

EFFECTIVE LAND USE TESTIMONY

VII. PRACTICAL STUFF (How to Win at the Front End)

The practical approach of how to win at the front end involves three ideas.

1. Get an accurate understanding of the proposed land use application's (i.e., development's) project.
2. Identify obvious project impacts.
3. Resolve each impact through actions that require relatively little time and expense.

HOW TO WIN

Step 1: Verify What Has Been Proposed We get communications 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. Our advice is obvious; make arrangements with the local planning office to review the land use application.

- Either way, looking at the application will allow you to base your actions on fact, not rumor.
- Take the time to carefully study the proposal and other documents in the local files.
- Note each concern you have regarding the project along with anything which is not clear.
- Request a copy of all the documents submitted thus far, including agency comments and all other paper information in the planning file.

Step 2: Discuss Your Concerns With Staff Normally, each land use application is assigned to a staff planner.

Meet with the staff person overseeing the project proposal if after reviewing the application you still have concerns. **This is a huge outreach step that many neighbors with concerns omit to their sorrow.** Listen with an open mind if they disagree about the likelihood of an impact or which solution is best. But you should also seek another opinion if you have doubts.

Neighbors should begin their meetings by describing the impacts of concern to them, the basis for each concern, and ask the planner how each impact is likely to be resolved through the planning process. The following are possible outcomes of this discussion and how you might proceed with each.

1. Resolution Will Happen

2. Resolution Is Not Possible

3. Impact Unlikely If staff believes an impact is unlikely and you are not convinced, then confirm or refute the belief of staff.

4. Application Project Status, Comments & Appeals Ask staff for a description of the review process and where the project application stands in the process. Ask when opportunities for public comments 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 certain date? Also ask about your right to appeal if project application is approved before your concerns are fully resolved. Cover questions such as filing deadlines and format as well as other specifics for preserving your right to appeal (i.e., **you must preserve your standing**). 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 the applicant's comply with relevant laws (i.e., standards and criteria). Reading these standards and criteria (i.e., laws and documents) will increase your understanding of the process and how to resolve your concerns.

WHEN THE EASY SOLUTION DOES NOT WORK

If your discussions with planning staff, the applicant and your elected officials did not produce the results you were looking for, **then it's time to escalate the effort into a full campaign.** If you have been told that your concerns are unfounded or your solution will not work, then document the validity of your concerns and investigate 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 planning process to win adoption of your preferred solution.

IDENTIFYING PROJECT IMPACTS & TECHNICAL SOLUTIONS

Identify procedures for determining whether a proposed land use application (i.e., development project) will cause significant adverse effects and, if so, the technical approaches for resolving these concerns.

Basic Approach Some might feel development impacts which tend to generate the greatest concern are environmental degradation, traffic congestion, loss of open space and school overcrowding.

The following are the basic approaches recommended for determining if these and many other impacts will occur and, if so, what solutions are available.

Researching Development Impacts. A description of the conditions under which each impact becomes significant and the technical approaches which usually resolve the impact are necessary.

- 1. Talk to nearby, long-time residents** to learn what the reality is of living next to a similar project.
- 2. Talk with citizen activists** who have participated in campaigns involving similar land use application projects.
- 3. Contact government officials**
- 4. Search the internet** for newspaper articles or other information about project impacts.

5. **Talk to local newspaper reporters and their editors** about any stories they ran on the proposed project.

Does the land use application meet any **criteria for significant impact** and/or non-compliance to standards and criteria?

There are a class of projects known as **LULUs**. (**Locally Unwanted Land Uses**) and **NIMBY** (**Not In My Back Yard**).

Will a Solution Really Work At first a solution may seem quite effective and reliable. But is this truly the case? Generally, the more complicated, expensive and maintenance-intensive a solution, the less reliable it is. Unless inspection and maintenance will be very good for many years, the measures may fail and the resource will be lost.

Implementation must Be Guaranteed Once you have found an effective solution - implementation must be guaranteed. The guarantee must be something more than the promise of the applicant or a government official. The guarantee could take the form of an enforceable permit condition or a binding agreement between the applicant and you (assuming you have the resources to enforce the agreement).

Verify Site Conditions But Do Not Trespass An accurate understanding of site conditions is crucial to determining what impacts may occur, then selecting the best solution. You should compare the applicant's description of conditions on and off the site with what actually exists. Obviously this requires access to the site. **Do not enter onto a proposed development site unless you have permission. Trespassing could bias key decision makers against you and well as potentially legal action against you.**

THE LAND USE APPLICATION PROCESS An understanding of this process is crucial to determining which strategy options may provide the best path to victory.

Process Overview The goal of the process is to manage growth in a way that preserves quality of life for existing and future residents while minimizing restrictions on the use of property. The process begins with a comprehensive plan. The plan sets forth a consensus view of how a town, city, county, or region should grow.

The Comprehensive Plan and Zoning are used to implement the plan by defining where desired uses would best be located.

Through zoning the intensity of use is managed along with specific standards for ensuring compatibility with other uses.

A number of specific permits and approvals must be obtained when a development project is proposed for a particular tract of land. To obtain each permit-approval the **applicant must demonstrate that their project meets performance standards** for issues.

The local legislative body (i.e., Josephine County Board of County Commissioners) will enact a set of laws containing the specific requirements a development project must meet in order to receive various permits and approvals. The laws may be contained within a Code (i.e., Josephine County Rural Land Development Code). Specific chapters of the code may pertain to zoning, subdivision of land, development regulations, roads, environmental protection, schools, stormwater management, and a host of other development-related topics. In addition, there might be guidance or policy documents providing detail on how one goes about complying with the code requirements. **But usually a local jurisdiction can only compel an applicant to comply with requirements set forth in law (the code). There will also be state and possibly federal laws an applicant must meet along with supporting guidance documents.** A zoning ordinance or subdivision regulations will set forth the process for reviewing a proposed development project.

If you are grappling with a land use application which is so poorly conceived that the impacts cannot be resolved, then your best opportunity to defeat it is early at the front end of the application review process. **In other words, you must start early and convince key decision-makers to deny** the comprehensive plan amendment, annexation, a rezoning request, a special exception, the conditional use permit, or a variance. **If a project is consistent with zoning and does not need a special exception, conditional use permit or a variance, then it is very likely that it will eventually be approved, as it should be.** Your best opportunities to win changes that resolve project impacts will be early in the land use application process.

Under construction.

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