
POLITICALLY ORIENTED ADVOCACY

A Way to Win More Land Use Battles & the Growth-Management War
While Strengthening Grass-Roots Advocacy Organizations

INTRODUCTION

Community & Environmental Defense Services (CEDS) has refined a new approach, known as *Politically Oriented Advocacy*, which triples the likelihood citizens will win battles involving proposed development projects (housing, shopping centers, highways, etc.). The approach also:

- expands the base of public (voter) support for responsible growth management;
- increases the membership and number of active volunteers supporting grass-roots groups; and
- leads to more citizens becoming highly-effective leaders at the grass-roots level and in appointed or elected positions.

RESEARCH SHOWS BETTER WAY

Over the past five years CEDS has conducted intensive research across the country on what does and doesn't work for citizens seeking to resolve concerns about proposed development projects. *Politically Oriented Advocacy* evolved from the following major findings:

The Myth: There's a widespread belief that the way citizens win development disputes is to hire a lawyer to stop a project. This belief is the result of the few instances where this conventional approach actually stops a project. These uncommon successes tend to generate considerable publicity which creates the false perception that its easy to stop a development project: You just hire a lawyer and say *sick 'em*.

1 in 200 Projects Stopped: While one in 70 projects are temporarily halted through this conventional approach, the applicant then revises plans to address legal defects, resubmits the plans, the plans are approved, and the project gets built. Only 1 in 200 projects is stopped permanently.

\$10,000 Yields Little Return: About 40% of citizens employ the conventional *Hire a lawyer to stop the project* approach. Many of the attorneys hired by citizens have minimal experience with land use-zoning law. They tend to exhaust citizen resources contesting the first permit-approval the project requires without evaluating all others to determine which provides the best opportunity for success. Citizens pursuing this conventional approach spend an average of \$10,000 - occasionally more than \$100,000 - mostly getting very little for their money.

Members & Volunteers Lost: Citizens who follow the conventional approach tend to come away with a very negative attitude towards government and the growth-management process. These citizens usually lose interest in growth-management advocacy, which denies grass-roots groups of the fresh blood needed to be successful.

Equitable Solutions = 25% Success: Another 40% of citizens seek to resolve specific concerns about a development project. Examples of specific concerns include increased traffic, overcrowded schools, inadequate parking, visual impacts, loss of open space, and drainage-pollution issues. Half of these citizens (20% of the total) negotiate with the applicant, government staff, or elected officials to change project plans in ways that will prevent impacts yet allow the applicant to get most of what they want. CEDS calls these changes "*equitable solutions*." These 20% of citizens win their negotiations about half the time. They tend to have a much better (realistic) attitude about growth management and many go on to become active volunteers with grass-roots groups or to serve on boards, commissions, and councils.

Some Give In After Minimal Effort: The remaining 20% make some effort towards either stopping a

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project or resolving specific concerns, but tend to give up quickly. A large portion of these citizens assume that if they cannot afford to hire a lawyer there's no way they can win. These citizens report getting very little for their effort and few continue to participate in advocacy.

BENEFITS

The preceding research findings plus more than 30 years of helping citizens with land use and environmental issues throughout the nation, allowed CEDS to come up with a new approach which we call *Politically Oriented Advocacy*. We know from our own experience that this approach will:

- Triple the success rate of citizens seeking to resolve specific concerns through *Equitable Solutions*;
- Increase the likelihood of stopping a truly bad development project by ten-fold;
- Correct defects in existing growth-management programs/laws so future projects are less likely to cause the same impacts;
- Expand the membership and active volunteer ranks of the citizen group leading the effort to protect a neighborhood or the environment from a development proposal;
- Increase the number of voters who are knowledgeable about *and* willing to provide the support needed to improve growth-management and environmental-protection programs;
- Prompt more good people to run for seats on planning commissions, school boards, town-county councils, board of supervisors, etc.; and
- *Politically Oriented Advocacy* achieves all this at a fraction of the cost (in dollars, stress, and hours) when compared to the conventional *Hire a lawyer to stop the project* approach.

THE FOUR COMPONENTS

Following is a brief, simplified description of the four steps which compose *Politically Oriented Advocacy*:

Seek Equitable Solutions: Perhaps 90% or more of development impacts can be resolved by modifying project plans in ways that fully resolve citizen concerns yet allow the applicant to get most of what they want. Following is an example of an *Equitable Solution*. A

developer proposes to convert a residential dead-end street into a through-road. The residents find an alternative which eliminates the need for this action or win measures that greatly reduce cut-through traffic volume. The alternative can be implemented without causing more than a small decrease in the number of housing units or commercial floor-space. This is an *Equitable Solution*.

Aggressively Negotiate: The negotiations are between citizens and the applicant and/or a government agency. For the applicant, the question of whether to settle with citizens comes down to this: *Will it cost me more to do what citizens want compared to the expense of fighting them?* If the fight will be more expensive than settlement usually follows, particularly if the applicant believes citizens are mobilizing the resources needed to fight a long political-legal campaign. Most government agencies are used to negotiating with applicants and citizens to resolve issues. It's easier to get an agency to compel an applicant to implement a genuine equitable solution compared to convincing them to stop the project. Of course the agency must have the legal authority to compel the applicant to implement the solution. But this usually isn't a problem. If it is then *Political Action First* will substantially increase the probability that the agency and the applicant will find a way to satisfy citizen concerns.

Political Action First: Citizens tend to have the advantage in a political arena while applicants are more likely to prevail in a legal proceeding. Most of the impacts which prompt citizens to fight a development project reflect some defect in the growth-management process. Each defect provides an opportunity to win the support of other voters and citizen groups who are (or could be) harmed by the same defect. Usually the defect can be resolved through a change in policy or law. The change could be made by an appointed government official, like an agency head, or by convincing elected officials to change the law. To bring about this change citizens must mount an aggressive campaign to mobilize an ever-increasing number of voters to lobby appointed or elected officials to change a policy or the law. As the campaign progresses it is likely citizens will create the critical amount of pressure needed to force officials to act. A political success provides many benefits beyond winning a single development battle.

Smart Legal Action: Each development project may require a dozen or more approvals (rezoning, special exception, conditional use permit, waiver, variance, wetland permit, etc.). The goal of legal action is either to: a) require implementation of an *equitable solution* as a condition of an approval, or b) stop a truly bad project by blocking the issuance of an approval. The first step in *Smart Legal Action* is to identify all required approvals then research each to determine which provides the best opportunity for success. While this may seem like common sense few novice advocates and inexperienced attorneys perform this research. In *A Brief How To* you'll learn where to find instructions for this easy to perform research. We urge you **NOT** to hire an attorney before completing the research. Why? Because you won't know what type of attorney you need: land use, zoning, environmental, etc. More importantly, you won't have the background needed to interview prospective attorneys (we urge you to screen at least three) to learn which is likely to provide the best representation and how to keep legal fees at a minimum without lowering the probability of success.

A BRIEF HOW TO

An introduction to finding equitable solutions and the other three steps of *Politically Oriented Advocacy* can be found in Chapters 1 and 2 of the CEDS book *How To Win land Development Issues*. This 300-page book can be downloaded free from the CEDS website: ceds.org. Chapters 3 through 26 address the specific impacts most likely to cause concern among nearby residents and other citizens. These chapters also contain suggestions for possible *Equitable Solutions*. Chapter 35 explains how to research which political and legal strategies are most likely to result in victory. Chapters 37 and 39 contain advice on *Aggressive Negotiation*. Suggestions regarding *Political Action First* is presented in Chapters 36, 39, 41, and 42. Refer to Chapter 40 for *Smart Legal Action*.

ADDITIONAL HELP FROM CEDS

CEDS offers several no-cost forms of assistance to citizens seeking to protect a neighborhood or the environment from development impacts.

- First, if you have a copy of project plans then mail them to us. We'll do a quick, initial review of the plans to identify both potential impacts and possible equitable solutions.

- Second, we can conduct a strategy session by phone with you and your allies to discuss the project and how to employ *Politically Oriented Advocacy* to resolve your concerns.
- Third, we would be delighted to try and answer specific questions free of charge by phone, provided we don't need to do any research.

Again, this assistance is offered free to citizens. Just give us a call at 1-800-773-4571 or e-mail us at: Help@ceds.org. Besides our 300-page book you'll also find other free publications and information on our website: ceds.org.

About two-thirds of the citizens we help take our free assistance and run with the campaign on their own. The other third hire us to manage a portion or all of their campaign. This is how we make the funds needed to stay in business. So if you feel that winning a development battle requires more time than you can spare, give us a call to discuss the cost of having CEDS take over the more difficult or time-consuming aspects of the campaign. If you're uncertain how to get a campaign started then consider retaining CEDS to conduct an *Initial Strategy Analysis* which costs anywhere from \$800 to \$2,000. For further detail visit: <http://ceds.org/strategy.html>.

EXAMPLES OF POLITICALLY ORIENTED ADVOCACY SUCCESSES

Following are a few examples of the victories possible with *Politically Oriented Advocacy*. CEDS was an active participant in all of these examples.

Smart Growth: Everyone has heard the phrase *Smart Growth*. But you may not know that Smart Growth was a result of *Politically Oriented Advocacy* in action. In the mid-1990s, the Sierra Club led a fight to save Chapman's Forest - 2,000 acres of highly-sensitive forest near Washington, D.C. Chapman's Forest became a focal point - a poster child - for the many ills of dumb growth. The campaign generated so much public support that it allowed former Maryland Governor Glendening to preserve all 2,000 acres and he instituted *Smart Growth* as state policy and law. Of course, Smart Growth is now a cornerstone of responsible growth management nationally. And it all started because of the highly-successful execution of *Politically Oriented Advocacy* at Chapman's Forest.

Through-Traffic Nixed: Southfork Court is a quiet, dead-end street with 14 townhomes. The Court is more than a place where residents park their cars. Children play in the Court. An annual picnic and other gatherings are held on the Court. But all this would've changed with plans to extend the Court into a through-road to serve a proposed development project. This action would have increased traffic on the Court by **800%**. County policy required a second means of emergency vehicle access into the proposed development. An extension of Southfork Court was the only way of meeting this requirement. CEDS research of past decisions revealed an *equitable solution*. After extensive negotiations with the applicant and County officials, they agreed to extend the Court and place a gate across it which only emergency personnel could open. This solution provided the second means of emergency access without any increase in normal traffic volume, thus preserving the tranquility of Southfork Court.

Visual Impact Resolved: Rural residents were deeply troubled by a proposal to build new houses within view of their homes. They feared the loss of a natural view, light trespass from street lamps, and glare from the floodlights new homeowners tend to plaster all over their houses. After our clients threatened to get the site downzoned (a real possibility) the applicant agreed to forego the street lights, place a covenant in the homeowners association bylaws restricting outside lighting, and to provide the additional landscaping needed to preserve the view. These points were set forth in a written agreement which the applicant and the rural residents signed. The agreement also required making it a binding condition of County development approvals. This makes government responsible for enforcement - not the rural residents. The applicant also reimbursed the rural residents for the \$2,000 they paid CEDS to win this victory.

\$500,000 in Aquatic Resource Protection: A massive shopping center was proposed for a site at the head of a highly sensitive river. Area citizens treasured the river but were not necessarily opposed to the shopping center. However, they were very concerned about the thousands of gallons of contaminated runoff which would flow from the shopping center into the river. CEDS helped local activists demonstrate widespread community support for preserving the river and

organized a legal team which convinced the applicant they were in for a long fight. The applicant then offered to put in some additional runoff pollution controls, costing about \$100,000. We eventually got them to agree to what was really needed - \$500,000 in aquatic resource protection measures.

Globally Rare Wetland Saved: Wade's Savanna is one of seven *Central Coastal Plain Basin Swamps* in the world. A mining company had proposed excavating a 70-foot deep pit covering 140-acres next to Wade's Savanna. The resulting extraction of sand and gravel would have dewatered (and killed) Wade's Savanna. After partial execution of a strategy developed by CEDS the applicant became convinced that they stood little chance of getting mining permits. They then sold the site below market value to a preservation organization.

Flawed Infill Stopped: Suburban residents were concerned by a proposal to build five houses on lots much smaller than theirs. The houses would have been unduly close and posed other compatibility issues. CEDS discovered the applicant needed to run a sewerline through the property owned by the residents. The residents are now using this leverage to negotiate resolution of each concern with the applicant.

CEDS CLIENTS: *Partial Listing*

Following are some of the many citizen groups, nonprofit organizations, and government agencies we've helped across the nation: Apple Greene Civic Association; Baltimore County, MD; Blue Ridge Coalition - Floyd County Chapter; Chesapeake Bay Foundation; Citizens For A Better Flathead; Citizens to Protect Brice Prairie; Coalition Against Surface Mining; Echo Hill Outdoor School; Friends of Beaver Lake; Mannington Preservation Citizens Committee; Piedmont Environmental Council; City of Pocomoke, MD; Potomac River Association; Saddlebrook Estates Homeowners Association; Shawnee Preservation Society; Sierra Club; Southern Environmental Law Center; State of Hawaii Office of Planning; Talbot River Protection Association; The Nature Conservancy; Valleys Planning Council; Vineyard Conservation Society; West Virginia Highlands Conservancy; Woodland Hills Homeowners Association; and ***hundreds of other groups and individual citizens.***