

1           there any way based on what we feel  
2           like -- and I agree with Mr. Daily. I  
3           agree with the other commissioner, which  
4           his name I can't remember, Greg, Mr. Greg  
5           Spanier. I think that, you know, yeah, I  
6           think that contract probably should be  
7           null and void because of how it was  
8           written, but that's just my opinion.

9           COMMISSIONER WOOTEN: So in response  
10          to what Mr. Spanier said, the Planning  
11          Department gives us recommendations.  
12          Okay. So I went straight back to them and  
13          said, okay, here are your recommendations.  
14          Is there way we can do one of these three  
15          legally, and it says, we can reverse your  
16          decision, we can allow -- not allow it, we  
17          can confirm what you said, or we can  
18          modify the staff decision. There's no  
19          legal way to modify, change, anything they  
20          did. The law is the law. And if we don't  
21          like that, we have got to come back later  
22          on and say, hey, add a clause in there  
23          that says a leasee can't do this.

24          COMMISSIONER SPANIER: Then why did  
25          we put this in there if we can't do it?

1 COMMISSIONER DAILEY: Well, I mean, I  
2 want to clarify which one it is.

3 TONY LUONG: I was made known that  
4 there is a waiver.

5 COMMISSIONER JOHNSON: There is no  
6 special exception for this. That's  
7 against the law. We cannot make a special  
8 exception.

9 COMMISSIONER WOOTEN: We don't have a  
10 code. Used to three years ago, 2009,  
11 adopted the new UDO. Before that, there  
12 was special exceptions and we could pretty  
13 do whatever we wanted.

14 MR. RAMSEY: Well, no. No.

15 COMMISSIONER SPANIER: We stopped the  
16 good old boy stuff.

17 COMMISSIONER WOOTEN: We wrote some  
18 code.

19 MR. RAMSEY: Special exceptions were  
20 a good old boy thing.

21 COMMISSIONER WOOTEN: Well, I wasn't  
22 going to go there. We changed the code.  
23 Okay. We did that for the betterment of  
24 the community, which added teeth into our  
25 claws, teeth and clause into our law and

1 allowed us to go by the law, not what he  
2 feels, his opinion is. I'm always going  
3 to stop and say, legally is there any way  
4 we can help you?

5 MR. RAMSEY: Hush, and I'll tell you.

6 COMMISSIONER WOOTEN: Sir?

7 MR. RAMSEY: Hush, and I'll tell you.  
8 One, you can say that the staff made the  
9 proper decision. Two, you can say that  
10 because in your opinion the property owner  
11 was duped in this process, that the staff  
12 did not make the proper decision, and the  
13 property should not have lost its status  
14 as a preexisting non-conforming use, and  
15 the primary use of the structure during  
16 this whole period was as a residence, so  
17 it still is a residential use in a  
18 commercial district.

19 COMMISSIONER DAILEY: I'm ready to  
20 make a motion.

21 COMMISSIONER JOHNSON: Go ahead.

22 MR. RAMSEY: But you've got to  
23 convince four of you to take that  
24 position.

25 COMMISSIONER SPANIER: I vote number

1 two.

2 COMMISSIONER DAILEY: I move -- may I  
3 offer a motion?

4 COMMISSIONER WOOTEN: Well, actually,  
5 we've got a couple of more steps in here  
6 we've got to do, because this may wind up  
7 in court. All right. So, Mr. Meyer, do  
8 you have anything -- and we've covered a  
9 lot of ground, you probably want to read  
10 your findings, recommendations and your  
11 law right now into the record? Staff  
12 presentation.

13 MR. MEYER: We just enter the staff  
14 report into the record.

15 MR. RAMSEY: Y'all have already read  
16 it.

17 COMMISSIONER WOOTEN: I just want to  
18 make sure that we're following the  
19 procedure. Mr. Luong, did you have any  
20 objection to anything that's been said  
21 tonight? Now would be the time to tell  
22 us.

23 TONY LUONG: No. I don't even know  
24 what to object to.

25 COMMISSIONER WOOTEN: Okay. We're

1 just trying make sure everything is out in  
2 the open, you know, no secrets.

3 COMMISSIONER JOHNSON: Well, I mean,  
4 for the record, just the question, do you  
5 object to staff's finding of our  
6 application?

7 TONY LUONG: Yes.

8 COMMISSIONER JOHNSON: Okay. I just  
9 want to make sure I understand that.

10 COMMISSIONER WOOTEN: Any other  
11 questions to the staff? Mr. Meyer? Babs?  
12 Public comments? Okay. Anything else  
13 that you'd like to say, Mr. Luong?

14 TONY LUONG: No.

15 COMMISSIONER WOOTEN: We appreciate  
16 your patience. Mr. Meyer, anything you'd  
17 like to add?

18 MR. MEYER: Nothing else.

19 COMMISSIONER WOOTEN: Any final  
20 questions of the staff or Mr. Luong?

21 COMMISSIONER JOHNSON: I have a  
22 question. Mr. Meyers, it looks like -- it  
23 looks like we're about to make a  
24 recommendation here, and it looks like  
25 that recommendation might go against

1 staff's finding. What's your general  
2 opinion of that? If, indeed, it goes  
3 against the staff's recommendation, is  
4 there something that you could tell us --

5 COMMISSIONER WOOTEN: It just  
6 continuously bewilders you, doesn't it,  
7 Mr. Meyer?

8 COMMISSIONER JOHNSON: Because I will  
9 say this --

10 MR. MEYER: For us, I mean, do I get  
11 hurt -- I mean, my feelings hurt? No.

12 COMMISSIONER JOHNSON: I'm just  
13 wondering, do you have anything else you'd  
14 like to add before we go to the next step?

15 MR. MEYER: For us, they were able to  
16 get a privilege license, they opened up a  
17 business, they had a commercial sign.  
18 It's the intent of the Comprehensive Land  
19 for that corridor to be commercial. It's  
20 commercially zoned. So, for us, the facts  
21 all piled up in a pretty obvious pattern  
22 that this was a commercial property, was  
23 supposed to be a commercial property, and  
24 was finally used as a commercial property.  
25 I guess, for us, there's no, at a staff

1 level, administrative level, we're not  
2 allowed to exercise an oops clause. I  
3 mean, there's no, we think something. I  
4 mean, honestly, if I called you every time  
5 someone tried to sell me a good story of  
6 why we needed to allow them to do  
7 something. I had two of those just today.  
8 I mean, we are asked to do things because  
9 of a good reason, every day we're asked to  
10 permit something for a good story. And  
11 his could be 100 percent accurate, and  
12 probably is. But, I mean, you don't want  
13 to give the staff the judgment to ignore  
14 facts in the Code just because someone has  
15 a good, compelling story.

16 COMMISSIONER DAILEY: And, boy, I  
17 appreciate what you've done here. I  
18 wouldn't want you to do anything  
19 differently. I mean, you did exactly what  
20 I think you should have done up to this  
21 point.

22 COMMISSIONER JOHNSON: And you  
23 changed my mind, so I appreciate your  
24 feedback. Now, my mind has flipped over,  
25 so thank you. Appreciate it.

1 MR. RAMSEY: Get to a vote before  
2 y'all --

3 COMMISSIONER WOOTEN: Final  
4 questions, Mr. Johnson?

5 COMMISSIONER JOHNSON: No. I'm good.  
6 I'm ready to go.

7 COMMISSIONER WOOTEN: Anybody else?  
8 Okay. So we'll close the public portion  
9 of the hearing. Mr. Luong, thank you.  
10 All right. So we're fixing to get a  
11 motion. You can have a seat. Here's your  
12 paperwork. Here's your two leases and  
13 your photos back.

14 Okay. So, I'll take a motion.

15 COMMISSIONER DAILEY: I would like to  
16 make a motion that we reverse the staff  
17 decision and allow the structure to be  
18 occupied as a residence. And I'll go back  
19 to what our City Attorney just stated as  
20 to that this isn't our realm of  
21 responsibility, that we're to listen and  
22 observe what we determined to be true and  
23 accurate. And I'm confident that based on  
24 what I've heard that the residential  
25 status was never changed, that it was

1 maintained as a residence for the entire  
2 time of occupancy, and that --

3 COMMISSIONER JOHNSON: Mr. Daily, can  
4 you --

5 COMMISSIONER DAILEY: Let me finish.

6 MR. RAMSEY: You have to let him  
7 finish his motion. You can't interrupt  
8 him in the middle of it.

9 COMMISSIONER JOHNSON: But it sounds  
10 like he's discussing --

11 MR. RAMSEY: You can't interrupt him  
12 in the middle of his motion. After it,  
13 then you get your turn.

14 COMMISSIONER WOOTEN: You're right,  
15 Mr. Johnson. We've heard all the facts.  
16 Give us what you've got.

17 COMMISSIONER DAILEY: Well, I can  
18 give you my findings as I --

19 MR. RAMSEY: In your motion, you're  
20 asking the Commission to make a finding.  
21 One, that the residential status of the --  
22 that the primary use of the property was  
23 always residential.

24 COMMISSIONER DAILEY: Right.

25 MR. RAMSEY: Okay. Now, are y'all

1 going to put in there that the lease that  
2 was executed was as a result of the land  
3 owner being duped by the tenant.

4 COMMISSIONER DAILEY: Well, I may not  
5 use the word duped, but I don't feel that  
6 the lease reflects the intention of the  
7 land owner for the use of that property,  
8 and I do feel that it was to the tenant's  
9 advantage and to the detriment of the land  
10 owner, without the land owners knowledge,  
11 and that we should maintain that that  
12 property was residential this entire time  
13 and that a change of use did not occur.

14 MR. RAMSEY: Now he needs a second.

15 COMMISSIONER SPANIER: I second it.

16 MR. RAMSEY: Now, discussion.

17 COMMISSIONER WOOTEN: We had a motion  
18 by Mr. Dailey to reverse Staff decision  
19 based upon the reasoning that I hope you  
20 got, Michele, and a second by Mr. Spanier.  
21 Now it's time for any questions or  
22 comments to be made at this time.

23 COMMISSIONER JOHNSON: I think that  
24 we set a dangerous precedent when we go  
25 against what the law says, when we go