

**EXHIBIT E4 – 2/26/13 PRESENTATION GIVEN BY DOUG MACFARLANE,  
REPRESENTING THE AD-HOC COMMITTEE**

**AD-HOC Committee- Presentation to OPC  
Section 9 VIR Recommended Modifications  
OCPC Public Hearing 2/26/13**

Report by – Doug Macfarlane



## **BACKGROUND**

Process started with BOCC public hearings in 2010

AD-HOC Committee presented recommendations at that time

They were-

Visual Impact regulations are important and our scenery is precious

That current code is working well

Suggested minor tweaks only, to make it simpler and easier to understand and to avoid unintended consequences

That adding new corridors was not justified or needed

Major highways and primary ridges form main valleys are already included

Identified problems with skyline regulations on sites not on primary ridgeline and discussed issues- including highlighting added costs and needless limitations on structures on some projects in current corridors

**THESE RECOMMENDATIONS HAVE NOT CHANGED**

## ISSUES WITH PROPOSED REVISIONS

Proposed Regulation has become more complicated and harder to understand as well as introducing more subjective components

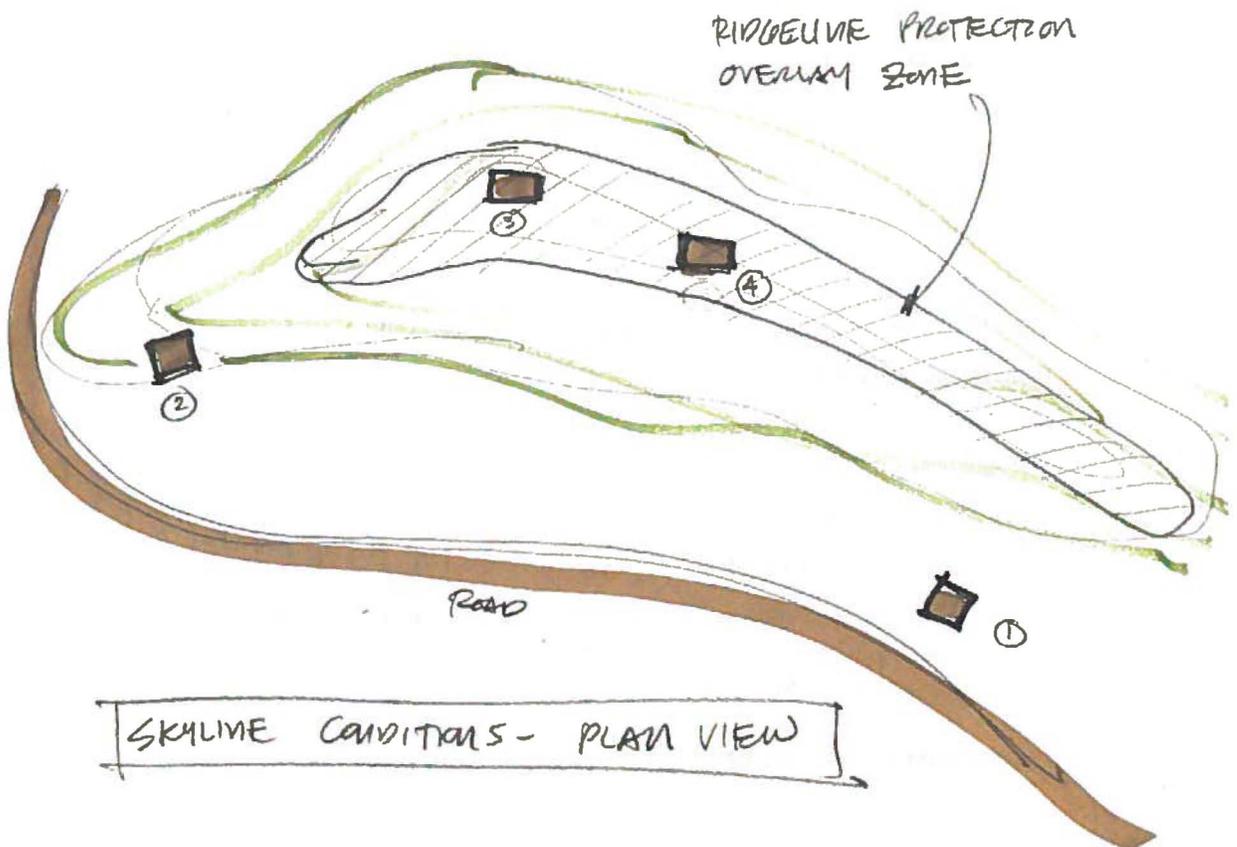
The biggest single area of concern is the addition of new corridors relative to skyline regulations with ramifications for existing homes and for vacant land.

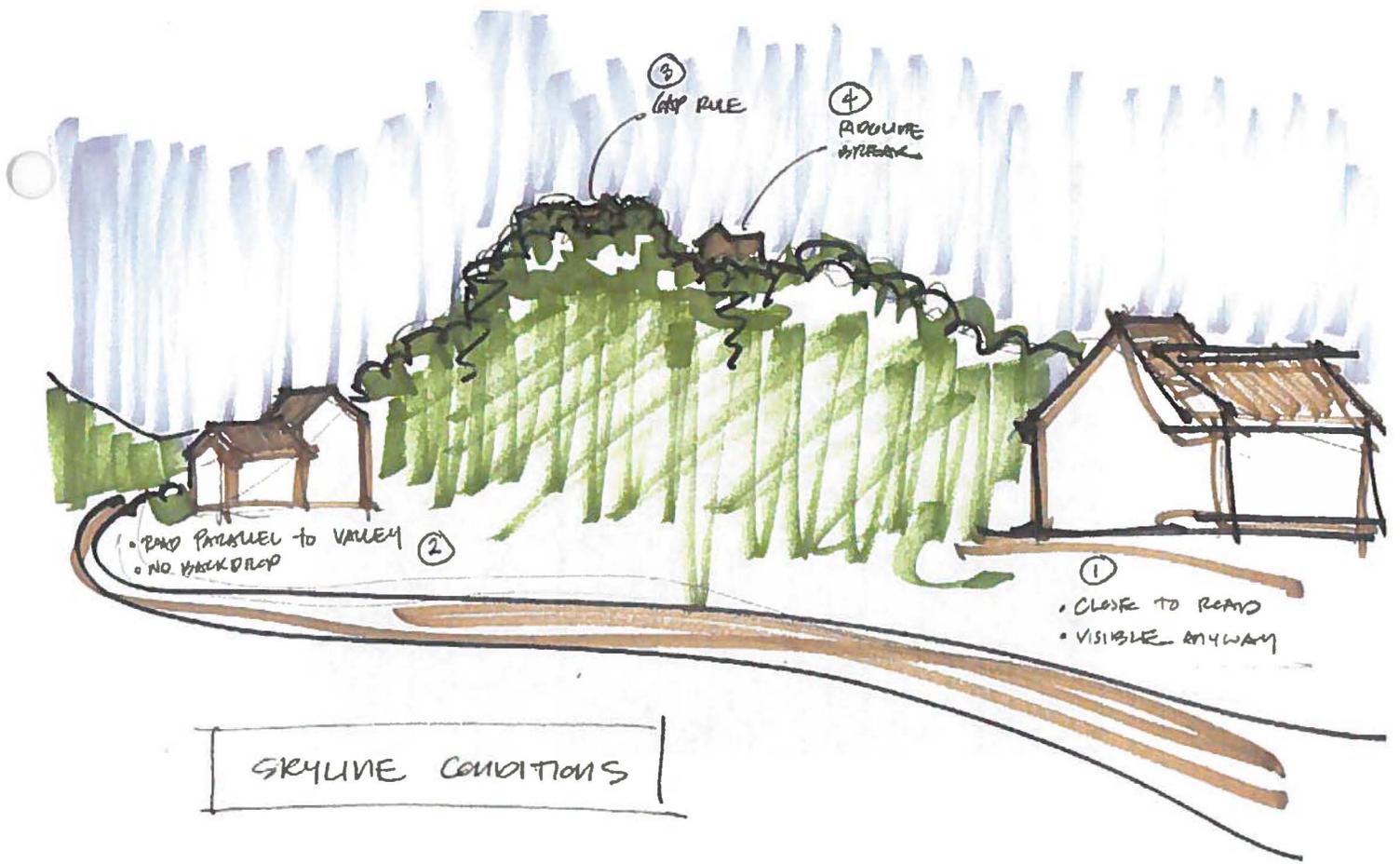
Addition of 44 new corridors without addressing non-ridgeline skyline break issues like those that have been identified in the past adequately will create cost burdens and property value ramifications that are not commensurate with actual demonstrated impacts.

There are portions of the draft that attempt to address these concerns but they fall short of providing a fair and workable solution, and leave many question marks as to how regulations would be applied.

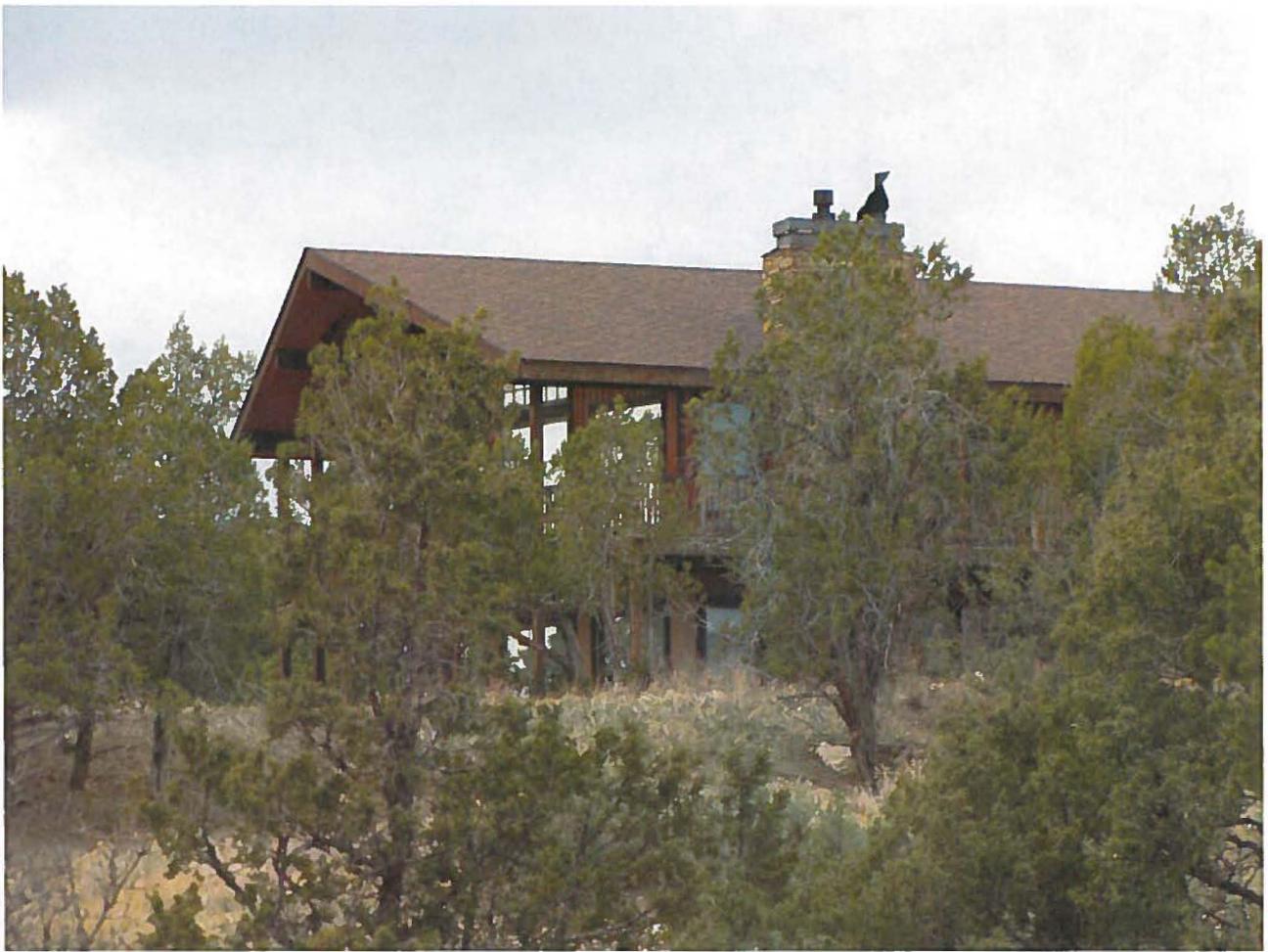
Newly created non-conforming structures due to skyline and setback will have severe restrictions as to reconstruction, additions and remodeling. Wording that existing structure "is not on a bench, ridge, escarpment or hilltop" is open to interpretation and could mean no changes or expansion is allowed. Further limitations exist on how much can be added as a percentage of existing and allow a **one-time** exception only

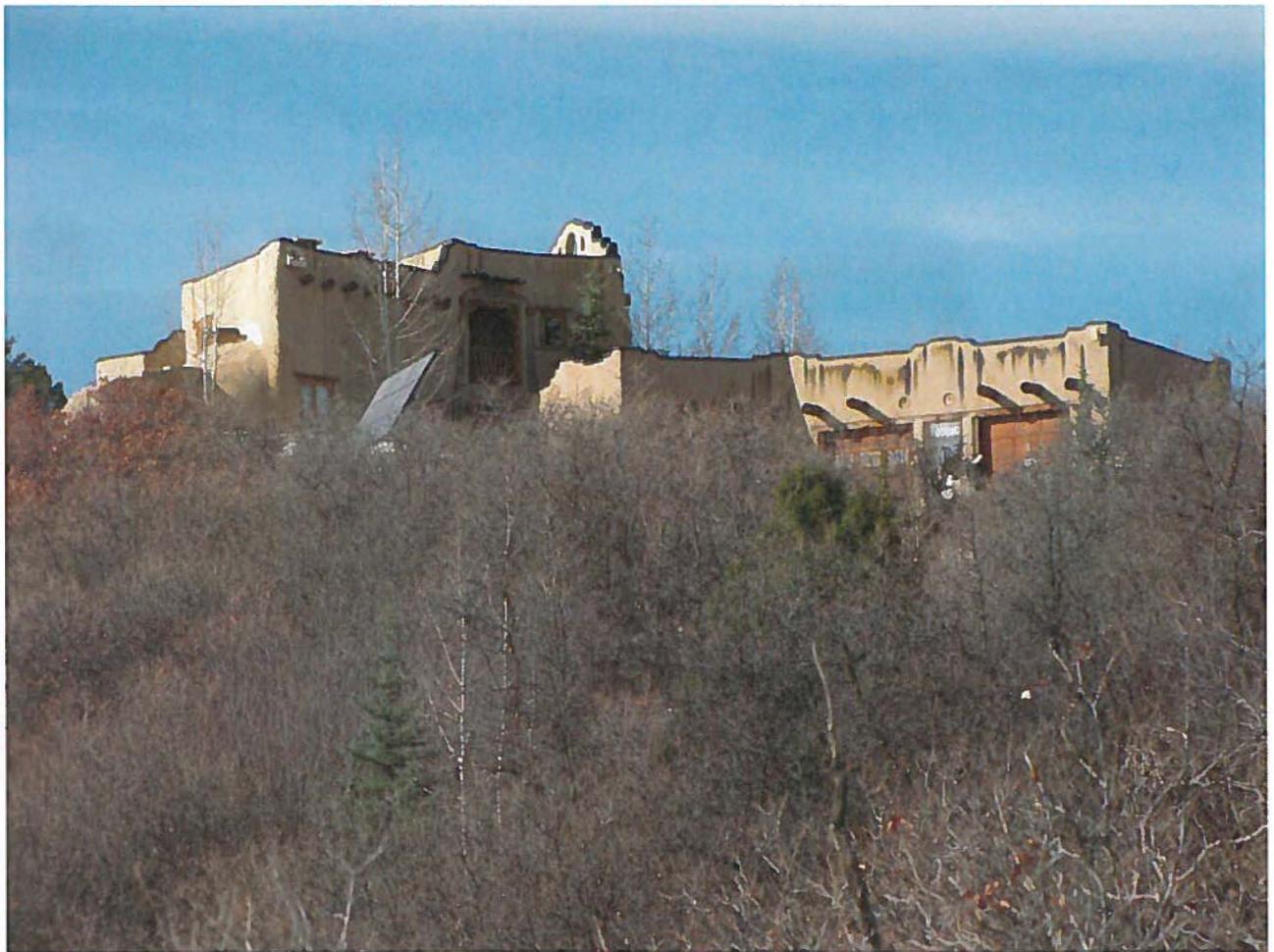
Wording in allowable siting for houses (to create limited exemption from skyline breakage) allow relief **only** if no building site exists that meets letter of skyline regulations and allow such relief **only** if site is not on a bench, ridge, escarpment or hilltop Draft does not include criteria such as whether alternative site has a view (or as good a view) as was contemplated, or any criteria other than whether home would skyline.

















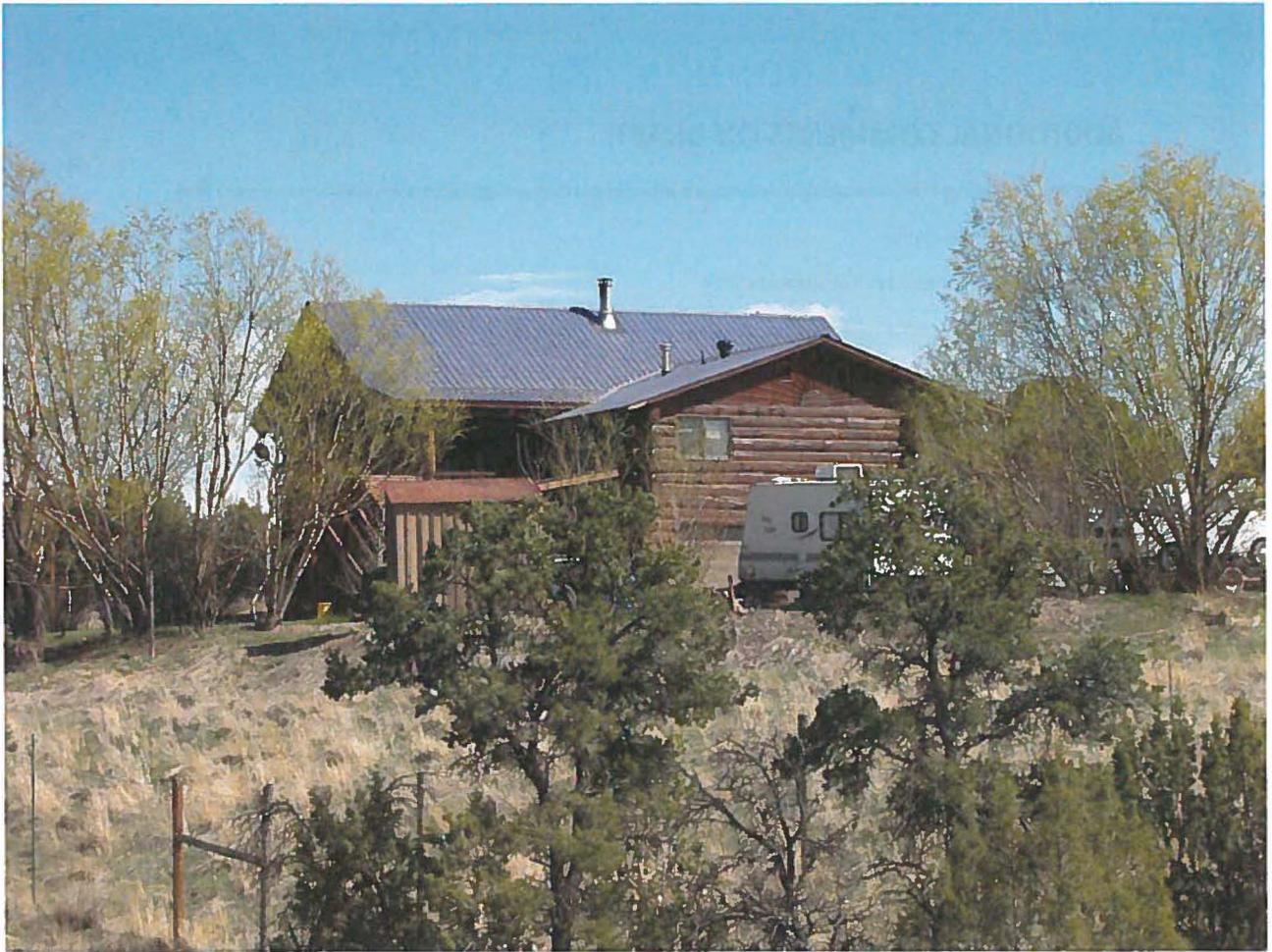












## ADDITIONAL COMMENTS ON DRAFT

The criteria for siting the home also do not include other important design factors (in addition to views) like-

Solar access and orientation

Privacy/proximity to neighbors at alternate sites

Length of driveways/ utility runs etc.

It sounds like you could be required to build in a low point without views if that means you don't skyline.

These changes to allowable uses on property purchased in good faith must be backed up by incontrovertible evidence of a significant problem which would be created by skyline at locations other than on ridgelines- which has not in my opinion been done.

The Point system contains some good new concepts like average building height but is not currently an improvement and still needs work. I think in its overall application as now configured it is more restrictive than the current system, and removes some discretionary points, along with making distance more important when most owners simply cannot get very far from the road they front on due to lot size.

Regarding massing, I think the examples shown in the summary of changes, shows how simplistic this has become in application. That you can get 2.5 out of a possible 3 massing points because you have roof overhangs, any doors or windows, a different color roof and walls, that you have a stair to the door, and that you have any element that is a different material than the main walls illustrates that the point has been missed.

The reason to include apparent massing is to include the design of the home as an element of the point system.

## COSTS TO BUILD AND REGULATE

By making code applicable to many more building sites and existing homes in added corridors additional work will need to be done including setting story poles, calculating percent of screening, average building height, etc.

This will require additional County Land Use Staff time and additional time and expense on the part of applicants.

Depending on the complexity of a lot and the number of iterations required this can run into the thousands of dollars in design and placing and documenting story poles.

Costs to comply will likely include hard costs of changes to design to reduce building profile, and may require siting of building in locations that do not capture views. A single story building is more expensive than a multi-story, a terraced foundation is more expensive than a flat pad. Increasing distance from road increases cost of driveway and utilities.

These are real and significant costs.

More intangible but possibly more devastating to land value and value of completed home is whether allowable building sites under new regulations would compromise and limit available views. These are views that in many cases influence decisions on whether to buy or develop a lot, and definitely have an impact on the value of properties.

Just the uncertainty alone of how a person could improve their property will have a negative effect which again needs to be considered as to magnitude of demonstrated problem.

## PROCESS

This process could be said to have started with the Section 30 Alpine Regulations proposed revisions but was abandoned in the face of concerted objection from the mining community. At that time it was acknowledged that a "one-size fits all" regulation for all areas of the County would be fairer. That led to Workshops and hearings at the BOCC embarking on proposing revisions to Section 9. This resulted in a Resolution tasking the OCPC to consider various aspects of Section for possible revisions including studying whether to expand to additional roads under certain criteria and which included the following In Exhibit A to the Resolution

*Possible criteria to review in order to determine whether expansion of the Visual Impact regulations to other visual impact corridors is appropriate/necessary:*

- a. Amount of private land and potential for land development*
- b. Direct access routes to public lands*
- c. Economic benefits; important for recreational tourism and regional/local economy*
- d. Visually significant area – classic Ouray County Vistas including agricultural vistas essential to Ouray County's character.*

The OPC worked under a process where roads were analyzed using criteria that did not include economic factors other than tourism, and voted on whether to add the roads prior to discussing rules that would apply on these corridors relative to skyline and point system. It was stated that the order didn't matter and that one had to be first and it was going to be picking roads. I do not feel the process used to analyze the directive given by the BOCC considered all the criteria and not knowing what the rules affecting the corridors are as you decide makes no sense.

## SUMMARY

Implementation and Enforcement of inherently complex and subjective codes like those that govern Visual Impact work best when a knowledgeable Land Use staff member gains a solid understanding of how interpretations and enforcement should be handled particularly in the unavoidable grey areas. This understanding develops over time as the code is used and enforced

The ability of design professionals to provide good advice, as to whether to buy a lot, "what could I build if I bought it" etc., and to be able to design conforming buildings depends on knowing the rules and also how they will actually be applied.

By changing things to the extent that is now proposed there will be an inevitable period of uncertainty for Land Use staff, design professional's and landowners as to how new rules will be applied.

That is why the AD-HOC committee originally recommended and stands by the recommendation that any changes should be minor, and incremental. They should be geared toward addressing known issues (like non-ridgeline skyline conditions) and in clarifying the code. The end result should be easier to understand and less subjective.

As well intentioned as the current efforts have been, this set of revisions (particularly with the added corridors) goes much further than minor changes.

The AD-HOC Committee strongly recommends that this draft not be adopted in its present form.

## FINAL THOUGHTS

Certain concepts, like massing and average height as applied to point system originated with the Architect's participating, but the current implementation of the ideas is flawed and does not effectively achieve the desired results, of introducing design as an aspect of visual impact.

The OPC process was often confrontational and unpleasant. Question's like "why are we doing this?" were frequently met with allegations of obstructing the process. The meeting format was most often one where public comments were relegated to the end of 2hr meetings where multiple topics were being discussed. It was also made clear that the OCPC was not legally required to take any public input in their Workshops and that they were doing so to the extent they could and still get their work done.

I respectfully submit that since the retirement of Paul Christensen I currently have more first-hand project experience in working with the current Section 9 than anyone else. I was happy to volunteer my time but finally became extremely frustrated and gave up on going to the meetings over the last couple of months as I realized that the main points and concepts I was and have been making over the last several years were not going to be included in the proposed revisions, and I simply grew weary of the antagonistic atmosphere to thoughts that were not in line with the voting majority, or that were perceived to hinder the process.

It is interesting to me that my opinion and the opinion of the two Architects who have been on the OPC has been consistently been at odds with the OPC majority. These are complex issues, and an understanding of how codes like this are actually applied and implemented comes from actually working with them on real projects.