

# Let's do away with "That Guy"

The Bethlehem Gadfly Development, Short term lodging April 27, 2021

 Latest in a series of posts on development 

ref: **Type 3 developers a key to affordable housing**

Another "sharing your reading" kind of Strong Towns post from Councilwoman Van Wirt. This "sharing your reading" feature is now back on Gadfly's menu. If we're not reading, we're not learning and growing. Send your suggestions.

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*Ha! I think I know THAT guy. Do you? This is more insight on how the development process works, and is is very applicable to Bethlehem. This article is short and to the point. Give it a read. In Bethlehem, we need type 3 developers- see my last post on this topic- and That Guy does not work for type 3 developers.*

*Paige Van Wirt*

from **Daniel Herriges, "Have You Met This Guy? Strong Towns, March 17, 2021.**

I periodically attend public hearings where a development proposal is up for approval (or denial) by local elected officials. It was at about the 10th such hearing I attended in my current city where I really noticed him: "Hey, it's that guy again."

That Guy is a land-use attorney. His job is to represent clients who are trying to get a development project approved that requires some sort of special permission. Need a [variance](#) or other special exception to the normal zoning rules? A change in the zoning for a property? Putting together a more elaborate master-planned development, which bundles together a lot of rule changes in one request? Negotiating complexities involving wetland mitigation, historic preservation, [impact fees](#), mandatory [traffic studies](#), easements, transfers of development rights?

(If you don't know what all of those mean, don't worry: that's kind of the point here.)

For any of the above, That Guy is *your* guy. He's not just any land-use attorney. He's the one you want if you're in the big leagues. When virtually any development of significant size or scope is on the agenda, That Guy seems to be there at the meeting as the developer's lead attorney. He's reliable like death and taxes.

He steps up to the podium and launches into his PowerPoint. That Guy is very good at his job. He's polished; he's prepared; he's amiable and breezy. The reason so many clients use his services is that he knows the zoning code inside and out. He knows it better than the city planners know it: every technicality, every loophole. Certainly better than the elected officials know it. He's been in this work a long time. He might have a planning or engineering degree in addition to his law degree. He probably worked in the public sector for a time.

Our particular That Guy is a principal in the firm that bears his father's name, which is also his name (he's a "III"). Their office is in a prominent building not far from City Hall. Their website boasts that, in addition to his "nationally recognized practice" in all areas of land-use law, he is "a regular speaker at growth management and land use conferences and has published a number of articles" and "has actively served his community as a board member on local civic and charitable organizations."

That Guy is in the know. He knows people, and people know him. At some point the meeting will enter a brief recess (because there are hours worth of speakers lined up for the public comment period), and you'll head out to the lobby. You'll see That Guy chitchatting with reporters.

Perhaps more surprisingly, you'll see That Guy chitchatting with one or more of the firebrand community activists who are there to rail against the developer (his client) as a money-grubber ruining the community's quality of life. I've seen this happen firsthand. They all know each other.

The activists have been going toe-to-toe with That Guy for years. They've probably met his kids. There's a grudging respect there. It's not that the issue doesn't have real stakes; it's just that it becomes like a sports rivalry after a while, where you've grown to kind of like the other team's captain.

What does it mean if your community has a That Guy? That Guy is an indicator species: his presence tells you something important.

Fundamentally, it tells you that the system you're using to regulate development is too complicated.

Make the rules simple and predictable—the zoning code tells you what you can build, and you can build it as of right—and the smallest developers with the shallowest pockets can play. Make the rules complicated, and the ante to participate gets much higher. The little guy can't enter the game anymore: the "return on brain damage" (h/t R. John Anderson) for trying to navigate a modest-sized project through the system is no longer worth it.

I don't have anything against That Guy. He seems nice, he's certainly very smart and competent, and I bet he and I would have a great conversation about land use over beers.

I just don't want the way my community grows to be dependent on people like him.

**The Bethlehem Gadfly**