Right Of Way
Design Guidelines

2012

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1.0 Introduction

The information presented in this document shall serve as reference and intends to promote thinking, creativity, and flexibility in determining the need to acquire properties for a project as well as to produce quality ROW Plans and Documents. The Designers should adhere to these guidelines.

The information in this manual supplements the corresponding information in the Right Of Way Engineering Manual.

Right of Way Engineering is the integration of sound engineering and transportation improvements with existing commercial and residential development and the surrounding community taking into account future smart growth, so that the community functions effectively with the transportation network.

Impact upon property owners and occupants is no longer to be considered a "Right of Way Issue" but is to be handled as a "Design Issue" in concert with the Division of Right of Way and Access Management.

1.1 Innovation is Encouraged

Thinking outside of the box and being innovative is encouraged so long as neither the Designer nor the Department is arbitrary or capricious or does something that would result in unreasonable harm to others. Consideration of vehicle usage, pedestrian usage, the environment and the surrounding community must be weighed during the design process.

1.2 ROW Lines May Have Curves; Parcels Can Exceed the Neat Lines of a Planned Transportation Infrastructure

The Right of Way line can be set to exclude the acquisition of a particular property because of its historic importance or because it renders a necessary social, educational, governmental or environmental service to the community or because its acquisition will have severe impact on the economic viability of the property or result in disproportionate acquisition costs. The Designer, however, should consult with the Project Manager and afford the Department the ability to limit the range of acquisitions required for a particular project. The intent is not to necessarily reduce the size of an acquisition, but to reduce the overall number of takings or reduce it to such a degree that the scope of damages to the remaining property (remainder) is minimized to the greatest extent practical. The goal is thus twofold:

1. To reduce the number of takings to what is reasonably practical and does not interfere with the effectiveness of the overall intended project.
2. To limit damages that may be suffered by the remainder of a property due to a partial acquisition. If it is determined that a partial acquisition is necessary, the designer should consider the need for flexibility and any feasible option to reduce the impact of the acquisition. It may be necessary to increase the area of a planned acquisition to accommodate changes that may occur during design phases or to allow for the required construction or to rectify damages that are severe. If that is the case, it is sometimes more economical for the Department to acquire the entire property and to promote relocation of the owner rather than to attempt to mitigate prospective damages.

2.0 Right of Way Report

The Right of Way Line is not to be set in a mechanical way, but is to be determined with careful thought and consideration. The report, which is to be submitted by the designer at the initial ROW kickoff meeting, is intended to reflect such "careful thought and consideration." The underlying premise is that the designer shall first attempt to utilize only the existing Right of Way. Only after concluding that the intended scope and goals of the transportation infrastructure improvement Project cannot be accommodated within the existing Right of Way should the acquisition of additional parcels be considered. The Right of Way Report shall include a narrative that reflects such an examination and the conclusion.

2.1 Factors to Be Considered By All Designs

Preparation of a "Right of Way Report" should incorporate the following:

- Innovation in designing the ROW. Innovative steps considered should be outlined and an explanation included as to why they were incorporated or not.
- Minimization of the overall number of Right of Way acquisitions and not necessarily the area of a particular right of way parcel but the overall number of parcels and owners involved. Also minimize, where practicable, the overall impact to a remainder in the case of each partial acquisition; explain parcel by parcel where applicable steps have been taken to comply
- Consideration of cost savings factors given restraints of available funds and limitations by reason of existing conditions. Describe cost savings factors implemented or considered, and an explanation included as to why they were incorporated or not.
- Determination of who the stakeholders are besides motorized vehicles and weigh various interests, including social, economical, environmental and safety factors. Determine the effect on future development and the environment and future right of way needs as well as the need for flexibility during construction. Set forth determinations as it applies to each of the above categories and explain considerations undertaken.
- Determination of alternate design considerations that may need to be implemented as part of a Transportation Project in order for remaining private properties to function efficiently and effectively, under the surrounding circumstances. The overall design or particular aspects of the design may be altered or adjusted in order to allow existing communities to continue to function as intended and to allow growth and improvement.
- Consideration of what may actually be done or carried out as part of the Project and construction work in the field in order to mitigate impacts to adjacent and surrounding properties; outline and discuss mitigations steps considered and incorporated into the Project. In such cases, site mitigation parcels may have to be added to the temporary Right of Way Acquisitions
- Justification for every right of way acquisition that is needed to accomplish the project, and why it is required and cannot be eliminated.

A "Right of Way Report" should be issued for each project as outlined above and become the vehicle used by the Department to set the Right of Way limits for a particular project beyond those which exist. Again, right of way lines do not have to be straight and consistent throughout but may vary so as to accommodate existing development or address historical or environmental concerns where the Department concludes it is

appropriate under the circumstances within its discretion. The setting of a right of way line should not be mechanical but should be thoughtful and deliberate.

Additional land to provide access or to mitigate damages may need to be acquired after consultation with the Division of ROW and the Division of Law. Fee parcels or easements may be acquired to provide alternate access (PE) or to replace lost parking or land area or to allow a property to still function. These costs to cure can only be carried out in conjunction with ROW under legal guidance in accord with the Supreme Court opinion rendered in the State by the Commissioner of Transportation v Weiswasser.

3.0 ROW Design Development Meetings

This section supplements Section 3 and 4 of the ROW Engineering Manual.

Dissemination of information and communication between all stakeholders and team members is an essential and an integral part of the successful project delivery process. Informed Team Members make informed decisions and earn credibility with outside customers. There are two proposed meetings to be held at critical milestones of ROW plan development. These meetings will enable the Designer to incorporate all pertinent feedback from ROW Subject Matter Experts (SME) and Access Design SMEs and to make adjustment to construction plans and documents more efficiently and without impact on the project's schedule.

3.1 Row Kick-Off Meeting

The ROW Kick-Off Meeting shall be held after the completion of the ROW Report and after the start of the ROW Impact Plan. At this meeting the ROW Report (see Section 2), will be presented and will describe all proposed ROW impacts. The Project Manager will schedule the meeting and invite the listed attendees below. The ROW Engineering Unit will run the meeting.

Attendees shall include:

- ROW Engineering unit
- Technical Support Unit
- Office of Access Design (OAD)
- ROW District Office Representative
- Design Consultant Representative(s)
- Title Unit or Title Company Representative
- Surveyor
- Division of Project Management Project Manager
- NJDOT Environmental staff

The Project Manager will ensure that the following presentation material is available at the time of the meeting:

- Most recent construction plans with proposed geometry, preliminary drainage and preliminary utility impacts
- Aerial plan covering the proposed work area
- The current ROW impact plan in hard copy and a PDF

The ROW Engineering Unit will supply the Designer with sample documents (if requested), map quotes and potential parcel numbers.

The Designer will record the minutes of the meeting and distribute them to all attendees.

3.2 ROW Acquisition Kickoff Meeting

This meeting will be held after the Pre-Final ROW Submission and before the Final ROW Submission. This meeting shall be requested by the Project Manager. The ROW District will be the lead for inviting the appropriate SME's at the Project Manager's request for the District Kickoff meeting. This meeting will allow the ROW acquisition team to become familiarized with each parcel.

Attendees could include:

- Technical Support Unit
- ROW Engineering
- OAD
- Design Consultant
- DAG
- Potential Appraiser

Presentation materials shall be transmitted to the District prior to the meeting and should include the following:

- PDFs of the Individual Parcel Maps (IPM)
- The latest Construction Plans
- The latest Access Cutouts
- Aerial Plan of the subject area in PDF
- Comment Resolution Summary from the Preliminary ROW Plans and Document submission

Communications between Project Manager, Designer and Division of ROW and Access Management need to be ongoing and not limited to the above mentioned meetings.

4.0 Title Search/Deed Abstract

Historical data shows that the quality of ROW plans is compromised when title search is limited to the last deed. The last deed may not always reflect all easements and encumbrances on the impacted properties and therefore, delay the ROW acquisition process.

A full minimum 60 year or more deed search should reveal all pertinent title information and improve the information depicted on ROW plans. The information will be used in determining impact and the value of the proposed impact on the property more accurately. This will minimize errors and delays in the ROW acquisition process.

The Title Search/Deed Abstract shall be completed prior to the commencement of preparation of the ROW Plans and Documents.

The ROW Closing Bureau Manager will determine if the Title Search/Deed Abstract will be conducted by the In-House Title Unit or an Independent Title Company during the Preliminary Engineering phase. This determination will then be identified in the Project's Scope Statement.

If the work will be conducted by an independent company, the Designer will be responsible for hiring a Title Company in coordination with the In-House Title Unit by a price comparison method. The Scope of Work for the Title Company will then be provided by the In-House Title Unit to the Project Manager.

4.1 In-House Title Unit

If the Title Search/Deed Abstract is to be performed by the In-House Title Unit, a Title Summary Document, as shown on Attachment 1, will be provided to the Project Manager at the start of the Final Design phase.

4.3 Full Title Search

Upon transmittal of final plans to the ROW Division, a full Title Search, including the records of deeds, mortgages and liens will be completed. Full details are found in section 4.3 of the ROW Acquisition Manual.

4.2 By Others, an Independent Title Company

The Scope of Work will be developed in collaboration with the Project Manager and the In-House Title Unit for each project separately, depending on the project's specific characteristics and the nature of the proposed ROW impacts.

The Designer will be accountable for the contracting of the Title Company, and the accuracy and timeliness of the Title Company's work. The Title Summary Document, as shown in Attachment 1, shall also be provided to the Project Manager at the start of the Final Design phase. Close coordination with the In-House Title Unit shall be maintained.

5.0 ROW Submissions Requirements

The ROW Submission requirements for all phases of the ROW process can be found in Sections 3 and 4 and attachment N of the ROW Engineering Manual. Attachment N lists the numbers of copies of each document required for all units. A submission package will be considered incomplete if any of the items mentioned in attachment N are missing. If there is an incomplete Final ROW Submission, the start time assigned to the ROW Division to complete ROW acquisitions for the project will be pushed back until the missing items are submitted.

5.1 Comment Resolution Summary

In an effort to ensure that all comments are addressed and revisions incorporated on the Pre-Final and Final ROW plans the Designer shall prepare a ROW Comment Resolution Summary (CRS) after the ROW Plans and Documents and the Pre-Final ROW submissions. The CRS shall be submitted to ROW Engineering (ROWE) in memorandum form with each comment and the reviewer's unit listed. All comments will be addressed with each review unit giving a concurrence or an objection to responses to each of their comments. When there is an objection to a response, the Designer will resolve the issue with the commenting unit and ROWE. The Manager of ROW Engineering and Access Design will then approve the CRS before the next ROW submission and ROWE will distribute the approved CRS to the units that provided the comments.

5.2 Project Commitments

All project commitment letters or memorandums that involve local municipalities, Landscape, ROW, Access, Construction and Environmental or other agencies or groups will be attached to the ROW Plans and Documents Submission package letter. If project commitments change after this submission, new commitment letters or memorandums will be attached to subsequent submission package letters.

5.3 Access Status

A memorandum from the Office of Access Design (OAD), that lists the status of all access cases including a list of the Lot Owner Access Concurrence and Lot Owner Lease Agreement forms that were signed, along with a copy of each cutout and a copy of all final or conclusion letters will be submitted to ROW Project Coordination at the Final ROW Submission. See Section 7 for more information on these forms.

6.0 Design Aspects that Effect ROW Acquisitions

The following section of the Guidelines provides instructions to the ROW Designer with respect to consideration of aspects of ROW Engineering that will improve the quality of the plans. The purpose of these instructions is to lower acquisition costs by describing ways to reduce or eliminate ROW impacts.

Often Designers are "over designing" projects with regards to ROW impacts. There are misconceptions, such as assuming the ROW width must be uniform throughout the project; this causes the Designers to submit plans with unnecessary ROW acquisitions. The following instructions emphasize ways for the designer to be flexible with their design. This would include both horizontal and vertical designs. The Roadway Design Manual shall be utilized as a guide as well. For example, when using slope ratios found in the Manual, the Designer can deviate from the examples, especially when the height of the slope is minimal. This is further described below. As with the Roadway Design Manual, the ROW Engineering Manual is also a guide. Often there are unique situations which are not covered in either manual. In those cases good engineering judgment and consultation with a ROW Subject Matter Expert should prevail over the written word.

6.1 Treatment of Slopes

6.1.1 Eliminate Small Slope Easements

Slope easements of two feet wide or less should be avoided. Usually the slope can be moved in toward the existing or proposed ROW without reducing the preferred 2:1 ratio significantly. If moving the slope is not possible, moving the proposed right of way (ROW) to cover the slope is the next best option. In other words, for example, a ten foot wide border is generally better than an eight foot wide border with a two foot wide slope. Since one right is acquired instead of two, this simplifies the acquisition process. However, if a wider taking significantly increases damages to the remainder, such as reducing the building set back to less than the minimum required, the slope easement should remain.

6.1.2 Slope Ratio

The slope ratio may be reduced from 2:1 to 1.5:1 to 1:1 to minimize ROW impacts. Consider maintenance issues on the reduced slope. Rip rap may be needed on a steeper slope instead of grass. Consult with Landscape and/or Geotechnical Engineering for any slope design changes. Also, minimize the use of 4:1 to 6:1 slopes. If they do not support the highway, a temporary grading easement could be used. One should be careful to take into account that steep slopes may impact damages to the remainder and should be avoided near residential development, schools, or where children or elderly may pass; where a steep slope is utilized, appropriate protection from falls by nearby pedestrians should be considered.

6.1.3 Slope Easements Not Required for Slopes Under Four (4) Inches

Slopes under this height do not support the highway. It is not practical to run out a slope at that height or lower. Also, a steeper ratio at that height will not adversely affect the support of the highway. If a sidewalk or parking lot is involved, curb may be used.

6.1.4 Cost of Retaining Walls or Curb Versus Slope Impacts

Consideration shall be made in using retaining walls, landscape walls, or vertical curb versus slope when designing highway borders. This is because slope easements may be quite expensive especially in north and central New Jersey commercial markets as well as along the coast. Often it is perceived that a wall will be too expensive to construct and/or maintain. In reality the acquisition costs or the damages awarded to an owner (amount paid the owner and the administrative costs) may significantly exceed the additional construction costs of erecting a wall in comparison to construction and maintenance of a slope. A cost benefit analysis needs be carried out where a slope is to be placed on commercial property in central or northern regions or along the shore in consultation with the Department in order to determine whether the substitution of a slope with a wall is in fact the least expensive alternative.

6.2 Driveway Treatment

6.2.1 Highway Profile Grade

When there are changes in the vertical profile, adjoining driveways need to be graded. The associated work on these driveways will be covered by a Temporary Site Mitigation Work (Access) area (TSMWA) (note: see section 7.3 for explanation of this term). When driveway grading impacts the property, OAD will attempt to gain a Lot Owner Access Concurrence (LOAC) and a Lot Owner Lease Agreement as described in Section 7. If the owner signs the LOAC and the LOLA, the TSMWA easement will not be necessary. Also, overlap of driveway area and slope should be noted and labeled.

6.2.2 Minimum or Maximum Grade Criteria

When designing a driveway profile, consider whether the vehicle will "bottom out" on any part of the driveway. The maximum and minimum grades can be found in the NJ State Highway Access Management Code, Section 16:47-3.8, Fig 1. The maximum or minimum grade should be adjusted slightly if the safety of the driveway is not compromised. A compound profile may be used. Also, if the elevation difference of the proposed roadway and driveway is six inches or less, the maximum and minimum grades should not apply. The six inch or less difference can be run out in a shorter distance without affecting the vehicle traveling across the driveway. The grading should be limited to the existing ROW.

6.3 Site Parcels

6.3.1 Signs with Footings

Relocation of private signs that are supported by greater than one-foot by one-foot and three feet deep footings should be avoided unless absolutely necessary. These types of signs include, but are not limited to, one or two pole aerial signs, ground level signs, or billboard signs. The ROW line and slope easement line can be flexible and jog around the base of the signs. An example would be reducing the ROW from ten feet to seven feet for a short distance near the sign with the proposed lines being at 90º angles. Also, if possible, even the footing of the proposed sign should be outside the proposed ROW. ROW Engineering shall be consulted for input when determining if a private sign needs to be moved. If any sign or other structure must be moved, ROW could pay the owner to move their sign. If the State's contractor moves the sign, a temporary site mitigation work area will be used.

6.3.2 Drainage Structures on Private Properties

At times the drainage flow on private properties may be adversely affected due to the proposed work. The mitigation of potential damages may include construction of inlets or

other drainage structures on these properties. A temporary site mitigation easement shall be used instead of a drainage easement. Where the capacity of the State drainage system permits drainage of the private property, a clause will be added to the description regarding the acceptance of private runoff water into the State system, as shown on Attachment 2 and section 9.4, D, 17) of the ROWE manual. This clause could include provisions for changes to existing drainage basins. The property owners will be responsible for maintenance of these structures, unless the structure failure will affect the structural integrity of nearby infrastructure. In that case, other easements can be considered.

6.3.3 Limits of Work

When there is a mitigation site area intended to benefit an owner by reducing damages and not needed to construct the project highway, a temporary site mitigation area should be utilized and clearly depicted as being approximate. The easement should not be set off the baseline, therefore rough dimensions indicating the size of the easement should be used instead of stations and offsets. The work area should be a closed area. Easement lines will generally intersect with existing or proposed ROW or property lines. See Attachment 3 for an example. Also, in order to minimize damage or interference to ongoing use of private property, a staging plan should be devised to be followed by the contractor, especially as to large commercial properties and in areas of needed parking and along store fronts where vehicular and pedestrian access to ongoing businesses could be affected.

6.4 Sight Triangles and Clear Zone Easements

6.4.1 Sight Distance Should Not Be Overlooked in the Design

Sight triangle easements should be considered when there are no other ROW takings in the area. The first option usually is to change the geometry; but if that is not practical, consider sight triangle easements on corners and the infield of curves.

6.4.2 Sight Triangle Easements or Clear Zone Easements are Preferred in Lieu of Fee Takes

Sight triangle easements should be used in place of fee acquisitions when the reason for the taking is for line of sight only. This prevents the owner from constructing or planting anything that would restrict a driver’s line of sight. If there is a clear zone requirement, such as the area behind a guide rail BCT, a clear zone easement should also be considered instead of a fee take. However, a regular or aerial utility easement may be used in combination with a sight triangle or clear zone easement. When determining what type of easement to use, it is important to consider all design factors including, but not limited to, traffic signal structures, proposed signs, highway lighting, and all utilities.

6.5 ROW Width Can be Flexible

6.5.1 Consider Selecting ROW Width During the Scoping Process

Ideally the border width should be selected during the scoping process. Utility relocations, preliminary drainage design, sidewalks, etc., should be considered. If they are not considered before the project reaches design, major and costly changes to the roadway design and ROW may be discovered.

6.5.2 No Minimum ROW Width

When determining the ROW width, there are no stipulations for a minimum ROW width for state, county, or local roads. The designer should consider existing and proposed facilities along the highway before determining the border width. For example, a sidewalk width

may vary based on the existing conditions and does not need to be parallel to the curb. Poles or other utilities may be the main factor in determining the width. Always consider design speed and the required clear zone. Also, if the highway has no facilities and no clear zone issues and the acquisition needs to be minimized, the ROW line could be set on the curb line. If the ROW does not need to be minimized for facilities or any other economic issues, then standard borders (usually 10 or 15 feet) from the Roadway Design Manual should be used.

6.5.3 Uniform Width Not Required

The roadway ROW does not have to be a uniform width. The line can jog in and out in order to avoid buildings, signs, parking lots and other existing highway features.

6.6 Minimum Size of Acquisitions

A fee parcel should generally be no less than 200 square feet. An easement may be considered in lieu of fee take if necessary. Exceptions would include, but not be limited to, if a fixed structure, such as a bridge abutment a utility pole or a traffic signal, must be just across the property line or a utility must be moved at a significant cost. Slopes may be steeper then 2:1 for a short area to eliminate or reduce an unnecessary parcel. Also, every effort should also be made to eliminate parcels between 200 and 500 square feet. Such parcels can be expensive to acquire administratively. They can also be the cause of damages to the remainder requiring compensation to be paid in addition to value of the land acquired. Many times such parcels are not essential to the design. It is important that such parcels are not included in the initial design. Subsequent elimination still often times requires significant expenditures for negotiations and appraisals. Every effort should be expended to eliminate unneeded small parcels. Site triangles easements should be considered as an alternative if necessary (See 6.4).

6.7 Utilities

6.7.1 Consider the Cost of Utility Relocation before Finalizing the Design

In order to minimize the acquisition of utility easements, it is important to consider the feasibility and cost of the project in relation to the ROW cost. A different design may have to be considered if this cost is significant when compared to the construction cost.

6.7.2 Consider Aerial and Subsurface Utilities before Establishing the ROW Line

Several utilities can share one easement. Some examples would be water, gas, cable, electric, etc. It may cost less to acquire more ROW than to move all or certain utilities. Also, if aerial utilities conflict with a private sign, it is usually less expensive to move the sign.

6.7.3 Utility Poles May be Placed in Utility Easements

It is desirable to keep utility poles within the ROW. However, a utility easement may be used when a fee parcel is deemed too costly or not feasible for other reasons. For example, use an easement when a utility pole might be placed on private property other than the frontage.

6.7.4 Guy Wire Easements

Guy wire easements should be developed when the need and location for guy wires is definitive (i.e., highway crossing) and a direct result of impacts from the project. However, the acquisition of guy wire easements is not recommended in cases where their locations are subject to change in construction. Use a UE parcel to acquire the rights to construct the guy wire.

6.8 Areas of Overlap

Whenever a permanent easement overlaps (within the same space) another permanent easement, the area of the overlap should be labeled and described on GPPMs and IPMs as shown in Attachment 3.

7.0 Access Management and Treatment

During Preliminary Engineering and initiation of access processes, communication among the Project Manager, the Office of Access Design (OAD) and the ROW Technical Support Unit needs to be ongoing in order to achieve the following:

- Minimizing schedule and budget on Access Design and alteration processes.
- Providing reasonable alternative access points.
- Minimizing schedule and budget on ROW acquisition for the project.
- Identifying and separating site impacts due to access alterations or project issues or ROW acquisitions.

This section addresses the site impacts beyond the State ROW line due to access alterations. It includes the guidelines that clarify and/or minimize the ROW acquisition which result from access alterations.

7.1 Driveway Profiles

Profiles of driveways shall be designed as stated in New Jersey State Highway Access Management Code NJAC 16:47-3.8 (I), Driveway profile controls.

- Desirable driveway grade is 8 % or less for commercial and 15 % or less for others.
- Maximum driveway grade is 4 % or less within 25 feet of curb line for driveways.
- Consider compound grades to minimize the limit of work on proposed driveways and site impacts.
- Consider flexible design approach for cross slopes of shoulders and sidewalks to minimize the limit of work on proposed driveways and site impacts. However, ADA standards must still be followed.

7.2 Lot Owner Access Concurrence (LOAC), Lot Owner Lease Agreement (LOLA) and Site Parcels

A LOAC is a form that OAD attempts to have the lot owner sign if the owner agrees to the proposed access alterations and a LOLA is a form the owner signs if he agrees to have the contractor enter his property for an administratively determined payment to construct the access alterations. A site parcel or easement is used if a lease agreement is not executed. OAD contacts the owner and presents these forms, along with an access cutout during the Administration of Access Alterations activity.

- If limits of proposed driveways or access related alterations are within the existing and/or proposed ROW line and the driveway(s) is replaced in kind or adjusted without an impact to the site, then there is no need to obtain the LOAC or LOLA from the lot owner. A cutout with an explanatory letter for the proposed driveway work may be sent to the owner.
- If limits of proposed driveways or access related alterations are within the existing and/or proposed ROW line, and the driveway(s) is adjusted with site impacts or modified or revoked, OAD attempts to obtain the LOAC from the lot owner. A LOLA is not needed.
- If limits of proposed driveways or access related alterations are beyond the existing and/or proposed ROW line, then show a short dashed line at an approximate 5’

additional distance beyond the physical limits of the proposed driveway work and label this line "Temporary Site Mitigation Work" (Access) [TSMWA] (note: see section 7.3 for an explanation of this term) during the preparation of access cutouts (ACO) and ROW plans.

- OAD then attempts to obtain the LOAC and the LOLA from the lot owner.
- OAD will make every possible attempt (phone/E-mail, site meetings with owner, etc.) to get the LOAC and the LOLA form signed by the lot owner.
- If the lot owner refuses or ignores to sign these forms, OAD will inform the ROW Office and the Project Manager. If a lease agreement is not reached the Project Manager and ROWE shall instruct the Designer to update the Individual Parcel Maps (IPM) and General Property Parcel Maps (GPPM) by creating "SA" parcels or easements to get the right within the site mitigation area to perform all access work.
- OAD will send signed LOLAs via form RE-27 to the Director of the Division of ROW for his signature and execution. After the LOLA is executed OAD will send the property owner's W-9 and payment voucher forms to complete. They will be used by ROW to process the payments.

7.3 Temporary Site Mitigation Work (Access) [TSMWA]

It is important to note and adhere to the following; when a driveway needs to be modified, eliminated, adjusted, or changed whether due to implementation of the access code or project, ROW or other issues, the term used is "Temporary Site Mitigation Work (Access)" [TSMWA]. The term "Temporary Site Mitigation Work" without the word access in parenthesis will apply only to mitigation work on private property unrelated to access.

7.4 Access Impact Assistance (AIA) Report

Traditionally, a Non Real Estate Engineering (NRE) report has been prepared during the ROW acquisition process to assess the site impacts and to identify the mitigation measures for all site impacts that may have resulted from ROW acquisitions or from access alterations. However, all site impacts resulting from the access alterations will now be separated from those site impacts resulting from the ROW acquisitions. The Designer shall investigate and analyze the access alteration related site impacts for each impacted property during the preparation of Access Cutouts.

Typically, lot owners may be impacted through the access alteration work as a result of any capital improvement project. For example, access alteration related site impacts can be, but are not limited to, the following:

- Loss in approved /non-encroaching parking stalls
- Internal circulation for passenger cars
- Internal circulation for delivery trucks
- Internal concrete islands
- Business signs and lights
- Goods delivery loading docks
- Drive through circulations
- Parking attendant booths
- Temporary impact to daily business operation during construction
- Vehicular and pedestrian conflicts

The Department shall provide all necessary assistance to the lot owner in the establishment of the alternative access (proposed access points) for all revocation and some complex modification and adjustment cases on all commercial and industrial

properties as per the New Jersey State Highway Management Code. If necessary, assistance items are in order for any property, then a detailed Access Impact Assistance (AIA) report needs to be prepared by the Designer or an independent consultant. The Project Manager and OAD will make the final decision on the need for the AIA reports and the preparer of the report.

The AIA report shall include the justifications and mitigation measures only for the reasonableness of alternative access points for the property. All other mitigation measures as part of the ROW acquisition shall be included in the NRE report. Refer to the most current version of the "Access Design Guidelines" for the format of the AIA report.

8.0 Projects With Possible NJDEP Involvement

Since the acquisition of any right from the NJDEP (including their units such as Green Acres, Tidelands, etc.) is a time consuming and labor intensive activity, it is critical that all aspects of possible acquisitions are carefully considered. The need to properly identify parcels with NJDEP outright ownership is paramount. It is the responsibility of the Designer to clearly identify these issues as early as possible. The Designer is to coordinate with ROW, the Project Manager, and possibly the Division of Law whenever NJDEP issues arise. It should be noted that where the claim area being asserted by the Tidelands Resource Council is no longer flowed by the tides, it should not be identified as a T (Tidelands) parcel. Instead, the area should be included under the deed description to the property and identified as being claimed by the Tidelands Resource Council; the area of the claim should be provided so as to allow the appraiser of the property to break out a separate value for the area claimed by the Tidelands Resource Council.

1. It is a requirement that the Designer follow Section 9 of the ROWE Manual which details the steps needed regarding riparian parcels.
2. The Designer should consider that anytime an acquisition impacts property owned by NJDEP, regardless of the nature of the parcel, a significant schedule and cost impact is likely.
3. The Designer should anticipate that any acquisition of publicly owned parkland or open space will have Green Acres impacts. This is true even in urban areas. To be safe, any acquisition from a local government or agency, regardless of use, should be checked to ensure that there is no Green Acres involvement.
4. All formally flowed tidelands must be identified as per Section 9.2.3 of the ROWE manual. All existing Grants/Licenses must be identified.
5. The Tidelands Grant application should only be prepared when a permanent right is being acquired. If only a temporary right is needed, only a license is required.
6. Distinguish between the License and/or Grant to minimize the time frame for a license.
7. All descriptions should include as many rights as possible. The right to enter, maintain, flow water, construct, install utilities, etc. should be included in the descriptions for Riparian Parcels.
8. Tidelands requires an actual metes and bounds description with a point of beginning (POB) based on NJ Plane Coordinates for all grant areas.

8.1 Environmental Guidelines

- Parcels on the IPMs should not be labeled as "environmentally sensitive." These parcels will be listed on the project excel spreadsheet (See 9.2.3 in the ROWE manual).

- Focus on identification and documentation of Tidelands, Formally Flowed Tidelands, Green Acres Parcels, Wetlands, and other environmentally sensitive areas. Do not list contaminated sites.
- Include a record of meetings with the DEP regarding the above as part of the project file.
- NJDOT representatives from ROW, Project Management and Environmental Solutions should be in attendance at any meeting with DEP or other state agencies when discussing ROW issues.

9.0 Conclusion

Setting of the right of way is the sole discretion of the Department of Transportation.

The above guidelines are not intended to limit or to vest adjoining property owners with rights they otherwise do not currently possess, in regards to the setting of new or revised right of way lines or the range of acquisitions. These guidelines are established to balance the Department's limited availability of capital funds and the need to provide essential infrastructure improvements which allow for safe and convenient travel throughout this State.

Flexibility in carrying out highway design is a recognized engineering principal that should be utilized in establishment of a new or expanded right of way.

The Designer is to weigh competing demands of various users, e.g., motorized vehicles, pedestrians and bicyclists, with those of adjacent property owners, occupants and the community at large. Conversations and discussions are to occur between Project Management and Right of Way (engineers and negotiators as well as access representatives) along with the Design Engineer in developing the scope of the Right of Way limits. Ultimate resolution lies with the Commissioner of Transportation. The goals are to reduce the number of parcels to be acquired, to mitigate damages to remaining lands where appropriate and to allow the community to properly function with the new or improved infrastructure. The design of a facility should reflect the various elements of the procedures and concerns described above.

10.0 Attachments

10.1 Attachment 1

Preliminary Report

Route: Section: County: Municipality:

Parcel: Block: Lot:

Record Owner:

Deed Book: Page: ☐ Copy Attached

OUTSTANDING RIGHTS AFFECTING PREMISES IN QUESTION:

Type of Interest: Deed Book: Page: ☐ Copy Attached

Party in Interest:

Remarks:

Type of Interest: Deed Book: Page: ☐ Copy Attached

Party in Interest:

Remarks:

Type of Interest: Deed Book: Page: ☐ Copy Attached

Party in Interest:

Remarks:

Type of Interest: Deed Book: Page: ☐ Copy Attached

10.2 Attachment 2

Except however, reserving to the owner, or its assigns, the right to discharge storm water from the remaining lands of the owner into the State's storm drainage system installed along Route _____. The property owner will be responsible for meeting all prevailing State rules and regulations pertaining to water quality and storm water management of surface runoff for the remaining lands should the impervious area be increased or if the existing drainage system upon the remaining lands is modified in any way. The property owner shall be responsible for providing all necessary measures to prevent soil erosion or sedimentation in runoff toward the State's drainage system during any construction activities on the remaining lands, regardless of the need for certification of such measures by the local soil conversation district. The property owner will be responsible for the maintenance of the drainage system on the remaining lands up to the Proposed Right of Way Line.

10.3 Attachment 3