



DESIGN IS GOOD BUSINESS

It doesn't just add value; it multiplies it.



Your building can do much more than keep the rain off your business; it can advance your business plan. To capture the full value of your capital program, you will do well to engage your architect in a discussion of your business goals, with your business leaders.

The Architect and the Entitlement Process

Charles F. Bloszies, FAIA

Entitlement is approval from governmental agencies to use or develop a parcel of land. Approval may depend on many factors—including the building's use and size, appearance, historic status, and environmental impact—overseen by separate agencies. The process is especially complex in cities, where land is scarce and land values are high, which makes development a risky proposition. Development means change, and there are many who resist change, often for valid reasons. Opinions are strong. In such challenging circumstances, the most effective tool for gaining approval is a good design.

Except in remote areas, land use is governed by zoning

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codes, created by planners employed by local governments, which establish zoning districts that define building uses allowed in different parts of a city. Some uses are permitted "as of right," without protracted agency review; other uses are conditionally permitted, with conditions applied by various commissions at public hearings; and still other uses are not permitted at all. In addition to use, zoning constraints also control the height and bulk of buildings and address such matters as the size and placement of signs. Some jurisdictions impose design constraints, as well; for example, the City of Santa Barbara's Architectural Board of Review Guidelines are intended to "protect and preserve the natural and historical charm and beauty of the City and its aesthetic appeal."

The entitlements process may also include review and approval by specialized commissions. Alterations of existing buildings may need review by a historic preservation commission or landmarks board, and projects near bodies of water may need to be reviewed by a coastal commission or the Army Corps of Engineers. Environmental review is typically required and may occur in parallel with zoning approvals. In our state, the process is defined by the California Environmental Quality Act (CEQA). Large projects may need approval of an Environmental Impact Report (EIR), and even small projects usually need to obtain a Categorical Exemption ("Cat Ex") or Negative Declaration ("Neg Dec") stating that the project is exempt from environmental review or has no significant environmental impact. One tactic of development opponents is to challenge a project's environmental impact findings. A good design that takes into account environmental concerns can help avoid what is often a time consuming and expensive project delay.

The entitlement framework acknowledges that it is not always possible to follow all of the rules and recognizes that a rich diversity of building uses and forms results in vibrant communities. Accordingly, most planning codes allow exceptions to strict adherence to the letter of the law, through special design review processes and the granting of variances. However, the farther one strays from the rules, the more public the entitlements process becomes. Special interest groups gain the opportunity to influence what may or may not be allowed, and the time required to gain approvals increases significantly.

The architect acts as both an interpreter and a designer during this process. As interpreter, the architect translates regulatory language to help the owner understand the underlying reasons

for what may appear to be unreasonable constraints. An experienced architect can parse policies reflecting community consensus that extends beyond an individual plot of land. As designer, the architect creates a proposal that appropriately balances the positions of the various stakeholders and provides the metrics the owner can use to evaluate the feasibility of a development. Most architects believe that a design solution can be found that satisfies almost any set of requirements, even when some appear to be in conflict. A skilled architect is able to implement good ideas when offered by the stakeholders, while at the same time clearly explaining why well-intended but not-so-good ideas are untenable.

During the entitlements process, the architect is sometimes a collaborator and at other times a leader. The architect works closely with land use attorneys and environmental impact consultants, formulating a design based on their interpretations of planning codes and public policy. They all must work collaboratively to produce a design that can be approved. The architect, who most fully understands the interrelation of factors represented in the design, usually participates in public hearings and in outreach prior to them, frequently as the leader or sole presenter. A skilled architect's ability to engage the public with an explanation of a well thought-out design is extremely valuable.

Sometimes disagreement among stakeholders leads to an impasse, and a project approved by the requisite commission is appealed. Most planning codes include an appeal process as well as a specified time period during which an appeal can be made. Perhaps one side has dug in its heels so deeply that no design solution can be found, but most often, appeals are made because a design has not acknowledged a legitimate concern that a special interest group has expressed. At the outset of the entitlements process, an experienced architect can assess the likelihood of an appeal if an inflexible position is taken by an owner or an opponent. A well-balanced design or an honest explanation by the architect to a special interest group should be able to prevent an appeal altogether.

The entitlements process can be time consuming and stressful for building owners and developers. An experienced architect, in collaboration with others, can guide a project through the process efficiently. And, with a good design, a proposal will be able to evade the crosscurrents and eddies of a complex process and become a fully realized building.

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Charles F. Bloszies, FAIA, is a San Francisco-based architect and structural engineer with special expertise in the assessment of real estate development potential. His [1 Kearny Street](#) project won the 2010 Kirby Ward Fitzpatrick Prize from the Architectural Foundation of San Francisco for best new building by a small firm. A recognized authority on the design of contemporary additions to cherished historical buildings in dense urban setting, he is the author of [Old Buildings, New Designs: Architectural Transformations](#) (New York: Princeton Architectural Press, 2011).



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