

Land Use Regulations

Land use regulations impact how property can be developed. Multiple entities at the local, state, and federal level in the United States enact land use regulations. The objectives of these regulations range from accommodating future growth with adequate infrastructure, to ensuring a cohesive design aesthetic, to enacting safety protection measures. A site can be subject to multiple regulations imposed by different entities. Identifying and understanding the land use regulations applicable to each site is critical to the success of both the site selection project and long-term company operations.

ZONING

The most well-known and widely adopted type of land use regulation in the United States is zoning. The concept of zoning is familiar to many, but there are vast differences across the country in zoning classifications and processes. Awareness that these differences in zoning exist, and full exploration of them in the early stages of a site selection project, can alleviate pitfalls later in the process.

Zoning regulations are designed and implemented at the local level in the United States. When you pause to think about how many local jurisdictions exist in this country – counties, cities, towns, etc. – you realize that there are thousands of different zoning ordinances. While there is a significant amount of land that is regulated by zoning, not all jurisdictions utilize zoning. Even within jurisdictions that have zoning, there can sometimes be geographic areas that remain unzoned. From a site selection perspective, zoning is critically important. When a company selects a location within a zoned area, they are obligated to abide by the zoning regulations, but they also know that the usage of the surrounding properties is regulated – which provides tremendous benefit as a protection of their capital investment from incompatible surrounding land uses.

The first step in evaluating the land use regulations for each location under consideration during a site selection project is reviewing the zoning map. Looking beyond the boundaries of a site under consideration enables identification of all the zoning classifications in the area and offers insight into the surrounding land uses. Next, a thorough review of the zoning ordinance provides critical understanding of the suitability of the location for the project. Aside from the information on allowable uses, zoning ordinances often contain a myriad of other requirements for development of a property, such as height restrictions and setbacks. Keep in mind that there are no national standards for the terms “industrial,” “light industrial,” or “heavy industrial.” Broad variations in “industrial” classifications occur throughout the country, and even jurisdictions that are located adjacent to each other can have different regulations and allowable uses for areas deemed “industrial.” The zoning ordinance of each jurisdiction must be reviewed independently in order to determine the classification(s) suitable for a specific project.

Throughout a comprehensive site selection process, risks are identified. If a site is not currently zoned for the use intended by a company, that is a risk. But just how big of a risk zoning is to the project is dependent on both the type of project and the processes required for rezoning in the locations under consideration. In some locations, rezoning can be completed in less than 60 days. If parcels located adjacent to a site under consideration are already zoned for the intended use and/or a comprehensive land use plan has been adopted that identifies the area as a future development location for the intended use, those factors can help mitigate the risk associated with the need for rezoning. However, in other jurisdictions the rezoning process can take 6 to 12 months and falls outside the timeframe that companies have for completing site selection and receiving the necessary approvals to proceed with development.

COVENANTS, CONDITIONS & RESTRICTIONS

Another way that land use is regulated in the United States is through Covenants, Conditions & Restrictions (CC&Rs). The use of CC&Rs occurs in both residential and industrial developments. In many cases, the CC&Rs impose stricter regulations on items covered within the zoning ordinance and often also include topics beyond what is governed by the zoning. One



benefit that can result from having CC&Rs in place, particularly in areas where the zoning ordinance lacks specific guidance on aesthetics, is a visually appealing development with a cohesive look. Inquiring about CC&Rs early in the site selection process, and thoroughly reviewing the documents, can ensure that properties under consideration are viable candidates for a project. For example, an industrial project that requires significant outside storage needs to review both the zoning and the CC&Rs for properties under consideration to find out if either (or both) prohibit outdoor storage or place limits on storage – such as on which side(s) of the building outside storage can occur and the amount of land (either a percentage of the site acreage or an amount relative to building square footage) that can be utilized for storage. Another key topic that may appear in CC&Rs is building materials. The construction costs associated with utilizing the materials specified in some CC&Rs might exceed a project's budget, which is an important element to be aware of before a significant amount of time and money is spent conducting due diligence on the site.

OVERLAY DISTRICTS

A third type of land use regulation in the United States is Overlay Districts. These districts delineate an additional layer of development parameters beyond the base regulations that are specified within the zoning ordinance. While the previously mentioned CC&Rs are imposed by a developer, which is typically a private entity, Overlay Districts are defined and regulated by a public entity. One example of a type of Overlay District that comes into play for site selection projects is airport environs. Development surrounding airports must occur in a way that allows for safe operations. Limitations on building heights, ancillary structure heights, type of lighting, and orientation of lighting are critical for the safety of both aircraft operations and the occupants of land surrounding the airport. Locating within an Overlay District adds not only an extra layer of development parameters, but also another step for review and approval. Overlay Districts such as airport environs require approvals from a separate entity than the zoning jurisdiction, and with a separate process and timeline. There can be tremendous logistical benefits to locating within close proximity to an airport – for employee travel, customer travel, receipt of materials, and shipment of finished goods – but attention to the development regulations and approval timeframes early in the site selection process is vital to ensuring that a facility can be constructed on schedule and in a way that fulfills the project objectives.

ADDITIONAL CONSIDERATIONS

Identifying and understanding land use regulations in the form of zoning, CC&Rs, and Overlay Districts is critically important to the success of a site selection project. However, examining these regulations is only a portion of the overall due diligence that should be performed in a comprehensive location analysis. Other land use regulations may come into play when a site is in proximity to area(s) with historical and/or archaeological significance, if a portion of the site is located within a floodplain, if there are wetlands on the site, or due to the presence or habitat of threatened or endangered species. Additionally, the suitability of a location is dependent upon adequate utility infrastructure, transportation infrastructure, proximity to suppliers and customers, workforce, and cost structure. Utilizing Quest for site selection services allows you to remain focused on your core business and leverage the expertise of professionals to assist in making an informed location decision.

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