

Zoning

Frequently Asked Questions



1. What is a Zoning Report?

Answer: A zoning report is a detailed analysis of zoning regulations associated with a site/structure and whether or not the given site/structure complies with such regulations. These regulations include, but are not limited to allowed uses, building height, density, setbacks, off-street parking requirements.

2. Why do I need a Zoning Report?

Answer: In addition to having a full understanding of the jurisdictional guidelines for zoning compliance of a particular site, zoning reports will also satisfy certain Title Insurance exceptions and/or Lender conditions/requirements.

A. *Title Exceptions and Zoning Endorsement:* A title insurance policy may contain certain exceptions that a full zoning analysis can help remove from a title policy. Just as importantly, zoning reports may offer lenders and owners the opportunity (depending on the location of the site in the Country) to enhance their insurance title policy coverage by obtaining zoning endorsements, known as ALTA Form 3-06 (Unimproved Land), ALTA Form 3.1-06 (Completed Structure) and 3.2-06 (Land Under Development).

B. *Lender Conditions:* A lender often places a zoning condition within their mortgage agreement prior to providing a loan on a property. The lender simply wants to make sure their collateral is protected and appropriately zoned prior to dispersing funds. A zoning report will help confirm that such zoning condition exists as of the date of the report.

3. What information is included in a Zoning Report?

Answer:

A. The largest portion of the Report contains an analysis of the above regulations in conjunction with the actual measurements derived by conducting a survey of the site and its improvements. Zoning Reports will include an overall conformance determination of (i) legal conforming, (ii) legal nonconforming, or (iii) nonconforming. See below FAQs for more information on conformance status.

National Due Diligence Services, a Division of American Surveying and Mapping, Inc.

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- B. The Report also includes (i) a Zoning Verification Letter* and (ii) documentation (to the extent any such documentation is on file with the municipality) received from a public records request of the property, which may include certificates of occupancy, permits, approvals, resolutions, site plans, etc.
- C. Finally, the Report includes confirmation by NDDS of no open zoning, building or fire code violations. Outstanding code violations will be stated and evidenced in the Report. Outstanding code violations will **NOT** change the overall conformance determination.

*a Zoning Verification Letter (ZVL) is an official letter from the applicable municipality which confirms the zoning district of the site. ZVLs can contain more information, but the content of each ZVL is dependent on each particular municipality's internal rules and procedures.

4. What information do you need to complete the Report?

Answer: The most essential item necessary to complete a Zoning Report is a survey. Boundary surveys alone do not provide enough information to complete a report unless the site is vacant land. NDDS strongly recommends that a site with improvements contain, at a minimum, ALTA Items 4, 7 and 9. Surveys provided to NDDS that do not contain such minimum ALTA Items may contain incomplete information or delivery of the final report may be delayed. NDDS may also require additional information from the client to make conformance determinations, such as a tenant rent roll, etc.

5. How long does it take to complete the Report?

Answer: NDDS can typically deliver a preliminary Zoning Report within 2-3 weeks from the initial order by the client if NDDS receives a survey (see Question 3 above) within such time period. Please note that NDDS must have at least a preliminary survey in order to deliver a Zoning Report, so if the surveyor is proceeding simultaneously with the zoning order, NDDS will deliver the Zoning Report within 1-2 business days after our receipt of the preliminary survey.

PLEASE NOTE: *Municipal turn times across the Nation vary widely due to a multitude of issues, including, but not limited to, municipal workloads and staffing shortages. Some municipalities can take over one (1) month to fully respond to all of NDDS' inquiries and/or to provide documentation that is essential to issuing a final Zoning Report. NDDS follows-up all with all municipalities throughout the process to ensure the most timely response possible.*

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6. What does the property's "Conformance Status" mean?

Answer: There are three (3) conformance statuses given on the cover page of Zoning Reports, as follows:

- A. *Legal Conforming*: the existing site and current use(s) conforms to the applicable zoning requirements and can be rebuilt in its current form.
- B. *Legal Nonconforming*: the existing site and/or current use(s) does not conform to one or more of the applicable zoning requirements but is legally existing and maintains limited restoration rights (e.g., zoning code amended after construction or property was annexed into another municipality).
- C. *Nonconforming*: the existing site and/or current use(s) does not conform to one or more of the applicable zoning requirements due to an illegal site condition that may not be restored and may or may not be an enforceable violation.

7. Why do Zoning Reports not analyze landscaping, sign or ADA compliance issues?

Answer: There are too many variables to provide an accurate analysis (seasonal landscaping, zoning code design options for landscape/signs and design and criteria varies for both) and surveys do not contain adequate information to analyze such issues.

If you have any further or more specific questions that are not answered by the above, feel free to call the NDDS Zoning Team at (407) 426-7979 or via email at zoning@ndds-zoning.com