Taoist Tai Chi Society Center and the Durward Neighborhood

A Case Study in Conflict and Resolution

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Introduction
This conflict arose when a non-residential use was proposed in an established inner city neighborhood. This case study will identify the parties involved in the conflict, the nature of the dispute, the case history, and the eventual settlement while comparing the adversarial approach with the mediation approach. The case study will also contrast the results of these two approaches.

The Parties

1) The City of Tallahassee – The local entity with the authority to interpret land use codes, ordinances, as well as state rules and laws; and implement these codes, ordinances, rules and laws through land use decisions;

   - City Staff

      o Planning - Provides planning expertise to the Development Review Committee and the Planning Commission to assist in their land use decision-making.

      o Legal - Provides legal expertise to the Planning Staff, the Development Review Committee and the Planning Commission related to land use law.

   - Development Review Committee – Committee consisting of representatives from the Planning Department, the Growth Management Department, the Public Works Department and the Utilities Coordinator. This committee is responsible for approving site plans for moderate and large sized projects.
- **Planning Commission** – The local government body consisting of volunteer appointees chosen by the Board of County Commissioners and the City Commission. The Commission is the final administrative appeal entity within the City organization for land use decisions including those made by the Development Review Committee.

**The Durward Neighborhood Association** – An association of residential land owners in the same neighborhood as the property purchased by the Taoist Tai Chi Society. The Association formed in reaction to the proposed purchase and proposed non-residential use of the property by the Taoist Tai Chi Society. The neighborhood is an affluent neighborhood first established in the 1940s.

**The adjacent property owners**– Murray M. and Susan Wadsworth, Ira Mae Hajduck, and Joseph and Deanne Audie. These specific property owners own residences immediately adjacent or directly across the street from the property proposed for use as the Tai Chi Center.

**The Taoist Tai Chi Society** – A religious organization proposing to purchase property within the Durward neighborhood for use as a non-residential Center for their activities which include worship, celebration and the teaching of Tai Chi as well as some administrative offices.

**Nature of the dispute**

The Durward neighborhood is an inner city established affluent residential neighborhood with approximately 120 residences (Please see attached map.) The neighborhood is located between and bordered by two major arterial roadways within the city. There is also a connector road located in the neighborhood that
goes between the two arterials that is used for cut-through traffic as well as neighborhood traffic.

The Taoist Tai Chi Society proposed to purchase one of the residential properties in the neighborhood. The property is within the neighborhood but is located along the edge of the neighborhood. The property is adjacent to one of the major arterials that border the neighborhood as well as being adjacent to the connector road that goes through the neighborhood. The Taoist Tai Chi Society proposed to use the home for activities associated with their organization including religious celebrations, exercise classes, intermittent lodging and administrative offices. While the Taoist Tai Chi Society was not proposing any outward architectural changes to the building on-site, they did initially propose additional parking areas that would border along the connector roadway through the neighborhood.

The Durward neighborhood residential property owners felt that this was a commercial encroachment into their neighborhood that would change its character and affect the value of their properties. They felt this would come about as a result of the non-residential activity being at one of the entrances to their neighborhood as well as the direct access on to the connector road resulting in more traffic and parking along the connector road further impacting the residential character of the neighborhood. The neighbors immediately adjacent to the site and across the street felt that the noise and lighting from the site would also impact their property values and quality of life. The Taoist Tai Chi Society felt that the location met the needs of their organization given its proximity to a major arterial. They also felt this location was where they could create an atmosphere of tranquility that met the needs of their religion which might not be achievable within a more commercial setting.
The City’s Development Review Committee initially approved the project. That approval was later overturned by the Planning Commission denying the project. The Planning Commission decision was the subject of an appeal leading to another appeal until a settlement agreement was reached through mediation.

**Case History**

The Taoist Tai Chi Society petitioned the City’s Development Review Committee for designation as a religious organization under the Community Services Section of the City’s zoning code. The Taoist Tai Chi Society also sought approval for their site plan as a special exception under the zoning code for Community Services allowing this type of non-residential use in an area zoned for residential use. The Taoist Tai Chi Society proposed to use the property as a Tai Chi Center.

City staff encouraged the Taoist Tai Chi Society to notify the residents within the Durward neighborhood of their proposal prior to the Committee determining whether the exception should be approved. The Taoist Tai Chi Society notified the neighbors within the immediate vicinity of the property of the proposed special exception. The neighbors quickly notified the remaining residents in the neighborhood who immediately organized as the Durward Neighborhood Association to oppose the proposed exception.

The Taoist Tai Chi Society initially offered to work with the Neighborhood Association to ensure that the planned use of the site would be compatible with the neighborhood including access to the connector road through the neighborhood. The Neighborhood Association was not interested in any negotiations at that point and offered to buy the property from the Taoist Tai Chi Society and then put a deed restriction on the property so that it could only be used as a residence. The Taoist Tai Chi Society
did not accept the purchase offer for various reasons. These reasons included no assurances that another location would not result in the same concerns as this location. Furthermore, the price for the property may not have been enough to buy an adequate piece of property in another location.

The residents of the neighborhood appeared at the hearing to oppose the exception. There was no opportunity for public input in the process at that point. However, prior to the hearing the committee members had received calls and written correspondence from the public expressing their positions on the matter. City staff also facilitated a pre-application wherein the Taoist Tai Chi Society proposed certain conditions to make their proposed use of the property more compatible with the neighborhood. The Neighborhood Association and the adjoining neighbors took a hard line on the negotiation and were not agreeable to considering measures to increase compatibility. The neighborhood only considered the use of the property for residential use to be an acceptable option and felt that ultimately they would prevail either administratively or through litigation.

The Development Review Committee found that the Taoist Tai Chi Society was a religious organization under the Community Service Section of the City’s zoning code and approved the site plan with conditions. The Neighborhood Association and individual residents whose property was immediately adjacent to or across the street from the Taoist Tai Chi Society property filed a petition with the Planning Commission challenging the approval of the Development Review Committee. The petitioners did not believe that the proposed use of the site met the criteria for the special exception allowing this land use within this neighborhood. The exception was based on the Taoist Tai Chi Society being a religious organization and the proposed facility would be used “solely for religious functions.” The petitioners felt that the classes taught onsite, which include an exercise form, were more
commercial in nature than religious. The petitioners also felt that the necessary requirements had not been put in place to make the proposed use compatible with the neighborhood including buffering, lighting, signage and access conditions. The petitioners also believed that the proposed use of the property did not meet Planned Unit Development requirements they felt were applicable to the project.

The Planning Commission referred the matter to the Division of Administrative Hearing for a recommended order. At the Administrative Hearing all of the parties presented their case. The Hearing Officer then issued a Recommended Order to the Planning Commission. The recommended order stated that the project was correctly approved by the Development Review Committee, with one exception to require further restriction of the hours of operation.

The Planning Commission received the Recommended Order but took action to deny the approval of the project based on the finding that the Tai Chi Center was not going to be primarily used for religious practices. Therefore, additional requirements had to be met including Planned Unit Development Approval which was not required if the project were given the special exception.

The Taoist Tai Chi Society then appealed the Planning Commission’s denial to the Circuit Court who in turn found in favor of the earlier approval of the project by the Development Review Committee. The Neighborhood Association and the adjacent neighbors appealed the Circuit Court’s decision to the 1st District Court of Appeals.

At this point, after identifying the need for renewing financial commitment towards litigation and the uncertainty of any appeal process, the Neighborhood Association and the adjacent property owners were willing to explore options for addressing their
concerns through mediation while abating the appeal process. The Taoist Tai Chi Society was also agreeable to trying to resolve the issue of compatibility with the neighborhood through mediation. The City paid for the mediator and provided facilities for the mediation to occur.

For purposes of confidentiality agreed upon by the parties and the mediator in this process, details of the mediation are not available. In most cases of this type the mediator will normally interview the involved parties to get an understanding of the issues and parties involved. Even though in this case the mediator was paid for by the City, the mediator in these types of situations acts as a neutral party and does not have an interest in a particular outcome other than to reach a mutually agreed upon resolution of the conflict.

A method commonly used for these types of cases is to bring the parties together to state their position and to ensure that all parties have the opportunity to understand each other’s position. Some rules are agreed upon by all of the parties to ensure there is civility and to maximize the opportunity for communication and ultimately agreement. The mediator explains their role as a neutral party seeking to assist the parties in reaching a mutually acceptable agreement to resolving the issue. Also, the mediator will explain a recommended process for trying to reach agreement and make sure there is agreement on that approach.

One method used in similar situations to the one discussed in this case study is after the parties have had an opportunity to explain their position to the entire group the mediator will separate the parties into different areas or rooms if possible. The mediator will then meet with one of the groups them to identify some solutions, to the conflict. In the process of identifying these solutions the mediator might assist the party in focusing on their interests rather than their positions and assisting them in separating the problem from the people involved. In this case the mediator may have
assisted in identifying any feelings that may have arisen in the challenge to the issue of religious status of the activities proposed onsite and separating them from the problem of compatibility. This would hopefully allow the group to then focus on their interest of minimizing the impact of the development on the neighborhood rather than the position that the Tai Chi Center was an unacceptable land use under any circumstances. The mediator will promise confidentiality in discussing the options within each group as well as any discussions that assist the party in separating out the problem and focusing on their interest. He/She may help the party recognize what they consider to be their best alternative to a negotiated agreement and use this as motivation to continue trying to reach a solution. The mediator may also provide guidance in these smaller group meetings as to his/her perception of what the other parties might accept but he/she does not have any involvement in the final decision of what is proposed. He/She will then present the solution to the other party and get their input and any counter proposals they may have. The mediator will then go back to the first party and discuss the counter proposal if there is one. The process is repeated until the mediator feels that there is either an impasse or that the parties are close to reaching agreement on a solution. If the parties are close to agreement then the mediator may want to bring them back together and let them finish out the details while reminding them of the more general issues already agreed upon. This is then put into the form of an agreement identifying each party’s responsibilities to resolve the conflict and any subsequent actions. If the mediator feels that the parties are not close to reaching agreement after repeated efforts he/she may reconsider the mediation method he/she is using or determine that the case is not appropriate for mediation.

In the case of the Tai Chi Center the parties ultimately reached a settlement agreement addressing issues of compatibility and access. The agreement appears to include conditions to address the concerns of the overall neighborhood as well as the direct concerns
of the adjacent and nearby property owners. There are conditions in the agreement that exceed City requirements for compatibility but that are consistent with the City’s land development code. The agreement was entered into between the different parties, the neighborhood association, the adjacent neighbors, the City and the Taoist Tai Chi Society. The effectiveness of the agreement was conditioned upon: 1) all parties signing the agreement; 2) the appeals discussed earlier being put in abatement and; 3) the conditions of the agreement being adopted by the Planning Commission as conditions of approval for the Tai Chi Center. If the Planning Commission did not adopt the conditions of the agreement then the Taoist Tai Chi Society, the Neighborhood Association and adjacent property owners agreed to pursue the legal action already filed in the District Court of Appeals. Based on the settlement agreement ultimately entered into by all of the parties, it does not appear that the issue of whether the activities occurring at the Tai Chi Center were “religious” was part of the settlement. The issues in the settlement agreement were related to compatibility.

The agreement included very specific commitments for the City, the Tai Chi Center, the adjacent property owners and the Neighborhood Association. The City’s commitments included the installation of traffic calming devices along connector roadway through the neighborhood as well as implementing educational activities to encourage the public to use an alternate route to this roadway. The City also agreed to close off the curb cut from the Tai Chi Center onto this road eliminating any direct traffic access onto this road from the Center. The City also agreed to allow for the design of the driveway entrance on the main arterial roadway to accommodate all of the project traffic.

The Tai Chi Center agreed to conditions regarding the driveway access on the connector road, lighting, signage, class scheduling and size, parking, overnight lodging, noise, future construction,
designs, buffers, walls, and right of refusal on future purchases of the property.

The adjacent owners agreed to provide access to their property for purposes of installation and maintenance of the wall and the Neighborhood Association agreed to not challenge any action implementing the agreement.

The agreement also set forth the means by which the conditions of the agreement would be enforced through arbitration. The agreement did not include any conditions regarding any future changes to the agreement. The agreement also did not set out any monitoring system.

Conclusions

Religion and defense of hearth and home; it would be difficult to find two more polarizing issues. The neighborhood felt the value and quality of their homes was being threatened by the encroachment of a non-residential use. The Taoist Tai Chi Society felt this was the best chance they had of obtaining the type of facility they felt necessary to meet the needs of their organization and that they were enduring attacks on one of the major aspects of their religious belief.

The neighborhood initially chose the litigation method for resolving the conflict. The litigation method included appearances at public hearings, filing appeals, participating in peaceful demonstrations of solidarity within the neighborhood, participating in administrative hearings, and collection of funds from the neighborhood for paying legal representation in these matters. In different forums including committees, commissions and hearings, the position of each side was found in favor at one time or another which would indicate that neither position was unattainable but it was also an indication that neither position was an absolute given
to be the outcome. Given the distance between the two positions in this matter it is also doubtful that the litigation would lead to a mutually acceptable end to the conflict.

If the Neighborhood Association and adjacent residential property owners had prevailed there is a likelihood that the issue that would have been resolved was simply that the Taoist Tai Chi Society had not gone through the appropriate method for approval of their site plan. At that point the Taoist Tai Chi Society may have reapplied for approval using the ordered method and the issue of compatibility would still not have been resolved and further conflict would likely occur. Alternatively, the Taoist Tai Chi Society could have sold to another party who intended to use the property for a more intense non-residential use or more dense residential use that, if approved, would be more intrusive upon the neighborhood than the Tai Chi Center. The Taoist Tai Chi Society may also have sold the property to another party who would use it as a residence as it was used before. However, there would be no guarantees that property owner would not also eventually sell the property. The new owner may also propose to use the property for a non-residential use. With development pressure in this area there is no guarantee that the City would not eventually approve the change in land use.

If the Taoist Tai Chi Society had prevailed in the litigation they may not have been as willing to include additional conditions to the development of the site that would have made it as compatible as it turned out. The city also may not have scheduled the traffic calming devices along the connector roadway through the neighborhood as early. The outcome may also have left the residential property owners with a stronger feeling of encroachment within their neighborhood and a desire to flee to another neighborhood perhaps even further outside of the urban boundary. This would have left an inner city neighborhood in a
vulnerable position for a decline in quality and strong inner city neighborhoods are a valuable part of the vitality of a city.

In either scenario, both sides would have expended more financial capital that could be used to improve the site or that could be used by the individual property owners toward a better quality of life.

The Taoist Tai Chi Society first received approval for the Center from the Development Review Committee on September 21, 1998. The final Planning Commission approval resulting in the dismissal of all filed legal challenges was in March 2001, approximately 18 months later. The mediation portion of that time took approximately 7 months with 10 months of litigation leading up to it. All of the parties were given the opportunity to present their position to the mediator and the other parties in an atmosphere that was created to promote communication rather than confrontation. The mediation approach also produced a solution that was mutually agreeable to all parties whereas the litigation approach would not likely yield that same result. The mediation approach resulted in more significant buffers between the Tai Chi Center and adjacent uses. The neighborhood benefited from the earlier implementation of traffic calming devices throughout their neighborhood. The Taoist Tai Chi Society was ultimately allowed to build the facility they had envisioned to provide the services they had wanted. With the mediation approach resulting in the mutually agreed upon resolution, it allowed the parties to coexist within the neighborhood with a lesser degree of animosity and less impact on the quality of life in the neighborhood for all of the property owners.

In summary, the mediation method provided the benefits of

- Communication rather than confrontation
- A mutually agreeable solution that exceeded what may have been obtainable through permitting
while allowing the development of the site envisioned by the property owner

- Earlier improvements to the overall neighborhood in the form of traffic calming devices
- Saving on extensive financial commitments to litigation
- Both parties being able to coexist in the neighborhood with a lesser degree of animosity then may have been possible as a result of litigation
- A guarantee of greater compatible land use than otherwise may have been able to build on the site including more intensive non-residential or more dense residential development

Sources

Interviews with:

- Steve Pfieffer – Attorney for the Durward Neighborhood
- Marnie George – President of the Durward Neighborhood Association
- Jay Adams - Attorney for the Taoist Tai Chi Society
- Linda R. Hurst – Attorney for the City of Tallahassee
- Tony Biblo – Planner for the City of Tallahassee
- Gordon Hansen – Planner for the City of Tallahassee

Text Sources

- Newspaper articles and columns from the Tallahassee Democrat
- Final Recommended Order from the Division of Administrative Hearings
- Final Stipulation and Settlement Agreement between the City of Tallahassee, the Taoist Tai Chi Society, the Durward Neighborhood Association and the adjacent land and nearby landowners

- Revised Final Order of the City of the Tallahassee-Leon County Planning Commission