

**MINUTES**  
**Nye Beach Design Review Overlay**  
**Ad Hoc Work Group Meeting**  
**Newport City Hall Conference Room A**  
**Wednesday, May 28, 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.

Tokos opened the meeting at 10:30 a.m. He went over the materials he had to hand out. He noted that for the second item on the agenda, he had Victor put together some photographs showing most of the key buildings with how they were permitted and what setbacks were required and what was actually built. What he's hoping to do as we go through that conversation is get a sense of what the concerns are. He also had some information on solar access that he pulled together relatively quickly, which he can talk about. He has implemented solar standards in a prior position so he has some experience with that. But he began the meeting with item one to finish the discussion in terms of the use list.

**I. Finish discussion about range of uses within the Overlay.** Cleary asked if we actually finished deciding what we were going to do about the boundaries. It was confirmed that the group did finish that by just basically agreeing on it. Tokos said he will close the loop with John Clark; but he had enough direction from the group that it was really what met Clark's needs more than anything else. It really was if Clark was okay with it continuing to cut through the middle of his property; or if not, then shift the boundary so it picks up everything. We had a change up on the north end so it squares that off and gets rid of the R-2 that we picked up previously. It included the little finger that got dropped off before. It pretty much just follows the R-4 zoning on the north boundary. There are some public-zoned areas within the overlay; and we had talked about leaving those.

Looking at the list of uses, Tokos began with R-4 in terms of what is permissible in the residential zone. He noted that now that we've carved out the R-2, R-4 is the only residential district. He said you will see that it's been essentially residential development in R-4 since you've had an overlay. Cleary asked what's meant by home occupation. Tokos explained those are businesses in your home, which we allow citywide in residential zones. Cleary said this brings up a question about the guy who wanted to manufacture writing pens and there was no place in the City where he could do it because of zoning restrictions. George said that manufacturing is really different than home occupations. Engler asked if there aren't different types of manufacturing. George said that manufacturing implies to her that you should be in South Beach in an industrial zone. Tokos said that typically the zones in which you'll find manufacturing are C-3, I-1, and I-3 zones; and in the I-2 zone, of which we only have one property. In other words, the industrial zones and the heavy commercial zone is where you'll find manufacturing. We have a fair amount of heavy commercial north of the bridge. The corridor on Highway 20 is heavy commercial for example; and there are also pockets along 101. Engler asked how you define manufacturing; and is that always heavy commercial or light industrial. Cleary said like jewelry manufacturing. Tokos said there is also the distinction that say you have a jewelry store, and it's primarily retail and you do manufacture some pieces there; that's fine. That's a retail establishment; the manufacturing there is ancillary to the retail activity. It's what the predominant activity is. Typically when we think about manufacturing as a predominant activity, the extent to which you have a store front is pretty limited. He said to think of a Franz-type bakery. A production bakery may have a little bit of retail store, but it's a very small footprint as opposed to the large warehouse space that it needs, the shipping, and the things that go along with that. Whereas if you think of something like Latta's Fused Glass down on the Bay Front, they have manufacturing; that's part of it, but it's a retail establishment. Predominantly what is available to the public is the retail space where you can purchase product. Tokos said the department has to make those kinds of calls all the time as to what is the predominant activity. It's usually pretty self-evident. Franklin asked if there are certain percentages; whichever is larger. Tokos said we usually try to avoid parsing it that way. It has more to do with if the retail is the driver, you want to be in an area where you have that foot traffic and things of that nature. If manufacturing is the driver, then you tend to need bigger properties because you have more storage and warehousing and shipping. Your whole property needs are different. Anything that is small boutique, which you find in Nye Beach for example on the smaller properties would be retail-driven. These sites aren't big enough to be manufacturing-driven. Patrick asked what Tokos calls sheet metal businesses. Tokos said metal fabricators might fit in light industrial. Patrick said that most of those businesses are in the commercial zone. Tokos said that our C-3, Heavy Commercial, has pretty flexible allowance as well. Patrick said if he was doing pen manufacturing, he would call it fabricating or a hobby business. Cleary said that she buys from a gal in Nye Beach that makes jewelry; actually in her house. Engler asked if that would be considered a home occupation then; and as a home occupation, you could manufacture something? Tokos said you can. The home occupation stuff doesn't prohibit manufacturing. Really what it gets at are things like no signage, no noise, no display of product, and no traffic beyond what would normally be attributable to a residential area. What it tries to say is you can do it as long as it's not evident. Cleary asked how that works for the beauty shop in the little cottages on 2<sup>nd</sup>. There are some home

businesses there. Can't they post their hours? Tokos said if it's a home occupation, then they can't do signage. Engler thought that the astrology bookstore has signage, and she has a home occupation. She asked what the reason is for not including someone that wants to make fountain pens. Tokos said he doesn't have the details on that one. Patrick said you could get that as a home occupation. He said the problem though would be with the beauty parlors. He asked if they're in the R-4 or in the C-2. He thought if it's in the C-2 then he believes it's an outright use. He said you have to remember a good chunk of this is C-2. Tokos said all of those on 2<sup>nd</sup> are in C-2. Patrick said that anything from Coast Street going towards the ocean is C-2.

Going back to the R-4 list, Tokos asked if anybody had any heartburn with the list as drafted. Franklin had a question about the difference between hostels and rooming and boarding houses. Is there a money exchange or lack of that that creates the difference; or are they the same thing? Patrick said hostels are short-term; and a rooming or boarding house is more long-term. Tokos agreed that hostels are for more transient guests. Patrick said a hostel is sort of like a motel; it falls in the same category. That is why it would be a conditional use.

Engler asked for clarification on manufacturing. She would like to think that we are encouraging small sort of artisan-type businesses. She said it doesn't seem that we would want to exclude those just on the basis of a definition. Franklin said that he doesn't think it's that they are being excluded, it's how much of the business is a retail portion. He asked if that's the reason. Trying to get the right context, Tokos said we are discussing the residential zone and asked if Engler was talking about residential and a home occupation. She said she was talking really in general about manufacturing in R-4 or C-2. She asked how much manufacturing can be done in C-2. Tokos said we will pick that up when we hit the C-2 list. Engler asked if home occupation could be manufacturing as long as there's no evidence. Tokos confirmed that as long as there's no evidence occurring that is visible to the public.

Engler asked if the history museum could put in a small museum in the R-4 zone. Tokos said potentially. George asked what accessory uses means. Tokos explained that accessory is an ancillary use. He said storage is probably the most common; like a shed or outbuilding. Huster asked, but not a storage facility. Tokos said no, it has to be accessory to the primary use. Cleary asked if this is like a little mother-in-law cottage that Tokos said had passed. Patrick said that falls under the accessory use code. Tokos said he was thinking about calling out ADUs. We haven't put them on these charts. Patrick said we probably should put them on these charts since it's a fairly new thing. Tokos explained that the Planning Commission within the last year passed the accessory dwelling unit code, which basically allows very modest ancillary dwellings in existing homes or on existing properties. They have to be connected to the same utilities as the primary dwelling. They could provide for rental income, but they are also commonly constructed by folks looking to have a living space for a parent or relative or grown kids. Patrick said they're pretty hemmed in; there's a lot of restrictions on size compared to the house, etc. We're pretty loose on how you can do it; you can have it in the house, over the garage, or a separate building. If it's a separate building, it has to match the house. Huster asked if that's allowed in all of the residential zones. Patrick didn't remember. Tokos believed all residential districts; he didn't recall us putting any limitations. George asked if it's a conditional use or just straight out; and she was told they are an outright use. Tokos said also they don't count against your density limit; you can exceed your density limitation with that. They can't be over 600 square feet or a percentage of the size of the primary dwelling if the primary dwelling is small. So ADUs are tiny. Patrick said they are pretty well constrained as far as size. He doesn't think they are going to cause any problems anywhere. Franklin asked if there's a max coverage that can't be exceeded. Patrick said there's a max coverage that's already built into the code. Tokos noted that we are starting to see those being constructed. He said we have some that were illegally constructed too that this helps out as well.

Tokos asked if there were any questions on the permitted and conditional uses there. He asked if they seem pretty straightforward. Patrick thought the residential looks fine. In the R-3 zone Engler couldn't recall why we excluded hostels there; while vacation rentals and bed and breakfasts, which would be transient uses, are permitted. Tokos said that we don't have any R-3 zoning in the Nye Beach District. In the R-3 you don't have hotels or motels either. He thinks at some point the City made a call that transient lodging of that nature was not appropriate in the R-3.

Going on to the C-2 list handed out at the last meeting, Tokos noted that there is a whole range of sales-oriented general retail or entertainment-oriented retail that are permitted; as are parking facilities and basic utilities. Then moving into the conditional uses, you have personal services. This was structured intentionally. Personal service uses can locate outside of tourist commercial areas, but they are allowed conditionally in C-2 if it's a good fit. There is a list of some examples of what those are. Major event entertainment was put in this category. He doesn't know if that would happen in Nye Beach; but Nye Beach isn't the only area we have C-2. The rationale there is if we had anything large like that with that kind of traffic generation, that's going to require a lot of community input. Waste and recycling related is unlikely to locate here; although some small package sewage treatment facility or something of that nature (the City stuff) may. Franklin asked like the City pump station, and Tokos confirmed that would fall in there. Tokos said a conditional use for a utility corridor would be for like a regional gas or electrical transmission line or pipeline of some sort; which he thought is unlikely. Community services are certainly a possibility; but again that's conditional here. Patrick said it already is down there; the ambulance station is already down there. Tokos agreed, but said further development or redevelopment could include that; that's realistic. Educational institutions would fall under conditional; but he thinks that's unrealistic, it just happens to be listed. Medical uses like hospital facilities

would fall under conditional. There's a note there that uses in excess of 2,000 square feet of gross floor area are conditional uses in Nye Beach.

Prohibited uses include large retail like bulk retail; which he doesn't think Nye Beach has the space for anyway. Something that is strictly office, like a professional office use, is not permitted because this is tourist commercial. There is plenty of C-1 and C-3 zoning for that in areas that aren't as important for tourist activities. Repair-oriented like for TVs, clocks, or watches is not permitted. Again, that would be if that's what its primary purpose is as opposed to a retail establishment that does watch repair or jewelry repair but is really a retail establishment. Franklin asked if the laundry drop-off that was in Nye Beach is no longer an outright use. Tokos said that would be personal service; and that was nonconforming, but it is gone. Tokos said then self-storage, manufacturing, and industrial uses are prohibited. Huster said going back to the laundry, he knows that they had the cleaning facilities and pollution issues and things like that; but would a storefront that would accept laundry as a service just as a drop-off be permitted. Patrick said that is a conditional use. Tokos said it says Laundromat under conditional. Cleary noted that it says laundry drop-off under prohibited. Patrick said under personal services you have Laundromats. Tokos said these groupings that you are seeing are examples because you can have different flavors of different things. So Laundromats, if it's a personal-service-oriented retail, would be conditional; so most of your laundry would fall there. The thought was that maybe laundry drop-off should be removed from under repair-oriented retail. Engler asked if in the C-2 zone, a home occupation would apply there. So a watch repair could operate in a C-2 as a home occupation. Tokos said if you have an existing home in the C-2, you could take advantage of home occupation. Huster asked if Engler was thinking of a residential zone. She said she was thinking if you find yourself in a C-2 zone and you want to repair watches, could you do that. Patrick said no. Tokos said only under a home occupation in an existing home; and that would have to be pretty small scale to do that. So it would fit under home occupation if you were just a master crafts person with limited clientele that drops by and you had specialized merchandise. You couldn't have a general repair that would involve signage and things of that nature because that's outside the scope of home occupation.

Engler asked what it would take to change a few of these uses in C-2. She thinks some fall within the spirit of the design overlay. If you have a craftsperson. She can't imagine finding someone who repairs watches or sewing machines; but it sure would be nice. She's talking small scale. Tokos said when you think about it though, this is a tourist commercial area. We have C-1 and C-3 for repair work. This is an area where you draw in a lot of tourists. He asked, so from a use perspective, do you want a lot of uses in this area that really don't have a need to be here for tourism? In some respects you are unlikely to see a bunch of them locate there anyway because it's not conducive to their business. Nye Beach is going to be a higher-priced area; and it's higher priced because of the tourism draw there as opposed to locations for watch repair or any kind of to locate in some lower-priced I-1 or C-3 area. People are going to these businesses because they need that service; it's not walk-by traffic. Huster said so in the retail world it's kind of split out between what tourists need and those supported by residents. Tokos said right, that's why you don't see that on the Bay Front or in Nye Beach. You haven't historically either, even before these more-refined lists came out. You saw the old laundry in Nye Beach because at that time, Nye Beach was more residential and didn't have the same draw as it does now for tourism. Tokos told Engler what it would take to make changes is that there would have to be a choice by the Planning Commission to move say repair-oriented as a permitted use in the C-2. Now they consciously chose not to do that previously. Cleary said that opens it up to a lot of other things. Tokos said that's because of how the City approaches land uses; not by specific uses, but by like-type categories. So if a like-type category gets moved from conditional to permitted, or from prohibited to conditional, or whatever, that brings the whole category along with it.

Engler said from looking at the Glick plan that this is all kind of based on, the neighborhood was mixed-use (residential/retail); and she thinks most of the businesses rely on the residences. So to enhance the opportunities for residences to have maybe a little business or take advantage of other businesses would be a good thing and perhaps some of those things could just be conditional uses, not outright uses, to at least have some possibility. Patrick thought we might want to make a category of small-scale manufacturing, fabricating. Tokos asked if that's strictly manufacturing and fabricating and not retail. He said it will get picked up as retail if manufacturing is ancillary. He said he was trying to think of an example that wouldn't have a primary retail base to it. Patrick thought that's right; as long as we have a retail attached to it. Cleary said like a tailor; that's usually not retail. Like the Stitchin' Post down on 9<sup>th</sup> for example, if she was in Nye Beach; people just take things there to be repaired. She doesn't sell new or used clothing. She's not really retail; she's selling her service. Tokos said that would be a personal service; and that would be a conditional use. Patrick said even the bicycle repair shops also sell bicycles. It would be the same for most small-scale repair. If they're doing watch repair, they're probably going to be selling watches; so they have retail. Tokos said he's thinking taffy; manufacturing taffy, but it's a candy shop. Franklin asked if somebody's that repairing jeans is really going to want to find themselves in Nye Beach and pay the amount of rent that's required down there in that high-profile area. It was noted that they could be down there in a house, and then it would fall under home occupation. Franklin said with no signage though. George said it seems like a home occupation is what serves our community of Nye Beach very well and encourages the small person to do things. She doesn't understand the total non-signage. Tokos said the other perspective we hear from the public on these, and we do hear it for home occupations that grow beyond limits and become an enforcement issue and neighbors don't like it, is that they purchased a home in a residential area with the expectation it's going to be residential in nature not a bunch of commercial businesses. So when signs show up that tends to be

part of the package of the signs go up and now you have the additional vehicles beyond what you would normally see and it kind of tends to build on itself. Tokos said as Patrick pointed out, much of what we see in Nye Beach is already C-2. Patrick said, which allows it anyway. Tokos said so the R-4 areas tend to be High Street, Brook, Hurbert, and those are predominantly residential. Huster asked, so if you have a house in C-2? Tokos said if you have a house on 2<sup>nd</sup>, you're in anyway. Cleary asked, so you can put a sign on 2<sup>nd</sup>? It was confirmed that you can for all the C-2. Patrick said that originally the C-2 use said your residential could not be on the first floor. Now you have an exception to that rule that says you can put it on the first floor so you can have your house and conduct your business on the same floor. George said which was done because we have a unique neighborhood, and that is what people wanted to see happen. What we are talking about is the small person to be able to work from home. Patrick said, on the other hand, you probably don't want a business on High Street. Down by the Eager Beaver on that dead-end street, you probably don't want a signed business. He noted that besides these rules are written to cover the entire City. A lot of these rules come from trying to maintain zoning throughout the City. He said we try to keep the standards as close as possible across all of it. He thought we were in pretty good shape as far as the C-2 and with the home occupations. Engler said that there was a tile business. She asked George if she didn't really have much retail with that; but she thought it was before the overlay. George said they always had a retail. Engler asked if it was predominantly retail though. George said she didn't know percentage-wise, but it was definitely retail. But it was an art studio, they made them there. Engler said what she would hate to see excluded are art studios or people doing fabric design or silk screening. She said there's any number of things that she would hate to have people just look at the rules and not even question that; and say prohibited, so I guess I can't do that there. George said on the opposite side, if somebody's that easily discouraged they must not be very serious about what they're doing. She didn't feel they had been; but maybe her timeframe was before this was all in place.

Moving on to the P-1 zone, Tokos said the skate park area is the only area where he feels there is any development potential above and beyond what we have right now. The Performing Arts Center is going to be just that. It will probably be expanded or altered at some point; they are working on that. Coast Park may have a small addition to it to the west, which they didn't have a chance to finish off. So there may be something there; probably some additional park activity. There's been some discussion as to whether this is the best place for a skate park with its location tucked back away with trees and woods and opportunities for the police department to keep busy. There may be some revisiting of that in the future; so there would be some development potential there in P-1. He's not sure what would be there other than some sort of park-type use. Maybe a stormwater detention area for stormwater management, which has been talked about. Given the issues we have down here, that might be a possibility; and it would fall under that. Tokos said that his sense is that the public zone is in pretty good shape. The exposure to public uses; for one thing it is already pretty well established what they are, and the exposure to anything new is pretty limited. The Turnaround is P-1 zone; and that's going to be parking with some opportunity for public space. Just throwing out a "what if," Franklin asked if the City could take that parking lot and build an auditorium if that was something they wanted to do for an attraction. Tokos said under "public structure" there's a whole range of things that could be done potentially. He thinks anything there, given the parking issue, is unlikely. Engler thought there is a lot of opportunity in that space just to enhance it with things like picnic tables along the north wall. There's a lot that could be done there that would make it more useful and enhance the neighborhood. She asked where temporary concessions fall in all of this; like if somebody wanted to set up a barbeque place in the Illingworth's parking lot. Tokos explained that falls under vending, and the City has a vending ordinance. The vending ordinance covers two types of vending. One is transient like an ice cream truck and can be no more than fifteen minutes in one location. Mobile food sales would fall under that too. The police enforce that. Then there are fixed stands. The fixed stands are locations where you can have a fixed vending site but are limited in the City. The Nye Beach Turnaround is one of the areas where you can do it. It requires a business license with a vending endorsement. He thought the last one in Nye Beach was somebody doing bike rentals. They struggled a little because Nye Beach is a little windier than a lot of them would like. We have a location on the Bay Front that is a little more sheltered for example. He said that probably needs to be revisited because the vending code is old and a little bit goofy. He said if the group believes that more of that type of either fixed or mobile type of vending seems appropriate or would be good in Nye Beach that's an important thing to capture. Cleary said you like to promote little food carts, but on the other hand then it takes away from the restaurants that are all there. Tokos said that's always been a hot issue in this community in the past because of the costs the brick-and-mortar sites have to incur; which everyone agreed is huge. He said so the little vending carts will undermine them. It was noted that they are charming. George said they also bring people to the area in a way that other things won't. It makes the area seem very alive and very vibrant. She's sure there are lots of negatives about them, but she also thinks in our climate they are very short lived. Franklin said that he didn't think it was cost effective for the girls that sell the hotdogs because they are always up on Highway 20 and not in Nye Beach. George said in a lot of ways she would say it's not really something worth being afraid of. Huster said it will naturally take care of itself. Engler said the climate will take care of it. George thought that all of us as business people feel a little bit like how will this affect me; and it certainly could. Huster said unless it attracts more and the whole pie gets bigger so to speak. Cleary said first it's the hotdog guy, then it's somebody selling tie-died tee-shirts, and then somebody selling jewelry. Engler said the merchants had talked about having a holiday fair maybe at Christmas and having little booths just for a weekend. If they would be allowed to do that, she thinks that would be great. Tokos said then you're talking about special events; and the City has a pretty good special events code. He recalled that Nye Beach used to do the Clam Bake. A holiday bazaar would fall under something similar he would anticipate. George said that's all doable; and Tokos agreed. He noted that Linda does a bead event. The others added that she had the bread vendor too.

Tokos said what he got from the group is that the range of C-2 uses is more or less appropriate.

**II. Review height, mass, setback, and solar access issues.** Touching base on solar access, Tokos said typically when you do a solar access code, for one thing you want to influence your subdivision layout because how lots are configured is a big deal in terms of what your solar access options are. He said, given that Nye Beach is effectively built out in terms of its subdivision platting, there's really not an effective way to tackle it that way unless you're really looking long-term. But he just doesn't see it there. It's really about where your prevailing solar angles are and how you situate structures on lots to insure that you're not overly shadowing neighboring properties. He said these codes can get rather complex, down to formula-based analysis. Tokos doesn't think a solar access code is a really good fit for Nye Beach because you have the existing established lot patterns so you can't do anything about that; it's already there, and the lots are very small. So you don't have a lot of flexibility in terms of how you situate structures; and in fact most of the structures are already built there. Cleary asked if you can tackle it then with height restriction. Tokos said that can be handled with basic setbacks; but he doesn't think a solar access ordinance itself is a really good fit. There are a number of jurisdictions that have them; Ashland, Clackamas County, Portland, Boulder, and Fort Collins all do. Typically you try to get that addressed at the time you do your subdivision platting to insure that your lot configuration is taking advantage of solar opportunities depending on what your terrain is and all of that; as opposed to trying to retrofit something on an existing developed footprint. Engler asked if those cities have done that just with sections. Tokos said it's also important to know that typically commercial areas are not subjected to solar access; it's all strictly a residential application.

Engler thought that one of the main reasons the design guidelines were implemented in 1997 was to prevent big developments that take over multiple lots and block off any ocean views or look like the motels on Elizabeth Street. Preventing that type of thing is what a lot of people talked about. That is what she was interested in with the mass and height and combining multiple lots. She said like some of the pictures we have here. Tokos said as we go through this, if solar access is something you are concerned about; we can keep it on the radar as you move into the architectural standards. That's the other part of design review where it could be picked up as having to go through Planning Commission review or something like that. Cleary said if the Illingworth's parking lot sells, and something the same size as Archway goes in then the Sandbar, Chowder Bowl, and Queen of Hearts will all lose their sun just like she has. She thinks we can address that through mass and height. She said it really needs to be looked at even though it isn't a districtwide issue, because there are so few lots left that are buildable; but there are a couple of key ones that it would definitely impact.

Coming from more of the developer's side, Huster said the flip side of that is that you have to look at the challenges of doing something cost-effectively. How do you make economic use of the property that you have? You are not going to be able to charge some little merchant \$10 thousand a month for a thousand square foot space; that simply doesn't work. He said to address that and to encourage smaller merchants and get the cost down, one way is to be able to get enough on a piece of property to spread the costs to make it affordable. Otherwise we could end up with a situation where it's so restrictive that nobody can figure out how to cost-effectively build anything and the lot just sits there and nothing happens. Even older structures decay and aren't replaced because nobody can afford to do anything that makes any sense. Franklin said in his case that is a very valid point. There are specific issues to each individual lot, and each owner has their own problems. He said in their case at the Chowder Bowl, they have a creek that's under the building. Every single structure from the bookstore three-story structure all the way down are built on pilings except for one that built a basement. When they got plans drawn up to redo the Chowder Bowl if that were to happen one day, they have so many issues with draining underneath their structure and so many requirements from the City in parking inside and under their structure that they would pretty much have to draw a line from their front door flat towards the ocean and that would be their first floor just for their parking and drainage requirements. So their first floor starts right there. He said so if you say you can't go more than three stories, two stories, one story, or whatever, you're limiting our future growth. You're limiting the true potential of our property. It may not be cost-effective to rebuild the Chowder Bowl at that point, and we are sitting on a structure that was made in 1920. It was noted that the Chowder Bowl is very charming. Franklin said yes, very charming, but very complicated to maintain. He said that they've put in over \$100 thousand over the last year and a half just to keep it up and running.

George said that's our issue here; how do we have a balance between making it economically feasible so that our neighborhood doesn't just disintegrate because nobody can afford to build but still retain the sense of what it is and its charm. She said those of us that have been here for a long time see that disappearing. She doesn't want people to come to Nye Beach and have it look just like Cannon Beach; she wants them to know where they are. She said how we achieve that is really tricky. Engler said that's the whole purpose from the City's Comprehensive Plan; to enhance new and redeveloping structures to preserve the natural setting and the intrinsic value of the neighborhood. She said that she thinks that all of us here are probably developers to a certain extent and want our property values to go up. She knows one of the developers that put in big hotels on Elizabeth Street certainly benefitted and can really recover their investment; but the people right behind them, their properties lost all their value. She said one might say that's a takings issue when somebody else can totally obliterate your view or your sun and create a wind tunnel. She thinks those are issues. She said sure everybody wants to develop their property the best that they can; but we're all in a neighborhood together. It would be great if we could learn how to enhance each other's property.

Huster said it's a balance; there's give and take on both sides. He said hopefully we can come to some arrangement where it's not all one way or the other because either way kind of stalls it out. There's some middle ground where people can work together where things can get done.

Tokos had the document he had mentioned earlier that had photos, zoning, and setbacks for key properties. Cleary also had brought photos. Tokos said the first photo on his materials shows Nye Beach prior to Archway Place. It shows that there's a large surface parking lot there. Actually there's a couple of photos showing that. He said then we move into the photos of the different developments themselves. Archway Place is the first one. It talks a little bit about the land use action; Planning Commission conditional use permit in 2006. The exterior dimensions triggered that. The allowance of residential over retail, as you see in several buildings, was a key component that was built into the Nye Beach Design Review Overlay. The building height is 42.25 feet. The text on the next two photos is the same; it just shows different vantage points of the Archway Place building. Then there is a photo of the McEntee building. These are taking advantage of the zero setbacks. The McEntee building is a little bit shorter at about 35 feet. Huster asked if there isn't the small setback requirement in C-2; five feet max or zero. Others thought it is. Huster said you have to have it up to the front to the sidewalk. Engler asked how long the McEntee building is, but Tokos didn't have a dimension. Engler thought that the roofs are more like a 4:12 pitch instead of a 5:12. Patrick said no, they are 5:12 or 6:12 in looking at it. Franklin said they're the same as the Moore building. Tokos said again, the McEntee building has residential over retail. A photo of the Moore building was on the next page. The building height is less than 35 feet on that. George asked if its second floor footprint is a tiny bit smaller or is it just that there's a little extension of the roof. Franklin said they're exactly the same. It's an eyebrow roof that's built on afterwards. Huster agreed they just put a decorative thing around it. Engler thought one of the second owners put that on. Tokos said, moving on to page 8, this is a view of basically Nana's before they re-sided. Nana's did not have to go through design review because it was just re-siding and façade work; but it's still just as transforming as you can see. George said it also shows the little house next door, which the Overlook replaced. Tokos said now you have that patio space, which you didn't have before. Franklin asked from the pre-Nana's location to the now Nana's location, if the building to the south would be a solar issue to the group members today. Some of the others said they believed so. Cleary said and also in the Moore building. George said the Moore building is not three full stories; but the Overlook is. Cleary said but when you look at how the Moore building fits into that neighborhood. The McEntee building is also three full stories. Huster said if you go on to the next page, which shows the Overlook; George's building would shade the building where the Overlook is now. George said that's true because hers is coming up hill and is three-stories; but part of it is dug into the ground.

Patrick said part of what you want to keep in mind is called streetscape; and it requires mass. If you start stepping this stuff back, it opens it up and doesn't create the environment that people are used to and want to see when they are in a retail environment. George said she disagreed with Patrick one hundred percent. Engler did too. Patrick said he's just telling them what newer designers are saying. They are telling us to do exactly what we are doing in Nye Beach right now. Engler said that she thinks it's a big mistake; and we all fell for it. It's not preserving our character of the neighborhood. Huster said part of the owner's responsibility that can be included in this; you want density because you can reduce sprawl. Like if Sharon hadn't put condos on top of a building, well those are four condos that would have to go somewhere else. He said what Patrick says is absolutely correct. He thinks there's kind of the proportioning type of thing. You have a core area of a neighborhood where you want density, but maybe as it dissipates out that you want a little less density. Patrick said they're talking about commercial spaces; not residential spaces. George said but you're not talking about Nye Beach, you're talking like it's a generic. Patrick said no, he's talking the new urbanism. This is stuff like Northwest Crossing in Bend. There's a big movement on this stuff; and all the stuff we did in Nye Beach was based on that. Some of the other members said that doesn't make them right. Patrick said they are saying it requires that mass to make that streetscape. If you start stepping this stuff back, people drive by it; they don't stop. They don't get out and walk; they won't walk. Cleary said they're not talking about street setback. We're talking about height; we're talking about mass. Franklin said what he thought Patrick is talking about is how the second floor goes back, and then the third goes back farther. Patrick said what he's telling them is that it has to come forward to the street in that kind of environment. George said that is part of our rules. She didn't know if we are referencing second and third floors. Patrick said that he doesn't know all of this stuff; he just keeps seeing and watching what you are talking about. He's not an expert on this, but they are telling you that you need to have that canyon-like experience or retail vessel park. Cleary said she can tell you about living in that canyon; and living in that canyon is not what it was promised to be. Patrick said that all he is saying is what these people who do this are saying. He said that he didn't buy into this new urbanism thing until he saw Nye Beach turn around. He remembers what Nye Beach was before and what it is now. George said that everyone here is a person who was involved in the whole process; and we all have a little different perspective. She would say that every single one of us is very aware of new urbanism; but we also have our own neighborhood. She thinks it's incumbent on us at this meeting to try to retain that uniqueness. If we build a canyon that is just full of three-story buildings, it won't be Nye Beach; it will disappear. George said she really believes that her customers won't come. They know that this is a unique, special place; and we have to make sure we keep it that way. She said what's there now is there; but let's make sure as we go forward we keep Nye Beach special. She said it's a pretty great little spot. Engler said anybody who's been in retail there for years and listens to customers who come in from all over who are just astonished with this neighborhood and say they can't believe this neighborhood. The more of the bigger generic buildings that the new urbanism budding designers design trying to match what the current fad is, the more it destroys the character. It just looks like it could be anywhere. She said like

George's business is in the old Hodel house, and it adds so much character to that street. That's why people come. It's the lifeblood of retail owners. She would think that if you ask anybody who's been successful for a while, they depend on the character of the neighborhood to bring customers.

Franklin said that thirty-five years ago Nye Beach was nothing. In the changes that have happened over the years and the overlay change, Nye Beach really became something in the last ten years. It is a very successful place for everyone that's down there. He has people that walk into their gift shop all the time, and he hears them from his office upstairs saying that they have been constantly coming to Newport for thirty years and they never knew this place existed. He said that's due to the overlay and bringing people down there in the last ten years. It really has become something. He does attribute that to the overlay and to the density and to the changes that were made. Engler said and to the Sylvia Beach Hotel; that's the anchor that brings people from all over the world. It's unique. Tokos said something to keep in mind is that the Sylvia Beach is not a two-story development. Engler said it also has an east-west orientation so it doesn't block off view. The way it's situated, it's not blocking a lot of view. It's up on a hill. It doesn't block off a big section of ocean. It's public space. Everybody can go into their bookshop and go out on the porches. It's a very inviting public space. It really contributes a lot to even people who don't stay there. Engler said the thing about density is that it is often used as an excuse to build vacation rentals and condominiums where nobody lives. She asked what density is; is it building nine condominiums, and one is occupied? She said that doesn't look like density; it doesn't contribute to the economic vitality of the neighborhood that much if there's nobody living there. She said her understanding is that the idea of density is to create a little neighborhood around that supports the businesses. Tokos said a lot of the residential over retail we have in Nye Beach is specifically there for folks that are there on a seasonal basis; and it does absolutely help the commercial. They're coming there, and they are going to eat in the restaurants and shop in the shops when they visit Nye Beach. Cleary disagreed. She said people don't come and use them; the condos are empty. She said she understands that there's no way to insure that when somebody buys a condo they're going to use it. Tokos said he knows if the condos are not there; there's not going to be that residential presence. Patrick said the problem is the second story is not going to be useful as retail, it's not going to be used as commercial, it's not going to be used for anything. Then you end up with one-story things. He said the point that these people are making is that you need this kind of closed-in space in order to make this work. It's some sort of perception, a psychological thing that you won't shop. You'll shop an area like Nye Beach because it's kind of like a canyon; but you won't do the same thing if you make it one-story. Cleary asked would they do it if you make it two stories. Patrick said he didn't know. He said she would have to ask those designers. Cleary said we have two-story buildings in Nye Beach that are successful.

Patrick said on the flip side of that is that a lot of this stuff doesn't pencil out unless you can get enough units in it to make it worth your while. Cleary agreed that it's a real challenge. Patrick said you won't get the redevelopment. He said to just ask Huster. Patrick said it's like trying to build apartment buildings now days; it doesn't work. He said Huster's been trying to build apartments up in Wilder but can't find a design that works. Patrick said he knows something about the rental business and can tell you that unless you are willing to feed it for five years, you're not getting apartment buildings. Patrick noted that Newport actually met the statewide standards for density; and that's because of Nye Beach. Huster said that's another interesting facet. Patrick said it's because so much development went on in Nye Beach, and we got the units in smaller, denser areas that the State wants to see. He said Newport was one of the few places that actually met that standard. Tokos said, stepping away from Nye Beach and talking citywide, geographically we're not like the valley; we just can't sprawl. Cleary said that she does think the development is important. She thinks it just needs to be to scale so that the mass of the space that's being taken up both visually and really is not so oversized in proportion to the rest of the neighborhood. She said that's her biggest issue. George said it's her biggest issue too. She said maybe it's just the third story, but she does think that setting back the second and third stories could be a huge help. She said if you look at the little Chowder Bowl building, which she realizes economics-wise nobody is going to build that size of building on a lot, but the scale keeps it from not looking oversized even if it were a much larger building. Engler said that she thinks that contributes so much to the character of the neighborhood. Franklin said but in reality as a business they are bursting at the seams. They don't have enough room to keep up with what the town and the community wants. He said so if you continue restricting people from building structures of this size, they will only be able to handle so much of the community. Cleary asked Franklin if going two or three stories he would have restaurant upstairs. Franklin said he knows it wouldn't make sense to go through everything and the cost of rebuilding just to get the same square footage in a single story, no; they would have to go up two stories. George said but Franklin might find in doing that that those huge lines wouldn't be there. Franklin said that's a risk you take. George said she means from the very fact that people come to the Chowder Bowl because it's charming, it's historical, and because it's one-story. Franklin said that's very true. Engler asked what about enclosing the deck because they can't use that very often. Cleary said it's so pretty; and Engler agreed that it's totally cool. Cleary asked if that would work; and Franklin said they have thought about it, but there again it's putting more money into a structure that's failing. Engler added, and it's in a tsunami zone. Franklin said yes, and this structure here isn't going to stand up to a tsunami. He said he would like to see a structure there in the future that would maybe withstand a tsunami a little bit better.

Wendy said for example Carmel, California certainly has extremely restrictive development standards; as well as Santa Barbara or other places where property values are astonishing. It's because they have limits on their growth. It's because it looks unique to that area. It's because like Santa Barbara, they built on that mission-style. It's laborious to go through their

process; but it's what makes them so valuable. She said so it might be quality over quantity. She said that in terms of density, she thinks people don't want to live in a little tiny space with no outdoor space. She said maybe they buy a condo, but they don't live in it. She said having had a business across from a lot of condos, people that come in for vacation rentals don't come and shop; it's people in hotels that come and shop usually. She said that's why when they tore down the Nye Beach Hotel it was a huge loss. Patrick said that his mother is telling him that half the people coming for NOAA are wanting to live in Nye Beach. George said she could vouch for that one; there were so many of those people that applied for the apartment she has. Patrick said if you have something to live in in Nye Beach, his mother has people who want to live down there. Franklin said so they want to be a part of it. Patrick said they want to be a part of it; but the problem with the market is for what you can build it's going to be somebody looking for a second home. Until they decide they want to rent it out, then you're going to have the empty units. He's seen a lot of the units convert from vacation or second homes to rental units because of the economy. He said you may get those people eventually; but you have to have the units there anyway. It just doesn't pencil out to do them as apartments; you can only do it if you are going to sell them as condos. That's where the numbers are right now. Huster said for Archway Place, selling the condos upstairs helped defray the cost of putting in the retail on the first floor so that they could be cost-effective for the town. So in a way the people upstairs subsidized the merchants downstairs. He said they've had lots of wonderful feedback about the merchants there. He said it's kind of an indirect thing; but sometimes that's the way it has to be approached. Patrick said if Huster had built out Archway Place as a straight commercial one-story, it wouldn't have worked; and Huster agreed. Cleary said nobody's suggesting that either.

Patrick said he understands the point of the step backs; but he doesn't know if that works. He said we would have to ask someone who's more of an expert: he just knows of this stuff. He's read different articles about how you have to have this kind of closed-in sense to make a street work. He said he didn't know why. Cleary said maybe you can get the closed-in sense without the extreme height. Maybe we can get that with a busy, filled-in neighborhood where there are no empty lots. She asked but do they all have to be so high so that you create the wind tunnel. Patrick mentioned the fifty foot mark and noted that nobody hits that mark. Tokos added that you didn't see any of them in these photos. Patrick said the only building in town that makes fifty feet and actually goes over that is the jail. Engler asked what about the Bay Front; she thought the height limit was 35 feet. She asked what about making a 35 foot height limit in Nye Beach? Patrick said if you do that and you retain your pitch, you kill your whole third story.

Tokos said what he's observed here is maybe a need to look at the triggering thresholds for discretionary review and public involvement. Not that three stories are bad. We just talked about things like the Sylvia Beach Hotel that's a big piece of Nye Beach. Do we want to preclude that opportunity on another vacant property? Cleary said but George's building is three stories, and it's 35 feet. So it's doable. She noted that it's shown on page 13 of Tokos' handout. Tokos said that's an architectural thing. Franklin asked where 35 feet is measured from on her property; is it from the very left at the bottom of the property? Patrick said it's an average of the four corners. Tokos said plus you do have slope going for you as opposed to the McEntee building which is flat. George agreed that where she is, there's a lot of slope. Franklin said back to the Chowder Bowl property, if they were to ever do anything it would be where they had parking down below and all the way down to the oceanfront you would have a 6-foot wall there; and then that would be the start of their first floor. He said they would be hugely restricted if it came off ground level. Patrick said it's the finished ground level. He recalled that someone had four floors up and had to come back and backfill it; it's like the third house up Coast Street. Engler asked if it was the Grand Victorian; and Patrick said he thought it might be. It actually had a concrete basement and three stories above; it might be the Obtshka's house. Tokos said you have the Brusselback building at 255 NW Coast Street that's 39 feet. Engler said it's really steep there. Huster asked if that should be allowed under what you're saying; that structure creates a lot of shading on those surrounding lots. Patrick said he's thinking like what Tokos said about maybe having a trigger of 35 feet. Tokos said that's what you would have for the most part; if it's over 35 feet, it goes into design review. He said we can clarify that some; there's kind of a convoluted way of getting there. We can do some language cleanup. He said you could also say 35 feet or three stories kicks it into design review. Then that might pick up things like the McEntee building, which he doesn't think was triggered on its height; he thinks it was another standard that led to design review. Engler thought it didn't have to go through much because it was 99 feet long; it wasn't a 100. Tokos said a reason to do that might be to try to discourage development where they're trying to avoid a discretionary review; so they are going to come in with some funky architecture to stay under 35 feet. That's the way to try to stop that; saying you want to go three stories or 35 feet so you go into design review. We can talk at a future meeting about how effective design review standards are. That gets you into a discretionary review where there's a little bit more public input on it.

George had a question to do with Huster's building, with the Overlook building next to her, and the McEntee building, which she believes all had the same architect; she believed that there was some reference to how much actual flat plane scale there can be on the front of a building. In the original looking at it, we asked if there could be more crenulations to help make it not seem like one big flat plane. But in fact what happens is that they are tiny bump-ins and bump-outs that still leaves the sense of this very large flat plane. So it's almost like the language we used in the design review worked against our intention. Franklin asked if it doesn't meet what the existing structure of Toujours looks like though; flat plane, flat plane, Stephanie's? George said it's the quantity of the plane; the square footage we are seeing as flat. Three stories, 100 feet long. She didn't know if there was any language in the design review; she thinks it just has to be broken up with little added porches and

recesses, which certainly help. Franklin added, or switching of siding material. He knows the west wall of the Puffin couldn't all be the same. Tokos said making sure all sides of the structure are treated too. He said looking at the McEntee building, you don't have as much relief on say the south elevation as you do on the one facing the street. He said those things can certainly be addressed in design review.

Engler said but that doesn't take into account the mass of the building. She said Huster had said the Brusselback building blocked a lot of light, but it doesn't at all. She thinks it's just about like the historic Illingworths building. It only takes up about half of the lot width. It has a fairly small footprint, so sun gets in behind and around all during the day. Sun comes in to the surrounding properties at different times of day. It isn't totally blocked off like with the McEntee building. It allows a lot of green space. George said looking at the Brusselback building you can definitely see it allows sun all around it at different points of the day. Engler said she thinks that's probably what she would like to see. If a building's two stories like the big hotel that used to be where Archway Place is, that let's in so much more light. It would have let in light because it would have been the same height as the Toujours building. She said that gets to mass. Engler thinks historically the construction was really cheap in Nye Beach. They were vacation homes. She doesn't want to see fancy siding solutions; she wants to see buildings that are smaller. She knows what one person mentioned in testimony on December 16<sup>th</sup> before the City Council is maybe there would be a way that the higher the building, the smaller the footprint; or the lower the building, the larger the footprint you could build. It's an overall mass that's allowed. She said she knows there's a seaside town in Florida where everybody gets a little view tower; and it doesn't block everybody's view. They're sharing the view and not obliterating the view.

Cleary said there's a difference too, going along with what Engler said about height and footprint, in that the Brusselback building and Niki's building shown on page 17 are the same height and look completely different. They're both 39 feet. Franklin said if both of those houses were built side by side on the same street, they would create the same blockage of sun to the neighbors around them. George said except that there would be driveways between; there would be light space. Franklin said there wouldn't have to be if you consider this an acceptable structure. George said it has a driveway; everything has a driveway if it is individually placed. It's going to have a driveway between it. Yes there would be the height. Cleary added, but it would be broken up; it wouldn't be a solid mass. Huster said that would only be ten feet. George said hers has 20 feet. Huster said if someone's putting something new in, again you have to look at economics of it. You are going to want to use the land you have. Huster said a driveway can be just one car width. Engler told Franklin that she didn't think that Niki's building is appropriate. George said it did make it through design review; it was built during that time. She said that she finds it really hard to believe it has four stories and that the height is the same as the Brusselback building. Franklin said the height is taken of the average, which includes the two back corners too. Engler asked how the height and the roof pitches are actually measured. Tokos said it's measured off the corners of the building from finished grade to the highest point. She wondered if somebody actually gets up on the roof with a tape and measures. Tokos said we are using scaled drawing. He said obviously for purposes of the review, we don't have anything but the scaled plans to work with at that point. Then it's confirmed in the field as part of the inspection process. Engler asked how they measure it; with a measuring tape? Huster said you know how high the building is, so you really just have to look where the dirt comes to on the building. Patrick said your set of plans give you the height from the foundation to the top of the building. So you go out and look at how much distance there is from the top of the dirt. Then you do that on all four corners and you know how high the building qualifies at. If it turns out that it doesn't qualify, then you have to do something like backfilling.

Tokos wanted to speak briefly to the Inn at Nye Beach on page 14, which is one of the more recent approvals. He asked what the group thought about it. Franklin thought it was completely acceptable in his opinion. Patrick recalled that in review, it met all the things. One thing that bothers him is that he doesn't think you want to take the side of your buildings and start doing setbacks and stuff. A lot of these buildings are going to have buildings in front of them eventually. There's no sense to do that. Eventually the view of the backside of that building goes away. Franklin said so what's the point of having setbacks. Patrick said this one had to because they have windows. Franklin asked if that's for fire. Patrick said you can't open your window into somebody else's building. Tokos asked of Patrick's point is not to worry about the exterior treatment for visual relief if it's on a side because at some point in time, it's going to be built up. The neighboring property will block it off, and it won't matter. Patrick confirmed that. George said you really don't do this building justice by taking a photo showing this big blank wall; but it is totally accurate that this could have a building built right beside it, which would totally change the way it looks. But the front of the building is very complex and convoluted; it has its interesting roof, and it has its little entrance clear down at the bottom over the first floor. She thinks they did a pretty nice job on it. Engler added that from the beach looking up at it, it's broken up quite a bit. George said for her that's really important since she's out in the water; and it's really interesting looking at Nye Beach from out in the water.

**III. Summarize meeting and plan next meeting.** Tokos said that he believes our next meeting is talking about architectural guidelines. He noted that Engler had mentioned guest speakers and wondered if there was a particular one she had in mind. Engler said that she thought there were several possibilities; but she didn't know what the best way to go about it is. Tokos asked if there was interest for that among the members. He said he could call a few people if you would like to bring in somebody who specializes in architectural design. Patrick said he had a candidate who studied with a professor who actually

helped with a lot of this stuff. Engler asked if it was Dustin Capri. She said he studied with Jenny Young who specializes in historic architecture; and she thought it should be somebody who specialized in historic architecture. George said she would love that. Engler said it would be great if Capri would do that. Patrick said and if you can find someone else for the new urbanism. Tokos said not so much for the design guidelines but to talk to you about concepts. The group agreed. George thought it would be great to have somebody with a little more clarity on this. She thought a lot of stuff has changed since back in the day when all of this went into place. There has to be progression of thoughts of what serves neighborhoods best. Patrick said actually when all of this went into effect, the original one when they used an architectural committee, new urbanism didn't exist. It was just starting when we did the rewrite the second time around. Engler said she thinks a lot of people think what is lacking is any reference to the character of the neighborhood or actual historical structures. She thought it would be good if we could have someone talk about historical neighborhoods and how you gradually work towards something.

Tokos said what he got from this conversation is that it looks like the triggering mechanisms are pretty close to what they need to be in terms of when formal design review is needed. Maybe some fine tuning there. It's not that it's a problem having three stories it's that more care needs to be taken there to insure that it's not a wall of structure. That there's some architectural relief, solar accommodations, and things of that nature when you go over a certain threshold; be it 35 feet or you can have three stories or a 100 feet of space. It sounds like the next conversation is going to be a very important one where we get into how well these standards are working. Anytime you have design review standards, you have to have a frame of reference; what are we trying to accomplish with this so that policymakers like the Planning Commission when they get something put in front of them can say this is going in the right direction or is not going in the right direction because this is what we are trying to achieve. Otherwise you have no frame of reference.

Tokos said to let him make some calls. We'll keep the date for our next meeting a little fluid for right now not knowing if he can line somebody up and what that date might be. After some discussion, the next meeting was tentatively scheduled for Wednesday, July 9<sup>th</sup> from 10:30 a.m. to 12:00 noon.

**IV. Adjournment.** Having no further business, the meeting adjourned around 12:00 noon.

Respectfully submitted,

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Wanda Haney  
Executive Assistant