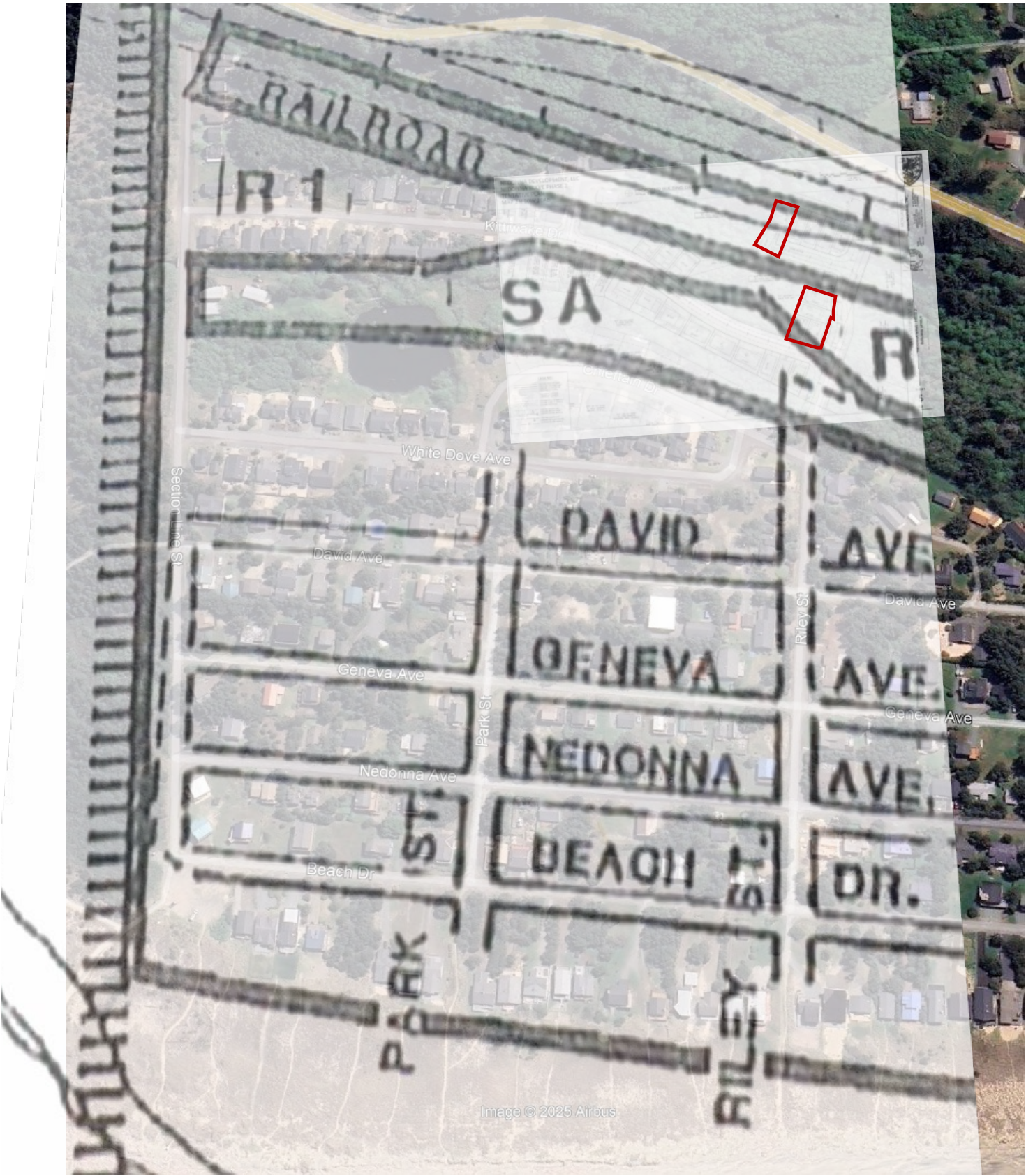
Appendix D



Appendix E



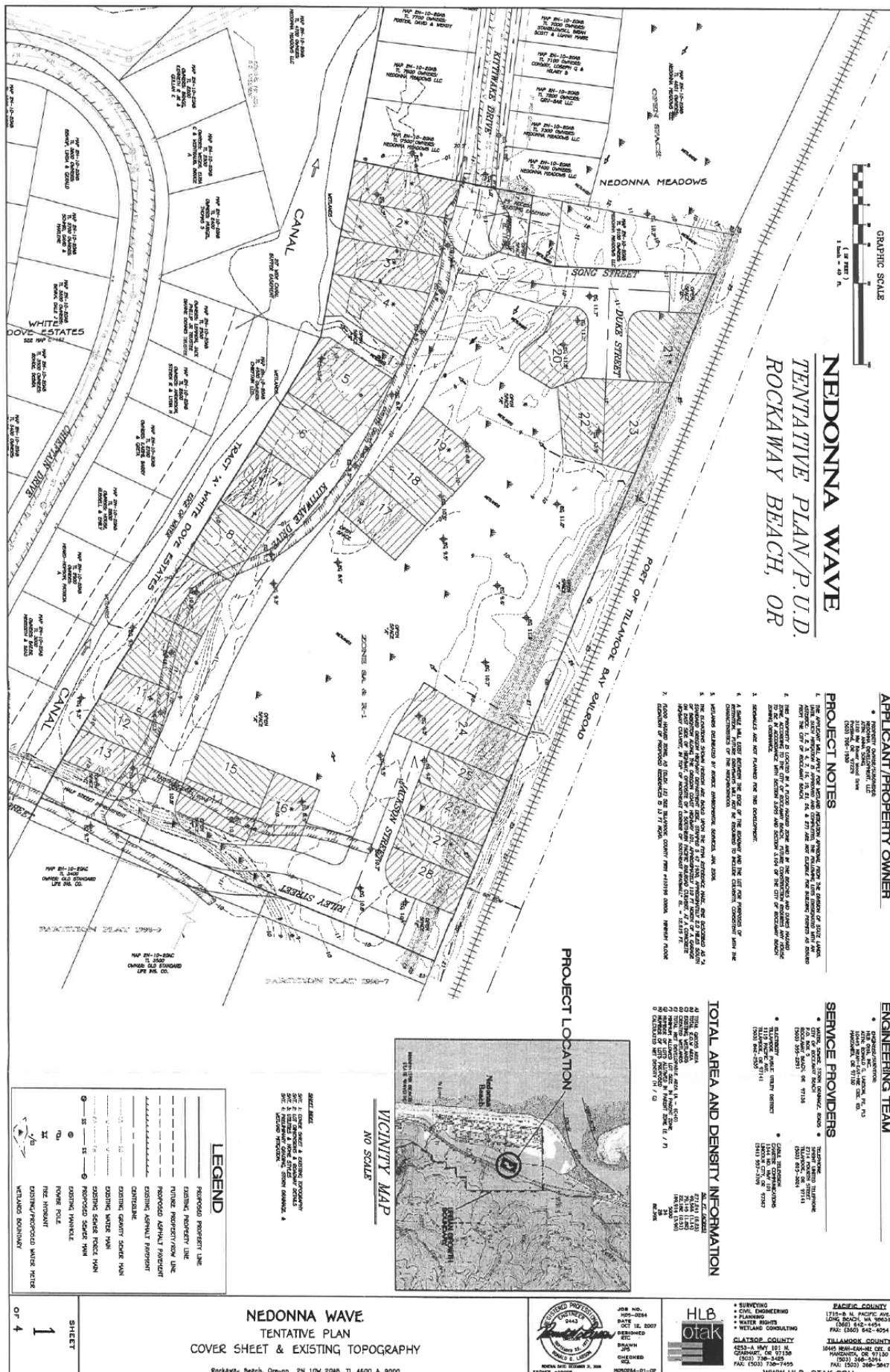
Appendix F



Appendix G







Appendix J

0:08:08- Planner (Sabrina Pearson): ...Building permits will not be issued until conditions for approval have been met. Any questions?

0:08:14 Mayor (Lisa Phipps): so in phase one there will be 8 lots and the improvements associated with those 8 lots building permits will be issued for those 8 lots so if phase 2 never moves forward at a minimum we have 8 lot subdivision.

0:08:36 Planner: Correct

0:08:36 Mayor: How long do they have for the final plat approval, is it a year from the planning commission's...

0:08:43 Planner: they do have a year to submit...

0:08:46 Mayor: and when will that...

0:08:46 Planner: and they may request extensions

0:08:49 Mayor: assuming everything goes through tonight, when will that approval be up

0:08:56 Planner: one year from the date, May 27, 2000[inaudible]. We already have the final set division plat but there is one in review with the city and it is their intention to complete those in phase 1 fairly quickly. They have spoken with us about potentially extending phase 2 through 2011 that would be the wetland delineation approval stage, but I do not foresee that. That could happen, I suppose potentially, and that is why phase 1 is stand alone, the open space required to serve phase 1 is fully intact and we will have all of the Department of State Lands and US Army Corps joint permit forms submitted for phase 1.

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

To: City Council

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

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

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

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

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

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

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

2. Incomplete Infrastructure for Phase 2

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

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

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

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

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

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

Thank you for your time,

Delta Holderness

Rockaway Beach

Nedonna Wave PUD 24-1

Janet Teshima
David and Riley Rockaway
July 16, 2025

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

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

I would like to know if:

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

Thank you for providing this information.

Best regards,
Janet Teshima
Rockaway Beach, OR 97136

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

Dear City Council,

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

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

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

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

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

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

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

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

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

Sincerely,
Gary Corbin, Ph.D.

[REDACTED]
Rockaway Beach, OR 97136

Mail printed replies and updates to:
[REDACTED]



#Remand-25-1

**Applicant
Testimony and Rebuttal**



DEAN N. ALTERMAN
ATTORNEY

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

August 19, 2025

Via e-mail only to cityplanner@corb.us

The Mayor and Councilors
City of Rockaway Beach
PO Box 5
Rockaway Beach, OR 97136

Re: Remand of Nedonna Development for Phase 2 PUD approval
City file # Remand-25-1
Our File No.: 5701.001

Dear Mayor McNeilly and Councilors:

I'm submitting this letter on behalf of Anna Song and Nedonna Development, LLC, in response to the remand of the Phase 2 development of Nedonna Wave, now before the City Council, and to specifically address the location of the R-1 and SA zones on the property.

LUBA remanded this application to you to consider two questions. The first question is to identify the boundaries of the R-1 and SA zones at the property, and more generally how the city sets the boundary between the R-1 and the SA zones. The second is to determine whether the city code requires the recipient of an approval for a phased planned unit development (PUD) who completes the first phase on time to begin the second and subsequent phases within any particular time period.

Nedonna Development suggests that the answer to the first question is that the city sets the boundary of the SA zone for a particular property when an applicant first proposes to develop the property, based on a wetlands delineation at the time. In this case, the city set the boundary of the SA zone on the Nedonna Development property when it accepted the wetlands delineation for the PUD in 2008, and that boundary remains the boundary for the PUD and the property.

The answer to the second question is that if the developer of a phased PUD plats the first phase within the time the code allows, then the code does not place any time limit on when the developer must complete the second and any later phases. You may decide as a matter of policy that you want to change the code

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for future PUD applications. In this case you are bound by the code as it existed when Nedonna Development received its PUD approval.

The applicant is proposing to place the lots in Phase 2 entirely within the areas that the city approved for residential development in Phase 1. Accordingly, the city should approve Phase 2.

I. History

In 2007 Nedonna Development applied to the city to build a 28-lot planned unit development in one phase. In February 2008 the city approved the preliminary plan and imposed the condition that Nedonna Wave complete all improvements within one year, unless the city granted an extension.

Later in 2008 Nedonna Development applied to modify the approval to allow it to construct the PUD in two phases, composed of 8 lots in Phase 1 and 20 lots in Phase 2. The city granted the approval and amended the zoning map to designate the entire property as “PUD.”

Within the year after the city approved the PUD, Nedonna Development built all of the utilities for both phases, all of the streets for Phase 1, and most of the streets for Phase 2. The city approved the final plat of Phase 1. Phase 1 included the 8 lots and also included Tracts A, B, and D as common area and Tracts C, E, F, and G for future development. Tract C was later developed as Partition Plat 12-02.

In 2024 Nedonna Development applied to modify the PUD approval, adjust some lot boundaries within the previously approved area, and build the remainder of the PUD in a Phase 2 and a Phase 3 instead of entirely in Phase 2. The city approved most of the lot modifications and denied the request to split Phase 2 into two subphases. Ocean Shores Conservation Coalition appealed the city’s approval to the Land Use Board of Appeals. In July 2025 LUBA remanded the case to the city on two specific issues. First, do the approved lots in Phase 2 extend into the SA zone? Second, did the PUD approval expire because Nedonna Wave did not complete all of the Phase 2 improvements within one year after the city approved the request to build the PUD in phases?

II. When the Nedonna Wave Final Plan was approved all 28 proposed lots were within the R-1 zone, and they are therefore within the R-1 zone today.

The city’s zoning code contains three relevant provisions. RBZO §2.050 states that “Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, center lines of street or railroad rights-of-way, or such lines extended.”

RBZO §3.080(1) describes the purpose of the Special Area Wetlands (SA) zone as being “to conserve significant freshwater wetlands and the shoreland and aquatic environment of Rockaway Beach’s lakes.” RBZO §3.080(5) states how the city determines the boundaries of the SA zone: “At such time that a development is proposed in the vicinity of an area designated Special Area Wetlands, the City may require an investigation to determine the exact location of the zone boundary. The site investigation shall be performed by a qualified agent such as a biologist from the U.S. Army Corps of Engineers or the Division of State Lands.”

In 2007 Nedonna Development submitted a wetlands delineation for its entire parcel. In 2008 the city approved the delineation, the PUD plan, and the plat of Phase 1 that relied on the delineation. Phase 1 included a Tract A identified as common area and that consisted entirely or nearly entirely of delineated wetlands. Because the presumption is that zone lines follow lot lines, the city’s 2008 approval of the PUD plan and Phase 1 sets Tract A within the SA zone.

The applicant today is not proposing any residential development within Tract A.

In 2008 the city approved Lots 1 to 8 for present development and the areas identified as future lots for future residential development. Almost all of Tract G and about half of Tract F were identified as areas for future lots. Because the presumption is that zone lines follow lot lines and the SA zone does not allow residential development, the city’s 2008 approval of the PUD plan sets the areas for future phases (outlined in yellow on Exhibit 8) **outside** the SA zone and within the R1 zone.

The city made that determination in 2008 and it has become final. Those areas are outside the SA zone. Jackson Street, having been approved and dedicated as a public street, is equally outside the SA zone.

The record contains ample evidence that in 2008 the city considered the areas approved for building lots to be zoned R-1 and not SA.

First is that the entire Nedonna Wave site before development was delineated in 2006 as containing 1.858 acres of wetlands. As part of the overall project Nedonna Development filled 0.332 acres of wetlands and created 0.509 acres of new wetlands in mitigation, resulting in total wetlands of 2.035 acres. In approving #SPUD 07-19 the city a slightly higher figure: the city’s decision states that 2.33 acres was zoned SA and 3.9 acres was zoned R-1. Exhibit 1 at pg. 5.

Consistent with RBZO §3.080(5), the city further indicated that the location of the SA zone was determined by a wetland delineation and survey

which was verified by the Oregon Department of State Lands (“DSL”) on August 1, 2006. *Id.* Throughout the application process of #SPUD 07-19, the city consistently noted the development zones on the property, their respective acreages, and how the location of the SA zone was determined. Exhibit 1 at pg. 1, 3, 5, 8, 10, 23, & 31.

The 2006 wetland delineation, verified by DLS, showed the bulk of the wetlands located in middle of the property with an overall 1.858 acres of wetlands on the property. Exhibit 2. In order to create lots within large parcels of R-1 property and to conserve tracts of contiguous SA property, the applicant submitted a joint application to the US Army Corps of Engineers (“CoE”) and DSL to excavate and fill 0.332 acres of wetland. This would allow for the construction of roadways, the placement of residential lots in accordance with density requirement, and create contiguous wetland areas for preservation. In approving the removal-fill permit (“RF-36702”), Nedonna Development was required to create approximately 0.51 acres of wetland to be consolidated for permanent preservation. This resulted in an increase in overall wetlands and SA zoned land on the property from 1.857 acres to 2.33 acres and shifted the location of the SA zone boundary. As a result of the wetlands delineation and RF-36702, all 28 residential lots would be placed outside of the wetlands and the SA zone. Exhibit 3. This city submitted findings to this effect when it approved the final plan for the Nedonna Wave PUD in 2008.¹ Exhibit 1 at pg. 10.

Tract A, the common area from Phase 1, is indicated as 1.42 acres on the current tax map, which means that Phase 2 contains at most 0.91 acres of land zoned SA. The two small areas of delineated wetland along Riley Street next to Lots 9 and 14 are perhaps 2,000 to 2,500 SF together, or about 0.05 acre. If all of the remaining 0.86 acres of SA land is in Tract F (a tract to be subdivided in Phase 2), which is 1.73 acres, then Tract F contains 0.87 acres of R-1 land. If less than all of the remaining SA land is in Tract F and the two slivers along Riley Street, then Tract F contains more than 0.87 acres of R-1 land.

Thirteen of the residential lots in Phase 2 are within Tract F. Those are lots numbered from 10 to 22. Their areas total 37,444 SF, which is 0.86 acre, less than the minimum 0.87 acre of R-1 land that must exist within Tract F.

It’s therefore consistent with the record and the city’s 2008 decision to find that the 13 lots within Tract F are zoned R-1 because of the 2008 decision, and are eligible for residential development.

¹The City would not have issued final approval for the PUD if any of the proposed residential development were within the SA zone because the SA zone does not allow any residential use within the zone.

III. The overall location of the proposed residential lots has not changed and neither has the wetland boundary.

a. This application does not change the area where residential lots are to be placed.

This application only seeks to modify prior approvals in the number of residential lots to be developed and their configuration. These lots continue to be in the same area as proposed in the 2008 final plan approval. Comparing the site plan maps submitted as part of the 2008 approvals to the tentative plans submitted as part of this application illustrates that this is the case. *Compare* Exhibit 4 to Exhibit 5. The only notable changes are the reconfiguration of lots to allow for the two additional proposed lots within the area that the City previously approved for residential development. These changes are:

1. Splitting the lot numbered Lot 24 on the approved plan to create two lots numbered Lots 21 and 22 on the submitted plan.
2. Reconfiguring the three lots numbered as 14, 15, and 16 on the approved plan to create four lots numbered as 13, 14, 15, and 16 on the submitted plan.

All residential lots are still within the area of the property depicted in the approved PUD plan for residential lots.

b. The wetland boundary continues to be in approximately the same location as was determined in 2008.

The 2006 wetland delineation expired in 2011. In December 2024, the applicant's environmental consultant Christine McDonald prepared a new wetlands study and submitted it to DSL. Exhibit 6. The study area for this new delineation covered approximately 3.23 acres and encompassed tax lot 10200 and 10500, and portions of tax lots 10300 and 10400 T2N, R10W 20AB, as depicted on page 10 of Exhibit 6. The study area is the portion of the property covered by Phase 2 of the PUD. On May 20, 2025, DSL approved and validated the new wetlands delineation. Exhibit 7.

Inside the 3.23-acre study area, a total of 0.76 acres of wetlands were documented. Overall, the 2024 delineation report noted the study's findings were consistent with the previous wetland delineation and the wetland creation and fill maps for RF-36702. *Compare* page 7 of Exhibit 7 with Exhibit 2 and Exhibit 3. In addition to depicting the current wetland boundary, the 2024 wetland delineation survey demonstrates that the applicant created new wetlands and filled

portions of the wetlands from 2006 in accordance with the state approval. Exhibit 7 at page 7.

The only area that deviates from the prior wetland delineation is a 0.07-acre area, described as Wetland B in the wetland delineation report, confined to a depression in the Jackson Street right of way. The study determined backflows of water caused by beaver damming created surface water to pool within the depression. This is the same Jackson Street wetland which I addressed in my previous letter dated June 27, 2024. To summarize the previous letter, the depression in Jackson Street occurred when the area was excavated in preparation for rockfill and paving, but the filling and paving was never completed resulting in a depression. This and the beaver damming resulted in surface water pooling in the area.

Other than Wetland B, the 2024 wetland delineation is consistent with the previous wetland delineation and the RF-36702 maps. Overall, the current wetland boundary has not significantly shifted since the 2008 final plan approval, and the City may reasonably approve the applicant's proposal for Phase 2 of the PUD as being consistent with the City's approval of the PUD.

Nedonna Development offers the following finding for you to adopt:

The City interprets the purpose of RBZO §3.080(1) to be to apply the SA zone to significant wetlands within the City. The City interprets RBZO 3.080(5) to allow the city to determine the boundary between the SA zone and adjoining zones at the time that development is initially proposed in or near wetlands by requiring the applicant to provide a wetlands delineation at the time of the initial proposal. In this instance the City accepted the applicant's wetlands delineation when the City approved the tentative plan of the PUD, and that delineation fixed the boundary between the R-1 zone and the SA zone for the applicant's parcel. In Phase 2 the applicant is proposing residential development to be entirely within the areas that the City found to be within the R-1 zone in 2008. The applicant is not proposing residential development for any area that the City found to be within the SA zone in 2008 and the City may therefore approve Phase 2 as being consistent with the City's findings for the PUD's tentative plan and for Phase 1.

IV. The City's approval of the PUD plan has not expired.

The relevant standard today is at RBZO §10.060, which states that "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 authorized, for the first unit of the PUD, with the Planning Commission." Nedonna Development complied with that requirement.

In this case, Nedonna Development obtained approval of its preliminary plan. A few months later the City authorized Nedonna Development to develop the PUD in stages or phases, and within one year Nedonna Development filed its final plan for the first unit of the PUD. As long as the applicant files the final plan for the first unit of the PUD within one year after the City approves the preliminary plan for the PUD, the PUD approval remains valid. Nothing in the code suggests that it expires if the applicant takes more than one year to file a final plan for the second or later stages of a PUD.

The City did include a condition of approval in its February 2008 decision that required the applicant to complete all improvements within one year, unless the city granted an extension. LUBA quoted that condition only in part. The condition appears on page 1465 of the LUBA record and reads in full:

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.

The underlying PUD decision was not a “tentative plan approval.” Rather, it was part of a “Final Approval” of the PUD.

All this condition means is that the applicant must complete the public improvements within one year of obtaining the tentative plan approval for a plat or phase of the PUD before the City will approve the final plat of the phase. The condition does not require Nedonna Development to complete the improvements within one year of the final approval of the PUD plan. If the City had meant to require Nedonna Development to complete all the streets within one year after the City issued the final approval of the PUD, the City would have said so.

Even if the condition in the February 2008 final PUD approval meant that Nedonna Development had to construct all improvements within one year of the final PUD approval, the City implicitly modified that condition in September 2008 when it authorized Nedonna Development to develop the PUD in stages instead of all at once, because that modification implicitly authorized Nedonna Development to build the improvements for each stage with that stage as is customary for subdivisions.

Nedonna Development suggests the following finding for your consideration:

Condition No. 1 of the City's 2008 order that granted final approval of the PUD for Nedonna Wave required only that the applicant complete public improvements within one year after the City issued its tentative approval of the plan for a phase of the PUD. The final approval of the PUD was not itself a "tentative plan approval" and did not commence the period for the applicant to construct improvements.

V. Conclusion.

In 2008 the City determined the boundary between the SA portion and the R-1 portion of the Nedonna Wave tract. Nedonna Development is proposing all of the Phase 2 lots within the area that the City must have found in 2008 to be zoned R-1.

The condition of approval from February 2008 did not limit the PUD approval by time, but merely required that the applicant would have one year from obtaining tentative approval of a plat to construct the improvements for the plat.

The City should again approve Phase 2 of Nedonna Wave.

Very truly yours,

Dean N. Alterman

Dean N. Alterman

Attachments: Final Orders for SPUD #07-19
2006 Wetland Delineation Map
RF-36702 Wetland Mitigation Maps
SPUD #07-19 Site Plan Maps
Phase 2 Tentative Plan Maps
2024 Wetland Delineation Report
DSL Wetland Delineation Verification Letter

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

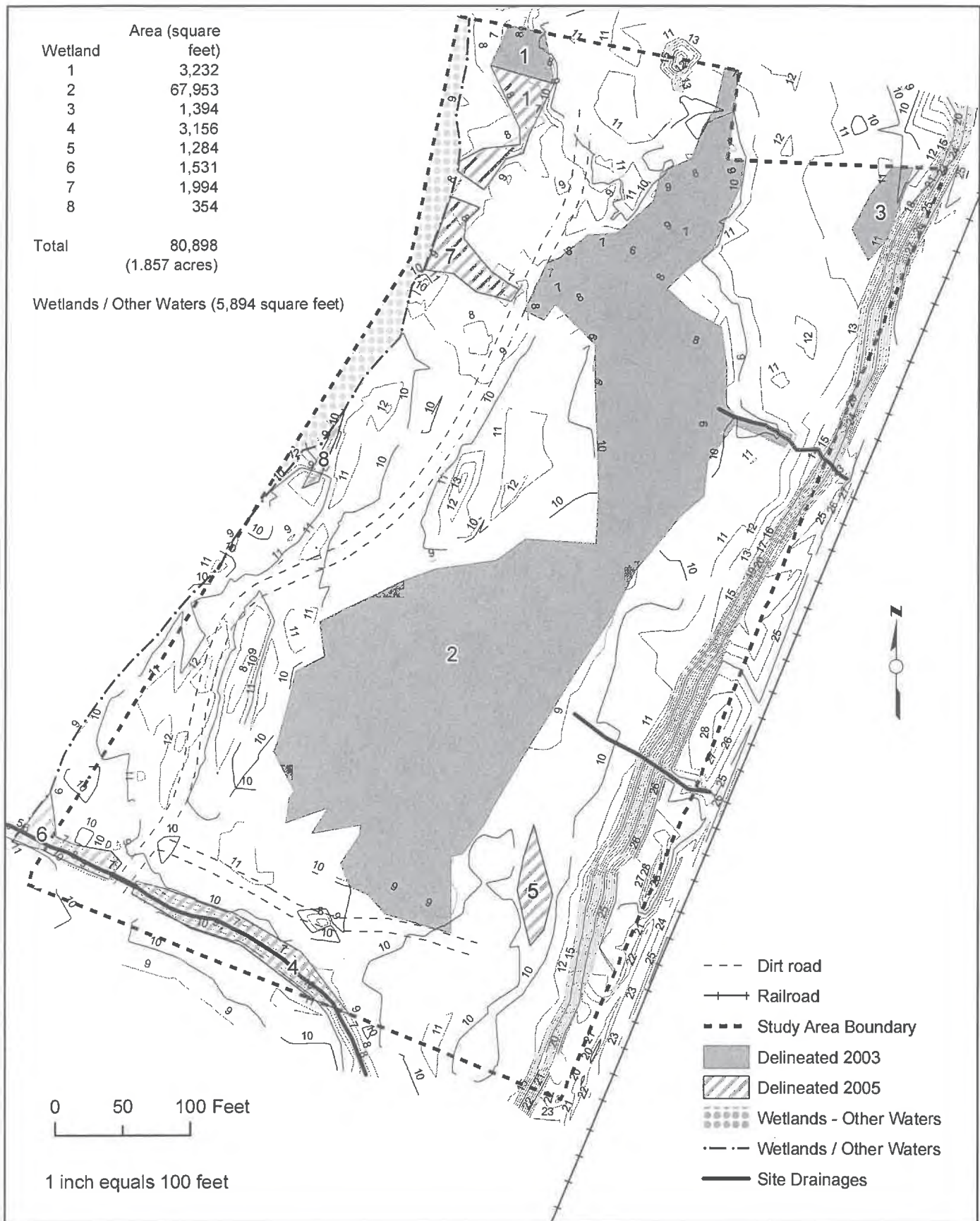


Figure 5 Wetlands map (revised 7-26-06).

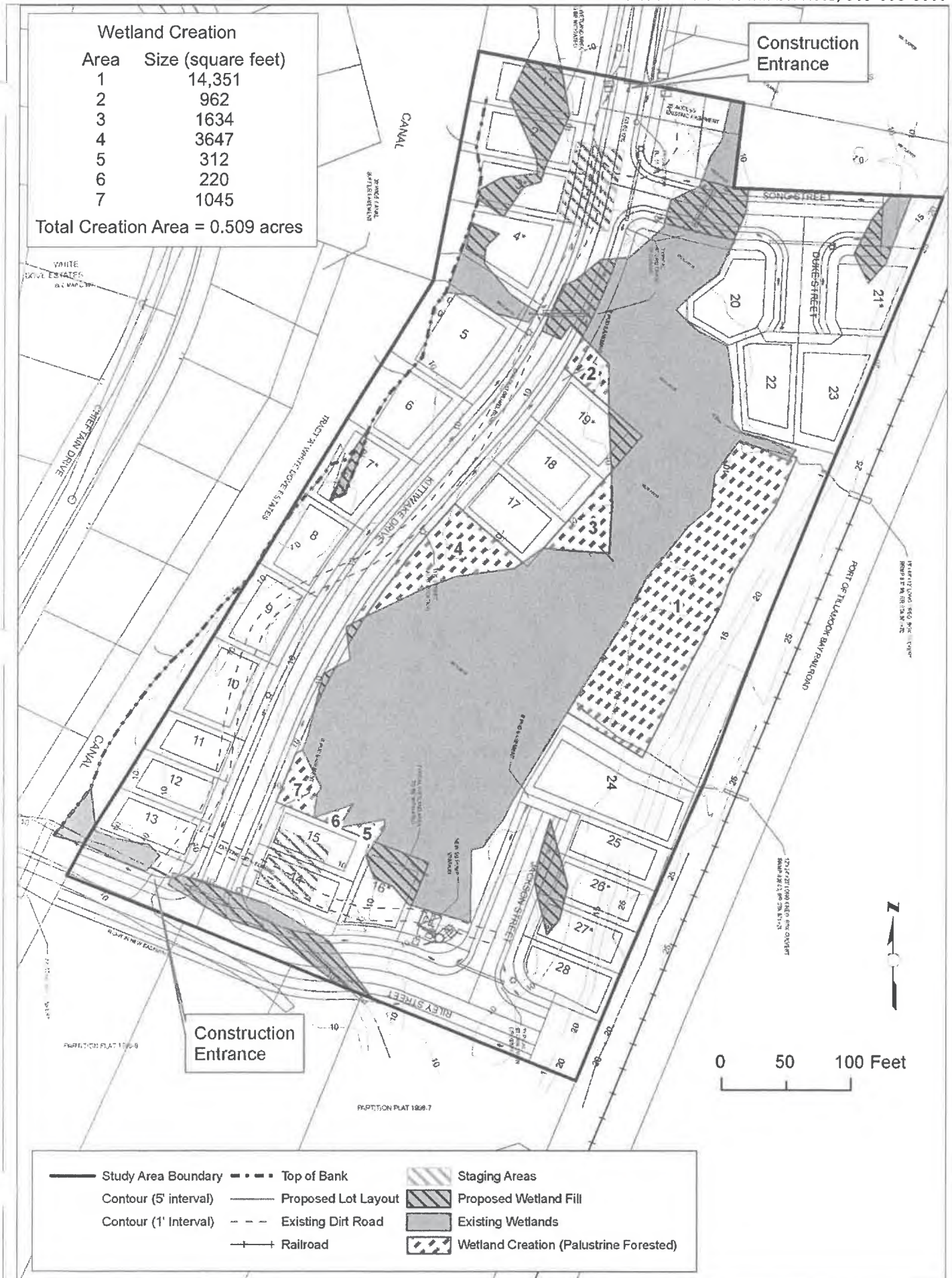


Figure 10 Site plan and proposed alternative.

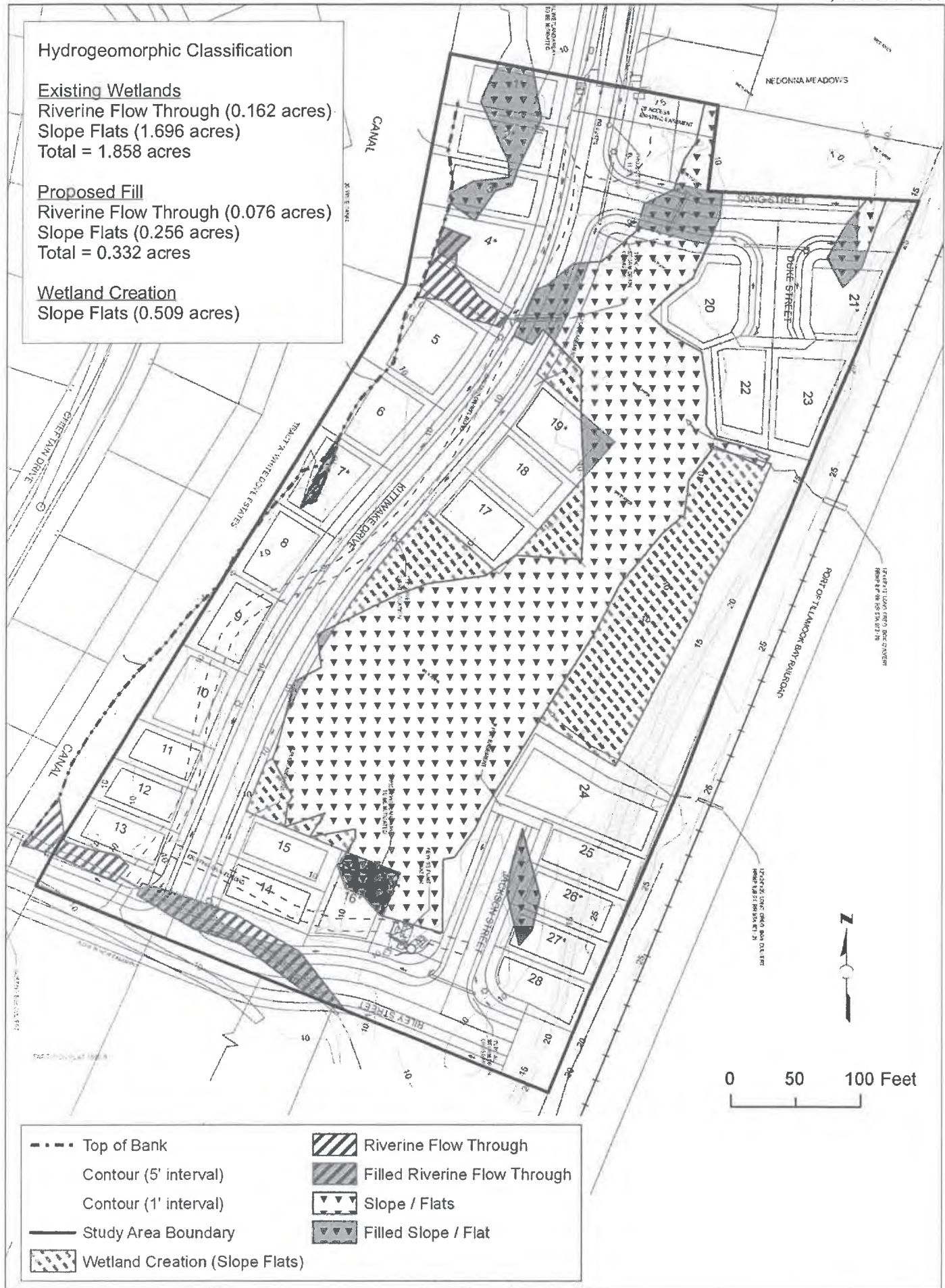


Figure 11 HGM classification of existing wetlands, impacted wetlands and created wetlands.



NEDONNA WAVE
TENTATIVE PLAN/P.U.D.
ROCKAWAY BEACH, OR

TYPICAL SETBACKS AS PER JOINT COORDINANCE

FRONT YARD: 15 FT
SIDE YARD: 5 FT
REAR YARD: 20 FT

EXCEPTIONS

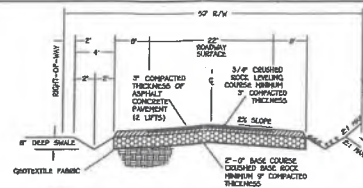
LOTS <3000 SF & >35000
FRONT YARD: 15 FT
REAR YARD: 10 FT
CORNER LOT REAR: 5 FT

LOTS <3000 SF
FRONT YARD: 10 FT
REAR YARD: 10 FT
CORNER LOT REAR: 5 FT

SEE DETAILED SETBACK ANALYSIS AND LOT AREA SETBACK TABLE IN APPLICANTS PUO APPLICATION.

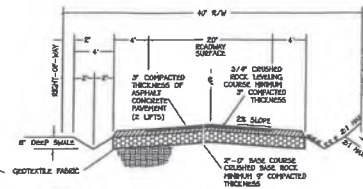
IN GENERAL, ALL LOTS ADHERE TO A 5' SIDE YARD SETBACK.

A STREET SIDE YARD SETBACK OF 0' OR 16' APPLIES TO LOTS 20, 21 AND 22. THE FRONT AND REAR YARD SETBACKS HAVE BEEN REDUCED TO THOSE VALUES SHOWN AS ALLOWED IN THE PUO ORDINANCE.



1 50' ROW ROAD CROSS SECTION
2 NTD, PLYMOUTH AND GREENHAWK

NOTE: PORTIONS OF RILEY STREET AND HALP STREET IMPROVEMENTS



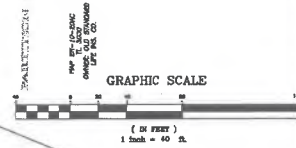
2 40' ROW ROAD CROSS SECTION

GROSS AREAS

TOTAL R.O.W. AREA:	49,566 SF
TOTAL LOT AREA:	103,072 SF
TOTAL OPEN SPACE:	117,091 SF

LOT CALCULATIONS

TOTAL LOT AREA:	103,072 SF
AVERAGE LOT AREA:	3,681 SF
PUMP STATION	1,512 SF



LEGEND

- | | |
|--|-------------------------------|
| | PROPOSED PROPERTY LINE |
| | EXISTING PROPERTY LINE |
| | FUTURE PROPERTY/ROW LINE |
| | PROPOSED ASPHALT PAVEMENT |
| | EXISTING ASPHALT PAVEMENT |
| | CENTERLINE |
| | EXISTING GRAVITY SEWER MAIN |
| | EXISTING WATER MAIN |
| | EXISTING SEWER FORCE MAIN |
| | PROPOSED SEWER MAIN |
| | EXISTING MANHOLE |
| | POWER POLE |
| | FORCE HYDRANT |
| | EXISTING/PROPOSED WATER METER |
| | WETLANDS BOUNDARY |

• SURVEYING
 • CIVIL ENGINEERING
 • ENVIRONMENTAL
 • WATER RIGHTS
 • WETLAND CONSULTING

CLATSOP COUNTY
 4253-A HWY 101 N.
 CLATSOP, OR 97136
 FAX (503) 738-7195
 FAX (503) 738-7195

PACIFIC COUNTY
 1719-S N. PACIFIC AVE
 LONG BEACH, WA 98031
 (360) 842-4944
 FAX (360) 945-4054

TILLAMOOK COUNTY
 10415 HAWTHORNE CT. SE.
 HASTINGS, OR 97130
 FAX (503) 868-5959
 FAX (503) 868-5647

WWW.HLB-OTAK.COM



**NEDONNA WAVE
TENTATIVE PLAN
LOT DIMENSION AND ROADWAY**

Stocks: Becht, Oregon 2N 10W 2DAB, TL 4500 & 9000

SHEET

2



PROJECT NOTES

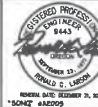
2. BUILDING DETAILS SHOULD REFLECT ARE TYPICAL, AND ANY VARY WITHIN THE APPROVED BUILDING SYSTEM, ACCESS SHOWN ON THE PLAN. SEE STATUTORY INFORMATION ON INDIVIDUAL LOT VARIATIONS. BUILDING DETAILS SHOULD BE SUBMITTED WITH THE SUBMITTALS FOR THE FINAL DEVELOPMENT CONFORMANCE REVIEW.

LEGEND

- PROPOSED PROPERTY LINE
EXISTING PROPERTY LINE
FUTURE PROPERTY/ROW LINE
PROPOSED ASPHALT PAVEMENT
EXISTING ASPHALT PAVEMENT
CENTRALCOTE
EXISTING GRAVITY SEWER MAIN
EXISTING WATER MAIN
EXISTING SEWER FORCE MAIN
PROPOSED SEWER MAIN
EXISTING MANHOLE
POWER POLE
FIRE HYDRANT
EXISTING/PROPOSED WATER METER
VEGETATION BOUNDARY

NEDONNA WAVE
TENTATIVE PLAN
UTILITIES & BUILDING ENVELOPE

Rockaway Beach, Oregon 2N 10W 20AB, TL 4500 & 9000



JOB NO.
M05-0254
DATE
OCT 12, 2007
DESIGNED
RTC
DRAWN
JPS
CHECKED
RGL
M050254-01-01



• SURVEYING
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PACIFIC COUNTY
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FAX: (360) 642-4099

TILLAMOOK COUNTY
10445 NEAH-KAH-NIE GRK.
MAXZANITA, OR 97134
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FAX: (503) 368-5041

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NEDONNA WAVE **TENTATIVE PLAN/P.U.D.** **ROCKAWAY BEACH, OR**

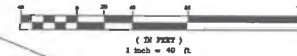
LEGEND

	PROPOSED PROPERTY LINE
	EXISTING PROPERTY LINE
	FUTURE PROPERTY/ROAD LINE
	PROPOSED ASPHALT PAVEMENT
	EXISTING ASPHALT PAVEMENT
	CENTERLINE
	EXISTING GRAVITY SEWER MAIN
	EXISTING WATER MAIN
	EXISTING SEWER FORCE MAIN
	PROPOSED SEWER MAIN
	EXISTING MANHOLE
	POWER POLE
	FIRE HYDRANT
	EXISTING/PROPOSED WATER METER
	WETLANDS BOUNDARY

WETLANDS SUMMARY

GROSS EXISTING WETLANDS ON SITE: 79,145 SF = 1.82 ACRES
 WETLAND PROPOSED TO BE FILLED FOR DEVELOPMENT: 14,479 SF = 0.33 ACRES
 WETLANDS CREATED FOR MITIGATION OF FILLED WETLANDS: 22,182 SF = 0.51 ACRES
 RATIO OF CREATED WETLANDS TO FILLED WETLANDS:
 $22,182 / 14,479 = 1.53 (> 1.5 \text{ MIN.})$

GRAPHIC SCALE



WETLAND AND PROJECT NOTES

1. THE APPLICANT WILL APPLY FOR WETLAND MITIGATION APPROVAL FROM THE DEPARTMENT OF STATE LANDS. UNTIL SUCH MITIGATION IS APPROVED AND COMPLETED, THE FOLLOWING LOTS (DESIGNATED WITH AN ASTERISK), 1, 2, 3, 4, 7, 16, 19, 21, 26 & 27 ARE NOT ELIGIBLE FOR BUILDING PERMITS AS ISSUED FROM THE CITY OF ROCKAWAY BEACH.
2. WETLANDS DELINEATED BY BORCKE ENVIRONMENTAL SERVICES, JAN. 2006.
3. WETLANDS MITIGATION PLAN SHOWN HEREON, HAS BEEN DEVELOPED BY BORCKE ENVIRONMENTAL SERVICES. THE WETLANDS MITIGATION PLAN IN GREATER DETAIL AND WITH ALL REQUIRED COMPONENTS AND MAPS WILL BE SUBMITTED TO AND APPROVED BY ALL THE REQUIRED AGENCIES (OSL/CDC) PRIOR TO IMPLEMENTATION.
4. PRELIMINARY GRADING SHALL BE COMPLETED TO THE SPOT ELEVATIONS SHOWN HEREON AS IN GENERAL EACH LOT WILL HAVE A MINIMUM FINISH GRADE OF 11.0' (MSD).

NEDONNA WAVE
TENTATIVE PLAN
PRELIMINARY GRADING, STORM DRAINAGE, & WETLANDS

SHEET

4

OF 4

CLATSOP COUNTY
 CLATSOP COUNTY
 1000 COMMERCIAL ST., SE.
 ASTORIA, OR 97103
 PHONE: (503) 325-5444
 FAX: (503) 325-5444
 WWW.HLB-OTAK.COM



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 CLATSOP COUNTY
 1000 COMMERCIAL ST., SE.
 ASTORIA, OR 97103
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NEDONNA DEVELOPMENT, LLC
NEDONNA WAVE PHASE 2
TENTATIVE PLAN
MAP 2N 10W 20AB

DIVIDING PROPERTIES:
TAX LOTS 10300, 10300, 10400
MAP 2N 10W 20AB
TRACTS E & G OF NEDONNA WAVE PHASE 1

OWNER:
NEDONNA DEVELOPMENT LLC
ATTN: ANNA SONG
2832 SW SAM JACKSON PARK ROAD
PORTLAND, OR 97201

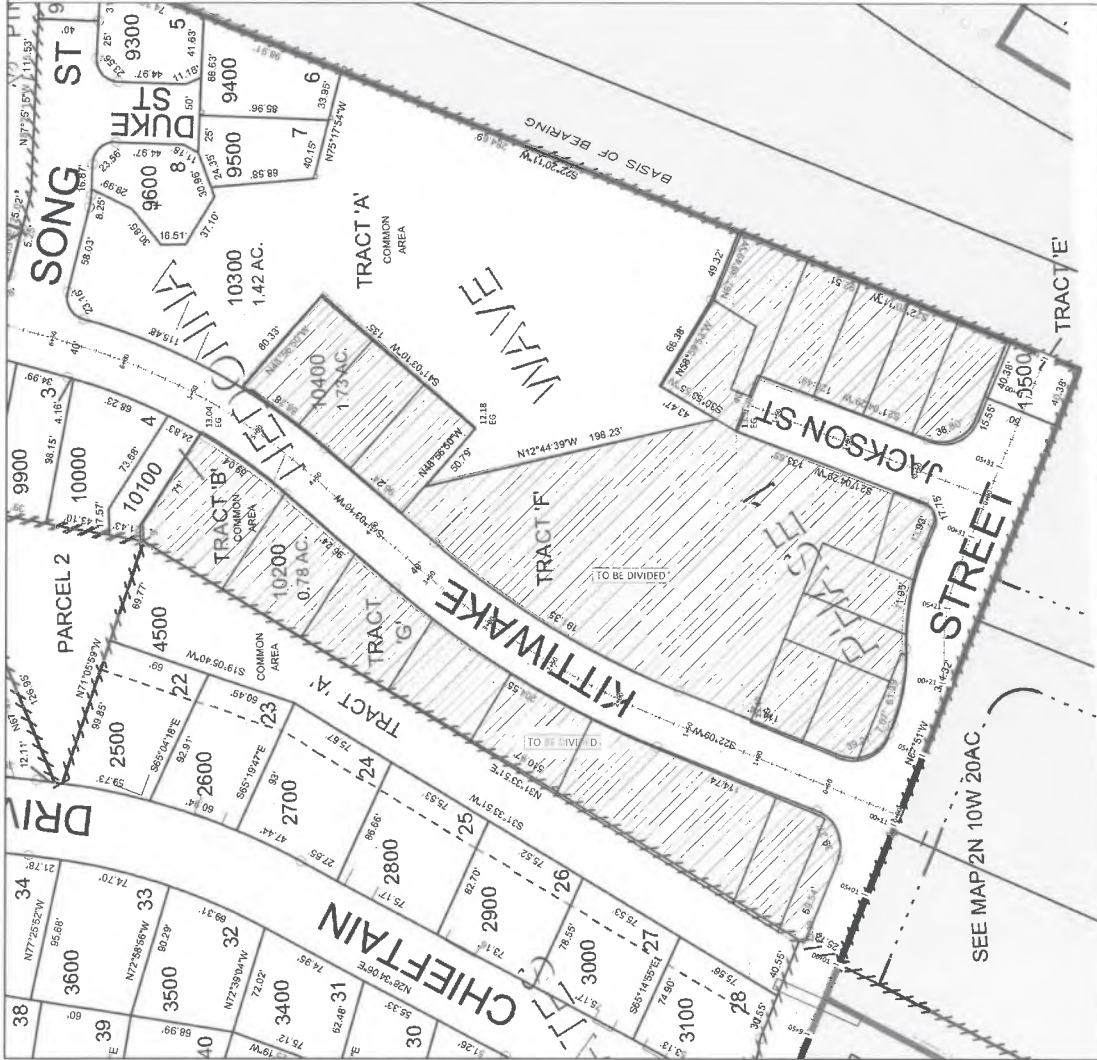
ENGINEER:
MORGAN CIVIL ENGINEERING, INC.
ATTN: JASON MORGAN, PE
PO BOX 258
MANZANITA, OR 97130
503-601-4038

- SHEET INDEX:
1. COVER SHEET
 2. LOT LAYOUT
 3. LOT DIMENSIONS
 4. UTILITY LAYOUT
 5. EST. BUILDING SIZES
 6. ROAD PROFILES

EXISTING LAYOUT
SCALE: 1"=40'

NOTES:
NO NEW STREETS ARE PROPOSED.
ALL STREETS SHOWN ON THE PLAN ARE EXISTING.

VICINITY MAP
SCALE: 1"=2500'

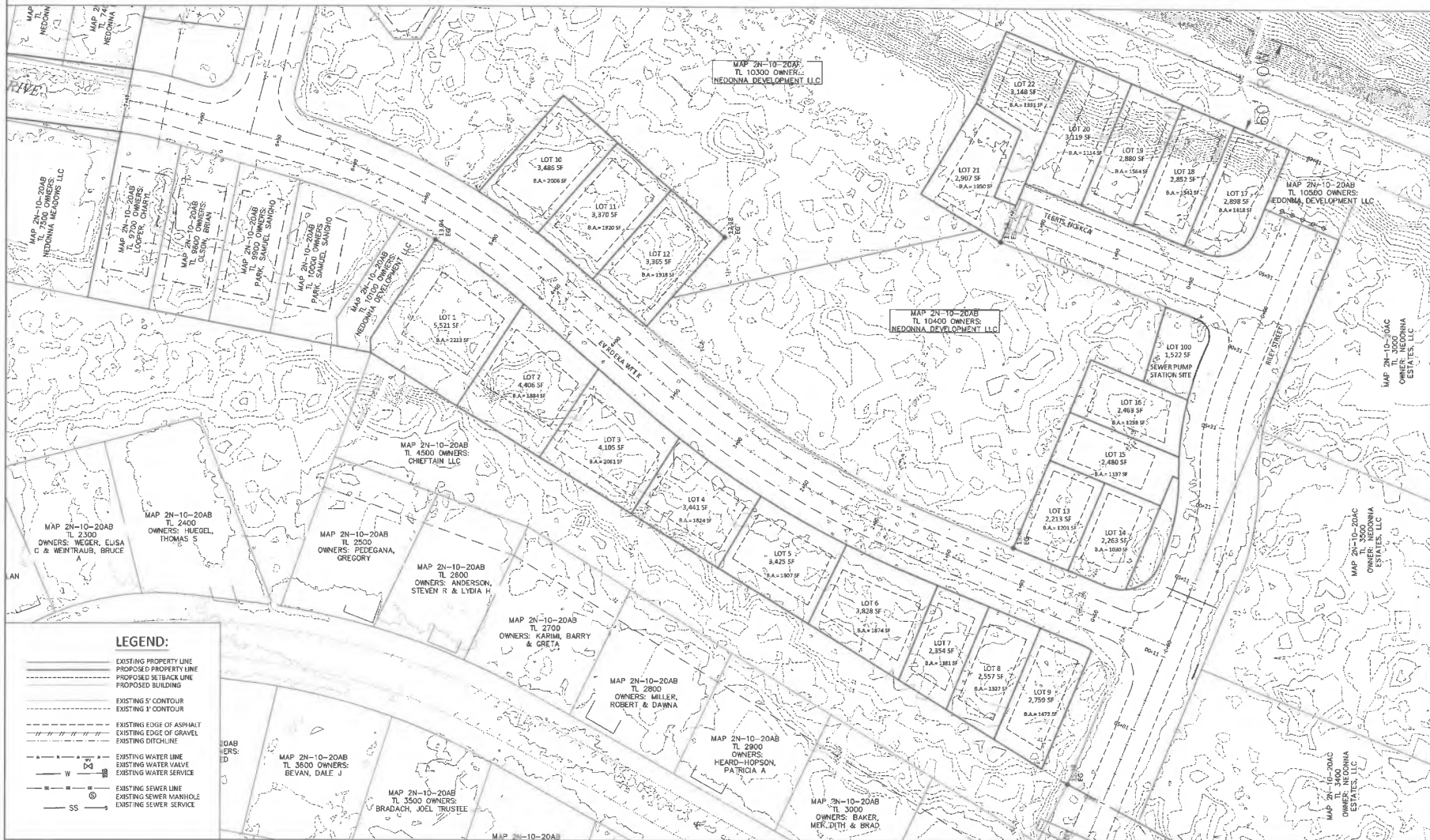
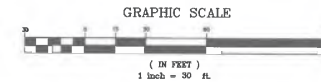


**NEDONNA DEVELOPMENT, LLC
NEDONNA WAVE PHASE 2
TENTATIVE PLAN
MAP 2N 10W 20AB**

DIVIDING PROPERTIES:
TAX LOTS 10380 & 10400
MAP 2N 10W 20AB
TRACTS F & G OF NEDONNA WAVE PHASE 1

PROPOSED LOT LAYOUT
SCALE: 1"=30'

NOTES:
NO NEW STREETS ARE PROPOSED.
ALL STREETS SHOWN ON THE PLAN ARE EXISTING.
ELEVATIONS BASED ON 2008 DODGAM UDAR
PROGRAM, NAVD83 DATUM.



LEGEND:

- EXISTING PROPERTY LINE
- - - PROPOSED PROPERTY LINE
- - - PROPOSED SETBACK LINE
- - - PROPOSED BUILDING
- - - EXISTING 5' CONTOUR
- - - EXISTING 1' CONTOUR
- - - EXISTING EDGE OF ASPHALT
- - - EXISTING EDGE OF GRAVEL
- - - EXISTING DITCHLINE
- - - EXISTING WATER LINE
- - - EXISTING WATER VALVE
- - - EXISTING WATER SERVICE
- - - EXISTING SEWER LINE
- - - EXISTING SEWER MANHOLE
- - - EXISTING SEWER SERVICE



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MAYAGONIA, OR 97130
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PROF.
40000-0004
0001, 0.0008
REGISTERED PROFESSIONAL
ENGINEER
NO. 16, 0008
JANUARY 16, 2008
JANUARY 16, 2008
REVISED DATE: DECEMBER 31, 2017

**NEDONNA DEVELOPMENT, LLC
NEDONNA WAVE - PHASE 2
LOT LAYOUT**

**SHEET
2
OF SIX**

NEDONNA DEVELOPMENT, LLC
NEDONNA WAVE PHASE 2
TENTATIVE PLAN
MAP 2N 10W 20AB

1 PROPOSED LOT DIMENSIONS
3 SCALE: 1"=30'



GRAPHIC SCALE

(IN FEET)
1 inch = 30 ft.



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MADISON, WI 53702
(608) 601-6010
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REGISTERED PROFESSIONAL ENGINEER
NO. 10066
STATE OF WISCONSIN
EXPIRATION DATE: 12/31/2025

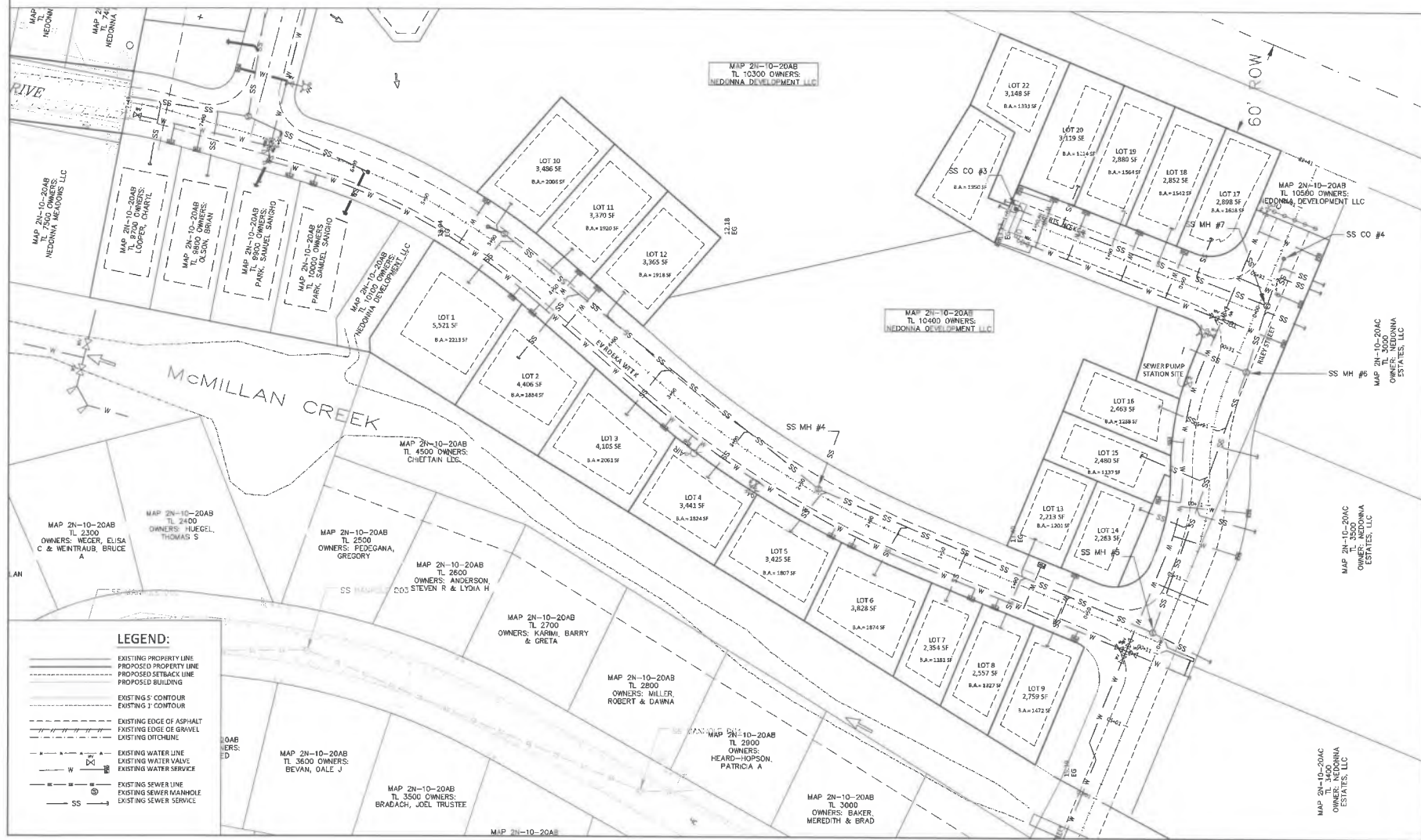
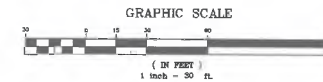
NEDONNA DEVELOPMENT, LLC
NEDONNA WAVE - PHASE 2
LOT DIMENSIONS

SHEET 3 OF SIX

NEDONNA DEVELOPMENT, LLC
NEDONNA WAVE PHASE 2
TENTATIVE PLAN
MAP 2N 10W 20AB

1
4

UTILITY LAYOUT
SCALE: T-30"



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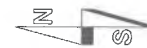
NEDONNA DEVELOPMENT, LLC
NEDONNA WAVE - PHASE 2
UTILITY LAYOUT

SHEET
4
OF SIX

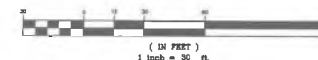
NEDONNA DEVELOPMENT, LLC
NEDONNA WAVE PHASE 2
TENTATIVE PLAN
MAP 2N 10W 20AB

 $\frac{1}{5}$

PROPOSED BUILDING DIMENSIONS
SCALE: 1"=30'



GRAPHIC SCALE



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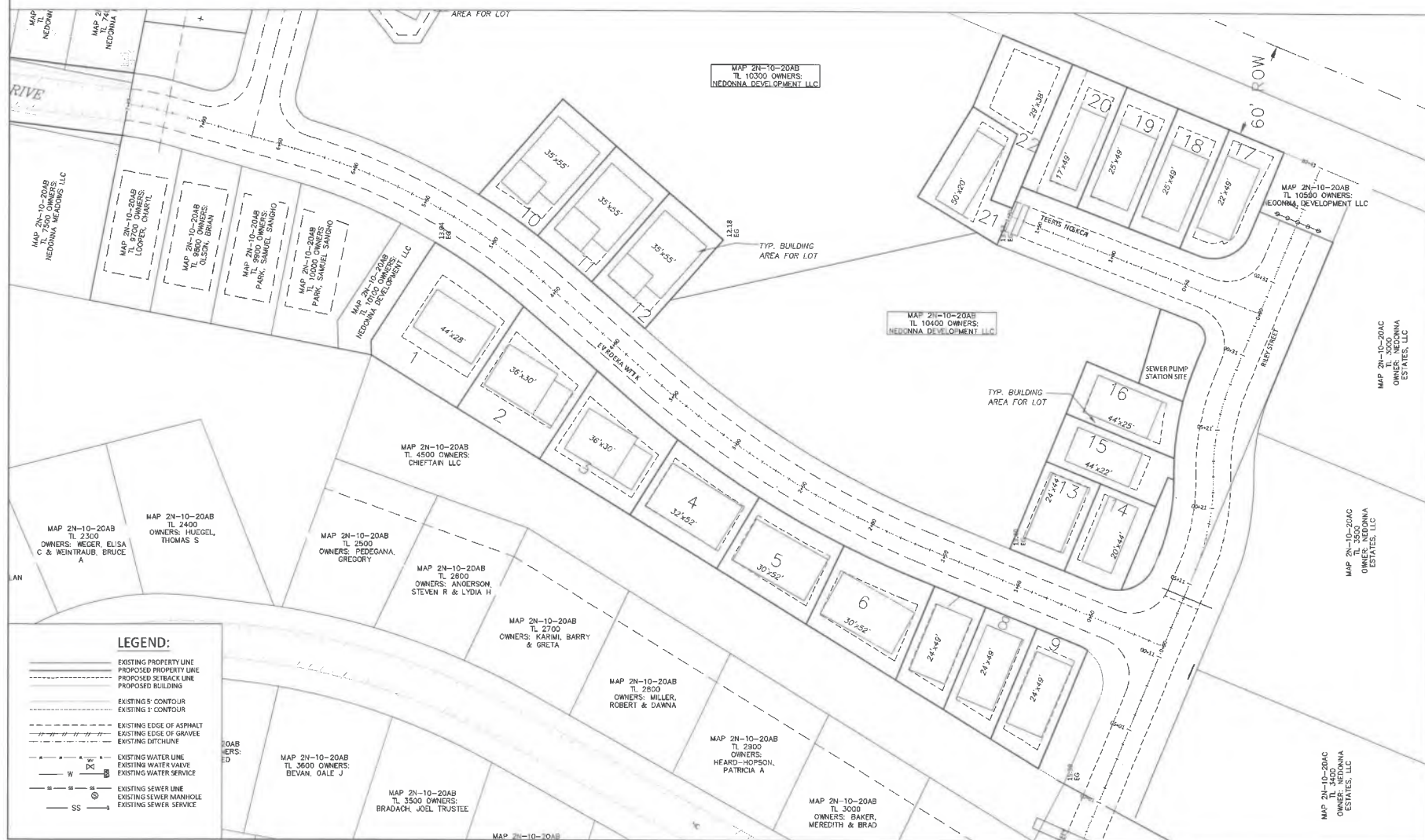
OREGON
JANUARY 18, 2002
JASON R. MORGAN

NEDONNA DEVELOPMENT, LLC
NEDONNA WAVE - PHASE 2
BUILDING LAYOUT

SHEET

5

OF SIX



1.0 Landscape Setting and Land Use (previous and current) OAR141-090-0035 (12) (a)

The 3.23-acre study area in Nedonna Beach, Tillamook County, Oregon encompasses tax lot 10200 and 10500, and portions of tax lots 10300 and 10400 T2N, R10W 20AB (see Figure 2). Riley Street, Kittiwake Drive and Jackson Street are included within the study area boundary as shown on Figure 5. The study area and surrounding wetlands are within the existing and mitigated wetlands (RF-36702) for Tracts F and G of the Nedonna Wave Development.

Rorick Environmental Services delineated wetlands and designed the wetland mitigation plan which was approved and implemented in 2008. The project is in compliance with RF-36702 permit conditions for the mitigation of wetlands; however, an as-built construction plan set was not completed before the permit expired. Since more than five years have elapsed since the previous delineation was approved, an updated wetland determination is necessary within Tracts F and G. The bounds of the study area was discussed and approved by DSL prior to the field study.

McMillan Creek flows along the west boundary of the study area and drains into Nehalem Bay about a quarter mile to the northwest. A railway and forestland border the property to the east. Two unnamed perennial tributaries flow through the study area from the east. To the northeast of the study area an unnamed stream flows through a 24 inch culvert under Kittiwake Drive before emptying into McMillan Creek. Another stream enters the study area from the south along Riley Street, flows northwest through a 24 inch culvert under Riley Street, and a second 24-inch culvert under Kittiwake Drive before emptying into McMillan Creek. The Pacific Ocean is less than a quarter mile to the west. Beavers have been active within the study area and have placed dams at culvert crossings. All of the Nedonna Wave planned development roads except Jackson Street have been built within the study area.

The lot is located on stable duneland with subtle elevation difference between high and low points. Within the study area boundary, the Natural Resources Conservation Service (NRCS) has mapped the Haceta fine sand, 0-3 percent slopes (14A) and the Waldport thin surface-Haceta fine sands, 0-5% slopes (13B). The Haceta is a hydric soil (Figure 3).

Vegetation within the study area is composed of forested and shrubby duneland. Wetlands are common along the waterways and in low-lying areas. Common vascular plant species found within the study area are included in Table 1.

Table 1. List of vascular plants observed within the study area 2024.

Scientific Name	Common Name	Indicator Status	Native, Non-native, or Invasive
<i>Agrostis capillaris</i>	Colonial Bentgrass	FAC	NN
<i>Alnus rubra</i>	Red Alder	FAC	N
<i>Athyrium filix-femina</i>	Lady Fern	FAC	N
<i>Carex obnupta</i>	Slough Sedge	OBL	N
<i>Cytisus scoparius</i>	Scotch Broom	UPL/NL	I
<i>Dactylis glomerata</i>	Orchardgrass	FACU	NN
<i>Equisetum arvense</i>	Horsetail	FAC	N
<i>Gaultheria shallon</i>	Salal	FACU	N

Scientific Name	Common Name	Indicator Status	Native, Non-native, or Invasive
<i>Holcus lanatus</i>	Common Velvetgrass	FAC	NN
<i>Lonicera involucrata</i>	Black Twin-Berry	FAC	N
<i>Lysichiton americanus</i>	Skunk Cabbage	OBL	N
<i>Maianthemum dilatatum</i>	False Lily-of-the-Valley	FAC	N
<i>Malus fusca</i>	Crabapple	FACW	N
<i>Oenanthe sarmentosa</i>	Water Parsley	OBL	N
<i>Phalaris arundinacea</i>	Reed Canary Grass	FACW	I
<i>Picea sitchensis</i>	Sitka Spruce	FAC	N
<i>Polystichum munitum</i>	Sword Fern	FACU	N
<i>Pteridium aquilinum</i>	Bracken Fern	FACU	N
<i>Rubus armeniacus</i>	Himalayan Blackberry	FAC	I
<i>Rubus ursinus</i>	California Dewberry	FACU	N
<i>Rubus spectabilis</i>	Salmonberry	FAC	N
<i>Salix hookeriana</i>	Hooker's Willow	FACW	N
<i>Sambucus racemosa</i>	Red Elderberry	FACU	N
<i>Spiraea douglasii</i>	Hardhack	FACW	N
<i>Stachys mexicana</i>	Mexican Hedge Nettle	FAC	N
<i>Thuja plicata</i>	Red Cedar	FAC	N
<i>Vaccinium ovatum</i>	Evergreen Blueberry	UPL	N

Previous and current land uses

Prior to development, there was a mix of wetland and upland species on dunelands and along waterways. Excluding the roads, the land within the study area supports fish and wildlife habitat. The land is currently zoned R. Future development in Tracts F and G partitions the remaining land within the study area into 28 parcels. Mitigation restrictions as specified in RF-36702 restrict development within created wetlands.

2.0 Site Alterations OAR141-090-0035 (10(a-b), (12)(b), (14)(e))

Mitigation of fill areas in wetlands was achieved by creation of .537 acres of wetland in 7 locations (Appendix D of RF-36702). The mitigated wetlands were released from further obligation on August 26, 2013, by DSL. The permit expired before an an-built plan was submitted to agencies for approval.

Since 2008, Kittiwake Drive and Song Street have been paved, and sewer and water lines installed. Culverts were placed as planned on Kittiwake Drive and Riley Street. Jackson Street was cleared in preparation for the road base however the project was never completed. A low-lying depression remains today with an elevated water table. A pumping station in the southeast corner of lot 1040 is in the planning stages. A summary of the area of wetland or non-wetland with the proposed fill areas can be found in Appendix C of this report.

Access for construction of wetlands and roads created site disturbance and introduction of non-native or invasive species. Beavers are present and have girdled trees and dammed culverts which have altered hydrology by elevating the water table.

3.0. Precipitation Data and Analysis OAR141-090-0035 (12)(c)

Climate data from the Tillamook AgACIS Station and the Western Regional Climate Center (RAWS) in Tillamook at www.ocs.edu/oregon-climate-dataRAWS was used for this study and is summarized in Table 2.

Table 2. AgACIS Tillamook Observed Precipitation for the dates of fieldwork and the Water Year October 2023 to May 2024.

Observed Precipitation					
Date of Field Visit	Date of Visit (.in)	2 Weeks Prior (.In)	Water year to Date (in.)	Normal Water Year (in.)	% of Normal Water Year
June 19 and 21, 2024	0	.99	76.24	79.84	-5%
June 24, 2024	0	1.05	76.24	79.84	-5%

Table 3 compares the 2024 data with the WETS data (1971-2023) using the Direct Antecedent Rainfall Evaluation Method (DAREM). For this study the climatic conditions were considered typical for this time of year. The hydrologic conditions were problematic where beaver dams at culvert crossings were elevating ground and surface water. The August 12, 2024, DAREM Climatic Summary is included Appendix B.

Table 3. Assessing Rainfall for the Preceding 3-Month Period)
Direct Antecedent Rainfall Evaluation Method (DAREM

		Measured			Condition*: Condition Value			Multiply
Prior Month	WETS Rainfall Percentile	30th	70th	Rainfall	Dry, Wet, Normal	(1=dry, 2=normal, 3=wet)	Month weight	
Name		-----inches-----						Previous two columns
1st (most recent)+A6	May	3.02	5.2	4.66	Normal	2	3	6
2nd	April	4.81	7.75	5.48	Normal	2	2	4
3rd	March	7.51	11.89	8.85	wet	2	1	2
Sum								12
Rainfall of prior period was: drier than normal (sum is 6-9), normal (sum is 10-14), wetter than normal (sum is 15-18)								Dry/Normal, standard met

WETS Station: TILLAMOOK, 358494, OR 1948-2024
Measured Rainfall: Tillamook, OR, 35894 March-May 2024

* Normal: measured within WETS normal range
Dry: measured below WETS normal range
Wet: measured above WETS normal range

4.0. Methods (site-specific methods for field investigation, determining wetland boundaries and geographic extent of other waters) OAR141-090-0030, OAR141-090-0035 (7)(a-g), (8), (9), (10)(a-b), (11) (a-c) (12)(d-h), (15), (16)(a-e)

Field investigation was conducted on June 19, 21 and 24, 2024. A site visit in mid-August validated the OHW boundary and supplemented mitigated wetland fill at SP-12 within lot 10200. The focus of this study is within Tracts F and G. Prior to the field investigations, meetings were held with Anna Song and DSL to discuss the area to be included in the study area. A review of the NRCS Soil Mapping, the National Wetland Inventory (NWI), the 2008 wetland mapping by Rorick (WD-0153) and RF-36702 maps and figures were also reviewed. Bill Howard with

EarthWorks Construction used a brush cutter to clear blackberries within the study area on June 19, 2024. A hedge trimmer was used to clear brush as needed.

Christine McDonald and Kurt Heckeroth evaluated the site using the Corps of Engineers *Wetland Delineation Manual: Western Mountains, Valleys and Coast Region* (May, 2010) supplement. The Corps of Engineers 2010 manual provides technical criteria, field indicators, and recommended procedures to be used in determining whether an area is a jurisdictional wetland. For wetlands to exist, there must be a prevalence of hydrophytic vegetation, hydric soils, and wetland hydrology. Under normal circumstances, all three parameters must be present to satisfy the criteria for jurisdictional wetlands.

Wetland scientists estimated vegetation cover visually at each sample point, identified all vascular plant species, and recorded the indicator status for each plant species from national wetland indicator lists. The 50/20 rule was used to determine dominance. The 2020 U.S. Army Corps of Engineers Plant List for the State of Oregon was used for this study.

Data for the contribution of coastal fog drip or groundwater to wetland hydrology is unavailable. Fog drip may be contributing to wetland hydrology in the late summer months when coastal fog is frequent. The study area was visited in mid-June following precipitation when wetland indicators could be documented during the growing season. Climatic patterns are typical for this time of year however hydrologic conditions were problematic where beavers have been active.

Beavers are increasing surface water area and water storage and delay and elevating the groundwater table. Beavers have likely been present in McMillan Creek and its tributaries for decades. However, the damming of culverts along Kittiwake Drive and Riley Streets is a more recent activity that increased surface water within stream channels and wetlands. All of these factors were taken into consideration when evaluating wetland hydrology.

Ordinary High Water Line (OHWL)

We used bank morphology as expressed in topographic relief, slope, channel confinement, presence of high water, and changes in vegetation and soil to determine the OHW line along McMillan Creek and the unnamed tributaries.

5.0. Description of All Wetlands and Other Non-Wetland Waters (their characteristics and boundaries, e.g. whether they extend offsite) OAR141-090-0035 (2), (7)(a-g), (8), (9), (10)(a-b), (11)(a-c), (12)(e), (14)(a-i), (15), & (16)(a-e)

Within the 3.23-acre study area, .76 acres of jurisdictional wetlands and waterways were documented on the June and August site visits. The NWI wetland classification is Palustrine Forest (PFO) and Palustrine Scrub Shrub (PSS). Wetlands are seasonally flooded. Because of the circumstances that created the Jackson Street wetland it is listed separately as Wetland B.

Table 4. Summary of Wetlands and Water Bodies Within the Study Area

Wetland or Waterbody	Acres/Length (ft)	Cowardin/ HGM Class	Comments	Extends Off-Site
OHWL R1	.08/287'	R2SB4	McMillan Creek and unnamed	North, East,

			tributary to Kittiwake Drive (S1)	West, South
OHWL S1 and S2	.04/83'	R2SB4	Unnamed tributary adjacent to Riley Street (S2)	East, South
Wetland A	.57	PSSC/PFOC Slopes-Flats	Connects to interior and mitigated wetlands	North, East
Wetland B	.07	PSSC/Flats-Depression	Wetland area within the excavated Jackson Street ROW	West, Connects to Wetland A

Wetland A includes the wetlands created for mitigation credit (RF-36702) and those that connect to the larger interior wetland to the north and east. The wetland boundary is defined by the concave slopes within wetland swales. We consistently found a difference in relief of 6-20 inches of relief that defined the wetland boundary. Vegetation is dominated by Sitka Spruce, Western Red Cedar, Red Alder, Hooker's Willow, Black Twinberry, Slough Sedge, Water Parsley, and Skunk Cabbage. Soils are deep, moderately to very poorly drained sands or mucky sands with very dark brown surfaces, and dark or very dark greyish brown to brown sandy subsurface horizons with reddish brown or brown redoximorphic features. The wetland soils met the Sandy Redox (S5) or Sandy Mucky Mineral (S1) hydric indicators. Organic carbon was estimated at 5-8% in the mucky sands. Wetland hydrology and soil moisture levels were observed during the late spring when ground and surface waters were higher than normal due to restricted flow at culvert crossings from beaver damming. The geomorphic position (D2), soil moisture and ground water levels within the soil profile (A1, A2 and A3), and professional judgement were used to determine wetland hydrology.

Wetland B (PSSC/Flats-Depression) is located within the confines of Jackson Street in a depression that slopes to the north and then drains west into Wetland A. The excavated edge defines the wetland boundary where slopes change from concave in the wetlands to flat or convex in the non-wetlands.

Backflow of waters by beaver damming within the depression have created surface water and a high-water table for extended periods. Surface water levels were concentrated to the north on the day of the site visit. Soil indicators within the upper six inches of soil met the Sandy Mucky (S1) or Sandy Redox (S5) classification. Overstory vegetation is composed of young Red Alder and Hookers Willow with a dominance of Slough Sedge in the herbaceous layer. A wetland was identified in the wetland delineation and the mitigated fill plan by Rorick (2007). This study found that the proposed fill had been placed in 67% of the wetland, before the road was constructed. The remaining 33% are within the Jackson Street ROW.

Ordinary High Water Line (OHWL) R1-.08 acres R2SB4

The top of the bank was used to demarcate the **OHWL R1** along McMillan Creek and S1. Water flow is slow moving as McMillan Creek flows across an incised low gradient floodplain. Stream substrate is sandy. Channel width is more than 20 feet and channel depth are 3-6 feet. On the day of the site visit in June the water depth was 16- 20 + inches. The banks are vegetated with Red Alder, Black Twinberry, Salal, Salmonberry, Red Elderberry, Slough Sedge and Sword Fern. Flow is perennial. Woody debris is abundant. Beaver activity is present although no dams were observed within the main channel. Fish presence is unknown.

OHWL S1 (.03 acres) and S2 (.01 acres) R2SB4

An unnamed stream enters the study area from the south and flows through a 24-inch culvert crossing under Riley Street and then another 24-inch culvert crossing under Kittiwake Drive before emptying into McMillan Creek. S1 is the 44-foot segment of the stream that flows between Kittiwake Drive and McMillan Creek. S2 is another 44-foot section between Riley Street and Kittiwake Drive. The top of the bank, relief and channel confinement was used to demarcate the OHWL. Flow is believed to be perennial. On the day of the site visit 4-8 inches of water was present. The gradient is low (1-3%) and stream substrate is sandy to mucky sands. Channel width is 6-8 feet and channel depth are 3-5 feet. The banks are vegetated with Red Alder, Black Twinberry, Himalayan Blackberry, Red Elderberry, Salal, Crabapple, Hardhack, Sword Fern, and Slough Sedge. Beaver activity was not observed on the day of the site visit. Fish presence is unknown.

Non-Wetlands Vegetation is dominated by Red Alder, Sitka Spruce, Himalayan Blackberry, Scotch Broom, Salal, Black Twinberry, Red Elderberry, Evergreen Blueberry, California Dewberry, Sword Fern, Colonial Bentgrass, Reed Canary Grass, Slough Sedge and other non-native grasses. Non-wetlands are present on dune terraces with level to concave relief. Soils throughout the study area were deep, moderately to well-drained sands with brown and dark brown surfaces, and dark brown to brown subsurface horizons. Soil moisture levels were observed during the late spring and summer growing season. Beaver activity has elevated the water table within swales and low-lying areas, however the non-wetland soil pits within the study area did not have elevated ground water or saturation within 12 inches of the soil surface.

6.0 Deviation from LWI or NWI (if any, wetland determination data or explanation required.)

OAR141-090-0035 (7)(e), (12)(f)

The National Wetlands Inventory (NWI) map shows extensive wetlands throughout the study area (Figure 4). Our study shows that the NWI overestimated scrub-shrub and forested wetlands within the boundary of the study area. Non-wetlands were found on elevated dune terraces. The NWI maps are generated primarily on the basis of interpretation of color infrared photography (scale of 1:58,000) with limited ground-truthing to confirm interpretations. This study is mostly consistent with the 2007 wetland study by Rorick. See Figure 6.

7.0 Mapping Method (including mapping precision estimate) *OAR141-090-0035 (3), (5)(a-b), (11)(a-c), (12)(f)(g), (13)(a-g), (14)(a-i) & (15)*

Christine McDonald and Kurt Heckeroth flagged the wetland boundary with blue pin flags and flagging. Sample points were flagged with yellow flagging and pin flags. The OHWL Boundary was flagged with stripped blue or white, and blue flagging. The study area boundary and non-wetland sample points were then professionally land surveyed by Onion Peak Design. A Topcon GPT-8205A TDS NOMAD was used for the survey. The estimated accuracy is +/- 0.25 feet.

8.0 Additional Information (i.e., if needed to establish state jurisdiction) *OAR141-085-0015 (1-7), OAR141-090-0030 (2), OAR141-090-0035 (9), (10)(a-b), (12)(h), & (A-J)*

See Appendix C for the Updated As-Built Plan Summary

9.0 Results and Conclusions of the Investigation OAR141-090-0035 (12)(i)

Within the 3.23-acre study area a total of .64 acres of jurisdictional wetlands and .12 acres of jurisdictional waterways were documented on the June and August 2024 site visits.

10.0 Required Disclaimer OAR141-090-0035 (12)(j)

This report documents the investigation, best professional judgment, and conclusions of the investigators. It is correct and complete to the best of our knowledge. It should be considered a Preliminary Jurisdictional Determination of wetlands and other waters and used at your own risk unless it has been reviewed and approved in writing by the Oregon Department of State Lands in accordance with OAR 141-090-0005 through 141-090-0055.

References

- Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys and Coast Region (May 2010), U. S. Army Corps of Engineer Waterways Experiment Station, Vicksburg, MS.
- NRCS National Water and Climate Center WETS data available online at <http://www.wcc.nrcs.usda.gov/climate/wetlands.htm>
- NRCS Wetland Climate Evaluation Database (AgACIS <http://agacis.rcc-acis.org/?fips=41057>) for the station in Cloverdale
- Natural Resource Conservation Service, National Cooperative Soil Survey, Web Soil Survey 1.1, available online at <http://websoilsurvey.nrcs.usda.gov>
- USDA, Natural Resources Conservation Service, Hydric Soil List available online at http://www.or.nrcs.gov/pnw_soil/ordata.html

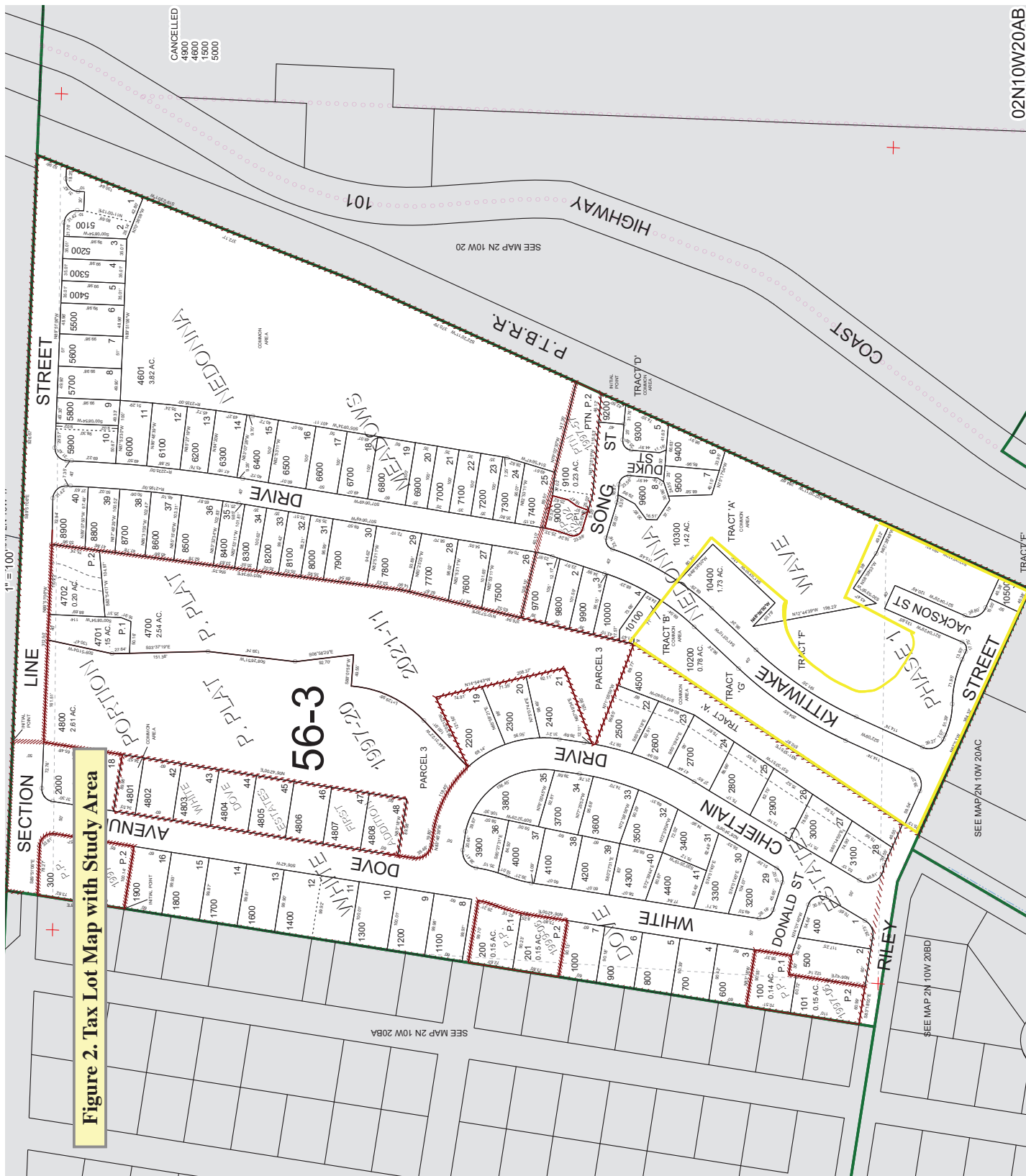
Figure 1. Location Map with Study Area



This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

Figure 1a. 2022 NAIP Air Photo



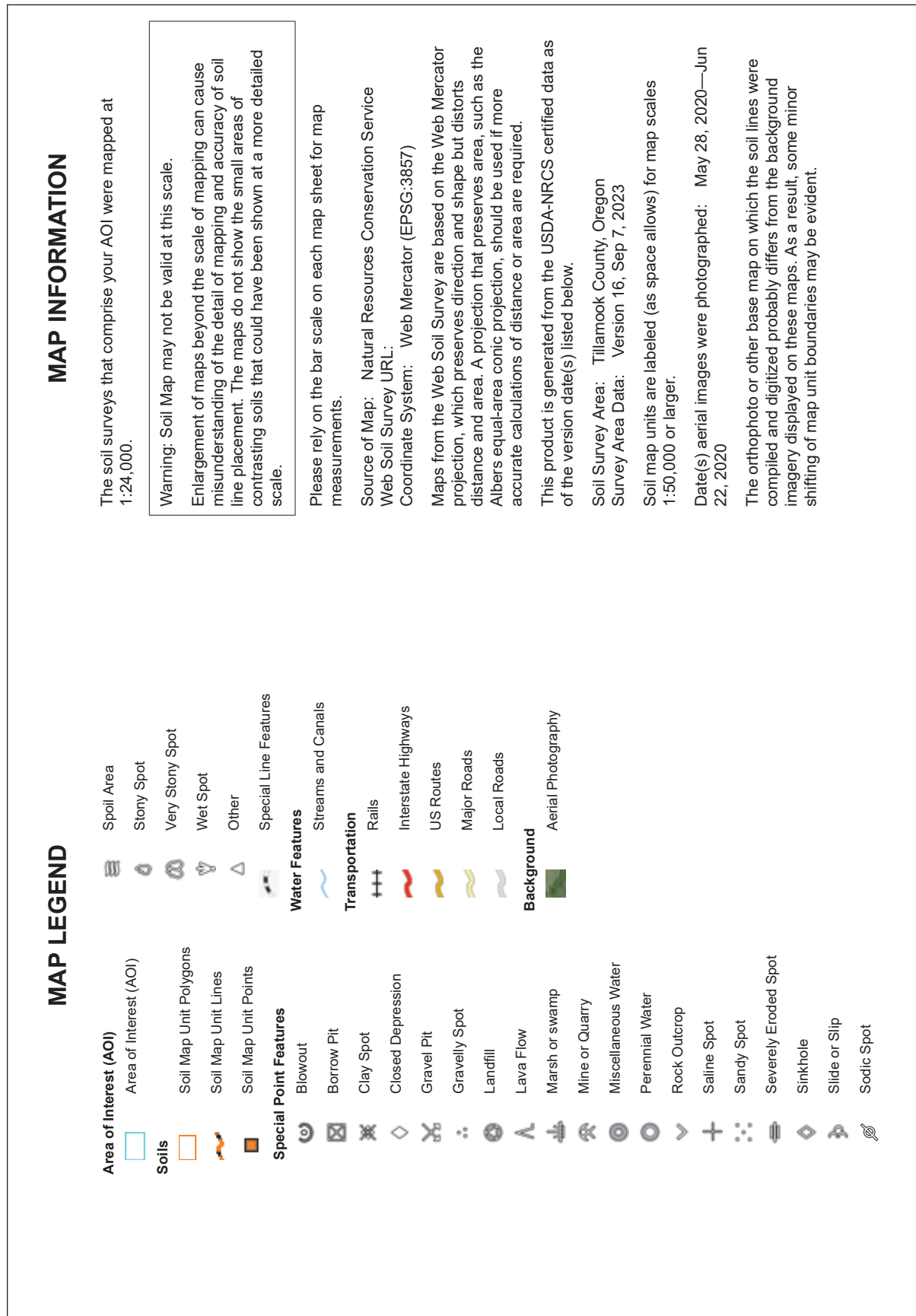


Soil Map—Tillamook County, Oregon
(Figure 3. WEB Soil Survey)



Map Scale: 1:3,010 if printed on A landscape (11" x 8.5") sheet.

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 10N WGS84



Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
13B	Waldport, thin surface-Heceta fine sands, 0 to 5 percent slopes	15.9	46.3%
14A	Heceta fine sand, 0 to 3 percent slopes	11.9	34.7%
29D	Templeton-Klootchie complex, 5 to 30 percent slopes	6.6	19.1%
Totals for Area of Interest		34.4	100.0%

Figure 4. NWI Anna Song



October 22, 2023

Wetlands

Estuarine and Marine Deepwater

Estuarine and Marine Wetland

Freshwater Emergent Wetland

Freshwater Forested/Shrub Wetland

Freshwater Pond

Lake

Other

Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

National Wetlands Inventory (NWI)
This page was produced by the NWI mapper

Page 035

NOTES

THIS MAP DOES NOT CONSTITUTE A BOUNDARY SURVEY OF THE SUBJECT PROPERTY. THE PURPOSE OF THIS MAP IS TO SHOW THE LOCATION OF WETLAND BOUNDARY AND SAMPLE POINTS AS FLAGGED BY CHRISTINE McDONALD. THE EXTERIOR BOUNDARY WAS HELD AT RECORD VALUES PER MAP C-573.

LEGEND

- INDICATES FOUND MONUMENT AS SHOWN ON MAP C-573.
- SP+ SAMPLE POINT
- STUDY AREA BOUNDARY (SAB)
- WETLAND BOUNDARY
- ORDINARY HIGH WATER LINE
- P-1 Photo and Direction

CURVE TABLE

CURVE	RADIUS	LENGTH	DELTA	CH. BEARING	CH. LENGTH
C1	40.00'	8.25'	11°49'11"	S81°30'40"E	8.24'
C2	15.01'	23.16'	88°24'51"	N60°11'32"E	20.93'
C3	420.00'	115.48'	15°45'11"	N23°51'40"E	115.11'
C4	380.00'	69.04'	10°24'37"	S35°50'52"W	68.95'
C5	620.00'	204.55'	18°54'10"	N31°36'05"E	203.62'
C6	25.00'	39.27'	90°00'00"	N67°09'00"E	35.36'
C7	580.00'	191.35'	18°54'10"	S31°36'05"W	190.49'
C8	420.00'	68.28'	9°18'55"	S36°23'43"W	68.21'
C9	25.00'	39.27'	90°00'00"	S22°51'00"E	35.36'
C10	125.00'	51.39'	23°33'23"	S79°37'42"E	51.03'
C11	175.00'	71.95'	23°33'23"	S79°37'42"E	71.44'
C12	11.17'	17.75'	91°04'32"	N66°36'44"E	15.94'
C13	25.00'	38.80'	88°55'29"	S23°23'16"E	35.02'

LINE TABLE

LINE	BEARING	LENGTH
L1	N28°03'00"E	25.13'
L2	S69°46'31"W	6.61'
L3	N59°05'58"W	37.10'
L4	N00°00'00"E	16.51'
L5	N51°17'52"E	30.85'
L6	N25°56'26"E	29.99'
L7	S87°25'15"E	3.66'
L8	N28°03'00"E	5.03'
L9	S67°51'00"E	7.07'
L10	S67°51'00"E	59.54'
L11	S67°51'00"E	13.93'
L12	S88°12'04"W	9.00'

AREAS

AREAS WITHIN THE STUDY AREA BOUNDARY FOR 2N 10 20 AB TAX LOT 10200.
WETLAND AREA = 0.11 ACRES. NON-WETLAND AREA = 0.67 ACRES.

AREAS WITHIN THE STUDY AREA BOUNDARY FOR 2N 10 20 AB TAX LOT 10300.
WETLAND AREA = 0.13 ACRES. NON-WETLAND AREA = 0.03 ACRES.

AREAS WITHIN THE STUDY AREA BOUNDARY FOR 2N 10 20 AB TAX LOT 10400.
WETLAND AREA = 0.43 ACRES. NON-WETLAND AREA = 0.89 ACRES.

AREAS WITHIN THE STUDY AREA BOUNDARY FOR 2N 10 20 AB TAX LOT 10500.
WETLAND AREA = 0.06 ACRES. NON-WETLAND AREA = 0.06 ACRES.

AREAS WITHIN THE STUDY AREA BOUNDARY AND JACKSON STREET RIGHT-OF-WAY.
WETLAND AREA = 0.07 ACRES. NON-WETLAND AREA = 0.06 ACRES.

AREAS WITHIN THE STUDY AREA BOUNDARY AND KITTIWAKE DRIVE RIGHT-OF-WAY.
WETLAND AREA = 0.01 ACRES. NON-WETLAND AREA = 0.46 ACRES.

AREAS WITHIN THE STUDY AREA BOUNDARY AND RILEY STREET RIGHT-OF-WAY.
WETLAND AREA = 0.01 ACRES. NON-WETLAND AREA = 0.31 ACRES.

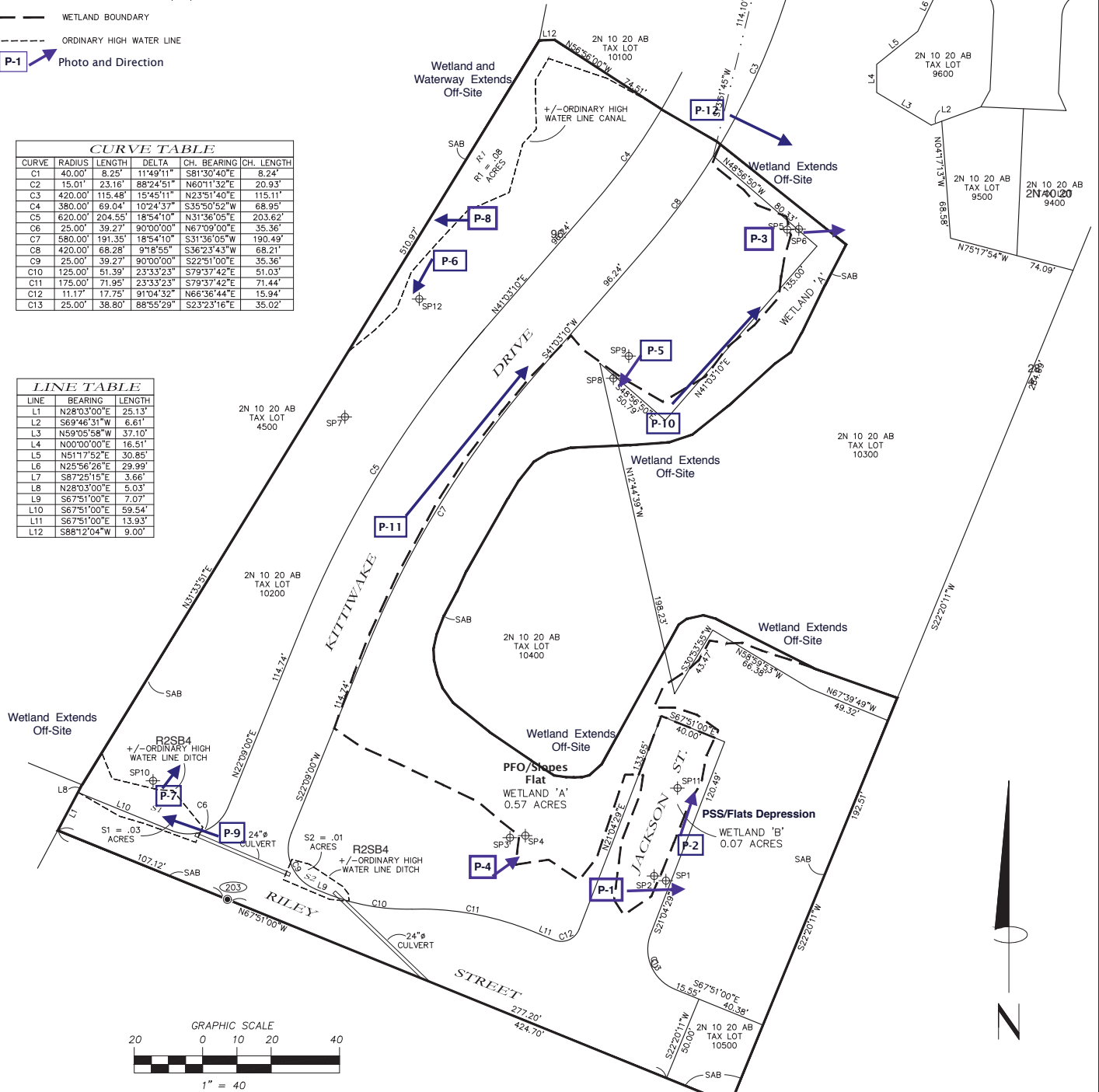


FIGURE 5
WETLAND SURVEY FOR:

NEDONNA
DEVELOPMENT LLC

2N 10 20 AB
TAX LOTS
10200, 10300, 10400 & 10500

NW 1/4 OF THE NE 1/4, SECTION 29, T3N, R10W, W.M.
TILLAMOOK COUNTY
SEPTEMBER 18, 2024

ONION PEAK
DESIGN

11460 EVERGREEN WAY
NEHALEM, OR 97131
(503) 440-4403

"SONG" #A2024
SONG2407-W.DWG

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Erick M White

OREGON
APRIL 28, 2014
ERICK M. WHITE
78572

RENEWALS 6/30/2026

Appendix A

Wetland Determination Field Data Forms

U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET – Western Mountains, Valleys, and Coast Region See ERDC/EL TR-10-3; the proponent agency is CECW-CO-R		OMB Control #: 0710-0024, Exp: 11/30/2024 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)
Project/Site: <u>Nedonna Wave updated Wetland Delineation</u>		City/County: <u>Rockaway Beach/Tillamook</u>
Applicant/Owner: <u>Anna Song</u>		State: <u>OR</u> Sampling Point: <u>SP-1</u>
Investigator(s): <u>CM. KH</u>		Section, Township, Range: <u>2N 10W 20 Lot 10400</u>
Landform (hillside, terrace, etc.): <u>dune terrace</u>	Local relief (concave, convex, none): <u>none</u>	Slope (%): <u>1-2</u>
Subregion (LRR/MLRA): <u>LRR A</u>	Lat: <u>45.64668</u>	Long: <u>-123.93504</u> Datum: <u>NAD 83</u>
Soil Map Unit Name: <u>13B Waldport, thin surface- Haceta fine sand, 0-5 percent slopes</u>		NWI classification: <u>-</u>
Are climatic / hydrologic conditions on the site typical for this time of year? Yes <u>x</u> No <u> </u> (If no, explain in Remarks.)		
Are Vegetation <u> </u> , Soil <u> </u> , or Hydrology <u> </u> significantly disturbed? Are "Normal Circumstances" present? Yes <u>x</u> No <u> </u>		
Are Vegetation <u> </u> , Soil <u> </u> , or Hydrology <u> </u> naturally problematic? (If needed, explain any answers in Remarks.)		
SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.		
Hydrophytic Vegetation Present? Yes <u>X</u> No <u> </u> Hydric Soil Present? Yes <u> </u> No <u>X</u> Wetland Hydrology Present? Yes <u> </u> No <u>x</u>		Is the Sampled Area within a Wetland? Yes <u> </u> No <u>X</u>
Remarks: Sample point in 2008 mitigation area RF36702. In 2008, Fill was partially placed outside the road base for Jackson St. The road base for was excavated for construction in 2008 but was never completed. More than 5 years "Normal Circumstances". See hydrology for Climatic remarks. PP at WB.		
VEGETATION – Use scientific names of plants.		
Tree Stratum (Plot size: <u>30</u>) 1. <u>Alnus rubra</u> Absolute % Cover <u>95</u> Dominant Species? <u>Yes</u> Indicator Status <u>FAC</u> 2. <u> </u> <u> </u> <u> </u> <u> </u> 3. <u> </u> <u> </u> <u> </u> <u> </u> 4. <u> </u> <u> </u> <u> </u> <u> </u> <u>95</u> =Total Cover		Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>4</u> (A) Total Number of Dominant Species Across All Strata: <u>5</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>80.0%</u> (A/B)
Sapling/Shrub Stratum (Plot size: <u>20</u>) 1. <u>Rubus spectabilis</u> <u>2</u> <u>No</u> <u>FAC</u> 2. <u>Rubus armeniacus</u> <u>50</u> <u>Yes</u> <u>FAC</u> 3. <u> </u> <u> </u> <u> </u> <u> </u> 4. <u> </u> <u> </u> <u> </u> <u> </u> 5. <u> </u> <u> </u> <u> </u> <u> </u> <u>52</u> =Total Cover		
Herb Stratum (Plot size: <u>10</u>) 1. <u>Carex obnupta</u> <u>2</u> <u>No</u> <u>OBL</u> 2. <u>Ranunculus repens</u> <u>2</u> <u>No</u> <u>FAC</u> 3. <u>Equisetum arvense</u> <u>15</u> <u>Yes</u> <u>FAC</u> 4. <u>Oenanthe sarmentosa</u> <u>1</u> <u>No</u> <u>OBL</u> 5. <u>Scirpus americanus</u> <u>2</u> <u>No</u> <u>OBL</u> 6. <u>Polystichum munitum</u> <u>3</u> <u>No</u> <u>FACU</u> 7. <u>Galium triflorum</u> <u>1</u> <u>No</u> <u>FACU</u> 8. <u>Stachys mexicana</u> <u>10</u> <u>Yes</u> <u>FACW</u> 9. <u> </u> <u> </u> <u> </u> <u> </u> 10. <u> </u> <u> </u> <u> </u> <u> </u> 11. <u> </u> <u> </u> <u> </u> <u> </u> <u>36</u> =Total Cover		
Woody Vine Stratum (Plot size: <u>20</u>) 1. <u>Rubus ursinus</u> <u>20</u> <u>Yes</u> <u>FACU</u> 2. <u> </u> <u> </u> <u> </u> <u> </u> <u>20</u> =Total Cover % Bare Ground in Herb Stratum <u>10</u>		Prevalence Index worksheet: Total % Cover of: <u> </u> Multiply by: <u> </u> OBL species <u> </u> x 1 = <u> </u> FACW species <u> </u> x 2 = <u> </u> FAC species <u> </u> x 3 = <u> </u> FACU species <u> </u> x 4 = <u> </u> UPL species <u> </u> x 5 = <u> </u> Column Totals: <u> </u> (A) <u> </u> (B) Prevalence Index = B/A = <u> </u>
Remarks:		Hydrophytic Vegetation Indicators: <u> </u> 1 - Rapid Test for Hydrophytic Vegetation <u>X</u> 2 - Dominance Test is >50% <u> </u> 3 - Prevalence Index is ≤3.0 ¹ <u> </u> 4 - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <u> </u> 5 - Wetland Non-Vascular Plants ¹ <u> </u> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.
Hydrophytic Vegetation Present? Yes <u>X</u> No <u> </u>		

SOIL

Sampling Point: SP-1

[illegible]

HYDROLOGY

Wetland Hydrology Indicators:			
Primary Indicators (minimum of one is required; check all that apply)		Secondary Indicators (2 or more required)	
☐ Surface Water (A1)	☐ Water-Stained Leaves (B9) (except MLRA 1, 2, 4A, and 4B)	☐ Water-Stained Leaves (B9) (MLRA 1, 2 4A, and 4B)	
☐ High Water Table (A2)	☐ Salt Crust (B11)	☐ Drainage Patterns (B10)	
☐ Saturation (A3)	☐ Aquatic Invertebrates (B13)	☐ Dry-Season Water Table (C2)	
☐ Water Marks (B1)	☐ Hydrogen Sulfide Odor (C1)	☐ Saturation Visible on Aerial Imagery (C9)	
☐ Sediment Deposits (B2)	☐ Oxidized Rhizospheres on Living Roots (C3)	☐ Geomorphic Position (D2)	
☐ Drift Deposits (B3)	☐ Presence of Reduced Iron (C4)	☐ Shallow Aquitard (D3)	
☐ Algal Mat or Crust (B4)	☐ Recent Iron Reduction in Tilled Soils (C6)	☐ FAC-Neutral Test (D5)	
☐ Iron Deposits (B5)	☐ Stunted or Stressed Plants (D1) (LRR A)	☐ Raised Ant Mounds (D6) (LRR A)	
☐ Surface Soil Cracks (B6)	☐ Other (Explain in Remarks)	☐ Frost-Heave Hummocks (D7)	
☐ Inundation Visible on Aerial Imagery (B7)			
☐ Sparsely Vegetated Concave Surface (B8)			
Field Observations:			
Surface Water Present? Yes ☐ No ☒	Depth (inches):	Wetland Hydrology Present? Yes ☐ No ☒	
Water Table Present? Yes ☐ No ☒	Depth (inches):		
Saturation Present? Yes ☐ No ☒	Depth (inches):		
(includes capillary fringe)			
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:			
Remarks:			
No precipitation on the day of the site visit and .99 in the previous 2 weeks. Climatic conditions are typical for this time of year. Beaver activity has altered hydrologic conditions by damming culverts. Ground water levels are higher than normal for this time of year.			

U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET – Western Mountains, Valleys, and Coast Region See ERDC/EL TR-10-3; the proponent agency is CECW-CO-R				OMB Control #: 0710-0024, Exp: 11/30/2024 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)
Project/Site: <u>Nedonna Wave updated Wetland Delineation</u>		City/County: <u>Rockaway Beach/Tillamook</u>		Sampling Date: <u>6/19/24</u>
Applicant/Owner: <u>Anna Song</u>		State: <u>OR</u>		Sampling Point: <u>SP-2</u>
Investigator(s): <u>CM. KH</u>		Section, Township, Range: <u>2N 10W 20 Lot 10400</u>		
Landform (hillside, terrace, etc.): <u>dune swale manmade</u>		Local relief (concave, convex, none): <u>concave</u>		Slope (%): <u>0-1</u>
Subregion (LRR/MLRA): <u>LRR A</u>		Lat: <u>45.64917</u>		Long: <u>-123.93412</u>
Datum: <u>NAD 83</u>				
Soil Map Unit Name: <u>13B Waldport, thin surface- Haceta fine sand, 0-5 percent slopes</u>		NW1 classification: <u>PSSC</u>		
Are climatic / hydrologic conditions on the site typical for this time of year? Yes <u>x</u> No <u> </u> (If no, explain in Remarks.)				
Are Vegetation <u> </u> , Soil <u> </u> , or Hydrology <u> </u> significantly disturbed? Are "Normal Circumstances" present? Yes <u>x</u> No <u> </u>				
Are Vegetation <u> </u> , Soil <u>x</u> , or Hydrology <u>x</u> naturally problematic? (If needed, explain any answers in Remarks.)				
SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.				
Hydrophytic Vegetation Present? Yes <u>X</u> No <u> </u> Hydric Soil Present? Yes <u>x</u> No <u> </u> Wetland Hydrology Present? Yes <u>x</u> No <u> </u>		Is the Sampled Area within a Wetland? Yes <u>x</u> No <u> </u>		
Remarks: Sample point is in mitigation area for 2008 RF36702. Road base for Jackson Creek was excavated for construction in 2008 but was never completed. Sample point is in the depression. More than 5 years "Normal Circumstances". See hydrology for Climatic remarks. Piared Plot at WB.				
VEGETATION – Use scientific names of plants.				
Tree Stratum (Plot size: <u>30</u>)		Absolute % Cover	Dominant Species?	Indicator Status
1. <u>Alnus rubra</u> (saplings)		90	Yes	FAC
2. <u> </u>		<u> </u>	<u> </u>	<u> </u>
3. <u> </u>		<u> </u>	<u> </u>	<u> </u>
4. <u> </u>		<u> </u>	<u> </u>	<u> </u>
		90 =Total Cover		
Sapling/Shrub Stratum (Plot size: <u>20</u>)				
1. <u>Salix hookeriana</u>		10	Yes	FACW
2. <u> </u>		<u> </u>	<u> </u>	<u> </u>
3. <u> </u>		<u> </u>	<u> </u>	<u> </u>
4. <u> </u>		<u> </u>	<u> </u>	<u> </u>
5. <u> </u>		<u> </u>	<u> </u>	<u> </u>
		10 =Total Cover		
Herb Stratum (Plot size: <u>10</u>)				
1. <u>Carex obnupta</u>		80	Yes	OBL
2. <u>Galium triflorum</u>		2	No	FACU
3. <u>Equisetum arvense</u>		1	No	FAC
4. <u>Oenanthe sarmentosa</u>		1	No	OBL
5. <u>Stachys mexicana</u>		5	No	FACW
6. <u>Polystichum munitum</u>		2	No	FACU
7. <u> </u>		<u> </u>	<u> </u>	<u> </u>
8. <u> </u>		<u> </u>	<u> </u>	<u> </u>
9. <u> </u>		<u> </u>	<u> </u>	<u> </u>
10. <u> </u>		<u> </u>	<u> </u>	<u> </u>
11. <u> </u>		<u> </u>	<u> </u>	<u> </u>
		91 =Total Cover		
Woody Vine Stratum (Plot size: <u>20</u>)				
1. <u>Rubus ursinus</u>		5	Yes	FACU
2. <u> </u>		<u> </u>	<u> </u>	<u> </u>
		5 =Total Cover		
% Bare Ground in Herb Stratum <u>0</u>				
Remarks: Photos. Alder trees are about 30-40'. Slopes to the north where alder is replaced SAHO.				

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: 3 (A)

Total Number of Dominant Species Across All Strata: 4 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 75.0% (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:
OBL species <u> </u>	x 1 = <u> </u>
FACW species <u> </u>	x 2 = <u> </u>
FAC species <u> </u>	x 3 = <u> </u>
FACU species <u> </u>	x 4 = <u> </u>
UPL species <u> </u>	x 5 = <u> </u>
Column Totals: <u> </u> (A)	<u> </u> (B)
Prevalence Index = B/A = <u> </u>	

Hydrophytic Vegetation Indicators:

 1 - Rapid Test for Hydrophytic Vegetation

X 2 - Dominance Test is >50%

 3 - Prevalence Index is ≤3.0¹

 4 - Morphological Adaptations¹ (Provide supporting data in Remarks or on a separate sheet)

 5 - Wetland Non-Vascular Plants¹

 Problematic Hydrophytic Vegetation¹ (Explain)

¹Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes X No

SOIL

Sampling Point: SP-2

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-2	7.5YR 2.5/2	100					Sandy	
2-4	7.5YR 4/2	100					Sandy	
4-10	7.5YR 5/2	90	7.5YR 4/4	10	C	M	Sandy	Distinct redox concentrations

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)		Indicators for Problematic Hydric Soils ³ :
☐ Histosol (A1)	☐ Sandy Gleyed Matrix (S4)	☐ 2 cm Muck (A10) (LRR A, E)
☐ Histic Epipedon (A2)	☒ Sandy Redox (S5)	☐ Iron-Manganese Masses (F12) (LRR D)
☐ Black Histic (A3)	☐ Stripped Matrix (S6)	☐ Red Parent Material (F21)
☐ Hydrogen Sulfide (A4)	☐ Loamy Mucky Mineral (F1) (except MLRA 1)	☐ Very Shallow Dark Surface (F22)
☐ 1 cm Muck (A9) (LRR D, G)	☐ Loamy Gleyed Matrix (F2)	☐ Other (Explain in Remarks)
☐ Depleted Below Dark Surface (A11)	☐ Depleted Matrix (F3)	
☐ Thick Dark Surface (A12)	☐ Redox Dark Surface (F6)	
☐ Sandy Mucky Mineral (S1)	☐ Depleted Dark Surface (F7)	
☐ 2.5 cm Mucky Peat or Peat (S2) (LRR G)	☐ Redox Depressions (F8)	

³Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed): Type: _____ Depth (inches): _____	Hydric Soil Present? Yes ☒ No ☐
---	---

Remarks:
The pit filled up with water. The 2007 wetland study mapped a long narrow wetland in this area and in proposed wetland fill area. Road base has been excavated. Connects to the larger wetlands to the west. Litter 2-1 7.5YR 3/3 leaves, OM. Redox increases with depth. Connects to larger wetland to the west.

HYDROLOGY

Wetland Hydrology Indicators:			
Primary Indicators (minimum of one is required; check all that apply)		Secondary Indicators (2 or more required)	
☐ Surface Water (A1)	☐ Water-Stained Leaves (B9) (except MLRA 1, 2, 4A, and 4B)	☐ Water-Stained Leaves (B9) (MLRA 1, 2, 4A, and 4B)	
☒ High Water Table (A2)	☐ Salt Crust (B11)	☐ Drainage Patterns (B10)	
☒ Saturation (A3)	☐ Aquatic Invertebrates (B13)	☐ Dry-Season Water Table (C2)	
☐ Water Marks (B1)	☐ Hydrogen Sulfide Odor (C1)	☐ Saturation Visible on Aerial Imagery (C9)	
☐ Sediment Deposits (B2)	☐ Oxidized Rhizospheres on Living Roots (C3)	☒ Geomorphic Position (D2)	
☐ Drift Deposits (B3)	☐ Presence of Reduced Iron (C4)	☐ Shallow Aquitard (D3)	
☐ Algal Mat or Crust (B4)	☐ Recent Iron Reduction in Tilled Soils (C6)	☒ FAC-Neutral Test (D5)	
☐ Iron Deposits (B5)	☐ Stunted or Stressed Plants (D1) (LRR A)	☐ Raised Ant Mounds (D6) (LRR A)	
☐ Surface Soil Cracks (B6)	☐ Other (Explain in Remarks)	☐ Frost-Heave Hummocks (D7)	
☐ Inundation Visible on Aerial Imagery (B7)			
☐ Sparsely Vegetated Concave Surface (B8)			

Field Observations: Surface Water Present? Yes ☐ No ☒ Depth (inches): _____ Water Table Present? Yes ☒ No ☐ Depth (inches): 5 Saturation Present? Yes ☒ No ☐ Depth (inches): 5 (includes capillary fringe)				Wetland Hydrology Present? Yes ☒ No ☐
---	--	--	--	---

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
No precipitation on the day of the site visit and .99 in the previous 2 weeks. Climatic conditions are typical for this time of year. Beaver activity has altered hydrologic conditions by damming culverts and streams. Ground water levels are higher than normal for this time of year.

U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET – Western Mountains, Valleys, and Coast Region See ERDC/EL TR-10-3; the proponent agency is CECW-CO-R		OMB Control #: 0710-0024, Exp: 11/30/2024 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)																
Project/Site: <u>Nedonna Wave updated Wetland Delineation</u>		City/County: <u>Rockaway Beach/Tillamook</u>																
Applicant/Owner: <u>Anna Song</u>		State: <u>OR</u> Sampling Point: <u>SP-3</u>																
Investigator(s): <u>CM. KH</u>		Section, Township, Range: <u>2N 10W 20 Lot 10400</u>																
Landform (hillside, terrace, etc.): <u>dune terrace (filled)</u>	Local relief (concave, convex, none): <u>none</u>	Slope (%): <u>1-2</u>																
Subregion (LRR/MLRA): <u>LRR A</u>	Lat: <u>45.64922</u>	Long: <u>-123.93442</u> Datum: <u>NAD 83</u>																
Soil Map Unit Name: <u>13B Waldport, thin surface- Haceta fine sand, 0-5 percent slopes</u>		NWI classification: _____																
Are climatic / hydrologic conditions on the site typical for this time of year? Yes <u>x</u> No _____ (If no, explain in Remarks.)																		
Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes <u>x</u> No _____																		
Are Vegetation _____, Soil _____, or Hydrology <u>x</u> naturally problematic? (If needed, explain any answers in Remarks.)																		
SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.																		
Hydrophytic Vegetation Present? Yes <u>X</u> No _____ Hydric Soil Present? Yes _____ No <u>x</u> Wetland Hydrology Present? Yes _____ No <u>x</u>		Is the Sampled Area within a Wetland? Yes _____ No <u>x</u>																
Remarks: Sample point is in mitigation area for 2008 RF36702. Documents non-wetlands in fill area Lot 23. Sample point is paired along the wetland edge. More than 5 years "Normal Circumstances". See hydrology for Climatic remarks. Piared Plot at WB. Beaver activity in wetlands.																		
VEGETATION – Use scientific names of plants.																		
Tree Stratum (Plot size: <u>30</u>) 1. <u>Alnus rubra</u> Absolute % Cover: <u>65</u> Dominant Species? <u>Yes</u> Indicator Status: <u>FAC</u> 2. _____ 3. _____ 4. _____ <u>65</u> =Total Cover		Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>5</u> (A) Total Number of Dominant Species Across All Strata: <u>5</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100.0%</u> (A/B)																
Sapling/Shrub Stratum (Plot size: <u>20</u>) 1. <u>Rubus armeniacus</u> Absolute % Cover: <u>50</u> Dominant Species? <u>Yes</u> Indicator Status: <u>FAC</u> 2. <u>Sambucus racemosa</u> <u>2</u> <u>No</u> <u>FACU</u> 3. _____ 4. _____ 5. _____ <u>52</u> =Total Cover																		
Herb Stratum (Plot size: <u>10</u>) 1. <u>Carex obnupta</u> Absolute % Cover: <u>20</u> Dominant Species? <u>Yes</u> Indicator Status: <u>OBL</u> 2. <u>Stachys mexicana</u> <u>30</u> <u>Yes</u> <u>FACW</u> 3. <u>Equisetum arvense</u> <u>20</u> <u>Yes</u> <u>FAC</u> 4. <u>Athyrium filix-femina</u> <u>2</u> <u>No</u> <u>FAC</u> 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____ 11. _____ <u>72</u> =Total Cover																		
Woody Vine Stratum (Plot size: <u>20</u>) 1. _____ 2. _____ _____ =Total Cover % Bare Ground in Herb Stratum <u>0</u>		Prevalence Index worksheet: <table style="width:100%; border: none;"> <tr> <td style="text-align: right;">Total % Cover of:</td> <td style="text-align: right;">Multiply by:</td> </tr> <tr> <td>OBL species _____</td> <td>x 1 = _____</td> </tr> <tr> <td>FACW species _____</td> <td>x 2 = _____</td> </tr> <tr> <td>FAC species _____</td> <td>x 3 = _____</td> </tr> <tr> <td>FACU species _____</td> <td>x 4 = _____</td> </tr> <tr> <td>UPL species _____</td> <td>x 5 = _____</td> </tr> <tr> <td>Column Totals: _____ (A)</td> <td>_____ (B)</td> </tr> <tr> <td colspan="2">Prevalence Index = B/A = _____</td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species _____	x 1 = _____	FACW species _____	x 2 = _____	FAC species _____	x 3 = _____	FACU species _____	x 4 = _____	UPL species _____	x 5 = _____	Column Totals: _____ (A)	_____ (B)	Prevalence Index = B/A = _____	
Total % Cover of:	Multiply by:																	
OBL species _____	x 1 = _____																	
FACW species _____	x 2 = _____																	
FAC species _____	x 3 = _____																	
FACU species _____	x 4 = _____																	
UPL species _____	x 5 = _____																	
Column Totals: _____ (A)	_____ (B)																	
Prevalence Index = B/A = _____																		
Remarks: RUAR was mowed the day of the site vist on lot 23. Plot is outside the mowed area on edge of fill and under alder.		Hydrophytic Vegetation Indicators: _____ 1 - Rapid Test for Hydrophytic Vegetation <u>X</u> _____ 2 - Dominance Test is >50% _____ 3 - Prevalence Index is ≤3.0 ¹ _____ 4 - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) _____ 5 - Wetland Non-Vascular Plants ¹ _____ Problematic Hydrophytic Vegetation ¹ (Explain) ¹Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
Hydrophytic Vegetation Present? Yes <u>X</u> No _____																		

SOIL

Sampling Point: SP-3

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-10	7.5YR 4/3	100					Sandy	
10-16	7.5YR 4/3	72	10YR 3/1	6	C	M	Sandy	Distinct redox concentrations
16-20	7.5YR 4/2	20	7.5YR 4/3	2	C	M	Sandy	Faint redox concentrations

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)		Indicators for Problematic Hydric Soils ³ :
☐ Histosol (A1)	☐ Sandy Gleyed Matrix (S4)	☐ 2 cm Muck (A10) (LRR A, E)
☐ Histic Epipedon (A2)	☐ Sandy Redox (S5)	☐ Iron-Manganese Masses (F12) (LRR D)
☐ Black Histic (A3)	☐ Stripped Matrix (S6)	☐ Red Parent Material (F21)
☐ Hydrogen Sulfide (A4)	☐ Loamy Mucky Mineral (F1) (except MLRA 1)	☐ Very Shallow Dark Surface (F22)
☐ 1 cm Muck (A9) (LRR D, G)	☐ Loamy Gleyed Matrix (F2)	☐ Other (Explain in Remarks)
☐ Depleted Below Dark Surface (A11)	☐ Depleted Matrix (F3)	
☐ Thick Dark Surface (A12)	☐ Redox Dark Surface (F6)	
☐ Sandy Mucky Mineral (S1)	☐ Depleted Dark Surface (F7)	
☐ 2.5 cm Mucky Peat or Peat (S2) (LRR G)	☐ Redox Depressions (F8)	

³Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed): Type: _____ Depth (inches): _____	Hydric Soil Present? Yes _____ No <u>x</u>
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Remarks:
The test pit is located on the outermost edge of fill and may have settled since 2008. Slightly lower elevation the interior of lot that has more fill.

HYDROLOGY

Wetland Hydrology Indicators:			
<u>Primary Indicators (minimum of one is required; check all that apply)</u>		<u>Secondary Indicators (2 or more required)</u>	
☐ Surface Water (A1)	☐ Water-Stained Leaves (B9) (except MLRA 1, 2, 4A, and 4B)	☐ Water-Stained Leaves (B9) (MLRA 1, 2, 4A, and 4B)	
☐ High Water Table (A2)	☐ Salt Crust (B11)	☐ Drainage Patterns (B10)	
☐ Saturation (A3)	☐ Aquatic Invertebrates (B13)	☐ Dry-Season Water Table (C2)	
☐ Water Marks (B1)	☐ Hydrogen Sulfide Odor (C1)	☐ Saturation Visible on Aerial Imagery (C9)	
☐ Sediment Deposits (B2)	☐ Oxidized Rhizospheres on Living Roots (C3)	☐ Geomorphic Position (D2)	
☐ Drift Deposits (B3)	☐ Presence of Reduced Iron (C4)	☐ Shallow Aquitard (D3)	
☐ Algal Mat or Crust (B4)	☐ Recent Iron Reduction in Tilled Soils (C6)	☒ FAC-Neutral Test (D5)	
☐ Iron Deposits (B5)	☐ Stunted or Stressed Plants (D1) (LRR A)	☐ Raised Ant Mounds (D6) (LRR A)	
☐ Surface Soil Cracks (B6)	☐ Other (Explain in Remarks)	☐ Frost-Heave Hummocks (D7)	
☐ Inundation Visible on Aerial Imagery (B7)			
☐ Sparsely Vegetated Concave Surface (B8)			

Field Observations: Surface Water Present? Yes _____ No <u>x</u> Depth (inches): _____ Water Table Present? Yes <u>X</u> No _____ Depth (inches): <u>20</u> Saturation Present? Yes <u>x</u> No _____ Depth (inches): <u>20</u> (includes capillary fringe)	Wetland Hydrology Present? Yes _____ No <u>x</u>
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Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
No precipitation on the day of the site visit and .99 in the previous 2 weeks. Climatic conditions are typical for this time of year. Beaver activity has altered hydrologic conditions by damming culverts and streams. Ground water levels are higher than normal/problematic.

SOIL

Sampling Point: SP-4

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-4	10YR 3/2	100					Mucky Sand	6-9% OC/fibers + muck

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)		Indicators for Problematic Hydric Soils ³ :
☐ Histosol (A1)	☐ Sandy Gleyed Matrix (S4)	☐ 2 cm Muck (A10) (LRR A, E)
☐ Histic Epipedon (A2)	☐ Sandy Redox (S5)	☐ Iron-Manganese Masses (F12) (LRR D)
☐ Black Histic (A3)	☐ Stripped Matrix (S6)	☐ Red Parent Material (F21)
☐ Hydrogen Sulfide (A4)	☐ Loamy Mucky Mineral (F1) (except MLRA 1)	☐ Very Shallow Dark Surface (F22)
☐ 1 cm Muck (A9) (LRR D, G)	☐ Loamy Gleyed Matrix (F2)	☐ Other (Explain in Remarks)
☐ Depleted Below Dark Surface (A11)	☐ Depleted Matrix (F3)	
☐ Thick Dark Surface (A12)	☐ Redox Dark Surface (F6)	
☒ Sandy Mucky Mineral (S1)	☐ Depleted Dark Surface (F7)	
☐ 2.5 cm Mucky Peat or Peat (S2) (LRR G)	☐ Redox Depressions (F8)	

³Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed): Type: _____ Depth (inches): _____	Hydric Soil Present? Yes ☒ No ☐
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Remarks:
The pit filled up with water and there is surface water nearby. Too wet to dig out muck near the surface. Very wet.

HYDROLOGY

Wetland Hydrology Indicators:			
Primary Indicators (minimum of one is required; check all that apply)		Secondary Indicators (2 or more required)	
☒ Surface Water (A1)	☐ Water-Stained Leaves (B9) (except MLRA 1, 2, 4A, and 4B)	☐ Water-Stained Leaves (B9) (MLRA 1, 2, 4A, and 4B)	
☒ High Water Table (A2)	☐ Salt Crust (B11)	☐ Drainage Patterns (B10)	
☐ Saturation (A3)	☐ Aquatic Invertebrates (B13)	☐ Dry-Season Water Table (C2)	
☐ Water Marks (B1)	☐ Hydrogen Sulfide Odor (C1)	☐ Saturation Visible on Aerial Imagery (C9)	
☐ Sediment Deposits (B2)	☐ Oxidized Rhizospheres on Living Roots (C3)	☒ Geomorphic Position (D2)	
☐ Drift Deposits (B3)	☐ Presence of Reduced Iron (C4)	☐ Shallow Aquitard (D3)	
☐ Algal Mat or Crust (B4)	☐ Recent Iron Reduction in Tilled Soils (C6)	☒ FAC-Neutral Test (D5)	
☐ Iron Deposits (B5)	☐ Stunted or Stressed Plants (D1) (LRR A)	☐ Raised Ant Mounds (D6) (LRR A)	
☐ Surface Soil Cracks (B6)	☐ Other (Explain in Remarks)	☐ Frost-Heave Hummocks (D7)	
☐ Inundation Visible on Aerial Imagery (B7)			
☐ Sparsely Vegetated Concave Surface (B8)			

Field Observations: Surface Water Present? Yes ☒ No ☐ Depth (inches): 2 Water Table Present? Yes ☒ No ☐ Depth (inches): 0 Saturation Present? Yes ☒ No ☐ Depth (inches): 0 (includes capillary fringe)				Wetland Hydrology Present? Yes ☒ No ☐
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Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
No precipitation on the day of the site visit and .99 in the previous 2 weeks. Climatic conditions are typical for this time of year. Beaver activity has altered hydrologic conditions by damming culverts and streams. Ground water levels are higher than normal for this time of year.

U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET – Western Mountains, Valleys, and Coast Region See ERDC/EL TR-10-3; the proponent agency is CECW-CO-R		OMB Control #: 0710-0024, Exp: 11/30/2024 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)																
Project/Site: <u>Nedonna Wave updated Wetland Delineation</u>		City/County: <u>Rockaway Beach/Tillamook</u>																
Applicant/Owner: <u>Anna Song</u>		State: <u>OR</u> Sampling Point: <u>SP-5</u>																
Investigator(s): <u>CM, KH</u>		Section, Township, Range: <u>2N 10W 20 Lot 10400</u>																
Landform (hillside, terrace, etc.): <u>dune terrace</u>	Local relief (concave, convex, none): <u>uneven</u>	Slope (%): <u>1-2</u>																
Subregion (LRR/MLRA): <u>LRR A</u>	Lat: <u>45.65013</u>	Long: <u>-123.93390</u> Datum: <u>NAD 83</u>																
Soil Map Unit Name: <u>13B Waldport, thin surface- Haceta fine sand, 0-5 percent slopes</u>		NWI classification: _____																
Are climatic / hydrologic conditions on the site typical for this time of year? Yes <u>x</u> No _____ (If no, explain in Remarks.)																		
Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes <u>x</u> No _____																		
Are Vegetation _____, Soil _____, or Hydrology <u>x</u> naturally problematic? (If needed, explain any answers in Remarks.)																		
SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.																		
Hydrophytic Vegetation Present? Yes <u>X</u> No _____ Hydric Soil Present? Yes _____ No <u>x</u> Wetland Hydrology Present? Yes _____ No <u>x</u>		Is the Sampled Area within a Wetland? Yes _____ No <u>x</u>																
Remarks: Sample point is in wetland mitigation area for 2008 RF36702. Documents edge of non-wetlands in Lot 19. The corner of the lot is topographically lower than the filled area in the remainder of the lot. More than 5 years "Normal Circumstances". See hydrology for remarks. Plot at WB.																		
VEGETATION – Use scientific names of plants.																		
Tree Stratum (Plot size: <u>30</u>)		Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>3</u> (A) Total Number of Dominant Species Across All Strata: <u>5</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>60.0%</u> (A/B)																
1. <u>Alnus rubra</u> Absolute % Cover: <u>5</u> Dominant Species? <u>No</u> Indicator Status: <u>FAC</u>																		
2. <u>Picea stichensis</u> Absolute % Cover: <u>90</u> Dominant Species? <u>Yes</u> Indicator Status: <u>FAC</u>																		
3. _____ Absolute % Cover: _____ Dominant Species? _____ Indicator Status: _____																		
4. _____ Absolute % Cover: _____ Dominant Species? _____ Indicator Status: _____																		
<u>95</u> =Total Cover																		
Sapling/Shrub Stratum (Plot size: <u>20</u>)																		
1. <u>Gaultheria shallon</u> Absolute % Cover: <u>25</u> Dominant Species? <u>Yes</u> Indicator Status: <u>FACU</u>																		
2. <u>Lonicera involucrata</u> Absolute % Cover: <u>20</u> Dominant Species? <u>Yes</u> Indicator Status: <u>FAC</u>																		
3. <u>Vaccinium ovatum</u> Absolute % Cover: <u>15</u> Dominant Species? <u>Yes</u> Indicator Status: <u>FACU</u>																		
4. <u>Salix hookeriana</u> Absolute % Cover: <u>5</u> Dominant Species? <u>No</u> Indicator Status: <u>FACW</u>																		
5. <u>Myrica californica</u> Absolute % Cover: <u>5</u> Dominant Species? <u>No</u> Indicator Status: <u>FACW</u>																		
<u>70</u> =Total Cover		Prevalence Index worksheet: <table style="width:100%; border: none;"> <tr> <td style="width: 50%;">Total % Cover of:</td> <td style="width: 50%;">Multiply by:</td> </tr> <tr> <td>OBL species _____</td> <td>x 1 = _____</td> </tr> <tr> <td>FACW species _____</td> <td>x 2 = _____</td> </tr> <tr> <td>FAC species _____</td> <td>x 3 = _____</td> </tr> <tr> <td>FACU species _____</td> <td>x 4 = _____</td> </tr> <tr> <td>UPL species _____</td> <td>x 5 = _____</td> </tr> <tr> <td>Column Totals: _____ (A)</td> <td>_____ (B)</td> </tr> <tr> <td colspan="2">Prevalence Index = B/A = _____</td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species _____	x 1 = _____	FACW species _____	x 2 = _____	FAC species _____	x 3 = _____	FACU species _____	x 4 = _____	UPL species _____	x 5 = _____	Column Totals: _____ (A)	_____ (B)	Prevalence Index = B/A = _____	
Total % Cover of:	Multiply by:																	
OBL species _____	x 1 = _____																	
FACW species _____	x 2 = _____																	
FAC species _____	x 3 = _____																	
FACU species _____	x 4 = _____																	
UPL species _____	x 5 = _____																	
Column Totals: _____ (A)	_____ (B)																	
Prevalence Index = B/A = _____																		
Herb Stratum (Plot size: <u>10</u>)																		
1. <u>Carex obnupta</u> Absolute % Cover: <u>20</u> Dominant Species? <u>Yes</u> Indicator Status: <u>OBL</u>																		
2. <u>Hedera helix</u> Absolute % Cover: <u>1</u> Dominant Species? <u>No</u> Indicator Status: <u>UPL</u>																		
3. _____ Absolute % Cover: _____ Dominant Species? _____ Indicator Status: _____																		
4. _____ Absolute % Cover: _____ Dominant Species? _____ Indicator Status: _____																		
5. _____ Absolute % Cover: _____ Dominant Species? _____ Indicator Status: _____																		
6. _____ Absolute % Cover: _____ Dominant Species? _____ Indicator Status: _____																		
7. _____ Absolute % Cover: _____ Dominant Species? _____ Indicator Status: _____																		
8. _____ Absolute % Cover: _____ Dominant Species? _____ Indicator Status: _____																		
9. _____ Absolute % Cover: _____ Dominant Species? _____ Indicator Status: _____																		
10. _____ Absolute % Cover: _____ Dominant Species? _____ Indicator Status: _____																		
11. _____ Absolute % Cover: _____ Dominant Species? _____ Indicator Status: _____																		
<u>21</u> =Total Cover		Hydrophytic Vegetation Indicators: <u>1</u> - Rapid Test for Hydrophytic Vegetation <u>X</u> <u>2</u> - Dominance Test is >50% <u>3</u> - Prevalence Index is ≤3.0 ¹ <u>4</u> - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <u>5</u> - Wetland Non-Vascular Plants ¹ <u> </u> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
Woody Vine Stratum (Plot size: <u>20</u>)																		
1. _____ Absolute % Cover: _____ Dominant Species? _____ Indicator Status: _____																		
2. _____ Absolute % Cover: _____ Dominant Species? _____ Indicator Status: _____																		
_____ =Total Cover																		
% Bare Ground in Herb Stratum <u>0</u>																		
Remarks: Frangula purshiana 2% FAC. The vegetation has not been disturbed in this corner and there is a drop of at least a foot from the rest of lot 19.																		

SOIL

Sampling Point: SP-5

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-2	7.5YR 3/2	100					Sandy	
2-18	7.5YR 5/3	96					Sandy	7.5YR 4/4 4%

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)		Indicators for Problematic Hydric Soils ³ :
☐ Histosol (A1)	☐ Sandy Gleyed Matrix (S4)	☐ 2 cm Muck (A10) (LRR A, E)
☐ Histic Epipedon (A2)	☐ Sandy Redox (S5)	☐ Iron-Manganese Masses (F12) (LRR D)
☐ Black Histic (A3)	☐ Stripped Matrix (S6)	☐ Red Parent Material (F21)
☐ Hydrogen Sulfide (A4)	☐ Loamy Mucky Mineral (F1) (except MLRA 1)	☐ Very Shallow Dark Surface (F22)
☐ 1 cm Muck (A9) (LRR D, G)	☐ Loamy Gleyed Matrix (F2)	☐ Other (Explain in Remarks)
☐ Depleted Below Dark Surface (A11)	☐ Depleted Matrix (F3)	
☐ Thick Dark Surface (A12)	☐ Redox Dark Surface (F6)	
☐ Sandy Mucky Mineral (S1)	☐ Depleted Dark Surface (F7)	
☐ 2.5 cm Mucky Peat or Peat (S2) (LRR G)	☐ Redox Depressions (F8)	

³Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed): Type: _____ Depth (inches): _____	Hydric Soil Present? Yes _____ No <u>x</u>
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Remarks:
Duff layer 4-0 7.5YR 2.5/2 litter, needles and OM. Indicators are not present even with the elevated water table from beaver activity. This may have been an island of upland that was mapped as wetland in the 2007 delineation. Sampled the soil at 2-18" to confirm the colors.

HYDROLOGY

Wetland Hydrology Indicators:			
<u>Primary Indicators (minimum of one is required; check all that apply)</u>		<u>Secondary Indicators (2 or more required)</u>	
☐ Surface Water (A1)	☐ Water-Stained Leaves (B9) (except MLRA 1, 2, 4A, and 4B)	☐ Water-Stained Leaves (B9) (MLRA 1, 2, 4A, and 4B)	
☐ High Water Table (A2)	☐ Salt Crust (B11)	☐ Drainage Patterns (B10)	
☐ Saturation (A3)	☐ Aquatic Invertebrates (B13)	☐ Dry-Season Water Table (C2)	
☐ Water Marks (B1)	☐ Hydrogen Sulfide Odor (C1)	☐ Saturation Visible on Aerial Imagery (C9)	
☐ Sediment Deposits (B2)	☐ Oxidized Rhizospheres on Living Roots (C3)	☒ Geomorphic Position (D2)	
☐ Drift Deposits (B3)	☐ Presence of Reduced Iron (C4)	☐ Shallow Aquitard (D3)	
☐ Algal Mat or Crust (B4)	☐ Recent Iron Reduction in Tilled Soils (C6)	☐ FAC-Neutral Test (D5)	
☐ Iron Deposits (B5)	☐ Stunted or Stressed Plants (D1) (LRR A)	☐ Raised Ant Mounds (D6) (LRR A)	
☐ Surface Soil Cracks (B6)	☐ Other (Explain in Remarks)	☐ Frost-Heave Hummocks (D7)	
☐ Inundation Visible on Aerial Imagery (B7)			
☐ Sparsely Vegetated Concave Surface (B8)			

Field Observations: Surface Water Present? Yes _____ No <u>x</u> Depth (inches): _____ Water Table Present? Yes _____ No <u>x</u> Depth (inches): _____ Saturation Present? Yes <u>x</u> No _____ Depth (inches): 17 (includes capillary fringe)	Wetland Hydrology Present? Yes _____ No <u>x</u>
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Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
No precipitation on the day of the site visit and .99 in the previous 2 weeks. Climatic conditions are typical for this time of year. Beaver activity has altered hydrologic conditions by damming culverts and streams. Ground water levels are higher than normal-problematic.

U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET – Western Mountains, Valleys, and Coast Region See ERDC/EL TR-10-3; the proponent agency is CECW-CO-R		OMB Control #: 0710-0024, Exp: 11/30/2024 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)																
Project/Site: <u>Nedonna Wave updated Wetland Delineation</u>		City/County: <u>Rockaway Beach/Tillamook</u>																
Applicant/Owner: <u>Anna Song</u>		State: <u>OR</u> Sampling Point: <u>SP-6</u>																
Investigator(s): <u>CM. KH</u>		Section, Township, Range: <u>2N 10W 20 Lot 10400</u>																
Landform (hillside, terrace, etc.): <u>dune swale</u>	Local relief (concave, convex, none): <u>concave</u>	Slope (%): <u>0-1</u>																
Subregion (LRR/MLRA): <u>LRR A</u>	Lat: <u>45.65018</u>	Long: <u>-123.93397</u> Datum: <u>NAD 83</u>																
Soil Map Unit Name: <u>13B Waldport, thin surface- Haceta fine sand, 0-5 percent slopes</u>		NWI classification: <u>PFO/PSS</u>																
Are climatic / hydrologic conditions on the site typical for this time of year? Yes <u>x</u> No <u>x</u> (If no, explain in Remarks.)																		
Are Vegetation <u> </u> , Soil <u> </u> , or Hydrology <u> </u> significantly disturbed? Are "Normal Circumstances" present? Yes <u>x</u> No <u> </u>																		
Are Vegetation <u> </u> , Soil <u> </u> , or Hydrology <u>x</u> naturally problematic? (If needed, explain any answers in Remarks.)																		
SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.																		
Hydrophytic Vegetation Present? Yes <u>X</u> No <u> </u> Hydric Soil Present? Yes <u>x</u> No <u> </u> Wetland Hydrology Present? Yes <u>x</u> No <u> </u>		Is the Sampled Area within a Wetland? Yes <u>x</u> No <u> </u>																
Remarks: Beaver activity has elevated water table and blocked waterflow at the culvert oin Kittiwake Drive. See hydrology for Climatic remarks. Piared Plot at WB-44a.																		
VEGETATION – Use scientific names of plants.																		
Tree Stratum (Plot size: <u>30</u>) 1. <u>Alnus rubra</u> Absolute % Cover <u>20</u> Dominant Species? <u>Yes</u> Indicator Status <u>FAC</u> 2. <u>Picea sitchensis</u> <u>50</u> <u>Yes</u> <u>FAC</u> 3. <u> </u> <u> </u> <u> </u> <u> </u> 4. <u> </u> <u> </u> <u> </u> <u> </u> <u>70</u> =Total Cover		Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>6</u> (A) Total Number of Dominant Species Across All Strata: <u>6</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100.0%</u> (A/B)																
Sapling/Shrub Stratum (Plot size: <u>20</u>) 1. <u>Salix hookeriana</u> <u>25</u> <u>Yes</u> <u>FACW</u> 2. <u>Lonicera involucrata</u> <u>25</u> <u>Yes</u> <u>FAC</u> 3. <u>Spiraea douglasii</u> <u>25</u> <u>Yes</u> <u>FACW</u> 4. <u>Gaultheria shallon</u> <u>2</u> <u>No</u> <u>FACU</u> 5. <u>Vaccinium ovatum</u> <u>2</u> <u>No</u> <u>FACU</u> <u>79</u> =Total Cover																		
Herb Stratum (Plot size: <u>10</u>) 1. <u>Carex obnupta</u> <u>60</u> <u>Yes</u> <u>OBL</u> 2. <u>Polystichum munitum</u> <u>2</u> <u>No</u> <u>FACU</u> 3. <u>Marah oregonus</u> <u>1</u> <u>No</u> <u>FACW</u> 4. <u> </u> <u> </u> <u> </u> <u> </u> 5. <u> </u> <u> </u> <u> </u> <u> </u> 6. <u> </u> <u> </u> <u> </u> <u> </u> 7. <u> </u> <u> </u> <u> </u> <u> </u> 8. <u> </u> <u> </u> <u> </u> <u> </u> 9. <u> </u> <u> </u> <u> </u> <u> </u> 10. <u> </u> <u> </u> <u> </u> <u> </u> 11. <u> </u> <u> </u> <u> </u> <u> </u> <u>63</u> =Total Cover																		
Woody Vine Stratum (Plot size: <u>20</u>) 1. <u> </u> <u> </u> <u> </u> <u> </u> 2. <u> </u> <u> </u> <u> </u> <u> </u> <u> </u> =Total Cover % Bare Ground in Herb Stratum <u>0</u>		Prevalence Index worksheet: <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">Total % Cover of:</td> <td style="width:50%;">Multiply by:</td> </tr> <tr> <td>OBL species <u> </u></td> <td>x 1 = <u> </u></td> </tr> <tr> <td>FACW species <u> </u></td> <td>x 2 = <u> </u></td> </tr> <tr> <td>FAC species <u> </u></td> <td>x 3 = <u> </u></td> </tr> <tr> <td>FACU species <u> </u></td> <td>x 4 = <u> </u></td> </tr> <tr> <td>UPL species <u> </u></td> <td>x 5 = <u> </u></td> </tr> <tr> <td>Column Totals: <u> </u> (A)</td> <td><u> </u> (B)</td> </tr> <tr> <td colspan="2">Prevalence Index = B/A = <u> </u></td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species <u> </u>	x 1 = <u> </u>	FACW species <u> </u>	x 2 = <u> </u>	FAC species <u> </u>	x 3 = <u> </u>	FACU species <u> </u>	x 4 = <u> </u>	UPL species <u> </u>	x 5 = <u> </u>	Column Totals: <u> </u> (A)	<u> </u> (B)	Prevalence Index = B/A = <u> </u>	
Total % Cover of:	Multiply by:																	
OBL species <u> </u>	x 1 = <u> </u>																	
FACW species <u> </u>	x 2 = <u> </u>																	
FAC species <u> </u>	x 3 = <u> </u>																	
FACU species <u> </u>	x 4 = <u> </u>																	
UPL species <u> </u>	x 5 = <u> </u>																	
Column Totals: <u> </u> (A)	<u> </u> (B)																	
Prevalence Index = B/A = <u> </u>																		
Hydrophytic Vegetation Indicators: <u> </u> 1 - Rapid Test for Hydrophytic Vegetation <u>X</u> 2 - Dominance Test is >50% <u> </u> 3 - Prevalence Index is ≤3.0 ¹ <u> </u> 4 - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <u> </u> 5 - Wetland Non-Vascular Plants ¹ <u> </u> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.		Hydrophytic Vegetation Present? Yes <u>X</u> No <u> </u>																
Remarks: Standing water. Pisi along the edge shading wetland .																		

SOIL

Sampling Point: SP-6

[illegible]

HYDROLOGY

Wetland Hydrology Indicators:			
Primary Indicators (minimum of one is required; check all that apply)			
☒ Surface Water (A1)	☐ Water-Stained Leaves (B9) (except MLRA 1, 2, 4A, and 4B)	☐ Water-Stained Leaves (B9) (MLRA 1, 2, 4A, and 4B)	
☒ High Water Table (A2)	☐ Salt Crust (B11)	☐ Drainage Patterns (B10)	
☐ Saturation (A3)	☐ Aquatic Invertebrates (B13)	☐ Dry-Season Water Table (C2)	
☐ Water Marks (B1)	☐ Hydrogen Sulfide Odor (C1)	☐ Saturation Visible on Aerial Imagery (C9)	
☐ Sediment Deposits (B2)	☐ Oxidized Rhizospheres on Living Roots (C3)	☒ Geomorphic Position (D2)	
☐ Drift Deposits (B3)	☐ Presence of Reduced Iron (C4)	☐ Shallow Aquitard (D3)	
☐ Algal Mat or Crust (B4)	☐ Recent Iron Reduction in Tilled Soils (C6)	☒ FAC-Neutral Test (D5)	
☐ Iron Deposits (B5)	☐ Stunted or Stressed Plants (D1) (LRR A)	☐ Raised Ant Mounds (D6) (LRR A)	
☐ Surface Soil Cracks (B6)	☐ Other (Explain in Remarks)	☐ Frost-Heave Hummocks (D7)	
☐ Inundation Visible on Aerial Imagery (B7)			
☐ Sparsely Vegetated Concave Surface (B8)			
Field Observations:			
Surface Water Present?	Yes ☒ No ☐	Depth (inches):	0
Water Table Present?	Yes ☒ No ☐	Depth (inches):	0
Saturation Present?	Yes ☒ No ☐	Depth (inches):	0
(includes capillary fringe)		Wetland Hydrology Present? Yes ☒ No ☐	
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:			
Remarks:			
No precipitation on the day of the site visit and .99 in the previous 2 weeks. Climatic conditions are typical for this time of year. Beaver activity has altered hydrologic conditions by damming culverts and streams. Ground water levels are higher than normal for this time of year.			

U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET – Western Mountains, Valleys, and Coast Region See ERDC/EL TR-10-3; the proponent agency is CECW-CO-R				OMB Control #: 0710-0024, Exp: 11/30/2024 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)																	
Project/Site: <u>Nedonna Wave updated Wetland Delineation</u>		City/County: <u>Rockaway Beach/Tillamook</u>		Sampling Date: <u>6/21/24</u>																	
Applicant/Owner: <u>Anna Song</u>		State: <u>OR</u>		Sampling Point: <u>SP-7</u>																	
Investigator(s): <u>CM. KH</u>		Section, Township, Range: <u>2N 10W 20 Lot 10200</u>																			
Landform (hillside, terrace, etc.): <u>dune terrace</u>		Local relief (concave, convex, none): <u>none</u>		Slope (%): <u>1-2</u>																	
Subregion (LRR/MLRA): <u>LRR A</u>		Lat: <u>45.64996</u>		Long: <u>-123.93493</u> Datum: <u>NAD 83</u>																	
Soil Map Unit Name: <u>13B Waldprot thin surface Haceta fine sand, 0-5 percent slopes</u>				NW1 classification: _____																	
Are climatic / hydrologic conditions on the site typical for this time of year? Yes <u>x</u> No _____ (If no, explain in Remarks.)																					
Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes <u>x</u> No _____																					
Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)																					
SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.																					
Hydrophytic Vegetation Present? Yes <u>X</u> No _____ Hydric Soil Present? Yes _____ No <u>x</u> Wetland Hydrology Present? Yes _____ No <u>x</u>			Is the Sampled Area within a Wetland? Yes _____ No <u>x</u>																		
Remarks: Sample point is mid way of lot 10200. OHWL on McMillan Creek is to the west. There are stakes in the ground and we thought this was the area filled as past of the mitigation plan. See hydrology for Climatic remarks.																					
VEGETATION – Use scientific names of plants.																					
Tree Stratum (Plot size: <u>30</u>)		Absolute % Cover	Dominant Species?	Indicator Status	Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>4</u> (A) Total Number of Dominant Species Across All Strata: <u>5</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>80.0%</u> (A/B)																
1. <u>Alnus rubra</u>		5	Yes	FAC																	
2. _____																					
3. _____																					
4. _____																					
		5	=Total Cover																		
Sapling/Shrub Stratum (Plot size: <u>20</u>)																					
1. <u>Rubus armeniacus</u>		10	No	FAC																	
2. <u>Gaultheria shallon</u>		20	Yes	FACU																	
3. <u>Lonicera involucrata</u>		45	Yes	FAC																	
4. <u>Spiraea douglasii</u>		5	No	FACW																	
5. _____																					
		80	=Total Cover																		
Herb Stratum (Plot size: <u>10</u>)					Prevalence Index worksheet: <table style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left; border-bottom: 1px solid black;">Total % Cover of:</th> <th style="text-align: left; border-bottom: 1px solid black;">Multiply by:</th> </tr> <tr> <td>OBL species _____</td> <td>x 1 = _____</td> </tr> <tr> <td>FACW species _____</td> <td>x 2 = _____</td> </tr> <tr> <td>FAC species _____</td> <td>x 3 = _____</td> </tr> <tr> <td>FACU species _____</td> <td>x 4 = _____</td> </tr> <tr> <td>UPL species _____</td> <td>x 5 = _____</td> </tr> <tr> <td>Column Totals: _____ (A)</td> <td>_____ (B)</td> </tr> <tr> <td colspan="2">Prevalence Index = B/A = _____</td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species _____	x 1 = _____	FACW species _____	x 2 = _____	FAC species _____	x 3 = _____	FACU species _____	x 4 = _____	UPL species _____	x 5 = _____	Column Totals: _____ (A)	_____ (B)	Prevalence Index = B/A = _____	
Total % Cover of:	Multiply by:																				
OBL species _____	x 1 = _____																				
FACW species _____	x 2 = _____																				
FAC species _____	x 3 = _____																				
FACU species _____	x 4 = _____																				
UPL species _____	x 5 = _____																				
Column Totals: _____ (A)	_____ (B)																				
Prevalence Index = B/A = _____																					
1. <u>Carex obnupta</u>		15	No	OBL																	
2. <u>Agrostis tenuis</u>		40	Yes	FAC																	
3. <u>Holcus lanatus</u>		20	Yes	FAC																	
4. <u>Epilobium ciliatum</u>		1	No	FAC																	
5. <u>Digitalis purpurea</u>		1	No	FACU																	
6. _____																					
7. _____																					
8. _____																					
9. _____																					
10. _____																					
11. _____																					
		77	=Total Cover																		
Woody Vine Stratum (Plot size: <u>20</u>)					Hydrophytic Vegetation Indicators: <u>1</u> - Rapid Test for Hydrophytic Vegetation <u>X</u> <u>2</u> - Dominance Test is >50% <u>3</u> - Prevalence Index is ≤3.0 ¹ <u>4</u> - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <u>5</u> - Wetland Non-Vascular Plants ¹ <u> </u> Problematic Hydrophytic Vegetation ¹ (Explain) ¹Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
1. _____																					
2. _____																					
			=Total Cover																		
% Bare Ground in Herb Stratum <u>0</u>																					
Remarks: Photos RUAR mowed on the day of the site visit. Equipment access into the lot from Kittiwake.																					

SOIL

Sampling Point: SP-7

[illegible]

HYDROLOGY

Wetland Hydrology Indicators:				Wetland Hydrology Indicators:	
Primary Indicators (minimum of one is required; check all that apply)				Secondary Indicators (2 or more required)	
☐ Surface Water (A1)	☐ High Water Table (A2)	☐ Saturation (A3)	☐ Water Marks (B1)	☐ Sediment Deposits (B2)	☐ Drift Deposits (B3)
☐ Algal Mat or Crust (B4)	☐ Iron Deposits (B5)	☐ Surface Soil Cracks (B6)	☐ Inundation Visible on Aerial Imagery (B7)	☐ Sparsely Vegetated Concave Surface (B8)	☐ Water-Stained Leaves (B9) (except MLRA 1, 2, 4A, and 4B)
☐ Salt Crust (B11)	☐ Aquatic Invertebrates (B13)	☐ Hydrogen Sulfide Odor (C1)	☐ Oxidized Rhizospheres on Living Roots (C3)	☐ Presence of Reduced Iron (C4)	☐ Recent Iron Reduction in Tilled Soils (C6)
☐ Stunted or Stressed Plants (D1) (LRR A)	☐ Other (Explain in Remarks)	☐ Drainage Patterns (B10)	☐ Dry-Season Water Table (C2)	☐ Saturation Visible on Aerial Imagery (C9)	☐ Geomorphic Position (D2)
		☐ Shallow Aquitard (D3)	☐ FAC-Neutral Test (D5)	☐ Raised Ant Mounds (D6) (LRR A)	☐ Frost-Heave Hummocks (D7)
Field Observations:					
Surface Water Present?	Yes ☐	No ☒	Depth (inches):	Wetland Hydrology Present? Yes ☐ No ☒	
Water Table Present?	Yes ☐	No ☒	Depth (inches):		
Saturation Present?	Yes ☐	No ☒	Depth (inches):		
(includes capillary fringe)					
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:					
Remarks:					
No precipitation on the day of the site visit and .99 in the previous 2 weeks. Climatic conditions are typical for this time of year.					

SOIL

Sampling Point: SP-8

[illegible]

HYDROLOGY

Wetland Hydrology Indicators:				Secondary Indicators (2 or more required)	
Primary Indicators (minimum of one is required; check all that apply)				Secondary Indicators (2 or more required)	
☐ Surface Water (A1)		☐ Water-Stained Leaves (B9) (except		☐ Water-Stained Leaves (B9) (MLRA 1, 2	
☒ High Water Table (A2)		MLRA 1, 2, 4A, and 4B)		4A, and 4B)	
☒ Saturation (A3)		☐ Salt Crust (B11)		☐ Drainage Patterns (B10)	
☐ Water Marks (B1)		☐ Aquatic Invertebrates (B13)		☐ Dry-Season Water Table (C2)	
☐ Sediment Deposits (B2)		☐ Hydrogen Sulfide Odor (C1)		☐ Saturation Visible on Aerial Imagery (C9)	
☐ Drift Deposits (B3)		☐ Oxidized Rhizospheres on Living Roots (C3)		☒ Geomorphic Position (D2)	
☐ Algal Mat or Crust (B4)		☐ Presence of Reduced Iron (C4)		☐ Shallow Aquitard (D3)	
☐ Iron Deposits (B5)		☐ Recent Iron Reduction in Tilled Soils (C6)		☒ FAC-Neutral Test (D5)	
☐ Surface Soil Cracks (B6)		☐ Stunted or Stressed Plants (D1) (LRR A)		☐ Raised Ant Mounds (D6) (LRR A)	
☐ Inundation Visible on Aerial Imagery (B7)		☐ Other (Explain in Remarks)		☐ Frost-Heave Hummocks (D7)	
☐ Sparsely Vegetated Concave Surface (B8)					
Field Observations:					
Surface Water Present?	Yes ☐	No ☒	Depth (inches):	0	
Water Table Present?	Yes ☒	No ☐	Depth (inches):	10	
Saturation Present?	Yes ☒	No ☐	Depth (inches):	10	
(includes capillary fringe)				Wetland Hydrology Present? Yes ☒ No ☐	
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:					
Remarks:					
No precipitation on the day of the site visit and .99 in the previous 2 weeks. Climatic conditions are typical for this time of year.. Beaver activity has altered hydrologic conditions by damming culverts and streams. Ground water levels are higher than normal for this time of year.					

U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET – Western Mountains, Valleys, and Coast Region See ERDC/EL TR-10-3; the proponent agency is CECW-CO-R		OMB Control #: 0710-0024, Exp: 11/30/2024 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)																
Project/Site: <u>Nedonna Wave updated Wetland Delineation</u>		City/County: <u>Rockaway Beach/Tillamook</u>																
Applicant/Owner: <u>Anna Song</u>		State: <u>OR</u> Sampling Point: <u>SP-9</u>																
Investigator(s): <u>CM. KH</u>		Section, Township, Range: <u>2N 10W 20 Lot 10400 (7)</u>																
Landform (hillside, terrace, etc.): <u>dune terrace</u>	Local relief (concave, convex, none): <u>none</u>	Slope (%): <u>1-2</u>																
Subregion (LRR/MLRA): <u>LRR A</u>	Lat: <u>45.64999</u>	Long: <u>-123.93429</u> Datum: <u>NAD 83</u>																
Soil Map Unit Name: <u>14AHaceta fine sand, 0-3 percent slopes</u>		NWI classification: _____																
Are climatic / hydrologic conditions on the site typical for this time of year? Yes <u>x</u> No _____ (If no, explain in Remarks.)																		
Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes <u>x</u> No _____																		
Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)																		
SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.																		
Hydrophytic Vegetation Present? Yes <u>X</u> No _____ Hydric Soil Present? Yes _____ No <u>x</u> Wetland Hydrology Present? Yes _____ No <u>x</u>		Is the Sampled Area within a Wetland? Yes _____ No <u>x</u>																
Remarks: Sample point is in mitigation area for 2008 RF36702 filled wetland. More than 5 years "normal Circumstances". See hydrology for Climatic remarks. Piared Plot at WB.																		
VEGETATION – Use scientific names of plants.																		
Tree Stratum (Plot size: <u>30</u>)		Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>2</u> (A) Total Number of Dominant Species Across All Strata: <u>2</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100.0%</u> (A/B)																
1. <u>Alnus rubra</u> Absolute % Cover: <u>20</u> Dominant Species? <u>Yes</u> Indicator Status: <u>FAC</u>																		
2. _____																		
3. _____																		
4. _____																		
<u>20</u> =Total Cover																		
Sapling/Shrub Stratum (Plot size: <u>20</u>)																		
1. <u>Rubus armeniacus</u> Absolute % Cover: <u>70</u> Dominant Species? <u>Yes</u> Indicator Status: <u>FAC</u>																		
2. <u>Salix hookeriana</u> Absolute % Cover: <u>20</u> Dominant Species? <u>No</u> Indicator Status: <u>FACW</u>																		
3. <u>Lonicera involucrata</u> Absolute % Cover: <u>10</u> Dominant Species? <u>No</u> Indicator Status: <u>FAC</u>																		
4. <u>Spiraea douglasii</u> Absolute % Cover: <u>2</u> Dominant Species? <u>No</u> Indicator Status: <u>FACW</u>																		
5. _____																		
<u>102</u> =Total Cover																		
Herb Stratum (Plot size: <u>10</u>)		Prevalence Index worksheet: <table style="width:100%; border: none;"> <tr> <td style="width: 50%;">Total % Cover of:</td> <td style="width: 50%;">Multiply by:</td> </tr> <tr> <td>OBL species _____</td> <td>x 1 = _____</td> </tr> <tr> <td>FACW species _____</td> <td>x 2 = _____</td> </tr> <tr> <td>FAC species _____</td> <td>x 3 = _____</td> </tr> <tr> <td>FACU species _____</td> <td>x 4 = _____</td> </tr> <tr> <td>UPL species _____</td> <td>x 5 = _____</td> </tr> <tr> <td>Column Totals: _____ (A)</td> <td>_____ (B)</td> </tr> <tr> <td colspan="2">Prevalence Index = B/A = _____</td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species _____	x 1 = _____	FACW species _____	x 2 = _____	FAC species _____	x 3 = _____	FACU species _____	x 4 = _____	UPL species _____	x 5 = _____	Column Totals: _____ (A)	_____ (B)	Prevalence Index = B/A = _____	
Total % Cover of:	Multiply by:																	
OBL species _____	x 1 = _____																	
FACW species _____	x 2 = _____																	
FAC species _____	x 3 = _____																	
FACU species _____	x 4 = _____																	
UPL species _____	x 5 = _____																	
Column Totals: _____ (A)	_____ (B)																	
Prevalence Index = B/A = _____																		
1. <u>Carex obnupta</u> Absolute % Cover: <u>2</u> Dominant Species? <u>No</u> Indicator Status: <u>OBL</u>																		
2. <u>Holcus lanatus</u> Absolute % Cover: <u>2</u> Dominant Species? <u>No</u> Indicator Status: <u>FAC</u>																		
3. _____																		
4. _____																		
5. _____																		
6. _____																		
7. _____																		
8. _____																		
9. _____																		
10. _____																		
11. _____																		
<u>4</u> =Total Cover																		
Woody Vine Stratum (Plot size: <u>20</u>)		Hydrophytic Vegetation Indicators: <u>1</u> - Rapid Test for Hydrophytic Vegetation <u>X</u> <u>2</u> - Dominance Test is >50% <u>3</u> - Prevalence Index is ≤3.0 ¹ <u>4</u> - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <u>5</u> - Wetland Non-Vascular Plants ¹ <u> </u> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
1. _____																		
2. _____																		
_____ =Total Cover																		
% Bare Ground in Herb Stratum <u>0</u>																		
Remarks:																		
Photos SE Salix is rooted in the OHWL along McMillan Creek. Plot is close to silt fence placed prior to wetland filling.																		

SOIL

Sampling Point: SP-9

[illegible]

HYDROLOGY

Wetland Hydrology Indicators:			
Primary Indicators (minimum of one is required; check all that apply)		Secondary Indicators (2 or more required)	
☐ Surface Water (A1)	☐ Water-Stained Leaves (B9) (except MLRA 1, 2, 4A, and 4B)	☐ Water-Stained Leaves (B9) (MLRA 1, 2 4A, and 4B)	
☐ High Water Table (A2)	☐ Salt Crust (B11)	☐ Drainage Patterns (B10)	
☐ Saturation (A3)	☐ Aquatic Invertebrates (B13)	☐ Dry-Season Water Table (C2)	
☐ Water Marks (B1)	☐ Hydrogen Sulfide Odor (C1)	☐ Saturation Visible on Aerial Imagery (C9)	
☐ Sediment Deposits (B2)	☐ Oxidized Rhizospheres on Living Roots (C3)	☐ Geomorphic Position (D2)	
☐ Drift Deposits (B3)	☐ Presence of Reduced Iron (C4)	☐ Shallow Aquitard (D3)	
☐ Algal Mat or Crust (B4)	☐ Recent Iron Reduction in Tilled Soils (C6)	☒ FAC-Neutral Test (D5)	
☐ Iron Deposits (B5)	☐ Stunted or Stressed Plants (D1) (LRR A)	☐ Raised Ant Mounds (D6) (LRR A)	
☐ Surface Soil Cracks (B6)	☐ Other (Explain in Remarks)	☐ Frost-Heave Hummocks (D7)	
☐ Inundation Visible on Aerial Imagery (B7)			
☐ Sparsely Vegetated Concave Surface (B8)			
Field Observations:			
Surface Water Present?	Yes ☐ No ☒ x	Depth (inches):	
Water Table Present?	Yes ☐ No ☒ x	Depth (inches):	
Saturation Present?	Yes ☐ No ☒ x	Depth (inches):	
(includes capillary fringe)		Wetland Hydrology Present? Yes ☐ No ☒ x	
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:			
Remarks:			
No precipitation on the day of the site visit and .99 in the previous 2 weeks. Climatic conditions are typical for this time of year.			

U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET – Western Mountains, Valleys, and Coast Region See ERDC/EL TR-10-3; the proponent agency is CECW-CO-R		OMB Control #: 0710-0024, Exp: 11/30/2024 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)																
Project/Site: <u>Nedonna Wave updated Wetland Delineation</u>		City/County: <u>Rockaway Beach/Tillamook</u>																
Applicant/Owner: <u>Anna Song</u>	State: <u>OR</u>	Sampling Date: <u>6/24/24</u>																
Investigator(s): <u>CM. KH</u>	Section, Township, Range: <u>2N 10W 20 Lot 10200</u>																	
Landform (hillside, terrace, etc.): <u>dune terrace</u>	Local relief (concave, convex, none): <u>concave/convex</u>	Slope (%): <u>3-5</u>																
Subregion (LRR/MLRA): <u>LRR A</u>	Lat: <u>45.64999</u>	Long: <u>-123.93535</u> Datum: <u>NAD 83</u>																
Soil Map Unit Name: <u>13B Waldport thin surface - Haceta fine sand, 0-5 percent slopes</u>		NWI classification: _____																
Are climatic / hydrologic conditions on the site typical for this time of year? Yes <u>x</u> No _____ (If no, explain in Remarks.)																		
Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes <u>x</u> No _____																		
Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)																		
SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.																		
Hydrophytic Vegetation Present? Yes <u>X</u> No _____ Hydric Soil Present? Yes _____ No <u>x</u> Wetland Hydrology Present? Yes _____ No <u>x</u>		Is the Sampled Area within a Wetland? Yes _____ No <u>x</u>																
Remarks: Sample point is in the low spot of non-wetlands within the parcel west of Kittiwak Drive. SP is north of the OHWL line on the unnamed stream bordering Riley St. See hydrology for Climatic remarks. Paired Plot at WB.																		
VEGETATION – Use scientific names of plants.																		
Tree Stratum (Plot size: <u>30</u>) 1. <u>Alnus rubra</u> Absolute % Cover <u>60</u> Dominant Species? <u>Yes</u> Indicator Status <u>FAC</u> 2. <u>Picea sitchensis</u> <u>5</u> <u>No</u> <u>FAC</u> 3. _____ 4. _____ <u>65</u> =Total Cover		Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>4</u> (A) Total Number of Dominant Species Across All Strata: <u>6</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>66.7%</u> (A/B)																
Sapling/Shrub Stratum (Plot size: <u>20</u>) 1. <u>Gaultheria shallon</u> <u>25</u> <u>Yes</u> <u>FACU</u> 2. <u>Sambucus racemosa</u> <u>1</u> <u>No</u> <u>FACU</u> 3. <u>Lonicera involucrata</u> <u>25</u> <u>Yes</u> <u>FAC</u> 4. <u>Spiraea douglasii</u> <u>50</u> <u>Yes</u> <u>FACW</u> 5. <u>Malus fusca</u> <u>12</u> <u>No</u> <u>FACW</u> <u>113</u> =Total Cover																		
Herb Stratum (Plot size: <u>10</u>) 1. <u>Carex obnupta</u> <u>15</u> <u>Yes</u> <u>OBL</u> 2. <u>Polystichum munitum</u> <u>10</u> <u>Yes</u> <u>FACU</u> 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____ 11. _____ <u>25</u> =Total Cover		Prevalence Index worksheet: <table style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">Total % Cover of:</th> <th style="text-align: left;">Multiply by:</th> </tr> <tr> <td>OBL species _____</td> <td>x 1 = _____</td> </tr> <tr> <td>FACW species _____</td> <td>x 2 = _____</td> </tr> <tr> <td>FAC species _____</td> <td>x 3 = _____</td> </tr> <tr> <td>FACU species _____</td> <td>x 4 = _____</td> </tr> <tr> <td>UPL species _____</td> <td>x 5 = _____</td> </tr> <tr> <td>Column Totals: _____ (A)</td> <td>_____ (B)</td> </tr> <tr> <td colspan="2">Prevalence Index = B/A = _____</td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species _____	x 1 = _____	FACW species _____	x 2 = _____	FAC species _____	x 3 = _____	FACU species _____	x 4 = _____	UPL species _____	x 5 = _____	Column Totals: _____ (A)	_____ (B)	Prevalence Index = B/A = _____	
Total % Cover of:	Multiply by:																	
OBL species _____	x 1 = _____																	
FACW species _____	x 2 = _____																	
FAC species _____	x 3 = _____																	
FACU species _____	x 4 = _____																	
UPL species _____	x 5 = _____																	
Column Totals: _____ (A)	_____ (B)																	
Prevalence Index = B/A = _____																		
Woody Vine Stratum (Plot size: <u>20</u>) 1. _____ 2. _____ _____ =Total Cover		Hydrophytic Vegetation Indicators: _____ 1 - Rapid Test for Hydrophytic Vegetation <u>X</u> _____ 2 - Dominance Test is >50% _____ 3 - Prevalence Index is ≤3.0 ¹ _____ 4 - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) _____ 5 - Wetland Non-Vascular Plants ¹ _____ Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
% Bare Ground in Herb Stratum <u>0</u>																		
Remarks: Photos SE																		

SOIL

Sampling Point: SP-10

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-5	7.5YR 4/3	100					Sandy	
5-18	7.5YR 5/2	50					Sandy	7.5YR 5/3 50%

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)		Indicators for Problematic Hydric Soils ³ :
☐ Histosol (A1)	☐ Sandy Gleyed Matrix (S4)	☐ 2 cm Muck (A10) (LRR A, E)
☐ Histic Epipedon (A2)	☐ Sandy Redox (S5)	☐ Iron-Manganese Masses (F12) (LRR D)
☐ Black Histic (A3)	☐ Stripped Matrix (S6)	☐ Red Parent Material (F21)
☐ Hydrogen Sulfide (A4)	☐ Loamy Mucky Mineral (F1) (except MLRA 1)	☐ Very Shallow Dark Surface (F22)
☐ 1 cm Muck (A9) (LRR D, G)	☐ Loamy Gleyed Matrix (F2)	☐ Other (Explain in Remarks)
☐ Depleted Below Dark Surface (A11)	☐ Depleted Matrix (F3)	
☐ Thick Dark Surface (A12)	☐ Redox Dark Surface (F6)	
☐ Sandy Mucky Mineral (S1)	☐ Depleted Dark Surface (F7)	
☐ 2.5 cm Mucky Peat or Peat (S2) (LRR G)	☐ Redox Depressions (F8)	

³Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed): Type: _____ Depth (inches): _____	Hydric Soil Present? Yes _____ No <u> x </u>
---	---

Remarks:
7.5YR 3/2 3-0" leaves, OM Despite the low chroma there was no signs of redox concentrations. Soil is dry to 16".

HYDROLOGY

Wetland Hydrology Indicators:			
<u>Primary Indicators (minimum of one is required; check all that apply)</u>		<u>Secondary Indicators (2 or more required)</u>	
☐ Surface Water (A1)	☐ Water-Stained Leaves (B9) (except MLRA 1, 2, 4A, and 4B)	☐ Water-Stained Leaves (B9) (MLRA 1, 2, 4A, and 4B)	
☐ High Water Table (A2)	☐ Salt Crust (B11)	☐ Drainage Patterns (B10)	
☐ Saturation (A3)	☐ Aquatic Invertebrates (B13)	☐ Dry-Season Water Table (C2)	
☐ Water Marks (B1)	☐ Hydrogen Sulfide Odor (C1)	☐ Saturation Visible on Aerial Imagery (C9)	
☐ Sediment Deposits (B2)	☐ Oxidized Rhizospheres on Living Roots (C3)	☐ Geomorphic Position (D2)	
☐ Drift Deposits (B3)	☐ Presence of Reduced Iron (C4)	☐ Shallow Aquitard (D3)	
☐ Algal Mat or Crust (B4)	☐ Recent Iron Reduction in Tilled Soils (C6)	☐ FAC-Neutral Test (D5)	
☐ Iron Deposits (B5)	☐ Stunted or Stressed Plants (D1) (LRR A)	☐ Raised Ant Mounds (D6) (LRR A)	
☐ Surface Soil Cracks (B6)	☐ Other (Explain in Remarks)	☐ Frost-Heave Hummocks (D7)	
☐ Inundation Visible on Aerial Imagery (B7)			
☐ Sparsely Vegetated Concave Surface (B8)			

Field Observations: Surface Water Present? Yes _____ No <u> x </u> Depth (inches): _____ Water Table Present? Yes _____ No <u> x </u> Depth (inches): _____ Saturation Present? Yes _____ No <u> x </u> Depth (inches): _____ (includes capillary fringe)	Wetland Hydrology Present? Yes _____ No <u> x </u>
---	---

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
No precipitation on the day of the site visit. and .99 in the previous 2 weeks. Climatic conditions are typical for this time of year. Stream adjacent and poutside plot is 2-3 feet lower than the SP.

SOIL

Sampling Point: SP-11

[illegible]

HYDROLOGY

Wetland Hydrology Indicators:			
Primary Indicators (minimum of one is required; check all that apply)			
☒ Surface Water (A1)	☐ Water-Stained Leaves (B9) (except	Secondary Indicators (2 or more required)	
☒ High Water Table (A2)	MLRA 1, 2, 4A, and 4B)	☐ Water-Stained Leaves (B9) (MLRA 1, 2	
☒ Saturation (A3)	☐ Salt Crust (B11)	4A, and 4B)	
☐ Water Marks (B1)	☐ Aquatic Invertebrates (B13)	☐ Drainage Patterns (B10)	
☐ Sediment Deposits (B2)	☐ Hydrogen Sulfide Odor (C1)	☐ Dry-Season Water Table (C2)	
☐ Drift Deposits (B3)	☐ Oxidized Rhizospheres on Living Roots (C3)	☐ Saturation Visible on Aerial Imagery (C9)	
☐ Algal Mat or Crust (B4)	☐ Presence of Reduced Iron (C4)	☒ Geomorphic Position (D2)	
☐ Iron Deposits (B5)	☐ Recent Iron Reduction in Tilled Soils (C6)	☐ Shallow Aquitard (D3)	
☐ Surface Soil Cracks (B6)	☐ Stunted or Stressed Plants (D1) (LRR A)	☒ FAC-Neutral Test (D5)	
☐ Inundation Visible on Aerial Imagery (B7)	☐ Other (Explain in Remarks)	☐ Raised Ant Mounds (D6) (LRR A)	
☐ Sparsely Vegetated Concave Surface (B8)		☐ Frost-Heave Hummocks (D7)	
Field Observations:			
Surface Water Present?	Yes ☒ No ☐	Depth (inches):	<u>2</u>
Water Table Present?	Yes ☒ No ☐	Depth (inches):	<u>0</u>
Saturation Present?	Yes ☒ No ☐	Depth (inches):	<u>0</u>
(includes capillary fringe)		Wetland Hydrology Present? Yes ☒ No ☐	
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:			
Remarks:			
No precipitation on the day of the site visit and .99 in the previous 2 weeks. Climatic conditions are typical for this time of year. Beaver activity has altered hydrologic conditions by damming culverts and streams. Ground water levels are higher than normal for this time of year.			

U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET – Western Mountains, Valleys, and Coast Region See ERDC/EL TR-10-3; the proponent agency is CECW-CO-R		OMB Control #: 0710-0024, Exp: 11/30/2024 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)																
Project/Site: <u>Nedonna Wave updated Wetland Delineation</u>		City/County: <u>Rockaway Beach/Tillamook</u>																
Applicant/Owner: <u>Anna Song</u>		State: <u>OR</u> Sampling Date: <u>8/12/24</u>																
Investigator(s): <u>CM</u>		Sampling Point: <u>SP-12</u>																
Section, Township, Range: <u>2N 10W 20 Lot 10200</u>																		
Landform (hillside, terrace, etc.): <u>dune terrace</u>	Local relief (concave, convex, none): <u>none</u>	Slope (%): <u>1-2</u>																
Subregion (LRR/MLRA): <u>LRR A</u>	Lat: <u>45.65006</u>	Long: <u>-123.93476</u> Datum: <u>NAD 83</u>																
Soil Map Unit Name: <u>13B Waldprot thin surface Haceta fine sand, 0-5 percent slopes</u> NWI classification: _____																		
Are climatic / hydrologic conditions on the site typical for this time of year? Yes <u>x</u> No _____ (If no, explain in Remarks.)																		
Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes <u>x</u> No _____																		
Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)																		
SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.																		
Hydrophytic Vegetation Present? Yes <u>X</u> No _____ Hydric Soil Present? Yes _____ No <u>x</u> Wetland Hydrology Present? Yes _____ No <u>x</u>		Is the Sampled Area within a Wetland? Yes _____ No <u>x</u>																
Remarks: Site visit in August to check the OHWL line. The site visit confirmed that a drafting error was made on preliminary map of the OHWL line by OnionPeak. The sample point documents fill i as planned in 36702. Wood stakes and remnants of erosion cloth extends S toward SP-7.																		
VEGETATION – Use scientific names of plants.																		
Tree Stratum (Plot size: <u>30</u>)		Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>5</u> (A) Total Number of Dominant Species Across All Strata: <u>6</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>83.3%</u> (A/B)																
1. <u>Alnus rubra</u>	Absolute % Cover: <u>20</u> Dominant Species? <u>Yes</u> Indicator Status: <u>FAC</u>																	
2. <u>Picea stichensis</u>	Absolute % Cover: <u>20</u> Dominant Species? <u>Yes</u> Indicator Status: <u>FAC</u>																	
3. _____	_____																	
4. _____	_____																	
40 =Total Cover																		
Sapling/Shrub Stratum (Plot size: <u>20</u>)		Prevalence Index worksheet: <table style="width:100%; border: none;"> <tr> <td style="width: 50%;">Total % Cover of:</td> <td style="width: 50%;">Multiply by:</td> </tr> <tr> <td>OBL species _____</td> <td>x 1 = _____</td> </tr> <tr> <td>FACW species _____</td> <td>x 2 = _____</td> </tr> <tr> <td>FAC species _____</td> <td>x 3 = _____</td> </tr> <tr> <td>FACU species _____</td> <td>x 4 = _____</td> </tr> <tr> <td>UPL species _____</td> <td>x 5 = _____</td> </tr> <tr> <td>Column Totals: _____ (A)</td> <td>_____ (B)</td> </tr> <tr> <td colspan="2">Prevalence Index = B/A = _____</td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species _____	x 1 = _____	FACW species _____	x 2 = _____	FAC species _____	x 3 = _____	FACU species _____	x 4 = _____	UPL species _____	x 5 = _____	Column Totals: _____ (A)	_____ (B)	Prevalence Index = B/A = _____	
Total % Cover of:	Multiply by:																	
OBL species _____	x 1 = _____																	
FACW species _____	x 2 = _____																	
FAC species _____	x 3 = _____																	
FACU species _____	x 4 = _____																	
UPL species _____	x 5 = _____																	
Column Totals: _____ (A)	_____ (B)																	
Prevalence Index = B/A = _____																		
1. <u>Rubus armeniacus</u>	Absolute % Cover: <u>10</u> Dominant Species? <u>Yes</u> Indicator Status: <u>FAC</u>																	
2. <u>Gaultheria shallon</u>	Absolute % Cover: <u>30</u> Dominant Species? <u>Yes</u> Indicator Status: <u>FACU</u>																	
3. <u>Lonicera involucrata</u>	Absolute % Cover: <u>10</u> Dominant Species? <u>Yes</u> Indicator Status: <u>FAC</u>																	
4. _____	_____																	
5. _____	_____																	
50 =Total Cover																		
Herb Stratum (Plot size: <u>10</u>)		Hydrophytic Vegetation Indicators: <u>1</u> - Rapid Test for Hydrophytic Vegetation <u>X</u> <u>2</u> - Dominance Test is >50% <u>3</u> - Prevalence Index is ≤3.0 ¹ <u>4</u> - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <u>5</u> - Wetland Non-Vascular Plants ¹ <u> </u> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
1. <u>Carex obnupta</u>	Absolute % Cover: <u>10</u> Dominant Species? <u>No</u> Indicator Status: <u>OBL</u>																	
2. <u>Agrostis tenuis</u>	Absolute % Cover: <u>40</u> Dominant Species? <u>Yes</u> Indicator Status: <u>FAC</u>																	
3. <u>Holcus lanatus</u>	Absolute % Cover: <u>10</u> Dominant Species? <u>No</u> Indicator Status: <u>FAC</u>																	
4. <u>Juncus effusus</u>	Absolute % Cover: <u>1</u> Dominant Species? <u>No</u> Indicator Status: <u>FACW</u>																	
5. <u>Polystichum munitum</u>	Absolute % Cover: <u>2</u> Dominant Species? <u>No</u> Indicator Status: <u>FACU</u>																	
6. <u>Equisetum arvense</u>	Absolute % Cover: <u>2</u> Dominant Species? <u>No</u> Indicator Status: <u>FAC</u>																	
7. _____	_____																	
8. _____	_____																	
9. _____	_____																	
10. _____	_____																	
11. _____	_____																	
65 =Total Cover																		
Woody Vine Stratum (Plot size: <u>20</u>)		Hydrophytic Vegetation Present? Yes <u>X</u> No _____																
1. _____	_____																	
2. _____	_____																	
=Total Cover																		
% Bare Ground in Herb Stratum <u>5</u>																		
Remarks: Photos RUAR mowed in June. Beaver activity on trees along the bank. PhotoS and SW																		

SOIL

Sampling Point: SP-12

[illegible]

HYDROLOGY

Wetland Hydrology Indicators:			
Primary Indicators (minimum of one is required; check all that apply)			
☐ Surface Water (A1)	☐ Water-Stained Leaves (B9) (except MLRA 1, 2, 4A, and 4B)	☐ Water-Stained Leaves (B9) (MLRA 1, 2 4A, and 4B)	
☐ High Water Table (A2)	☐ Salt Crust (B11)	☐ Drainage Patterns (B10)	
☐ Saturation (A3)	☐ Aquatic Invertebrates (B13)	☐ Dry-Season Water Table (C2)	
☐ Water Marks (B1)	☐ Hydrogen Sulfide Odor (C1)	☐ Saturation Visible on Aerial Imagery (C9)	
☐ Sediment Deposits (B2)	☐ Oxidized Rhizospheres on Living Roots (C3)	☐ Geomorphic Position (D2)	
☐ Drift Deposits (B3)	☐ Presence of Reduced Iron (C4)	☐ Shallow Aquitard (D3)	
☐ Algal Mat or Crust (B4)	☐ Recent Iron Reduction in Tilled Soils (C6)	☐ FAC-Neutral Test (D5)	
☐ Iron Deposits (B5)	☐ Stunted or Stressed Plants (D1) (LRR A)	☐ Raised Ant Mounds (D6) (LRR A)	
☐ Surface Soil Cracks (B6)	☐ Other (Explain in Remarks)	☐ Frost-Heave Hummocks (D7)	
☐ Inundation Visible on Aerial Imagery (B7)			
☐ Sparsely Vegetated Concave Surface (B8)			
Field Observations:			
Surface Water Present?	Yes ☐ No ☒	Depth (inches):	
Water Table Present?	Yes ☐ No ☒	Depth (inches):	
Saturation Present?	Yes ☐ No ☒	Depth (inches):	
(includes capillary fringe)			
Wetland Hydrology Present? Yes ☐ No ☒			
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:			
Remarks:			
No precipitation on the day of the site visit and .01" in the previous 2 weeks. Climatic conditions are typical for this time of year. McMillan Creek to the west.			

Table 3. Assessing Rainfall for the Preceding 3-Month Period)
Direct Antecedent Rainfall Evaluation Method (DAREM)

Prior Month	Name	WETS Rainfall Percentile		Measured Rainfall	Condition*: Dry, Wet, Normal	Condition Value (1=dry, 2=normal, or 3=wet)	Month weight	Multiply Previous two columns
		30th	70th					
		-----inches-----						
1st (most recent)+A6	July	0.5	1.49	0.54	Normal	2	3	6
2nd	June	2	3.74	3.39	Normal	2	2	4
3rd	May	3.02	5.2	4.66	Normal	2	1	2
							Sum	12
Rainfall of prior period was: drier than normal (sum is 6-9), normal (sum is 10-14), wetter than normal (sum is 15-18)								Dry/Normal, standard met

WETS Station: TILLAMOOK, 358494, OR 1948-2024
Measured Rainfall: Tillamook, OR, 35894 May-July 2024

- * Normal: measured within WETS normal range
- Dry: measured below WETS normal range
- Wet: measured above WETS normal range

Appendix A. Nedonna Wave Wetland Delineation Photos with Direction



Figure 1. Looking east from SP-2 (wetland) in the foreground to SP-1 in the background. SP2 is within Jackson Street ROW (P-1).



Figure 2. Jackson Street on left of blue dotted line and non-wetland on right looking north (P-2).

Appendix A. Nedonna Wave Wetland Delineation Photos with Direction



Figure 3. Looking east into wetland from SP 6. Elevated water levels are from restricted flow at culvert crossing at Kittiwake Drive. June 21, 2024 (P-3)



Figure 4. Lot 23 looking northeast from edge of fell at SP-3 non-wetland (yellow dot.) Kurt is in the background at SP-4. (P-4)

Appendix A. Nedonna Wave Wetland Delineation Photos with Direction



Figure 5. SP 9 in foreground looking south into wetland at SP 8 background. Blue flag is the wetland boundary. (P-5)



Figure 6. Lot 10200-Left-Yellow pin flag at SP-12. Right-Blue Stripe falling at OHWL-12 looking south. Filled wetland in the background. Beaver activity along McMillan Creek. August 12, 2024 (P-6)

Appendix A. Nedonna Wave Wetland Delineation Photos with Direction



Figure 7. SP-10 looking north into non-wetland. (P-7)



Figure 8. Looking west into McMillan Creek from the top of the bank. (P-8)

Appendix A. Nedonna Wave Wetland Delineation Photos with Direction



Figure 9. Riley Street to the left of unnamed stream OHWL (blue flag). Photo taken from the edge of Kittiwake Drive looking west. (P-9)



Figure 10. Corner of lot 17 looking north along the edge of fill (left) and wetland (right). P-10

Appendix A. Nedonna Wave Wetland Delineation Photos with Direction



Figure 11. Edge of Kittiwake Drive looking northeast into wetland. (P-11)



Figure 12. Beaver activity us of culvert crossing on Kittiwake Drive looking east into unnamed stream. June 20, 2024 (P-12)

Appendix C Updated As-Built Plan

Jackson Street, Kittiwake Drive and Riley Street were included within the study area boundary along the perimeter of tracts F and G. The roadways are currently being maintained by the City of Rockaway Beach.

The project was in compliance with the permit conditions of 36702, however DSL did not receive an as-built plan set confirming the fill was entirely installed. The as-built plan would have confirmed that all fill was installed, as part of conclusion of a permit. However, the permit was requested to expire instead of closed out.

Time and other environmental factors like restricted flow at culvert crossing by beaver can alter the hydrology, therefore affecting the wetland boundary. In an effort to provide updated As-Built information to DSL, the following table was generated comparing the 2024 wetland study with the 2007 proposed fill. The 2007 lot numbers are used for reference only.

The 2024 wetland delineation provides area information (not volume) that can be used to determine if the permitted fill was placed. The 2007 elevation data is not available to compute the volumes of the areas filled. The areas that were not filled are identified as F1, F2 and F3 on Figure 6.

Table 5. Summary of Proposed Wetland Fill and 2024 Overlay to Generate As-Built

2007 Lot # or ID	Proposed Fill RF-36702	As-Built 2024 Area	+/- difference	Comments
7	354 sq. ft.	354 sq. ft.	0	Lot 10200
19	634 sq. ft.	310 sq. ft.	-324 sq. ft.	Lot 10400 NE corner of SAB Non-Filled in wetland ID is F3
16	1256 sq. ft.	782 sq. ft.	- 474 sq. ft.	Lot 10400 F2
26/27	860 sq. ft.	860 sq. ft.	0	Connects to unfilled wetland and created wetland in Jackson Street
Riley Street	2603 sq. ft.	2470 sq. ft.	-133 sq. ft.	Two 24" culverts plus fill unnamed stream S1 and S2 on Fig 5
2007 wetland within Jackson St.*	426 sq. ft.	244 sq. ft.	-182 sq. ft.	Connects to filled wetland in lot 26/27 F1
Kittiwake Drive	215 sq. ft.	116 sq. ft.	-99 sq. ft.	East of Kittiwake Dr.
Total	6,348 sq. ft.	5,136 sq. ft.	-1212 sq ft	81% of planned
Jackson St. excavated road surface but not completed		2,623 sq ft		Excludes proposed fill of 426 sq. ft.* (.07x43,560)-426 ft sq. F4

NOTES

THIS MAP DOES NOT CONSTITUTE A BOUNDARY SURVEY OF THE SUBJECT PROPERTY. THE PURPOSE OF THIS MAP IS TO SHOW THE LOCATION OF WETLAND BOUNDARY AND SAMPLE POINTS AS FLAGGED BY CHRISTINE McDONALD. THE EXTERIOR BOUNDARY WAS HELD AT RECORD VALUES PER MAP C-573. THE DATA WAS OBTAINED USING A GT-505 TOTAL STATION AND TOPCON 6400 DATA COLLECTOR. HORIZONTAL ACCURACY IS 0.25'.

LEGEND

- INDICATES FOUND MONUMENT AS SHOWN ON MAP C-573.
- SP+ SAMPLE POINT
- STUDY AREA BOUNDARY (SAB)
- CURRENT WETLAND BOUNDARY
- ORDINARY HIGH WATER LINE
- CREATED WETLAND AREAS PER RF-36702
- WETLANDS FILLED PER RF-36702
- PROPOSED FILL AREA PER RF-36702, NOT FILLED **F3**

CURVE TABLE

CURVE	RADIUS	LENGTH	DELTA	CH. BEARING	CH. LENGTH
C1	40.00'	8.25'	11°49'11"	S81°30'40"E	8.24'
C2	15.01'	23.16'	88°24'51"	N60°11'32"E	20.93'
C3	420.00'	115.48'	15°45'11"	N23°11'40"E	115.11'
C4	380.00'	69.04'	10°24'37"	S35°50'52"W	68.95'
C5	620.00'	204.55'	18°54'10"	N31°36'05"E	203.62'
C6	25.00'	39.27'	90°00'00"	N67°03'00"E	35.36'
C7	580.00'	191.35'	18°54'10"	S31°36'05"W	190.49'
C8	420.00'	68.28'	91°8'55"	S36°23'43"W	68.21'
C9	25.00'	39.27'	90°00'00"	S22°51'00"E	35.36'
C10	125.00'	51.39'	23°33'23"	S79°37'42"E	51.03'
C11	175.00'	71.95'	23°33'23"	S79°37'42"E	71.44'
C12	11.17'	17.75'	91°04'32"	N66°36'44"E	15.94'
C13	25.00'	38.80'	88°55'29"	S23°23'16"E	35.02'

LINE TABLE

LINE	BEARING	LENGTH
L1	N28°03'00"E	25.13'
L2	S69°46'31"W	6.61'
L3	N59°05'58"W	37.10'
L4	N00°00'00"E	16.51'
L5	N51°17'52"E	30.85'
L6	N25°56'26"E	29.99'
L7	S87°25'15"E	3.66'
L8	N28°03'00"E	5.03'
L9	S67°51'00"E	7.07'
L10	S67°51'00"E	59.54'
L11	S67°51'00"E	13.93'
L12	S68°12'04"W	9.00'

AREAS

AREAS WITHIN THE STUDY AREA BOUNDARY FOR 2N 10 20 AB TAX LOT 10200. WETLAND AREA = 0.11 ACRES. NON-WETLAND AREA = 0.67 ACRES.

AREAS WITHIN THE STUDY AREA BOUNDARY FOR 2N 10 20 AB TAX LOT 10300. WETLAND AREA = 0.13 ACRES. NON-WETLAND AREA = 0.03 ACRES.

AREAS WITHIN THE STUDY AREA BOUNDARY FOR 2N 10 20 AB TAX LOT 10400. WETLAND AREA = 0.43 ACRES. NON-WETLAND AREA = 0.89 ACRES.

AREAS WITHIN THE STUDY AREA BOUNDARY FOR 2N 10 20 AB TAX LOT 10500. WETLAND AREA = 0.06 ACRES. NON-WETLAND AREA = 0.05 ACRES.

AREAS WITHIN THE STUDY AREA BOUNDARY AND JACKSON STREET RIGHT-OF-WAY. WETLAND AREA = 0.07 ACRES. NON-WETLAND AREA = 0.06 ACRES.

AREAS WITHIN THE STUDY AREA BOUNDARY AND KITTIWAKE DRIVE RIGHT-OF-WAY. WETLAND AREA = 0.01 ACRES. NON-WETLAND AREA = 0.46 ACRES.

AREAS WITHIN THE STUDY AREA BOUNDARY AND RILEY STREET RIGHT-OF-WAY. WETLAND AREA = 0.01 ACRES. NON-WETLAND AREA = 0.31 ACRES.

201
BASIS OF BEARING
N29°41'25"E
69°28'23"E
203

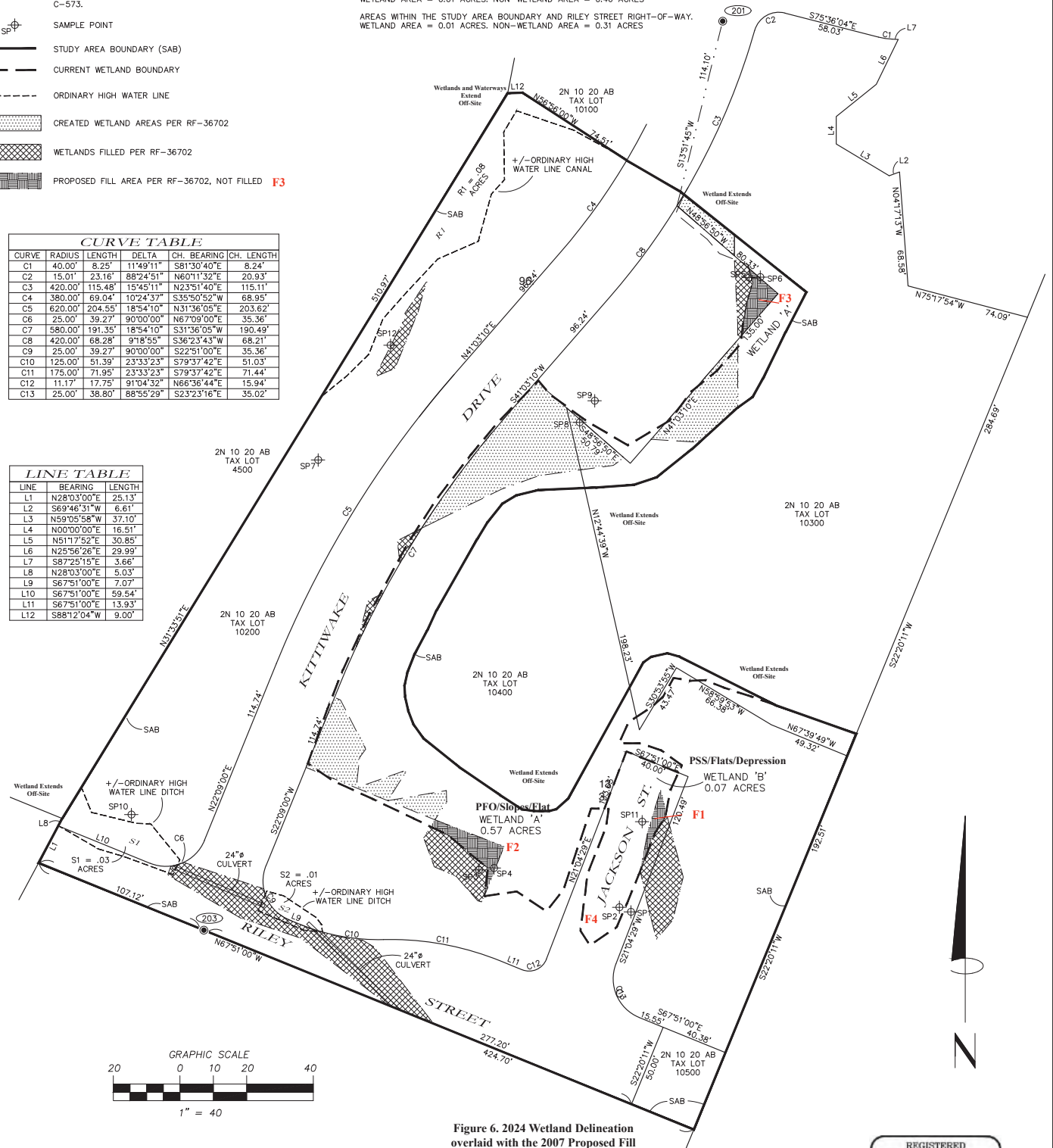


Figure 6. 2024 Wetland Delineation overlaid with the 2007 Proposed Fill

NEDONNA
DEVELOPMENT LLC

2N 10 20 AB
TAX LOTS
10200, 10300, 10400 & 10500

NW 1/4 OF THE NE 1/4, SECTION 29, T3N, R10W, W.M.
TILLAMOOK COUNTY
DECEMBER 2, 2024

ONION PEAK
DESIGN

11460 EVERGREEN WAY
NEHALEM, OR 97131
(503) 440-4403

"SONG" #A2024
SONG2411-W.DWG

Page 070

REGISTERED
PROFESSIONAL
LAND SURVEYOR
Erick M. White
OREGON
APRIL 28, 2014
ERICK M. WHITE
78572
RENEW'S 6/30/2026



Oregon

Tina Kotek, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregon.gov/dsl

State Land Board

May 20, 2025

Nedonna Wave Development LLC

Attn: Anna Song

2848 SW Sam Jackson Park Road

Portland, OR 97201

Tina Kotek

Governor

Re: WD # 2024-0657 **Approved**

Wetland Delineation Report for the Nedonna Wave site,

Tillamook County; T2N R10W S20AB TL 10200, 10500 and Portions

of TLs 10300, 10400

APP # 36702, RGL # 2928

Tobias Read

Secretary of State

Elizabeth Steiner

State Treasurer

Dear Anna Song:

The Department of State Lands has reviewed the wetland delineation report prepared by Christine McDonald for the site referenced above. Please note that the study area includes only a portion of the tax lots described above (see the attached maps). Based upon the information presented in the report, and additional information submitted upon request, we concur with the wetland and waterway boundaries as mapped in revised Figure 6 of the report. Please replace all copies of the preliminary wetland map with this final Department-approved map.

Within the study area, five wetlands (Wetland A, B, S1, S2 and R1), totaling approximately 0.76 acres, one tributary, and McMillian Creek, were identified. The wetlands, tributary, and McMillian Creek are subject to the permit requirements of the state Removal-Fill Law. Under current regulations, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in wetlands or below the ordinary high-water line (OHWL) of the waterway (or the 2-year recurrence interval flood elevation if OHWL cannot be determined). However, portions of Wetland A are mitigation for previous onsite development. Please contact Aquatic Resource Coordinator, Heather Dimke, at 503-856-6517 to discuss the prior mitigation efforts and to determine if additional mitigation is required for the proposed future impacts.

This concurrence is for purposes of the state Removal-Fill Law only. We recommend that you attach a copy of this concurrence letter to any subsequent state permit application to speed application review. Federal, other state agencies or local permit requirements may apply as well. The U.S. Army Corps of Engineers will determine jurisdiction under the Clean Water Act, which may require submittal of a complete Wetland Delineation Report.

Please be advised that state law establishes a preference for avoidance of impacts to waters of this state. Because measures to avoid and minimize impacts to waters of this

state may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter unless new information necessitates a revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

Thank you for having the site evaluated. If you have any questions, please contact Chris Stevenson, PWS the Wetland Ecologist for Tillamook County at (503) 798-7622.

Sincerely,

Daniel Evans

Digitally signed by Daniel Evans
Date: 2025.05.20 16:31:53
-07'00'

Daniel Evans, PWS
Wetland Ecology Specialist

Enclosures

ec: Christine McDonald
City of Rockaway Beach Planning Department
Megan Biljan, Corps of Engineers
Heather Dimke, DSL
Oregon Coastal Management Program

WETLAND DELINEATION / DETERMINATION REPORT COVER FORM

A complete report and signed report cover form, along with applicable fees are required before a report review timeline can be initiated by the Department of State Lands. All applicants will receive an emailed confirmation that includes the report's unique file number and other information.

Ways to submit report:

- ❖ **Under 50MB** - A single unlocked PDF can be emailed to: wetland.delineation@dsl.or.gov.
- ❖ **50MB or larger** - A single unlocked PDF can be uploaded to dls.wa.gov website. After upload notify DSL by email at: wetland.delineation@dsl.or.gov.
- ❖ **OR** a hard copy of the unbound report and signed cover form can be mailed to: Oregon Department of State Lands, 775 Summer Street NE, Suite 100, Salem, OR 97301-1279.

Ways to pay review fee:

- ❖ By credit card on DSL's epayment portal after receiving the unique file number from DSL's emailed confirmation.
- ❖ By check payable to the Oregon Department of State Lands attached to the unbound mailed hardcopy OR attached to the complete signed cover form if report submitted electronically.

Contact and Authorization Information

☒ Applicant ☒ Owner Name, Firm and Address: Nedonna Wave Development LLC Anna Song 2848 SW Sam Jackson Park Rd. Portland, OR 97201	Business phone # (503) 706-1930 Mobile phone # (optional) E-mail: kebsinc@yahoo.com
☐ Authorized Legal Agent, Name and Address (if different):	Business phone # Mobile phone # (optional) E-mail:

I either own the property described below or I have legal authority to allow access to the property. I authorize the Department to access the property for the purpose of confirming the information in the report, after prior notification to the primary contact.

Typed/Printed Name: Anna Song **Signature:**
Date: 12-2-2024 **Special instructions regarding site access:** _____

Project and Site Information

Project Name: Nedonna Wave Updated WD	Latitude: 45.64920 Longitude: 123.93459 decimal degree - centroid of site or start & end points of linear project
Proposed Use: subdivision and development	Tax Map # 2N10W20AB Tax Lot(s) 10200, 10300, 10400, 10500 Tax Map # Tax Lot(s)
Project Street Address (or other descriptive location): Kittiwake Drive and Riley Street in Nedonna Beach	Township 02N Range 10W Section 20 QQ AB Use separate sheet for additional tax and location information
City: Rockaway Beach County: Tillamook	Waterway: McMillan Ck / PACIFIC River Mile: .3

Wetland Delineation Information

Wetland Consultant Name, Firm and Address: Christine McDonald 2901 Brayton Road Pullman, WA 99163	Phone # (503) 801-2243 Mobile phone # (if applicable) E-mail: contactchris100@gmail.com
--	---

The information and conclusions on this form and in the attached report are true and correct to the best of my knowledge.

Consultant Signature: **Date:** 12-2-24

Primary Contact for report review and site access is ☒ Consultant ☐ Applicant/Owner ☐ Authorized Agent

Wetland/Waters Present? ☒ Yes ☐ No Study Area size: 3.23 Total Wetland Acreage: 0.7600

Check Applicable Boxes Below

☐ R-F permit application submitted ☐ Mitigation bank site ☐ EFSC/ODOE Proj. Mgr: _____ ☐ Wetland restoration/enhancement project (not mitigation) ☒ Previous delineation/application on parcel If known, previous DSL # _____	☒ Fee payment submitted \$ 559 ☐ Resubmittal of rejected report (\$100) ☐ Request for Reissuance See eligibility criteria (no fee) DSL # _____ Expiration date _____ ☐ LWI shows wetlands or waters on parcel Wetland ID code _____
--	---

For Office Use Only

DSL Reviewer: DE	Fee Paid Date: ____ / ____ / ____	DSL WD # 2024-0657
Date Delineation Received: 12 / 02 / 2024	DSL App.# _____	

Figure 1. Location Map with Study Area



This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

Figure 1a. 2022 NAIP Air Photo



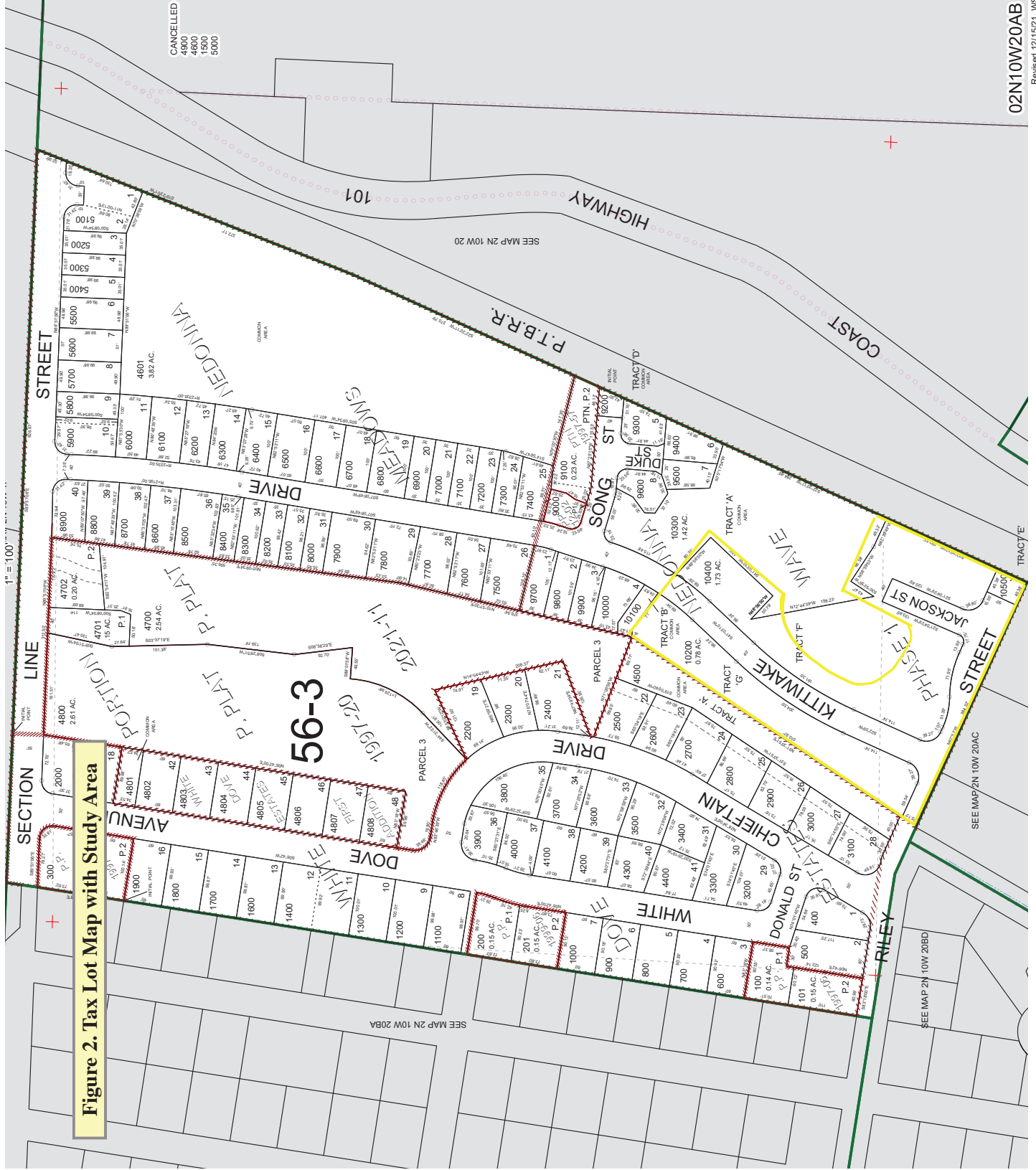
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

N.W. 1/4 N.E. 1/4 SEC. 20 T.2N. R.10W. W.M.

TILLAMOOK COUNTY

02N10W20AB

0 50 100 150 200 Feet



02N10W20AB

Revised 12/15/21, WS

NOTES

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- ORDINARY HIGH WATER LINE
- WETLAND AREA
- WETLAND BELOW ORDINARY HIGH WATER LINE
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- WETLANDS FILLED PER RF-36702

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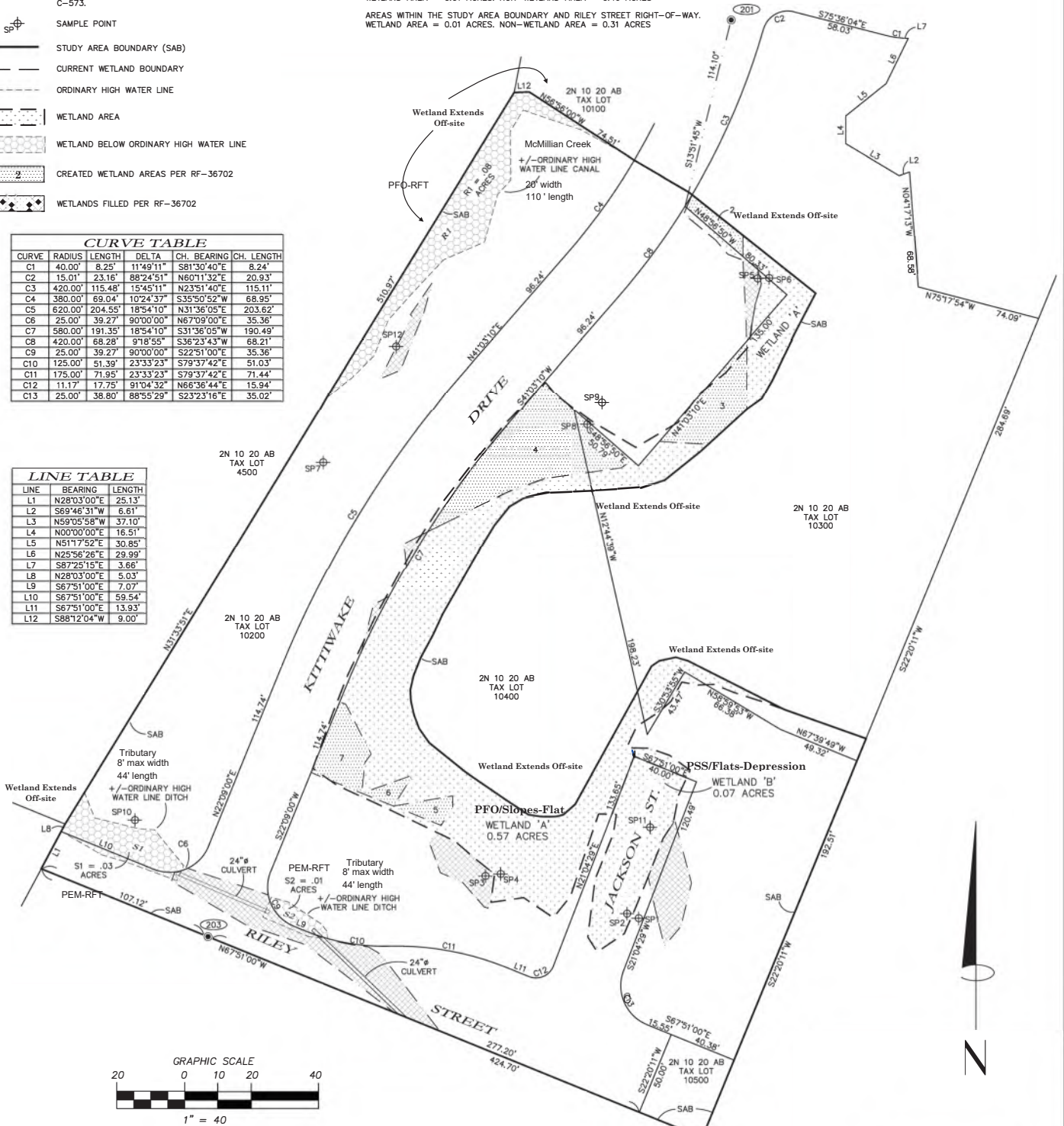


FIGURE 6
WETLAND SURVEY FOR:

NEDONNA
DEVELOPMENT LLC

2N 10 20 AB
TAX LOTS
10200, 10300, 10400 & 10500

NW 1/4 OF THE NE 1/4, SECTION 29, T3N, R10W, W.M.
TILLAMOOK COUNTY
MARCH 7, 2025

**ONION PEAK
DESIGN**
11460 EVERGREEN WAY
NEHALEM, OR 97131
(503) 440-4403

"SONG" #A2024
SONG2503-W.DWG

Page 077

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Erick M. White

OREGON
APRIL 28, 2014
ERICK M. WHITE
78572
RENEWS 6/30/2028

NEDONNA DEVELOPMENT, LLC
NEDONNA WAVE PHASE 2
TENTATIVE PLAN
MAP 2N 10W 20AB

DIVIDING PROPERTIES:
TRACTS 10200, 10300, 10400
MAP 2N 10W 20AB
TRACTS E & G OF NEDONNA WAVE PHASE 1

OWNER:
NEDONNA DEVELOPMENT, LLC
ATTN: ANNA SONG
2832 SW SAM JACKSON PARK ROAD
PORTLAND, OR 97201

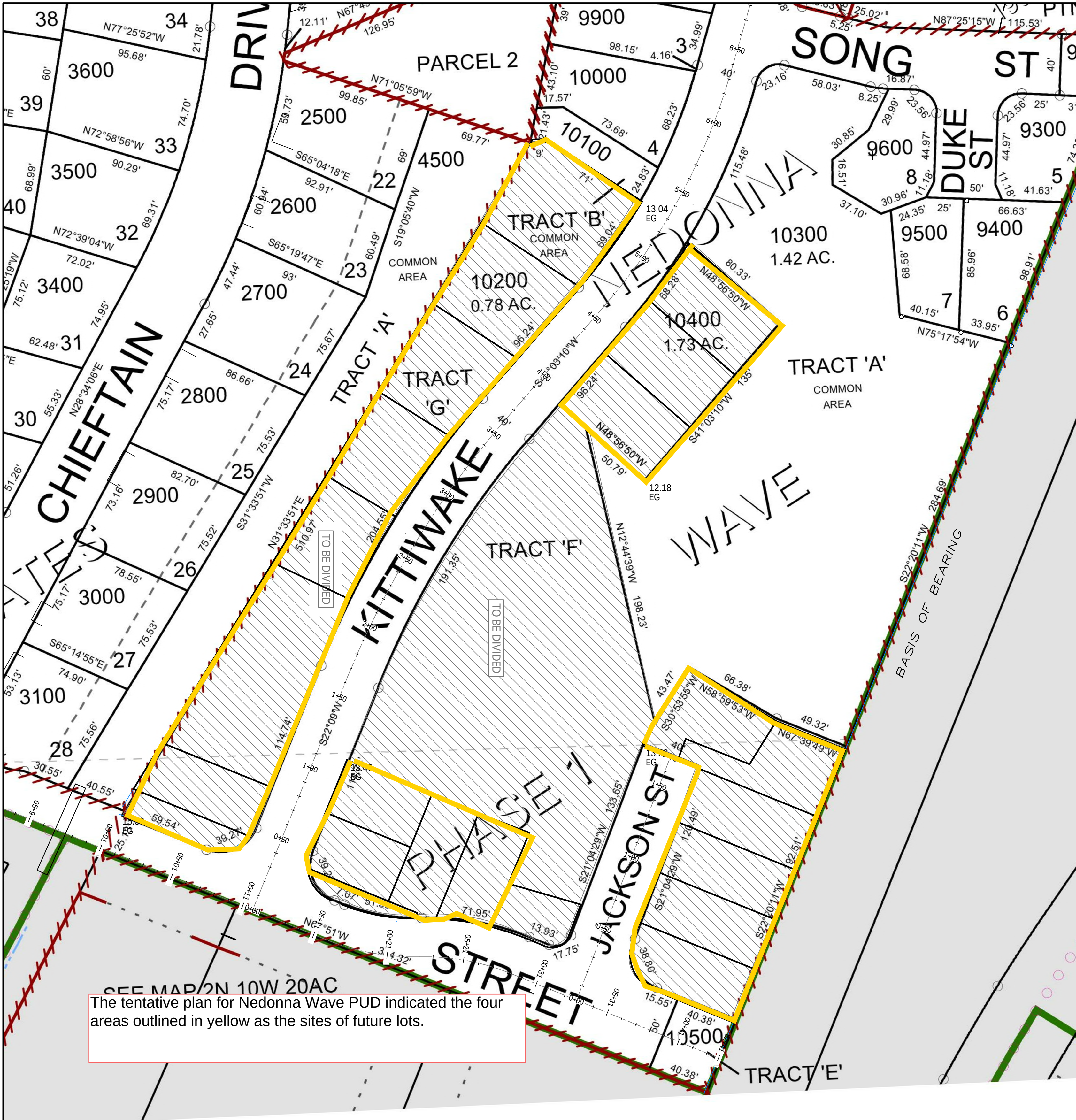
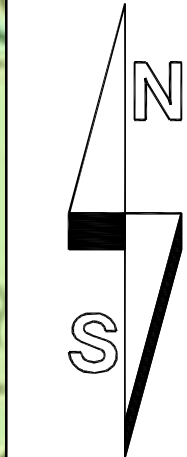
ENGINEER:
MORGAN CIVIL ENGINEERING, INC.
ATTN: JASON MORGAN, PE
PO BOX 258
MANZANITA, OR 97130
503-801-6016

1
EXISTING LAYOUT
SCALE: 1"=40'

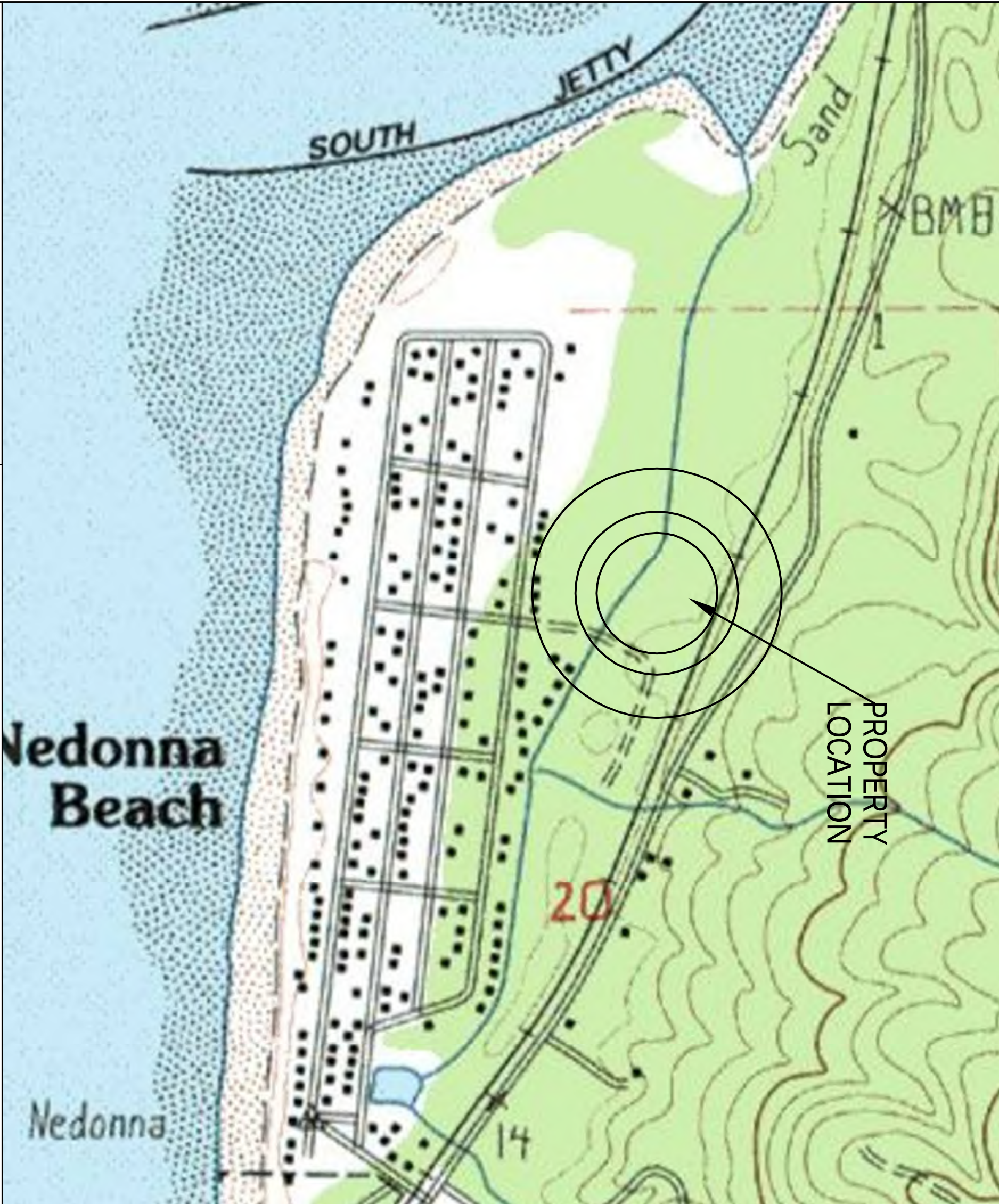
SHEET INDEX:
1. COVER SHEET
2. LOT LAYOUT
3. LOT DIMENSIONS
4. UTILITY LAYOUT
5. EST. BUILDING SIZES
6. ROAD PROFILES

NOTES:
NO NEW STREETS ARE PROPOSED.
ALL STREETS SHOWN ON THE PLAN ARE EXISTING.

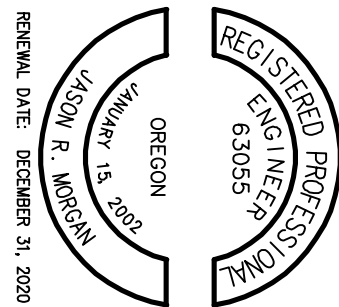
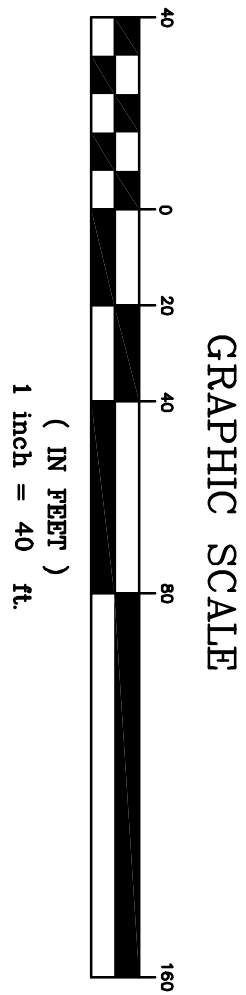
2
VICINITY MAP
SCALE: 1"=1500'



The tentative plan for Nedonna Wave PUD indicated the four areas outlined in yellow as the sites of future lots.



- LEGEND:
- EXISTING PROPERTY LINE
 - PROPOSED PROPERTY LINE
 - PROPOSED SETBACK LINE
 - PROPOSED BUILDING
 - EXISTING 5' CONTOUR
 - EXISTING 1' CONTOUR
 - EXISTING EDGE OF ASPHALT
 - EXISTING EDGE OF GRAVEL
 - EXISTING DITCHLINE
 - EXISTING WATER LINE
 - EXISTING WATER VALVE
 - EXISTING WATER SERVICE
 - EXISTING SEWER LINE
 - EXISTING SEWER MANHOLE
 - EXISTING SEWER SERVICE



JOB NO.
#20-09-SON
DATE
NOV. 8, 2020

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ENGINEERING, INC.

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MANZANITA, OR 97130
(503) 801-6016
www.morgancivil.com

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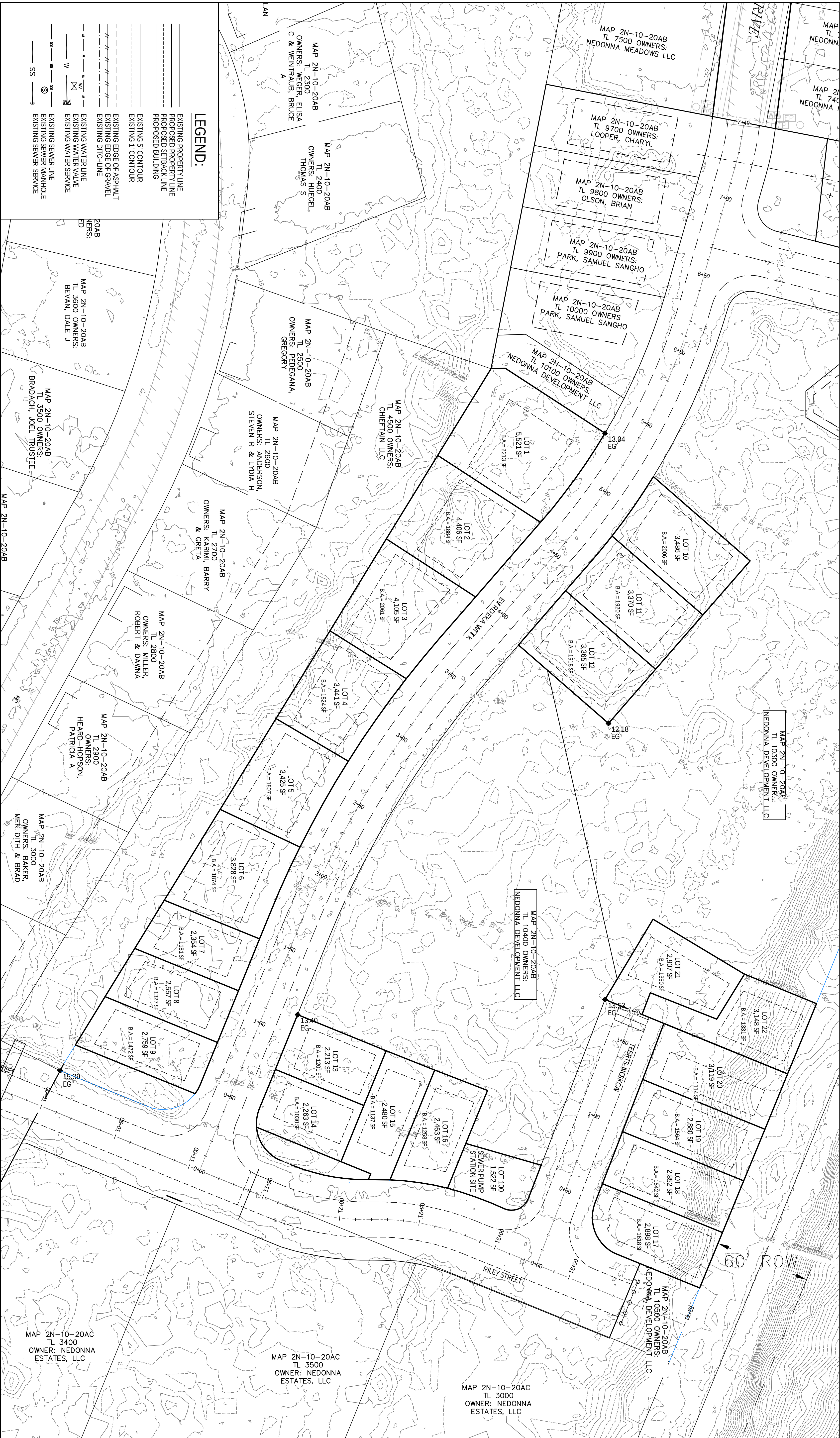
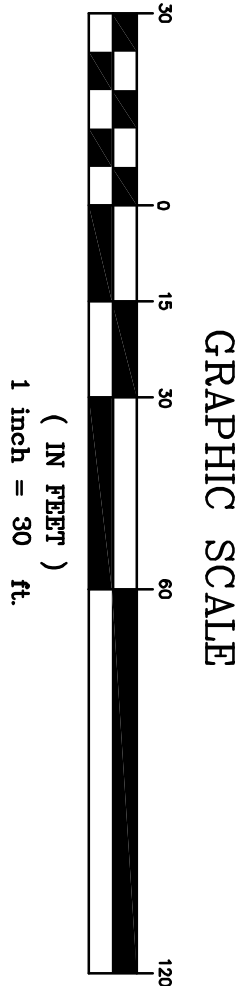


NEDONNA DEVELOPMENT, LLC
NEDONNA WAVE PHASE 2
TENTATIVE PLAN
MAP 2N 10W 20AB

DIVIDING PROPERTIES:
TAX LOTS 10200 & 10400
MAP 2N 10W 20AB
TRACTS 1 & 6 OF NEDONNA WAVE PHASE 1

1
2
PROPOSED LOT LAYOUT
SCALE: 1"=30'

NOTES:
NO NEW STREETS ARE PROPOSED.
ALL STREETS SHOWN ON THE PLAN ARE EXISTING.
ELEVATIONS BASED ON 2008 DOGAMI LIDAR
PROGRAM: NANT08 DATUM.



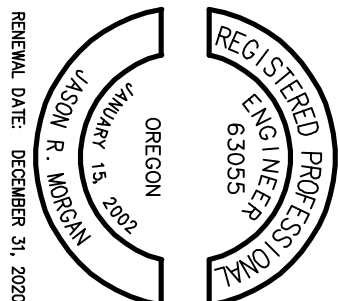
NEDONNA DEVELOPMENT, LLC
NEDONNA WAVE - PHASE 2
LOT LAYOUT

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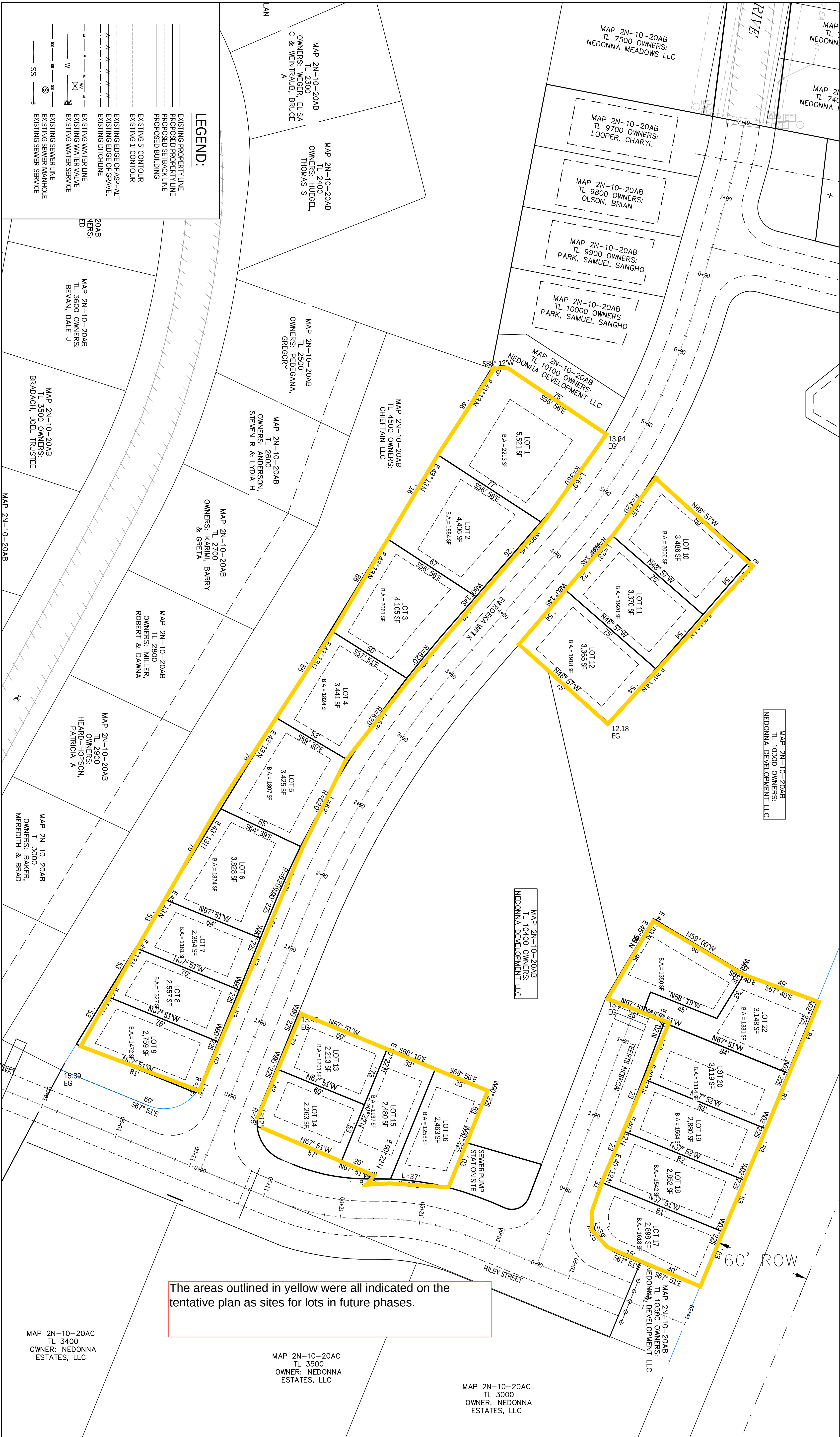
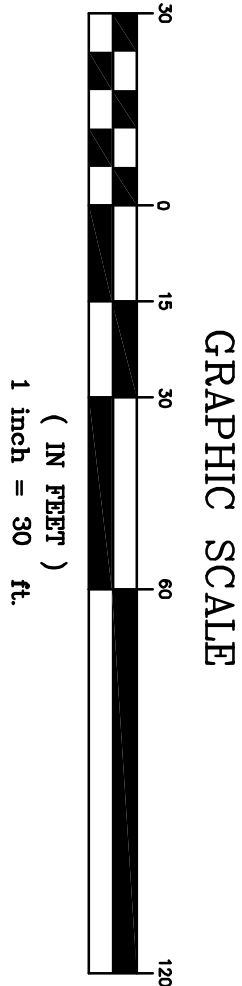
JOB NO.
#20-09-SON
DATE
NOV. 8, 2020



RENEWAL DATE: DECEMBER 31, 2020

NEDONNA DEVELOPMENT, LLC
NEDONNA WAVE PHASE 2
TENTATIVE PLAN
MAP 2N 10W 20AB

1
3
PROPOSED LOT DIMENSIONS
SCALE: 1"=30'

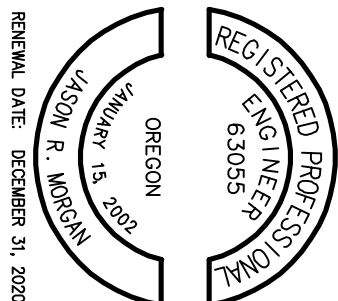


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JOB NO.
#20-09-SON
DATE
NOV. 8, 2020



NEDONNA DEVELOPMENT, LLC
NEDONNA WAVE - PHASE 2
LOT DIMENSIONS

3
SHEET
OF SIX



DEAN N. ALTERMAN
ATTORNEY

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

August 26, 2025

By e-mail only to cityplanner@corb.us

The Mayor and Councilors
City of Rockaway Beach
PO Box 5
Rockaway Beach, OR 97136

Re: Remand of Nedonna Development for Phase 2 PUD approval
City file # Remand-25-1
Our File No.: 5701.001

Dear Mayor McNeilly and Councilors:

I'm submitting this letter on behalf of Anna Song and Nedonna Development, LLC in response to written evidence and testimony submitted on August 19th about the remand of the city's approval of Phase 2 of the Nedonna Wave planned unit development. I will take the issues raised in turn.

LUBA remanded this application to the City Council to address only two questions:

1. Where is the boundary between the R-1 zone and the SA zone?
2. Does the city's one-year time limit for an applicant to construct public improvements after a **tentative** plan approval require the holder of a **final** PUD approval to construct all improvements within one year after the final PUD approval?

Because Ocean Shores Conservation Coalition ("Oregon Shores") appealed only those two issues to LUBA, and because LUBA remanded the case on only those two issues, no other issues are before you now. The city's decision on all other criteria and issues is now final.

Mrs. Song and Nedonna Development submit to you that:

805 SW BROADWAY
SUITE 1580
PORTLAND, OREGON 97205

T: (503) 517-8200

WWW.ALTERMAN.LAW

1. The City determined in 2008 that the area proposed for development is zoned R-1.

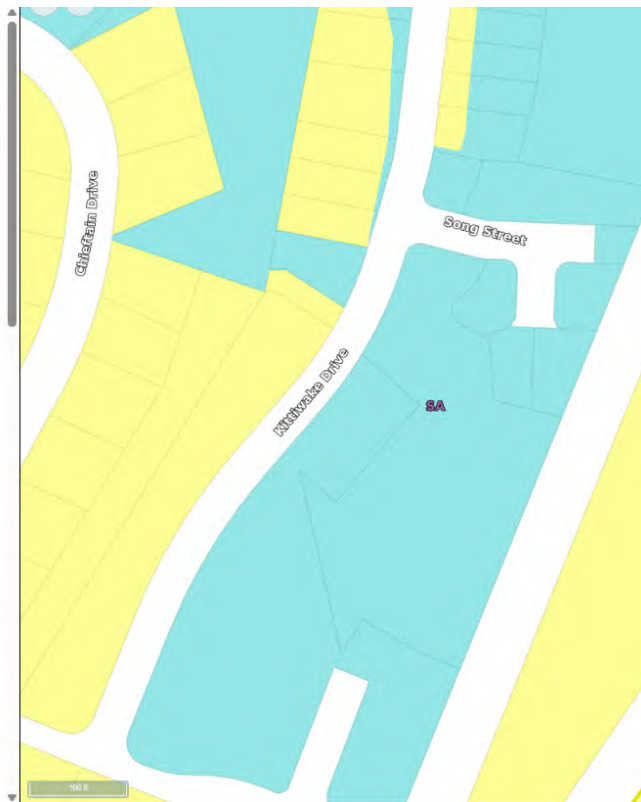
The city issued three approvals to Nedonna Development in 2008: the **final** approval of the PUD plan, a later approval to develop the PUD in two phases, and the **tentative** approval of Phase 1 of the PUD. The final PUD approval marked some areas for buildings lots, others for streets, and others as open space.

In 2008 the city had the same restriction against residential development in the SA zone that it does today. It follows that in 2008 the city must have found that the areas proposed for residential development were all **outside** the SA zone, or else the city would not have approved the final PUD plan.

Several commenters used various mapping tools and images to suggest that the lots in Phase 2 are within the SA zone. Two commenters based their arguments on the City's online GIS mapping tool.¹ This mapping tool states that the information on the GIS map is not authoritative, the city does not guarantee that the information is correct, and the map cannot be used as a substitute for official information. The map does not override the City's three land use decisions in 2008 that determined the zone boundary.

Legal Disclaimer

The information provided in this GIS map is property of the city of Rockaway Beach and CARTOMATION INC. unless otherwise indicated. All information contained in this GIS map are NOT AUTHORITATIVE and have NO WARRANTY OR GUARANTEE assuring the information presented to you is correct. The positions and information content of all features contained inside this GIS map correspond to only GIS source data itself. Do not rely on any locations and measurements obtained from this GIS map to provide you with information that can be reproduced on the ground. All spatial data contained inside this GIS map are NOT SURVEY ACCURATE and may be completely invalid. This GIS map cannot serve as a substitute for site-specific investigations by qualified practitioners. Site-specific data may give results that differ from those shown on the map. This GIS map cannot be used as a substitute for a professional land survey or official source of information. Contact Tillamook County government to obtain official information regarding



¹ Gary Corbin letter of August 16, 2025 and Oregon Shores Conservation Coalition letter of August 19, 2025.

One commenter, Danny Wilhelmi, submitted a map he created by overlaying a satellite image of the property over the City's zoning map.² While this image could be useful for as a general reference, like the City's GIS mapping tool, it is not authoritative.³

Another commenter, Nancy Webster, submitted mapping images to show informal wetland delineations in the Nedonna Beach neighborhood.⁴ The submitted maps are online GIS mapping tools from the Department of State Lands (DSL), U.S. Fish & Wildlife Service, and Federal Emergency Management Agency. These mapping tools, like the City's GIS map, provide legal disclaimers stating that the GIS maps are for "informational purposes and may not be suitable for legal, engineering, or surveying purposes."⁵ The maps are not zoning maps and do not dictate the location of the City's zoning boundaries. In addition, these maps do not amount to a zone boundary determination under RBZO § 3.080(5), which requires a site investigation by a qualified agent, and they do not override the wetland delineation of the property that DSL validated and approved on May 20, 2025.

In short, neither the mapping tools nor the images override the City's three 2008 approvals, all of which have become final and unappealable. None of the maps provide any insight into how the City interpreted RBZO § 3.080(5) in 2008.

The authoritative statement of the boundary line is in the first of the City's three decisions in 2008, which states that the PUD includes 3.9 acres in the R-1 zone and 2.33 acres in the SA zone, "determined by a wetland delineation report and survey concurred with by DSL." The Phase 2 lots are all within the area that the City declared to be R-1 in 2008.

2. Condition of Approval No. 1 of the 2008 Final Approval applies only to tentative plan approvals of subdivisions, not to final approvals of PUDs.

The final approval for the PUD contains several relevant conditions of approval, including condition no. 2 under "Improvement Agreement" and condition no. 1 under "Final Plat."

Improvement Agreement condition no. 2 is: "Prior to final plat approval, all on-site improvements shall be completed as necessary to serve the project."

² Danny Wilhelmi letter of August 19, 2025.

³ Note that the City's online GIS map places all of the houses on Song Street, and many of the houses on Kittiwake Drive north of Song Street, in the SA zone, meaning that if the map is correct, none of those houses should exist.

⁴ Nancy Webster letter of August 19, 2025.

⁵ Quoting a portion of DSL's legal disclaimer.

Final Plat condition no. 1 is “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.” [Emphasis added.]

Oregon Shores argues that because Nedonna Development did not complete the public improvements for Phase 2 within one year after the city issued its final approval for the PUD, the city’s approval of the PUD has expired.

Oregon Shores misconstrues Final Plat condition no. 1, both as to its plain language and as to its context.

Final Plat condition no.1 gives a developer one year to “complete the improvements.” That one-year period begins when the city issues a “tentative plan approval.” The PUD approval was not a tentative plan approval – it states that it is a final approval – and it has no relation to this condition.

The City **did** issue a tentative plan approval for Phase 1. Less than one year later the City reviewed and approved the final plat for Phase 1. The final plat for Phase 1 was recorded in February 2009, less than one year after the city issued its tentative approval of Phase 1.

Improvement Agreement condition no. 2 states that the City will not issue final plat approval until “all on-side improvements [are] completed as necessary to serve the project.” The City issued its final plat approval for Phase 1, signed the plat, and approved the plat to be recorded. The City could not have issued its final plat approval for Phase 1 unless the City found that Nedonna Development had completed all on-site improvements necessary to serve the project.

The argument of Oregon Shores also overlooks Exhibit D of the City’s 2008 final approval in which the City discusses and lists the required improvements for each phase. This discussion can be found on page 1487 to 1493 of the LUBA record. Oregon Shores’ interpretation of Final Plat condition no. 1 conflicts with the plain wording of condition no. 1 and the context of the City’s approval of the PUD and of Phase 1.

Nedonna Development is now seeking City approval of the tentative plan for Phase 2. When the City’s approval becomes final, Nedonna Development will have one year to build the improvements unless it obtains an extension. This is what occurred with Phase 1. In early 2008, Phase 1 received tentative plan approval. Within one year the applicant completed the required improvements and received final plat approval. The City’s subdivision ordinance further supports this interpretation because the requirements for obtaining final plat approval of a subdivision mirror the language of Final Plat condition No. 1.⁶

⁶ See §5 and §11 of the Rockaway Beach Subdivision Ordinance, Exhibit 1 at pages 3-6.

3. Emergency Ingress and Egress is not before you on remand.

Three commenters submitted testimony regarding emergency ingress and egress from the Nedonna Wave property.⁷ The planning commission responded to similar concerns by applying two conditions to its approval of this application. The conditions appear on page 331 and 332 of the LUBA record and requires the following:

p. The Applicant shall provide a traffic study for the development, including peak season and emergency evacuation needs, as well as the intersection of US Highway 101 and Beach Street.

t. The Applicant shall submit evidence that tsunami evacuation routes are sufficient to meet the proportional evacuation needs created by the proposed development.

If a local government limits the issues on remand to the issues that LUBA has remanded to the local government, then opponents may not challenge the application based on any issues that they could have raised in the first appeal, if they did not actually raise those issues. *McCulloh v. City of Jacksonville*, 49 Or LUBA 345 (2005); see also *Beck v. City of Tillamook*, 313 Or 148 (1992).

The City made findings on emergency ingress and egress. No participant appealed those findings to LUBA, LUBA's remand did not include any issue relating to ingress and egress, and the issue is not before the City Council now.

4. Much of the new testimony is unrelated to the remaining issues.

Most of the other testimony submitted on August 19 was unrelated to the two issues that remain in the case. That unrelated testimony included statements about flooding and runoff, city drinking water and storage, fish and wildlife protections, and alleged FEMA requirements. One commenter, Delta Holderness, raised issues about compliance with the 2008 condition of approval No. 7, home building permits on property associated with Phase 1, and a comprehensive build-out schedule.⁸ No one appeals those issues to LUBA and they are not before the City Council on remand.

⁷ Mary Erwert letter of August 14, 2025, Kenneth and Gullan Bragg letter of August 19, 2025, and Kathie Raisler letters of August 19, 2025.

⁸ Delta Holderness letter of August 19, 2025.

The City Council is only to consider testimony and evidence related solely to the boundaries of the R-1 and SA zones on the property and whether the City's approval of the PUD plan has expired, and then make findings on those two issues.

5. Conclusion.

The 2008 PUD approval was a final approval, not a tentative approval. It has not expired. The City has already found that the lots in Phase 2 are outside the SA zone and can thus be legally developed for residential use.

As your prior decision stated, the proposed tentative plan for Phase 2 complies with your zoning code and the other applicable requirements. Mrs. Song and I ask that you again approve her application to build Phase 2 of the Nedonna Wave PUD.

Very truly yours,

ALTERMAN LAW GROUP PC

Dean N. Alterman

Dean N. Alterman

Exhibit 1: Rockaway Beach Subdivision Ordinance, in part

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

**PUBLIC TESTIMONY
SUBMITTED FOR
SEPTEMBER 9, 2025
CITY COUNCIL HEARING
Remand #25-1
Nedonna Development
Phase 2 Planned Unit
Development**

(Received as of 8/19/2025)

No additional testimony received as of 9/2/2025

From: Pam Birmingham [REDACTED] >
Sent: Monday, August 18, 2025 7:39 AM
To: City Planner
Subject: Case File #Remand-25-1

To: Rockaway Beach City Council

Subject: Testimony Regarding Case File #Remand-25-1

As a real estate broker on the North Coast I certainly understand the need for more housing. That need however, should not be at the expense of sensitive wetland areas nor should it be allowed in areas with soil that is unstable.

Wetlands are not suitable for building for the following reasons:

1. **Increased Flood Risk:** Wetlands naturally absorb excess water, acting as a buffer against flooding. Filling them in or building on them can redirect this water, causing increased flooding in other areas, including the newly built homes and neighboring properties.

2. **Structural Issues:**

- **Foundational Instability:**

Wetlands often have soft, unstable soil, which can lead to shifting foundations, cracked driveways, and other structural problems for buildings constructed on them.

- **Moisture and Mold:**

The consistently damp conditions in wetlands can cause moisture problems in homes, leading to mold growth, particularly in basements and walls.

- **Decomposing Matter:**

Wetlands contain decomposing organic matter, which can release unpleasant and potentially hazardous gases when disturbed or trapped under a foundation.

3. **Liquefaction potential** Structures build on wetland type soil are much more susceptible to liquefaction and structural failure during an earthquake. This could cause loss of life and/or serious injury. The amount of liability that the city would have should this development be allowed to proceed is concerning. Knowingly allowing homes to be built in this area would not be a prudent decision either financially or morally.

I urge you to do the right thing for the community and deny this application.

Thank you,
Pam Birmingham
[REDACTED]

Seaside, OR 97138

Kenneth and Gullan Bragg

[REDACTED]

[REDACTED]

Rockaway Beach, OR 97136

August 19, 2025

Planning Department
PO Box 5
Rockaway Beach, OR 97136

Dear City Council,

Subject: Comments Regarding Case File #Remand-25-1

Thank you for this opportunity to provide comments prior to the September 9, 2025 public hearing to be held by the City Council regarding the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development. I have reviewed the Final Opinion and Order issued by the Land Use Board of Appeals (No. 2025-001) and agree with its conclusion that the City had erred regarding :

1. The application of the Special Area Wetlands Zone, and
2. The application (or lack thereof) of an expiration date of the original 2008 PUD approval.

In addition to LUBA's findings, I would like to add the following comments

If our remaining wetlands are not preserved and if more development and dwellings are allowed, then there **will be more flooding and jeopardy to homes.** (BTW: Our flood insurance has gone up over 20% in the last two years, most likely due to ever increasing risk).

Wetlands provide a sanctuary for wildlife. Daily we observe a variety of wildlife in Nedonna, including **bald eagles, heron, deer, rabbits, and many others.** Please do not allow more land to be taken away with the resulting impact to their habitat.

Safety remains a serious concern: In case of emergency, (tsunami, fire, flood) it would be very difficult for people to get out of Nedonna, and emergency responders to get into Nedonna, **due to the single entrance/exit to highway 101.**

It would also be impossible for some of the elderly and handicapped to use the tsunami exit paths which are unusable for wheelchairs, walkers, and people with bad knees to negotiate.

Adding additional seasonal visitors with more dwellings will only exacerbate this risk.

Sincerely, Kenneth and Gullan Bragg

From: Gary Corbin <[REDACTED]>
Sent: Saturday, August 16, 2025 6:17 PM
To: City Planner
Cc: Charles McNeilly; Penny Cheek; Mary McGinnis; Tom Martine; Kiley Konruff; Pat Ryan; Melissa Thompson
Subject: Comments Regarding Case File #Remand-25-1

To: Rockaway Beach, OR City Council
Subject: Testimony Regarding Case File #Remand-25-1

Dear Rockaway Beach City Council:

Thank you for this opportunity to provide written testimony prior to the September 9, 2025 public hearing to be held by the City Council regarding the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development. I have reviewed the Final Opinion and Order issued by the Land Use Board of Appeals (No. 2025-001) and agree with its conclusion that the City had erred in its approval of the application in two essential areas:

1. The application of the Special Area Wetlands Zone, and
2. The application (or lack thereof) of an expiration date on the original 2008 PUD approval.

Special Area Wetlands Zone

Several of the proposed development lots are clearly within the SA zone, where no development is permitted. The SA zone is a true base layer designation. No development can occur on the land so designated. WAVE can't develop there even with "offsets."

As LUBA noted: "The SA zone is a base zone, whose purpose is to "conserve significant freshwater wetlands and the shoreland and aquatic environment of Rockaway Beach's lakes[,] by limiting allowed activities to **low-intensity uses**. RBZO 3.080(1). None of the permitted or conditionally permitted uses listed in RBZO 3.080(2) and (3) include residential development of any kind. Filling wetland areas is permitted only for allowed uses or water dependent uses. RBZO 3.080(4)(k)."

The SA zone was established well prior to the 2008 application by the Rockaway City Council, and for good reason. The area so designated contains both the Nedonna and McMillan Creeks, key waterways that support a diverse array of wildlife and are key contributors to the wells supplying drinking water to the area. The creeks feed into the estuary, and in turn Nedonna River, and then directly to the ocean, and as such are essential habitats for a variety of fish, fowl, and mammalian wildlife. Neighbors have photographed deer, beaver, wild eagles, and a variety of other creatures who inhabit the proposed development area.

The developer's assertions that their development will leave the SA zone intact is erroneous. The City's own GIS maps show the lots encroaching on the SA area. Their dry-weather, mid-summer "surveys" of the area have no bearing on the fact that the area in question fills with water annually and serves essential purposes, outlined above, to the ecological health of the land.

The creeks in the SA zone also provide essential protection against flooding, thereby protecting existing homes and property in the vicinity. Continued development, including properties already developed in Phase I of this development, has encroached upon the watershed, leading to rising water levels dangerously close to properties. Simply put, there's nowhere else for the water to go.

Expired Application

The original application, approved in February 2008, required all improvements to be completed within one year of approval. A subsequent approval in July 2008 to divide the project into two Phases did not alter that deadline, and in September, designated the development as a PUD.

In short, Nedonna WAVE failed to complete its improvements within that period. Therefore, the original approval has expired and no further development can occur under the aegis of that application.

ORS 92.040, which governs applications for subdivisions (including PUDs) in Oregon, stipulates that “A local government may establish a time period during which decisions on land use applications under subsection (2) of this section apply.” As LUBA reiterates in their decision, the law also required that, “If phased development is proposed, the application must include a schedule. [RBZO 10.050(l)(i)]. ... The planning commission approves or denies that preliminary plan, based on standards that include a finding that the plan can be “completed within a reasonable period of time.” Then, within one year of receiving preliminary plan approval, the applicant must obtain final PUD plan approval. [RBZO 10.060.]”

The applicant has argued that this provision is vague and that their development fits within that “reasonable” time period. But the initial approval clearly established a one-year window for them to complete their developments, which the applicant did not meet. No amendment to that schedule was established when the Phased development amendment was approved in 2008.

ORS 92.040 further states that land approvals must occur within a “reasonable amount of time” – and that “in no event shall the time period exceed 10 years.” Thus, even the most generous definition of a “reasonable time” is limited by law to 10 years - far less than the 17 years that have passed since the original application. No further land use approvals are permitted for this application.

If Nedonna WAVE wishes to develop this land, therefore, the applicant must begin the application process anew, under the rules, zoning, and restrictions in force at the time of their new application.

To avoid future mistakes of this kind, the City must ensure that any new application **must** have a well-defined, **specific** schedule for **completion** of the work.

Furthermore, all of the conditions and stipulations attached by the Planning Commission and approved by City Council to the 2024 provisional approval must continue to be attached to any new proposal.

Further, we urge that in any new application, the new development should be oriented toward full-time homes - full-sized lots with ample parking, garages, etc. – rather than STRs. This means no “pie-shaped” sub-sized lots that cannot accommodate garages, parking, and other amenities essential to full-time residency in Nedonna Beach.

Thank you for your consideration of these points. I urge you to reject the applicant’s request to overturn the LUBA decision. Please reject this application and require the developer to initiate a new application request, one that respects local law, the needs of current residents, and the ecological sensitivity of our Special Area zone.

Sincerely,

Gary Corbin, Ph.D.

Rockaway Beach, OR

From: Laury Emerson <[REDACTED]>
Sent: Sunday, August 17, 2025 1:31 PM
To: City Planner
Subject: Case File #Remand-25-1

Laury Emerson
[REDACTED]

Planning Department
P.O. Box 5
Rockaway Beach, OR 97136

Dear City Council:
Subject: Comments Regarding Case File #Remand-25-1

Thank you for this opportunity to provide comments prior to the September 9, 2025 public hearing to be held by the City Council regarding the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development.

I have reviewed the Final Opinion and Order issued by the Land Use Board of Appeals (No. 2025-001) and agree with its conclusion that the City had erred regarding:

1. The application of the Special Area Wetlands Zone, and
2. The application (or lack thereof) of an expiration date on the original 2008 PUD approval.

In addition to LUBA's findings, I would like to add the following comments:

I own a home, and am a permanent, year-round, resident whose home is directly impacted by the freshwater forested shrub wetland on the Nedonna Slough. I invested in this neighborhood specifically for the beautiful location and community here. I treasure the daily viewing of wildlife that use my creekside property for a wildlife trail, and food source. I believe the ebb and flow of the wetlands are a necessary habitat for migrating fish, heron, deer, beavers, coyotes, and a wide variety of birds and reptiles. In the winter months, the rain, wind, and tidal pressures can already create a ground water increase that threaten flooding on my property, so I am very concerned that density in the areas north of my home would make this situation worse.

I am also very concerned about the protection of the City's drinking water wells, flood control, and water storage issues this development would impact. My understanding is 2/3 of the backup wells in our neighborhood are already not viable due to lack of drainage needed for a healthy aquifer. I am concerned more density, and filling in of our natural wetland areas will make this situation worse. These wells not only serve the Nedonna area, but all of Rockaway Beach.

I believe a comprehensive plan, ordinance updates, and impacts from existing development needs to be defined better prior to any further development. As someone who lives year round on these treasured wetland areas, I feel the wetland delineation by the developer does not accurately reflect actual annual conditions. Simply sending a crew to view these areas in the few warm and dry Summer months is not not sufficient.

I understand the plans for this development, are based on situations over seventeen years old. The population and environmental changes during this time have changed, and there is more stress/demand for drinking water and wastewater systems.

I appreciate your time and consideration.

Thank you,
Laury Emerson
Treasurer, Nedonna Rural Fire Protection District

From: [REDACTED] >

Sent: Thursday, August 14, 2025 5:36 PM

To: City Planner <cityplanner@corb.us>

Subject: Case File #Remand-25-1

Mary Erwert

[REDACTED]

Rockaway Beach, Or 97136

Dear City Council,

I agree with the Land Use Board of Appeals (No. 2025-001) conclusion that the city erred regarding the following:

- 1.The application of the Special Area Wetlands Zone, and
2. The application (or lack thereof) of an expiration date on the original 2008 PUD approval.

In addition I would like to add my concerns regarding the protection of the city's drinking water wells, flood control, water storage, fish protection, wildlife, best practices needed at a local level, diminishing wetlands due to development, lack of federal protections, lack of ingress/egress in the area.

Thank you,
Mary Erwert

To: City Council

Subject: File # Remand 25-1 – Concerns Regarding the Nedonna Wave Development

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

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

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

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

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

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

2. Incomplete Infrastructure for Phase 2

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

I found in Exhibit A: Findings of Fact, dated February 11, 2008 (page 11), on-site and off-site improvements were clearly delineated. On page 12, under the heading “Final Plat,” item #1 specifies that the developer was required to complete all improvements within one year of tentative plan approval, unless an extension was

granted. No such extension appears in the record. Item #7 under the same heading further requires that all on-site and off-site improvements be completed prior to submission of the final plat. A key off-site improvement listed was the regional sewer pump station—an improvement known not to have been completed at that time.

Furthermore, page 13 of the same document references a wetland delineation report and survey (#WD-06-0246) issued by DSL, valid only until August 1, 2011. To our knowledge, no updated delineation permit was issued after that date. However, public tax lot records available through the Tillamook County website indicate that homes continued to be constructed in Phase 1 between 2016 and 2018. This raises serious questions, as at least two additional valid wetland delineations would have been required during that time period.

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

If you have been following current events, you are aware that communities across the United States are experiencing significant flooding and wildfires. Almost daily, there are reports of towns being inundated by floodwaters or residents forced to evacuate due to encroaching wildfires. Rockaway Beach has an opportunity to strengthen its resilience against such risks by preserving our wetlands, particularly the designated Special Area zones by upholding the zoning ordinances as mentioned above.

Wetlands play a critical role in flood control by functioning as natural sponges. They absorb and store excess water during periods of heavy rainfall and gradually release it, thereby reducing flood peaks, minimizing erosion, and mitigating downstream flooding in vulnerable areas. In addition, wetlands can serve as natural firebreaks. Their high water content helps to slow the spread of wildfire, while also providing essential refuge for wildlife during such events. Preserving these natural systems is not only consistent with existing law but also a prudent measure to safeguard the community from increasingly severe climate-related hazards.

I urge you to deny the applicant's request to overturn the LUBA decision. Please require the developer to initiate a new application request, one that respects local law, the needs of current residents, and the ecological sensitivity of our Special Area zones.

Thank you for your time,

Delta Holderness

[REDACTED]

Rockaway Beach

From: Daniel Howlett <[REDACTED]>
Sent: Monday, August 18, 2025 5:22 PM
To: City Planner
Cc: Melissa Thompson
Subject: Public Testimony #Remand-25-1

Hi Melissa, this public testimony is intended for the city planner, but I'd also like to include it as public testimony for the August Council Meeting. Please confirm. Thanks, Daniel

I am writing to express my concern about the proposed Nedonna Wave Development, which directly conflicts with the principles and policies outlined in Rockaway Beach's 2007 Comprehensive Plan.

Both the Planning Commission and the City Council stated that they had no choice but to approve this project. These decision-makers are part-time, unpaid volunteers who are not formally trained in land use or environmental science. As a community, we rely on city staff—especially the city planner—to provide accurate, well-researched reports that are reviewed and sanctioned by licensed city attorneys.

Yet the recent LUBA appeal found that the city erred in two significant ways:

1. Misapplication of the Special Area Wetlands Zone.
2. Failure to properly apply an expiration date to the 2008 PUD approval.

Despite these clear legal errors, city staff recommended approval of the project. This raises serious questions about the qualifications of those responsible for preparing the staff report. In fact, we have since learned that the current city planner was hired without an open, competitive process. The position was never advertised, no interviews were conducted, and no other candidates were considered. This is not only unfair to existing staff who may have sought the role, but also unfair to the community, which deserves the most qualified and capable professionals in these critical positions.

This lack of transparency and accountability at City Hall has now resulted in costly lawsuits—expenses borne by the very community whose interests were supposed to be protected. Going forward, we must ensure that city staff are hired through an open, competitive, and transparent process to secure the best possible expertise.

The Comprehensive Plan is our city's guiding land use document. It is designed to ensure that growth is balanced with environmental stewardship, and that wetlands and other sensitive

areas are protected for the long-term health of our community. If we fail to uphold it, we fail our responsibility to both current and future residents.

The Comprehensive Plan prioritizes the protection of critical environmental areas, including wetlands, groundwater aquifers, and riparian corridors. Key policies from the plan highlight the city's responsibility. Here are a few quotes:

- **Critical Groundwater Protection:** *"The City recognizes that Rockaway Beach lies in a critical groundwater area and shall refuse to permit uses which the Department of Environmental Quality determines could pollute or adversely affect the aquifer."*

The proposed development risks impacting the aquifer, contradicting this policy.

- **Wetlands and Riparian Corridor Protection:** *"Rockaway Beach will consider options in the future to adopt local standards to protect riparian corridors and wetlands... consistent with Statewide Planning Goal 5."*

Allowing development in sensitive wetland areas undermines this intent to balance growth with resource protection.

- **Coastal Shorelands and Wildlife Habitat:** *"Major marshes and significant wildlife habitat shall be protected... New development shall protect existing streams, riparian corridors, wetlands, and drainage ways."*

The development is inconsistent with directives to preserve wildlife habitats and minimize stormwater impacts.

- **Land Use Philosophy:** *"...those areas where development can occur should be more intensively used than sensitive lands such as the wetlands around the lakes, and steep slopes."*

Sensitive lands like wetlands should be preserved, with high-density development directed to less sensitive areas.

Approving this development would not only violate these policies but also set a troubling precedent, weakening Rockaway Beach's commitment to sustainable development. Protecting our wetlands ensures ecological health, safeguards vital water resources, and upholds the values embedded in our community's guiding document.

I urge the city council to honor the principles of the Comprehensive Plan and reject developments that threaten the integrity of our natural heritage. Rockaway Beach's future depends on responsible decision-making today.

Sincerely,
Daniel Howlett

[REDACTED]

[REDACTED]

From: Frank Imbrie <[REDACTED]>
Sent: Monday, August 18, 2025 11:55 AM
To: City Planner
Subject: LUBA 2025-001

Frank D Imbrie

[REDACTED] Rockaway Beach, OR. 97136. PH [REDACTED] Regarding the city error in not requiring a new application, I implore you to think of protecting our natural areas instead of developing them. Please protect our wetlands. Thank you

August 15, 2025

Rockaway Beach City Council and Planning Department
PO Box 5
Rockaway Beach OR 97136

SUBJECT: COMMENTS on CASE FILE #REMAND 25-1

TO THE DECISION MAKERS IN ROCKAWAY BEACH:

Thank you for this opportunity to provide comments prior to the September 9, 2025 City Council public hearing regarding the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development. I am opposed to any development in, or around, the Special Area Wetlands Zone in the Nedonna Beach area.

I have reviewed the Final Opinion and Order issued by the Land Use Board of Appeals (LUBA; No. 2025-001) and agree with its conclusion that the City has erred regarding:

1. The application of the Special Area Wetlands Zone; and,
2. The application (or lack thereof) of an expiration date on the original 2008 PUD approval.

I am a resident of Wheeler. For the five (5) years that I have lived here full time, I have thrilled to see marshes and other wetlands, protected land "along the edge" (Lower Nehalem Community Trust), rivers, streams, fields and more in our beautiful North Coast area, not just in my community. More often than not, these areas are alive with wildlife, including myriad birds, beaver, deer and more. In my opinion, those who live here and treasure these lands cannot let more land fall to development, especially lands that are designated as freshwater forested shrub wetlands for wildlife and that are critical sources of pure drinking water for our villages. The land under consideration should be available for all of us to enjoy, not merely for the few privileged individuals who may be able to afford to build or live in this small, special area.

In addition to LUBA's findings, I would like to add the following comments. The lands under consideration for development offer extensive benefits for not only Rockaway Beach, but for all who travel and treasure our North Coast landscapes. These lands under help control flood waters, store precious water, offer fishery protections, provide lands for wildlife, and, an opportunity to perfect best practices at the local level in view of diminishing federal protections and questionable building practices.

I ask your consideration for the long-term protection of the forested shrub wetlands of Nedonna Beach; please vote to oppose any further development.

Respectfully,
Mary Leverette

██
Wheeler OR 97147
████████████████████
████████████████

From: Charyl Looper <[REDACTED]>
Sent: Tuesday, August 19, 2025 9:13 PM
To: City Planner
Cc: Charyl Looper
Subject: Comments for "Case File #Remand-25-1"

Charyl Looper

[REDACTED]
Rockaway Beach, OR 97136
[REDACTED]

Aug.19, 2025

Planning Department
P.O. Box 5
Rockaway Beach, OR 97136

Dear City Council:

Subject: Comments Regarding Case File #Remand-25-1

Thank you for this opportunity to provide comments prior to the September 9, 2025 public hearing to be held by the City Council regarding the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development. I have reviewed the Final Opinion and Order issued by the Land Use Board of Appeals (No. 2025-001) and **agree with its conclusion that the City had erred regarding:**

1. The application of the Special Area Wetlands Zone, and
2. The application (or lack thereof) of an expiration date on the original 2008 PUD approval.

In addition to LUBA's findings, I would like to add the following comments.

Wetlands:

I have owned my home in Nedonna for over 8 years now, and have personally experienced severe flooding and moisture issues multiple times already. After my experiences, the research I've done, and the comments I've heard from other neighbors regarding this appeal, I am absolutely certain that my house—and all the other homes on Kittiwake—should never have been built. Our homes were built on filled-in wetlands (mine, and many others by Anna Song and the builder, Greg Baumgart). **It is more than time to take a step back and see the errors of overdevelopment and begin to focus on being better stewards of the land. I know my house should not have been built, and I will continue to fight any new developments in the wetland areas.**

As it is, my house has moisture problems throughout the entire main floor. It was a new house when I bought it (from Anna Song), built 8 years ago, slab on grade. On a wetland. Water seeps through the concrete floor, so much so that I can't even have a rug on the floor unless they are made for outdoor-use (they will mold quickly and rot otherwise). A crocosmia has attempted to grow through the crack in the bedroom floor year after year. It gets about 7 inches tall before it dies away. **A PLANT is growing out of my floor.** This is all because of the way my foundation was constructed—on a wetland.

Filling in the wetland in Anna Song's proposed development area will absolutely affect my property negatively. The rainwater will need to run off, instead of being absorbed by the wetlands, and it will most certainly fill the creek beyond its borders in Nedonna. I will end up with more than a plant growing out of my floor, it will be entirely flooded, unliveable and unsellable in a matter of time.

Wildlife:

More than just the issues around my home, I am concerned about the wildlife we have in the area. Bald eagles, beaver, rabbits, river otters, fox, coyotes and just recently—a bear—live here. We need to protect as much land as we can to allow for the wildlife to not just survive, but to flourish.

It is up to all of us to protect these wetlands, and the wildlife within it. No one else will do it.

Thank you for your time,
Charyl Looper

Dick Martindale

Rockaway Beach, OR 97136

August 14, 2025

Planning Department

P.O. Box 5

Rockaway Beach, OR 97136

Dear City Council:

Subject: Comments Regarding Case File #Remand-25-1

Thank you for this opportunity to provide comments prior to the September 9, 2025 public hearing to be held by the City Council regarding the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development. I have reviewed the Final Opinion and Order issued by the Land Use Board of Appeals (No. 2025-001) and agree with its conclusion that the City had erred regarding:

1. The application of the Special Area Wetlands Zone, and
2. The application (or lack thereof) of an expiration date on the original 2008 PUD approval.

In addition to LUBA's findings, I would like to add the following comments.

Wetlands

- If we wish to protect our wetlands, we must do it through local ordinances. In 2023 a ruling by the U.S. Supreme Court in Sackett vs Environmental Protection Agency (EPA) had enormous ramifications for the health of the nation's waterways. This can be considered as one of the most important water-related Supreme Court decisions in a generation. Unfortunately, a majority of the justices used the case as a tool for dramatically weakening the Clean Water Act. There was no scientific data that supported that position. More recently, the current administration's EPA issued guidance to exclude even more types of wetlands from protection.
- Two of the City's drinking water wells pump water from a very shallow groundwater table in close proximity to this proposed development. Even if new development is connected to municipal sewer service, impervious surfaces are created that increase contaminated runoff which is detrimental to wetlands. In addition, the application of various pesticide products commonly used by property owners is a serious threat to the biodiversity of wetlands.
- Biodiversity is critical for the continued health of any habitat.
- Wetlands are a wonderful, natural feature to control flooding events.
- Wetlands are also a benefit to mitigate potential wildland fires.

Expiration Date

- Prior to approval of new development projects, the City has an opportunity to update its Comprehensive Plan and related ordinances. Clarifying the value and necessity of healthy

watersheds, including wetlands, will provide clear guidance for future decision making. In particular, wetland areas need to be accurately delineated by a neutral, third-party expert.

- Since this project was originally proposed in 2008 the population has increased by about 6%, while tourism has increased dramatically. Potential impact to existing infrastructure and our natural areas (which many visitors come here for) should be evaluated with 2025 conditions and data in mind.

Thank you again for this opportunity to provide comment.

Dick

From: Lyndsey Matteson <[REDACTED]>
Sent: Monday, August 18, 2025 8:16 PM
To: City Planner
Subject: #Remand-25-1

Statement to the Rockaway Beach City Council Regarding the Nedonna Wave Planned Unit Development #Remand-25-1

I am speaking today to urge the Council to reject the application for the Nedonna Wave Planned Unit Development, based on clear violations of existing zoning law and the critical need to preserve our wetlands for the health and safety of our community.

A **Special Area (SA) Wetlands Zone** is designated specifically to protect sensitive wetlands and their associated natural resources. These areas are governed by strict regulations intended to prevent inappropriate development, ensuring that these vital ecosystems are preserved for future generations.

In reviewing the findings from the Land Use Board of Appeals, several statements make it clear that the proposed development violates both the spirit and the letter of our zoning regulations:

- *“The SA zone does not list residential development as either a permitted or conditional use.”*
- *“The city erred in approving residential development, including two new lots, on parts of the subject property that are zoned SA, which does not permit residential development.”*

This is not a matter of interpretation. The Rockaway Beach Zoning Ordinance **does not** permit residential development—of any kind—in SA-zoned areas. Moreover, **filling wetland areas is permitted only for allowed uses or water-dependent uses**, which this residential development clearly is not.

Further, the Land Use Board of Appeals noted:

- *“In the present case, petitioner argues that the city essentially treated the SA zone as an overlay zone such as the Wetland Notification Overlay Zone, and required only that the applicant submit a new delineation approved by DSL and the Corps and any required permits.”*
- *“The city ignored the fact that the SA zone prohibits residential uses and that the proposed Phase 2 residential construction, including the two new lots, is located within areas that arguably are mapped on the city’s zoning map as SA.”*
- *“Based on the city zoning map, the SA zone applies to a large portion of the subject property, and the city has not shown that the SA-zoned portion of the property, as depicted on the zoning map, includes no building sites, building lots, or other development not allowed in the SA zone.”*
- *“We presume that the SA zoning boundaries depicted on the zoning map could, with some effort, be mapped onto a detailed-scale map of the subject property. And we assume that*

petitioner is correct that, if such an effort were made, the SA-mapped areas of the property would include some proposed Phase 2 residential development.”

- *“Simply amending the zoning map to designate the property as a ‘PUD,’ essentially creating a type of overlay, does not operate as a basis to relocate the zoning boundaries for the underlying base zones, or to authorize uses that are prohibited under the base zones.”*

These are not just legal technicalities—these are protections in place for a reason.

It is obvious from these statements that the proposed development **would encompass Special Area wetlands**, and that such development **is prohibited by law**. But beyond legal compliance, we must consider what is at stake if we ignore these protections.

Wetlands play a vital role in the health and safety of our environment and our community. They are essential for:

- **Water quality improvement**
- **Flood control**
- **Providing habitat for fish and wildlife**
- **Carbon sequestration**
- **Erosion control**

Destroying these wetlands for the sake of development would not only break the law, it would also put our community’s environmental integrity, wildlife, and long-term resilience at risk.

I’d also like to add that you don’t need a zoning map to recognize this area as special—or as a wetland. Simply walk down Kittiwake Drive during one of the rainy months, and it becomes immediately clear: the land proposed for development, just east of the street, is submerged under water. This land functions as a wetland in the most obvious, visible way. To ignore what is plainly in front of us would not only be irresponsible, it is also short-sighted.

For these important reasons, I respectfully urge the Council to protect our wetlands, uphold the law, and prioritize the well-being of our community—now and for generations to come—by **rejecting the Nedonna Wave Planned Unit Development**.

Thank you,

Lyndsey Matteson

[REDACTED]

Rockaway Beach, Or 97136

[REDACTED]



Oregon Shores

August 19, 2025

Rockaway Beach City Council
City of Rockaway Beach
276 Hwy 101
Rockaway Beach, OR 97136

Re: No. Remand-25-1: Remand Proceedings in LUBA No. 2025-001 Regarding the Application of Nedonna Development for Phase 2 Planned Unit Development Approval

Oregon Shores Conservation Coalition (“Oregon Shores”) is a non-profit organization, with members in Rockaway Beach, that works to protect Oregon’s coastal environment and employ Oregon’s land use planning system to its best possible effect in preserving coastal communities. Oregon Shores opposes approval of Nedonna Development LLC’s proposed second phase of a planned unit development first permitted in 2008 (PUD #24-1, 2N1020AB, Tax Lots 10200, 10400, and 10500) (“the Project”). Oregon Shores is concerned about the impact that the Project will have on the City’s wetlands and watersheds—including the area within the Special Area Wetlands (SA) zone, which the City decided to protect for its ecological value decades ago. These wetlands not only serve important ecological and hydrological functions, but also lie above a drinking water aquifer that may be increasingly vital to the community in a future shaped by climate change and sea level rise.

After the City Council denied Oregon Shores’ appeal of the Planning Commission’s approval of this application, Oregon Shores filed an appeal of the decision to LUBA, and LUBA sustained both of Oregon Shores’ assignments of error on appeal. For the reasons described below, the City Council must deny this application on remand based on both of the assignments of error that LUBA sustained.

I. The Application Must be Denied Because the Proposed Development is Within the Special Area Wetlands Zone

The First Assignment of Error that LUBA sustained requires the City to determine whether the Project is within the Special Area Wetlands (SA) Zone. If development is proposed within the SA zone, the City must deny the Project. Because the zoning map is clear that a significant portion of the Phase 2 development is in the SA zone, the City must deny the application.

- a. LUBA’s Decision Requires the City to Deny the Application Because it Proposes Residential Development Within the SA Zone*

Oregon Coast For All

mandy@oregonshores.org | oregonshores.org
PO BOX 5626, COOS BAY, OREGON 97420

LUBA's decision is clear that residential uses are not an allowed use in the SA zone, meaning if any of the proposed development is within the SA zone, the City Council must deny the application. LUBA held that "[n]one of the permitted or conditionally permitted uses [in the SA zone] include residential development of any kind."¹ LUBA elaborated that this is different from the City's Wetland Notification Overlay Zone, which does not control what uses are allowed, but simply requires applicants to notify DSL and the Corps about the project.² In other words, it does not matter whether the Applicant has done or will do a wetland delineation: if any part of the development is within the SA zone, it cannot be approved.³

The reason LUBA remanded, as opposed to reversing, the City's decision was because it could not tell from the record whether there is indeed residential development proposed within the SA zone.⁴ Attached to this comment as Attachment A are images of the proposed development next to the City's zoning map and online mapping tool. A quick look at these maps makes clear that the proposed development indeed proposes to locate lots within the SA zone. Accordingly, the application must be denied.

b. The Boundary of the SA zone Cannot be Moved Without a Rezone Application.

Prior to LUBA's remand, the City appeared to take the position that Rockaway Beach Zoning Ordinance (RBZO) § 3.080(5) contains an implicit power to move the boundary of the SA zone where a wetland delineation shows there are no wetlands. This interpretation of RBZO § 3.080(5) is incorrect for many reasons, including 1) the text of the provision does not support it, 2) it would violate the purpose of the SA zone, 3) it would be impossible to implement in practice, and 4) it would be a clear violation of the specific procedures for a zone change laid out in state law and the RBZO.

First, RBZO § 3.080(5)'s plain language cannot support an interpretation that the boundaries of the SA zone can be shrunk without going through a rezone process. Instead, it is clear that the provision was intended to provide the City with an optional means to apply the protections of the SA zone to additional neighboring areas where a proposed development would impact the land protected by the zone. The provision reads as follows:

¹ *Oregon Shores Conservation Coalition v. City of Rockaway Beach*, LUBA No. 2025-001, slip op. at 6 (July 2, 2025).

² *Id.* at 6-7.

³ As Oregon Shores explained previously, the fact that the Applicant already received the PUD overlay for the development does not change this analysis as the RBZO is clear that the PUD overlay does not allow residential density beyond what would be allowed by the base zone. RBZO § 10.030 ("Buildings and uses may be permitted either singly or in combination provided the overall density of the Planned Unit Development does not exceed the density of the parent zone as provided in this ordinance.").

⁴ *Id.* at 11.

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

“In the vicinity of an area,” makes clear that this provision applies to properties that are adjacent to or nearby the SA zone and not inside of it.⁵ For example, the proposed development is not “in the vicinity of an area designated Special Area Wetlands,” it is inside of an area designated Special Area Wetlands. This is confirmed by the fact that the boundary determination described here is something that “the City may require,” and not something that is available by right to applicants, making clear that it is a discretionary authority to impose additional requirements where there is concern about impacts to protected areas. RBZO § 3.080(5) simply gives the City discretionary authority to require a biologist report for proposed development near protected special area wetlands, to give it more information regarding impacts. There is nothing in the provision that provides that the SA zone boundary can be shrunk based on a wetland delineation.



Second, reading RBZO § 3.080(5) otherwise would conflict with the zone’s purpose as stated in the Comprehensive Plan and RBZO. The SA zone is meant to conserve important

⁵ Merriam-Webster defines “vicinity” to mean “the quality or state of being near.” Merriam-Webster, “Vicinity,” <https://www.merriam-webster.com/dictionary/vicinity>. It also defines the full idiom “in the vicinity of” to mean “in the area that is close to (a place).” Merriam-Webster, “In the Vicinity of,” <https://www.merriam-webster.com/dictionary/in%20the%20vicinity%20of>.

natural areas within the City's boundaries. It is concerned with more than just definitional wetlands. As the City's Comprehensive Plan explains, it was meant to protect "wetlands *and lowlands* that are subject to flooding, provide wildlife habitat, and are a significant scenic resource for Rockaway Beach."⁶ And as the purpose statement of the SA zone RBZO section states, the SA zone is meant "to conserve significant freshwater wetlands *and the shoreland and aquatic environment* of Rockaway Beach's lakes."⁷ Thus, allowing the SA zone to shrink at-will simply based on whether an applicant can demonstrate whether or not *jurisdictional wetlands* are present at the time of a delineation would defeat the purpose of the Special Area Wetlands zone.

Third, the lack of textual support for reading RBZO § 3.080(5) to allow the zone to shrink is bolstered by the absence of any instructions or guidelines for how such an authority would function in practice. Because the SA zone is a base zone, there is no underlying zone for this land to revert to if its boundaries were to shrink. Here, if the SA zone were removed from the subject property, there are no instructions in RBZO § 3.080(5) for what should happen next. What would the underlying zone be? The City Council previously assumed that residential uses could be allowed, but why? Could an industrial use be allowed? It cannot be that whatever zoning is applied to adjacent parcels would simply carry over into the SA zone, because in many cases the "carry-over" zoning would be not only more intensive, but completely unclear. See, for example, the area in the picture from the City's online zoning map below. If the SA zone were to be moved back from the area within and around the red circle, would the underlying zone be C1 or RR? These are the kinds of questions the RBZO would presumably answer if it meant to stash such a large power in such an innocuous provision.

Finally, allowing the boundary of the SA zone to shrink at-will would also be a clear violation of state law and the RBZO. The City has a combined comprehensive plan and zoning map, meaning that any zoning change must be processed as a plan amendment.⁸ Thus, reducing the SA zone boundary would require an amendment to the City's comprehensive plan map. But a comprehensive plan amendment is subject to a particular set of procedures set by state law and the RBZO.⁹ Thus, RBZO 3.080(5) cannot be interpreted to allow the SA zone boundary to shift inwards because that would be amending the comprehensive plan map without following the

⁶ Rockaway Beach Comprehensive Plan at 27 (emphasis added).

⁷ RBZO § 3.080(1) (emphasis added).

⁸ *Rutigliano v. Jackson County*, 42 Or LUBA 565, 573 (2002).

⁹ For example, the City of Rockaway Beach Comprehensive Plan requires any "amendment[] to the comprehensive plan map" to show that the amendment is consistent with the plan's goals and policies, is necessary to meet a land use need, that the land is suitable for the uses, that the area can be served by the appropriate level of public facilities, and that the amendment is compatible with the land use development pattern in the vicinity of the request.

required procedures. If the Applicant wishes to develop within the piece of its property currently designated as SA, it must follow these procedures and apply for a zone change.¹⁰

II. The Application Must be Denied Because the Underlying Plan Approval for the Project has Expired

The Second Assignment of Error that LUBA sustained requires the City to answer one question on remand: did the initial approvals of the Project include a condition that all improvements for both phases of the development be completed within one year. As LUBA explained, if the answer to this question is yes, then this application must be denied because there is no valid underlying approval to modify as the Applicant undisputedly did not complete all of the required improvements.¹¹ As described below, those initial approvals clearly included a condition that improvements be completed within a year, and the application must therefore be denied.

The plain language of the initial PUD approvals for this project was clear that all of the improvements, for both phases, had to be completed within one year. There were multiple layers of decision-making in the initial approval of this project, all of which are included with this comment as Attachment B. However, the expiration issue can be fully understood in four steps:

1. In February 2008, the Planning Commission approved a preliminary plan for the Project.¹² At the time, the Project had not been split into two phases. That initial

¹⁰ Even if the City Council were to read RBZO § 3.080(5) as allowing the SA zone boundary to move inwards, there is no dispute that there are at least some wetlands that are within the development. Regardless of whether those areas are seeing physical housing development, they are being used as a part of the residential use at issue here to provide open space for the housing. The development could not move forward if those SA zoned areas were not being put to that residential use. Accordingly, even if RBZO § 3.080(5) is read in that way, the project must be denied for seeking to allow a prohibited use within the SA zone. Additionally, a PUD only allows the density allowed in the parent zone. If SA areas are included within the development, the allowed residential density in those areas is zero. Accordingly, to issue this approval, the City would have to show that the overall density of the PUD is compliant, while factoring in those SA zones. In other words, the density of housing allowed by this application would have to be compliant with the code without factoring in any of the area that is zoned SA.

¹¹ “If [the City] intended the condition to apply to both phases, then petitioner would seem to be correct that the PUD has expired for failure to complete all Phase 2 improvements within one year of preliminary PUD approval.” *Oregon Shores Conservation Coalition v. City of Rockaway Beach*, LUBA No. 2025-001, slip op. at 14 (July 2, 2025).

¹² This decision is titled “Final Order” in the record and is included in Attachment B at page 5. Also included as a part of this initial order were Exhibit A (findings of fact), included in Attachment B at page 8, and Exhibit B (conditions of approval), included in Attachment B at page 42.

approval—which, again, applied to the whole 28-lot development—required as a condition of approval that “[t]he developer shall complete the improvements within one year of tentative plan approval unless an extension is granted by the City to complete improvements.”¹³

2. Later, in August 2008, the Planning Commission issued a final plan approval for the full 28-lot development.¹⁴ That approval again required that “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 improvements.”¹⁵
3. At the same time as it issued that final approval, which applied to the full development, the Planning Commission also authorized an amendment to the preliminary plan and final plan to allow the development to happen in two phases. The order splitting it into two phases explicitly stated that all previous conditions “apply in their entirety except where *specifically* amended.”¹⁶ Nothing in the order amends the one-year timeline that applied to the full development and all of the improvements listed in the previous orders.
4. Finally, in September 2008, the City Council approved the final plan and adopted the PUD overlay.¹⁷ The City Council’s order made clear that all earlier adopted conditions, including the one-year deadline for all of the improvements, still applied before final plat approval.¹⁸

Accordingly, based on this series of orders, it is clear that the plan approval for this project has expired and the subject application must be denied. A one year deadline was included for improvements for the full development as a condition of approval, and it was not “specifically amended” when the project was split into two phases.

Context from the RBZO confirms this understanding of the initial approvals. The City would have been violating the RBZO if it did not include the one-year time limit. When it approved the initial PUD, the City was obligated to set a development schedule and ensure that it

¹³ Attachment B at 19 and 47.

¹⁴ This decision is titled “Final Order (2)” in the record, included in Attachment B at page 3. This order approved both a final plan for the full project and splitting the development into two phases, as discussed in the next bullet. The final order included Exhibit C (giving final plan approval to the full development), included in Attachment B at page 49, and Exhibit D (modifying the final plan approval and preliminary plan approval to split the project into two phases), included in Attachment B at 67.

¹⁵ Attachment B at 64-65.

¹⁶ Attachment B at 68 (emphasis added).

¹⁷ This decision is titled “Final Order (3)” in the record, included in Attachment B at page 1.

¹⁸ Attachment B at 1.

could be completed within a reasonable amount of time.¹⁹ The one year time limit was how the City complied with these provisions.

The initial approval of this development established a one-year deadline for the Applicant to complete all of the improvements for both phases of the development. The Applicant has failed to meet that deadline by over 16 years, and the City Council must therefore deny the application.

III. Conclusion

The record is clear that the Project must be denied based on both of the Assignments of Error that LUBA sustained. It is both illegal and unwise to allow a development in the middle of protected wetland areas to resume construction after a 16-year hiatus. These protections exist for good reason—because the benefits of keeping sensitive areas like these wetlands intact are long-term, community-wide, and increasingly critical as climate and water resource pressures grow.

We appreciate the City Council’s thoughtful consideration of the issues concerning this development and are grateful for the opportunity to offer comment. By denying this application, the City has the opportunity not only to uphold legal integrity, but to demonstrate a meaningful commitment to its own planning goals and to the people who rely on a healthy, resilient landscape. Choosing to reject this outdated and unlawful proposal, and to protect the wetlands and aquifer beneath them, is a choice in favor of Rockaway Beach’s future.

Sincerely,

Mandy Watson

Coastal Conservation Manager

Oregon Shores



Mandy Watson
Coastal Conservation Manager

mandy@oregonshores.org
847.226.8699

OREGONSHORES.ORG

¹⁹ RBZO § 10.050(1)(i) and RBZO § 10.050(2)(d). LUBA discusses this on page 13-14 of the decision. *Oregon Shores Conservation Coalition v. City of Rockaway Beach*, LUBA No. 2025-001 (July 2, 2025).

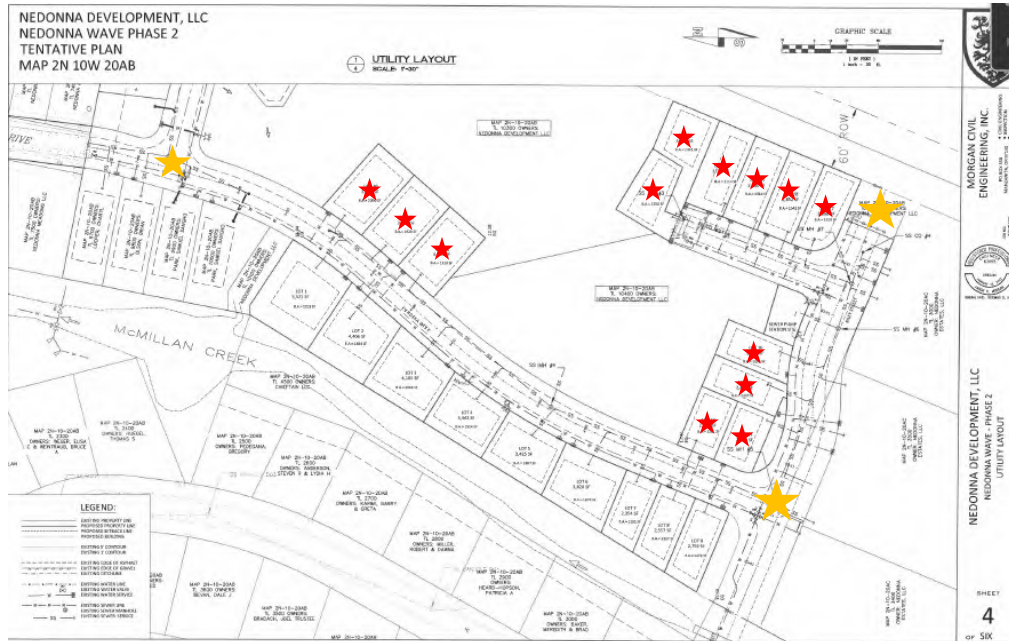
Oregon Coast For All

mandy@oregonshores.org | oregonshores.org

PO BOX 5626, COOS BAY, OREGON 97420

Attachment A

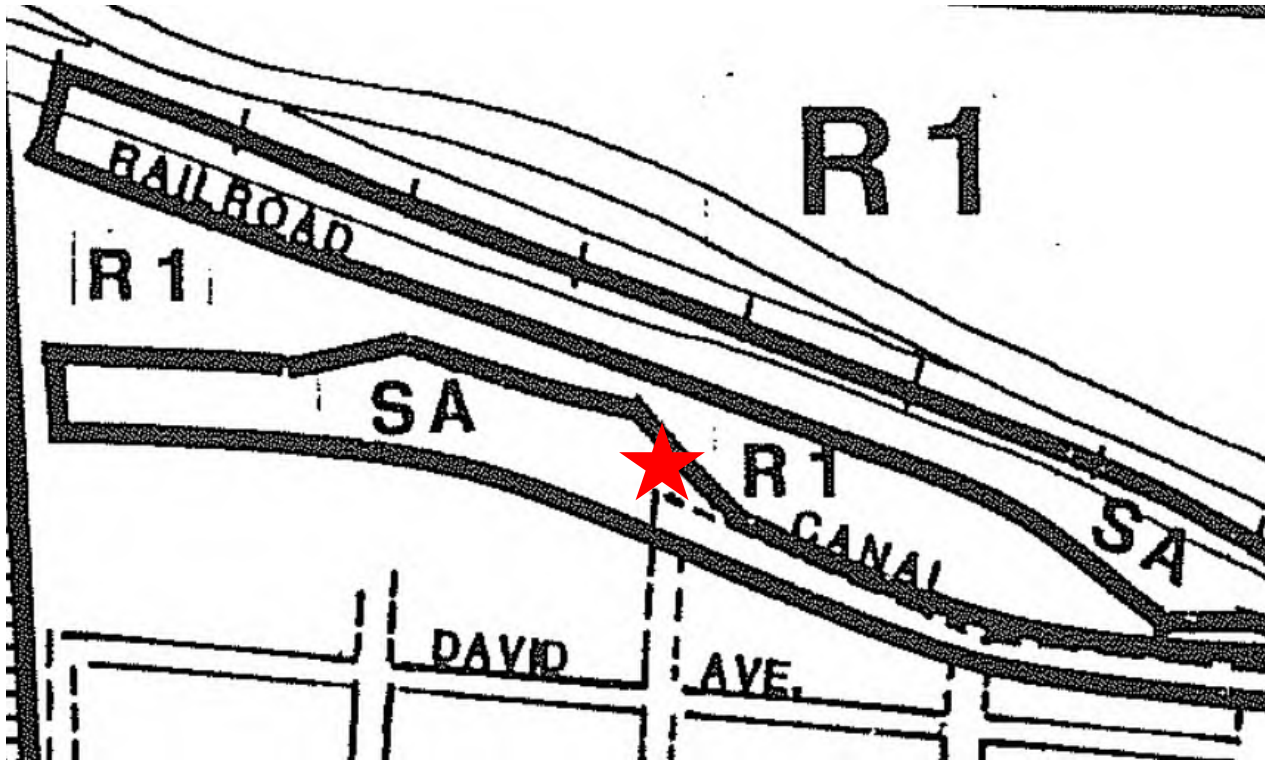
The below picture is a map of the project site. Phase 2 of the development includes all of the lots to the east of Kittiwake Drive, marked on the map with red stars, as well as nine lots to the west of Kittiwake drive.



Comparing this map to the City's online zoning map tool, it is clear that all of those lots east of Kittiwake Drive are within the SA zone. The orange stars in the map above and the map below mark the same intersections for ease of reference.



This matches the City's zoning and comprehensive plan map. Riley street is shown where the red star is, and it is clear that a large swath of the SA zone extends North from Riley Street a little east of David Avenue, further east almost to the railroad. This is just as it is depicted on the above, more detailed zoning map.



Attachment B

BEFORE THE CITY COUNCIL OF ROCKAWAY BEACH, OREGON

Application #2007-19 "NEDONNA WAVE" A 28-Lot Planned Unit Development Subdivision

Final Order Date: September 15, 2008

Page 1 of 2

"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.

BEFORE THE CITY COUNCIL OF ROCKAWAY BEACH, OREGON

Application #2007-19 "NEDONNA WAVE" A 28-Lot Planned Unit Development Subdivision

Final Order Date: September 15, 2008

Page 2 of 2

"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

BEFORE THE CITY PLANNING COMMISSION OF ROCKAWAY BEACH, OREGON
Application #2007-19 "NEDONNA WAVE" A 28-Lot Planned Unit Development Subdivision
Findings of Fact Date: July 28, 2008 Page 1 of 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:

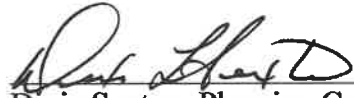
The complete case record including the findings of fact is available for review at City Hall by filing a request during regular business hours.

BEFORE THE CITY PLANNING COMMISSION OF ROCKAWAY BEACH, OREGON
Application #2007-19 "NEDONNA WAVE" A 28-Lot Planned Unit Development Subdivision
Findings of Fact Date: July 28, 2008 Page 2 of 2

"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

BEFORE THE CITY PLANNING COMMISSION OF ROCKAWAY BEACH, OREGON
 Application #SPUD 2007-19 "NEDONNA WAVE" A Planned Unit Development Subdivision
 Application #VAR 2007-20; Application #VAR 2007-21; Application #VAR 2007-22
 Findings of Fact Date: February 11, 2008 Page 1 of 3

"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

BEFORE THE CITY PLANNING COMMISSION OF ROCKAWAY BEACH, OREGON
 Application #SPUD 2007-19 "NEDONNA WAVE" A Planned Unit Development Subdivision
 Application #VAR 2007-20; Application #VAR 2007-21; Application #VAR 2007-22
 Findings of Fact Date: February 11, 2008 Page 2 of 3

"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".

BEFORE THE CITY PLANNING COMMISSION OF ROCKAWAY BEACH, OREGON
Application #SPUD 2007-19 "NEDONNA WAVE" A Planned Unit Development Subdivision
Application #VAR 2007-20; Application #VAR 2007-21; Application #VAR 2007-22
Findings of Fact Date: February 11, 2008 Page 3 of 3

"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

BEFORE THE CITY PLANNING COMMISSION OF ROCKAWAY BEACH, OREGON
 Application #SPUD 2007-19 "NEDONNA WAVE" A Planned Unit Development Subdivision
 Application #VAR 2007-20; Application #VAR 2007-21; Application #VAR 2007-22
 Findings of Fact Date: February 11, 2008 Page 1 of 34

"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.

BEFORE THE CITY PLANNING COMMISSION OF ROCKAWAY BEACH, OREGON
 Application #SPUD 2007-19 "NEDONNA WAVE" A Planned Unit Development Subdivision
 Application #VAR 2007-20; Application #VAR 2007-21; Application #VAR 2007-22
 Findings of Fact Date: February 11, 2008 Page 2 of 34

"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

BEFORE THE CITY PLANNING COMMISSION OF ROCKAWAY BEACH, OREGON
 Application #SPUD 2007-19 "NEDONNA WAVE" A Planned Unit Development Subdivision
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 Findings of Fact Date: February 11, 2008 Page 3 of 34

"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.

BEFORE THE CITY PLANNING COMMISSION OF ROCKAWAY BEACH, OREGON
 Application #SPUD 2007-19 "NEDONNA WAVE" A Planned Unit Development Subdivision
 Application #VAR 2007-20; Application #VAR 2007-21; Application #VAR 2007-22
 Findings of Fact Date: February 11, 2008 Page 4 of 34

"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

BEFORE THE CITY PLANNING COMMISSION OF ROCKAWAY BEACH, OREGON
Application #SPUD 2007-19 "NEDONNA WAVE" A Planned Unit Development Subdivision
Application #VAR 2007-20; Application #VAR 2007-21; Application #VAR 2007-22
Findings of Fact Date: February 11, 2008 Page 5 of 34

"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.

BEFORE THE CITY PLANNING COMMISSION OF ROCKAWAY BEACH, OREGON
Application #SPUD 2007-19 "NEDONNA WAVE" A Planned Unit Development Subdivision
Application #VAR 2007-20; Application #VAR 2007-21; Application #VAR 2007-22
Findings of Fact Date: February 11, 2008

Page 6 of 34

"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.

BEFORE THE CITY PLANNING COMMISSION OF ROCKAWAY BEACH, OREGON
 Application #SPUD 2007-19 "NEDONNA WAVE" A Planned Unit Development Subdivision
 Application #VAR 2007-20; Application #VAR 2007-21; Application #VAR 2007-22
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"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.

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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.

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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.

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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.

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On-Site Improvements:

Streets:

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

On-site Improvements:

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

Off-Site Improvements:

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

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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 23rd Avenue to a new discharge manhole at 17th Avenue as necessary to serve the project. This is required to alleviate surcharging of the 23rd 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.

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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.

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

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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

...

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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

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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

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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***

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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.

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

Section 3.092 – 3.097 Flood Hazard Overlay Zone

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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.

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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

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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

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Finding of Fact: Criteria met

Section 10.040 Development Standards

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Finding of Fact: Criteria met

(1) Minimum Site Size:

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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.*

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(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:

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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.

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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*

...

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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:*

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...
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.

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(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.

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(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.*

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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*

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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

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(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

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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.

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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.

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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:

...

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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.*

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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.

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"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.

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Application #VAR 2007-20; Application #VAR 2007-21; Application #VAR 2007-22
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"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.

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- (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

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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.

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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:

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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 23rd Avenue to a new discharge manhole at 17th Avenue as necessary to serve the project. This is required to alleviate surcharging of the 23rd 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.

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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.

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"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:

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

BEFORE THE CITY OF ROCKAWAY BEACH, OREGON PLANNING COMMISSION
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"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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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.

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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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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.*

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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.*

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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.*

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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.*

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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.

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- (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.*

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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.*

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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.*

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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.*

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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.*

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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 23rd Avenue to a new discharge manhole at 17th Avenue as necessary to serve the project. This is required to alleviate surcharging of the 23rd 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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- 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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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.*

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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 17th Avenue as necessary to serve the project to and to alleviate surcharging of the 23rd Avenue Manhole; and Paving remainder of Riley Street east of Kittiwake, and Jackson Street.

Findings of Fact:

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

Conclusions:

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

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

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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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).

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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 17th Avenue as necessary to serve the project to and to alleviate surcharging of the 23rd 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"

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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~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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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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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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3. Engineer and install to City standards, and extension of the existing 6" diameter White Dove Sewer manhole at 17th Avenue as necessary to serve the project. This is required to alleviate surcharging of the 23rd 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 17th Avenue as necessary to serve the project to and to alleviate surcharging of the 23rd 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 17th Avenue as necessary to serve the project to and to alleviate surcharging of the 23rd Avenue Manhole; and Paving remainder of Riley Street east of Kittiwake, and Jackson Street.

...

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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.

From: Nancy Osborne <[REDACTED]>
Sent: Friday, August 15, 2025 10:58 AM
To: City Planner <cityplanner@corb.us>
Subject: Case File #Remand-25-1

August 15, 2025
To: Planning Department & City Council

Thank you for this opportunity to provide comments before your September 9th public hearing regarding the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development. I have looked over the First Opinion and Order Issued by the Land Use Board of Appeals (No. 2025-001) and agree with the finding that the City had erred regarding:

1. The application of the Special Area Wetlands Zone, and
2. The application (or lack thereof) of an expiration date on the original 2008 PUD approval.

In addition to the LUBA's findings, I would like to add:

Wetlands are among the most biologically productive systems in the world. They provide primary habitat for many species and food, water, and cover for many others.

Organic waste and runoff from pesticide/herbicide usage (timber company sprayings in logged hillsides) is filtered at wetland sites before entering the ocean.

Wetlands are carbon-storing giants; they also provide flood control, clean water, shoreline and storm protection and as mentioned, vital habitat for birds, otter, beaver, and numerous fish species.

So, I thank you for your work and I hope you recognize the value of our wetland/estuary sites and preserve them for the future.

Nancy A. Osborne
[REDACTED] St
Rockaway Beach, OR
[REDACTED]

From: Rebecca Overmyer-Velázquez <[REDACTED]>
Sent: Sunday, August 17, 2025 9:26 PM
To: City Planner
Subject: Comments Regarding Case File #Remand-25-1

- "Case File #Remand-25-1"

August 17, 2025

Rebecca Overmyer-Velázquez
[REDACTED]
Neahkahnie OR 97131
[REDACTED]

Planning Department
P.O. Box 5
Rockaway Beach, OR 97136

Dear City Council,

Thank you for this opportunity to provide comments prior to the September 9, 2025 public hearing to be held by the City Council regarding the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development. I have reviewed the Final Opinion and Order issued by the Land Use Board of Appeals (No. 2025-001) and agree with its conclusion that the City had erred regarding:

1. The application of the Special Area Wetlands Zone, and
2. The application (or lack thereof) of an expiration date on the original 2008 PUD approval.

In addition to LUBA's findings, I would like to add the following comments.

I have concerns about the freshwater forested shrub wetlands that the Nedonna Development plan endangers, including: protection of the City's drinking water wells, flood control, water storage, fishery protection, wildlife, best practices needed at local level, diminishing wetlands due to development--all of these are important to consider! Once these critical resources that make coastal life so unique are diminished or destroyed, it will be very hard to get them back.

The impacts from existing development need to be defined better prior to further development, while the wetland delineation by the developer does not reflect actual conditions. Just like we've been experiencing in Neahkahnie, in Rockaway there's been more stress on and demand for drinking water and wastewater systems since 2008--this is not sustainable! Additional stress on our water sources is the last thing we need on our beautiful coast. I urge you to protect our environment and our communities.

Thank you,
Rebecca Overmyer-Velázquez

From: Rhonda <[REDACTED]>
Sent: Friday, August 15, 2025 12:36 PM
To: City Planner <cityplanner@corb.us>
Subject: Comments Regarding Case File #Remand-25-1

Dear City Council:

Thank you for this opportunity to provide comments prior to the September 9, 2025 public hearing to be held by the City Council regarding the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development. I have reviewed the Final Opinion and Order issued by the Land Use Board of Appeals (No. 2025-001) and agree with its conclusion that the City had erred regarding:

1. The application of the Special Area Wetlands Zone, and
2. The application (or lack thereof) of an expiration date on the original 2008 PUD approval.

In addition to LUBA's findings, I would like to add the following comments.

Our Drinking Water

As an owner of property in Rockaway, my concern regarding this development is for my family and my guests who spend a lot of time in Rockaway year round. We know that our drinking water has been compromised from the clear cutting and spraying in the hillsides. The city needs to take necessary steps towards taking care of our watershed. The groundwater table near where this development is proposed is very shallow. The potential for contaminated runoff from this development and/or homeowner pesticide use would be great even if new development is connected to the city's water and sewer system. This should be prevented.

Wetlands

Since 2008, our population and tourism has increased significantly. Many of my guests and I have come to visit the Big Cedar Preserve and are awed by the wetlands surrounding the area. Our wetland areas from Wheeler to Rockaway have actually increased since 2008. They provide habitat to wildlife which depend upon it. There are many Sitka Spruce trees that are between 80-100 years old. Wetlands in our area can also help mitigate flooding and fires in our city.

Expiration Date

We understand there will be development in Rockaway to accommodate housing needs, but development should not continue in wetland areas. The city has an opportunity to update the comprehensive plan and ordinances to protect wetland areas. This developer should have to reapply and the city should use the current code and conditions, not from 2008. Any maps used in decision making should be scientifically accurate and provided through a neutral third-party.

I very much appreciate this opportunity to provide my comments and hope that you will take into consideration good decisions benefitting the future and health of our watershed for generations to come.

Rhonda Piasecki
[REDACTED]
Rockaway Beach, OR 971
[REDACTED]

Kathie Raisler

Rockaway Beach, Oregon 97136

Rockaway Beach City Council and Planning Commission

276 S Hwy 101

Rockaway Beach, Oregon 97136

Subject: Concerns Regarding Development in the Nedonna Beach Neighborhood

Dears Members of the City Council and Planning Commission,

I am writing to express my concern regarding the ongoing and proposed development activities within the Nedonna Beach neighborhood. As a resident and stakeholder in this community, I respectfully urge the City Council to pause and critically re-evaluate the planning and approval process for any development in this area-particularly regarding the project commonly referred to as the "Nedonna Wave" development.

1. Ingress/Egress and Public Safety

The Nedonna Beach neighborhood currently suffers from a lack of adequate ingress and egress. This concern has previously been acknowledged, notably in LUBA Case NO. 2008-064, which cited that the absence of a secondary access point violates key public safety standards, including ORS 106.1 and D107.1. These regulations re not merely advisory- they are enforced by the State Fire Marshall and are vital for ensuring timely evacuation and emergency response. Increased residential density without adequate access further strains emergency services, endangering both existing and future residents.

2. Environmental Protections and Wetlands

The Nedonna Beach area contains established wetland zones that serve critical ecological functions, including flood mitigation, wildlife habitat, and water quality protection. These wetlands must be accurately identified and preserved. To ensure

objectivity and compliance with environmental regulations, I urge the City to require a new and independent environmental assessment conducted by a qualified third party. Any development that affects these sensitive areas should be halted until this thorough and transparent evaluation is completed.

3. Failure to Meet Previous Legal Criteria

As referenced above, the Land Use Board of Appeals {LUBA} determined that the developer had not satisfied the required conditions for devolvement approval. Despite this, the project has moved forward without adequately addressing those deficiencies. This is a fundamental procedural failure that cannot be ignored.

4. Lapsed Approval and Need for Updated Compliance

Given the developer's continued non-compliance with the criteria established in the 2008 and now 2025 rulings, any prior approval has become invalid. Therefore, the application process must be restarted from the beginning. This includes full compliance with all current development codes, environmental protections, and public safety regulations. To proceed otherwise would be to sidestep the rule of law and lace the city at legal and ethical risk.

5. Accountability and Adherence to Municipal Codes

Finally, I urge the City of Rockaway Veach to rigorously review its development codes and ensure that all projects-especially those in environmentally and infrastructurally sensitive areas- meet every applicable requirement. The city must follow both the letter and the spirit of the law, prioritizing the safety, sustainability, and well-being of its current residents and the natural environment.

Conclusion

Development must be done responsibly and transparently, respecting both the rule of law and unique environmental character of our coastal community. I respectfully request that the City Council and Planning Commission deny any further action on the Nedonna development until all safety, legal, and environmental concern have been properly addressed through a new and compliant application process.

Thank you for your attention to this matter. I appreciate your commitment to the well-being pf Rockaway Beach and trust that you will take these concerns seriously.

Sincerely,

Kathie Raisler

From:

Kathie Raisler

[REDACTED]

Rockaway Beach, Or 97136

To:

Rockaway Beach City Council
City of Rockaway Beach
276 S. Highway 101
P.O. Box 5
Rockaway Beach, OR 97136

Re: Opposition to Proposed Nedonna Development – Phase 2 PUD (#Remand-25-1)

Dear Mayor and City Council Members,

I am writing to formally express my opposition to the proposed Phase 2 development of the Nedonna Planned Unit Development as outlined in Case File #Remand-25-1. The recent Land Use Board of Appeals (LUBA) Final Opinion and Order (No. 2025-001, July 2, 2025) identified two critical legal and procedural deficiencies in the City's prior approval that remain unresolved and are of significant concern to the public.

1. Conflict with Special Area Wetlands (SA) Zone Provisions

The SA zone is a base zone under RBZO 3.080 whose purpose is to conserve significant freshwater wetlands and related shoreland environments by limiting uses to low-intensity, non-residential activities. LUBA sustained the finding that portions of the Phase 2 project, including proposed residential lots, appear to fall within areas mapped as SA on the City's zoning map—areas where residential use is prohibited. The City's reliance on a new wetland delineation to redefine SA zone boundaries without a formal zoning map amendment is inconsistent with the legal status of SA as a base zone. Until the City can clearly demonstrate, through legally valid processes, that no SA-zoned areas will be used for residential development, the project should not proceed.

2. Expiration of the 2008 PUD Approval for Phase 2

LUBA also found that the City failed to resolve whether the 2008 preliminary PUD Condition of Approval 1—which required completion of improvements within one year unless extended—applies to both phases. Given that Phase 2 construction has not occurred in over 15 years, and no valid schedule or extensions were approved, there is a strong legal argument that the Phase 2 approval has expired. Proceeding without first addressing this issue undermines both the City's development code and the principle of fair, timely land use decisions.

3. Broader Public Interest Concerns

Beyond the specific remand issues, the proposed development raises ongoing community concerns:

- **Public Safety & Access:** As noted in past land use disputes (e.g., LUBA 2008-064), the absence of a secondary ingress/egress point violates fire code provisions (ORS 106.1 and D107.1) and jeopardizes emergency response effectiveness.
- **Environmental Protection:** The wetland areas in question serve vital ecological and stormwater functions. Any development in or near these areas should be preceded by an independent, up-to-date wetland assessment—not solely one conducted by or for the developer.
- **Community Impact:** Increased residential density will place additional strain on local emergency services, infrastructure, and evacuation routes in a coastal hazard area.

Conclusion

The LUBA remand confirms that the City must address substantial legal and procedural deficiencies before reconsidering this application. I urge the Council to deny the Phase 2 PUD request unless and until:

1. A lawful zoning map amendment process is completed to resolve the SA zone boundary issue.
2. The City makes a formal determination on whether the 2008 approval for Phase 2 has expired.
3. Independent environmental and safety reviews are conducted and publicly vetted.

This is an opportunity for the City to uphold the integrity of its land use regulations, protect sensitive wetlands, and ensure the safety and well-being of the Nedonna Beach community.

Thank you for your attention to this matter and for your service to our community.

Respectfully submitted,
Kathie Raisler

[REDACTED]

Janet Teshima
[REDACTED]
[REDACTED]

August 15, 2025

Planning Department
P.O. Box 5
Rockaway Beach, OR 97136

Dear City Council:

Subject: Comments Regarding Case File #Remand-25-1

Thank you for this opportunity to provide comments prior to the September 9, 2025 public hearing to be held by the City Council regarding the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development. I have reviewed the Final Opinion and Order issued by the Land Use Board of Appeals (No. 2025-001) and agree with its conclusion that the City had erred regarding:

1. The application of the Special Area Wetlands Zone, and
2. The application (or lack thereof) of an expiration date on the original 2008 PUD approval.

In addition to LUBA's findings, I would like to add the following comments.

Special Area Wetlands:

1. The vast majority of the subject property is a base zone, zoned Special Area Wetland (SA). The PUD clearly has homes planned in the SA zone in violation of RBZO 3.080. Figure 1 shows that even at the "poor" resolution of the map the land between Park and Riley, bound by the railroad tracks and McMillan creek zoned SA excluding a small strip in the middle. Any overlay zone (PUD, R1 etc.) applied does not change or limit any uses allowed in the base zone.

2. Filling wetland areas is permitted only for allowed uses or water dependent uses. (RBZO 3.080(4)(K)). The PUD fulfills neither and although the developer completed wetland fills and mitigation authorized by the 2008 DSL and Corps permits, it still lacks compliance with RBZO 3.080(4)(K)

Expiration Date Concerns:

1. Condition of Approval 1 carries over to Phase 2. In fact, the finding that the proposed PUD/Phase 2 plan must show that it “can be completed within a reasonable period of time” (RBZO 10.050(2)(d)) supports the premise that time matters. The addition of a second Phase 2 has no bearing on Condition of Approval 1. The developer shall complete the improvements within one year applies unless an extension is granted stands. This timeframe has clearly passed.

We are able to live in beautiful Nedonna Beach because the south Jetty of the Nehalem, built in the early 1900's, diverted sands and silt creating the sandy flats we live on today. Early loggers and residents battled with flooding into the 1950's until they managed to get creeks flowing off the coastal mountains channeled out to sea via McMillan Creek. Today, excluding the threat of a tsunami, flooding has been “managed” and for now the community is in a stable place. Developing what may be the last of historic wetlands would really be sad and threaten the stability we enjoy today.

Imagine what Rockaway could do if it curated the lakes, dunes, forests, watershed, wildlife and wetlands between the Nehalem River and Tillamook Bay.

Thank you,

Janet Teshima

[REDACTED]

Rockaway Beach, Oregon 97136

SA Wetland Phase 2 PUD



Figure 1. Region between thick black lines is zoned
SA

From: **Elaine Busby Thompson** <[REDACTED]>
Date: Fri, Aug 15, 2025 at 9:05 AM
Subject: Case File #Remand-25-1
To: <city.planner@corb.us>

Dear City Council:

Subject: Comments Regarding Case File #Remand-25-1

Thank you for this opportunity to provide comments prior to the September 9, 2025 public hearing to be held by the City Council regarding the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development. I have reviewed the Final Opinion and Order, in fact I attended the meeting where this happened. I know at the time Fema had been late getting out its report.

But since Fema has now acted, I believe the city is in error regarding:

1. The application of the Special Area Wetlands Zone, and
2. The application (or lack thereof) of an expiration date on the original 2008 PUD approval.

In addition to LUBA's findings, I would like to add the following comments.

I have held a property in Nedonna Beach for 25 years. As you know, the area already floods in several areas. Putting more housing near these wetlands is just not good practice.

I also think that the nature and wildlife that this area still has is worthy of our protection. We are a tourism based economy, and this is what people deeply love about the coast. Oregonians cherish their natural areas.

There is also enough stress on our drinking water and wastewater systems.

I believe from what I heard at the meeting that you wanted to make this appropriate decision, but I understand that under the law, you could not.

Now Fema has come out with the proper requirements that make it easy for you to take the right stand for the future of this special area.

Sincerely,

Elaine Thompson
[REDACTED]

Rockaway Beach, Oregon

Mailing address:
[REDACTED]
[REDACTED]
[REDACTED]

From: Phyllis T <[REDACTED]>
Sent: Monday, August 18, 2025 11:17 AM
To: City Planner
Subject: Comment RE Case File #Remand-25-1 SUPPORTING LUBA findings regarding errors in PUD application of Nedonna Development

TO: Planning Department, P.O. Box 5, Rockaway Beach, OR 97136 cityplanner@corb.us
RE: Case File #Remand-25-1
I support LUBA findings regarding errors in PUD application of Nedonna Development

FROM: Phyllis Thompson, [REDACTED] Manzanita, OR 97130 Phone 503-368-5134

18 August 2025

Dear City Council:

Thank you for this opportunity to provide comments for the September 9, 2025, public hearing in regard to the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development. I have read the Final Opinion and Order issued by the Land Use Board of Appeals (No. 2025-001) and am pleased to note its conclusion that the City had erred regarding:

1. The application of the Special Area Wetlands Zone, and 2. The application (or lack thereof) of an expiration date on the original 2008 PUD approval.

Regarding the first error, I have been shocked throughout Nedonna Development's application process that the City of Rockaway would even consider a proposal to build on vital and productive wetlands. This working wetland protects (just as one example) Highway 101 from collapsing near Jetty Creek as it has in the past and provides habitat for creatures and cleansing systems that support the drinking water, salmon fisheries, crabbing, and many other features essential to life in the Nehalem Bay watershed.

Regarding the second error, I find it hard to believe that responsible up-to-date data has been gathered regarding the availability of fresh drinking water for a development of this kind. The impacts of increased freshwater usage on existing residents of the Nedonna area, not to mention the shallow water table everywhere along the Pacific shoreline and its impact on cisterns and water quality for all, must be thoroughly studied before such a development can be approved.

Thank you for your hard work on behalf of the current residents of the City of Rockaway Beach.

Phyllis Thompson

From: Suzanne C. Thompson <[REDACTED]>
Sent: Monday, August 18, 2025 11:16 AM
To: City Planner
Subject: Case File #Remand-25-1

Suzanne Thopson
26085 David Avenue
Rockaway Beach OR 97136
909-767-9079

RE: Case File #Remand-25-1

August 18, 2025

I am writing regarding the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development. I agree with the Land Use Board of Appeals (LUBA) Decision (No. 2025-001): the City made several errors in the application of the Special Area Wetlands Zone and the lack of an expiration date on the original 2008 PUD approval.

The original project had to complete the required infrastructure work and have it approved in a “reasonable amount of time”. It has now been 17 years since that approval process started. This is not a “reasonable amount of time” by any definition. The developer clearly failed to meet the requirements and should not be given special exemptions. To do that would make a joke of the city’s regulations and processes.

In addition to LUBA’s findings and the clear failure to act within the required time, it is important to consider how critical wetlands are to the well-being of a watershed and protection of the City of Rockaway Beach’s water. We lose more and more of our water supply when the city allows development in local wetland areas. Wetlands are how the earth protects its water by storing, purifying, and recharging our aquifers. In addition, wetlands reduce the severity of floods and wildfires, as well as providing habitat for wildlife. The city of Rockaway Beach should be dedicated to protecting our remaining wetlands.

The citizens of Rockaway Beach strongly request that you reject the development application and serve the current and future needs of the city by protecting essential wetlands.

Sincerely,

Suzanne Thompson

From: nancy webster <[REDACTED]>
Sent: Tuesday, August 19, 2025 4:42 PM
To: City Planner
Cc: Charles McNeilly; Penny Cheek; Mary McGinnis; Tom Martine; Kiley Konruff; Pat Ryan; Melissa Thompson
Subject: Case File #Remand-25-1
Attachments: image001-2.png; groundwater drinking water source.png; image002.png

Name: Nancy Webster
Address: [REDACTED] Rockaway Beach, Oregon 97136
Phone: 5 [REDACTED]

To: Planning Department
P.O. Box 5
Rockaway Beach, OR 97136

Date: August 19, 2025

Subject: Comments Regarding Case File #Remand-25-1

To the City Council:

Thank you for this opportunity to provide comments prior to the September 9, 2025 public hearing to be held by the City Council regarding the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development. I have reviewed the Final Opinion and Order issued by the Land Use Board of Appeals (No. 2025-001) and agree with its conclusion that the City had erred regarding:

1. The application of the Special Area Wetlands Zone, and
2. The application (or lack thereof) of an expiration date on the original 2008 PUD approval.

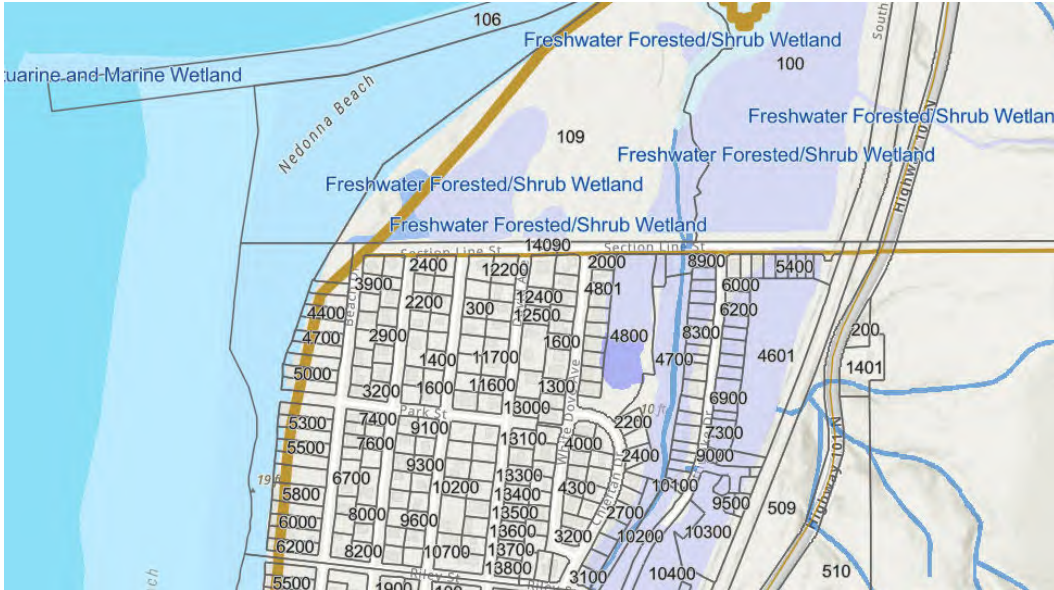
In their remand to the City, LUBA stated that the mapping of the proposed development area was unclear. Therefore, in support of LUBA's findings, I would like to add the wetland mapping information found below.

Nedonna Development has not provided adequate mapping for the City to make responsible decisions concerning the ecology of the area and its connection to the health of our community. These ecologically vital wetlands need to be protected. By protecting them, we will help to safeguard the aquifer below the Nedonna Beach neighborhood, a critical source of drinking water for the community. (see attachment DEQ defined Rockaway Beach groundwater drinking water source area.) We must uphold and strengthen land use protections of these wetlands, not weaken them.

There are several resources available that clearly show wetland delineation in the Nedonna Beach neighborhood. Please refer to the following mapping: **(A)** This clearly delineates the freshwater forested and shrub wetlands in the area; **(B)** Perennial streams: Both McMillan Creek and Nedonna Creek (a fish-bearing stream) originate at a height of approximately 600 feet in the coastal hills, merge near Riley Street, flow through freshwater forested and shrub wetlands, and then into the estuarine and marine wetlands (habitat for Jetty Creek salmonid), the Nehalem River, and the ocean. These streams need the strongest protections, protections which would be weakened or lost through the proposed development.

(A) Department of State Lands

<https://maps.dsl.state.or.us/swi/> - From the Department of State Lands (DSL), which is the official *preliminary* source for wetland delineation in Oregon. Proposed development in wetland areas requires additional assessment by DSL. Note these maps load slowly. (attachment 001-2)



(B) Additionally, here is the map for the National Wetland Inventory data from the Department of Fish & Wildlife: <https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>

(C) Another compelling source of information is the FEMA flood risk map. This mapping illustrates why an area should NOT be developed due to the risk of flooding. NOTE: This data is only visible if you zoom in closely – it should look like this: (attachment .002)

<https://www.arcgis.com/apps/webappviewer/index.html?id=8b0adb51996444d4879338b5529aa9cd>

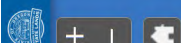


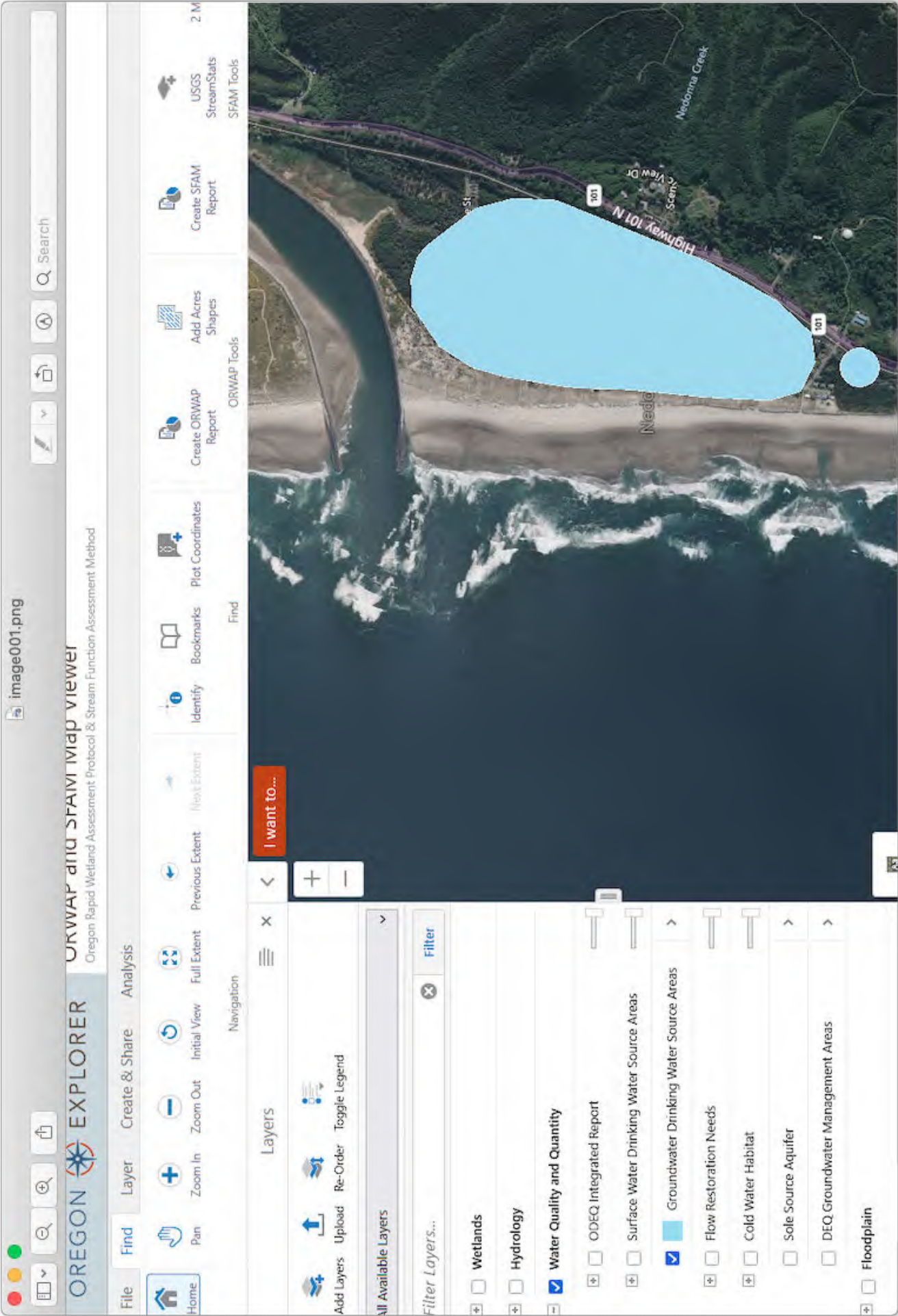
Save and Protect Remaining Streams and Wetlands.

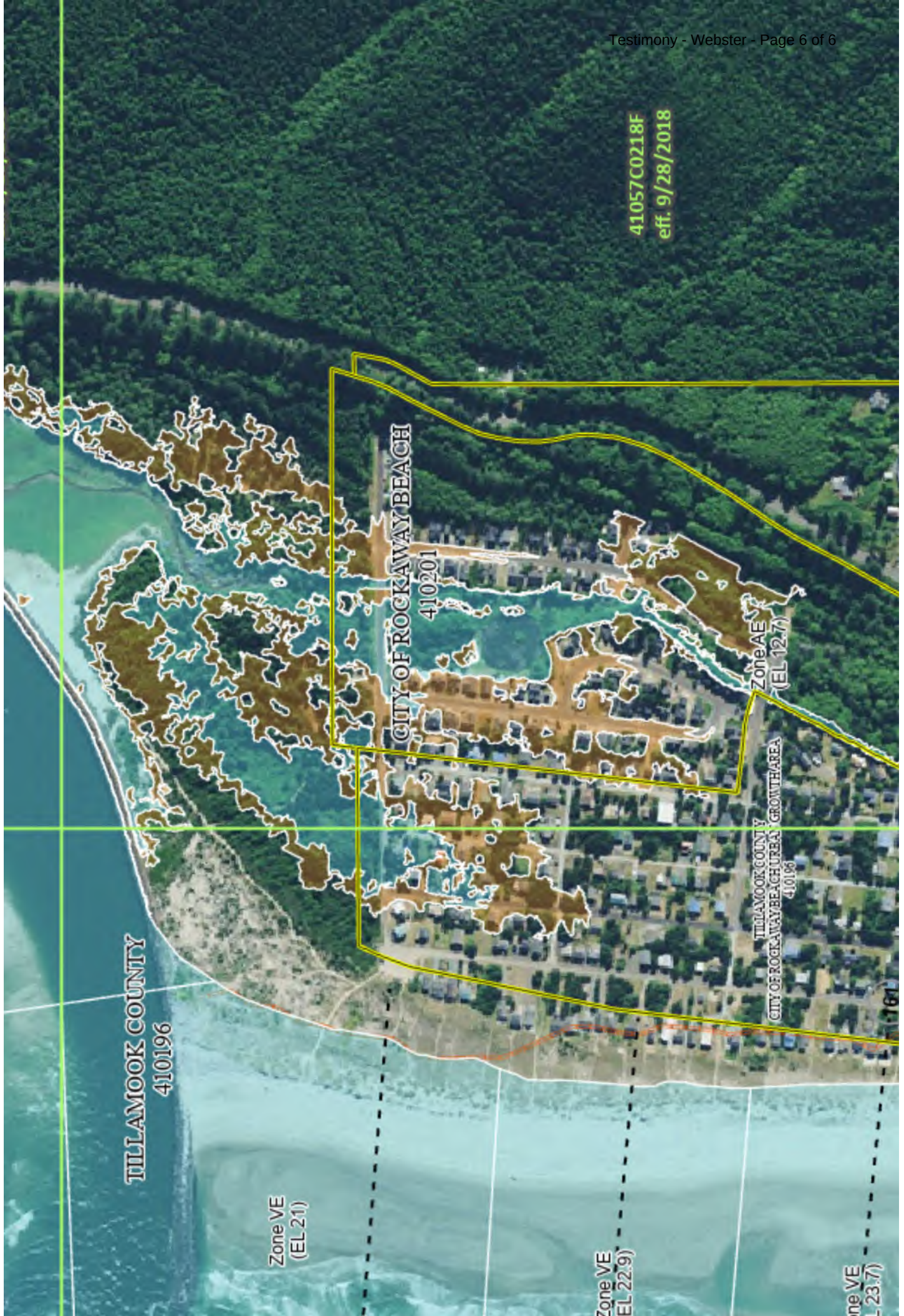
In summary, the Nedonna Beach area includes wetlands that were naturally accreted after the Nehalem River jetties were completed in 1918. Over past decades, there has already been a significant amount of wetlands drained, filled in, and developed. Several winters ago, as I was watching flood waters flow over Section Line Road, someone working for Tillamook County Public Works came by and told me "the more wetlands that are paved, the more flooding will occur." There are still significant wetlands on three sides of the Nedonna Beach neighborhood, the fourth side being the Pacific Ocean.

We are at a critical crossroads. Let's move forward and make a commitment to protect those wetlands and streams that remain. As we face multiple challenges from climate change, including rising sea levels, more than ever we need to maintain a healthy ecological environment for a healthy community.

Let us all, as a community, join together to safeguard and restore our streams and wetlands for future generations.







From: Danny J Wilhelmi

[REDACTED]
Rockaway Beach, OR 97136
[REDACTED]

Date: 8/19/2025

To: Planning Department

P.O. Box 5

Rockaway Beach, OR 97136

Subject: Case File #Remand-25-1

Dear City Council,

Thank you for this opportunity to provide comments prior to the September 9, 2025 public hearing to be held by the City Council regarding the remand of the Phase 2 Planned Unit Development application submitted by Nedonna Development. I have reviewed the Final Opinion and Order issued by the Land Use Board of Appeals (No. 2025-001) and agree with its conclusion that the City had erred regarding:

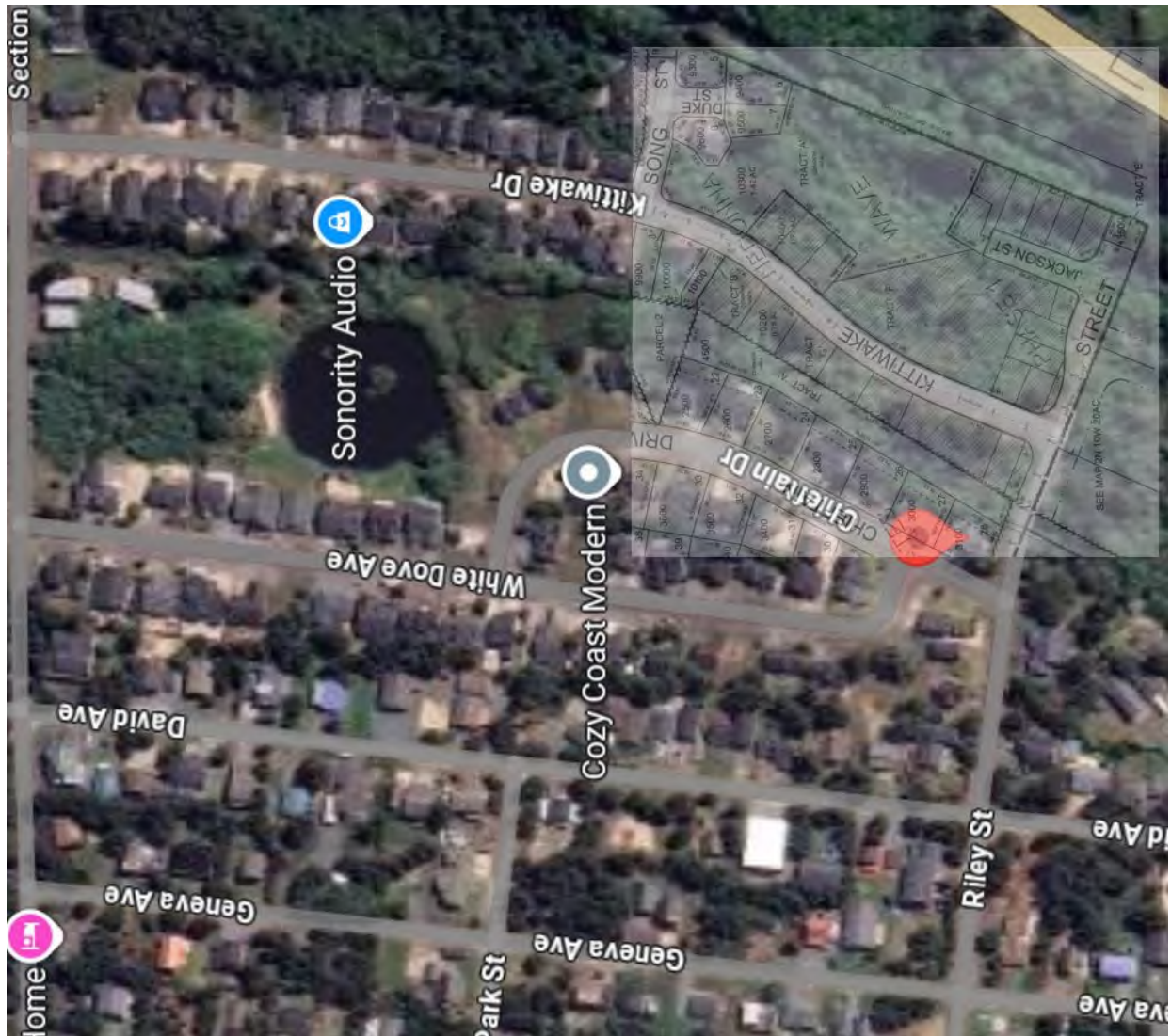
1. The application of the Special Area Wetlands Zone, and
2. The application (or lack thereof) of an expiration date on the original 2008 PUD approval.

Related to issue #1, I attempted to overlay the zoning map on top of the PUD-24-1 lot map, to see if the PUD-24-1 lots were planned to be built in a designated SA. The issue is that zoning map is very large in scale (and not very detailed) while the PUD-24-1 map is very small in scale (and very detailed), this was noted by LUBA as well. To attempt a reasonable overlay (which should have been done originally in some way, shape, or form prior to approval), I combined them in two separate steps as documented below.

- 1) First: Overlay the PUD-24-1 development map on top of a modern satellite image of Nedonna beach. This allowed me to provide a larger area scale/perspective to the PUD-24-1 image, showing a multitude of streets beyond just Kittiwake, Chieftain, and Riley.
- 2) Second: Take the combined map in step1 and then overlay the zoning map on top of it. Given that the zoning map did not have Kittiwake & Chieftain streets on it at all, step1 was necessary to align to the streets which are depicted on the zoning map.

Step1 overlay is shown below.

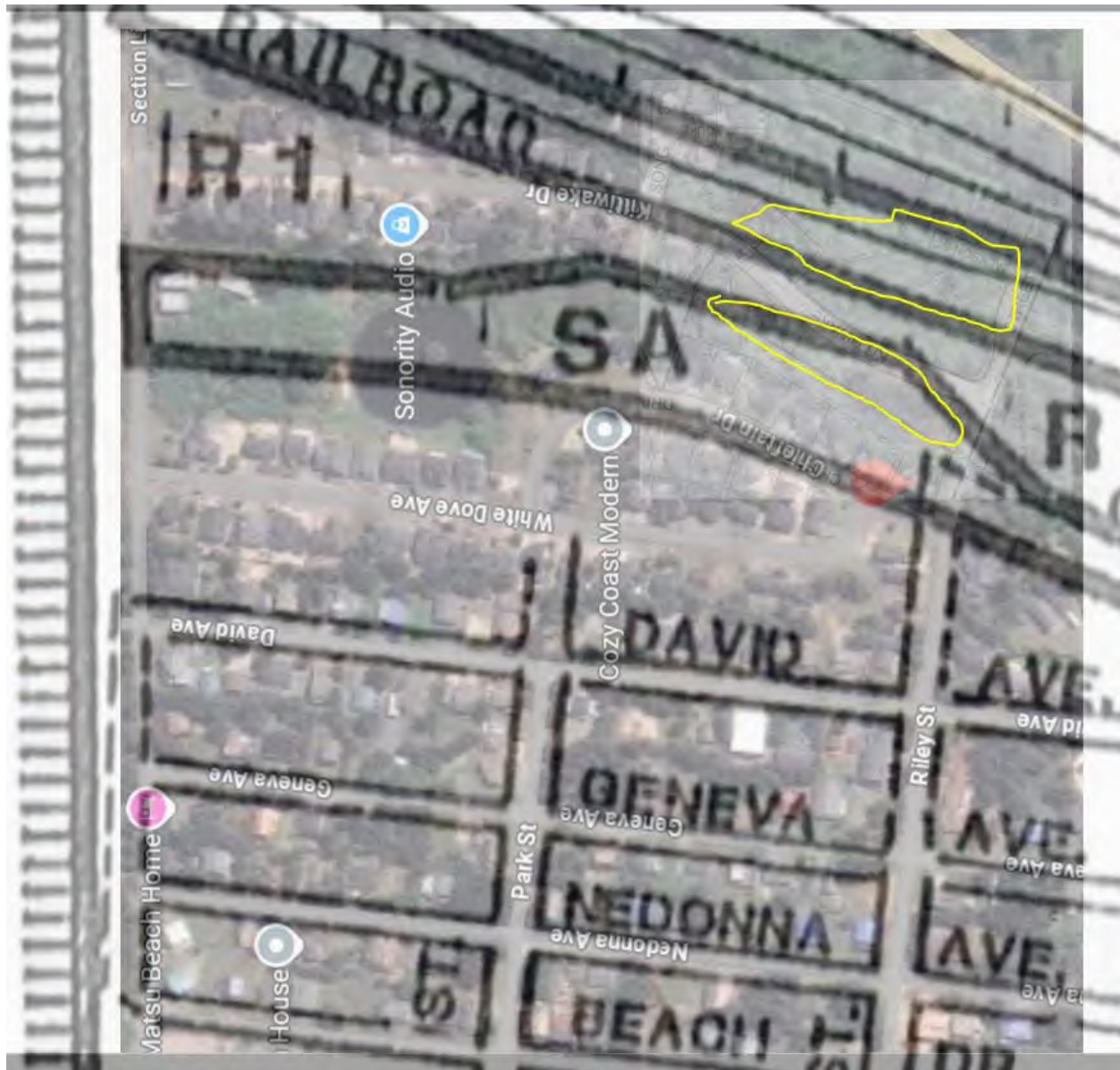
You can see that I can align Chieftain, Kittiwake, and Riley between the satellite image and the PUD-24-1 map very well, hence the remainder of the orientation of additional streets not shown in this zoomed view will be accurate with respect to the detailed info within PUD-24-1.



Step2 is shown below.

You can see the zoning map overlayed now (basically three maps on top of each other). The grid of streets is aligned fairly well to the satellite image (Beach, Nedonna, Geneva, David, Park, Riley, Section Line) which is already pre-aligned with PUD-24-1

I circled in yellow lots which are in PUD-24-1 and appear to be within the SA designated zone.



LUBA wrote in its order: “Nonetheless, we presume that the SA zoning boundaries depicted on the zoning map could, with some effort, be mapped onto a detailed-scale map of the subject property. And we assume that petitioner is correct that, if such an effort were made, the SA-mapped areas of the property would include some proposed Phase 2 residential development.”

I believe my letter and mapping study attempted to do just that, and I believe it has supported/proven the comment from LUBA. As such I do not believe the development is allowed to proceed given that some of the lots will fall into SA zone.

Respectfully,

Danny Wilhelmi

**ADDITIONAL
PUBLIC TESTIMONY
SUBMITTED FOR
SEPTEMBER 9, 2025
CITY COUNCIL HEARING
Remand #25-1
Nedonna Development
Phase 2 Planned Unit
Development**

(Received as 1:00 pm on 9/9/2025)

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City Planner

SEP8 '25 11:45AM

My name is:
Diane Johnson

[REDACTED]
Rockaway Beach, Ore 97136

I hope you and the city council
will reject the application for
approval of the Nedonna Wave Development
Remand-25-1

See attached. Thank-you for
your consideration

Diane Johnson

[REDACTED]
R.B., Ore 97136

Concerning: CASE File # Remand 25-1
Why it matters: Nedonna Wave

- The proposed development sits on ecologically rich *Special Area* wetlands — critical habitat that filters pollution, prevents flooding, and supports native fish.
- The land overlays Rockaway Beach's backup drinking water aquifer — development here potentially puts the safety of the City's drinking water supply at risk.
- This land should never have been approved for residential development in the first place. Local zoning and state law clearly protect these wetlands — and this LUBA decision confirms it. *SA zoned*

We're urging City leaders to reverse their approval of this project and protect these ~~sensitive wetlands~~ for good.

Living in this fragile area near the ocean, wetlands, and forested areas, reminds us of the many ways having a healthy ecological system is crucial to our community's health and wellbeing. Let us all become caring stewards of the wild that surrounds us. The beavers and other wild creatures who depend on the wetlands will thank you. 🌿

Susan Norris

[REDACTED]

Rockaway Beach, OR 97136

Re: Case File #Remand-25-1

Rockaway Beach City Council

Rockaway Beach Cty Hall

CityHall@Corb.us

PLEASE SAVE OUR WETLANDS

I have lived in the Tillamook County part of Nedonna Beach for over twelve years and have owned this home for over 30 years. I am a bird and wildlife enthusiast and in birding terminology consider myself a “birder”. In our little area from the Manhattan Wayside to the Nehalem South jetty, I have taken pictures of over 130 different birds in this area along with various other wildlife that I happen to meet along the way. I have put together these pictures to share with you in a booklet. Such booklet may not be completed at the time of this meeting. If not, I will provide it at a later time. In the meantime, I have included a list of the birds and wildlife which I have obtained pictures of.

Nedonna is a special place for Oregon birding for many reasons. 1) Most birds are migratory meaning that they fly North to their breeding grounds in the Spring and fly back home in the Fall. Each trip can be hundreds if not thousands of miles. Could you fly without an airline, car or train that far? Migratory birds tend to follow the Pacific Coast line (as well as the Mississippi River and Atlantic Coast line) in getting to and from their destination. Some fly over the ocean while others fly over land. In either case, they are usually close to their route line. The trip can take several days, weeks or even months.

2) In Nedonna, small birds such as warblers, sparrows, flycatchers, vireos, grosbeaks and tanagers, use the flyway from Manhattan Wayside, down McMillan Creek and the wetlands to the marsh and either cross the Nehalem River to the state park or fly along side Hwy 101, through Wheeler and then up the coast or up higher on the Coast Range.

Along the way, birds need food, water and shelter. Some stop in Nedonna for any of these and some even make their Summer home here. And this is why the Nedonna wetlands and Nehalem estuary are so valuable. Prior to the building of the Nehalem jetty in the early

1900s, the Nehalem river, along with the Nehalem/Nedonna marsh, Nedonna wetlands and entire Nedonna area, comprised the Nehalem estuary, a bird and wildlife sanctuary.

3) The wetlands are an excellent source of water, rich nutrients, food and shelter for birds, amphibians, insects, animals, and fish. These wetlands connect to the Nedonna Marsh, a very special salt-water marsh, through McMillan Creek and other water ways, eventually reaching the Nehalem River and Pacific ocean. All along the way, nutrients are getting absorbed by others and filtered in the chain of life.

4) You may have heard that “carbon” is a serious contributor to climate change. Well, guess what? Wetlands are one of the most important, natural way, of getting rid of carbon, because they love it, absorb it and digest it.

The Nehalem jetty does not eliminate the Nehalem estuary. It just directs the Nehalem River. The estuary and chain of life process continues to work. However, if we continue to develop land and fill in wetlands, this chain of life process could disappear or in the very least decrease in value.

Development of wetlands is not just a problem of Rockaway Beach or even Oregon. This development process of filling in wetlands in order to develop, has been going on all over the US, if not the world for years. Wetlands provide an easy and economical way for developers to develop land. The question is, are WE going to change this before it is too late?

Developing the Nedonna Wave area will not cause all the birds or life that I have pictured to disappear from our area, but I fear that it will greatly decrease the number of birds that we see today. Birds like warblers, sparrows, robins, grosbeaks, tanagers, fly catchers, herons, egrets, rails, bitterns, etc. will not find the food, water and shelter that they need to survive and will go elsewhere. They will also lose some of their habitat to reproduce and thus their numbers will decrease. This is a never ending cycle. Are WE going to change this before it is too late?

I hope this shows you why I am so passionate about saving wetlands and life. I could go on, but instead would like to offer some suggestions below:

1. The City of Rockaway needs to absolutely save wetlands. By this, what I mean is that these areas (Nedonna Wave development area and wetlands south of Riley and Kittiwake to Beach St) need to be preserved so that they cannot be developed. This

could be accomplished through stricter zoning, new zones, strict enforcement of the Special Area Wetlands area, and even enforcement of FEMA 3 for wetland areas.

Without strict preservation of these areas, at some point in the future with a new Mayor and likely council, someone or group will try to develop again.

2. Rules are useless unless they are going to be enforced. If they aren't followed or enforced, lawsuits will follow.
3. If the developer(s) are allowed to continue with this development, I would suggest that the following be required:
 - a. A second traffic outlet must be built at the North end of Nedonna.
 - b. Large trees need to be preserved.
 - c. Housing setbacks need to abide fish bearing stream rules.
 - d. The Nedonna Wave area should be subject to FEMA 3 to protect home buyers. FEMA 1 will not protect them. Our current President is obviously trying to tighten-up on federal spending and has already eliminated many FEMA positions. He likes money coming in but doesn't like it constantly going out. If Rockaway Beach codes everything as FEMA 1, it is putting home-owners at risk should such flood disasters hit. If an area is knowingly coded wrong and disaster hits, my thought is that lawsuits will result.

Thank-you for allowing me to contribute and participate. I look forward to the meeting.

Susan Norris

Susan Norris

██████████

████████████████████

Table 1 Birds seen in Nedonna and Manhattin Wayside

Rhineoceros Auklet	Aleutian Cackling Goose	Black-legged Kittiwake
Brewers Blackbird	Cackling Goose	Common Loon
Tri-colored Blackbird	Cackling Minima Goose	Pacific Loon
Yellow-headed Blackbird	Canada Goose	Red-throated Loon
Red-winged Blackbird	Greater White-fronted Goose	Yellow-billed Loon
Brant	Clark's Grebe – possible Western/Clark's Hybrid	Mallard
Bufflehead	Red-necked Grebe	Western Meadowlark
Bushtit	Western Grebe	Common Merganser
Black-capped Chickadee	Black-headed Grosbeak	Hooded Merganser
Chestnut-backed Chickadee	Evening Grosbeak	Red-breasted Merganser
Coot	Pigeon Guillemot	Merlin
Brandt Cormorant	Bonaparte's Gull	Common Murre
Double-crested Cormorant	California Gull	Ancient Murrelet
Pelagic Cormorant	Glaucous Gull	Marbled Murrelet
Brown-headed Cowbird	Glaucous-winged Gull	Red-breasted Nuthatch
Brown Creeper	Heerman's Gull	Osprey
Red Crossbill	Herring Gull	Black Oystercatcher
American Crow	Iceland Gull	American White Pelican
Long-billed Curlew	Laughing Gull	Brown Pelican
Eurasian-collared Dove	Ring-billed Gull	Red Phalarope
Mourning Dove	Short-billed Gull	Red-necked Phalarope
Short-billed Dowitcher	Western Gull	Black Phoebe
Long-tailed Duck	Northern Harrier	Band-tailed Pigeon
Ring-necked Duck	Cooper's Hawk	Rock Pigeon
Ruddy Duck	Red-tailed Hawk	Northern Pintail
Wood Duck	Sharp-shinned Hawk	American Pipit
Dunlin	Green Heron	Black-bellied Plover
Bald Eagle	Great Blue Heron	Semi-palmated Plover
Peregrine Falcon	Anna's Hummingbird	Virginia Rail
House Finch	Rufous Hummingbird	Common Raven
Purple Finch	Stellar's Jay	American Robin
Northern Flicker	Dark-eyed Junco	Sanderling
Olive-sided Flycatcher	Dark-eyed Slate-colored Junco	Baird's Sandpiper
Pacific-slope Flycatcher	Killdeer	Least Sandpiper
Willow Flycatcher	Belted Kingfisher	Pectoral Sandpiper
Northern Fulmar	Golden-crowned Kinglet	Spotted Sandpiper
Gadwall	Ruby-crowned Kinglet	Western Sandpiper

Barrows Goldeneye	Greater Scaup	Lesser Scaup
Common Goldeneye	Black Scoter	Surf Scoter
American Goldfinch	White-winged Scoter	California Scrub-Jay
Sooty Shearwater	Pine Siskin	Wilson's Snipe
Fox Sparrow	Golden-crowned Sparrow	Harris' Sparrow
Savannah Sparrow	Savannah Sparrow	Song Sparrow
White-crowned Sparrow	European Starling	Surfbird
Barn Swallow	Violet-green Swallow	Vaux Swift
Wandering Tattler	Green-winged Teal	Arctic Tern
Caspian Tern	Common Tern	Elegant Tern
Hermit Thrush	Swainson't Thrush	Varied Thrush
Spotted Towhee	Black Turnstone	Hutton's Vireo
Turkey Vulture	Black-throated Gray Warbler	Hermit Warbler
Orange-crowned Warbler	Townsend's Warbler	Wilson's Warbler
Yellow Warbler	Yellow Warbler	Yellow-rumped Warbler
Cedar Waxwing	Whimbrel	American Wigeon
Eurasian Wigeon	Downey Woodpecker	Hairy Woodpecker
Bewicks's Wren	Marsh Wren	Pacific Wren
Wrentit	Greater Yellowlegs	Common Yellowthroat
Harlequin Duck female		

Table 2: Wildlife seen in Nedonna

Banana Slug	Beaver	Rabbit
Cayote	Chipmunk	Deer
Dragonfly	Elk	Douglas Squirrel
Gray Whale	Harbor Seal	Sea Lion
Blood Moon	Mushrooms	River Otter
Raccoon	Salp	Sanddollar
Jelly Fish	Pacific Sea Nettle	Sunset
Starfish	Beachie Squirrel	Weasel
Weird Thing		

Suzanne Thompson

[REDACTED]

Rockaway

RE: Case File #Remand-25-1

This is going to be short.

My husband and I have had a home in Nedonna for over 30 years.

We love Nedonna and we love Rockaway Beach.

It is essential to protect the watershed and wetlands that help protect and provide clean water to the homes in Nedonna and Rockaway so all of us (residents and visitors) can live in and visit this beautiful area without compromising our health.

I strongly urge you to follow the staff report recommendation to reject the Nedonna Wave Development Application and not allow the proposed development.

From: Sally White [REDACTED]
Sent: Tuesday, September 9, 2025 6:19 AM
To: City Planner <cityplanner@corb.us>
Subject: Rockaway Beach's Wetlands

Dear City Planner et al:

As an Oregonian who loves all the natural places of this state and make a point to visit as many as possible, I object to allowing yet another developer to destroy what belongs to all of us and to the future Oregonians.

Here are the well thought out reason:

- The proposed development sits on ecologically rich *Special Area* wetlands — critical habitat that filters pollution, prevents flooding, and supports salmon and endangered steelhead trout.
- The land overlays Rockaway's *backup aquifer* — development here puts the town's emergency water supply at risk. This in itself should raise major concern for those living in and depending on the quality of their water.
- This land should never have been slated for residential development in the first place. Local zoning and state law clearly protect these wetlands — and this LUBA decision confirms it.

Last, but not least, letting this go through is the crack in the wall that opens the door for similar attempts and sets precedence for similar action. Do NOT approve this attempt.

Thank you,

Sally A White



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, 2007¹.
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.

Emphasis Added on dates referenced most in the Staff report.

¹ 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 4th 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.

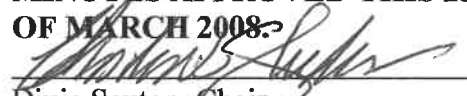
**Commissioners
Concerns**

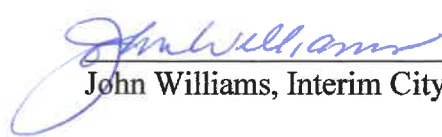
It was suggested that Rules and Regulations of conduct at Planning Commission meetings be created and made available to persons attending the meetings.

Adjournment

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

**MINUTES APPROVED THIS 25TH 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 27TH
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

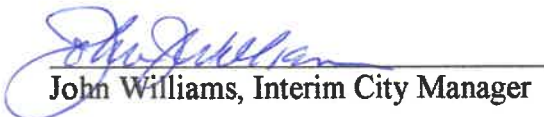
Orloff made a motion, seconded by Porter, to adjourn this meeting of the Rockaway Beach Planning Commission; Breazile, Porter, Orloff, Owens, Sexton, and Sheckler voted in favor; motion carried.

Sexton adjourned the meeting at 8:40 PM

**MINUTES APPROVED THIS 7TH
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 regravell 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 26TH
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.

Public Comment-Pro	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.
Final Staff Comments	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.
Close Public Testimony	Sexton closed the public testimony portion of the hearing.
PC Discussion and Consideration	<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.
PUBLIC HRG. NEDONNA WAVE SPUD#07-19	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.
Challenge to PC Jurisdiction	There was no challenge to the Planning Commission's jurisdiction.
Conflict of Interest/ Personal Bias	Breazile stepped down for this hearing due to a personal interest. Remaining members had no conflict of interest or personal bias.
Ex Parte Contact/ Site Visit	There was no ex parte contact expressed and all had performed site visits.
Staff Report	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 siting 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.

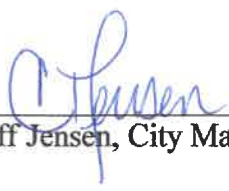
ADJOURN

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 26TH
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 4th 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.

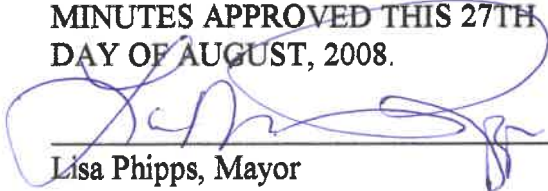
**REGULAR
SESSION**

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

"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".

"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".

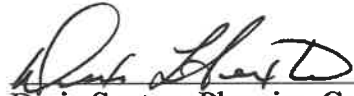
CASE RECORD:

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

"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 23rd Avenue to a new discharge manhole at 17th Avenue as necessary to serve the project. This is required to alleviate surcharging of the 23rd 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***

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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

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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

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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

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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

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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

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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

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"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

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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

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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

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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

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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)

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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)

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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***

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

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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

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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

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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

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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

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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

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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

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Finding of Fact: Criteria met

Section 10.040 Development Standards

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Finding of Fact: Criteria met

(1) Minimum Site Size:

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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:

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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.

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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 23rd Avenue to a new discharge manhole at 17th Avenue as necessary to serve the project. This is required to alleviate surcharging of the 23rd 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:

(RBZO)	City of Rockaway Beach Zoning Ordinance
Article 10	Planned Unit Development
	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

"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.

"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.*
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"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 23rd Avenue to a new discharge manhole at 17th Avenue as necessary to serve the project. This is required to alleviate surcharging of the 23rd 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 17th Avenue as necessary to serve the project to and to alleviate surcharging of the 23rd 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.**



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

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

III. Applicable Criteria:

Rockaway Beach Zoning Ordinance (RBZO)

Article 10 Planned Unit Development

Article 11 Administrative Provisions

IV. Staff Summary of Findings of Fact:

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

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

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

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

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

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

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

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

Staff Conclusions:

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

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

"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 17th Avenue as necessary to serve the project to and to alleviate surcharging of the 23rd 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.
-

"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 17th Avenue as necessary to serve the project. This is required to alleviate surcharging of the 23rd 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 17th Avenue as necessary to serve the project to and to alleviate surcharging of the 23rd 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 17th Avenue as necessary to serve the project to and to alleviate surcharging of the 23rd 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.
