

The Board of County Commissioners met on August 12, 2010 in a work session. Those present for the sessions were County Commissioners Lynn M. Padgett, K. Keith Meinert, and Heidi M. Albritton; Linda Munson-Haley, Clerk of the Board; and the Planning Commission.

- **Note – This meeting was recorded for reference purposes.**

**6:35 p.m. The Board of County Commissioners and Planning Commission will meet in a work session with the real estate community to address proposed visual impact regulations.**

*[A sign-in sheet was entered into the record as Exhibit A. An undated letter by Randolph Parker was submitted at the end of the presentation for the record (Parker Exhibit 1).]*

Commissioner Padgett welcomed everyone and expressed the Commissioners' gratitude to the brokerage community for putting together a presentation on visual impact. After the presentation by an ad hoc committee comprised of builders, designers and architects in July, the Commissioners went on a field trip to, basically, the northern part of the county. A trip was being planned to the southern part of the county. By consensus, the Commissioners and Planning Commission decided that Tier 1 of the draft proposal did not seem to serve its purpose and seemed to be a lightning rod for confusion. Therefore, they decided to strike it from the draft. A revised draft would be posted on the website once completed. A second issue was setbacks. In the May 18 Draft there was a proposal for a 200-foot setback. After the field trip, consensus was that 200 feet was likely too much and would be struck from the draft and that Planning Commission would consider something less than 200 and more than 50 as more appropriate. Upcoming work sessions on visual impact were scheduled for August 16 on financial considerations of visual impact, both current and proposed; August 23 following the regular Commissioner meeting to look at building height definitions; and on September 21 to summarize public input, and to look at consensus points, and elements and components of the current Section 9.

Donna Whiskeman related that she worked with ReMax and had moved to the area from Scottsdale. She named her presentation, "A Solution in Search of a Problem" (*Donna Whiskeman's presentation was entered into the record as Whiskeman Exhibit 1*). Ouray County had visual impact regulations that were not only working but working well. She thanked the Board of County Commissioners for providing an opportunity to present concerns and opening the process up for public input. She thanked Ouray County brokers and others who helped put the presentation together. And, she thanked the audience for coming. The presentation by the architects and builders was described by Howard Greene as a good example of how democracy should work and she hoped that he could say the same about this presentation.

Whiskeman began with an outline of the evening's presentation. She would present a "General Overview of the Proposed Changes and the Unintended Consequences," Alan Stapleton would discuss "The Economic Impact of the Changes," Jack Petruccelli would address the question "Why are the Commissioners Doing This?," and Whiskeman would end with "Wrap Up and Solutions."

Whiskeman stated that the brokers were fighting for their clients who felt that their investments were being threatened, the brokers' livelihoods, and the livelihoods of the county's architects, builders, land planners, developers, and construction trades. They were also fighting for every retail and commercial establishment in Ouray County, the fire departments, Social Services clients, EMS personnel, the City of Ouray and Town of Ridgway, the libraries, the Road and Bridge Department, every school child in Ouray County, and each and every person in the audience and in the county.

Whiskeman discussed the purpose of the Master Plan. She read from a highlighted area of the Master Plan on Slide 6 of her presentation. She then pointed out a portion of Section 9.1 of the Ouray County Land Use Code that talked about protecting the County's property values and noted that it had been deleted in the proposed May 18 Draft (Slides 7 and 8). In preparing the presentation the brokers saw four problem areas: 1) expansion of the visual impact corridors; 2) the 200-foot minimum setback from a ridgeline or escarpment; 3) the tier system; and 4) blending and screening. She applauded the Commissioners' decision to strike the 200-foot setback requirement but continued to discuss the four problem areas.

Expansion of the visual impact corridors, according to the May 18 Draft, would include any numbered County Road, BLM or Forest Service road. Whiskeman offered slides of various scenic vistas that would be included if the new regulations went into effect. She pointed out that one was a dead end road and others were virtually private roads because the only traffic on them was from the people who lived on them and yet they would be impacted. The brokers' position was that one size did not fit all. By expanding the regulations the Commissioners would be setting themselves up as an architectural review committee for the entire county and she wondered how many people would be needed to enforce the new regulations. Recommendation: Do not add to the current list of visual impact corridors.

Whiskeman had prepared several slides to address the 200-foot setback and decided to proceed with the discussion because she wanted everyone to understand what it would have meant (Slides 20-38). In a previous work session the Commissioners had stated that a field trip had not occurred in winter due to weather. The brokers submit that it should have taken place in the spring before the May 18 Draft or that the release of the draft should have been postponed until after the field trip. Recommendation: Leave the current minimum 50-foot setback from the edge of an escarpment or ridgeline alone. Beyond that, let the site dictate the setback.

Next, Whiskeman wanted to look at the tier system. She explained that Tier 1 was "intended to provide property owners in Ouray County with a predictable, known outcome if they meet certain simple, objective criteria..." The brokers found after researching building permits at the County Land Use Office and analyzing information from the County Assessor's Office, that the median square footage from 2008 to July 14, 2010 was 2,550 without a garage. According to the Assessor's records, there were 1,382 properties that may be impacted by the proposed changes to the Code. There were currently approximately 207 residential lots listed for sale in the county that may be impacted by the proposed changes. She discussed the unintended consequences of the Tier 1 process: 1) the perception that

Tier 1 was what the County wanted to see built and any deviation would be a battle; 2) a buyer would decide that building in Ouray County was too onerous and would go elsewhere; 3) a buyer would focus on lots that did not fall under the proposed guidelines that would result in a seller not being able to sell at all or at a significantly reduced price; 4) while Tier 2 provides a vehicle to obtain approval of a project that deviated from Tier 1, no buyer would consummate a purchase without certainty that what he wanted to build would be approved and that he would not risk time or capital on it; 5) a buyer would take the path of least resistance and build a "box;" and 6) the proposed regulations would impose a tremendous hardship on many county roads with flat terrain and less defined backdrops (Slide 42). Recommendation: Abandon the tier process.

With regard to blending and screening, the brokers echoed the statement of the ad hoc committee that, "it was never the intent of the current visual impact regulations to prevent houses from being seen or prevent houses from seeing each other." Recommendation: Work with the ad hoc committee to develop specific criteria and an educational piece that provides examples of the intent of the regulations as they pertain to blending and screening.

Whiskeman recapped the brokers' recommendations noted above and added a recommendation to work with the Assessor and Treasurer to determine the economic impact of the proposed changes on property values and property tax revenue.

Alan Stapleton explained that he had lived in Ouray County since 1983, but his family went back to 1874 in the Roaring Fork Valley and Whitewater about 1900. He had been selling real estate in Ouray County for 14 years. He was prepared to talk about the economic impacts of the proposed changes. (*Alan Stapleton's presentation and notes were entered into the record as Stapleton Exhibit 1 and Stapleton Exhibit 2, respectively.*) Stapleton referenced a slide titled, "Escarpment Parcels" (Slide 8) and noted that currently the difference in asking and selling value between an escarpment lot and an interior was approximately \$30,000. If the County went to a 200-foot setback requirement these lots would be essentially viewless and it would impact 40 lots that were currently not built on and 42 platted lots for potential homesites. For the 27 platted lots excluding 15 lots in the Enclave and The Retreat, the loss of property tax revenue to Ouray County could be \$21,472.79. For the 28 existing homes on the escarpment, excluding the Enclave and The Retreat, the loss of property tax revenue could be \$13,934.12. He pointed out that screening was working well on the escarpment. He talked about the economic impact to the property owner where there was no backdrop and the owner would have to plant a tree for an artificial skyline or put berms in front or back obliterating views. He did a survey of most of the real estate agents in the county and the number one consideration for prospective buyers was views. He surveyed a couple of appraisers regarding the value of views and was told that he could expect a 10% increase in value if the views were very good, no change if the views were ordinary, and maybe a 10% decrease in value if there were no views.

Stapleton talked about the potential loss to Ouray County. As mentioned, the loss of property value would be from \$30,000 to \$365,000. When people decided not to move here because they could not get views there would be a trickle down effect to the trades, fewer students in the schools, less teachers, and less funds for the schools.

Jack Petruccelli had lived in Ouray County for 18 years. He was a landlord, developer, builder and a real estate broker. In all of those 18 years he had never seen the real estate community come together behind a cause like they came together behind this cause. The brokerage community had spoken to well over 500 people and he personally had spoken to 100, himself. One common concern, one issue that kept coming up was "Why are we doing this?" In 1997, the visual impact regulations were modified to the current form. He was in favor of them at that time. The majority of discussion at that time was to prevent homes from being perched on high ridges that broke the skyline. A predatory house that one would see along Interstate 70 in Vail or Avon was what everyone agreed they did not want to see in Ouray County. The goal was to keep the buildings from competing with the natural landscape. It was a noble cause and it was successful in doing that. The intent never was to make homes invisible or to screen homes from homes. He personally liked to look at houses. A requirement to make homes become invisible would be a mistake. It would lead to loss of community and neighborhood that should be preserved for future generations. Everyone he talked to thought that the current regulations were working just fine. Is it the concern of this process to start an architectural review committee countywide? If so, would it supersede the existing review boards or apply to just the county, itself, or become an additional required approval? Or is it to control mining claims? The rezoning of the mining claims was defeated and this ordinance would accomplish a similar outcome to that failed rezoning attempt. Is it possible that the Commissioners want to stop or slow growth? Is it a "make work" project for County Staff? Is it for a special interest group? If so, the Commissioners should disclose and tell what the agenda is. The feeling by and large was that the current Code was working. They encouraged the Commissioners to work with the building Staff in order to change the current ordinance to make it more user-friendly to allow for flexibility of design and freedom of architectural expression. He requested that whatever happened, the Commissioners remember to keep the ART in architecture. [*Jack Petruccelli's presentation was entered into the record as Petruccelli Exhibit 1.*]

Whiskeman closed her remarks with a recap of the Brokers' recommendations. She read from Slide 52 of her presentation (*Whiskeman Exhibit 1*) regarding the Master Plan, "*The physical development of the County has direct and indirect effects on property rights, natural resources and property values. This Master Plan seeks a balance that respects these concerns in an effort to maintain the County residents' quality of life.*" The Brokers' maintained that the current visual impact regulations absolutely allowed for building that was both responsible and consistent with the goals and policies of this plan. They balanced property rights, natural resources and property values. The point system could be improved and/or restructured. But the wholesale slaughter of the current regulations that was being proposed in the May 18 Draft was absolutely unnecessary. Why were the Commissioners doing this? More importantly, how could they produce a draft of such sweeping changes on the eighteenth of May without getting in their cars to assess the practical impact until the twenty-seventh of July? How could they suggest such changes without taking the time to assess their economic impact? How could they spend ten months on this and be where they were today without ever consulting with the professionals who could have dispatched this task in a month's time? The County was in an uproar because the Commissioners did not do what should have been done before the May 18 Draft ever saw the light of day. This was no way to govern and the people of Ouray County deserved better than this. She thanked all for coming and listening.

Commissioner Padgett opened the work session for questions.

Robert Savath noted that at the beginning of the work session Commissioner Padgett said that the Board of County Commissioners and the Planning Commission were considering dropping Tier 1 and he asked her what that meant. Did it mean that all submittals would have to go through the Tier 2 requirements?

Commissioner Padgett provided a brief history. In 2009, the Board of County Commissioners was considering a brand new section of Code and from that the public seemed to be taken by surprise even though Planning Commission had spent many months working on a particular section of Code and input had been taken. This Board took public comment they received about process and tried to bring the public into the fold of a specific section of Land Use Code early on. It was unprecedented for the Board of County Commissioners to workshop a section of Code for as long as they did prior to sending it to Planning Commission. The whole idea was to get something that highlighted elements, components and concepts to the public to introduce the subject to the public and get feedback prior to sending it to Planning Commission, who were professionals who did their work with input from the public. The idea this time was to bring the draft to the public first, hence the May 18 Draft, to start a conversation so that when Planning Commission started working on it everyone knew about it from the beginning. To answer the question, the Board of County Commissioners had not sent anything to Planning Commission, so formally there was no draft proposal, no resolution sending anything to the Planning Commission. The Commissioners had not taken away or mandated that anything happen. They realized that Tier 1 was completely misunderstood. It was crafted at the request of public who had attended the work sessions. They realized that it was not effective and was confusing. In the end there was consensus to strike it from the draft. Tier 2 was still there because the Commissioners had not yet gotten to the four-hour work session to discuss the consensus points and current Code, and to look at all of the public input.

Commissioner Meinert replied to the question explaining that the removal of Tier 1 brought the section back to the current process with no streamlined process for less obtrusive buildings. In the May 18 draft, the Tier 2 process did not have a point system and relied on the notion of blending to comply. The Commissioners had still not discussed the pros and cons of putting the point system back in. The elimination of Tier 1 basically would bring the Commissioners back to the current Code with the consideration of modifying the point system in favor of something less confusing and easier to administer.

Savath applauded the Commissioners for listening to the public input and considering making changes. There seemed to be a consensus that all agreed with the intent of the current regulations and that they were working quite well. The problem with the proposed regulations was not one of intent but process and that the Tier 2 submission requirements were a perfect example of overkill, making it expensive and time consuming.

Ann Devine explained that she was one of the people impacted by the visual impact regulations when she built her house in Pleasant Point. She found the process to work well, had no trouble with the County, and appreciated that the regulations were there because the reason she was here was for the views. She looked at seven different states before deciding where to live. What distinguished Ouray County were the regulations that gave her confidence that those views would be maintained. Donna Whiskeman had mentioned several times that the regulations were working; however, many areas of the county were not covered by those regulations. As the county grew why risk development and building that did not comply with the overall objectives of maintaining the visual beauty of Ouray County. The time to expand was before development took place. She wanted the realtors to consider that this could be a sales feature. Everyone saw areas in Colorado that had been compromised. The Ouray County realtors had an opportunity to provide clients with something that was not anywhere else.

Sue Husch related that she and her husband had just finished building a house in a view corridor. Donna Whiskeman had done a good job but what she did not say was what was required currently with respect to color, etc. in Tier 2. Husch did need to comply because she was in the view corridor now. She would have liked to see a side-by-side comparison of things proposed and things that were required now.

Wayne Dillard owned property in Idlewild Estates, situated between County Roads 23 and 17. The interesting thing was that he could not see Highway 550 even though it was two blocks away. All of the houses around him had been built for years. His neighbors had brilliant yellow and white houses that did not bother him at all. What did bother him was that they did not want his house to be seen under these regulations. Did that seem fair? It did not to him.

Rein VanWest commended the realtor community for its presentation. He heard tonight the disagreements that the realtor community had with the present Land Use Code, the expansion of the visual impact corridor, Tier 1 and the 200-foot setback. In light of the overall reason why, according to Whiskeman, people wanted to be in Ouray County having to do with views, what was the realtor community in favor of in light of the proposed changes to the Code? It was said that they were just happy with the way it was and he asked if there was nothing that they were in agreement with as far as the changes to the visual impact regulations.

Alan Stapleton explained that it was hard to say because they were a very diverse group and from all walks of life. There was not 100% agreement. The original intent of the visual impact regulations that went back to 1993 when they were discussed in the county was essentially to protect the scenic views for the casual observer from the scenic byway, not all of the roads and developments in Ouray County. They all knew when they bought property here that there was another homesite near and that they would see a home. As a group, they definitely felt that the scenic byway had been phenomenally protected. But to keep expanding and expanding... we will see our neighbors, houses and roof lines, and we have to remember that there are a number of homesites currently platted in Ouray County and we would be asking people to give up more property rights. On CR 1 across from the driving range on Log Hill Mesa was a gorgeous meadow but no one could build a house there without a lot of screening. Most of the group did not really want to expand the visual impact corridor. There were homes going up in Yankee Boy Basin. A lot of people

were preserving their ranches with conservation easements. But to expand and expand beyond where it was now... people know when they drive on rural roads that they will see houses.

Whiskeman mentioned the blending and screening aspect noting that the screening aspect was a little dangerous in that because people want views, when they had to screen a home they sometimes had to screen the home from the view. The realtor community felt that screening, in their opinion, needed to be defined. The ad hoc committee had good ideas on how to do that. The realtors had absolutely no opposition to blending and felt that it was a good thing. Her point in presenting Tier 2 was to illustrate the point that under Tier 1 if someone wanted to build a 3,000-square foot house and a 2,350-square foot house was mandated, that person was automatically in a Tier 1 [*sic*] process that meant that they had to spend thousands of dollars with an architect to design a house for that site without knowing if you could ever build that house. There was no assurance that it would be allowed. She fully expected that there would be blending of Tier 1 and Tier 2 requirements. Whiskeman stated that if Tier 1 was to stay in place the perception would be that anything that deviated from Tier 1 would be a battle. This was not a pie in the sky; it was something they were already experiencing. That was a reality that they were seeing in the market this summer. There was some audience discussion and a question of why it was a risk when people had successfully built in visual impact corridors under the current regulations. A response was that the value of those properties was significantly less than those that were currently in the visual impact corridors and a discussion followed.

Andy Wage had been living in the county since 1978 and had seen a lot of change. He had an example of visual impact. When new people move here they want to buy their property, build their house, and close the door to everyone else. He was currently framing a house at the bottom of Log Hill and the client was looking up at the escarpment view. When Wage told him about the proposed 200-foot setback requirement the client said that he agreed with it because he did not want to have to see any houses there. When Wage pointed out that there were already 40 or so houses there at 50-foot setbacks that he could not see the client was amazed. Wage concluded that the county did not have a visual impact problem.

Jon Esty thanked the real estate community for coming to the table and presenting their ideas. This was a better way of settling things than sending out inflammatory postcards that did not help the process at all. As far as the blending issue, it seemed that there was not as much agreement among the real estate community in terms of blending and whether houses should stand alone and be screened or not screened. He asked if the group would continue to be involved in the collaborative effort with the Board of County Commissioners to collaborate on a good Land Use program to continue to refine it rather than standing outside and carping about it. There was some agreement.

Dave Hamilton said that he lived on Wisteria and asked Commissioner Padgett if it was a Forest Service road to which she replied that it was not. He asked if it was a private road. Commissioner Padgett explained that it was not shown as a county road; it was a private access road. He asked if it would be covered under the proposed regulations. Commissioner Padgett replied that the May 18 Draft suggested making all *numbered* county roads... Hamilton interjected that he understood that and asked if it was a BLM road or anything that he did not know about. He lived within a mile. He asked if he would be impacted. Commissioner Padgett asked if his house was visible from CR 1 to which he replied that if all of the trees died from beetle kill, yes. Commissioner Padgett pointed out that his house was existing and had 100% screening. Had he built his house under something like the May 18 Draft, Staff would have looked at his lot to see if it was visible from CR 1 and under today's conditions they would have determined that it was not visible from CR 1 and he would have been done. He would not have had to submit anything toward the current Section 9, any of the Tier 1 or Tier 2 submittals. They would have determined that he was basically exempt from the Section 9 process. Hamilton noted that being within one and one-half miles from CR 1 he was potentially under the influence of this draft proposal and added that 80% of the county would be under the influence but suggested that Commissioner Padgett was beyond the one and one-half mile limit. Commissioner Padgett replied that her entire property was within a mile and a half of CR 1; she lived a mile and a quarter west of CR 1.

Pete Whiskeman had a real problem with the screening. The definition of screening, to him, was that he could not see it. If the Commissioners defined screening to the point where it was not arbitrary, then hopefully it would survive past the Commissioners and Planning and Zoning. He had no problem with blending. But he had a problem with screening unless it was tightly defined. Secondly, put protect property rights back in the draft. It was more important to protect the property rights of the owner than some nebulous concept of rights to a casual observer.

Barbara Weber lived in the county for sixty years. Her family was currently on their fifth generation, Ouray County has become a very undesirable place to live. Every time the Commissioners get busy they see more of their property rights as ranchers disappear. They were not responsible for everyone to have a pretty drive to Ouray.

Alice Leeper did not feel that it had been addressed in terms of building on mining claims. She had some listed mining claims and she could not get anyone to buy them. She discussed the County's past presentation on mining claims and objected to some of the representations that were made. If someone were to build on a mining claim there were benches there and people would not see them. She noted that people stopped to take pictures of a new Victorian there; they did not just stop and take pictures of waterfalls, flowers and mountains. She pointed out a few other examples. She was for personal property rights. In terms of people building on the mining claims, most people were not going to build without services, water, electricity, etc.

Howard Greene recognized that he had been quoted earlier as being pleased about democracy in action. He wanted to repeat that because he felt that the realtors had spent more time on their presentation than the ad hoc committee had, and he thanked them for that. One of the reasons for such emotion was the false notion that the May 18 Draft was a dictate or a forceful and imminent unilateral decision. It was not. It was the complete opposite. It was the first time in

Ouray County history that the Ouray County Commissioners had worked so long and so publicly with so many notices for the sole purpose of presenting a document to *begin* a discussion. This is the discussion. It is changing due to public input, as expected. The comment that "we deserve better" was the opposite of what he believed. Where else in the state would one find three dedicated Commissioners spend almost a year before starting the discussion at the level of the Planning Commission. There may be philosophical differences that needed to be respected but he urged everyone to stick to the facts, go forward and look at this in an objective way, and it would probably turn out to most people's satisfaction. He thanked the committee and the Commissioners.

Brian Wallace explained that he and his wife had just finished building a house. He thought that it was great that the Commissioners had opened up the forum and asked for public input. The presentations by the realtors and the builders were nicely done. He did not agree with all of the concepts stated but at least everyone was having a dialogue. What he did not like was when he came to a meeting with all of the property rights saying let's get rid of the government. That was wasted time. Most of his adult life he had lived in Moab and Vernal, two places that were really bad examples of proper zoning. He thanked everyone and hoped that the Planning Commission would do the same, get input and weed out the kind of rhetoric that did not make sense. He asked that everyone remember that they all had moved here because it was a beautiful place. A lot of the things were already in place and were good. Personally, he was not in favor of expanding the corridors.

Antonio Mara commented on the economic impact portion of the presentation and noted that the economic impact of the recession was not mentioned once. That had a greater impact on the values of property right now than anything else. He could not be sold on the idea that all of the problems with selling property were because of what was going on today in Ouray County. To the point that Jack Petruccelli made about special interest, in every place that Mara had been and lived the biggest self-interest group was real estate agents.

Alan Stapleton clarified that he did not allude to the lack of real estate sales as being due to visual impact. What he attempted to show was that there was a significant difference in values of homes with much greater views than those that did not and if those that currently have the great views are affected to the same aspect as those that do not have views that was where values would be lost. The recession definitely made it harder getting people to step up to the plate and put their name on the line. The agents at the table made their livelihoods selling real estate and wanted to protect their pocketbooks and their ability to live here; they were all homeowners and/or property owners. They were part of the community and wanted to be part of the decision process and part of the solution.

Al Lewande had been here less than a year. The reason that he moved here was for the same reason that most everyone else did. What clinched it for him was when he found out that Ouray County was progressive enough to have visual impact regulations. That it would not be a place like Telluride where "look at me" rung out from every hillside. He was irritated with the pounding that the Commissioners had taken. Yes, they made some mistakes, especially the 200-foot setback. But pointing out that they might have made a mistake and pointing out another alternative was not the approach that some people in the room took. They went for the scorched earth approach. Shame on the ringleaders of the mass mailing postcard. It was downright dishonest. They got what they wanted; they inflamed the anti-government crowd and got them to the meeting. But, he asked, how did that contribute to Ouray County being a better place to live? How did it contribute to a collaborative process? He noted that the realtors were so worried about the economic impact but whoever invented that postcard should have thought about the economic impact of all of the decent people in this county who were outraged by the postcard and who would never hire that realtor. He thought that some of the realtors should make a public statement that that was the wrong approach because it was. This is the right approach, right here. The Commissioners may have screwed up with a few of the details and it was okay to point them out because that would make for a great product in the end. But, lying, which is what the postcard did, to inflame a certain segment of the public did not make him want to hire the authors. Usually when people move to a new place it takes awhile to get their legs under them and figure out what is going on in their new home. He had known for many, many months that this process was happening. How could the realtors step in and say that this was sprung on them by surprise? That there was no chance for input. Shame on you for caring so little about your county without knowing what was going on if that was true. There were some things very wrong with this picture. This meeting went a long way to correcting some of them but he wished that some of the people had taken a different approach in the first place.

Jane Collier was just wondering what started the changes in the first place.

Commissioner Padgett explained that Section 9 had been on the radar of previous Boards of County Commissioners, as well as Staff, because of issues with its process and implementation. It had been both lauded and complained about by the public. This had been a topic of conversation since 2004 when she was on the Planning Commission., through three Land Use Administrators and through multiple Boards of County Commissioners. This was when it hit the top of the priority list. Maybe it was not broken but the current Commissioners had been asked by the public and Staff to look at.

Collier asked if Commissioner Padgett was referring to the actual rules or because it was too complicated to start a house and finish it.

Commissioner Padgett noted that there had been significant comment here tonight that people can start and finish houses in an existing visual impact corridor. Commissioner Padgett proceeded to discuss the point system, blending and setbacks.

Kate Hamilton asked who wrote the draft. Attorney Deganhart replied that she had. Kate Hamilton asked her why she took out the clause about protecting property values that was stated in the purpose. Deganhart replied that it was

because it was the consensus of all of the public and the Commissioners and Planning Commissioners at the work sessions. Hamilton replied that she did not believe that all of the public would consent to that. Deganhart suggested that she could listen to the tapes from the meeting and Deganhart would provide her a copy if she wanted it.

John Moss concurred with Deganhart that it was brought up in a work session, specifically by him, because he registered a concern that by talking specifically about maintaining property values was the County undertaking responsibilities that it could not handle.

Whiskeman spoke about the postcard. When the realtors saw the May 18 Draft, they were working people and could not always attend the work sessions and they knew the impact that it would have on this county and the sales, it scared them to death. They did not think that the Commissioners had really taken the time to understand what they were proposing and the impact it would have. They had no way of knowing whether or not the public understood what was being proposed. They were on the frontlines and knew what the proposed changes would mean to the county. They sent the postcard and each individually paid for it. The object was to raise the awareness of people in the county. What was on the postcard was in the regulations. To take all of that and have it swept across 80% of Ouray County scared them to death not only for themselves but for their clients who had bought property under a known set of circumstances and now those circumstances were going to be changed, retroactively, and would negatively impact their investments. She realized that many did not like it; she was sorry but they were scared to death when they saw what was in the May 18 Draft and they wanted the people in the county to understand it.

Jeff Bockes explained that when the original visual impact regulations were established in 1983 he assumed that those same concerns were aired. He wondered how those were handled and did it, in fact, only have a negative impact on property values. Was that an absolute truth? Another thing that he was hearing was an uncertainty factor. Maybe that was something that should be addressed along with a firm timeline if changes were to take effect to provide more of a known environment.

Scott Williams from the Pleasant Valley area noted that it seemed to him from the discussions that everyone pretty much agreed with the overall goal, which was, from the Master Plan, "to protect and preserve visually significant and sensitive areas of Ouray County." He asked the real estate community how that determination was made of what was worthy of protection. For example, CR 24 was a designated road. Was the area around CR 24 more deserving of protection than the area around the Camp Bird Road or CR 12 that was not included in the current regulations?

Whiskeman replied that one thing would be who used the road. No doubt CR 361 (the Camp Bird Road) was used a lot. If there was to be an expansion then there would have to be a specific set of criteria to indicate why a road was included. Another thing was to determine who the most important casual observer was.

An unidentified questioner asked how she could predict who would be using the road 10 years from now once development had taken place, and then it was too late.

Kari Wage commented that in 2001 the County went through and changed the whole land use throughout Ouray County. Prior to that, the land use for all properties in Ouray County was basically very simple. There were three designations: Alpine Zone, 8000 feet and higher in elevation, was 35-acre density; the valley ground that was irrigated property with water rights, agricultural ground, was 35-acre density; and the third zone was Foothills that was the pinyon/juniper/sage that can be seen north of CR 24 and similar to what could be seen east of Highway 550, parcels that go out to CR 12 and 10, and parcels south of CR 24. Under the Foothill density a person could do a development under 5-acre parcels. For example, a 40-acre parcel could have 5-acre density. At that time the County had a delineation process. The County would delineate your property so that you could have a 40-acre parcel with 30 acres irrigated and 10 acres could be Foothill Zone. You had the right to develop that property. The County came through and did a sweeping change of the land use and took basically everything – CR 24, south Ouray valley, east valley, and west valley – and it was all created into either the Valley Zone or the Alpine Zone. The only thing that can be developed in Ouray County today is either in the city of Ouray, the town of Ridgway, or north of CR 24. What we are protecting are the rights as a property owner of what we own in this county. If the County looks at what can be developed today from CR 24 then there is a subdivision process to go through. Many of the covenants and restrictions for the developments affected along CR 24 have the current visual impact attached in their regulations. When you look at development in the county, it will pretty much all be north of CR 24. She could not believe that in 2001 there was not a public outcry that the County took away property rights under that current land use process. As time goes on, we continually see more rights being stripped away.

Frank Lambert from Ridgway thought that the biggest thing that scared people when they read this was the two things that thankfully had been tabled: the 200-foot setback and the 2,300 sq. ft. house. He did not see how anyone planning to build a home, especially if they had 3 or 4 kids, could possibly see how a 2,300 sq. ft. house would work, especially since that included the garage. The hardest part to understand was how someone could tell him that he could not build what he wanted to build. He was also a builder. When the government can come along after someone has bought something and tell them they cannot do that that will scare a lot of people. That's what got everyone nervous. Everyone likes the idea of an earth-toned house instead of a pink one or building too close to a property line. Generally, everyone wants to be a good neighbor. No one wants people telling them what they can or cannot do, especially Uncle Sam, who is continuing to do that more and more in his opinion.

Richard Wojciechowski was not clear on what was pushing the expansion to the entire county. It was one thing for what everyone accepted for the visual corridors of Highways 550 and 62 but it was another thing to push it into all of the numbered roads, whether it be Forest Service or BLM, and pushing it into the other parts of the county. That was

upsetting to a lot of people. In his neighborhood, the Forest Service came through and asked the landowners to trim their trees. A number of houses that were not visible two years ago are visible now from a mile away. He asked if the people on those roads set for expansion had been polled or would the people in the city of Ouray decide what the people on CR 22 would do.

Commissioner Meinert thanked everyone for coming out. He appreciated the input and would be considering all of the comments as the Commissioners carried on their deliberations.

Commissioner Albritton echoed that and that the County would keep everyone informed of upcoming meetings. This was the right way to get input to the Commissioners.

*[\*All exhibits are maintained in the County Administrator's Office.]*

**8:49 The Board of County Commissioners adjourned the work session:**

OURAY COUNTY BOARD OF COUNTY COMMISSIONERS  
OURAY, COLORADO

ATTEST:

\_\_\_\_\_  
Lynn M. Padgett, Chair

\_\_\_\_\_  
K. Keith Meinert, Vice-Chair

\_\_\_\_\_  
Michelle Nauer, County Clerk and Recorder  
by: Linda Munson-Haley, Clerk of the Board

\_\_\_\_\_  
Heidi M. Albritton, Commission Member