

An Introduction to the Land Entitlement Process and Basic Land Development Strategies

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Photo of property under development
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“All such regulations shall be uniform for each class or kind of building throughout each district.” - Standard State Zoning Enabling Act (SZE), U.S. Department of Congress, 1922

Most people purchase land for one purpose: to develop it. Whether that means building a single-family residential home, a retail complex project, a shopping center or multi-family development, the majority of land buyers search for properties with a future development in mind. One of the most important aspects to consider when purchasing land to develop is the entitlement process. The entitlement process is a pre-development phase in which the buyer enters into the legal process of obtaining approvals for the intended development. The entitlement process is often a complex and abstract concept that only the most experienced land developers have acquired the complete knowledge and skill set to effectively navigate the required procedures. This article will discuss the basics of the entitlement process, as well as specific strategies that can be employed to simplify the entitlement process with the intention of helping land developers to expedite timelines, save money, and obtain the approvals necessary.

What is Land Entitlement & Why is it Important?

Before a development project can begin or “break ground”, the developer must be granted permission from local regulatory agencies and the community. This approval process from various agencies within the jurisdiction that the developer intends to build in is a critical first step in the entitlement process. Diligent and comprehensive planning at this stage of the entitlement process will prepare the developer for the questions that will be asked from city planners, local residents, and government leaders. The primary goal of the developer is to acquire all necessary building permits from the local municipality that grant the developer permission to develop the intended project. While this process can appear at face value to be bureaucratic, complicated, and ambiguous, the importance of ethically and carefully navigating this process cannot be understated. The purpose of zoning is to promote the health, safety, morals, and general welfare of the community and to protect and conserve the value of buildings. Zoning regulations also encourage the most appropriate use of the land. A developer who obtains all the required entitlements from the local regulatory agencies can mitigate a tremendous amount of the risk that is inherently associated with new development projects.

Examples of Entitlement

Entitlement can come in many forms, including:

- **Rezoning:** A properties zoning indicates what is allowable to be built on the property. If the area is not zoned for a developer’s intended use, it may be necessary to go through a rezoning process. This process can be complicated, expensive, and lengthy. In certain cases, rezoning is not possible.
- **Zoning Variances:** Getting approvals for variances to the zoning code includes adjustments to the specific parameters outlined in the zoning code. This would include the number of parking spaces, setback requirements, building heights, and many others.
- **Use Permits:** A developer may be able to receive a conditional use permit for an intended project if it is not explicitly allowed in the zoning code by-right.
- **Utility Approvals:** If utilities are not already at the site, you may need to seek approval for them. You may also need to donate land to the city for the utility entitlements.
- **Road approvals:** If there are no existing roads that connect the property, the developer may need to seek approval for the creation of these as well. A developer will also need to consider easements and access.
- **Grading & Landscaping:** A local planning and development agency may also need to grant a developer specific approval for grading and landscaping.

The Importance of Hiring an Experienced Development Consultant and Brokerage Team

For a general prescriptive, it is important to note that the entitlement process will typically span anywhere from three to twelve months. In certain cases, and especially in highly regulated jurisdictions, this process can be extended by many more months. Part of the reason why this process can take an extended amount of time is because city planners have different interpretations of local rules and regulations. Oftentimes, approvals will be required at the city, state, and county levels. These agencies typically do not communicate with clarity between each other. This can complicate the entitlement operations and extend timelines.

A professional development consultant and brokerage team will have the experience and the network to assist a developer through the entitlement process. Professional development consultants and experienced brokerage teams will likely have good working relationships with planners on the state, county and local levels. These relationships can be leveraged to channel communication with the appropriate state and local agencies in order to accelerate timelines and approval dates. A skilled development consultant and brokerage team will be able to negotiate terms and conditions with state permitting agencies effectively which will eliminate the need for back and forth communication and multiple rounds of plan re-submittals.

How the Entitlement Process Works – An Overview

Although the exact steps vary and are specific to each municipality, there are typically a few homogenous elements in all entitlement proceedings. These steps include submitting a formal proposal, conceptual design package, environmental reports and studies. All these documents will be submitted to the local planning department to begin the process of:

1. Formally review the proposed project against the in-place zoning regulations, the planning code, and local laws and initiatives;
2. Tested to ensure there are no major negative environmental impacts;
3. Reviewed by other relevant city agencies for sign off and approvals;
4. Socialized with the local community to gain feedback and receive buy-in support.

Assuming the project successfully makes it through all the above steps, it is then awarded a final approval from the local board of supervisors or city/town council.

Assessing and Mitigating Risk

In determining the feasibility of a particular development opportunity, it is important to learn how to analyze and anticipate the risk factors that are involved. It is also equally as important to understand the techniques used to mitigate these risk factors which will boost the odds in a projects viability and allow a path to a successful start.

Below are a few key best practice development strategies:

Team Selection

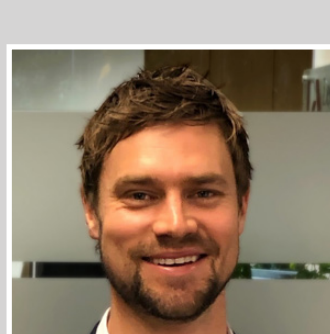
The first step in removing risk from development project is building a strong and competent team. Architects, landscape architects, civil engineers, mechanical & plumbing in a development, are to name a few of the important roles that will be involved in a development deal. It is important to build a knowledgeable and experienced team that understands how to navigate the complexities of the many issues that will arise when bringing a project from start to finish. Hiring team members who have interfaced and worked with city officials on previous projects can provide a strategic advantage. This team will offer an advantage as timelines are met, money is saved, and the developer is able to deliver a quality finished product.

Detailed Timelines

Consult with a land use attorney to get realistic expectations on how the entitlement process will move through all local state agencies. There is often a significant variation in laws and requirements from jurisdiction to jurisdiction. An expert in a local market will understand agency jurisdiction and all requirements necessary to get construction permitting and approval. When entitlement requirements surface in late stages of a development project, they can add significant time delays and costs. When expectations and timelines are realistic and defined, there is risk removed from a project leading to higher odds in a project’s success.

Understand Political and Community Risk

One important component of the entitlement process is understanding the cities vision for its downtowns, main streets, and residential communities. In California, by law, cities are mandated to submit General Plans to the state’s capital in Sacramento. A general plan is the local government’s long-term blueprint for the community’s future growth. The Governor’s Office of Planning and Research oversees these duties. Make sure to review all General Plan documents to make sure developments designs and use are in accordance with the cities long term vision of their community. Additionally, community involvement in an ambitious development project is a necessary element in order to gain approval and permitting. Identifying influential community organizations that can endorse a developer’s vision is a powerful alliance to maintain. Local political leaders are often elected officials whose objective is to listen to their constituency.



About the Author

Alex Gudim is a Transitional Researcher for the Lee Land Team with Lee & Associates, Inc. - NSDC. Alex graduated from the University of San Francisco where he studied Politics and Economics. After graduating from University, Alex started his career working in a business development role in Silicon Valley at a technology start-up.