

The Board of County Commissioners met in regular session on April 16, 2024. Those present for the session were Michelle Nauer, Chair; Lynn M. Padgett, Vice-Chair; Jake Niece, Commissioner Member; Leo Caselli, County Attorney; Jennifer Peterson, Public Information Officer (via Zoom); Harlan Thompson, Deputy Clerk of the Board; and Hannah Hollenbeck, Administrative Specialist.

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

**A. 9:00 Call to the Public:**

*The “Call to the Public” agenda item is a time when the public may bring forth items of interest or concern. No formal action may be taken on these items during this time due to the open meeting law provision; however, they may be placed on a future posted agenda if action is required. Each speaker will be limited to a maximum of three minutes, and the format shall be limited to presentation only. The Board will not engage with any speaker during the “Call to the Public” item. Personal attacks, disagreements, personnel and employment matters, the use of profanity or ethnic, racial or gender-oriented slurs are prohibited, as is any “disorderly conduct” which violates State or Local law and shall not be permitted. If any individual disregards these rules, they will be asked to leave the Commissioner’s Meeting.*

*Dolgio Nergui, Ouray, present.*

*Jenny Hart, Ouray Trail Group, present.*

Nergui said she was there to represent others not present to bring attention to the Old Twin Peaks trailhead, a secondary County Road based on Resolution 2014-014, Exhibit B, Ouray County Historic Route Index. She asserted that the route was on USGS maps since 1904 and Ouray County Road Maps since 1911. She described that the first few hundred yards were on the Oak Creek Greenbelt Parcel, which was put into a conservation easement in 2000. She highlighted major property improvements, including substantial excavation, road widening, a fence along the road, and a gate blocking the route. Nergui cited item six of Resolution 2014-014, “The use by the public of public roads, highways or trails shall not be restricted by the placement of gates, fences or other obstacles or obstructions, except for any permanent or temporary closure effected by the Board by lawful action taken at a public meeting, as may be allowed by state law.” She requested that the gate be removed. Nergui expressed concern with the changes in light of the conservation easement. She relayed the group’s effort to call attention to this. Commissioner Padgett asked staff to follow up. Caselli said Ty Barger, County Road and Bridge Superintendent, needed to be involved. Commissioner Niece asked Nergui to share any information and photos with the Commissioners, Hollenbeck, Caselli, Barger, the Sheriff, and the County GIS Department.

*Kevin Koprek, 807 Main Street Ouray, present.*

Koprek thanked the Board for their work on the Red Mountain Alpine Lodge proceedings. He acknowledged that many folks wished the action had been more bold or swift but the public understood that there was a process. Commissioner Padgett said the Board could not take public comment on today’s agenda items since the person’s lawyer was not present before the agenda item. Koprek desired to read from a 2022 email he had sent to the Board members then. Commissioner Nauer indicated he could submit his printed 2022 email to Hollenbeck so it could be shared later in the meeting.

**9:29 BREAK:**

**B. 9:38 The Board of County Commissioners convened as the Board of Adjustment to consider the following public hearing:**

**Applicant: Josephine and Erik Fallenius**

**Agent: John Baskfield, Conterra Workshop, LLC**

**Location: Dallas Meadows, Filing No. 4, Lot 37 - 215 Meadows Circle**

**Request: Request for approval of a Variance Application from Sections 3.8(H)(4) and 4.2(A) of the Ouray County Land Use Code to allow the construction of an accessory dwelling unit (ADU) and expansion of the existing home within the fifty-foot property setback:**

*Bryan Sampson, Senior Planner, present.*

Commissioner Nauer said the original request was for a dwelling unit variance to allow for an accessory dwelling unit. She noted that the ADU had been relocated and stated they needed to look at the existing home expansion.

Staff Presentation

Sampson said that the ADU had been moved outside of the 50-foot setback inside of the building area on the lot. He provided some history that the Dallas Meadows Filing No. 4 Plat, recorded in 1980, created Lot 37 with a 25-foot front setback but no side or rear setbacks shown. He confirmed that Land Use was working with the previous plat, which trumped the current Land Use Code, being older than the existing Land Use Code. Sampson said that the addition did have a permit within the 25-foot front setback. He declared that they would work with the 25-foot front setback if the sides and rear remained with 50-foot setbacks. He identified that the home was built in 1991 and complied with the 50-foot setback, but the 2009 addition did not comply with the 50-foot setback. He specified that Staff considered it to be a legal nonconforming structure. He cited that per Section 4.2 of the Land Use Code it cannot be expanded unless it came into full compliance with the Land Use Code. He highlighted that the County Attorney had reviewed it and recommended a denial. He read the Staff conclusion: “If the Board of Adjustment approves this application, Staff is recommending that the following condition of approval be included: This variance shall expire three years from the date of approval unless the expansion to the primary dwelling unit (PDU) has been constructed. If the Board of Adjustment denies this application, the existing home on the property cannot be expanded.”

## Applicant Presentation

*Josephine and Erik Fallenius, Applicant, present.*

Erik Fallenius said they bought the property three years ago, one of 36 homes built in a 40-home subdivision's 44-year history. He explained the plat had a 25-foot setback from the road, and the HOA covenants dictated a 25-foot setback on side yards with a 40-foot setback from the road. He described that the subdivision had 16 other nonconforming homes regarding the 50-foot setback, and these homeowners would need a variance to make any changes. He asked the Board to allow the subdivision to continue as it had been for the last 44 years. He provided a drawing of the new planned construction, with a red line outlining the 50-foot setback, a new dining room and front door outside the 50-foot setback, and a small mechanical room just inside the 50-foot setback.

*John Baskfield, Architect, Ridgway, present.*

Baskfield thought the 25-foot setback and 40-foot setback from the road were law since it was in the HOA covenants. He said the setbacks were confirmed several times with the HOA Architectural Review Committee which also had jurisdiction over the building site. He confirmed the community's support of the construction with an understanding of the 25-foot and 40-foot setbacks' application. He acknowledged putting the ADU within the 50-foot setback was to save time. He believed that the neighborhood needed to come to the Board to go through the process to keep the original 1980 setbacks and covenants. Josephine Fallenius indicated two previous remodels, in 2009 and 2014. She said they learned about the 50-foot setback a few weeks ago. Commissioner Padgett stated that the Board needed to see it on a plat for a precedent, and if the HOA wanted to go with 25-foot and 40-foot setbacks, they needed to have the plat amended. She was trying to understand the hardship. Erik Fallenius pointed out that the hardship was being able to build or not build.

Commissioner Padgett stated that the Land Use Code was rigid, and the Board needed hardship findings. She wondered if the mechanical room could be reconfigured outside the 50-foot setback. Baskfield verified that he could redesign that end of the building. Josephine Fallenius clarified that they could not even build the dining room without a variance being legally nonconforming. Commissioner Padgett cited Land Use Code Section 12.5 (A)(4-6), "Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property." She identified that was what she was looking for. Erik Fallenius said they could not bring the house into conformance because they could not move the master bedroom and bathroom. Josephine Fallenius stressed that they were 68 and 70 years old and would like to enjoy their home with a dining room and a utility room. She stated that the County had accepted this for 44 years. Erik Fallenius said the house could not be brought into conformity and asked if a house with this situation could ever be enlarged.

## Questions for Staff

Commissioner Niece read from Land Use Code Section 3.8 (H), Valley Zone, (4), Required Setbacks: "All structures shall be located at least fifty (50) feet from any property lines unless otherwise approved in a PUD." He understood what the covenants say and asked if that document was otherwise approved in a PUD. Sampson described that the issue with the PUD was that the Land Use Staff did not have evidence that the County approved the covenants. He said they had a plat that the County signed with a 25-foot front setback. Caselli agreed there was a 25-foot setback from the road on Lot 37, but no setback was reflected on the original 1980 plat. He had researched historical minutes but found no evidence that the County ever accepted the HOA's Conditions, Covenants, and Restrictions (CCRs) or the setbacks. Commissioner Padgett confirmed that she was sympathetic and was looking for a path forward but needed to have findings. She noted that the only thing that increased the nonconformity was the new mechanical room, and if they could adjust the mechanical room, it would be outside the 50-foot setback.

Caselli stated that if that aspect of their property was legal nonconforming they may not need a variance for something that would not increase the degree of nonconformity. He explained that there was always a rule of reason in legal nonconforming uses or vested rights. Commissioner Padgett said that she could pin a finding on the applicant stating the mechanical could be reconfigured to conform with the 50-foot setback; then, they may not need a variance. Commissioner Nauer clarified that the Land Use Code spelled out that they could not make any changes without a variance. Commissioner Niece specified on page 22 of the packet that it was stated that the PDU could not be expanded unless it is brought into full compliance with the Land Use Code. Commissioner Padgett identified that the hardship was that removing the nonconformity of the building was impractical, and it could not be brought into conformity. Erik Fallenius agreed that was the hardship. Caselli said that to comply with Section 4.2 (A), the Board could consider a limited variance to the extent that it would not encroach on the 50-foot setback.

## Public Comment

Commissioner Nauer mentioned two letters of support from neighbors.

*Mark Dollard, Dallas Meadows HOA, President, present.*

Dollard said the HOA would pursue a plat amendment to eliminate many of the properties' nonconforming status. He stated that the community only learned about this issue a year ago. He urged the Board to help Josephine and Erik Fallenius move forward on this project.

**M/S/P** – Motion was made by Commissioner Padgett and seconded by Commissioner Niece to approve a variance for Josephine and Erik Fallenius for their property at Dallas Meadows, Filing No. 4, Lot 37 - 215 Meadows Circle from Sections 3.8(H)(4) and 4.2(A) of the Ouray County Land Use Code to allow the construction of an accessory dwelling unit (ADU) and expansion of the existing home within the fifty-foot property setback. Commissioner Padgett said that the findings are that there is an existing legal nonconforming structure with original construction and two subsequent remodels. Evidence was submitted to the Board that the existing structure could not be moved, and it is nonconforming from the

County's 50-foot setbacks and the plat setbacks that are shown today; however, the Board of Adjustment has been presented with evidence during this hearing that the existence of the prior construction presents an extraordinary and exceptional situation and condition to this property because the existing construction and improvements cannot be practically moved. This presents a barrier to obtaining a building permit to make additional additions and remodels, which will not increase the degree of nonconformity because, during this hearing, the Board has heard from the applicant that they will reconfigure the mechanical room so that it does not encroach on the 50-foot setback. Therefore, the Board is approving a variance and finding an exceptional hardship so that a building permit can be issued for additional remodels and additions that do not increase the degree of nonconformity.

Commissioner Niece asked Caselli if this could create problems in the future with a precedent. Caselli said that they could add a no precedent clause, and the Board did find hardship in this specific instance, and it was essentially a variance from Section 4.2(A) of the Land Use Code so the applicant could proceed with a building permit. He thought that the motion's intent was clear, and it gave clear direction to Staff so they could proceed with the issuance of a building permit. Commissioner Padgett added a finding that another exceptional situation is that the plat does not currently show all of the setbacks on all sides of the lot line or parcel, and it is the understanding of the Board that there is an intent from the HOA to pursue a potential plat amendment in the future. She added that these are specific findings that there was not a lot of precedent where there were existing structures that were so old with multiple remodels and have this specific plat and covenant situation. Commissioner Niece accepted the amendment of the findings that the plat does not show the setbacks on the sides of the parcel, and there was the intent of the HOA to pursue a plat amendment in the future. The motion carried unanimously.

**C. 10:32 Kim Mitchell, County Chief Paramedic:**

**1. Request for approval and authorization of Chair's signature on Ambulance Service Permit for Ambulance 1423:**

*Kim Mitchell, County Chief Paramedic, present.*

Mitchell said that this ambulance was not listed in the August license cycle, but they wanted to start using it.

**M/S/P** – Motion was made by Commissioner Niece and seconded by Commissioner Padgett to approve and authorize Chair's signature on the Ambulance Service Permit for Ambulance 1423. The motion carried unanimously.

**2. Request for approval and authorization of Chair's signature on Western Regional Emergency Medical & Trauma Advisory Council (WRETAC) Regional Systems Development Application and on the Pre-Grant Form:**

**M/S/P** – Motion was made by Commissioner Niece and seconded by Commissioner Padgett to approve and authorize Chair's signature on Western Regional Emergency Medical & Trauma Advisory Council (WRETAC) Regional Systems Development Application and on the Pre-Grant Form. The motion carried unanimously.

**D. 10:30 General Business:**

**1. Request for approval of the following expenditures:**

**a. Warrants:**

**b. Alpine Bank Lockbox Transmittal Form – April 2024:**

**c. Monthly Motor Vehicle Transmittal Form pursuant to Resolution 2018-016 (ratification):**

**M/S/P** – Motion was made by Commissioner Padgett and seconded by Commissioner Niece to approve the Warrants, Alpine Bank Lockbox Transmittal Form – April 2024, and ratify the Monthly Motor Vehicle Transmittal Form pursuant to Resolution 2018-016. The motion carried unanimously.

**2. Review and acceptance of the February 2024 and March 2024 Public Trustee Reports:**

**M/S/P** – Motion was made by Commissioner Padgett and seconded by Commissioner Niece that the Board had reviewed and accepted the February 2024 and March 2024 Public Trustee Reports. The motion carried unanimously.

**3. Request for ratification County Manager's signature on Employment Offer Letter for the Deputy County Manager position:**

**M/S/P** – Motion was made by Commissioner Padgett and seconded by Commissioner Niece to ratify the County Manager's signature on Employment Offer Letter for the Deputy County Manager position. The motion carried unanimously.

**4. Request for approval and authorization of Chair's signature the following Professional Services Agreements and Fiscal Impact Forms:**

**a. Ouray County Hazard Mitigation Plan (HMP):**

**b. Ouray County Community Wildfire Protection Plan (CWPP):**

*Glenn Boyd, Ouray County Emergency Manger, via Zoom.*

**M/S/P** – Motion was made by Commissioner Niece and seconded by Commissioner Padgett to approve and authorize Chair’s signature on the Professional Services Agreements on the Ouray County Hazard Mitigation Plan (HMP) and Ouray County Community Wildfire Protection Plan (CWPP) and on the Fiscal Impact Forms.

Commissioner Nauer asked how often the Community Wildfire Protection Plan needed to be updated since it was last updated in 2011 and whether it would be updated more often. Boyd said that the new statute stated that it needed to be updated every five years. The motion carried unanimously.

**5. Request for approval and authorization of Chair’s signature on Modification of Grant or Agreement 20-CO0110204406-046 with the United States Forest Service for the Alpine Ranger Program and on the Fiscal Impact Form:**

**M/S/P** – Motion was made by Commissioner Niece and seconded by Commissioner Padgett to approve and authorize Chair’s signature on Modification of Grant or Agreement 20-CO0110204406-046 with the United States Forest Service for the Alpine Ranger Program and on the Fiscal Impact Form. The motion carried unanimously.

**6. Request for approval of the following minutes:**

**a. November 7, 2023 Minutes:**

Commissioner Niece pointed out a couple of typos.

**M/S/P** – Motion was made by Commissioner Padgett and seconded by Commissioner Niece to approve the November 7, 2023 Minutes with the typo corrections. The motion carried unanimously.

**b. November 14, 2023 Minutes:**

The Board asked for the November 14, 2023, minutes to come back due to typos and a couple of points of clarification.

**E. 10:50 Commissioner/Administrative Reports:**

**1. Work Session List / Upcoming BOCC Topics:**

**Leo Caselli, County Attorney**, discussed:

- 1) Working on the short-term rental draft and a work session for Board input.
- 2) Reviewing applicants for the Deputy County Attorney interviews next week.

**Hannah Hollenbeck, Administrative Assistant**, discussed:

- 1) The town of Ridgway is hosting the Tri-Agency Dinner with a suggested May 30, 2024 date.
- 2) The Employee Appreciation Luncheon will be on May 16, 2024.
- 3) Advertising two positions for the Planning Commission that expired at the end of March 2024.
- 4) The press release on the Crystal Reservoir, Full Moon Dam drawdown.

**Commissioner Niece**, discussed:

- 1) Attended CCI and CCAT in person last week.
- 2) Spoke to Senator Cleave Simpson, who wants to visit after the legislative session.

**Commissioner Padgett**, discussed:

- 1) The Forest Service provided draft objection guidance for the species of conservation concern portion of the Forest Service objection.
- 2) A Cooperator Agency comment due for the Gunnison Sage-Grouse Resource Management Plan Amendment.
- 3) The timing of the Crystal Reservoir notice and the closure of the Hayden Trail were concerning.

**Commissioner Nauer**, discussed:

- 1) Responded to a complaint in Idlewild regarding roads.
- 2) Jane Errion reached out regarding an affordable housing grant through Prop 123.
- 3) A meeting with Neil Perry, Forest Service, to discuss locations for the Scenic Byways Grant potties.

**F. 11:18 BREAK:**

**G. 11:30 Potential Removal by the Board, of Planning Commission Member Mark Iuppenlatz, for nonperformance of duty and/or misconduct, under C.R.S. 30-28-103(3):**

Caselli indicated that Iuppenlatz’s attorney wrote a letter that stated that the letter issued to his client by the Land Use Department was a “pretext for his removal.” He verified that was not the case; the letter was issued due to an ongoing code enforcement matter that had blossomed into a legal matter.

*Mark Castrodale, County Planning Director, via Zoom.*

Castrodale said that from the communications with Land Use staff, a new structure was being proposed in the high alpine to renovate a historical cabin known as the Blacksmith’s Cabin. He described that it was under sections of Section 24.2 (B) (5), Applicability: These regulations shall not apply to: “Excludes any existing

historically significant structures.” He told the applicant that since the Land Use Code did not define a historically significant structure, the Land Use staff would need a letter from the Ouray County Historical Society (OCHS). He received a letter from Donald Paulson, OCHS, who said the structure was historically significant. Castrodale showed the application, which stated that the project was the restoration of a significantly historical structure for use as a warming hut. He read the definition of renovation, “The act or process of repairing and improving something.” He found a good definition of warming huts from Tinyhouseblog.com, “Warming huts are small structures that can be both temporary or permanent and usually contain a place to hang up wet gear, seating, and sometimes a wonderful woodstove or fireplace where you can warm your freezing fingers.” He highlighted no mention of overnight stays in the application or the definition.

Castrodale said they processed the application and issued a building permit based on the OCHS letter. He specified the reason for the notice letter was Land Use received a number of complaints from members of the public that the structure was being utilized. He clarified that the structure had not had a final inspection, and a certificate of completion was not issued, so it should not have been used then. He specified, based on the complaints and photos, that the cabin was red-tagged, which meant to stop and not make additional changes until the issue was resolved. He identified with an open building permit Land Use had the authority to enter the property, so one of his staff conducted an onsite inspection. He pointed out that things were added that were not part of the building permit: kitchen stove, cabinets, bunk beds, and other items suggested a different use than a warming hut. Castrodale declared from the inspection that it became clear that none of the materials from the original structure was used. He gave luppenlatz four options: permanently remove the unpermitted non-historical items, acquire 35 acres to obtain issuance of a building permit under Section 24, apply for approval of an ‘appeal’ or ‘variance’ through the Board of Adjustment, or apply for a ‘demolition permit’ and legally remove the structure.

*Genevieve Shope, County Building Inspector, present.*

Shope mentioned that in December 2023, she was informed that the restoration project was completed. She notified luppenlatz that she had never received inspection requests and multiple inspections were needed. She was contacted in February 2024 to meet luppenlatz at the Blacksmith Cabin but was still awaiting an agent authorization form. She explained to him that she would try to do the other required inspections prior to allowing it to be a final inspection. Shope said that luppenlatz became irate, frustrated, disruptive, and disrespectful over the phone, and she notified her manager. Upon doing the inspection, she found alcohol bottles, a propane stove/range plumbed into the structure, and beds. She noted that none of the original structure materials were used. She emailed luppenlatz with her findings from the inspection without a reply. Shope heard that the original structure was either burned or hauled away.

Castrodale estimated luppenlatz’s attendance record had been around 80% of the Planning Commission meetings, and recently, that was mainly by Zoom. He revealed that luppenlatz responded when questions were directed to him but did not come prepared with suggestions or questions. Caselli reviewed the Planning Commission Code of Ethics and listed the following ethical violations: to refuse to render judgment to individuals or special interest groups; to avoid being placed in a position of conflict of interest; refrain completely from using my position on the Planning Commission for personal or partisan gain; promptly disclose any conflict of interest or personal or private interest; take no action that will compromise the Planning Commission; conduct myself in a courteous and respectful manner with my colleagues, staff and the public; exhibit good sportsmanship; and participate as a team member.

Caselli expected this would likely be headed to court at this point, and he intended to seek an injunction. He said that Mark luppenlatz had not acted courteously to the Land Use Staff. He stated that luppenlatz’s attorney had characterized the range top as a gas heater, which was false. He said that this was noticed as a potential removal. He stressed that based on what was presented, there were multiple violations and grounds for removal. Commissioner Padgett stated that Planning Commission members were required to be full-time residents. Caselli did not know if he was a full-time resident.

#### Public Comment

*Kristin Arnold, Ridgway, present.*

Arnold supported Mark luppenlatz’s removal from the Planning Commission. She relayed that in April 2022, she and Sheldon Kerr had presented materials to the BOCC that detailed serious concerns regarding luppenlatz’s ability to carry out his duties on the Planning Commission. She pointed out that luppenlatz violated the Code of Ethics by not conducting himself in a courteous and respectful manner, not being placed in a position of conflict of interest, and refraining from using his position for personal or partisan gain. She believed that the document submitted in 2022 and the recent public comments submitted during the hearing process for Red Mountain Alpine Lodge demonstrated luppenlatz’s repeated violations. Arnold thought that luppenlatz’s most egregious actions involved the Blacksmith’s Cabin. She felt that removing luppenlatz and replacing him with an ethical representative would restore public trust.

*Scott Williams, 570 Marian Overlook Ridgway, present.*

Williams said that what was once a significant historic structure was no longer a significant historic structure. He declared that there was a widespread public perception that luppenlatz had an inherent conflict of interest because of his many property and business interests in the high alpine area. He felt this was a problem when the Planning Commission made a decision, even if luppenlatz recused himself because a public perception cast doubt on the legitimacy of the County’s actions. Williams noted that there had been many issues raised regarding the special use permit hearings. He hoped that changes would be proposed to the Land Use Code High Alpine Regulations. He suggested luppenlatz’s removal would free him from his conflict of interest.

*Kevin Chismire, Ouray County Historical Society, via Zoom.*

Chismire said that when the Historical Society made a historical designation, there was an understanding that the owner would make every attempt to keep that structure in its original condition. He stated that if repairs, renovations, or stabilization were needed, all attempts should be made to keep as much of the original structure

and historic designation as possible. He expressed that a significant amount, if not all, of the structure's walls, were destroyed or removed, eliminating everything deemed historic.

*Kevin Koprek, 807 Main Street Ouray, via Zoom.*

Koprek thanked the County staff for performing their tasks, some of whom were subjected to less-than-courteous communications with Luppenlatz. He strongly believed that many of the things Luppenlatz interacted with in the community were a means to an end that he envisioned. He acknowledged that most of us who got on committees and boards were self-interested. He wanted to be able to believe in the people who were around him. Koprek looked forward to Luppenlatz's removal from the Planning Commission.

Commissioner Nauer did a final call for Mark Luppenlatz and or his attorney, Josh Mack.

Commissioner Niece said that when the Board last considered Luppenlatz's reappointment to the Planning Commission, Sheldon Kerr and Kristin Arnold commented about a wage theft action that the Colorado Labor and Employment substantiated that he had committed, that documentation was re-included in today's public comments. He stated at that time, he did not want to get in the middle of a dispute between an employer and a former employee, and he had given Luppenlatz the benefit of the doubt. He added that no one else had stepped up to be on the Planning Commission; with some significant reservations, he voted to reappoint Luppenlatz rather than leaving an open position. He regretted his decision based on Luppenlatz's behavior. Commissioner Niece asserted that it was not just his action with the Blacksmith Cabin; the other behavior described was another piece that contributed to a lack of trust.

Commissioner Nauer said that this was not a historical renovation and that what happened was very sad. She told the County employees subjected to Luppenlatz's behavior that she had also been on the other side of an angry person; she felt bad that this had happened. She stated that it was clear that Luppenlatz had abused his knowledge and position on the Planning Commission.

Commissioner Padgett read her findings: the renovation of a significant historical structure identified and classified by the Ouray County Historical Society was not honored; no attempt was made to reuse or retain any of the historic materials or character that made it a historical structure; the historical materials may have been burned; Luppenlatz did not follow his statements or the conditions on the April 2023 building permit; evidence of occupancy without a certificate of occupancy (CO); no request for an inspection for a CO; an authorized agent form was not returned; no effort to confirm the timing of a building inspection; unprofessional and abusive treatment of Staff, contrary to the Planning Commission Code of Ethics; and a false narrative of the gas range as a gas heater by Luppenlatz's attorney. Commissioner Padgett said she had heard that there was recent or significant absentia. She noted Luppenlatz's lack of preparation and significant participation in the Planning Commission, and violations of the building permit while knowing the Land Use Code. Commissioner Niece stated they could not confirm whether Luppenlatz was still a full-time resident. Caselli reminded that the statute said nonperformance or misconduct so the Board could make a motion based on misconduct. Commissioner Niece and Commissioner Nauer agreed with Commissioner Padgett's findings.

**M/S/P** – Motion was made by Commissioner Padgett and seconded by Commissioner Niece to approve the removal of Mark Luppenlatz from the Ouray County Planning Commission for misconduct and conflicts of interest under C.R.S. 30-28-103(3).

*A roll call vote was taken on the motion with the following results:*

- Commissioner Nauer voted in the affirmative.*
- Commissioner Padgett voted in the affirmative.*
- Commissioner Niece voted in the affirmative.*

*There was no discussion. Motion carried unanimously.*

**12:15 pm                      The Board adjourned the regular session.**

BOARD OF COUNTY COMMISSIONERS  
OF OURAY COUNTY, COLORADO

Attest:

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Michelle Nauer, Chair

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Lynn M. Padgett, Vice-Chair

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Cristy Lynn Sulewski, Clerk and Recorder  
By: Harlan Thompson, Deputy Clerk of the Board

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Jake Niece, Commissioner Member