

## Accelerated ROW Process for Sidewalks FAQ's

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## **Accelerated ROW Process for Sidewalks FAQ's**

### **General FAQs**

1. What is the Accelerated ROW Process for Sidewalks?
  - a. It is a ROW process that utilizes accelerated tools (sidewalk right-of-way agreements, temporary and permanent sidewalk easement descriptions, Administrative Determinations of Values (ADV's), and simplified title research).
  
2. When is the Process Available?
  - a. The Process is available for use now on the Department's projects. New start projects (i.e., those just entering Concept Development), especially limited scope resurfacing project, will be able to take full advantage of the new process. Given the foregoing considerations, the accelerated timeframes associated with the new process, as well as the updated Concept Development and Final Design Network Diagrams, should be reflected in limited scope resurfacing projects entering the Concept Development Phase.
  
3. Can the accelerated right-of-way process be used on non-limited scope projects?
  - a. Yes, this process may be used on non-limited scope projects, where the right-of-way impacts involve ADA sidewalk work meeting the definitions of the new temporary and permanent sidewalk easements.
  
4. Can the Temporary Infeasible Form (TIF) Process still be used on a project following the new Accelerated Right-of-Way Process for Sidewalk Work?
  - a. Yes, use of the Accelerated Right-of-Way Process for Sidewalk Work does not preclude the use of the TIF Process.

### **Survey & Mapping FAQs**

1. In general, what is the level of survey mapping completed for limited scope resurfacing projects, to support, among other aspects of the project, the preparation of ROW Documents, such as IPM's for permanent sidewalk easements?
  - a. Level 3 survey mapping and supplemental survey efforts, as needed, are generally completed for resurfacing projects. For resurfacing projects, it is recommended that the Level 3 survey mapping be completed as earlier in the project development process as possible, preferably during Concept Development.
  
2. What funding sources are available for completion of a project's mapping and survey during Concept Development?
  - a. State funds could be used, as well as federal funding, either through the issuance of task orders by the Department's CADD & Survey Services Office or through the federally funded Concept Development task orders recently issued by the Department.

## ROW FAQs

1. Why not use a fee simple taking to accommodate needed ADA sidewalk work?
  - a. Completing a fee simple acquisition for ADA sidewalk work is not recommended due to a number of considerations, some of which include:
    - In accordance with NJ Administrative Code 16:38-3.1 Policies, sidewalks located within the state's public roadway right-of-way must be maintained by the adjacent property owner, except for the special circumstances listed under that code
    - Fee acquisitions can alter property setbacks, as associated with local ordinances, which may not be an outcome favored by affected property owners. Despite these considerations, the Department's Right-of-Way Division will consider a fee acquisition, to accommodate sidewalk ADA work, if that type of acquisition is requested by the affected property owner.
2. Can the accelerated right-of-way process be used on parcels involving fee acquisitions?
  - a. No, because full-blown appraisals and more thorough title research will need to be completed for parcels involving fee acquisitions. It is further anticipated that timeframes needed to acquire such parcels will follow the Department's standard acquisition timeframes, as opposed to the expedited timeframes associated with the accelerated process.
3. How will the Department handle sidewalk easements (temporary and permanent) that don't settle with affected property owners?
  - a. For sidewalk easements that do not settle within 60 days (three months, using working days), a full appraisal must be completed, to replace ADV's completed for those easements. A full title search for such easements also must be completed to replace the limited search initially completed for them. These steps must be taken so that these easements can advance to condemnation if needed. Given the foregoing considerations, additional time will be needed to secure easements that do not settle within 60 days. This additional time may extend the duration of acquiring such easements to be on the order of standard timeframes associated with the Department's right-of-way acquisition process.
4. Does the preparation of Individual Parcel Maps (IPM's) have to be on the critical path of a project's schedule?
  - a. No, especially for temporary sidewalk parcels for which existing as-built plans, aerial mapping, and/or tax maps are available. Since temporary parcels do not have to be filed, their IPM's do not have to be certified by a professional surveyor. The IPM's for temporary sidewalk parcels also can be kept off the critical path of the project's schedule, by completing these parcels as advanced acquisitions. Through advanced acquisition the IPM's for these parcels can be completed, and their acquisition advanced ahead of other parcels, such as permanent sidewalk parcels and non-sidewalk parcels.
5. Do temporary sidewalk parcels appear on the Entire Tract Maps (ETM's) and General Property Parcel Maps (GPPM's) completed for our projects?
  - a. No, temporary sidewalk parcels are not to be included in ETM's and GPPM's; permanent sidewalk parcels do need to be shown on ETM's and GPPM's.

6. What are the recommended strategies for accessing Green Acres properties and railroad properties to complete sidewalk work needed to comply with ADA requirements?
  - a. For both Green Acres and railroad properties, it is recommended that access for such work is obtained through either: (1) a temporary access right (good for up to 2 years) for Green Acres properties; and, (2) a temporary access right, such as obtaining a license from the involved railroad company. These strategies tend to limit the cost and time that may be associated with obtaining permanent access rights, such as permanent sidewalk easements, with these entities.
  
7. For temporary and permanent sidewalk easements involving the same Block and Lot, should those easements be kept separate or just one permanent easement be acquired, for simplicity, to cover all of the proposed sidewalk work?
  - a. The recommendation is to keep the temporary and permanent sidewalk easements separated, since that approach will help to limit the extra work, such as supplemental survey efforts, associated with the right-of-way mapping needed for permanent sidewalk easements.
  
8. Does the roadway baseline always have to be shown on Individual Parcel Maps (IPM's)?
  - a. No, however an existing right-of-way line always will be shown on IPM's, based on the best available information, which could include existing as-builts, aerial mapping and/or tax maps.
  
9. Can the new sidewalk right-of-way agreements and descriptions, covering temporary and permanent sidewalk easements, be used to address adjustments in existing driveways when such adjustments are needed to accommodate ADA sidewalk work?
  - a. Yes, language can be included in the right-of-way documents prepared for temporary and permanent sidewalk easements that covers adjustments needed for existing driveways to accommodate ADA sidewalk work.
  
10. Can Administrative Determinations of Values (ADV's) be used on both temporary and permanent sidewalk easements?
  - a. Yes, ADV's can be used on both temporary and permanent sidewalk easements, so long as the property value in question does not exceed the \$25,000.00 ceiling placed on the use of ADV's.
  
11. In addition to the \$25,000 ceiling, are there other considerations influencing the applicability of the use of Administrative Determinations of Value (ADV's)?
  - a. Yes, even when a ROW parcel is valued at less than \$25,000 other considerations may arise that make use of an ADV not practical or appropriate, such as:
    - If the parcel is affecting existing vehicular parking, a full appraisal is appropriate since a Cost-to-Cure Report may be required to mitigate the parking impacts.
    - When the parcel has a history of significant environmental contamination, there is a greater likelihood for encountering complications and extended durations in settling the parcel with the affected property owner.
    - When the affected property owner is not interested in pursuing negotiations with the Department, to settle on the ROW parcel, a full appraisal will be needed to support the condemnation process.
  
12. Who can complete Administrative Determinations of Values (ADV's)?
  - a. For the Department's capital projects, the Team Leaders at the Right-of-Way District Offices can complete ADV's. For Local Aid Projects, a tax assessor or purchaser of real estate associated with the involved municipality can complete ADV's.

13. Do traffic signal upgrades to accommodate ADA requirements, such as pedestrian push buttons and count-down displays, fall under the new sidewalk easements associated with the Accelerated Right-of-Way Process?
  - a. No, the new sidewalk easements do not cover traffic signal equipment that needs to be placed outside of existing public roadway right-of-way. The right-of-way acquisition for placing traffic signal equipment outside of existing roadway right-of-way must follow the existing right-of-way process, including the use of the proper right-of-way parcel type and description, as found needed by the Right-of-Way Engineering Office based on that office's review of specific project circumstances.
14. Can the accelerated right-of-way process be used for ADA sidewalk work that involves parcels with documented environmental contamination?
  - a. Yes, however the simplified sidewalk right-of-way agreement should be modified to include the more complicated environmental clauses recommended for such parcels.
15. Will a new curb ramp, located outside the exiting roadway right-of-way need a temporary or permanent sidewalk easement?
  - a. A permanent sidewalk easement should be used for the construction of a new curb ramp, outside the existing roadway right-of-way; given the more complex design associated with the curb ramp, it is recommended that the Department maintain the ramp in the future, as opposed to having the property owner be responsible for the ramp's future maintenance as would be indicated if only a temporary sidewalk easement was obtained.
16. For Limited Scope Resurfacing Projects, for which only a few sidewalk parcels are outstanding, will Right-of-Way (ROW) Waivers (i.e., allowing the project to advance to construction with ROW availability dates in the project's specifications), be granted?
  - a. Obtaining all of the needed ROW parcels during the design phase is encouraged on Limited Scope Resurfacing Projects; however, the Department's Division of Right-of-Way and Access Management, will entertain the issuance of ROW Waivers on these projects, on a case-by-case basis, given the time constraints associated with these resurfacing projects. In support of such waivers, the project designer will need to confirm that the project can be effectively and efficiently staged in a manner that avoids the outstanding right-of-way, until the anticipated time frame for acquiring the needed right-of-way.