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## BOCK & CLARK HANDBOOK FOR COMMERCIAL REAL ESTATE DUE DILIGENCE

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*ALTA Surveys*

*Zoning Reports*

*Environmental*

*Assessment*



# **Bock & Clark Handbook For Commercial Real Estate Due Diligence:**

*ALTA Surveys, Zoning Reports, Environmental and Assessment*

By Bock & Clark

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Bock & Clark's objective in creating this Handbook is to provide information to our clients related to commercial real estate due diligence reports. Topics discussed include: the contents and purpose of an ALTA/NSPS Land Title Survey based upon the 2016 Minimum Standard Details, the use and contents of a Zoning Report and the components of Phase I and Phase II Environmental Site Assessments as well as Property Condition Assessments.

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**Bock & Clark Commercial Real Estate  
Due Diligence Handbook 2016**

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# Contents of the Handbook

The ordering and completion of accurate, timely due diligence is an essential component of commercial real estate transactions. Quality due diligence reports adhere to the standards and practices set forth by their respective governing boards (where applicable) and the end-user should be able to rely upon the information provided to assist them in making well-researched, informed decisions about a property.

This Handbook references the requirements and standards of several professional organizations in describing the comprehensive reports associated with commercial real estate. These organizations include:

- **ALTA**: The American Land Title Association
  - **NSPS**: National Society of Professional Surveyors
  - **ASTM**: American Society for Testing and Materials
  - **EPA**: The Environmental Protection Agency
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The following five sections outline the uses of and best ordering practices for ALTA/NSPS Land Title Surveys, Zoning Reports, Phase I and Phase II Reports and Property Condition Assessments:

## Section 1

**ALTA/NSPS Land Title Surveys** describes the uses of and how to order as well as presents the 2016 Minimum Standard Detail Requirements, adopted on February 23, 2016, in their entirety.

## Section 2

**Zoning Reports** will discuss who needs zoning reports, why they need them and what to ask for when ordering.

## Section 3

**Environmental Site Assessments and Property Condition Assessments** will describe what items are included in the standard scope of work based upon ASTM standards.

## Section 4

**Working with Bock & Clark** offers information on what services can be provided and how to contact us.

## Section 5

**Index of Terms** provides a cross reference for finding topics within the Handbook.



## Section 1

# ALTA Surveys

### Uses Of And How To Order A Survey

This section helps to explain the purpose and intent of an **ALTA/NSPS Land Title Survey**, who relies upon and benefits from it, and what information is needed by the surveyor to submit a proposal and then to perform the survey.

The American Land Title Association (**ALTA**) and the National Society of Professional Surveyors (**NSPS**)—the legal successor to The American Congress on Surveying and Mapping (**ACSM**)—represent the title insurance industry and the land surveying industry respectively. In 1962, these two entities came together for the first time to develop a survey product that would meet the needs of the title insurer to delete the standard survey exceptions from the issuance of their title policy. The product that was developed was titled an ALTA/ACSM Land Title Survey, now referred to as an **ALTA/NSPS Land Title Survey**, and the land surveyor's responsibilities were outlined in the **“Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys”**. Since 1962, the requirements have been revised approximately ten times to the most current requirements that went into effect on February 23, 2016, and are cited in this Handbook.

Within a commercial real estate transaction there are many parties involved who have varied interests in the property and are looking to the survey for relevant information. Although the main purpose of the survey is to delete the survey exceptions, the information reported on the survey provides benefit to all parties and can answer numerous questions or concerns. The comprehensive survey reports relevant information about the property that include but are not limited to (1) the surveyor's findings about the property boundaries, (2) any observed easement evidence together with easements and exceptions to coverage cited in the title commitment and, (3) the improvements, utilities, public access, and significant observations such as encroachments. Furthermore, if negotiated with the surveyor through Optional Table A Items, the survey can reveal specific information about the property relating to zoning, flood hazard concerns, topography, parking configurations, wetlands, etc.

The lender and buyer are concerned with the present and future use of the land and all restrictions and encumbrances that may affect the property. The information revealed on the **ALTA/NSPS Land Title Survey** helps the lender and/or buyer and their counsel evaluate any potential risk and realize the benefits of owning or mortgaging the property.

The title insurer is asked by the lender and/or buyer to provide insurance against potential use losses or claims against the land that may arise after the purchase of the property. Such insurance includes protection for the lender or buyer against (1) boundary line conflicts with adjoining properties,



(2) encroachments onto and from adjoining properties, (3) rights of parties to the property usually in the form of easements, leases, or other encumbrances, (4) the contiguity, or lack thereof, of multiple parcels that combine to form the property, (5) access to public highways, and (6) matters on the property that may affect zoning issues or compliance. In the issuance of their policy, the insurer uses the survey to assess the risks and to determine what exceptions from coverage must be included. Prior to the issuance of a title insurance policy, the title company usually provides a title commitment or preliminary title report that cites the property to be insured and the exceptions to coverage based upon an abstract of the public records and other known documents. One standard exception to coverage usually includes matters that would be disclosed on an accurate survey. **The ALTA/NSPS Land Title Survey** is used and relied upon by the insurer to remove and sometimes add exceptions to their insurance coverage offered to the lender or buyer based upon the surveyor's findings.

The seller of a property also uses and relies upon the **ALTA/NSPS Land Title Survey** as protection against any potential claims from the lender or buyer after conveyance. The survey provides the seller a level of comfort that at the time of transfer all improvements are located within property boundaries, others do not have rights to the property other than those disclosed in the form of easements, leases, or other encumbrances, no boundary line conflicts exist with adjoining owners, and reports the relevant information pertaining to zoning compliance issues.

Considering there are multiple parties in a typical real estate transaction who look to the **ALTA/NSPS Land Title Survey** for information, the surveyor is assigned a complex set of responsibilities. To compound this, the buyer, seller, and lender frequently engage counsel to represent their interests. Even though one party in the transaction is responsible for engaging the surveyor and paying for the survey, the surveyor's obligations are extended to others. It is most beneficial that survey matters and needs are discussed among transaction parties before a surveyor is engaged to alleviate any confusion in requirements, timing, responsibilities or direction.

The **ALTA/NSPS Land Title Survey** is based upon a current title commitment or preliminary title report for the property as prepared by the insurer. The limits of the property to be surveyed and insured are contained within the Schedule A that should cite the description of the property as it appears of record. Also included in the Schedule A are any appurtenant rights that provide a benefit to the property such as easements or agreements. Per the Minimum Standards, the surveyor must review the record description, report it on the face of the survey and report any boundary discrepancies or conflicts such as gaps or overlaps based upon field evidence and mathematical closure principles. Occasionally, in addition to reporting the record description, a surveyor at their discretion may also report an "As Surveyed" or "Field" or "Measured" description based on their findings, observations, calculations and opinion. The Minimum Standards now require the surveyor to provide a correlation of this new description to the record description and also to provide an explanation as to why it was prepared.

The title commitment also provides a listing of abstracted exceptions under the section titled Schedule B-II Exceptions. The title company then looks to the surveyor to verify whether these exception items are located on the property. Based upon the surveyor's findings, the title company will determine whether an exception item has an affect on the property and if not, they may decide to delete the exception from the issuance of their title policy. These exceptions include but are not limited to easements, covenants, and restrictions which may burden the property. With the adoption of the 2016 Standards, Section 6.C requires that the surveyor must also provide a Summary of Easements in notation form on the survey stating whether an easement is located on the property or not, is plotted, or if not plotted, then why. The Schedule B-II Exceptions may also cite information previously revealed by others either by reference to a prior survey or by recorded documents that may display a use of the property by an adjoining property. As all of these matters are vital to the completion of the survey, it is imperative that a current title commitment for the property and copies of all the supportive documents

referenced within the Schedule B-II Exceptions be made available to the surveyor as soon as possible. Without a commitment the surveyor may be assuming the limits of the property to be surveyed, which may include more or less lands than actually required or ultimately contained within the Schedule A. Furthermore, without a commitment containing exceptions that would list easements, etc., the surveyor may note many uses of the subject property that are in actuality permitted uses based upon recorded agreements.

**Bock & Clark recommends that the following information be included when requesting a survey proposal:**

- Address of the property.
- Current description of the property (if available)
- Type of property, i.e., retail, multi-family, industrial, etc.
- Survey requirements and specifications, along with a copy of a listing of the required (if any) Optional Table A items defined in the 2016 ALTA/NSPS Land Title Survey requirements. Any survey requirements that may be prescribed by a potential lender or buyer.
- Current or Prior Title Commitment with copies of supportive documents, if available.
- Any information with regards to prior surveys or surveyors who have provided previous work on the property.
- Name of the lender, if known.
- County Tax or parcel I.D. number
- If available, please provide:
  - Name of the Current Owner of the property.
  - Name of the Lessor, if a leasehold.
  - Name of the Purchaser, if known or applicable.
  - Names of Transaction parties to be included within the Surveyor's Certification (**See \*NOTE below**)

**\*NOTE:** On occasion, an entity name to be included in the Surveyor's Certification will include verbiage such as "together with their respective successors and/or assigns". In such instances the request shall be limited to the lender and purchaser. Many surveying firms across the country are not willing or able to certify to successors and/or assigns language. Their legal counsel or an insurance provider for Professional Liability Insurance prevents them from doing so. It is advisable to alert the surveyor to such a need during the quoting process to guarantee the surveyor is comfortable in meeting this request.





## Minimum Standard Detail Requirements For ALTA/NSPS Land Title Surveys

(Effective February 23, 2016)

**\*NOTE:** Attention is directed to the fact that the National Society of Professional Surveyors, Inc. (NSPS) is the legal successor organization to the American Congress on Surveying and Mapping (ACSM) and that these 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys are the next version of the former Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys.

**1. Purpose:** Members of the American Land Title Association® (ALTA®) have specific needs, unique to title insurance matters, when asked to insure title to land without exception as to the many matters which might be discoverable from survey and inspection, and which are not evidenced by the public records.

For a survey of real property, and the plat, map or record of such survey, to be acceptable to a title insurance company for the purpose of insuring title to said real property free and clear of survey matters (except those matters disclosed by the survey and indicated on the plat or map), certain specific and pertinent information must be presented for the distinct and clear understanding between the insured, the client (if different from the insured), the title insurance company (insurer), the lender, and the surveyor professionally responsible for the survey.

In order to meet such needs, clients, insurers, insureds, and lenders are entitled to rely on surveyors to conduct surveys and prepare associated plats or maps that are of a professional quality and appropriately uniform, complete, and accurate. To that end, and in the interests of the general public, the surveying profession, title insurers, and abstracters, the ALTA and the NSPS jointly promulgate the within details and criteria setting forth a minimum standard of performance for ALTA/NSPS Land Title Surveys. A complete 2016 ALTA/NSPS Land Title Survey includes:

- (i) the on-site fieldwork required pursuant to Section 5,
- (ii) the preparation of a plat or map pursuant to Section 6 showing the results of the fieldwork and its relationship to documents provided to or obtained by the surveyor pursuant to Section 4,
- (iii) any information from Table A items requested by the client, and
- (iv) the certification outlined in Section 7.

**2. Request for Survey:** The client shall request the survey, or arrange for the survey to be requested, and shall provide a written authorization to proceed from the person or entity responsible for paying for the survey. Unless specifically authorized in writing by the insurer, the insurer shall not be responsible for any costs associated with the preparation of the survey. The request shall specify that an **“ALTA/NSPS LAND TITLE SURVEY”** is required and which of the optional items listed in Table A, if any, are to be incorporated. Certain properties or interests in real properties may present issues outside those normally encountered on an ALTA/NSPS Land Title Survey (e.g., marinas, campgrounds, trailer parks; easements, leases, other non-fee simple interests). The scope of work related to surveys of such properties or interests in real properties should be discussed with the client, lender, and insurer; and agreed upon in writing prior to commencing work on the survey. The client may need to secure permission for the surveyor to enter upon the property to be surveyed, adjoining properties, or offsite easements.

**3. Surveying Standards and Standards of Care:**

- A. Effective Date**—The 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys are effective February 23, 2016. As of that date, all previous versions of the Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys are superseded by these standards.
- B. Other Requirements and Standards of Practice**—Many states and some local jurisdictions have adopted statutes, administrative rules, and/or ordinances that set out standards regulating the practice of surveying within their jurisdictions. In addition to the standards set forth herein, surveyors shall also conduct their surveys in accordance with applicable jurisdictional survey requirements and standards of practice. Where conflicts between the standards set forth herein and any such jurisdictional requirements and standards of practice occur, the more stringent shall apply.
- C. The Normal Standard of Care**—Surveyors should recognize that there may be unwritten local, state, and/or regional standards of care defined by the practice of the “prudent surveyor” in those locales.
- D. Boundary Resolution**—The boundary lines and corners of any property being surveyed as part of an ALTA/NSPS Land Title Survey shall be established and/or retraced in accordance with appropriate boundary law principles governed by the set of facts and evidence found in the course of performing the research and fieldwork.
- E. Measurement Standards**—The following measurement standards address Relative Positional Precision for the monuments or witnesses marking the corners of the surveyed property.
  - i. “Relative Positional Precision” means the length of the semi-major axis, expressed in feet or meters, of the error ellipse representing the uncertainty due to random errors in measurements in the location of the monument, or witness, marking any corner of the surveyed property relative to the monument, or witness, marking any other corner of the surveyed property at the 95 percent confidence level. Relative Positional Precision is estimated by the results of a correctly weighted least squares adjustment of the survey.
  - ii. Any boundary lines and corners established or retraced may have uncertainties in location resulting from (1) the availability, condition, history and integrity of reference or controlling monuments, (2) ambiguities in the record descriptions or plats of the surveyed property or its adjoiners, (3) occupation or possession lines as they may differ from the written title lines, or (4) Relative Positional Precision. Of these four sources of uncertainty, only Relative Positional Precision is controllable, although, due to the inherent errors in any measurement, it cannot be eliminated. The magnitude of the first three uncertainties can be projected based on evidence; Relative Positional Precision is estimated using statistical means (see Section 3.E.i. above and Section 3.E.v. below).
  - iii. The first three of these sources of uncertainty must be weighed as part of the evidence in the determination of where, in the surveyor’s opinion, the boundary lines and corners of the surveyed property should be located (see Section 3.D. above). Relative Positional Precision is a measure of how precisely the surveyor is able to monument and report those positions; it is not a substitute for the application of proper boundary law principles. A boundary corner or line may have a small Relative Positional Precision because the survey measurements were precise, yet still be in the wrong position (i.e., inaccurate) if it was established or retraced using faulty or improper application of boundary law principles.
  - iv. For any measurement technology or procedure used on an ALTA/NSPS Land Title Survey, the surveyor shall (1) use appropriately trained personnel, (2) compensate for systematic errors, including those associated with instrument calibration, and (3) use appropriate error propagation and measurement design theory (selecting the proper instruments,

geometric layouts, and field and computational procedures) to control random errors such that the maximum allowable Relative Positional Precision outlined in Section 3.E.v. below is not exceeded.

- v. The maximum allowable Relative Positional Precision for an ALTA/NSPS Land Title Survey is 2 cm (0.07 feet) plus 50 parts per million (based on the direct distance between the two corners being tested). It is recognized that in certain circumstances, the size or configuration of the surveyed property, or the relief, vegetation, or improvements on the surveyed property, will result in survey measurements for which the maximum allowable Relative Positional Precision may be exceeded. If the maximum allowable Relative Positional Precision is exceeded, the surveyor shall note the reason as explained in Section 6.B.x. below.

**4. Records Research:** It is recognized that for the performance of an ALTA/NSPS Land Title Survey, the surveyor will be provided with appropriate and, when possible, legible data which can be relied upon in the preparation of the survey. The request for an ALTA/NSPS Land Title Survey shall set forth the current record description of the property to be surveyed or, in the case of an original survey prepared for purposes of locating and describing real property that has not been previously separately described in documents conveying an interest in the real property, the current record description of the parent parcel that contains the property to be surveyed.

In order to complete an ALTA/NSPS Land Title Survey, the surveyor must be provided with complete copies of the most recent title commitment or, if a title commitment is not available, other title evidence satisfactory to the title insurer. In addition, the surveyor must be provided with the following:

- (i) The following records established under state statutes for the purpose of imparting constructive notice of matters relating to real property (public records):
  - (a) The current record descriptions of any adjoiners to the property to be surveyed, except where such adjoiners are lots in platted, recorded subdivisions;
  - (b) Any recorded easements benefitting the property;
  - (c) Any recorded easements, servitudes, or covenants burdening the property;
- (ii) Any unrecorded documents affecting the property being surveyed and containing information to which the survey shall make reference, if desired by the client.

Except, however, if the documents outlined above in (i) and (ii) of this section are not provided to the surveyor or if non-public or quasi-public documents are required to complete the survey, the surveyor shall be required to conduct only that research which is required pursuant to the statutory or administrative requirements of the jurisdiction where the property being surveyed is located and that research (if any) which is negotiated and outlined in the terms of the contract between the surveyor and the client.

**5. Fieldwork:** The survey shall be performed on the ground (except as otherwise negotiated pursuant to Table A, Item 15 below, if selected by the client). The fieldwork shall include the following, located to what is, in the surveyor's professional opinion, the appropriate degree of precision based on (a) the planned use of the property, if reported in writing to the surveyor by the client, lender, or insurer, or (b) the existing use, if the planned use is not so reported:

**A. Monuments**

- i. The location, size, character, and type of any monuments found during the fieldwork.
- ii. The location, size, character, and type of any monuments set during the fieldwork, if item 1 of Table A was selected or if otherwise required by applicable jurisdictional requirements and/or standards of practice.



- iii. The location, description, and character of any lines that control the boundaries of the surveyed property.

**B. Rights of Way and Access**

- i. The distance from the appropriate corner or corners of the surveyed property to the nearest right of way line, if the surveyed property does not abut a right of way.
- ii. The name of any street, highway, or other public or private way abutting the surveyed property, together with the width of the travelled way and the location of each edge of the travelled way including on divided streets and highways. If the documents provided to or obtained by the surveyor pursuant to Section 4 indicate no access from the surveyed property to the abutting street or highway, the width and location of the travelled way need not be located.
- iii. Visible evidence of physical access (e.g., curb cuts, driveways) to any abutting streets, highways, or other public or private ways.
- iv. The location and character of vehicular, pedestrian, or other forms of access by other than the apparent occupants of the surveyed property to or across the surveyed property observed in the process of conducting the fieldwork (e.g., driveways, alleys, private roads, railroads, railroad sidings and spurs, sidewalks, footpaths).
- v. Without expressing a legal opinion as to ownership or nature, the location and extent of any potentially encroaching driveways, alleys, and other ways of access from adjoining properties onto the surveyed property observed in the process of conducting the fieldwork.
- vi. Where documentation of the location of any street, road, or highway right of way abutting, on, or crossing the surveyed property was not disclosed in documents provided to or obtained by the surveyor, or was not otherwise available from the controlling jurisdiction (see Section 6.C.iv. below), the evidence and location of parcel corners on the same side of the street as the surveyed property recovered in the process of conducting the fieldwork which may indicate the location of such right of way lines (e.g., lines of occupation, survey monuments).
- vii. Evidence of access to and from waters adjoining the surveyed property observed in the process of conducting the fieldwork (e.g., paths, boat slips, launches, piers, docks).

**C. Lines of Possession and Improvements along the Boundaries**

- i. The character and location of evidence of possession or occupation along the perimeter of the surveyed property, both by the occupants of the surveyed property and by adjoining, observed in the process of conducting the fieldwork.
- ii. Unless physical access is restricted, the character and location of all walls, buildings, fences, and other improvements within five feet of each side of the boundary lines, observed in the process of conducting the fieldwork. Trees, bushes, shrubs, and other natural vegetation need not be located other than as specified in the contract, unless they are deemed by the surveyor to be evidence of possession pursuant to Section 5.C.i.
- iii. Without expressing a legal opinion as to the ownership or nature of the potential encroachment, the evidence, location and extent of potentially encroaching structural appurtenances and projections observed in the process of conducting the fieldwork (e.g., fire escapes, bay windows, windows and doors that open out, flue pipes, stoops, eaves, cornices, areaways, steps, trim) by or onto adjoining property, or onto rights of way, easements, or setback lines disclosed in documents provided to or obtained by the surveyor.

**D. Buildings**

The location of buildings on the surveyed property observed in the process of conducting the fieldwork.

**E. Easements and Servitudes**

- i. Evidence of any easements or servitudes burdening the surveyed property as disclosed in the documents provided to or obtained by the surveyor pursuant to Section 4 and observed in the process of conducting the fieldwork.
- ii. Evidence of easements, servitudes, or other uses by other than the apparent occupants of the surveyed property not disclosed in the documents provided to or obtained by the surveyor pursuant to Section 4, but observed in the process of conducting the fieldwork if they appear to affect the surveyed property (e.g., roads; drives, sidewalks, paths and other ways of access; utility service lines; water courses; ditches; drains; telephone, fiber optic lines, or electric lines; or water, sewer, oil or gas pipelines on or across the surveyed property and on adjoining properties).
- iii. Surface indications of underground easements or servitudes on or across the surveyed property observed in the process of conducting the fieldwork (e.g., utility cuts, vent pipes, filler pipes).
- iv. Evidence on or above the surface of the surveyed property observed in the process of conducting the fieldwork, which evidence may indicate utilities located on, over or beneath the surveyed property. Examples of such evidence include pipeline markers, manholes, valves, meters, transformers, pedestals, clean-outs, utility poles, overhead lines and guy wires.

**F. Cemeteries**

As accurately as the evidence permits, the perimeter of cemeteries and burial grounds, and the location of isolated gravesites not within a cemetery or burial ground, (i) disclosed in the documents provided to or obtained by the surveyor, or (ii) observed in the process of conducting the fieldwork.

**G. Water Features**

- i. The location of springs, ponds, lakes, streams, rivers, canals, ditches, marshes, and swamps on, running through, or outside, but within five feet of the perimeter boundary of, the surveyed property, observed during the process of conducting the fieldwork.
- ii. The location of any water feature forming a boundary of the surveyed property. The attribute(s) of the water feature located (e.g., top of bank, edge of water, high water mark) should be congruent with the boundary as described in the record description or, in the case of an original survey, in the new description (see Section 6.B.vi. below).

**6. Plat or Map:** A plat or map of an ALTA/NSPS Land Title Survey shall show the following information. Where dimensioning is appropriate, dimensions shall be annotated to what is, in the surveyor's professional opinion, the appropriate degree of precision based on (a) the planned use of the property, if reported in writing to the surveyor by the client, lender, or insurer, or (b) existing use, if the planned use is not so reported.

**A. The evidence and locations gathered, and the monuments and lines located during the fieldwork pursuant to Section 5 above, with accompanying notes if deemed necessary by the surveyor or as otherwise required as specified below.**

**B. Boundary, Descriptions, Dimensions, and Closures**

- i. (a) The current record description of the surveyed property, or  
(b) In the case of an original survey, the current record description of the parent tract that contains the surveyed property.
- ii. Any new description of the surveyed property that was prepared in conjunction with the survey, including a statement explaining why the new description was prepared. Except in the case of an original survey, preparation of a new description should be avoided unless deemed necessary or appropriate by the surveyor and insurer. Preparation of a new description should also generally be avoided when the record description is a lot or

block in a platted, recorded subdivision. Except in the case of an original survey, if a new description is prepared, a note shall be provided stating (a) that the new description describes the same real estate as the record description or, if it does not, (b) how the new description differs from the record description.

- iii. The point of beginning, the remote point of beginning or point of commencement (if applicable) and all distances and directions identified in the record description of the surveyed property (and in the new description, if one was prepared). Where a measured or calculated dimension differs from the record by an amount deemed significant by the surveyor, such dimension shall be shown in addition to, and differentiated from, the corresponding record dimension. All dimensions shown on the survey and contained in any new description shall be ground dimensions unless otherwise noted.
- iv. The directional, distance and curve data necessary to compute a mathematical closure of the surveyed boundary. A note if the record description does not mathematically close. The basis of bearings and, where it differs from the record basis, the difference.
- v. The remainder of any recorded lot or existing parcel, when the surveyed property is composed of only a portion of such lot or parcel, shall be graphically depicted. Such remainder need not be included as part of the actual survey, except to the extent necessary to locate the lines and corners of the surveyed property, and it need not be fully dimensioned or drawn at the same scale as the surveyed property.
- vi. When the surveyed property includes a title line defined by a water boundary, a note on the face of the plat or map noting the date the boundary was measured, which attribute(s) of the water feature was/were located, and the caveat that the boundary is subject to change due to natural causes and that it may or may not represent the actual location of the limit of title. When the surveyor is aware of natural or artificial realignments or changes in such boundaries, the extent of those changes and facts shall be shown or explained.
- vii. The relationship of the boundaries of the surveyed property with its adjoiners (e.g., contiguity, gaps, overlaps), where ascertainable from documents provided to or obtained by the surveyor pursuant to Section 4 and/or from field evidence gathered during the process of conducting the fieldwork. If the surveyed property is composed of multiple parcels, the extent of any gaps or overlaps between those parcels shall be identified. Where gaps or overlaps are identified, the surveyor shall, prior to or upon delivery of the final plat or map, disclose this to the insurer and client.
- viii. When, in the opinion of the surveyor, the results of the survey differ significantly from the record, or if a fundamental decision related to the boundary resolution is not clearly reflected on the plat or map, the surveyor shall explain this information with notes on the face of the plat or map.
- ix. The location of all buildings on the surveyed property, located pursuant to Section 5.D., dimensioned perpendicular to those perimeter boundary lines that the surveyor deems appropriate (i.e., where potentially impacted by a setback line) and/or as requested by the client, lender or insurer.
- x. A note on the face of the plat or map explaining the site conditions that resulted in a Relative Positional Precision that exceeds the maximum allowed pursuant to Section 3.E.v.
- xi. A note on the face of the plat or map identifying areas, if any, on the boundaries of the surveyed property, to which physical access within five feet was restricted (see Section 5.C.ii.).
- xii. A note on the face of the plat or map identifying the source of the title commitment or other title evidence provided pursuant to Section 4, and the effective date and the name of the insurer of same.



**C. Easements, Servitudes, Rights of Way, Access, and Documents**

- i. The location, width, and recording information of all plottable rights of way, easements, and servitudes burdening and benefiting the property surveyed, as evidenced by documents provided to or obtained by the surveyor pursuant to Section 4.
- ii. A summary of all rights of way, easements and servitudes burdening the property surveyed and identified in the title evidence provided to or obtained by the surveyor pursuant to Section 4. Such summary shall include the record information of each such right of way, easement or servitude, a statement indicating whether or not it is shown on the plat or map, and a related note if:
  - (a) the location cannot be determined from the record document;
  - (b) there was no observed evidence at the time of the fieldwork;
  - (c) it is a blanket easement;
  - (d) it is not on, or does not touch, the surveyed property;
  - (e) it limits access to an otherwise abutting right of way;
  - (f) the documents are illegible; or
  - (g) the surveyor has information indicating that it may have been released or otherwise terminated.

In cases where the surveyed property is composed of multiple parcels, indicate which of such parcels the various rights of way, easements, and servitudes cross or touch.

- iii. A note if no physical access to a public way was observed in the process of conducting the fieldwork.
- iv. The locations and widths of rights of way abutting or crossing the surveyed property, and the source of such information, (a) where available from the controlling jurisdiction, or (b) where disclosed in documents provided to or obtained by the surveyor pursuant to Section 4.
- v. The identifying titles of all recorded plats, filed maps, right of way maps, or similar documents which the survey represents, wholly or in part, with their recording or filing data.
- vi. For non-platted adjoining land, recording data identifying adjoining tracts according to current public records. For platted adjoining land, the recording data of the subdivision plat.
- vii. Platted setback or building restriction lines which appear on recorded subdivision plats or which were disclosed in documents provided or obtained by the surveyor.

**D. Presentation**

- i. The plat or map shall be drawn on a sheet of not less than 8 1/2 by 11 inches in size at a legible, standard engineering scale, with that scale clearly indicated in words or numbers and with a graphic scale.
- ii. The plat or map shall include:
  - (a) The boundary of the surveyed property drawn in a manner that distinguishes it from other lines on the plat or map.
  - (b) If no buildings were observed on the surveyed property in the process of conducting the fieldwork, a note stating "No buildings observed."
  - (c) A north arrow (with north to the top of the drawing when practicable).
  - (d) A legend of symbols and abbreviations.
  - (e) A vicinity map showing the property in reference to nearby highway(s) or major street intersection(s).
  - (f) Supplementary or detail diagrams when necessary.
  - (g) Notes explaining any modifications to Table A items and the nature of any additional Table A items (e.g., 21(a), 21(b), 21(c)) that were negotiated between the surveyor and client.

- (h) The surveyor's project number (if any), and the name, registration or license number, signature, seal, street address, telephone number, company website, and email address (if any) of the surveyor who performed the survey.
  - (i) The date(s) of any revisions made by the surveyor who performed the survey.
  - (j) Sheet numbers where the plat or map is composed of more than one sheet.
  - (k) The caption "ALTA/NSPS Land Title Survey."
- iii. When recordation or filing of a plat or map is required by law, such plat or map shall be produced in recordable form.

**7. Certification:** The plat or map of an ALTA/NSPS Land Title Survey shall bear only the following certification, unaltered, except as may be required pursuant to Section 3.B. above:

To (name of insured, if known), (name of lender, if known), (name of insurer, if known), (names of others as negotiated with the client):

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items \_\_\_\_\_ of Table A thereof. The fieldwork was completed on \_\_\_\_\_ [date].

Date of Plat or Map: \_\_\_\_\_ (Surveyor's signature, printed name and seal with Registration/ License Number)

**8. Deliverables:** The surveyor shall furnish copies of the plat or map of survey to the insurer and client and as otherwise negotiated with the client. Hard copies shall be on durable and dimensionally stable material of a quality standard acceptable to the insurer. A digital image of the plat or map may be provided in addition to, or in lieu of, hard copies pursuant to the terms of the contract. When required by law or requested by the client, the plat or map shall be produced in recordable form and recorded or filed in the appropriate office or with the appropriate agency.

## Table A: Optional Survey Responsibilities and Specifications

**\*NOTE:** The twenty (20) items of Table A may be negotiated between the surveyor and client. Any additional items negotiated between the surveyor and client shall be identified as 21(a), 21(b), etc. and explained pursuant to Section 6.D.ii.(g). Notwithstanding Table A Items 5 and 11, if an engineering design survey is desired as part of an ALTA/NSPS Land Title Survey, such services should be negotiated under Table A, Item 21.

If checked, the following optional items are to be included in the ALTA/NSPS LAND TITLE SURVEY, except as otherwise qualified (see note above):

1. \_\_\_\_\_ Monuments placed (or a reference monument or witness to the corner) at all major corners of the boundary of the property, unless already marked or referenced by existing monuments or witnesses in close proximity to the corner.
2. \_\_\_\_\_ Address(es) of the surveyed property if disclosed in documents provided to or obtained by the surveyor, or observed while conducting the fieldwork.
3. \_\_\_\_\_ Flood zone classification (with proper annotation based on federal Flood Insurance Rate Maps or the state or local equivalent) depicted by scaled map location and graphic plotting only.
4. \_\_\_\_\_ Gross land area (and other areas if specified by the client).
5. \_\_\_\_\_ Vertical relief with the source of information (e.g., ground survey, aerial map), contour interval, datum, and originating benchmark identified.
6. \_\_\_\_\_ (a) If set forth in a zoning report or letter provided to the surveyor by the client, list the current zoning classification, setback requirements, the height and floor space area restrictions, and parking requirements. Identify the date and source of the report or letter.  
\_\_\_\_\_ (b) If the zoning setback requirements are set forth in a zoning report or letter provided to the surveyor by the client, and if those requirements do not require an interpretation by the surveyor, graphically depict the building setback requirements. Identify the date and source of the report or letter.
7. \_\_\_\_\_ (a) Exterior dimensions of all buildings at ground level.  
\_\_\_\_\_ (b) Square footage of:  
\_\_\_\_\_ (1) exterior footprint of all buildings at ground level.  
\_\_\_\_\_ (2) other areas as specified by the client.  
\_\_\_\_\_ (c) Measured height of all buildings above grade at a location specified by the client. If no location is specified, the point of measurement shall be identified.
8. \_\_\_\_\_ Substantial features observed in the process of conducting the fieldwork (in addition to the improvements and features required pursuant to Section 5 above) (e.g., parking lots, billboards, signs, swimming pools, landscaped areas, substantial areas of refuse).
9. \_\_\_\_\_ Number and type (e.g., disabled, motorcycle, regular and other marked specialized types) of clearly identifiable parking spaces on surface parking areas, lots and in parking structures. Striping of clearly identifiable parking spaces on surface parking areas and lots.



10. \_\_\_\_\_ (a) As designated by the client, a determination of the relationship and location of certain division or party walls with respect to adjoining properties (client to obtain necessary permissions).
- \_\_\_\_\_ (b) As designated by the client, a determination of whether certain walls are plumb (client to obtain necessary permissions).
11. \_\_\_\_\_ Location of utilities existing on or serving the surveyed property as determined by:
- observed evidence collected pursuant to Section 5.E.iv.
  - evidence from plans requested by the surveyor and obtained from utility companies, or provided by client (with reference as to the sources of information), and
  - markings requested by the surveyor pursuant to an 811 utility locate or similar request
- Representative examples of such utilities include, but are not limited to:
- Manholes, catch basins, valve vaults and other surface indications of subterranean uses;
  - Wires and cables (including their function, if readily identifiable) crossing the surveyed property, and all poles on or within ten feet of the surveyed property. Without expressing a legal opinion as to the ownership or nature of the potential encroachment, the dimensions of all encroaching utility pole crossmembers or overhangs; and
  - Utility company installations on the surveyed property.
- Note to the client, insurer, and lender - With regard to Table A, item 11, source information from plans and markings will be combined with observed evidence of utilities pursuant to Section 5.E.iv. to develop a view of the underground utilities. However, lacking excavation, the exact location of underground features cannot be accurately, completely, and reliably depicted. In addition, in some jurisdictions, 811 or other similar utility locate requests from surveyors may be ignored or result in an incomplete response, in which case the surveyor shall note on the plat or map how this affected the surveyor's assessment of the location of the utilities. Where additional or more detailed information is required, the client is advised that excavation and/or a private utility locate request may be necessary.*
12. \_\_\_\_\_ As specified by the client, Governmental Agency survey-related requirements (e.g., HUD surveys, surveys for leases on Bureau of Land Management managed lands).
13. \_\_\_\_\_ Names of adjoining owners according to current tax records. If more than one owner, identify the first owner's name listed in the tax records followed by "et al."
14. \_\_\_\_\_ As specified by the client, distance to the nearest intersecting street.
15. \_\_\_\_\_ Rectified orthophotography, photogrammetric mapping, remote sensing, airborne/mobile laser scanning and other similar products, tools or technologies as the basis for the showing the location of certain features (excluding boundaries) where ground measurements are not otherwise necessary to locate those features to an appropriate and acceptable accuracy relative to a nearby boundary. The surveyor shall (a) discuss the ramifications of such methodologies (e.g., the potential precision and completeness of the data gathered thereby) with the insurer, lender, and client prior to the performance of the survey, and (b) place a note on the face of the survey explaining the source, date, precision, and other relevant qualifications of any such data.
16. \_\_\_\_\_ Evidence of recent earth moving work, building construction, or building additions observed in the process of conducting the fieldwork.
17. \_\_\_\_\_ Proposed changes in street right of way lines, if such information is made available to the surveyor by the controlling jurisdiction. Evidence of recent street or sidewalk construction or repairs observed in the process of conducting the fieldwork.

18. \_\_\_\_\_ If there has been a field delineation of wetlands conducted by a qualified specialist hired by the client, the surveyor shall locate any delineation markers observed in the process of conducting the fieldwork and show them on the face of the plat or map. If no markers were observed, the surveyor shall so state.
19. \_\_\_\_\_ Include any plottable offsite (i.e., appurtenant) easements or servitudes disclosed in documents provided to or obtained by the surveyor as a part of the survey pursuant to Sections 5 and 6 (and applicable selected Table A items) (client to obtain necessary permissions).
20. \_\_\_\_\_ Professional Liability Insurance policy obtained by the surveyor in the minimum amount of \$ \_\_\_\_\_ to be in effect throughout the contract term. Certificate of Insurance to be furnished upon request, but this item shall not be addressed on the face of the plat or map.
21. \_\_\_\_\_ \_\_\_\_\_

*Adopted by the Board of Governors, American Land Title Association, on October 8, 2015.  
American Land Title Association, 1800 M St., N.W., Suite 300S, Washington, D.C. 20036-5828.  
[www.alta.org](http://www.alta.org)*

*Adopted by the Board of Directors, National Society of Professional Surveyors, on October 9, 2015.  
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## User Guide to Optional Table A Items

Attached to the **Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys**, is a listing of “Optional Survey Responsibilities and Specifications” referred to as “Table A”. These twenty responsibilities are to be negotiated between the surveyor and client if their inclusion on the survey is necessary. Any additional items negotiated between the client and the surveyor shall be identified as items 21(a), 21(b), etc., and explained on the face of the survey per Minimum Standard Section 6.D.ii.(g). Notwithstanding Table A Items 5 and 11, if an engineering design survey is desired as a part of an ALTA/NSPS Survey, those services should be negotiated under Table A Item 21.

Whether or not there is a named lender for the transaction is the first consideration when determining which Table A items to include on the survey. Most lenders have specific survey requirements or guidelines that cite items by number or description, (i.e. “The number of spaces and striping of the parking areas are to be shown”) that must be included in order to satisfy their criteria. Furthermore, a purchase agreement or a sales contract may cite specific survey instructions about who is responsible for ordering and paying, what type of survey is needed and what Table A Items are to be included. The ordering party should also consider whether the title insurer will be asked to issue specific endorsements to their title policy. It is often necessary to include these items on the survey to provide some of those endorsements.

The listing below provides a step-by-step guide for determining the necessity of each item. **The items notated with the asterisk (\*) are standard to MOST lender survey requirements.** An additional notation has been provided to the items that can add significant cost to the survey. If transaction parties are concerned about costs, these items may be waived. There is also a reference made to the inclusion of items necessary for some of the endorsements provided by the insurer.

### ITEM 1: Monuments

When this item is included, the surveyor must place survey monuments (iron pins, pipes, monument boxes, etc.) at the corners (or witness to the corner) of the surveyed property. A surveyor would first look to monuments that were previously placed at the corners, agree that the previous monuments are at the true and accurate corners (or take exception to) and then set monuments where none were evident. Although this item is in some lender survey requirements, it does not provide the lender with any additional benefit or assurance. The Measurement Standards in the Minimum Standards outline very specific precision requirements that apply regardless of whether monuments are placed so the accuracy of the survey is not negated. Monument placement would however offer a benefit to someone else at a later date if the surveyed property is slated for any construction or reconfiguration. In these instances there may be contractors on the site in the future who need to know the exacting location of the property corners to begin work. If an owner or potential owner has interest in seeing the exact corners, it may be a consideration. However, in many commercial transactions the investor who purchases the property may never be on the site so monuments placed at the corners offer little direct benefit.

At a minimum, this item can easily add \$500 to the cost of the survey. In some western states such as California, Washington, etc., when a surveyor places a survey monument in the ground, they are required by law to file a record of survey. In those instances when Table A Item 1 is included, the fee is substantially higher to cover review and recording fees.

There are several states, Kentucky as an example, that regardless of the inclusion of Table A Item 1, monumentation is required. Pursuant to Section 3.B of the Minimum Standards, the surveyor must comply with state statutes or those of a local jurisdiction.



#### **ITEM 2\*: Address(es)**

This item requires the surveyor to make a verification of the address of the property. The surveyor can note the address that may be posted on a building, signage or mailbox. **If the surveyed property has multiple addresses, then all addresses for the property should be noted.** If there is no observed address posted, the surveyor should look to any provided record documentation for reference to the address. If the surveyor reports the address as disclosed in a document, the surveyor should make a general note on the survey referencing that document. If the title insurer is asked to issue a Location or Location and Map endorsement, the notes provided on the survey relating to the observed address, or address disclosed in documents are beneficial.

#### **ITEM 3\*: Flood Zone Classification**

This item requires a surveyor to review Federal Flood Insurance Rate Maps or any state or local equivalent and report the flood zone classification of the surveyed property based on graphic plotting only. The classification that is reported will help the lender determine whether the borrower may be required to obtain Flood Insurance. If there is an instance where a flood zone determination is being disputed, transaction parties may look to the surveyor to provide an Elevation Certificate, a government form that reports the exacting elevation of the lowest level of the structure and reports the base flood elevation for the flood zone. The Elevation Certificate is NOT part of Item 3 and would have to be negotiated as an additional service with the surveyor. This can be done under a separate contract or negotiated under Table A Item 21.

#### **ITEM 4\*: Gross Land Area**

Item 4 requires the surveyor to report the gross land area (and other areas if specified by the client). When included the surveyor typically reports the land area in acres and/or square footage. The inclusion of the land area is important when looking at zoning matters. There may be maximum or minimum lot size requirements. There may also be bulk restrictions and open space requirements, i.e.: improvement square footage, vs. land area square footage. In the review of zoning codes for the surveyed property, it may be necessary to ask the surveyor to reveal the square footage of other areas of the property based upon specific restrictions (net of right-of-way, net of setbacks, net of easements, etc.).

#### **ITEM 5: Vertical Relief (Contours, Topographic Data)**

This item is rarely included as an optional feature. It can add a significant cost to the survey. However, it should be considered for properties where construction, engineering or redevelopment is contemplated. When included, the surveyor would provide the topography of the land usually done by reporting contours at one foot intervals. This information is valuable to architects or site development engineers when deciding how to best utilize the property. It may make economic sense to have this work performed as a part of the ALTA Survey rather than contract another surveyor through the development stages to provide this information. If more detailed information is necessary for an engineering design survey, it should be negotiated under Table A Item 21.

If included, it is best to discuss and provide the surveyor with the needs and the expectations of the parties (i.e. architect and/or engineering) relying on this information at the onset.

Another reason to include this item would be in situations where there are questions regarding drainage or if drainage easement documents were ambiguous. If the topography of the land is revealed, determinations could be made to see if drainage issues burden the surveyed property or if the property needs appurtenant rights to drain onto the lands of others.

This item will add cost to the survey and the cost will vary based on both the specifications, topography and the size of the property.

**ITEM 6(a) and 6(b)\*: Zoning**

When **Item 6(a)** is included, if set forth in a zoning report or letter provided by the client, the surveyor will list the current zoning classification, setback requirements, the height and the floor space area restrictions and parking requirements on the face of the survey. The surveyor must identify the source and the date of the report or letter.

When **Item 6(b)** is also included, if the zoning setback requirements are set forth in a zoning report or letter provided to surveyor by the client, and if those requirements DO NOT require an interpretation by the surveyor, the surveyor will graphically depict the building setback requirements. The surveyor must identify the source and the date of the report or letter.

If it is necessary for this information to be reported on the face of the survey, then **6(a)** and/or **6(b)** should be negotiated. In many transactions, parties involved look to the zoning information and then to situations revealed on the survey to confirm compliance to zoning matters (i.e., the required building setback vs. how far the building is set back from the property line). Also, the title company is referencing this same information if they are asked to provide a 3.1 Zoning Endorsement to their title policy.

With the adoption of the 2016 Minimum Standard Detail Requirements, the process of providing this information on the survey has again changed. Per the 2011 requirements this information was to be provided by the insurer (the title company). It is now the responsibility of the CLIENT to provide a zoning report or letter.

If Table A Items **6(a)** and/or **6(b)** are included and the client does not provide a zoning report or letter, the surveyor should still include a note stating: *“The surveyor was not provided with a zoning report or letter from the the client pursuant to Table A Item 6(a) and/or 6(b).”*

**ITEM 7(a)\*: Exterior Dimensions of All Buildings at Ground Level**

This item is typically included and does not often impact the cost of the survey. In showing the buildings on the survey, which is a minimum detail requirement, the surveyor is already obtaining these dimensions. The dimensions of the building are helpful for planning purposes and to exhibit how the surveyor determined building footprint square footage if Item 7(b)(1) is included.

**ITEM 7(b)(1)\*: Square Footage of Exterior Footprint**

If included, the surveyor calculates the square footage of all buildings based upon the building footprint dimensions at ground level. If asking the title insurer to issue a zoning endorsement, this information is important to make comparisons to any zoning restriction or requirement. It may also be important to make a comparison between the building size(s) that may have been revealed in a purchase agreement and the actual facts on the ground. Note that the square footage information reported by the surveyor will only be for the footprint of the building and will not include the gross square footage (total) of a multi-floor building. If that information is necessary, it can be negotiated under Item 7(b)(2). Frequently, there are discrepancies in square footages reported by the surveyor and an appraiser. An appraiser may be reporting the square footage based on room sizes, county appraisal records, etc., that typically report interior square footage information.

**ITEM 7(b)(2): Square Footage of Other Areas As Specified by The Client**

If there is a transaction specific need for the surveyor to report the square footage of other areas on the surveyed property, those can be negotiated under this item. As noted above, Item 7(b)(2) can be utilized if the gross building square footage is needed. Other examples would include areas that may need to be reported for compliance to zoning matters in specific zoning codes. For instance, there may be restrictions for impervious areas, open space restrictions, recreation areas, parking areas, etc. These specific needs would all have to be relayed to and then negotiated with the surveyor.

#### **ITEM 7(c)\*: Measured Height of All Buildings**

If included, the surveyor will report the measured height of all buildings on the property above grade. The client may designate to the surveyor a specified location where the measurement should be taken. If not, the surveyor will take the measurement and report the point of measurement on the survey. This information becomes valuable if the title insurer is issuing a zoning endorsement so that comparisons to any zoning restriction or requirement can be made. There may also be other height restrictions for the property that may be cited within a specific zoning ordinance, Schedule B Exceptions or within government related requirements, such as FAA restrictions. Specific instruction should be given to the surveyor if it is necessary to also report the number of stories of multi-floored structures, or if heights of other improvements are to be measured (i.e. towers, signage, etc.). The client may want to negotiate these specific needs under Item 21.

#### **ITEM 8\*: Substantial Features**

Per the Minimum Standard Detail Requirements in Section 5D, the buildings on the surveyed property will be reported and shown. If it is necessary to locate the substantial additional features observed while conducting the fieldwork, such as parking lots, billboards, signs, swimming pools, landscaped areas, \*\*substantial areas of refuse, etc., the client should consider including this item. Some of the additional features may be necessary for a zoning endorsement.

*\*\*With the adoption of the 2016 standards "substantial areas of refuse" has been added to balance the elimination of what had been Table A Item 18 in previous versions.*

#### **ITEM 9\*: Parking**

If included, the surveyor must show the number (count) and type (e.g. handicapped, motorcycle, regular, etc.) of parking spaces in parking areas, lots and structures. Furthermore, the surveyor is to show the striping of clearly identifiable parking spaces on surface parking areas and lots. Although the surveyor must include the count and type of spaces within structures, the surveyor is not required to show the striping within the structures.

When addressed, the user should be able to look to the survey to find a count of the number of parking spaces on the surveyed property broken down by type. For surface parking areas and lots, the striping, if identifiable, is to be shown on the drawing.

If there is parking within a structure of a surveyed property, just a parking count will be indicated. If the reporting of striping within the structure is required, it must be negotiated separately under Item 21. The surveyor and the client should further discuss how this is to be delineated on the survey. For instance, if there is a multi-level parking structure, is it necessary for the surveyor to provide detail drawings of each level showing location of each space and striping which could greatly impact pricing.

Another consideration is for parking that may be available to the subject property within a beneficial easement or reciprocal easement. If such easements and parking exist, the client should consider the inclusion of Optional Table A Item 19 to make these easements subject to the survey requirements. Zoning codes may dictate a required number of parking spaces based on use, lot size, number of employees, units, etc. Item 9 is typically included to determine compliance to these requirements. The title company will also look to this issue if they are asked to provide a zoning endorsement.

**ITEM 10(a) and/or 10(b): Party (Common) Walls**

This Item can be utilized for properties that share a common or party wall with an adjoining property. These would be properties in older urban areas such as row houses, condominiums, or shopping center/mall type properties. On the shopping center properties, there may be anchor stores owned separately from the remaining center. The anchor store would most likely share a common wall with the adjoining property.

When **Item 10(a)** is included, the surveyor reports the relationship of the party or common wall to the property line. Most likely it is one in the same. The surveyor performs interior survey work to make these determinations. The client must designate which walls are of a concern and needs to obtain the necessary permissions for the surveyor to enter the interior of properties on either side of the wall.

**Item 10(b)** further requires the surveyor to determine if the common or party wall is plumb or perpendicular to the property line. If the wall were not at 90 degrees, it would lean and cause a potential encroachment. Similarly, the client must designate which walls are of a concern and needs to obtain the necessary permissions for the surveyor to enter the interior of properties on either side of the wall.

Most properties that are subject to common walls, especially in cases of newer construction, possess extensive party wall agreements within covenants written into recorded documentation that allow for some flexibility for both the wall location and for non-plumb walls. It is advisable to review these documents before including these items.

These items will add some additional cost and timing to the survey.

**ITEM 11: Location of Utilities**

**IMPORTANT NOTE:** Be advised that what was defined in prior versions of these requirements as Item 11(a) *“the observed evidence of utilities”* has been moved into the mandatory section of the 2016 standards under Section 5.E.iv.

For **Item 11**, in addition to all observed information now mandatory per Section 5.E.iv, the surveyor will attempt to provide information regarding any underground service to the surveyed property. If there are underground lines that run from a point off the surveyed property and then connect to the building or any improvement on the property, or cross the property, the surveyor will look to other sources to report their approximate locations on the survey. These sources can include any plans provided by the client, plans requested by the surveyor and obtained from utility companies, such as previous as-built surveys or site plans used for any construction on the site. The surveyor must include a reference as to the sources of information. These plans would typically reveal the underground service line locations or potential locations. Although often requested, utility companies may not have this information since the utility installation was made on private lands to only provide service to the property. Furthermore, locating these plans at utility companies is sometimes impossible.

A utility locator service such as an 811 utility locate may also be contracted to provide ground markings of these underground features. These services oftentimes do not provide markings at the request of land surveyors. For liability reasons, the request needs to be made by the owner of the property. Some locator companies only provide ground markings if there is pending excavation.

Item 11 will add additional expense to the survey and also impact the timing. In many cases when Item 11 is included, the client pays additional fees for the surveyor to attempt to collect information from utility companies or from utility locator companies. Due to the lack of available information, sometimes not much more is revealed on the survey than what would have been obtained with only the mandatory responsibilities now included in Section 5.E.iv. Unless the client can provide the surveyor with the referenced as-built surveys or site plans, the client should consider whether it is really necessary to negotiate Item 11.



If the surveyor looks to any sources as referenced above for Item 11 for the approximate locations of the underground services, the surveyor should always state the source(s) of the information on the drawing. The surveyor should also note the lack of information provided or any incomplete response from utility companies or locator services. It is also important to note that lacking excavation, the exact location of underground features cannot be accurately, completely and reliably depicted. Where additional or more detailed information is required, the client is advised that excavation may be necessary.

When looking to this utility information provided on the survey the transaction parties are interested in two issues. The first is that the surveyed property has sufficient utility service for its operation. The second issue is that all services enter the surveyed property either from a dedicated public right-of-way that adjoins the property, or through an appurtenant easement that gets the utility service to a property line of the surveyed property. It is typical that transaction parties can get comfortable with these issues without addressing the costly and time consuming Item 11. These are also the issues the title company needs to understand when issuing a Utility Endorsement.

When there is evidence of a utility service crossing the surveyed property to service an adjoiner, the surveyor's responsibilities to show and report the observed evidence is outlined in Section 5.E of the Minimum Standard Detail Requirements. If there is a concern as to whether the actual underground utility improvements are within any burdening easement for the same, Item 11 may be considered for this need also.

#### **ITEM 12: Government Related Survey Requirements**

The client may specify to the surveyor that government related survey requirements be included. As indicated in the definition of this item, these may include HUD survey related requirements, surveys on lands for leases on Bureau of Land Management managed lands or even FAA restrictions. Whatever the scenario, the client must relate the specific needs and provide the requirements to the surveyor.

Depending on the requirements, this item may add additional costs to the survey.

#### **ITEM 13: Names of Adjoiners**

Per amended section 6.C.vi, of the Minimum Standard Detail Requirements, for non-platted lands, the surveyor shall report on the drawing the recording data identifying adjoining tracts according to current public records. For platted adjoining lands, the surveyor shall report the recording data of the subdivision plat.

The inclusion of Item 13 now requires that the names of the adjoining owners per current tax records be included along with the above recording data. In the case of more than one owner, the surveyor may identify the first owner's name listed in the tax records followed by 'et al.'

#### **ITEM 14\*: Distance to the Nearest Intersecting Street**

When included, the surveyor reports a distance from a property corner of the subject property that is within a road centerline or along a road right-of-way to the nearest intersecting street as specified by the client. If none are specified, the surveyor would choose the property corner and the street. Many metes and bounds descriptions may tie a property corner to an intersecting street and that information would be shown as recorded and measured dimensions on the survey per the Minimum Standard Detail Requirements. If the client wants to be sure that they can look at the survey drawing and see how far a property corner is from an intersecting street, they should opt for the inclusion of Item 14, specify the particular street and discuss with the surveyor the precision of the measurement (i.e., scaled from a map, recorded dimension or actual observed measurement). This is particularly useful if there is a zoning restriction that may apply regarding distances to intersecting streets or even to specific streets.

**ITEM 15: Uses of Other Technologies and Alternative Methods to Locate Improvement or Features**

This item should only be considered for non-standard type properties that are large in size. Examples might be a large ski resort, a large wind farm, a coal mining facility, a large mobile home park, an extensive golf course, etc. These properties could be hundreds or thousands of acres. The intent of this item is to save cost and time on such properties when locating interior improvements or features would be prohibitive. Including this item on standard or typical properties would not offer cost or time savings.

The inclusion of this item does not negate the need for the surveyor to comply with the Measurement Standards in Section 3.E of the Minimum Standards regarding the boundaries of the property. It only applies for the reporting of the interior features or improvements.

To perform this task there are many technologies available to the surveying industry such as rectified orthophotography, photogrammetric mapping, airborne/mobile laser scanning, etc. The accuracy these technologies provide may be sufficient to show improvements or features on the surveyed property to an acceptable accuracy to a nearby property boundary.

In all cases, the surveyor should discuss (a) the ramifications of such methodologies with the insurer, lender and client prior to the performance of the survey and, (b) place a note on the face of the survey explaining the source, date, precision and other relevant qualifications of such data to the survey.

**ITEM 16\*: Evidence of Recent Earth-Moving or Construction**

When included, the surveyor would report any observation of recent earthmoving work, building construction or building additions on the surveyed property. If any of this work has occurred, it may indicate a possible mechanics lien against the property. The surveyor should show any feature indicating these recent improvements on the drawing and also provide a note on the survey stating the observations or any knowledge of pending improvements per Item 16. If the surveyor did not observe any indication, or has no knowledge, a note should also be provided.


**ITEM 17\*: Observed or Proposed Changes within Street Rights-Of-Way**

When included the surveyor would observe any recent change that may have been made within any street right-of-way adjoining the property. These may include any roadway improvements, sidewalk, or utility improvements. The surveyor would also report any knowledge of any proposed changes for the right-of-way if information is available from the controlling jurisdiction. The client may be concerned with these changes because a widening of the right-of-way may indicate a need for a land take or easement affecting the subject property or could also indicate an assessment charged to the subject property for the improvement. The surveyor should show any feature indicating these recent improvements on the drawing and also provide a note on the survey stating the observations or any knowledge of pending improvements per Item 17. If the surveyor did not observe any indication, or has no knowledge, a note should also be provided.

**IMPORTANT NOTE:** Prior Table A Item 18 per the 2011 version of these requirements has been removed entirely "*Observed Evidence of site used as a solid waste dump, sump or sanitary landfill*". Therefore, prior Table A Items 19, 20, 21 and 22 have been renumbered as 18, 19, 20 and 21.

**ITEM 18: Location Of Wetlands**

If the surveyed property is subject to any wetland restriction and there has been a field delineation conducted by a qualified specialist hired by the client, the surveyor shall locate any markers observed in the process of conducting the fieldwork and show them on the face of the map. If no markers were observed, the surveyor shall so state.



A surveyor cannot determine wetlands. A surveyor may report a swamp or creek on the property, but determining that those areas are subject to any wetland restriction cannot be made without this specific, defined information from a qualified professional. If an Environmental Phase I Study has been completed, it would make reference to these restrictions, but may not cause delineation markers to be set. Additional environmental work may have to be performed by an environmental engineer or a qualified wetlands specialist causing ground markings on the site for the wetlands. The client would have to engage these professionals and advise the surveyor that ground markings have been set. In rare occasions, wetland restrictions and mapping are recorded and appear as exceptions to title within the Schedule B II of the title commitment. These would then be subject to Section 6.C.(i) and (ii) of the Minimum Standards. If Item 18 is included in the requirements and no markers were observed, the surveyor shall so state.

#### **ITEM 19: Offsite (Appurtenant) Easements**

In Section 6.C.(i) of the Minimum Standard Detail Requirements, the surveyor must show, report and indicate the width of all easements both burdening and benefiting the property when plottable. Regardless of the inclusion of Table A Item 19, the limits (boundaries) of these easements will be shown if plottable.

By including Item 19, those easement areas now become subject to Sections 5 and 6 of the Minimum Standards along with any applicable Table A Items. As these easement rights are on the lands of others, the client must obtain the necessary permissions for the survey work to commence.

These appurtenant rights are typically not revealed until the title work is provided. They generally appear within the Schedule A of the commitment as “together with” statements or as “easement parcels” as the title company is usually asked to offer insurance through the beneficial rights.

Examples of what may be involved may vary from a 50’ x 100’ easement for driveway purposes to an outparcel having cross parking easements and access across a very large mall parcel. The need and the cost and additional timing for this item should be considered and discussed with the surveyor on a case by case basis. Keep in mind that the surveyor may not have knowledge of these beneficial easements until advised or by reviewing a title commitment or report.

#### **ITEM 20\*: Professional Liability Insurance**

This item allows the client to request from the surveyor proof of professional liability insurance in an amount specified.

About 85% to 90% of land surveyors carry professional liability (errors and omissions) insurance. The typical industry standard amount of a surveyor’s coverage is \$1,000,000 per occurrence. If the client elects this amount or lower, the chance is good that most surveyors could comply. However, if a higher amount were necessary, it would either limit the number of available surveyors or require the surveyor to obtain an additional coverage rider to satisfy the requested amount. These costs would be passed on to the client. Some land surveying firms, typically those associated with a Civil Engineering or Architectural firm may have \$2,000,000 to \$5,000,000 of coverage.

One of the reasons the ALTA Survey product is prepared is so a title insurer can provide survey coverage. That coverage offers the client insurance through survey matters with the exception of any item specific to the survey in the Schedule B Exceptions in the policy. If there were an error or omission regarding a survey matter, the title insurer would pursue the surveyor for any loss sustained by the client. Including Item 20 offers more of a benefit to the title company rather than to the client. Requiring a surveyor to carry professional liability insurance offers the client no substantial additional benefit other than highlighting that the surveyor practices good business.

Furthermore, as defined, Item 20 requires the insurance coverage be in effect throughout the contract term. The contract term typically is from the date the surveyor is engaged to the date the surveyor is paid. An error or omission is typically something that is uncovered well after the satisfaction of the contract, sometimes years later. This is entirely independent of how long the surveyor is liable for their work. That is a function of state law and depends on the state statutes for limitations and repose. It may be advisable to address any additional needs for professional liability insurance, general liability insurance and workmen's compensation as a part of the contract terms and conditions than rather as a part of the survey requirements.

**ITEM 21:**

This item was left blank intentionally. If there is a need for something to be included on the survey, not included in the Minimum Standard Detail Requirements or defined in Optional Items 1 through 20, it can be negotiated here. As long as what is being asked for is within the realm of a surveyor's expertise, the surveyor may be willing to include the item. Within the introduction preamble to the Optional Table A Items, an example is cited for requirements that would be needed for an engineering design survey that may be done in conjunction with the ALTA Survey, however this blank item is not limited to that example. If multiple items are negotiated, they should be addressed as Items 21(a), 21(b), etc.

Per Section 6.D.(g) of the Minimum Standards, should the client and the surveyor negotiate and agree on a definition for Item 21, etc., the surveyor must include a note on the survey as to what was defined and negotiated. This would be helpful information to another party that may be looking at the survey unaware of the definition.





## Standards Of Survey Practice And Definition Of Terms

**\*NOTE:** All italicized text references Sections of the Minimum Standard Detail Requirements and Table A Optional Items in Section 2 of this Handbook.

- 1. ALTA/NSPS Land Title Survey:** Developed in 1962 by members of the title insurance industry ALTA (The American Land Title Association) and the survey industry, now the NSPS (National Society of Professional Surveyors), to depict a set of responsibilities and requirements for a specific survey product. The ALTA Survey was designed to meet a need within the title industry for a uniform and comprehensive survey upon which they could rely to delete the standard survey exceptions from the issuance of a title insurance policy and to offer endorsements to the same.
- 2. Minimum Standard Detail Requirements:** Outline the standards and responsibilities that the surveyor and the client address throughout the procurement of the survey. Although most of the requirements apply to the surveyor's responsibilities, when entering into a contract for a provision of a survey, the client is also obligated by a few responsibilities to ensure the survey's completion. The requirements tend to be updated and revised by ALTA and NSPS about every five years to meet and changing needs in the title industry and new technologies utilized in survey practice.
- 3. Optional Table A Items:** In addition to the Minimum Standards, attached thereto is a listing of 21 Optional Items that may be negotiated and added to the scope of service. The client must give the directive of what Table A Items need to be included. The surveyor is not responsible for assuming what may be needed. It is important that all transaction parties discuss these specific needs prior to engaging the surveyor. Please see the "User Guide to Table A" (page 17) of this Handbook for further explanation.
- 4. Request for Proposal:** An order for an ALTA/NSPS Land Title Survey may be requested from an owner, attorney, title company, buyer, broker or other interested party. It is recognized that these parties may all be the ultimate users of the survey and therefore should partake in discussions prior to contacting the surveyor to be certain that any imposed survey requirements or Optional Table A Items required for the transaction are identified. The party responsible for payment should also be identified so that the surveyor can provide a proposal and a contract outlining the scope seeking written authorization to proceed per **Section 2** of the Minimum Standards. Also, some types of properties may present issues outside those normally encountered in the preparation of an ALTA Survey such as mobile home communities, coal mines, wind farms, etc. During the proposal process, a surveyor may be able to suggest some alternative methods to complete the survey to save costs and expedite timing as outlined in Optional **Table A Item 15**.

**5. Limits of Survey (See sections 2 & 4):** The client is to define the land that will be the limits of the survey and thereby subject to the survey requirements. For the purpose of quotation, the client should give sufficient information so that the surveyor can provide pricing and timing for completion. Once the surveyor is engaged, the surveyor anticipates receipt of the information outlined in **Section 4** of the Minimum Standards to complete the survey. The limits of the survey may include offsite appurtenant easements. If Optional **Table A Item 19** is included, the surveyor will address those appurtenant easements within the limits of the survey. The client may need to secure permission for the surveyor to enter upon the property to be surveyed, adjoining properties or appurtenant easements.

*\*Note: Often the clients or surveyors are unaware of an appurtenant easement right until the title commitment is prepared or until survey inspection. If Optional **Table A Item 19** is included it may be necessary to renegotiate fees for additional work when the limits of these rights are defined.*

**6. Authorization to Proceed:** Per **Section 2**, the client (the party responsible for paying for the survey) shall provide a written authorization to the surveyor to commence work. The client may need to secure permission for the surveyor to enter the surveyed property, adjoining properties or offsite appurtenant easements.

**7. Other Requirements and Standards of Care:** It must be recognized that when a surveyor is providing a survey to meet the Minimum Standard Detail Requirements, they must also adhere to state statutes or administrative rules that regulate the practice of land surveying. Also, there may be local jurisdictional requirements that dictate their practice. In **Section 3.B**, it clearly states that a surveyor must address these other requirements and on an occasion where there may be a conflict with the Minimum Standards, the more stringent shall apply.

**8. Normal Standards of Care:** Referenced in **Section 3.C** and throughout the Minimum Standards, many of the responsibilities require that the surveyor report information using Normal Standards of Care. This refers to any local, state, regional or common practice that may be unwritten, but performed by a “prudent surveyor” in those areas. It is imperative that a surveyor be familiar with all of these practices in their localities on any given date.

**9. Measurement Standards:** **Section 3.E** refers to the precision standards a surveyor uses to establish boundary lines, corners, controlling monuments, lines of possession, etc. throughout the preparation of a survey. Although technologies used in the industry make precision more of an exacting science, there are still conflicts that will surface either in field observations or in record documents. This section (along with any state or jurisdictional requirements) contains the measurement standards that dictate the formulation of the surveyor’s opinion in establishing the boundaries, property corners and other features shown on the survey.

**10. Boundary Resolution:** The Minimum Standard Detail Requirements describe the responsibility in **Section 3.D** that the boundary lines and corners of any property subject to the limits of the lands shown on the ALTA Survey be established or retraced in accordance with governing boundary law principles. The surveyor must resolve the boundary of the property and reflect the same on the survey dictated by any statutory or jurisdictional requirement.

**11. Records Research:** Per **Section 4**, the surveyor anticipates receipt from the client of certain materials as outlined to perform and prepare the survey. A surveyor must also perform only the additional research according to statutory or administrative requirements in the jurisdiction where the property is located if they are not provided with sufficient materials to comply.

**12. Supportive Documents** are also called “Underlying Documents to Title” and refer to the documents relating to the insured estate. These are typically referenced in the exceptions to coverage (Schedule B-II Exceptions) of the title commitment or report. They are generally the recorded documents that disclose the limits of the property, vesting deeds, easements, recorded surveys or plats, covenants, restrictions, mortgages, etc. Per **Section 4**, these items are to be provided to the surveyor. They will be shown and addressed on the survey per **Section 5.E and 6.C**.

**13. Field Work:** ALTA/NSPS Surveys are to be based upon field work conducted on the ground (unless alternative methods are determined when Optional **Table A Item 15** is negotiated). **Section 5** outlines the multitude of responsibilities on the part of the surveyor in not only conducting the field work, but in making significant observations on the property at the time the field work was performed. These include but are not limited to evidence of easements, access, use of others, cemeteries, etc. By making and reporting the required observations, the title insurer can look to the information for the preparation of their title policy.

**14. Monuments at Corners:** Survey monuments are considered iron pins, pipes, concrete monuments, or other permanent survey markers commonly used in local areas to establish or mark property corners. The setting of monuments at property corners is optional (**Table A Item 1**) for an ALTA/NSPS Land Title Survey. The fees to include this item usually add significant cost to the survey. Sometimes when the inclusion of this item is a prescribed requirement (either imposed by the lender or buyer), a client may decide to waive the request to reduce the costs.

In some states, particularly along the west coast, there are statutory laws requiring the surveyor to file a monumentation plat or record of survey with the local county governing officials whenever new monuments are placed or set. This can cause an extraordinarily high cost when performing an ALTA/NSPS Land Title Survey. A surveyor should inform the client that such statutory requirements exist and advise the client of the additional cost and timing issues.

Per **Section 3.B**, some statutory or jurisdictional requirements mandate that surveyors set survey monuments regardless of the client’s inclusion of **Table A Item 1**. Other statutes may dictate monument placement and/or the filing of record of survey plats to conform to boundary resolution per **Section 3.D**.

**15. Access:** The surveyor is obligated by **Section 5.B and 6.C** to specifically show and note access to the property or state the lack thereof. The surveyor must report the name of any street, highway or other public or private roadway abutting the property along with any dedicated right-of-way width stating clearly whether the road is public or private. In addition, the surveyor must indicate the edge of the travelled way along with the width of pavement. The surveyor must also report visible evidence of physical access to and from the property to the travelled way such as curb cuts or depressions and driveways. The users of the survey are most concerned whether or not the property has ingress and egress to the travelled roadway within a public road right-of-way and the surveyor has the responsibility per these sections in the Minimum Standards to provide and note a clear indication of how that is or is not achieved.

**16. Encroachment:** Encroachments are any improvements or uses which extend across a property line, easement line, building or other restriction line for which there is no known right or permitted use. This includes but is not limited to improvements or uses encroaching onto the surveyed property from adjoining properties or from the surveyed property onto adjoining properties. This also includes uses or improvements which cross or encroach into easements or setback lines.

Per section **5.B.v. and 5.C.iii and 5.E.iv**, the surveyor must provide evidence of possible encroachments, but should not provide a legal opinion regarding the ownership or nature of the potential encroachment. Surveyors will often use words such as “potential” or “possible” when reporting an observed use. Some surveyors may also specifically state “without making a legal determination as to ownership”, etc.

**17. Utility Locations:** There are two considerations for work involved in locating utilities. One of which is addressed in the Minimum Standard Detail Requirements in **Section 5.E.iv** and the second by the inclusion of Optional **Table A Item 11**.

The Minimum Standard responsibilities in **Section 5.E.iv** require the surveyor to report the location of all visible and/or observed evidence of sub-surface utilities, which exist on, cross or serve the surveyed property. This will include, but is not limited to, above-ground power and utility lines, and any surface indications of underground utilities such as manholes, valve vaults, catch basins, fire hydrants, cable boxes, gas valves and meters, water valves and meters, sanitary sewer clean outs, utility poles or pedestals, and ground markers of subsurface utilities.

The second level of work (**Table A Item 11**) involves reporting not only the visible and observed evidence as outlined **Section 5.E.iv**, but also trying to make determinations of locations of any underground utility. The surveyor shows these features based upon plans provided by the client or requested from and provided by utility companies (with reference as to the source of such information on the survey drawing). The surveyor also requests markings of these underground features through a utility locator service. As a matter of practice, utility companies rarely keep records of an underground utility line on private property that only provides service to that property. It is also rare that a utility locator company enters onto a private property to provide ground markings of underground service at the request of a surveyor. These requests typically have to be made by the property owner.

Regarding utility service concerns, the buyers/borrowers, lenders and title companies want to be comfortable that the subject property has sufficient utility service for its operation and that all of those utilities enter the property from a dedicated public right-of-way abutting the property or that there is an appurtenant easement that carries that utility service to the property. Typically by addressing the surveyor’s responsibilities in **Section 5.E.iv**, these concerns are satisfied and sufficient information is provided so that the title insurer can offer a utility endorsement.

**18. Contours and Elevations (Vertical Relief):** Contours and elevations reveal the topography of the surveyed land. This may be of interest to potential owners of a property when considering the expansion of the current use of the land or creating new uses (development). This topographic information can be included in an ALTA/NSPS Land Title Survey by negotiating optional **Table A Item 5**. This information is also valuable regarding drainage issues.

**19. Plat or Map:** **Section 6** sets forth the surveyor’s responsibilities in the preparation and presentation of the survey map or plat drawing reflective of their Records Research (**Section 4**) and Field Work (**Section 5**) performed to the Surveying Standards and Standards of Care (**Section 3**). It outlines the specific information that is to be shown and in many cases how the information is to be reported.



**20. Exceptions to Coverage** are generally the second part of a title commitment entitled “Schedule B-II Exceptions” or “Exceptions to Coverage.” Listed items include: encumbering easements, taxes, restrictions of record, covenants and conditions, mortgages, leases, REAs, consent decree, encroachments known from available surveys, or other encumbrances available to the title company. Any survey related exception will be addressed on the survey per **Section 5.E and Section 6.C**. Per the 2016 Standards in **Section 6.C.ii**, a surveyor must now provide a summary of these survey related items on the face of the survey. Within the summary, the surveyor should provide related notes corresponding to these exceptions as outlined in **Items (a) through (g)** of this section

**21. Appurtenant (Beneficial or Offsite) Easements** are defined rights or uses onto other properties, usually adjoining or contiguous to the subject property, allowing the subject property to use the area for parking, access, utility access, storm drainage, etc. These are typically noted within the Schedule A of a title commitment. The limits (or boundaries) of these easements will be shown and plotted on the survey pursuant to Section 6.C. By negotiating Table A Item 19, these easement rights are now subject to the Minimum Standards and any other applicable Optional Table A Items. If included, the client must secure any necessary permission from property owners for the surveyor to enter and survey those properties.

**22. Reciprocal Easement Agreements** (“REAs”, also referred to as Cross Easements) burden and benefit a property. These easements are sometimes referenced both in the Schedule B Exceptions AND within the Schedule A of a title commitment or report. They burden the property by allowing others to use the subject property or a portion for parking, access to public highways, access to utilities, storm drainage or management, etc. Likewise, they provide benefits to the subject property by allowing the same uses onto lands owned by others. The limits of these easements will be shown and plotted pursuant to **Section 6.C**. By negotiating **Table A Item 19**, these easement rights are now subject to the Minimum Standards and any other applicable Optional Table A Items. If included, the client must secure any necessary permission from property owners for the surveyor to enter and survey those properties.

**23. Exclusive Access Easements** are usually appurtenant or beneficial to the subject property and provide the only or exclusive vehicle and utility access to the property. Properties not having frontage on dedicated public road right-of-ways need exclusive rights to gain access. The lack of these easements for a parcel of land not having road frontage is a major concern for lenders and buyers. Without the same the parcel would be considered land locked. Should a survey be provided for a land locked parcel where no appurtenant access easement is revealed, the surveyor should clearly state on the survey the lack of access to the property. The surveyor should also indicate on the drawing and within a notation how the subject property achieves access (i.e. a driveway or roadway and/or utilities crossing adjoining properties to the dedicated public right-of-way.) Access or any lack thereof would be shown and reported per **Section 5.B and 6.C**.

**24. Surveyor’s Responsibilities Regarding Exceptions to Coverage:** Per **Items 6.C.i and 6.C.ii**, the surveyor is given specific instruction to address and provide notes relating to rights-of-way, easements, servitudes, etc., which may be listed as Exceptions to Coverage within the title commitment or report. In **Section 6.C.ii**, the surveyor must provide a written summary of the survey related items reviewed and learned throughout the preparation of the survey. Within the summary a surveyor should cite the record information for the item and whether or not the item is shown or located on the survey. Furthermore, as defined in definitions (a) through (g) of this section, a surveyor should provide any explanation as to why an item is or is not shown or located on the plat or map. It is the surveyor’s responsibility to state whether an item is located on the property or not. If located on the property, plot its location. If located on the property and not plotted, then provide an explanation. Based upon these reported findings and notes, the title company determines whether an item affects or does not affect the property.

**25. Zoning Classifications, Building Setback, Height and Area Restrictions:** Often the lender, buyer, and/or title company require that the surveyor report zoning information on the survey. They are most interested in this information to check for compliance or violations of zoning restrictions. When **Table A Item 6(a)** is included, the surveyor looks to the client to provide a zoning letter and/or a zoning report to note the information on the survey. The surveyor shall provide the notes and state the source of the information or lack of provided information.

If **Table A Item 6(b)** is included and if the zoning setback requirements are set forth in a zoning letter or report provided by the client, the surveyor will graphically depict the setback. A surveyor will not be able to depict the setback restriction if the definition is ambiguous or requires an interpretation. The surveyor shall state the source of the provided information or lack thereof.

**26. Interior Parcel Lines/Adjoining Property Lines:** The reporting of any gaps, gores, or overlaps of parcel or property lines is critical. Their existence may indicate ownership by a previous owner or claims by others. This applies to both interior parcel lines for the surveyed property that is comprised of two or more parcels and also to properties that adjoin the surveyed property. Title companies are asked to issue contiguity endorsements which insure the buyer or lender that the common lines of ownership are one in the same and that no gaps, gores, or overlaps exist between adjoining properties. (See **Section 3.D and 6.Bvii**)

**27. Descriptions:** **Section 6.B.** gives guidance to surveyors regarding both the record description(s) and the preparation of any new descriptions. The current record description(s) of the property shall appear on the map or plat. This description comes from the last instrument of conveyance (deed, etc.) and should be the same description(s) cited in Schedule A of the title commitment. The surveyor should report any discrepancies between the record description(s), as they appear on the instrument, from what is cited in the Schedule A of the commitment. Furthermore, the surveyor shall report all distances and directions identified in the record description on the survey per **Section 6.B.iii, and iv**. Should the record description not form a mathematically closed figure the surveyor shall report the same per **Section 6.B.iv**, along with any gaps, gores or overlap.

The surveyor shall cite differences of any measured or calculated data from any corresponding record data if deemed significant per **Section 6.B.iii**. Per **Section 6.B.ii**, should the surveyor deem it necessary that measured or calculated dimensions merit the preparation of a new surveyed description, the surveyor shall provide the same on the face of the survey along with a notation as to why the new description was prepared. Also in these cases per **Section 6.B.ii**, the surveyor must provide a correlation statement between the new description and the record description stating that they are one in the same or describing how the new description differs.

**Section 6.B.ii** additionally notes that the preparation of a new description should be generally avoided when the record description is a lot or block in a platted, recorded subdivision.

**28. Certifications:** When the surveyor is comfortable that they have met all of the Minimum Standard Detail Requirements and any negotiated Optional Table A Items, the surveyor provides the form of Surveyor's Certification outlined in **Section 7** of these requirements. The surveyor is looking to the client to provide the names of the parties to include in the certification. Within the certification the surveyor states that the map or plat (**Section 6**) and the survey on which it is based (**Section 5**) was made in accordance with the 2016 Minimum Standards (**Section 3**). The surveyor must state the Optional Table A Items within the certification that were a part of the negotiated scope. Also, the surveyor must state the date of the field work corresponding to the date all reported observations were made. For more information see **Section 5** of this Handbook.

**29. Review Comments:** As multiple users may have review comments and revision requests, it is advisable that the client or a designated representative collect and consolidate survey review comments from all transaction parties. The coordination helps the surveyor by avoiding multiple revisions and conflicting instruction. It is also recommended that all comments be presented to a surveyor in a written format rather than verbally or as a mark-up of a survey drawing. Efforts to consolidate these comments can greatly alleviate confusing instruction and multiple revisions.

**30. Deliverables and Electronic Files:** *Section 8* discusses delivery of surveys to clients and other transaction parties by hard copies or in a digital format. The client can dictate how they wish to receive the survey (hard copies and/or digital). If only digital delivery transmission is negotiated, it is recognized as an acceptable form. Note however that surveying laws in some states such as Florida prohibit a surveyor from signing and sealing a digital transmitted survey. It is typical that the digital format will be in a .PDF file that can easily be opened by the receiver.

If there is a need for drawing (CAD) files of the survey(s), it is important that it be discussed in negotiations when requesting a survey. Most surveyors are reluctant to relinquish their drawing files as they can be changed or manipulated with CAD software. Surveyors have concerns about their potential liability should someone take their file and change it in a manner that would alter the observations reported on the survey. If these are needed, it is best to work with a surveyor willing to provide them. Surveyors may also be willing to provide drawing files if allowed to make certain modifications such as removing the survey certification and providing a separate drawing file. Other surveyors may require a waiver or release of liability signed by the client to provide the drawing files. The surveyor may request additional fees to provide these files.

**Flood Zone Descriptions***As defined by The Federal Emergency Management Agency (FEMA)*

<b>CODE</b>	<b>DESCRIPTION</b>	<b>INSURANCE</b>
<b>A</b>	Areas of flood hazard. No base elevation determined.	<i>Required</i>
<b>A-1 - A-30</b>	Areas of 100 year flood, base elevations and flood hazard factors are determined.	<i>Required</i>
<b>AE</b>	Areas of flood hazard. Base flood elevations determined.	<i>Required</i>
<b>AH</b>	Areas of flood hazard. Flood depths of 1-3 feet (usually areas of ponding); base flood elevations determined.	<i>Required</i>
<b>AO</b>	Areas of flood hazard. Flood depths of 1-3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities are determined.	<i>Required</i>
<b>A99</b>	Areas of flood hazard to be protected from 100 year flood by Federal flood protection system under construction. No base flood elevations determined.	<i>Required</i>
<b>B</b>	Areas between the limits of the 100 and 500 year flood; or certain areas subject to 100 year flooding with average depths of less than 1 foot; or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood.	<i>Not Required</i>
<b>C</b>	Areas of minimal flooding.	<i>Not Required</i>
<b>D</b>	Areas of possible but undetermined flood hazard.	<i>Not Required</i>
<b>V</b>	Coastal flooding areas with velocity hazard (wave action). No base flood elevations determined.	<i>Required</i>
<b>V-1 - V-30 VE</b>	Areas of 100 year coastal flood with velocity (wave action). Base flood elevations and flood hazard factors are determined.	<i>Required</i>
<b>X</b>	Areas of 500 year flood; areas of 100 year flood with average depths of less than 1 foot, or with drainage areas less than 1 square mile; areas protected by levees from 100 year flood.	<i>Not Required</i>

**\*NOTE:** Federal Flood Maps do not identify all areas subject to flooding, particularly flooding from local drainage sources. Also, as existing flood maps are updated, Zones B and C are redesigned as Zone X.



## Surveyor Certification

Within the **2016 Minimum Standard Detail Requirements, Section 7–Certification**, the following verbiage appears:

"The plat or map of an ALTA/NSPS Land Title Survey shall bear only the following certification, unaltered, except as may be required pursuant to Section 3.B. above" **(\*See NOTE below)**

*"To (name of insured, if known), (name of lender, if known), (name of insurer, if known), (names of others as negotiated with the client):*

*This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items \_\_\_\_\_ of Table A thereof. The field work was completed on \_\_\_\_\_.*

Date of Plat or Map: \_\_\_\_\_ (Surveyor's signature, printed name and seal with Registration/License Number)"

It is clear by the directive in this section that alternative forms of certification are prohibited. The verbiage states "The Survey shall bear **ONLY** the following certification, **UNALTERED**, except as may be required pursuant to Section 3.B above." (\*See note below). Any certificate provided that deviates from this would be a contradiction and would nullify the Survey from being classified as an ALTA/NSPS Land Title Survey.

**\*NOTE:** The "except as may be required pursuant to Section 3.B above", does allow additions or alterations if Federal, State or Jurisdictional requirements, regulations or standards of surveying practice are mandated. For example, some state statutes for survey law may require some alternative or additional verbiage. Per Section 3.B of the Minimum Standard Detail Requirements, the more stringent requirement will apply.

In the past, when alternative forms of certifications were considered, a majority of the verbiage contained therein was for the most part redundant statements reiterated and addressed as Minimum Standards Detail Requirements. Those reiterations within alternative certification forms offered no additional assurance other than the following statement within the prescribed form above: *"This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS."*

Should there be a need for a statement to be made by the surveyor to expand upon a Minimum Standard Detail Requirement, any negotiated optional Table A Items or to address any additional responsibilities, the surveyor can be asked to provide a general note(s) on the survey. The surveyor and the client can also negotiate an Optional Table A Item (Item 21) to provide such general notation(s) as long as it is within the parameters of the surveyor's expertise. The surveyor then must also comply with Section 6.D.ii.g of the Minimum Standards and explain any modification and the nature of any additional Table A Items (e.g. 21(a), 21(b), etc. on the face of the survey).

Within the certification, the surveyor is asked to provide the date of the field work. This is representative of the date the surveyor was on the property collecting data and making observations. Many of the Minimum Standard Detail Requirements involve the reporting of specific matters observed by the surveyor while conducting the survey. The date of the field work reflects when those observations were witnessed. From both the surveyor's and the title company's perspective this is the important date relating to liability. The "date of plat or map" is at the discretion of the surveyor. The "date of last revision" corresponds to any revisions made by the surveyor.

It is up to the lender and the title company to determine if the date of field work, date of plat or map and date of last revision are recent enough for their transaction. How long a surveyor is willing to provide revisions to a survey compared to the date of the field work and the date of plat or map is at their discretion. In some instances the timing for revisions is dictated by state surveying statutes or professional liability insurance policies.

On occasion, an entity name to be included in the Surveyor's Certification will include verbiage such as "together with their respective successors and/or assigns". In such instances the request shall be limited to the lender and purchaser. Many surveying firms across the country are not willing or able to certify to successors and/or assigns language. Their legal counsel or an insurance provider for Professional Liability Insurance prevents them from doing so. It is advisable to alert the surveyor to such a need during the quoting process to guarantee the surveyor is comfortable in meeting this request.

## Survey Review Check List For ALTA/NSPS Land Title Surveys

### Per ALTA/NSPS Minimum Standard Detail Requirements, the survey shall include the following:

(Please note that the numbered section references below refer to the subsections of the ALTA/NSPS Survey Requirements in Section 1 of this Handbook)

## Section 5: Field Work

### Section 5.A

- \_\_\_\_\_ Location, size, character and type of monuments found or set (per Table A Item 1 or jurisdictional standards)
- \_\_\_\_\_ Location, description and character of lines that control the boundaries

### Section 5.B.i

- \_\_\_\_\_ Distance from corner(s) of surveyed property to nearest street right-of-way lines if not butting a right-of-way

### Section 5.B.ii

- \_\_\_\_\_ Names of streets, highways or public way abutting property
- \_\_\_\_\_ Width and location of each edge of traveled way relative to the surveyed property

### Section 5.B.iii

- \_\_\_\_\_ Visible evidence of physical access (i.e. curb cuts, driveways)

### Section 5.B.iv

- \_\_\_\_\_ Location and character of access by others than the apparent occupants to or across the surveyed property (i.e. private roads, driveways, alleys, railroads, railroad sidings and spurs, sidewalks, etc.)

### Section 5.B.v

- \_\_\_\_\_ Location and extent of potential encroachments of access features by adjoining properties onto the surveyed property

### Section 5.B.vii

- \_\_\_\_\_ Observed evidence of access to and from waters adjoining the surveyed property (i.e. paths, boat slips, launches, piers, docks)

### Section 5.C.i

- \_\_\_\_\_ Character and location of evidence of possession or occupation along perimeter

### Section 5.C.ii

- \_\_\_\_\_ Character and location of improvements within five feet of each side of boundary lines unless access is restricted

### Section 5.C.iii

- \_\_\_\_\_ Evidence and location of potentially encroaching structural appurtenances and projections by or onto adjoining properties, rights-of-way, easements or setback lines

### Section 5.D

- \_\_\_\_\_ Location of buildings on surveyed property

### Section 5.E.i

- \_\_\_\_\_ Evidence of easements or servitudes burdening the surveyed property disclosed in documents provided or obtained by the surveyor and observed

**Section 5.E.ii**

- \_\_\_\_\_ Observable evidence of easements, servitudes or other uses by other than the occupants not disclosed in the documents provided or obtained but observed, if they appear to affect the surveyed property (i.e. roads, drives, sidewalks, paths, utility service lines, water courses, ditches, drains, telephone, fiber optics, electric, water, sewer, oil or gas pipelines on or across surveyed property, and on adjoining property)

**Section 5.E.iii**

- \_\_\_\_\_ Surface indications of underground easements or servitudes (i.e. utility cuts, vent pipes, filler pipes)

**Section 5.E.iv**

- \_\_\_\_\_ Evidence on or above the surface which may indicate utilities located on, over or beneath the surveyed property. (i.e. pipeline markers, manholes, valves, meters, transformers, pedestals, clean-outs, utility poles, overhead lines and guy wires)

**Section 5.F**

- \_\_\_\_\_ Evidence of cemeteries, gravesites and burial grounds on the surveyed property as observed or as disclosed in documents provided to the surveyor

**Section 5.G.i**

- \_\_\_\_\_ Location of any springs, ponds, lakes, streams, rivers, canals, ditches, marshes and swamps on, running through or within five feet of the surveyed property

**Section 5.G.ii**

- \_\_\_\_\_ Location of any water feature forming a boundary of the surveyed property; the attribute (i.e. top of bank, edge of water, high water mark) should be congruent with the boundary as described in the record description or new description

**Section 6: Plat Or Map****Section 6.B.i**

- \_\_\_\_\_ Current record description of the surveyed property. In the case of an original survey, the current record description of the parent tract that contains the surveyed property

**Section 6.B.ii**

- \_\_\_\_\_ Any new description of the surveyed property (if applicable) prepared in conjunction with the survey
- \_\_\_\_\_ Statement explaining why new description was prepared
- \_\_\_\_\_ If a new description is prepared, a note shall be provided stating (a) that the new description describes the same real estate as the record description or, if it does not, (b) how the new description differs from the record description.

**Section 6.B.iii**

- \_\_\_\_\_ Point of Beginning, remote point of beginning, point of commencement and all distances and directions as appearing in record and new description
- \_\_\_\_\_ Measured or calculated dimensions in addition to record when differs from the record by amount deemed significant by the surveyor, such dimension shall be shown in addition to, and differentiated from, the corresponding record dimension.

**Section 6.B.iv**

- \_\_\_\_\_ Directional, distance and curve data
- \_\_\_\_\_ Statement if record description does not close mathematically
- \_\_\_\_\_ Basis of bearings and difference from record, if any

**Section 6.B.v**

- \_\_\_\_\_ Balance of parcel shown if whole parcel not surveyed and notation indicating extent of survey

#### **Section 6.B.vi**

- \_\_\_\_\_ Date of measurement of title line defined by a water boundary, which attribute(s) was (were) located and a caveat that water boundary is “subject to change due to natural cause and that it may or may not represent actual location of limit of title”

#### **Section 6.B.vii**

- \_\_\_\_\_ Contiguity, gores, and overlaps along the exterior boundaries with adjoining lands
- \_\_\_\_\_ Interior parcel lines for multiple parcel properties with gores and overlaps, if any

#### **Section 6.B.viii**

- \_\_\_\_\_ Any notation (if applicable) regarding major discrepancies between record and measured information and an explanation impacting boundary resolution

#### **Section 6.B.ix**

- \_\_\_\_\_ The location of all buildings dimensioned perpendicular to perimeter lines (i.e., where potentially impacted by a setback line)

#### **Section 6.B.x**

- \_\_\_\_\_ Any notation (if applicable) explaining site conditions negating Relative Positional Precision

#### **Section 6.B.xi**

- \_\_\_\_\_ Note identifying areas within five feet of the boundary, if any, to which access was restricted

#### **Section 6.B.xii**

- \_\_\_\_\_ Note on the plat or survey identifying the title commitment or other title evidence, effective date and name of insurer

#### **Section 6.C.i**

- \_\_\_\_\_ Location, width and recording information of all plottable rights of way, easements and servitudes burdening and benefitting the surveyed property per documents provided or obtained

#### **Section 6.C.ii**

- \_\_\_\_\_ Summary of all rights of way, easements and servitudes including the record information and a statement as to whether the item is shown and a related note if: (a) the location cannot be determined from the record document; (b) no observed evidence at the time of the fieldwork; (c) blanket easement; (d) not on, or does not touch, the surveyed property; (e) limits access to an otherwise abutting right of way; (f) documents are illegible; or (g) the surveyor has information indicating that it may have been released or otherwise terminated.
- \_\_\_\_\_ For surveyed property consisting of multiple parcels, notes indicating which parcels the rights of way, easements and servitudes cross or touch.

#### **Section 6.C.iii**

- \_\_\_\_\_ Note if no physical access to a public way was observed

#### **Section 6.C.iv**

- \_\_\_\_\_ Locations and widths of rights of way abutting or crossing and source of information (if variable, indicate as “variable”)

#### **Section 6.C.v**

- \_\_\_\_\_ Identifying titles of record plats, filed maps, right of way maps, etc. with recording or filing data



**Section 6.C.vi**

- \_\_\_\_\_ For non-platted adjoining land, recording data identifying adjoining tracts as per current public records
- \_\_\_\_\_ For platted adjoining land, the recording data of the subdivision plat

**Section 6.C.vii**

- \_\_\_\_\_ Platted setback or building restriction lines on recorded subdivision plats or on documents provided or obtained

**Section 6.D.i**

- \_\_\_\_\_ Minimum size 8.5 x 11 inches (22" x 34" B&C Standard)
- \_\_\_\_\_ Written Scale and Graphic scale

**Section 6.D.ii**

- \_\_\_\_\_ Property boundary line distinguishable
- \_\_\_\_\_ Note "No buildings observed", if applicable
- \_\_\_\_\_ North Arrow \*North orientation of plat (toward top of drawing preferred)
- \_\_\_\_\_ Legend of symbols and abbreviations
- \_\_\_\_\_ Vicinity Map reference to highways and intersection
- \_\_\_\_\_ Supplementary or detail diagrams when necessary.
- \_\_\_\_\_ Notes explaining modifications to Table A items and additional Table A items (e.g., 21(a), 21(b), 21(c)) negotiated between the surveyor and client.
- \_\_\_\_\_ Surveyor name, address, phone number, email
- \_\_\_\_\_ Surveyor project number (if any)
- \_\_\_\_\_ Surveyor seal, signature, reg. number
- \_\_\_\_\_ Date of all plan revisions
- \_\_\_\_\_ Sheet numbers
- \_\_\_\_\_ Caption "ALTA/NSPS Land Title Survey"

**Section 7: Certification**

- \_\_\_\_\_ ALTA/NSPS Prescribed form of Survey Certification
- \_\_\_\_\_ Date of Field Work Completion
- \_\_\_\_\_ Negotiated Table A Items
- \_\_\_\_\_ Designated parties named in certification
- \_\_\_\_\_ Date of Plat or Map

**Optional Table A Items required as negotiated**

- \_\_\_\_\_ Monuments placed at all major corners
- \_\_\_\_\_ Verification of address(es) by observation or in documents provided or obtained
- \_\_\_\_\_ Flood zone classification and graphic plotting if (2) or more zones.
- \_\_\_\_\_ Gross land area (and other areas if specified by client)
- \_\_\_\_\_ Vertical relief and source of information along with originating benchmark
- \_\_\_\_\_ 6(a). Current zoning classification, setback requirements, height, floor space area restrictions, and parking requirements in letter or report provided. Identify the date and source of the report or letter.
- \_\_\_\_\_ 6(b). Graphically depict building zoning setback requirements in report or letter provided the client if those requirements do not require an interpretation
- \_\_\_\_\_ Identify the date and source of the report or letter.
- \_\_\_\_\_ 7(a). Exterior dimensions of all buildings at ground level
- \_\_\_\_\_ 7(b). Square footage of
- \_\_\_\_\_ (1) exterior footprint of all buildings at ground level
- \_\_\_\_\_ (2) other areas defined by client

- \_\_\_\_\_ 7(c). Height of all buildings above grade at a defined location
- \_\_\_\_\_ 8. Substantial observable features (i.e. parking lots, billboards, signs, swimming pools, landscaped areas, substantial areas of refuse).
- \_\_\_\_\_ 9. Number and type of parking spaces on surface parking areas, lots and in structures. Striping of identifiable surface parking spaces
- \_\_\_\_\_ 10(a). Relationship of division or party walls to adjoining properties as designated by the client (client to obtain necessary permissions)
- \_\_\_\_\_ 10(b). Determination whether designated division or party walls are plumb (client to obtain necessary permissions)
- \_\_\_\_\_ 11. Location of utilities existing on or serving the surveyed property as determined by: observed evidence, evidence from plans requested by the surveyor and obtained from utility companies, or provided by client (with reference as to the sources of information), and markings requested by the surveyor pursuant to utility locate or similar request
- \_\_\_\_\_ 12. Governmental Agency survey-related requirements as specified by the client (i.e. HUD)
- \_\_\_\_\_ 13. Names of adjoining owners per current tax records

- \_\_\_\_\_ 14. Distance to the nearest intersecting street
- \_\_\_\_\_ 15. Orthophotography, photogrammetric mapping, remote sensing, laser scanning, and other products for the basis of locations of certain features excluding boundaries. Include a note that explains the source, date, relative accuracy and other relevant qualifications of any such data.
- \_\_\_\_\_ 16. Observable evidence of recent earth moving work, building construction, or additions
- \_\_\_\_\_ 17. Any changes of street right of way lines either completed or proposed. Observable evidence of recent street or sidewalk construction or repairs.
- \_\_\_\_\_ 18. Location of wetlands if field delineated by others
- \_\_\_\_\_ Note if no markers were observed
- \_\_\_\_\_ 19. Include any plottable offsite easements or servitudes disclosed in documents provided or obtained (client to obtain necessary permissions).
- \_\_\_\_\_ 20. Professional Liability Insurance (Item shall not be addressed on the face of the survey)
- \_\_\_\_\_ 21. Any additional item(s) negotiated between surveyor/client. Definition should appear on the survey within a general note.



## Section 2

# Commercial Zoning Reports

### Introduction: The Who, What and Why of Zoning

#### **The practice of Zoning is defined as:**

The separation or division of a municipality into districts, the regulation of buildings and structures in such districts in accordance with their construction and the nature and extent of their use, and the dedication of such districts to particular uses designed to serve the general welfare.

**With this in mind, certain questions arise related to commercial real estate zoning due diligence:**

- » What Is It?
- » Who Orders It?
- » Why Do I Need It?
- » How Can I Order It?

**The following text will address and answer these questions:**

#### » What Is It?

Zoning due diligence is a broad term that is frequently used to refer to the research and data collection needed to produce the findings within a zoning information report for a commercial property transaction.

A standard zoning report typically includes:

- the current zoning district for the property
- applicable zoning district code requirements including height, setbacks, lot area, lot coverage, density, minimum parking and the right to rebuild in the event of casualty
- results of a comparison of zoning code requirements to an ALTA Survey of the property and notice of any nonconforming items, notice of open/unresolved municipal zoning, building or fire code violations
- information regarding applicable relief and entitlements (i.e. variances, special permits, conditions, exceptions, etc.)
- information regarding applicable site/development plans and conditions of approval
- copies of existing certificates of occupancy
- adjacent property zoning
- conforming status as provided by governing municipality

### » Who Orders It?

Attorneys, title insurers, property owners, brokers, buyers, lenders—anyone who wants to get a clear picture of the zoning situation for a property in which they are interested.

**Zoning Information Reports from Bock & Clark Zoning may be relied upon by all major lenders and title companies.**

### » Why Do I Need It?

The “why” varies depending on the ordering client’s needs. A property owner or potential buyer may want to know if the current or intended use of the property is permitted in a zoning district. A potential buyer and their lender will want to get a solid picture of any possible problems with the property such as code violations, setback or parking deficiencies, restrictive overlay, right to rebuild an existing nonconforming structure as-is in the event of casualty, etc. An individual may be seeking to obtain a zoning endorsement for title, which “insures the insured against losses arising from a court order which prohibits use of the land for specified purposes permitted by the zoning or requires the removal or alteration of a structure located on the land because certain physical characteristics of either the land or a structure located on the land violate the ordinance.” Attorneys frequently use zoning information reports as initial research prior to issuing formal zoning opinions.



It should be noted that if Table A Item 6 (b) is requested when ordering an ALTA Survey, the list of zoning requirements must be provided by a third party requiring special zoning reports for that purpose. Additionally, the user should be aware that zoning codes are updated and overlay zones are frequently added resulting in previously conforming properties becoming pre-existing nonconforming properties. Whether preparing for a property sale negotiation or finding a level of comfort regarding an investment, a zoning report will provide the most up-to-date information available regarding the property.

### » How Can I Order It?

Typically, a property address is all that is needed in order to obtain a quote for zoning, but any additional information you may have, such as a parcel number, current use, prior survey, offering memorandum and turnaround time can be helpful when preparing a comprehensive proposal. Once a standard zoning report is ordered, an ALTA Survey will be required in order to complete the survey comparison portion of the report.

## Types of Reports

### STANDARD COMPARISON ZONING REPORT

This report is the industry-standard zoning report designed to meet 3.1 title endorsement requirements. It has an average turnaround time of 10-15 business days and contains the following information:

- Municipal zoning compliance or verification letter
- Applicable municipal zoning code sections, typically including:
  - Permitted uses
  - Height, setback, lot size and coverage, floor area ratio
  - Minimum parking space requirement
  - Right to rebuild nonconforming structure in the event of casualty
- Relief/Entitlements: variances, special permits, conditions, exceptions, ordinances
- Copy of, or excerpts from, applicable site/development plan, if applicable
- Notice of any open/unresolved zoning, building and/or fire code violations of record
- Copy of existing Certificate(s) of Occupancy
- Conforming status as provided by municipality
- Applicable zoning map portion
- Adjacent property zoning designations
- Table of current municipal zoning code requirements from code sections mentioned above
- Comparison of current municipal zoning code requirements as listed above to existing site survey conditions and notice of any nonconformities to zoning requirements as noted

### SUMMARY ZONING REPORT

This report is ordered if a survey is not available or a survey comparison is not needed. The timeframe is similar to the comparison report (10-15 business days), and it contains the following information:

- Municipal zoning compliance or verification letter
- Applicable municipal zoning code sections, typically including:
  - Permitted uses
  - Height, setback, lot size and coverage, floor area ratio
  - Minimum parking space requirement
  - Right to rebuild nonconforming structure in the event of casualty
  - Relief/Entitlements: variances, special permits, conditions, exceptions, ordinances
- Copy of, or excerpts from, applicable site/development plan, if applicable
- Notice of any open/unresolved zoning, building and/or fire code violations of record
- Copy of existing Certificate(s) of Occupancy
- Conforming status as provided by municipality
- Applicable zoning map portion
- Adjacent property zoning designations
- Table of current municipal zoning code requirements from code sections mentioned above



### EXECUTIVE SUMMARY ZONING REPORT

This report was designed to provide the best snapshot of a property in the shortest amount of time. The quick turn-time is possible because documents are not requested from the municipality, instead relying on information that can be provide via Internet, fax, phone and email sources. The Executive Summary can typically be prepared within 5 business days and contains the following:

- Confirmation via phone/fax/email/map of current zoning district
- Conforming status as provided by municipality
- Table of current municipal zoning code requirements from code sections mentioned above
- Comparison of current municipal zoning code requirements as listed above to existing site survey conditions and notice of any nonconformities to zoning requirements as noted

*\*This report not suitable for properties zoned PD/PUD (Planned Development)*

### ZIP REPORT

This report is used to provide the zoning information required by surveyors in order to fulfill Table A Item 6(b) for an ALTA Survey and is typically completed within 5 business days. Contents are:

- Confirmation via phone/fax/email/map of current zoning district
- Table of current municipal zoning code requirements typically including:
  - Permitted uses
  - Height, setback, lot size and coverage, floor area ratio
  - Minimum parking space requirement

*\*This report not suitable for properties zoned PD/PUD (Planned Development)*

### CUSTOM REPORTS

Zoning reports may be tailored to meet specific client project needs. Here are some examples of how Bock & Clark Zoning can customize reports:

- Add certain components to abbreviated reports, such as adding violations or code pages to a ZIP Report
- Add components not listed, but within our realm of expertise, such as adding planned public improvements/condemnation information to a standard report
- Remove components not applicable or not required for a particular transaction
- Customize report template/format to client specifications
- Create a report for a specific purpose, such as a report for raw land, which might contain:
  - Municipal zoning compliance or verification letter
  - Applicable municipal zoning code sections for use, height, setbacks, lot area and parking
  - Copy of, or excerpts from, applicable site/development plan, if applicable
  - Applicable zoning map portion and adjacent property zoning designations
  - Table of current municipal zoning code requirements from code sections mentioned above

Please contact **Bock & Clark Zoning** with any questions about any of our reports: **1-800-787-8390**.



## Section 3

# Environmental Site Assessments and Property Condition Assessments

### Introduction: Environmental Site Assessments (ESAs) and Property Condition Assessments (PCAs)

As part of a commercial real estate transaction, either driven by the acquisition or refinance of a property, various parties involved may request that a **Phase I Environmental Site Assessment (ESA)** and/or a **Property Condition Assessment (PCA)** be conducted. These reports can be required for one or more reasons and often serve multiple purposes related to the transaction, financing and/or liability. As each transaction party has their own interests and due diligence requirements, the reasoning for the request may differ.

For example, a potential purchaser and/or their investors may wish to have these assessments conducted to assist in making an informed purchase decision through the identification of any major environmental or engineering issues that may be present or impacting at the property. Once identified, these issues play an important part in the transaction negotiations. A related reason for having an ESA conducted is that it provides a level of assurance for regulatory purposes should an environmental issue be identified in the future. If an ESA was conducted according to the ASTM 1527-13 standards and the All Appropriate Rule requirements, the property owner will be protected as an innocent landowner from future regulatory liability. If not, then the owner could be liable for future costs related to an environmental cleanup.

When considering the lender, most lending institutions require that some level of environmental assessment be conducted. It provides them with a level of comfort that they are not lending on a contaminated property for which they could be potentially liable.

Depending on the lender (if applicable) and other circumstances, an ESA or some level of environmental assessment is required more frequently than a Property Condition Assessment (PCA). However, both potential purchasers and lenders often still require some physical assessment to insure that the real property and its improvements are in acceptable condition and also to identify any major deficiencies requiring immediate or near term repair or replacement.

Most commonly, reports are ordered by either the lender, or their mortgage broker agent, the property owner or potential purchaser. On occasion, attorneys or management companies may be the initial ordering party. Regardless of who orders the reports, they are usually provided to the lender (as applicable) or other involved parties.

When ordering reports, the individual charged with providing the information to initiate the process should have possession of a number of key pieces of information that are critical in order to insure that the work is conducted appropriately. Most important is an accurate description of the property and the improvements that are considered part of the asset. All too often an extra parcel of land or an outbuilding is missed.

**Following is a list of items requested at the time of ordering:**

- An accurate description of the property and improvements
- Current address or range of addresses
- Name of the property, if applicable
- Site map or ALTA Survey of the property
- Size of the property
- Indication if there are multiple parcels and if they are contiguous or not
- Type, age and size of improvements, i.e. number of buildings, usage, number of units or tenant spaces
- A rent roll
- Any previous environmental or engineering reports
- Summaries of historical capital improvements
- Any known issues and planned capital improvements
- Required or desired scope of work

The final bullet “required or desired scope of work” is often overlooked as it may be an internal decision or dictated by the lending institution. Regardless, this must be provided in the beginning of the process to insure that the scope is met. If not, funding or the closing of the purchase could be delayed.

## **Environmental Site Assessments (Phase I and Phase II Reports)**

Bock & Clark Environmental and Assessment performs Phase I and Phase II Environmental Site Assessments in conformance with American Society for Testing and Materials (ASTM) E 1527-13 and E1903 respectively and the Environmental Protection Agency All Appropriate Inquiry.

A Phase I ESA (ASTM E1527-13) is used to gather information to identify Recognized Environmental Conditions (RECs) which may be associated with a subject property. It identifies actual or potential environmental contamination through records research, site inspection and interviews with owners and occupants which may impact the property value. It is conducted based upon the standards defined by the American Society for Testing and Materials (ASTM) and the Environmental Protection Agency (EPA) All Appropriate Inquiry.

If a potential contamination is found through the course of the Phase I Report, there may be a need to conduct a Phase II ESA (ASTM E1903) which would include substantial sampling and laboratory analysis to confirm the presence of hazardous material.

### **PHASE I ENVIRONMENTAL SITE ASSESSMENT**

A Phase I Environmental Site Assessment identifies Recognized Environmental Conditions (RECs) associated with a property which may impact that ultimate value of the property. Bock & Clark Environmental and Assessment adheres to all industry standards in preparation of its reports giving the user the information needed to proceed in a commercial real estate transaction.

Preparation of the Phase I ESA (ASTM E1527-13) is overseen by an Environmental Professional and includes the following:

- Historical sources
- Radius map search of the local, state, tribal and federal databases
- Regulatory interviews of state and local government officials
- Owner/Occupant interviews—past and present—shall be attempted
- Site reconnaissance performed under the charge of an Environmental Professional – including property structures; periphery of the property; current and past uses of the property; obvious geologic, hydro-geologic and topographic conditions; roads; and potential hazardous substances
- Other observations including radon and visual inspections of lead-based paint, asbestos and mold potential. Testing not included in the basic report but can be conducted for an additional fee.

A written report of observations and conclusions will be prepared and presented in accordance with standard practices.

Visit Bock & Clark's website to review our Sample Phase I Environmental Site Assessment for a comprehensive list of inclusions.

## PHASE II ENVIRONMENTAL SITE ASSESSMENT

In the event that the findings of a Phase I Environmental Site Assessment result in a question of contamination, a Phase II ESA (ASTM E1903-11) can be ordered. A more extensive report, the Phase II requires property sampling and laboratory analysis. Items that may be included in the testing and research for a Phase II can include, but are not limited to:

- Soil and water samples
- Subsurface soil borings
- Groundwater monitoring, sampling and analysis
- Drum sampling (if any are present on the property)
- Sampling for PCBs
- Testing for buried tanks and drums
- Testing of underground storage tanks (USTs)

Following are some Recognized Environmental Conditions that may necessitate the request for a Phase II Report:

- Property contained underground storage tanks (USTs)
- Existing USTs are past their life expectancy
- Evidence of a release (leaking drum, compactor) or threatened release
- Historical Use: Drycleaners, Metal Plating Facility, Gas Station, Auto Repair, Lumber Yard and others

**Please contact **Bock & Clark** for more information: 1-800-787-8397 ext. 854.**





## Property Condition Assessments

Bock & Clark Environmental and Assessment is experienced in conducting Property Condition Assessments on all types of commercial properties. The PCA, sometimes referred to as a Property Condition Report (PCR), is designed to assess the physical condition of a property by conducting a limited walk-through survey in compliance with the ASTM E2018-15 Standards Guide for Property Condition Assessments.

### **INCLUDED IN A PROPERTY CONDITION ASSESSMENT**

The Field Observer preparing the report will note any material physical deficiencies or deferred maintenance for the following:

- Site Improvements
- Structural Framing and Building Envelope
- Facades: non-invasive and visual review
- Roofs: non-invasive and visual review
- Mechanical/Plumbing/Electrical
- Elevators
- Life Safety/Fire Protection
- Interior Elements: typical common areas
- ADA Compliance

## Other Services

Bock & Clark's Environmental and Assessment division is pleased to provide the commercial real estate industry with Phase I and Phase II ESAs and Property Condition Assessments but recognizes that sometimes specific items not contained in a full report and requiring a faster turnaround time may be necessary. For these reasons Bock & Clark also offers the following additional services.

- PML (Probable Maximum Loss Survey)
- Asbestos Surveys and Operations & Maintenance Planning (O&Ms)
- Lead Based Paint Surveys and O&Ms
- Moisture Minimization Plan
- Radon Surveys
- ADA Studies

*Contact us for more information at 1-800-787-8397 ext. 854.*

## Common Environmental & Assessment Acronyms:

**AAI:** All Appropriate Inquiry

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**ACM/ACBM:** Asbestos Containing Material (s)/Asbestos Containing Building Material(s)

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**AST:** Above Ground Storage Tank(s)

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**AUL:** Activity and Use Limitations

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**CERCLA:** Comprehensive Environmental Response, Compensation, and Liability Act

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**ESA:** Environmental Site Assessment

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**LUST/LPST:** Leaking Underground Storage Tank(s)/Leaking Petroleum Storage Tank(s)

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**PCA/PCR:** Property Condition Assessment/ Property Condition Report

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**PRP:** Potentially Responsible Party

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**REC:** Recognized Environmental Condition

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**UST/PST:** Underground Storage Tank(s)/Petroleum Storage Tank(s)

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## Section 4

# Working with Bock & Clark

Bock & Clark prides itself in its commitment to excellence in customer service. We strive to work closely with our clients and have staff available to answer questions whenever necessary. We are able to achieve this level of customer service due to our experience, team environment and more than 40-year history.

### REQUESTING A QUOTE:

**Phone:** Call 1-800-787-8397 ext. 848

**Online Ordering:** Complete and submit the REQUEST A QUOTE form available on our web site  
**[www.bockandclark.com](http://www.bockandclark.com)**

**Email:** Send a request for quote to **[requestquote@bockandclark.com](mailto:requestquote@bockandclark.com)** including your contact information, project needs and any property information. Should you have a multi-site project, attach site listings, legal descriptions, etc.

**Note:** By completing and submitting the order form online or via any of the above methods, you are not placing an order. You are providing information so that Bock & Clark may prepare and provide you with a proposal for services which is **FREE** of charge. The proposal will contain the costs and timing of the services you request. Your written approval of the proposal is necessary before any cost is incurred.

### PROPOSALS:

Once we have received your project information, our Project Managers and their team will begin to prepare a quote for services. The proposal will reflect price and time parameters, outline the scope of work and address particular project requirements. We quote a “not-to-exceed” fee which does not change unless the scope of work is altered.

## Bock & Clark Due Diligence Services

Bock & Clark is your one source for ALTA Surveys, Zoning Reports, Environmental Site Assessments and Property Condition Assessments nationwide.

### ALTA SURVEYS

Bock & Clark and its National Surveyors Network coordinate the following surveying services:

- ALTA/NSPS Land Title Surveys
- ALTA Surveys with Topographic
- As-Built Surveys
- Boundary Surveys
- Aerial Overlays

We do not perform construction surveys or residential surveys. Using our own surveying offices as well as our National Surveyors Network, we can coordinate surveys in all 50 states as well as Canada and Mexico.

### ZONING

Through our zoning division, Bock & Clark can supply all of your zoning reports and letters, and any components therein nationwide and for parts of Canada. Using our experienced team, allow Bock & Clark to quote zoning services on any of the following:

- **Standard Zoning Report:** a full, industry-standard zoning report offering municipality documents and designed to meet 3.1 title endorsement requirements
- **Summary Zoning Report:** comparable to a standard report but does not offer survey comparison and conformance information
- **Executive Summary:** a one page report for projects requiring quick turnaround times, does not include supporting documents
- **ZIP Report:** provides property zoning data for land surveys, does not replace a standard zoning report
- **Zoning Letter (only):** when verification of the zoning district is all that is necessary
- **Custom Reports:** contact us for more information

*Contact us with questions or to request a quote on your next zoning project, 1-800-787-8390.*

### ENVIRONMENTAL AND ASSESSMENT

Bock & Clark supports its own environmental and assessment company, employing experienced professionals, to provide the industry with the following services:

- Phase I and Phase II Reports (ESAs)
- Property Condition Assessments (PCAs)
- PML (Probable Maximum Loss Survey)
- Asbestos Surveys and Operations & Maintenance Planning (O&Ms)
- Lead Based Paint Surveys and O&Ms
- Moisture Minimization Plan
- Radon Surveys
- ADA Studies

**EDUCATIONAL SEMINARS**

Members of our experienced staff are available to present educational seminars at your place of business, free of charge, on many topics related to commercial real estate due diligence. Attendance at these presentations can be used to train new associates, earn continuing education credits for groups or associations and keep real estate professionals informed of current industry news. Session topics include:

- ALTA/NSPS Land Title Surveys
- ALTA Survey Review
- Interpreting Legal Descriptions
- Phase I Environmental Site Assessments
- Zoning Reports

*Contact our Sales Department 1-800-787-8397 ext. 848 or your local sales representative to schedule a presentation.*

**BOCK & CLARK NEWSLETTER**

Visit our website to sign up to receive our bi-monthly newsletter dedicated to sharing current industry information.

**INTERACTIVE SURVEY & TITLE REVIEW**

When requested, Bock & Clark can provide drafts of our standard survey in an interactive format. The interactive survey delivers the survey and title documents as one file allowing the user to navigate between documents with the click of a mouse. The survey is compatible with all title organizations and requires NO additional software.

When available, the survey will also include high resolution aerial and encroachment photos current to the date provided on the photo. Bock & Clark's Interactive Survey was designed to save valuable review time. If you are interested in learning more, please contact your Bock & Clark representative, view our online tutorial or request "interactive surveys" on any of your current or future Bock & Clark projects.

**ADDITIONAL RESOURCES**

Visit our website [www.bockandclark.com](http://www.bockandclark.com) (in particular the Educational Tools & Seminars page) to find additional resources and information:

- The Bock & Clark Handbook in PDF format
- Bock & Clark Sample Survey
- Sample Zoning Reports
- Sample ESAs and PCAs
- Interactive Survey & Title Review Tutorial
- Additional information pertaining to the history of Bock & Clark, our services and contact information





## Section 5

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# NV5

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