

**MINUTES**  
**Nye Beach Design Review Overlay**  
**Ad Hoc Work Group Meeting**  
**Newport City Hall Conference Room A**  
**Wednesday, April 23, 2014**

**Ad Hoc Members Present:** Wendy Engler, Kathy Cleary, Don Huster, Michael Franklin, Jody George, and Karen Wilson.

**Planning Commission Liaison Present:** Jim Patrick.

**City Staff Present:** Community Development Director (CDD) Derrick Tokos and Executive Assistant Wanda Haney.

Tokos opened the meeting at 10:31. He noted that per discussion at the last meeting, he had sent an email of what the different topics would be for the different meetings. He said that this meeting is largely focused on reviewing the overlay boundary and whether changes need to be made to the boundary. The second item on the agenda is to discuss if there need to be any changes to the range allowed for principle uses. Then we will reserve time to talk about whether guest speakers or technical experts are needed for the different aspects. Tokos left a spot for other issues anybody wants to talk about. The last agenda item is to set a date for the next meeting. The next meeting will cover height, mass, setback, and solar access.

**I. Review overlay boundary for potential changes.** Tokos noted that two maps had been sent to the work group. Both show the overlay boundary; but one has zoning and one doesn't. He said that without the zoning, you can see things better. Tokos opened the discussion up to the group to discuss whether there are boundary areas of concern. Franklin asked over by the Whaler Motel, what the purpose was for cutting through the property there where it jogs in and excludes part of it. Tokos said that when they originally did that, he thought the intent was to more or less reflect the boundary of the original Whaler before the addition. The Whaler picked up property from Urban Renewal to do a two-phase addition to the motel. They did phase one; the parcel between the PAC and the Whaler is still vacant. Tokos agreed that area is a good candidate for cleanup. Patrick asked if he would put it in or out. Franklin said that is a beautiful corner. He asked if you want that nice viewpoint to be part of the Nye Beach district or take it out. Tokos said if the group feels that corner is important from a design perspective as an entryway into the district, then is it necessary to make a change and include it or does it make sense to leave it out. It would pick up the final phase of the motel expansion, but not the older parts of the motel. Franklin asked if the Whaler is remodeled, would John Clark be held to continue the flow in his building. Tokos said from a design perspective, outside the district Clark is free to do what he is doing inside the district. The guidelines in the district would guide whatever renovations he would make. George asked about the little cottages. Patrick said they belong to the Whaler, and Clark treats them as vacation rentals. Patrick said the problem with the Whaler is that it probably violates the mass rule now as it stands. Huster asked if that whole area was included in the overlay, would that cause Clark all kinds of grief if he tried to build out the rest of the motel. Tokos said it would impact the design certainly. He noted that the Greenstone Inn (the old Viking) came in under the design overlay; and Clark would be looking at something comparable. Patrick said that Whaler's phase two would still be under the guidelines. George said Clark also owns property behind the hotel, and it is inside the boundary. Tokos said that is city-owned right-of-way owned by a third party; next to Dolphin Street right-of-way is not owned by the Whaler. Engler asked if Clark doesn't just have an option to buy it. Tokos said that actually there is an option that if he doesn't construct the second phase within a number of years, then the City has an option to buy it back. Engler said that property has the best view in Nye Beach. Huster asked how long that option was. Tokos said it was renegotiated in the last couple of years and was something like five or seven. Huster said so there is maybe three to five years left. Engler said that she didn't see any reason to change it. Franklin said if Clark is happy, then don't change it. Patrick was inclined not to include it. He said if it will cause problems for Clark, leave the boundary where it is there. George said it doesn't really achieve anything. Tokos said as far as design standards, when you look at the residential areas immediately to the east, that area is substantially built out. The influence of the design standards will be over the long term as homes are torn down and rebuilt. That is the hard thing. The district's not that old. Even in this tough coastal environment, it will still be a substantial amount of time.

Cleary asked what everyone thought about the north boundary. She said it seems it is far enough out of Nye Beach. George said it seems that way to her too. It goes up to 12<sup>th</sup> Street. Patrick said that the condos at the far north came in under Nye Beach design and so did all of Ian Clayman's little houses. He could do them outright under Nye Beach design. Engler said that is where we get into trouble with the 10-foot driveway. People park in their driveways and block the sidewalk there. There is no sidewalk on the east side, and you have to go out in the street. Huster said that it may be something to think through again on the standards. Require 20 feet or a residence has to be placed almost up to the sidewalk. Where you have a reduced driveway, they think they can use it; and it blocks the sidewalk. Franklin said it may need to be a case-by-case basis and look at the property instead of a firm rule. George asked if it were five feet or clear to the front, could they still put a driveway in back. Huster said on the side of the house. Tokos said parking is one particular item you're addressing. Should we address that and avoid 10-foot driveways. Franklin said not to allow 10-foot driveways. Huster said we're not reducing parking, it's just how it's achieved. Cleary thought they may not be able to have a parking area if it's on the side. Tokos said it's within the group's power to look

at parking standards and relieve certain parking requirements. You will have the options, but try to avoid a situation of setting up standards that complicate other things like pedestrian mobility. Franklin said if they are not allowed to put in a driveway, then you would have the street completely full of residential parking. Cleary said where the Montessori school is at 2<sup>nd</sup> and Coast Streets, they park in the middle of the sidewalk. Even bringing setback forward to the sidewalk has not relieved that. Patrick thought that was more of an enforcement issue. Tokos said the code says that you cannot block sidewalks. Huster said with those all the way up to the sidewalk, they could be required to have a garage on the first floor and living up above. That way, even on small lots, you could achieve parking and have enough square footage to live in. Cleary said that she wasn't sure about on the side; but just to provide off-street. Huster said to make sure they are completely off the sidewalk.

Back to the boundary, Patrick wondered about the jog around that one little part at 11<sup>th</sup> and Spring Streets. It was discussed that must be that someone wanted to be in the district. Engler recalled that they took out just to the south of the purple house where a manufactured home was approved. A manufactured home was approved when it shouldn't have been. Tokos noted that as long as a manufactured home meets the standards, we can't keep a manufactured home out of the district. Franklin noted that the homes on the west side of Hurbert at 10<sup>th</sup> Street are cut out, but are cute little homes. Huster said that it seems the boundary goes far north. Patrick said he thought it was to pick up Jump Off Joe property. Tokos said the tricky thing is Jump Off Joe was built under the Nye Beach standards for density and parking. If you pull it out, this development becomes nonconforming. George wondered if the view of the district here is to restrict things or actually by these restrictions make things buildable. Patrick said that 50% of the district was not buildable. They wouldn't meet the citywide standards for lot sizes and lot coverage to replace before the Nye Beach standards were put in. The only option was that you could combine properties. George thought that shrinking the boundary size from the north will create issues with nonconformity. Tokos said there would be issues for development that was approved under the Nye Beach standards. He said if the group wanted to pick up the rest of the R-4 up there that probably wouldn't have an impact. That would eliminate that one little finger of property, and there probably wouldn't be a big impact. Bringing in R-2 has challenges. R-2 has lower density, and there are no standards to deal with the R-2 zone in the Nye Beach standards. That would take a whole new set of zoning standards. It is only road right-of-way at this point. Franklin was worried about that little piece where that person must have really wanted in the district and then we just chop them out. Patrick suggested following the R-4 line because we can make a case that the Nye Beach standards have no standards designed for R-2 at all. For them to be in there doesn't make sense at all. Tokos said the design standards and the uses speak to R-4 and C-2. Huster said if we followed the R-4 line that would take in the east side of Spring Street up north where it looks like the boundary goes down the middle of the block. That would help the streetscape on Spring Street. If we included that in the district it would allow the streetscape to be uniform on both sides, which might be desirable. George asked if we would eliminate the R-2 up there and just follow the R-4 line. Tokos said yes, he was drawing it in from 8<sup>th</sup> Street on up. Huster asked if the manufactured home was grandfathered in. Tokos said that most homes in Nye Beach were built prior to the overlay. George said that is the only manufactured home she knows of in Nye Beach and asked if it's nonconforming inside the boundary, what that means. Tokos said it is fine as is. It could be replaced under the nonconforming rules if it were destroyed by fire; but if they did a different house, the new house would have to comply. George said it doesn't seem like a terrible thing to leave them in. Franklin agreed it wasn't worth excluding them. Huster said some time down the road, that manufactured home has to be replaced. This is an opportunity to set the stage for that. Tokos agreed that just following the R-4 line makes sense. He said that with the C-2 growth area, one big area is north where redevelopment may occur on these properties. Franklin wondered about a property that has been under construction for some time that kind of sits in a hole in that R-2 area. He wondered if they are having to build to Nye Beach standards and if we take it out, does that affect them. Patrick thought that following the R-4 line makes sense. He said we have standards for that; we don't for R-2, so R-2 makes no sense. Huster asked about along the east side of that P-1 zone, that leaves a strip of R-2. Tokos said that is just right-of-way. Huster thought it was drawn correctly then to include R-4 and exclude R-2. George asked about the P-1. Tokos said that the way public structures are built needs to be complementary. The PAC renovation would be subject to design review. Patrick noted that the juvenile facility doesn't meet the standards. Tokos passed the revised map around, and the consensus was that it was okay.

Franklin asked about the skate park. Tokos said that there has been some discussion that that is not the best place for a skate park; tucked away out of public view with a large wooded area next to it. There has been some discussion whether that is the best use of P-1 zoned land or if it's better situated somewhere else. He expects that conversation to happen in the coming years. Franklin thought it might be better in the park behind the Montessori school. Tokos said there has been that conversation. There are plans to do additional improvements down by Coast Park.

Patrick thought the only other boundary to take a look at might be Hurbert Street and whether to move it further back or not; but he thought it was fine where it is. Engler asked, move it to Cottage or something. George said it would cover the crest of the hill that way. Engler thought it was fine where it is. George said the only reason to move it back is so the hillside doesn't end up with some very visible building on it. Patrick said it would be problematic. It would include Doug Fitts' trailer park. George said she was okay leaving it as is there; but she could see value in moving a chunk back to Cottage because that is a high ridge that has old classic beach houses along that ridge. It could become a big hotel. Cleary thought the geology would be difficult. George didn't think so on the southern chunk. She said it is a ridge of vintage cottages along there and one vacant lot. She is imagining those houses being torn down and something big and contemporary going there. That is why she thought that row of houses should be included. Franklin said it may be beautiful looking at the whole Nye Beach below, and it wouldn't obstruct

views sitting up there. Cleary asked if the rules for mass are tighter or looser for R-4. Patrick said looser. Tokos said in R-4 you could get more building on a lot, so in Nye Beach you have to break it up. Patrick said otherwise you could have a giant massive building if you wanted. He added that the odds of somebody buying all of that property on the ridge is slim. Cleary said that a lot of those houses have been remodeled recently. Tokos said they all would have to be willing sellers.

Tokos asked if the one change to the boundary on the north is the only one. Patrick said it's the only one he can see. Cleary said that eliminates the issue of removing that one little jog. The consensus was it was okay. Tokos said the one piece to look closer at is at the Whaler. He doesn't know if that line is clear. The intent was that the original Whaler was out; the addition was in. We may be able to clarify that. It just may need some fine-tuning to make it clear that all of the original is out, the addition is in, and the future addition is in. Tokos said that he didn't know the timing; it goes back to the 90s. Huster said maybe before the overlay. Patrick thought it was under the original overlay when they did the addition. It was the original one, not the revised. The rules were different then than they are now. He didn't know if they had rules on mass or just architectural standards about how it looked. It was under the architectural review committee then. He thought it was in that window of time. We had to get clear and objective standards, and that's when the code was revised. Franklin asked why not include Clark in the whole thing. Huster said the original would be grandfathered; all he would do is comply with any remodel in the future. Patrick thought we would want him to take a look at it. Cleary wondered if there were plans to pave or vacate Dolphin. Tokos said it's possible it would be extended at some point. He said if we're thinking long-term, the City will retain the right-of-way as elaborate as bluff erosion could be. If the Whaler develops, it's possible the street will be extended through. A lot of road rights-of-way the City holds on to because of the bluff erosion. Huster asked if we then should just clean up the boundary on that corner. Patrick asked how. Tokos said that line is where Clark did his expansion. Especially if it was already reviewed in district, it's not controversial to Clark. This is just making sure. We are talking about a few feet here. We need to figure out where the addition started. Patrick thought just about midway. Tokos said it makes sense to have the addition included in the boundary. Cleary asked if there is a negative to going down 2<sup>nd</sup>. Huster said it could be a possible negative to Clark because if he wants to remodel he would be within the guidelines and he may not like the added expense or style. George said if you cut it down the middle, Clark's not going to remodel the building to look one way here and differently over here. Patrick said the second part is definitely in the district. Because of massing, he can't connect it to the existing building. Tokos said it will have to be a separate distinct development almost. The internal circulation will be shared. Patrick said it is worth talking to Clark. It would help clean up the lines. Clark has to look at the rules, though. Patrick was pretty certain that the Whaler was under the original Nye Beach overlay and doesn't meet the standards after we revised it. Tokos said it's not advantageous to the district or the owner to have it cut through the middle. Tokos said he maybe can approach Clark and can set it to the north boundary of the current motel between the houses and the motel, which means phase two will stay in the district and everything else is outside. Or we could bring the entire thing in without cutting the building in half. Patrick asked if that would include the buildings across the street. Tokos said if we jog down, then yes. Patrick asked about jogging around the existing Whaler property and go back there and pick up those others. But he said his preference is to throw it all in. Tokos said if the entrance to Nye Beach is being what Patrick's talking about, is the entrance really here or do you want it over farther. He thinks those little homes will go away at some point potentially. Even if Clark doesn't want in, we would have the ability to do that. If we bring that in, then we bring the line across and it gets picked up. Patrick asked, straight down 2<sup>nd</sup> and across. Tokos said the first choice is straight. If Clark says no, then we'll just include the end and come back down and try to pick it up. Cleary asked if Clark gets a choice; and Tokos said not necessarily. Patrick said he'd be a lot better off. He owns both. It's a conversation either way. Patrick said we could leave it like it is; but he would like to clean it up because it cuts the building in half. Tokos thought that Clark will be receptive to that. Huster said if another big hotel went in there, do we want the entry to be between two big hotels. George said that nothing really marks it. She doesn't think it really is like that. Tokos said if this was in the district and a new hotel goes in, it's not looking like the Shilo or some of the others. The standards require that it is broken up. George said that this park is so important that we should have a buffer zone here from the giant hotel zone. Now it does have little houses. Tokos said his preference is to draw the line straight there but to get Clark's feedback. Cleary thought it is important to protect where the little cottages are. Engler said that as long as Clark owns the Whaler, he probably won't build the hotel. Tokos said that Clark is thinking long-term in terms of the property.

**II. Determine if range of allowed uses is appropriate or if revisions are needed.** Tokos noted that one of the lists he sent out was C-2 uses, which is the most extensive. Engler asked if there is no bicycle or watch repair in C-2. Tokos said that he's assuming repair uses are not listed so are not permitted. Cleary said vocational schools also. Engler asked about jewelry schools and photography schools. She thought we included small-type schools. It was noted that schools are a conditional use. Tokos noted that some repairs are on the prohibited list. Vehicle repair is a no-go in Tourist Commercial. Both repair-oriented retail and vehicle repair are not allowed in C-2 generally. Nye Beach is not the only C-2 zone we have. The Planning Commission thought those uses are not tourist-oriented. Engler asked about bicycle repair. Tokos said if the repair is a part of the retail shop; just repair is not permitted. The sale of bicycles are permitted in retail sales. Patrick asked if vehicle service would be like an Oil Can Henrys. Tokos said service but not repair would be like an Oil Can Henrys. It's not likely it would happen there. Cleary said that the parking lot across from the commercial laundry would be large enough. Tokos noted that the C-2 list is dated 1/2012. That is when the Planning Commission went away from trying to regulate individual uses based on the SIC codes, which used to be several hundred uses. It was untenable. So the shift was made to something more commonly used; categories. You try to define it by categories such as retail sales and service, or repair-oriented retail. In the tourist area you may have sales-

oriented general retail and maybe 80% is appropriate, maybe 20% isn't. The Planning Commission considered what the risk is of that 20% actually happening in an area catering to tourists; and they thought it wasn't likely to happen. Tokos noted that retail sales and service and entertainment are called out as permissible commercial uses. That would include restaurants. It is pretty straightforward. Franklin noted that it says there "drive-thru", and he asked if a drive-thru is allowed in Nye Beach. Tokos said that is addressed back in the standards. Patrick said so the standards are an overlay of this. Engler asked what about a brewery. Tokos said that is a restaurant primarily. He explained that the way this is approached is what the primary operation is. Is it a restaurant with beer making on the side and it's part of the whole theme for drawing people in. You could button a restaurant with beer being brewed as part of the theme. They wouldn't be able to do manufacturing because of the size of the property required for that. That would need a large area like Rogue. There isn't truck access for manufacturing and distribution. Cleary noted that in Bend, the Deschutes Brewery started downtown and when the business decided to go big, they found another area. They kept the retail and go find manufacturing outside. That is what large microbreweries do; they go find a warehouse for that part of the operation. They could start little because of the retail sales piece to that. Franklin said they could start in any restaurant; they just have to get their OLCC licensing. Tokos said a brew pub is fine.

Patrick said that the overlay says you can't have a mobile home park in Nye Beach. Tokos confirmed that the overlay doesn't allow that. RV parks are not permitted in C-2 but could potentially be in R-4. Huster asked what about RV facilities. Tokos said no RV parks in C-2 or P-1; but it doesn't speak to R-4. He believes they are allowed in R-4 by the code. He suspects it's not a good use there. The type of vehicles it attracts is contrary to what you are trying to accomplish. Big RV parks would be challenging.

Patrick thought we should keep home occupations in there; and there was agreement.

Going through the R-4 uses, Tokos noted that mobile home parks are out in Nye Beach. Franklin asked about nursing homes, and asked if a hotel could be turned into a nursing home. George said it doesn't seem like anything you would put in Nye Beach, but maybe it shouldn't be. Tokos said it's nothing that would conflict with anything. Franklin didn't know about boarding houses. George thought the concept is fine. She said there are some fabulous hostels. Franklin said he had a concern with room and boarding houses where the bathrooms are shared. He said everybody moves in. George thought that by eliminating it, you are eliminating a great potential for things. It's unlikely something like the Brown Squirrel would happen given the architectural standards. George said an old house with five bedrooms that does happen. She doesn't think it's ideal. She is unsure how you can eliminate that and not eliminate bed and breakfasts. Tokos said we could always shift it into the conditional category. Hostels are down there. They are not that different. Everyone agreed with that. Patrick said that RV parks should go out from under the conditional uses. There was some discussion about making VRDs conditional, but they are regulated under the VRD/B&B code, where both are allowed outright in any residential zone. Huster said if they build a single-family home in R-4, they can do that. He asked if in C-2 that is allowed. Patrick said in a commercial zone, you can't do a single-family home. It is residential over retail typically. There is some allowance in Nye Beach where you can have residential; but generally you can't have them. Most of those houses are legacy and are nonconforming. Over time, they will be developed as commercial. Tokos said you don't achieve your objectives overnight. Since the residential list was dated 1998 and there have been some changes, Patrick asked to have an updated list.

Tokos said we will carry this over to the next meeting and finish the conversation on uses. We will have the conversation about the architectural standards and bring in experts. We will begin the discussion on mass. And we will bring an updated list of R-4 or distribute it prior to the meeting.

**III. Adjournment.** Having no further time, the meeting adjourned at 11:55 p.m.

Respectfully submitted,

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Wanda Haney  
Executive Assistant