

Planning Commissioner Ethics
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Vignette One: New Urbanism and the Funeral Parlor

Mrs. Tabor left her home to her children. They wish to convert it to a funeral parlor with a business on the first floor and a residence on the second. The house is located in a 16-block neighborhood of single-family residences. The house is one block from Main Street, a main thoroughfare lined with businesses. Main Street is zoned C-2 and the neighborhood, C-1. In order to run a funeral parlor business, the family needs to have the lot rezoned from R-1 to C-1. They file an application for rezoning for a home occupation to be heard by the Plan Commission.

The City's Comprehensive Plan was recently amended so that neighborhoods, such as the one in which the Tabor House is located, will have mixed uses, including home occupations in single-family, residential zones in keeping with New Urbanism principles. Attendance at the plan amendment hearing was modest—only two residents showed up.

The Tabor's neighbors are upset and organizing opposition to the funeral parlor plan. Two of the city's planning commissioners live in the neighborhood and are invited to a neighborhood meeting. In the meeting, the following things are discussed:

- a. Commissioner One states he will move if the funeral parlor opens in the Tabor House.
- b. A resident threatens to cancel plans to build a new house in the area on a lot owned by Commissioner Two.
- c. A business owner has cancelled plans to buy an adjacent house.
- d. A real estate agent is upset about losing sales commissions; she was a cousin of Mrs. Tabor's.

Adding to the excitement is the interview the Mayor gave to the local newspaper in which she hints she approves of the funeral parlor plans.

Vignette Two: Rethinking the Public Interest In Downzoning

It is 1985. The City adopts Zoning Amendments to its Comprehensive Plan. The amendments further the goal of increasing the amount of affordable housing. It targets an area between the downtown and the college campus. The area is rezoned to allow multi-family units including new apartment buildings and remodeled, single-family houses. Developers are given tax incentives to provide lower cost housing.

Professor Helper is a friend of the mayor. He reads the plan and decides, along with other developers, to purchase property in the area. In his view, by developing multi-family housing in this neighborhood, he can provide housing to students, many of whom are African-American or from other minority groups. He unveils his plans and announces that he is helping the community become more racially inclusive. His plan results in converting two old houses into student rentals and the construct of one, new, two-story apartment.

Now its 1989. The neighbors in this area have created a Neighborhood Historic Preservation Association to help preserve their Victorian-era homes. They have been assisted in their formation by the planning staff, who in turn was following a directive of the Planning Commission Chair. The Chair was raised in the neighborhood and she chaired the planning study meetings of the association. The association recommends an amendment of the Comprehensive Plan and the Zoning Ordinance to strengthen historic preservation of the neighborhood. The Plan Commission initiates a study to determine if more multi-family units are needed and if the historic character of the neighborhood is threatened.

Learning of the actions of the association, the Professor Helper applies for demolition permits for his two houses and for permits for new apartment buildings on the soon-to-be vacant lots. His application meets the current building and zoning ordinance requirements.

However, the City declares a moratorium on issuance of new permits, pending the completion of the study. When completed, the study reveals that the city has met its standard for adequate housing opportunities for minority community members.

The Plan Commission next holds a hearing to adopt the amendments to the plan and ordinance. To enhance preservation, the neighborhood will be downzoned. Professor Helper is upset and claims in the hearing that his property is being confiscated. The Commission Chair replied that the zoning change could not be imposed retroactively to a vested right. The Professor interprets this to mean his property is unaffected by the amendments.

The Plan Commission recommends and the City Council accepts of the amendments. The professor is then denied his building permit under the new zoning. He is angry and sues.

Vignette Three: Tax Base v. Fairness To the Public

A national, big box retailer plans to build a new store in the municipality. The mayor is pleased because he sees this as a means of increasing the tax base for the community. He calls a combined meeting of the Municipal Board, the Plan Commission, and the Zoning Board. They hear applications for an amendment, a variance, and a special exception to the plan and the ordinance as part of a special expedited application and review for the big box project. The mayor resorted to the unusual practice of using emergency powers to call this combined hearing.

The location of the proposed new big box store is a site now occupied by a vacant lot owned by a church. The lot is located one mile south of another big box complex.

The planning staff provides Commissioner Dollar with a general impact analysis that contains an analysis of the projects projected effect on traffic and existing businesses. Also, the neighbors don't want the new big box store and start to organize opposition. The day of the meeting, almost the entire church congregation attends, ready to testify that it needs the revenue from the sale of the lot to support its programs.

At the meeting, when Commissioner Dollar attempts to introduce the staff report, the mayor does not allow this information to be presented in the hearing. Those people who oppose the big box retailer's plan are restricted to two-minute comments. The mayor also refuses to allow the Plan Commissioners and others to ask questions of the big box representatives. Owners of adjacent property hired their own traffic expert to testify, but he also is not allowed to ask questions. At the end of the hearing, the plan commission and zoning board recommend denial of the applications, but the Municipal Board approves them one week later, without additional hearing.

The neighbors bring a lawsuit against the municipality. The court declares the issuance of the permit illegal. The big box retailer moves to an adjacent jurisdiction.