# Chapter 1: The Easy Solution

The ***Easy Solution***.

Sounds good doesn't it?

Well, it not only sounds good but it really is easy and it works more often than not. And the ***Easy Solution*** is made even easier with our assistance.

If at any point you are uncertain how to carry out a specific step in the easy solution, just contact me at: 1-800-773-4571 or Rklein@ceds.org. Our advice is available free of charge by phone to citizens seeking to preserve their neighborhood or the environment. But it is easier to answer specific questions, so please try carrying out the following steps before contacting me. You also have the option of hiring us to carry out this research for you. For further detail on this option visit:

http://www.ceds.org/strategy.html

The purpose of the easy solution is to:

- get an accurate understanding of the proposed development project,
- identify obvious project impacts, and
- resolve each impact through actions that require relatively little time and expense.

In those situations where the easy solution does not get you to victory, there are many other options available; they just take a bit more time and expense to pursue. Following are the steps involved in the easy solution.

### STEP 1: VERIFY WHAT HAS BEEN PROPOSED

I get a number of calls from folks who have heard rumors about a development project and the harm it will do. Yet they have not seen project plans or any other documents. So they cannot say whether the impacts are myth or reality. My advice is obvious:

*Make arrangements with the local planning and zoning office to review project plans.*

The plans will show the reality of what the applicant has in mind. Rumor may have it that a hundred homes are going to be built along your dead-end street, yet when you look at actual project plans you see only ten new houses proposed, or maybe a thousand. Either way, looking at the plans will allow you to base your actions on fact, not rumor.

Take the time to carefully study the plans and other documents in local files. It usually takes about 10- to 20-minutes of simply looking at each sheet of plans to fully understand what is being proposed. So, again, do not rush this step.

At the end of this chapter you will find the *CEDS Quality of Life Impact Review Checklist.* The checklist provides general criteria for assessing how well a project has been planned and designed. View it as a first-step assessment of how the project may impact your quality of life and, more importantly, how the benefits could be increased while minimizing adverse effects.

Note each concern you have regarding the project along with anything which is not clear. Discuss both with staff in the next step of the easy solution.

Note also the applicant's name and contact information. You may need this information to pursue subsequent steps in the easy solution. Request a copy of all the documents submitted thus far, including agency comments and all other paper in the file. These materials will be extremely valuable as you pursue various options for resolving your concerns. Bring along a checkbook since you will likely be charged for copies.

### STEP 2: DISCUSS YOUR CONCERNS WITH STAFF

In large towns or densely populated counties there will usually be a whole department overseeing the development review process along with other aspects of growth management. Normally, each project is assigned to a staff planner or reviewer. In small towns the planning department may consist of one staff person. They may even farm out project reviews to outside consultants.

If you still have concerns after reviewing the plans, meet with the staff person overseeing the project. Go into this meeting with a positive, open attitude. In other words, assume the staff person will be cooperative, which most are. Also, given their training and years of experience, staff's understanding of the technical and legal aspects of development issues is probably superior to yours. So listen with an open mind if they disagree about the likelihood of an impact or which solution is the best. Be sure to ask enough questions so you fully understand why the staff person believes impact is unlikely or why a particular solution will or will not work. But you should also seek another opinion if you have doubts.

Begin the meeting by describing the impacts of concern to you, the basis for each concern, and ask if each impact is likely to be resolved through the development review process. Following are possible outcomes of this discussion and how you might proceed with each.

#### If You Are Told Resolution Will Happen

The staff person agrees that your concerns are valid but you also learn that specific requirements will be imposed to resolve each impact. In some situations it will be obvious how a solution works and that it will be very reliable. If this is not the case, then ask for details and consider researching the solution further. Advice on how to conduct this research is provided in Part I of this book. If your

research shows that a solution is not as good as it first sounded, then share your findings with staff and ask what steps might be taken to increase effectiveness and long-term reliability of the solution.

**If You Are Told Resolution Is Not Possible**
In this scenario staff agrees that an impact is likely, but they feel a solution is either not available or they lack the authority to require the applicant to implement the most effective solution.

Rare is the situation where a solution isn't available. If nothing else, stopping the project would prevent the impact. But the impact would have to be severe, with no other recourse, before government could say no without fear of having their denial overturned by the courts.

Try asking staff to speculate about possible technical solutions. If this fails to produce results then go to Part I of this book to begin your own research. If you find a solution you like then try talking with staff again.

If staff feel they lack the authority to resolve your concerns, then ask if someone else in their agency (or another unit of government) may have the necessary authority. Contact these other officials as you continue your pursuit of an easy solution.

**If You Are Told An Impact Is Unlikely**
If staff believes an impact is unlikely yet you are not convinced this is so, then go to Part I of this book for advice on confirming or refuting the belief of staff. If you decide staff is right that impacts are unlikely then you've resolved your concerns. If you find evidence supporting your concerns then share this information with staff to see if they agree.

**Ask About The Project Status, Comments & Appeals**
Ask staff for a description of the review process and where the project stands in the process. Ask when opportunities for public comment will be coming up and if there's anything special you need to do to make comments. For example, do you need to attend a hearing or get written comments in before a specific date? Also, ask about your right to appeal if project approvals are granted before your concerns are fully resolved. Go over questions such as filing deadlines and format as well as other specifics for preserving your right to appeal. Ask that your name be added to an interested parties list, if one exists. Finally, ask what section of local law pertains to your concerns and if any guidance documents exist to help applicant's comply with relevant laws. Reading these laws and documents will increase your understanding of the process and how to resolve your concerns.

Additional advice on working with staff is provided in Part III of this book.

**STEP 3: LOOK FOR WIN-WIN SOLUTIONS**
For most development projects a *win-win* solution is available. This is a solution which designs away most negative effects while allowing the applicant to get much of what they want. Frequently, it is obvious what changes would reduce or eliminate project impacts. But, occasionally, a project

is so poorly conceived that there is just no way to reduce impacts to a tolerable level. For these projects skip to Step 4.

Following is an example of possible win-win solutions. Let's say a development company wants to build more homes along your dead-end neighborhood street. You are concerned that this will reduce pedestrian safety as well as increase air pollution and noise. Possible win-win solutions might include:

- limiting development so the total number of homes does not exceed 60 to 100, which as shown in Part I is the maximum desirable for most residential streets;[1]

- allow a reasonable increase in the number of new homes but only if speed humps and other traffic calming measures are installed to slow down all vehicles, which may make conditions even better than they are now; or

- support the applicant in finding another, safer point of access to their site.

All three of these examples might allow both you and the applicant to get much of what you want.

For obvious reason, it is far easier to get a win-win solution adopted compared to one which forces dramatic changes to a project. You will find the applicant and government officials far more receptive if you have identified something close to a win-win solution for each of your concerns. However, even if you fail to find a truly win-win solution you will still find your local elected representative more willing to help if you can demonstrate that: a) you tried to find an equitable way of resolving impacts, b) you fairly considered obvious possibilities, and c) but none would reduce project impacts to a reasonable level.

Additional suggestions for possible win-win solutions are provided throughout this book. The thing to keep in mind is that there are *always* options available for resolving your concerns. The closer these options are to a win-win solution, the easier success will come.

**STEP 4: DEFEATING A FATALLY-FLAWED PROJECT**

Some projects are so poorly conceived or the site is so uniquely sensitive that negative impacts simply cannot be reduced to a reasonable level. It is very unlikely that the *Easy Solution* will nix these projects, however we have had several cases involving a fatally-flawed project was where the applicant seemed to just drop it after we began asking the *Easy Solution* questions. In less modest moments I flatter myself into believing that the mere fact that CEDS, with our impressive track record and nationwide network, started researching a project caused the applicant to withdraw. In most cases we never know why a project suddenly seems to enter limbo.

[1] See the section of this book on traffic impacts and neighborhood streets for further detail.

Guidance on how to defeat a fatally-flawed project will be found in *Chapter 35: Researching Strategy Options* of this book.

**STEP 5: REQUEST THE SUPPORT OF YOUR ELECTED REPRESENTATIVES**

For the most part land use decisions are made at the local level; the level of the borough, town, city, or county. In many of these local jurisdictions the town council, city commissioners, or county supervisors serve as the key land use decision-making body. These elected officials approve individual development projects as well as rezoning requests and land use plans along with all other major growth management issues. Where the council or commissioners are not final decision-makers, they still have substantial influence and can help you resolve your concerns. This makes your local elected representative a potentially powerful ally.

If you were unsuccessful in resolving your concerns through staff then request a meeting with a member of the local decision-making body. The member to meet with depends upon whether they are elected by district or at-large. If the former, then request a meeting with the official representing your district. If elected at-large, then seek a meeting with the decision-maker who has the best reputation for helping citizens. Local citizen advocacy groups can tell you who this decision-maker may be. To locate these groups go the CEDS website[2], click on *Links To Others Who Can Help*, then scroll down to your state.

Generally, you will find decision-makers more open and helpful if you make it clear that your goal is to resolve specific concerns; not to stop a project. Ideally you will have a win-win solution or two in mind. However, if you believe a project is so severely flawed that it should not be built, then make the basis for your position clear.

If staff felt your concerns would be resolved, but you are not convinced, then describe your uncertainty to the decision-maker. Assuming the decision-maker finds your arguments compelling, ask them to use their influence to press for adoption of your preferred solution.

If staff felt they lacked the authority to implement your preferred solution, then ask the decision-maker to get an opinion from the local jurisdiction's legal staff. If it turns out the legal authority is lacking then ask the decision-maker to either:

- approach the applicant with a request that they implement the solution voluntarily or
- introduce a bill which, if enacted, would provide local government with the necessary authority.

If the decision-maker feels none of these approaches is workable, then try posing an open-ended question along the lines of...

[2] www.ceds.org

*if you lived next to this site and shared my concerns, what would you do?*

Frequently this question will elicit more creative and constructive discussion than would other wise occur.

If you feel you have a win-win solution then contact the applicant directly. Ask for an opportunity to meet with them in hopes of getting the applicant to adopt your win-win solution. If the solution costs the applicant little than there is a good chance they will go for it. If not then you have lots of other options.

If the applicant does agree to resolve your concerns, then explore options for turning this agreement in to a firm, enforceable guarantee. For further detail on this topic see Part III of this book.

**WHEN THE EASY SOLUTION DOES NOT WORK**

If your discussions with planning staff, the applicant, and elected officials did not produce the results you were looking for, then it's time to escalate the effort into a full campaign. Chapter 35 of this book explains how to research more aggressive strategy options.

If you have been told that your concerns are unfounded or your solution will not work, then the next Part I of this book will explain how to document the validity of your concerns and how to find workable solutions. Once you can prove your concerns are real and you have a viable solution in hand you will probably need to rely on the growth management process to win adoption of your preferred solution. Part II of this book explains how *The Growth Management Process* works. Finally, Part III begins will advice on researching the many strategy options frequently available to citizens and how to select that most likely to bring about a successful outcome for the least amount of time and money. In addition, Part III explains how to get the resources (volunteers, dollars, and political clout) essential to victory. Part III also goes into considerable detail on how to negotiate with the applicant in hopes of convincing them to adopt your solution. Suggestions are also provided for lobbying final decision-makers or initiating legal action if negotiations with the applicant fail to produce victory. If decision-makers feel they lack the legal authority to implement your solution, and your lawyer agrees, then Chapter 41 explains how to *Change The Law*. The last strategy option focuses on ways to preserve the site.

As I offered at the beginning of this chapter, if at any point you are uncertain how to carry out a specific step in the easy solution, just contact me at: 1-800-773-4571 or Rklein@ceds.org. Our advice is available free of charge by phone to citizens seeking to preserve their neighborhood or the environment. But it is easier to answer specific questions, so please try carrying out the following steps before contacting me. You also have the option of hiring us to carry out this research for you. For further detail on this option visit:

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# CEDS QUALITY OF LIFE IMPACT REVIEW CHECKLIST

**Project:**_____ **Date:**_____ **Evaluated By:**_____

All development projects should preserve quality of life for existing and future residents and, whenever possible, make quality of life better. The purpose of this checklist is to screen a proposed development project for quality of life effects. This checlist poses questions regarding the quality of life factors most commonly affected by development. The questions are worded so that a "***yes***" indicates that the project will preserve quality of life with respect to the specific factor. A "***no***" indicates a possible adverse quality of life effect. Use a "**?**" where you are uncertain about the quality of life effect. If you believe a quality of life factor is not applicable to a project, then place an "***NA***" in the *Initial Finding* column. Generally, the more questions answered with a "yes", the more likely it is that a project will preserve quality of life. Since this checklist poses relatively simplistic questions, all findings must be considered tentative and should be verified through detailed analysis, especially for quality of life factors of particular concern to area residents. Further detail on the factors presented below is given in the CEDS book: *How To Win Land Development Issues*, available free for download at: www.ceds.org

| INITIAL FINDING | QUALITY OF LIFE FACTOR |
|---|---|
| | **OVERALL QUALITY OF LIFE IMPACT** |
| | After completing this checklist, consider the following question: *Has this project been designed in a way that **preserves** existing quality of life for nearby residents?* In other words, do the "Yes's" greatly outnumber the "No's." |
| | Does the project design include any of the features presented at the end of this checklist for ***enhancing*** existing quality of life? |
| | **AFFORDABLE HOUSING** |
| | If a paucity of affordable housing exists in the area, then will the project increase the supply of housing within the rental or purchase means of low- to moderate-income families? |
| | **AGRICULTURE** |
| | Are proposed homes adequately buffered from working farms? |
| | Will project residents be able to easily pass farm vehicles on roads which both are likely to use at the same time? |
| | Does a program exist to educate new residents about the odors, noise, and other realities of living in an area dominated by working farms? |
| | Are working farm owners protected from frivolous nuisance actions by new residents? |
| | If prime-productive soils are located on the site, then has the project been designed so these soils can still be farmed? |
| | If steep slopes, highly-erodible soils, or wetland (hydric) soils are currently being farmed on the site, then do project plans show that these areas will be allowed to revert to a natural condition? |

| INITIAL FINDING | QUALITY OF LIFE FACTOR |
|---|---|
| | **AIR QUALITY** |
| | Can the area accommodate the additional vehicle emissions due to the project without exceeding air quality standards? |
| | Will the project reduce auto emissions by making it possible to walk or bicycle to work, school, or shopping? |
| | Is the project in an area served by mass transit or slated for bus or rail services? |
| | Does the project include design provisions facilitating mass transit or car-pooling? |
| | **COMPATIBILITY** |
| | Does the project comply with height restrictions? |
| | Does the project comply with limits on lot coverage and percent impervious area? |
| | If commercial, does the project meet floor-to-area (FAR) limits? |
| | Are potentially incompatible uses adequately buffered? |
| | **CRIME** |
| | Does the project design incorporate appropriate Crime Prevention Through Environmental Design features? |
| | With the project, will law enforcement capabilities remain adequate? |
| | **ENVIRONMENT** |
| | Check the box next to each of the following sensitive environmental features located on the site or sufficiently nearby to be within the zone of potential project impact: G Wetlands G Spring or seep G Stream or river G Pond or lake G Steep Slopes G Highly-erodible soils G Floodplain G Important fishery or wildlife habitat G Rare, threatened or endangered species habitat G Forest G Prairie G Wellhead protection area<br>G Other |
| | Do project plans accurately depict sensitive environmental features present on or near the site? |
| | Do project plans show preservation of each of the sensitive environmental features noted above, including an adequate buffer? |
| | If all sensitive environmental features are ***NOT*** protected, then do plans show the road and building layout which is the ***least harmful*** to each feature? |
| | Are all wells at least 200 feet from proposed septic systems? **(NOTE: Contamination will not necessarily occur just because a well is within 200 feet of a septic system. However, a "NO" to this question does flag the need for detailed analysis.)** |
| | Will the project cause the density of septic systems to exceed one per six acres in shellfish harvesting watersheds or areas draining to other bacteria-sensitive waters? |
| | If the project is in the watershed of a highly-sensitive wetland or stream, then will watershed impervious area remain below 4%? |

| INITIAL FINDING | QUALITY OF LIFE FACTOR |
|---|---|
| | Will all runoff from impervious surfaces drain to a stormwater filter or infiltration measure? |
| | Do stormwater ponds and storm drain outfalls discharge into a stream channel or other areas where erosion will not occur? |
| | Are large impervious surfaces (buildings, parking lots, etc.) adjoining wetlands served by stormwater management measures designed to maintain groundwater recharge? |
| | **ENVIRONMENTAL JUSTICE** |
| | If a minority or low-income community exists in the project impact zone, then has the project been designed to prevent undue impact to the community? |
| | **FIRE** |
| | Has the project been designed to prevent a lowering of the ISO Public Protection Classification, which is a rating of fire suppression capabilities of the local fire department? |
| | Will local water pressure remain above the minimum required for fire suppression in areas served by public water? |
| | **HISTORIC PLACES** |
| | Will the project be compatible with a historic district? |
| | Will the project be compatible with any structures or sites with historic or archaeological significance within the zone of impact? |
| | **LIGHT TRESPASS-POLLUTION** |
| | Is it ***unlikely*** nearby residents will suffer glare from lights or loss of their night sky view? |
| | **NOISE** |
| | Has the project been designed to prevent an undue amount of noise at nearby homes, schools, and other sensitive sites? |
| | **PARKS & RECREATION** |
| | If playgrounds, sports fields, and other park-recreation facilities are approaching or over capacity in your area, then will then project increase the supply of these facilities? |
| | **PUBLIC WATER & SEWER** |
| | If the project is to be served by public water and/or sewer then is it within the area slated for service in the local water and sewer plan, comprehensive plan, etc? |
| | If the project is to be served by public sewer then are collection system overflows or other sewage releases rare? |
| | If the project is to be served by public sewer then will it carry sewage to a wastewater treatment plant which is in compliance with pollution discharge limits? |
| | **PROPERTY OWNERSHIP** |
| | Do plans show that the project will not intrude onto property owned by others or easements? |

| INITIAL FINDING | QUALITY OF LIFE FACTOR |
|---|---|
| | **PROPERTY VALUE** |
| | Is the project free of uses likely to have an adverse effect on the value of nearby homes? |
| | **SCHOOLS** |
| | Will the number of students at schools serving the site remain below design capacity based upon enrollment projections? |
| | If the project involves a new school then is it designed at a neighborhood scale as dictated by *Smart Growth* principles? |
| | **TRAFFIC** |
| | Is sight distance sufficient at intersection(s) for safe turns based upon the following 10-second rule: Does it take at least ten seconds from the moment you first see approaching vehicles until they reach the intersection? |
| | Will the gap between vehicles at main intersection(s) remain adequate for safe turning movements? |
| | Will the degree of traffic congestion (level of service or LOS) remain within the acceptable range (LOS: A to D) at nearby intersections? |
| | If the project is in an area served by a single road, then will the road be adequate to allow evacuation during an emergency with the traffic added by the project? |
| | Has the project been designed to prevent an undue increase in traffic, especially trucks, on residential streets? |
| | If it is situated along a scenic road, then has the project been designed so scenic views are preserved? |
| | If the project involves a new road into areas slated for low-density development, then has zoning been adjusted to ensure growth will occur at rural densities? |
| **EXAMPLES OF QUALITY OF LIFE ENHANCEMENT MEASURES** | |
| | Will the project reduce through traffic on an existing residential street or make the street safer with traffic calming measures? |
| | Will the project reduce congestion or improve turning-movement safety at an intersection? |
| | Will the project reduce over-crowding at area schools? |
| | Will the project increase the amount of forest on the site or convert cropland on highly-erodible soils/steep slopes to forest? |
| | Will the project divert runoff from existing impervious areas to more effective stormwater management facilities? |
| | Will the project result in a net increase in the per capita supply of park and recreation facilities? |
| | Will the project result in an improvement of the views along scenic roads? |
| | Will the project restore a historic structure or enhance the integrity of a historic place? |
| | Will the project increase walking and bicycling opportunities for area residents? |

| INITIAL FINDING | QUALITY OF LIFE FACTOR |
|---|---|
| | Will the project increase the value of nearby homes by mitigating an existing factor negatively affecting property value? |
| | Will the project bring about a net increase in the percentage of housing affordable by low- to moderate-income families? |
| | Will the project improve the Public Protection Classification of the local fire department? |
| **Comments:** | |