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# HOW TO WIN LAND DEVELOPMENT ISSUES

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A Citizens Guide To Preserving & Enhancing Quality  
of Life in Developing Areas Through Responsible  
Growth Management

By Richard D. Klein

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# CONTENTS

## DEDICATION

## HOW THIS BOOK CAN HELP YOU WIN LAND DEVELOPMENT ISSUES

## THE SECRETS OF SUCCESS

<b>INTRODUCTION</b> .....	1
Chapter 1: The Easy Solution. ....	4
Step 1: Verify What Has Been Proposed.....	4
Step 2: Discuss Your Concerns with Staff.....	5
If You Are Told Resolution Will Happen. ....	5
If You Are Told Resolution Is Not Possible. ....	6
If You Are Told An Impact Is Unlikely.....	6
Ask About The Project Status, Comments & Appeals. ....	6
Step 3: Look for Win-Win Solutions.....	6
Step 4: Defeating a Fatally-Flawed Project.....	7
Step 5: Request the Support of Your Elected Representatives. ....	8
When the Easy Solution Does Not Work. ....	9
CEDS Quality of Life Impact Review Checklist.....	10
<b>PART I: IDENTIFYING &amp; RESOLVING QUALITY OF LIFE ISSUES</b> .....	15
Chapter 2: The Basic Approach to Identifying & Resolving Quality of Life Issues.....	16
Introduction. ....	16
Identify Your Desired Outcome & Preferred Solution. ....	16
Identifying & Researching Quality of Life Issues.....	18
Will a Solution Really Work. ....	20
Verify Site Conditions.....	21
Chapter 3: Affordable Housing. ....	23
Chapter 4: Air Quality.....	26
Chapter 5: Aquatic Resources. ....	29
How Development Impacts Aquatic Resources. ....	29
Preventing Aquatic Resource Impacts.....	31
Specific Aquatic Resource Issues. ....	33
Fish Migration Barriers. ....	33
Golf Courses. ....	34
Highways.....	34
Landfills.....	35
Marinas. ....	35

Mining. . . . .	35
Public Water Supply. . . . .	35
Septic Systems. . . . .	36
Wastewater Treatment Plants. . . . .	37
Wells. . . . .	38
Chapter 6: Bicycling. . . . .	39
Benefits of Bicycling. . . . .	39
The Needs of Bicyclists. . . . .	40
Planning for Bicycling. . . . .	40
Specific Development Projects & Bicycling Opportunities. . . . .	41
Chapter 7: Community Atmosphere. . . . .	43
Chapter 8: Crime. . . . .	45
Crime Prevention Through Environmental Design. . . . .	47
Increasing Neighbor Interaction Reduces Crime. . . . .	49
Facilities Perceived as Possibly Increasing Crime. . . . .	50
Chapter 9: Environmental Justice. . . . .	52
Chapter 10: Fire. . . . .	54
Fire-Prone Areas. . . . .	54
Fire Prevention Capabilities. . . . .	56
Fire Quality of Life Preservation Checklist. . . . .	58
Chapter 11: Historic & Archaeological Resources. . . . .	60
Chapter 12: Light Trespass. . . . .	64
Chapter 13: Neighborhood Conservation. . . . .	66
Chapter 14: Noise. . . . .	68
Chapter 15: Odor. . . . .	71
Chapter 16: Open Space Preservation. . . . .	72
Open Space Preservation Techniques. . . . .	73
Acquisition. . . . .	73
Clustering. . . . .	74
Conservation Easements. . . . .	74
Designated Growth Area. . . . .	74
Discourage New Roads. . . . .	74
Forests Conservation. . . . .	75

Limited Development Venture. . . . .	75
Public Subsidies. . . . .	75
Purchase or Transfer of Development Rights. . . . .	76
Right-To-Farm Programs. . . . .	76
Zoning. . . . .	76
Preserving A Potential Development Site. . . . .	77
Determine Who Owns The Property. . . . .	78
Deed Restrictions That May Limit Development. . . . .	78
Likelihood of Development. . . . .	78
Factors Elevating the Need to Preserve the Site. . . . .	79
Seek Advice from Preservation Groups. . . . .	80
Negotiating A Solution the Land Owner Finds Attractive. . . . .	80
Chapter 17: Parks & Recreation. . . . .	82
Chapter 18: Poverty. . . . .	84
Chapter 19: Property Ownership. . . . .	85
Adverse Possession. . . . .	85
Covenants, Conditions & Restrictions. . . . .	85
Eminent Domain. . . . .	85
How to Obtain a Deed. . . . .	86
Intrusion onto Your Property. . . . .	86
Roads & Right-of-Way. . . . .	87
Chapter 20: Property Taxes. . . . .	88
Impact Fees. . . . .	89
Property Tax & Sprawl. . . . .	90
Chapter 21: Property Value. . . . .	91
Chapter 22: Schools. . . . .	94
Class Size & Student Achievement. . . . .	94
School Size & Student Achievement. . . . .	95
Frequent School Changes & Student Achievement. . . . .	96
Portable Classrooms. . . . .	97
Adequate Public Facility Ordinances. . . . .	97
Impact Fees. . . . .	97
Chapter 23: Traffic. . . . .	98
Accidents. . . . .	98
Air Quality. . . . .	98
Congestion. . . . .	99
Noise. . . . .	99

Loss of Open Space. . . . .	100
Preventing Traffic Impacts. . . . .	100
Measuring Congestion. . . . .	101
Neighborhood Streets. . . . .	102
New Roads. . . . .	102
Parking. . . . .	103
Sight-Distance. . . . .	104
Traditional Neighborhood Design. . . . .	106
Transit Oriented Development. . . . .	106
 Chapter 24: Visual Impacts. . . . .	 107
 Chapter 25: Walking. . . . .	 108
Walking & Health. . . . .	108
Walking for Recreation. . . . .	109
New Development & Walkability. . . . .	109
 Chapter 26: Wildlife. . . . .	 112
Principles of Habitat Protection. . . . .	112
Birds. . . . .	114
Endangered Species. . . . .	114
 <b>PART II: RESOLVING YOUR CONCERNS THROUGH THE GROWTH MANAGEMENT PROCESS. . . . .</b>	 <b>116</b>
 Chapter 27: An Introduction To The Growth Management Process. . . . .	 117
Process Overview. . . . .	117
Development Review. . . . .	118
Master Plan Amendment. . . . .	119
Annexation. . . . .	120
Zoning Text Amendment. . . . .	120
Rezoning. . . . .	121
Planned Unit Development. . . . .	121
Special Exception Permit, Conditional Use Permit, or Special Use Permit. . . . .	121
Special Hearing. . . . .	122
Variance. . . . .	122
 Chapter 28: The Decision-Makers. . . . .	 123
Property Owner. . . . .	123
Development Company. . . . .	124
Staff. . . . .	124
Planning Board-Commission. . . . .	124
Other Commissions. . . . .	126
Hearing Board - Hearing Officer. . . . .	126

Local Legislative Body. . . . . 127  
Mayor, County Executive, or Manager. . . . . 128  
State & Federal Government. . . . . 128  
Courts. . . . . 128

Chapter 29: Zoning. . . . . 130

Chapter 30: Annexation. . . . . 132

Chapter 31: Variances & Waivers. . . . . 134

Chapter 32: Development Review Process. . . . . 136

Chapter 33: Public Participation. . . . . 137

Chapter 34: Permits & Other Approvals. . . . . 138  
Adequate Public Facilities. . . . . 138  
Building Permit. . . . . 138  
Environmental Impact Statement. . . . . 138  
Erosion & Sediment Control Plan Approval. . . . . 139  
Fire Department. . . . . 140  
Grading Permit. . . . . 140  
Highway Access Permit. . . . . 140  
Historic Resource Review. . . . . 141  
NPDES Pollution Discharge Permit. . . . . 141  
Occupancy Permit. . . . . 141  
Septic System Permit. . . . . 141  
Stormwater Management Plan Approval. . . . . 142  
Use or Zoning Permit. . . . . 142  
Water & Sewer Plan Amendment. . . . . 142  
Water Appropriation Permit. . . . . 143  
Well Permit. . . . . 143  
Wetland Permit. . . . . 144

**PART III: FORMULATING & IMPLEMENTING A WINNING STRATEGY FOR  
YOUR CAMPAIGN. . . . . 146**

Chapter 35: Researching Strategy Options. . . . . 147  
Introduction. . . . . 147  
Basic Strategy Options. . . . . 147  
First, Preserve Your Rights. . . . . 148  
Is a Win-Win Solution Available? . . . . . 149  
Defeating a Fatally-Flawed Project. . . . . 150  
Evaluating Strategy Options for Winning Specific Permits-Approvals. . . . . 153

Political vs. Legal Action.. . . . .	153
Identifying the Best Permit-Approval for Resolving Your Concerns. . . . .	156
Decision-Making Process & Critical Events. . . . .	156
Obtain All Relevant Documents. . . . .	157
Linking Regulatory Requirements to Resolution of Your Core Concerns. . . . .	159
Researching Decision-Making History. . . . .	162
Winning Better Growth Management Overall While Grappling with One Project. . . . .	166
How CEDS Can Help You Find the Best Strategy. . . . .	167
Chapter 36: Mobilizing Support For Your Strategy. . . . .	168
Fund Raising. . . . .	168
Who Are Your Supporters. . . . .	168
Your Message. . . . .	168
Where To Begin. . . . .	170
Citizen Public Meeting. . . . .	170
Getting Your Message Out. . . . .	172
Press Releases. . . . .	173
Letters To The Editor. . . . .	174
Yard Signs. . . . .	175
Paid Advertising. . . . .	175
Chapter 37: Negotiate with the Applicant. . . . .	176
Finding a Win-Win Solution. . . . .	176
The Negotiation. . . . .	178
Chapter 38: Working with Regulatory Staff. . . . .	182
Chapter 39: Lobbying Final Decision-Makers. . . . .	185
Which Decision-Maker to Approach First. . . . .	185
The Meeting. . . . .	185
Post-Meeting Analysis. . . . .	188
Letters, Phone Calls, Postcards & Emails. . . . .	189
Public Opinion Survey. . . . .	191
Petition. . . . .	191
Charrette. . . . .	192
Chapter 40: Legal Action. . . . .	194
When to Hire a Lawyer. . . . .	194
Finding a Good Attorney. . . . .	195
Minimizing the Expense of Legal Action. . . . .	197
Legal vs. Factual Issues. . . . .	198
Hearing Procedures. . . . .	199
Witnesses. . . . .	201
Advice for Citizens Presenting Testimony. . . . .	206

Standing.....	208
Takings & Property Rights.....	208
Stays & Injunctions.....	209
Petition & Referenda.....	209
Protest Petition.....	210
Lawsuits Against Citizens & Government.....	211
Chapter 41: Changing the Law.....	213
Basic Options for Changing the Law.....	213
Adoption of Zoning.....	213
Zoning Change.....	214
Comprehensive Rezoning.....	214
Spot Zoning.....	214
Permitted Uses.....	215
Performance Standards.....	215
Changing Other Local, State or Federal Laws.....	216
How to Find the Best Wording for a New Law.....	216
Grandfathering.....	217
Vested Rights.....	218
Primacy & Preemption.....	218
Emergency Action.....	218
Moratorium.....	218
Have Your Attorney Review The Bill.....	219
Winning the Adoption of a New Law.....	219
Identifying Friends & Foes.....	219
Turning Undecided & Weakly Opposed Legislators Into Supporters.....	220
Networking Political Families.....	220
Mobilizing Support In A Legislator’s Base Precincts.....	221
Petition & Referenda.....	223
Chapter 42: Electing & Retaining Decision-Makers Committed To Responsible Growth Management.....	226
Invest in Elections Not Lawyers.....	226
Can Responsible Growth-Management Candidates Win?.....	227
Finding Good Candidates.....	228
Setting The Growth-Management Agenda in the Next Election.....	229
Polling to Identify Hot-Button Issues.....	230
Issues Contrasting Pro-Development vs. Responsible Growth-Management Candidates .....	233
Press Candidates For Specific Commitments During The Campaign.....	234
Winning Local Elections With Growth Management Issues.....	235
Identifying High Priority Precincts.....	235
Mobilizing Support Among Groups Active in High Priority Precincts.....	241
Educating Individual Voters.....	245

Making Potential Growth Impacts More Real.....	247
Get Out The Vote.....	248
Coordinate With The Candidate. ....	248
Supporting Good Candidates After the Election. ....	249
How CEDS Can Help You Elect Responsible Growth Management Candidates.....	250
A Closing Word on Strategy & Persistence.....	251
<b>HOW CEDS CAN HELP. ....</b>	<b>252</b>
Strategy Sessions by Phone.....	252
Initial Strategy Analysis.....	252
Campaign Management.....	253
About the Author & CEDS. ....	253
Abbreviations.....	255

## **DEDICATION**

This book is dedicated to the countless citizen activists, nonprofit board members, planning board members, and local elected officials who have given so much to protect all of us from poorly managed growth. Without their sacrifice many of our most important quality of life preservation programs would not exist, including Smart Growth.

This book is a compilation of the many hard lessons won by veteran activists. It is the author's hope that the advice provided herein will allow newcomers to achieve even greater success in preserving and enhancing quality of life for all.

# HOW THIS BOOK CAN HELP YOU WIN LAND DEVELOPMENT ISSUES

As president of Community & Environmental Defense Services (CEDS), I help several hundred groups each year with development related concerns. Most of the time we win, but not always. With this book I hope to bring the success rate closer to 100% by explaining what does and does not work.

The types of land development activity addressed in this book include highways, shopping centers, housing projects, golf courses, marinas, superstores, landfills, mining, and a host of other activities which may harm the environment or neighborhood quality of life. Suggestions are also provided for going beyond a specific development site and winning the adoption of *Smart Growth* principles throughout a town, city or county. Since we assist citizens throughout the nation with both levels of advocacy, the advice provided in this book is applicable to all 50 states.

This book starts off with *The Easy Solution* for winning land development issues. For most projects no further effort is necessary. Frequently the easy solution costs nothing more than a few hours of your time.

In those cases where the easy solution is not enough, I explain how to get the public support needed to win by expanding a campaign into the regulatory, legal and political arenas.

In addition to the suggestions offered in this book, our advice is available by calling 1-800-773-4571 or sending an e-mail to [help@ceds.org](mailto:help@ceds.org). If you are seeking to preserve a neighborhood or the environment from development impacts, then we will not charge for advice unless research is required. Other forms of CEDS assistance are described in *How CEDS Can Help* at the end of this book.

## THE SECRETS OF SUCCESS

I began my career as a community and environmental advocate in 1969. Over the past 38 years I have learned that the secret of successfully preserving communities and the environment from poorly planned growth can be summarized in eight words:

*Aggressively pursue smart solutions to your core concerns.*

Following is an introductory description of the three components of this secret. The remainder of this book expands upon this description

### CORE CONCERNS

These are the impacts which pose the greatest threat to your quality of life. Core concerns are the potential impacts which prompted you to spend your time and money grappling with a development project. Examples of core concerns may include:

- an unacceptably large increase in traffic on your residential street;
- overcrowding at the schools serving your community; or
- the loss of a forest or stream you treasure.

You may be wondering why I find it necessary to urge you to focus on your core issues. Well, the reason is simple. It is easier to find a solution to a few core concerns when compared to a long list of issues. Also, it is not uncommon for folks to focus on the issue most likely to defeat a bad development project as opposed to those they are really concerned about.

While stopping a project cures all ills, this is also the most difficult and expensive way of dealing with development concerns. Most of the time we can find ways of designing the impacts out of a project that allows the developer to get a good part of what they want. This type of approach, known as a *Win-Win* solution, is much easier to achieve than stopping a project. However, there are some projects which are so poorly conceived and so fatally flawed that the impacts simply cannot be designed away and stopping the project is the only reasonable option. There are also developers who refuse to negotiate with citizens even when it is the responsible and reasonable thing to do.

To help callers identify their core concerns I ask them to describe each issue one by one. I offer possible win-win solutions for each concern and ask them to assume for the moment that the solution will fully resolve the concern. I then ask “If you came to believe that the solution resolved this specific concern, would you still oppose the project?” If the answer is “no” then we’ve identified all of the core concerns. If the answer is yes then the process continues until all the core concerns have been identified.

Frequently, new core concerns emerge as one delves deeper into a proposed development project. A couple of years ago we had clients concerned about a project placing new houses ridiculously close to their rural homes. At first, this intrusion upon privacy was their one and only core concern. However, a quick CEDS review of project plans revealed that the septic systems serving the proposed homes were located upslope of our clients’ wells. Further CEDS research showed that

conditions in the area were conducive to contamination of our clients' wells by the proposed septic systems. For some of our clients, the well-contamination issue became the primary core concern. Fortunately, a smart solution was not only found but fully implemented for both the well protection and privacy concern.

## **SMART SOLUTIONS**

A *Smart Solution* is that which fully resolves each of your core concerns in a way that is lasting and achieves this goal with the least effort and expense.

In general, a smart solution is that which has successfully resolved core concerns identical to your's in cases very similar to the one threatening your quality of life. But no two cases are ever identical in every respect. There is always a need to tailor the solution to the characteristics unique to your situation.

In most cases, there are a dozen or more possible smart solutions for each core concern and all but a few will prove unsatisfactory because:

- long-term reliability is unacceptably low;
- it is unlikely you can convince a final decision-maker to implement the solution; and/or
- the resources required to win implementation of the solution exceed those available to you.

At the beginning of a case it is seldom obvious which of the dozen or more solutions is the smartest. Only thorough research can separate smart solutions from those which merely sound good, but will ultimately fail. This brings us to the purpose of this book, which is how to research:

- long-term solution reliability;
- the likelihood of winning final decision-maker support; and
- getting the resources needed to win implementation.

If your case is simple, then the required research may involve little more than that described in Chapter 1 - *The Easy Solution*. However, as case complexity increases, so does the amount of required research. In Part III of this book, and in *Chapter 35: Researching Strategy Options* in particular, you will learn how to carry out this research or how to find someone who can do the research for you.

## **AGGRESSIVELY PURSUE**

The three greatest obstacles to finding and implementing smart solutions are: time, time, and time. I strongly urge you to complete all the *Easy Solution* steps given in Chapter 1 **now**, without delay. And if the easy solution steps fail to yield an iron-clad victory, then immediately launch into the appropriate strategy options presented in Part III.

I beg you **not** to blithely accept assurances from government officials, the applicant, or others that all of your concerns will be resolved. Instead, I urge you to keep pushing until you have a legally binding-agreement with the applicant, a cast-in-concrete permit condition, or some other action

which locks current and future property owners into fully resolving your concerns. And even when you believe a good solution is locked in-place keep monitoring the project to verify that the solution is being fully implemented. Always keep other options open should the applicant or a regulatory agency fails in some crucial implementation step.

So if the three greatest obstacles to implementing smart solutions are time, time, and time, the three best ways to circumvent these obstacles are to: *hustle, hustle, and hustle.*

You have no idea how frustrating it is when someone calls about a perfectly winnable issue, but tells me they have waited until a week before the big hearing to organize their case. Even more frustrating are those situations where citizens save their resources to appeal an adverse decision should they lose at the big hearing. I then have the sad task of explaining that an appeal is based upon the record made *at the big hearing*. Since they didn't have an attorney and they didn't put on an expert witness during the big hearing they failed to get appealable (winnable) issues into the record. Thus they are now left with no smart solutions; just the dumb expensive ones.

But the situation most frustrating of all is where citizens thought the applicant was negotiating in good faith only to learn that the applicant never intended to resolve citizen concerns. Instead, the applicant hoped to lull citizens into a comfortable place so they would not oppose the project at the big hearing, thus allowing the project to sail through to full and final approval.

The key to winning adoption of smart solutions to your core concerns is to aggressively pursue all the steps in [Chapter 1 - The Easy Solution](#), then go on to the other chapters. Whenever you run into an obstacle, seek a way around it because

*...there's always a way around any obstacle.*

If you are stymied, then give me a call at 1-800-773-4571 and we'll work through the problem together.

## INTRODUCTION

The purpose of this book is to help you preserve quality of life in your home, your neighborhood, your town, or region from the effects of poorly managed growth. Additionally, I explain how you can enhance quality of life through the benefits offered by development. This book will help you achieve these goals by providing an understanding of the technical aspects of growth management as well as the political and legal factors which determine how growth will be managed. It is my hope that in the end you will have the ability to:

- look at your neighborhood and envision various possible growth scenarios,
- assess how each might affect quality of life for you and your neighbors,
- identify solutions for each negative impact as well as opportunities to enhance quality of life, then
- organize your neighbors so you can win the support of those who will decide how this growth is managed.

My career as a community and environmental advocate began in the early 1970s when I launched a successful campaign to preserve what had been an essential element of my quality of life - a beautiful stream valley which I'd enjoyed from the age of seven. Over the past 30+ years it has been my good fortune to play a role in many other successes, though I've also experienced some regrettable loses. In this book I have sought to explain what approaches works and how to avoid mistakes.

This book sets forth the approach I use as Community & Environmental Defense Services (CEDS) president to help more than a hundred citizen groups each year win quality of life preservation campaigns waged throughout the United States. This approach is allowing about 75% of our clients to win their campaigns. This success rate goes for the groups who take our free advice and run with the campaign on their own as well as those who retain CEDS to manage a portion of all of their effort.

My role in CEDS is that of a strategist and facilitator. After learning of our clients' concerns I:

- gather together and review all the information available on the project of concern;
- confirm the validity of our clients' concerns;
- identify other potential impacts;
- get the perspective of various government officials having authority over the project as well as the applicant and other possible decision-makers;
- formulate an initial strategy for resolving our clients' concerns;

- consult with attorneys, engineers, and other professionals within the CEDS network to verify the likelihood of potential impacts and the soundness of the initial strategy;
- share the results of this research with our clients and lay out the strategy which offers the greatest likelihood of swiftly and inexpensively resolving their concerns; then
- assist in executing the strategy through to completion.

In Chapter 1, *The Easy Solution*, I explain how you can do this same research without hiring a group like CEDS. Subsequent chapters expand upon the steps that make up the *Easy Solution*. After reading Chapter 1 and other portions of this book relevant to your quality of life issues, you will doubtless have lots of questions. Please feel free to give me a call at 800-773-4571 to kick these questions around. Advice by phone is available free of charge to citizens concerned about development projects. We can even do a half- to one-hour strategy session with you and your allies. If you wish I can also describe the costs associated with having CEDS carry out the research for you.

You'll see no tables, figures or other graphics in this book. My goal was to keep this book all text so it could be easily downloaded via the internet. I also wanted to keep the book small enough so the entire text could fit in the memory of most computers. That way if you don't see what you're looking for in the table of contents, you can search the text for specific information using keywords or phrases. To do this just click the Find icon (binoculars) or select Find from the drop-down edit menu in the Adobe Reader window. Type in a keyword or phrase (with quotes) then hit enter. You will then go to each part of this book where the keyword or phrase appears.

Throughout this book you will see colored text. If you click on this text you will go to a website or document providing additional information on the topic addressed in the preceding text.

This book touches on a wide range of subjects and disciplines: land use law, traffic engineering, planning, environmental science, and many more. Please keep in mind that I, the author, am not a lawyer, traffic engineer, or planner, though some might argue that I qualify as an environmental scientist, at least in the field of aquatic resources. Since starting CEDS in 1987, I've attempted to acquire a basic understanding of the many disciplines related to land development and its potential effects upon communities and the environment. My goal is to serve as someone who can take an overall view of a development project, analyze project plans for numerous potential impacts, identify those impacts most likely to occur, then help you form an initial strategy for resolving significant, adverse effects while also seizing upon opportunities to enhance your quality of life. I then turn to professionals with more specialized expertise to verify that a particular impact will occur and to assess the viability of possible technical, political, and legal strategies. I urge you to do the same.

Rather than getting this book published, I opted to post it on the CEDS website ([www.ceds.org](http://www.ceds.org)) so it can be easily updated. In fact, not a month goes by when I don't add some new bit of information which I've just come across and found useful. Please let me know if you feel any portion of this book could be improved. Just e-mail me at [rklein@ceds.org](mailto:rklein@ceds.org) or give me a call at 1-800-773-4571.

Because this book is intended to serve citizen activists throughout the United States, it is chock full of generalizations. Please keep in that as with all generalizations, there are exceptions. If you are uncertain whether the project of concern to you fits a generalization, then please contact me at 1-800-773-4571 or [rklein@ceds.org](mailto:rklein@ceds.org). Usually we can answer most questions for free. However, if research is required to answer a question then we'll let you know before doing any work.