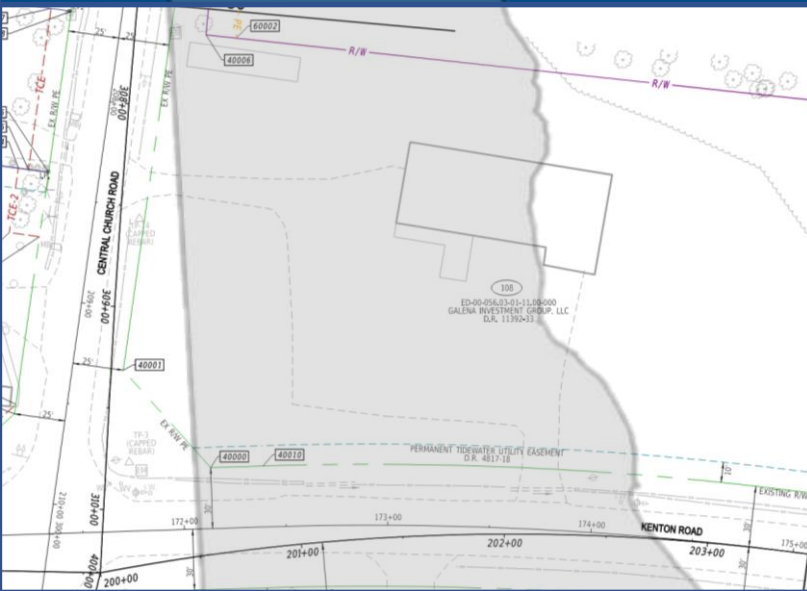




RIGHT-OF-WAY ENGINEERING MANUAL

2023 EDITION



ASSESSMENT NUMBER		OWNERSHIP OF RECORD						TYPE OF ACQUISITION	TITLE SOURCE	PARCEL AREA (ACRES)	PAGE NUMBER
ED-00-056.03-01-11.00-000		(108) GALENA INVESTMENT GROUP, LLC						R/W	D.R. 11392-33	C - 6.19	9
PT. NO.	ALIGN. NO.	STATION	OFFSET*	NORTH	EAST	BEARING	DISTANCE	CHORD BEARING	CHORD LENGTH	ARC LENGTH	RADIUS**
40000	P_BL_N_Kenton	200+60.70	-42.44	434256.3149	605500.3843	S 76°58'24.36" W	64.386				
40001	P_BL_N_Kenton	200+27.35	-96.17	434193.5858	605485.8715	S 27°03'13.55" W	509.010				
40002	P_BL_N_Kenton	201+33.65	-647.63	433934.7852	604979.1228	S 56°17'39.37" E	10.068				
40003	P_BL_N_Kenton	201+39.92	-646.77	433943.1606	604973.5360	N 27°03'13.55" E	125.865				
40004	P_BL_N_Kenton	201+23.18	-523.57	434000.4071	605085.6285			N 28°34'20.41" E	275.345	275.378	-5195.000
40006	P_BL_N_Kenton	200+81.57	-254.05	434132.0959	605327.4406	S 61°04'39.37" E	399.379				
40007	P_BL_N_Kenton	204+13.22	-225.49	434481.6625	605134.2912	N 28°55'20.63" E	195.930				
40008	P_BL_N_Kenton	204+25.37	-30.00	434576.4191	605305.7840			N 59°06'56.01" W	349.004	349.693	-1607.022
40010	P_BL_N_Kenton	200+85.40	-40.15	434276.5025	605484.9306	N 53°06'24.82" W	25.742				
40000	P_BL_N_Kenton	200+60.70	-42.44	434256.3149	605500.3843						

FIGURE 1082 AREA = 86868.898 SQ. FT. (1.99 ACRES).
REMAINING AREA = 182680.382 SQ. FT. (4.19 ACRES)
CUMULATIVE REMAINING AREA = 182680.382 SQ.FT (4.19 ACRES)
DEED RECORD OF ACQUISITION:
REMARKS: 3802.89 SF TIDEWATER UTILITY EASEMENT PER D.R. 4817-18; 31 PARKING SPACES IMPACTED

According to Title 17, Chapter 1, § 137 of the Delaware Code, Delaware Department of Transportation is authorized to acquire private or public property and property rights needed to provide public thoroughfares such as pathways, roads, streets, highways, sidewalks, bus shelters, parking areas in support of public transit, maintenance yards and similar public transportation related facilities or to preserve the traffic capacity in existing thoroughfares. No acquisition of real property or property rights shall be made without Department approved final right-of-way plans or by parcel, depicting the proposed acquisitions and that approval coming only after the project has been developed and plans prepared in accordance with all applicable governing laws, rules and regulations pertaining to the development of transportation projects.

This manual is the result of significant contribution and collaboration by many individuals, primarily those within DelDOT's Right-of-Way Section. The lead consultant for the preparation of this manual was Century Engineering, Inc., who provided project management, research, and development for the manual. Alan Marteney, PE was the consultant Project Manager and Shehnaz Chaudhri, PE was the DelDOT Project Manager. Individuals who contributed significantly to the preparation of this Manual include:

Meghan Bartlett, Century Engineering
Robby Brown, DelDOT
Bruce Caballero, DelDOT
Shehnaz Chaudhri, DelDOT
Eric Cimo, DelDOT
Diane Gunn, Century Engineering
Genevieve Haller, DelDOT
Monroe Hite, III, DelDOT
Kelly Katz, DelDOT


David Kleinot, DelDOT
Alan Marteney, Century Engineering
Josh McCloskey, DelDOT
Bobby Reed, DelDOT
Rosemary Richardson, DelDOT
Daniel Simmons, Century Engineering
Evon Wutka, DelDOT
Maureen Zito, DelDOT




Nicole Majeski
Secretary of Transportation



Shante Hastings, PE
Director, Transportation Solutions



Monroe Hite, III, PE
Chief of Right-of-Way



Shehnaz Chaudhri, PE
Group Engineer, ROW Engineering



TABLE OF CONTENTS

LIST OF ABBREVIATIONS	VI
REFERENCES	VII
I. INTRODUCTION	1
A. Purpose	1
B. Mission Statement	2
1. <i>DelDOT</i>	2
2. <i>Right-of-Way Section</i>	2
3. <i>Team Support Section</i>	2
C. Organizational Chart	3
D. ROW Engineering Manual Updates	4
E. Glossary of Terms/Definitions	4
II. ESTABLISH EXISTING R/W MOSAIC.....	7
A. Research.....	9
1. <i>Historic Plans</i>	9
a. <i>Sources</i>	9
i. <i>Gateway</i>	10
ii. <i>DelDOT Online Archive</i>	10
iii. <i>DelDOT Records Center</i>	11
iv. <i>State of Delaware Archives</i>	11
b. <i>Plans vs As-Acquired Deeds</i>	11
i. <i>As-Acquired Plans</i>	11
2. <i>Title Searches/Deeds</i>	12
a. <i>Establish Limits Needed</i>	13
b. <i>Timing of Request vs Survey & Subdivision Requests</i>	13
c. <i>Field Review to Note Existing Conditions</i>	14
3. <i>Plats</i>	14
4. <i>Easements</i>	14
a. <i>Utilities</i>	15
b. <i>Tax Ditches</i>	15
c. <i>Miscellaneous</i>	16
5. <i>File Naming Protocol</i>	16
B. Survey.....	18
1. <i>Boundary Survey Principles & Law</i>	18
2. <i>Survey Request Requirements</i>	18
3. <i>Traverse</i>	19
4. <i>Found Monumentation</i>	19



5.	<i>Locate Existing Features with Potential Impacts</i>	20
a.	<i>Septic Systems</i>	20
b.	<i>Wells</i>	21
c.	<i>Parking Stalls</i>	21
C.	Resolve Right-of-Way Mosaic	22
D.	Establish Existing Right-of-Way Baseline	22
E.	Resolve Existing Right-of-Way	23
1.	<i>Existing Right-of-Way by Permanent Easement</i>	23
a.	<i>King’s Roads/Highways</i>	24
b.	<i>Statute Law</i>	25
c.	<i>20-Year Law</i>	25
2.	<i>Existing Right-of-Way in FEE</i>	25
3.	<i>Denial of Access</i>	25
4.	<i>Right-of-Way Dedications</i>	26
a.	<i>Recorded Plats vs Recorded Deeds</i>	26
b.	<i>Development Coordination</i>	26
5.	<i>Right-of-Way Reservations</i>	26
6.	<i>Railroad Crossings</i>	27
7.	<i>Water Rights/Riparian Boundaries</i>	28
8.	<i>Conservation Easements within Existing Right-of-Way</i>	29
F.	Existing Government Boundary Lines	29
1.	<i>Municipality</i>	29
2.	<i>County</i>	29
3.	<i>State</i>	30
G.	Project Survey Report	30
III.	ACQUISITIONS	31
A.	Limit of Construction (LOC).....	32
B.	Proposed Right-of-Way (R/W)	32
C.	Denial of Access (DA)	34
1.	<i>Proposed</i>	35
2.	<i>Breaking Existing DA</i>	38
D.	Permanent Easement (PE)	38
1.	<i>R/W vs PE</i>	40
a.	<i>Recommendations</i>	41
b.	<i>Identify Potential Issues</i>	41
c.	<i>Negotiations</i>	41
E.	Temporary Construction Easement (TCE).....	42
F.	Right to Enter (RTE).....	43
G.	Parcel Impact Forms.....	45
H.	State Owned Parcels	45
I.	Advanced Acquisitions	45
J.	Extinguishing Existing Easements	46



IV. PLAN PREPARATION	47
A. Checklists.....	47
1. <i>Construction Plan Submission Checklist</i>	47
2. <i>Right-of-Way Plan Submission Checklist</i>	47
B. DelDOT CADD Standards.....	48
1. <i>Linestyles</i>	48
2. <i>Text Orientation</i>	48
C. Example Plans	48
1. <i>Construction Plans</i>	48
2. <i>Right-of-Way Plans</i>	49
D. Formatting/Drafting.....	49
1. <i>Labeling</i>	49
a. <i>Baseline</i>	49
b. <i>Property Ownership Information</i>	50
i. <i>Parcel Numbering</i>	51
ii. <i>Current Ownership Text</i>	54
c. <i>Existing Right-of-Way</i>	55
d. <i>Existing Dedications & Reservations</i>	55
e. <i>Existing Easements</i>	56
f. <i>Existing Property Boundary Lines</i>	57
g. <i>Road Numbers</i>	58
2. <i>Dimensioning</i>	58
a. <i>Existing Right-of-Way</i>	58
b. <i>Proposed Right-of-Way</i>	58
3. <i>Match Line Text</i>	59
4. <i>R/W Mosaic Sheet</i>	59
a. <i>Shading Protocol</i>	59
E. Justifications for all Acquisitions.....	60
F. Right-of-Way Colorization.....	61
G. Proposed Right-of-Way Monumentation	61
H. DelDOT Right-of-Way Data Sheets.....	62
1. <i>Parcel Order</i>	62
2. <i>Acquisition Type Order</i>	63
3. <i>Property Area</i>	63
4. <i>Remarks</i>	64
a. <i>Area Occupied by Existing Easement</i>	64
b. <i>Special Property Designations</i>	65
c. <i>Hazmat Information</i>	65
5. <i>Number of Decimal Places</i>	65
6. <i>Protocol for Bisected Properties</i>	66
I. Plan Revisions.....	66
V. TEAM SUPPORT REVIEW PROCESS	68

A.	Submission Requirements/Checklists	68
B.	Bluebeam Review	68
C.	Review Stages	69
1.	<i>Scoping Meeting</i>	69
2.	<i>Survey Plans</i>	70
3.	<i>Preliminary Construction Plans</i>	71
4.	<i>Semi-Final R/W Plans</i>	71
5.	<i>Revised Semi-Final R/W Plans</i>	72
6.	<i>Final R/W Plans</i>	73
7.	<i>Right of Way Certification</i>	73
8.	<i>R/W Plan Revisions</i>	74
D.	Priority of Reviews by Plan Type	75
VI.	ACQUISITION PLAT PREPARATION	76
A.	Process	76
B.	Plat	76
C.	Legal Description	77
VII.	AS-ACQUIRED	78
A.	Process	78
B.	Plans	79
C.	Deeds	80
D.	Archives	80
E.	Excess Lands	81
VIII.	AGREEMENTS	82
A.	Town Agreements	82
1.	<i>Master Town Agreement</i>	82
2.	<i>Vehicle/Bicycle/Pedestrian Detours</i>	83
3.	<i>Procedures</i>	83
a.	<i>City/Town Agreement</i>	83
b.	<i>Letter Agreement/Electronic Agreement</i>	85
B.	Tax Ditch Agreements	86
C.	Interagency Agreements	88
D.	Environmental Agreements	88
E.	Railroad Agreements	89
F.	Shared Stormwater Agreements	89
G.	Deed Restrictions	90
H.	Developer Agreements	90
I.	Corridor Capacity Preservation Program	91
J.	Traffic Signal Agreements	91
K.	Utility Franchise, Permits and Agreements	92



LIST OF ABBREVIATIONS

AASHTO	American Association of State Highway and Transportation Officials
ALTA/ACSM	American Land Title Association/American Congress on Surveying and Mapping
AOEE	Area Occupied by Existing Easement
CL	Centerline
CP	Commencement Point
DA	Denial of Access
DelDOT	Delaware Department of Transportation
DGM	Design Guidance Memorandum
DND	Do Not Disturb
DNREC	Department of Natural Resources and Environmental Control
DR	Deed of Record, including Instrument Number
DRC	DelDOT's Design Resource Center
EI	Engineering Instruction
FEE	Right-of-Way Acquired in FEE Simple
FHWA	Federal Highway Administration
HAZMAT	Hazardous Material
Instr. No.	Instrument Number, now referred to as DR
IS	Intestate (dying without a will)
MF	Microfilm, now referred to as PB
PB	Plot Book
PE	Permanent Easement
PI	Policy Implement
POB	Point of Beginning
POC	Point of Commencement
Practitioner	Developer, Consultant, or DelDOT Staff Preparing Plans
R/W	Right-of-Way
R/W - DA	Right-of-Way and Denial of Access
RW/PE	Existing Right-of-Way by Permanent Easement
RTE	Right To Enter
TB	Tax Book
TCE	Temporary Construction Easement
TM#	Tax Map Parcel Number
TS	Team Support
WB	Will Book, now referred to as WR
WR	Will Record

REFERENCES

All Existing Rights-of-Way modified, and Proposed Acquisitions designed in the State of Delaware shall comply with the following policies, guidelines, and standards. Due to the design flexibility inherent with many of these references, the DeIDOT Right-of-Way Engineering Manual has been developed to provide additional guidance regarding preferred design practices in Delaware.

- AASHTO – A Policy on Geometric Design of Highways and Streets
- AASHTO – Roadside Design Guide
- DeIDOT – Bridge Design Manual
- DeIDOT – CADD Standards
- DeIDOT – Development Coordination Manual
- DeIDOT – Plan Development Checklist
- DeIDOT – Right-of-Way Checklist
- DeIDOT – Road Design Manual
- DeIDOT – Development Coordination Manual
- DeIDOT – Survey Guidebook
- DeIDOT – Utilities Manual



Delaware Department of Transportation

**RIGHT-OF-WAY ENGINEERING
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Chapter I

INTRODUCTION

I. INTRODUCTION

The guidelines contained in this Manual have been written to define standards and processes that should be followed in the preparation of right-of-way plans for all existing, new or modified rights-of-way and/or existing rights-of-way maintained by the Delaware Department of Transportation. Rights-of-way refer to all lands and rights owned or to be acquired by the Delaware Department of Transportation, such as Right-of-Way, Permanent Easement, Aerial Easement, Conservation Easement, Temporary Construction Easement, or any others. The manual also applies to all projects in which DelDOT is serving in an oversight role.

This introductory chapter outlines the purpose of the Manual and discusses the role of the Team Support/ROW Engineering Section at DelDOT.

Figures are used throughout this Manual to illustrate the concept being discussed. Some figures are from older plans that may not conform to the current line styles and colorization of Right-of-Way example plans. Please refer to the example plans and CADD Standards on the DRC for plan preparation and guidance.

A. Purpose

This Manual sets forth the latest design concepts and standard practices for Practitioners when preparing R/W plans for DelDOT projects. This Manual represents DelDOT's practices, techniques and procedures that will be applied in developing plans, acquisition plats, legal descriptions, and as-acquired plans for any new or modified rights-of-way and/or existing rights-of-way maintained by DelDOT. The Manual also applies to all projects in which DelDOT is serving in an oversight role, regardless of ultimate ownership of the designed improvements and rights-of-way.

DelDOT's Team Support/ROW Engineering Section is responsible for the review of all design plans, with regards to the existing right-of-way mosaic and all proposed acquisitions. Team Support considers the proposed improvements, environmental and stormwater impacts, proposed lighting, utility and signal design(s), constructability and maintenance when reviewing the R/W needs of the project. Team Support is tasked with producing or updating existing tax ditch and town agreements for each applicable project. One of the primary objectives in developing this manual is to standardize the process for developing and reviewing the existing R/W mosaic and the proposed acquisitions to maintain consistency, regardless of who develops the plans (i.e., in-house designers, consultants, etc.).

It should be noted that this manual does *not* address the design of any proposed improvements nor the processes that occur during acquisition by the Right-of-Way Section. For information on



proposed highway and bridge design, please refer to documents listed on the DelDOT Design Resource Center (DRC).

B. Mission Statement

1. *DelDOT*

DelDOT's mission is to provide excellence in transportation for every trip, in every mode, with every dollar, and for everyone. DelDOT strives to make every trip taken in Delaware safe, reliable and convenient for people and commerce. DelDOT provides safe choices for travelers in Delaware to access roads, rails, buses, airways, waterways, bike trails and walking paths. DelDOT seeks the best value for every dollar spent for the benefit of all. And finally, DelDOT engages their customers and employees with respect and courtesy as they deliver their services.

The overall goals for DelDOT are: To minimize the number of fatalities and injuries on their system; To build and maintain a nationally recognized system benefitting travelers and commerce; To provide every traveler with access and choices to the state's transportation system; To provide every customer with the best service possible; To minimize the environmental impact of the state's transportation system; To achieve financial sustainability through accuracy, transparency and accountability; and To develop and maintain a place where talented and motivated employees love to work and can be national leaders in transportation.

2. *Right-of-Way Section*

DelDOT's Right-of-Way Section employs a diverse staff responsible for ensuring compliance with policies and procedures required for the acquisition of rights-of-way, preparation of land surveys, relocation of utilities and the quality control and assurance of Right-of-Way plans on highway and bridge projects. The Right-of-Way staff is also responsible for the oversight of the Department's Land Services activities. The entire Right-of-Way staff is committed to performing their duties in a timely, effective, and customer-oriented manner for the benefit of all the citizens of Delaware.

3. *Team Support Section*

It is the Team Support Section's mission to provide engineering support to Project Development, Bridge, Planning, Right-of-Way and other sections as needed for the preparation of Right-of-Way plans that identify property needs for transportation projects.

The core responsibility of the Team Support Section is to ensure the land needed for a project is justified based on engineering need. This includes right-of-way needed for roads, bridges, transit, bicycle routes, pedestrian routes, drainage, utilities, stormwater, traffic facilities, environmental, and for maintenance. Team Support also provides customer service to the public as a resource section for information regarding DeIDOT owned right-of-way. Team Support also coordinates with Municipalities, DNREC, and Design to determine the need for Town Agreements, Railroad Agreements, and Tax Ditch agreements, and the preparation and coordination for them, if applicable.

C. Organizational Chart

The following Organizational Chart is for the Team Support/Right-of-Way Engineering Section:

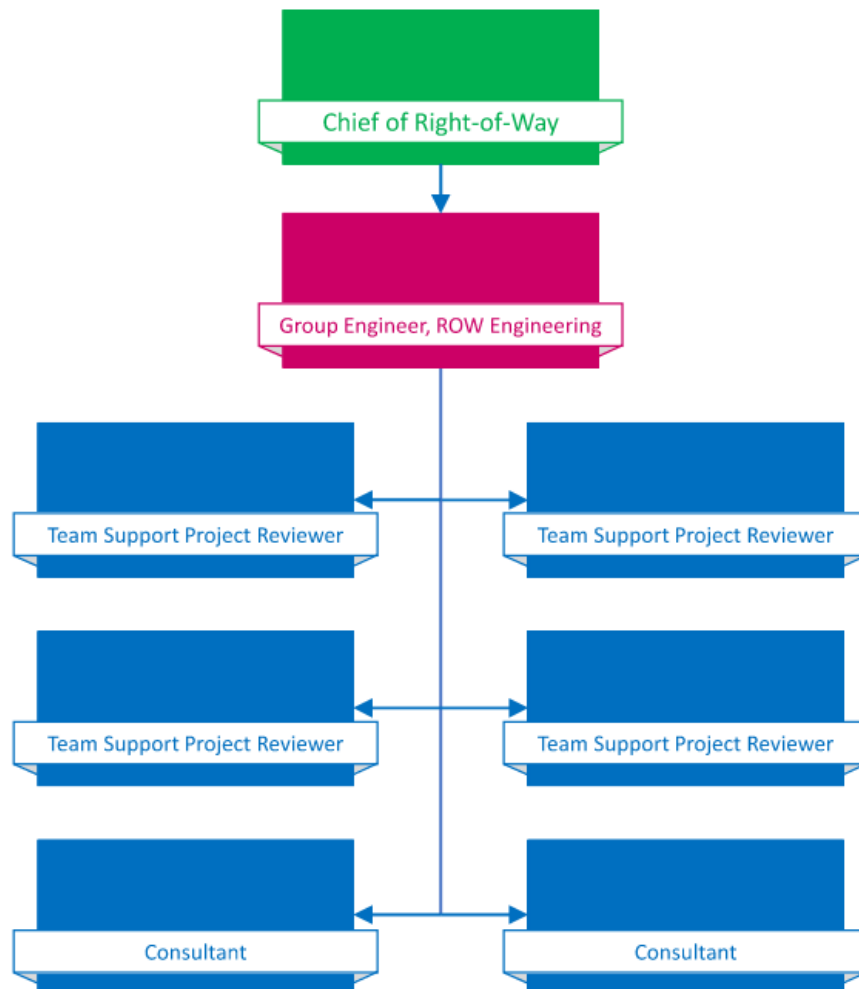


Figure 1-1 Team Support Organizational Chart



D. ROW Engineering Manual Updates

The information contained in this Manual is current at the time of publishing. It is expected that the guidance contained in this document may be updated periodically. Interim guidance may be published by DeIDOT and will be made available on DeIDOT's website within the Design Resource Center (DRC). Proposed changes to this Manual should be suggested using the ROW Engineering Design Directive form found on the DRC and must be approved by DeIDOT's Chief of Right-of-Way.

E. Glossary of Terms/Definitions

Acquisition – the act of purchasing property in FEE simple or as an easement (private and public).

Area Occupied by Existing Easement – calculated area of a proposed acquisition that is within an existing easement on a property. Used by Appraisal Section in the valuation process of the proposed acquisitions.

As-Acquired – the actual acquisitions that were acquired by a DeIDOT project versus what was called for in the plans. The actual acquisitions are recorded in the deeds within the respective County.

Blanket Easement – an easement that has an undefined boundary or location, meaning the easement applies to the entire parcel of land.

Chain Deeds – ownership records for a property in descending chronological order

Conservation Easement – a right that typically imposes restrictions on the use of a parcel or portion of a parcel.

Construction Baseline – the baseline from which the proposed construction features are established.

Deed of Record – document containing the legal conveyance or transfer of property from one party to another as recorded in the respective County.

Denial of Access – restriction that prohibits a property from having access to a State maintained road.

Dirt Road Projects – a series of design projects that took place mostly in the 1950's and 1960's where DeIDOT re-aligned and upgraded much of the minor roadway system. Most of these projects purchased Permanent Easements from the property owners to establish the right-of-way corridors.

Existing Easement – a right to cross or otherwise use someone else's land for a specified purpose.

Extinguish – to remove an encumbrance on real property, i.e., road rights-of-way, etc.

Grantee – an individual or entity to whom property or a right in property is conveyed by deed.

Grantor – an individual or entity that conveys property or a right in property by deed.

King's roads/highways – roads commissioned and maintained during the colonial period of Delaware from 1656 to the establishment of the Delaware Constitution in 1792.

Limits of Construction (LOC) – the boundaries that define the area within which the contractor must confine its work.

Maintenance Road Number – the number assigned to each State owned and/or maintained road by county. The State maintains a database of a majority of all historic contracts by maintenance road number.

Monumentation – existing and/or proposed markers that distinguish a property boundary, R/W, and/or other right.

Permanent Easement (PE) – agreement granting permanent rights to an area on private and/or public property for access, maintenance, etc. Agreement is effective in perpetuity.

Plat – a boundary plan for an existing property or proposed acquisition that includes the metes and bounds for the area(s).

Practitioners – Engineers, Surveyors and/or Technicians performing duties in the preparation of DeIDOT projects.

Project Survey Report – report that details the background information and documentation that was used to establish existing R/W, baseline(s) and resolve the existing R/W mosaic. Historic contracts, found monumentation, closure issues, existing easements, etc. should be discussed.

Right-of-Way (R/W) – land, property, or an interest therein possessed by DeIDOT, or other entity acquired for, or devoted to, transportation purposes. Rights-of-way identified in the contract are presumed to belong to DeIDOT unless the contract identifies such rights-of-way as belonging to another entity. Also known as R/W in FEE Simple.

Right-of-Way Baseline – the baseline from which the existing and/or proposed right-of-way and other acquisitions are established.

Right-of-Way by 20 Year Law – see Delaware Code Title 17 §509 Highways Deemed Public Roads.

Right-of-Way Dedication – land that is granted to the State as R/W. Each R/W dedication needs to be reviewed individually to determine if the dedication was made in FEE simple or easement. If the dedication was made as an easement, the property owner retains the underlying FEE simple ownership of the land.

Right-of-Way in FEE Simple – land or property that is owned by DeIDOT as right-of-way, with full rights of ownership.

Right-of-Way by Permanent Easement (RW/PE) – existing easement acquired by DeIDOT with certain rights as specified in the recorded agreement, but the private property owner retains the underlying FEE Simple ownership.

Right-of-Way Reservation – a commitment by DeIDOT for future acquisition from an owner of any interest in a property, in exchange for an agreement by the owner to refrain from further developing the property or designated portions.

Right-of-Way by Statute Law – legislation by the Levy Courts established certain public roads, highways and bridges in the three counties in Delaware. This legislation also established the right-of-way for these facilities. In later legislation, DeIDOT was given absolute care, management and control of all county roads, highways and bridges, and therefore the corresponding rights-of-way. This statute did not establish ownership of the underlying land.

Right to Enter (RTE) – locations where DeIDOT already has the right under Delaware Code to enter onto private property to maintain, repair or reconstruct existing facilities used by the public and maintained at the public's expense.



Riparian Rights – those rights and obligations that are incidental to ownership of land adjacent to or abutting watercourses, or streams. Typically, adjacent property owners have rights to the natural centerline of the ditch or stream unless otherwise specified in the deed of record.

Tax Ditch Agreement – agreement between DelDOT and the Tax Ditch Association regarding impacts from the project.

Tax Map Parcel Number (TM#) – number assigned to a parcel of real property by the County Tax Assessor for purposes of identification and record keeping. The assigned number is unique within the County and may conform to certain formatting standards that convey basic identifying information, such as district, hundred, map, block, etc.

Temporary Construction Easement (TCE) – agreement granting temporary use of an area for a specified duration on a property for access, stockpiling, grading, etc.

Traverse – survey control network.

Vacate – to legally cede any and/or all ownership and rights to lands or other agreements.

Water Rights – DNREC has control of all subaqueous tidal lands in the State under Delaware Law Chapter 72. These lands are owned by the State and any adjoining property owners own to the mean low watermark of the tidal boundary. Note, the subaqueous tidal lands within designated Canals and other navigable waters are owned and controlled by the US Army Corps of Engineers.



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Chapter II

ESTABLISH EXISTING R/W MOSAIC

II. ESTABLISH EXISTING R/W MOSAIC

This chapter describes the recommended process for developing the existing R/W mosaic, from the research through the project survey report and submission of the Survey Plans.

DelDOT has categorized three tiers of projects, based on the potential impacts to the existing R/W and the corresponding levels of R/W verification required. It is recognized that sometimes projects are initiated with scopes that fall between the tiers. The Chief of Right-of-Way should be consulted if applicability is unclear. The tiers are as follows:

Tier 1: This Tier consists of projects that do not have impacts outside of the existing R/W. It still requires research to verify that all proposed work will occur inside the existing R/W. The level of research typically includes review of the DelDOT Roadway Maintenance Inventory, archived plans and comparison to field evidence.

Typical Tier 1 projects include the Pedestrian Accessibility (PAR) Program, the Transportation Alternative Program (TAP), the Pavement & Rehabilitation (P&R) Program, the new Active Transportation and Community Connections program (ATCC), and projects that install traffic devices, and repair and maintain existing transportation assets.

The limits of existing ownership and the presence of existing property rights must be researched to verify whether additional property rights are required due to DelDOT work that could impact land outside of the existing rights-of-way. Verifying the existing rights-of-way requires, at a minimum, researching available documents and gathering field evidence. The objective is to determine the existing rights-of-way with reasonable accuracy for the purposes of the work being performed.

There are multiple methods of carrying out the investigation from cursory review to complex analysis. The method used to verify existing rights-of-way should be commensurate with the scope of the project. The least complex methods of investigation should be used first because the time and cost of detailed R/W verification can exceed the cost of the types of improvements and the time it takes to construct them. Only if those methods prove unreliable should the investigation progress to more complex methods. Knowing when the investigation is satisfactory will require judgement. The Practitioner will be responsible for making the existing R/W determination.

Delaware law establishes standard roadway rights. These should be the first documents consulted. The documents described below provide an indication of the existing rights-of-way, which may have changed the roadway rights from the time of the initial establishment under law. They vary in precision, accuracy, and reliability from least reliable to most reliable as follows:



- *DelDOT Roadway Maintenance Inventory*: Listed by maintenance road number, it provides basic information about what DelDOT maintained at the time the inventory was performed. Reliance on this data is most applicable to routine maintenance and repair work in rural areas where other forms of existing R/W documentation are limited.
- *Archive DelDOT Plans*: Reliance on DelDOT archived plans to determine the existing R/W is most applicable where physical features shown on the archived plans still exist and can be found in the field. Most Tier 1 programs and projects, except for routine maintenance work, should utilize DelDOT Archive Plans as a starting point.
- *Recorded Land Development Plans*: This data can be helpful in finding dedications that may have taken place during the land development process. Reliance on this information is most applicable where physical features shown on the plans still exist and can be found in the field. This information should be recovered for projects that include improvements that initially appear outside the existing R/W based on the lower accuracy verification documents. Doing so will help avoid purchasing property rights on lands already dedicated to public use. Caution must be used to verify the recorded plan has not expired.
- *Recorded Deed Information*: This information identifies the current owner of lands adjacent to the road, provides a description of the parcel boundary, and the location and type of property corners. This information can help locate field evidence, such as property corners that may provide evidence of the existing R/W limits.

Field evidence includes physical features visible at the project site that are shown on archived drawings, such as property corners, existing edges or centerlines of pavement, curb lines, building lines, utility poles, fence lines, etc. Gathering field evidence should start with the least extensive level of research, such as walking the project location. Only if that method proves unreliable should more complex levels of field investigations be conducted. The Practitioner is to use the method necessary to reasonably establish the limits of the existing R/W to a level of accuracy commensurate with the scope of the project. Where field evidence cannot be found to determine the existing R/W, it may be necessary to mobilize a survey crew to provide adequate field evidence commensurate with the scope of the project.

Tier 2: This tier consists of projects that have minor impacts outside of the existing R/W at *isolated* locations within the project. It requires research necessary to establish the existing R/W at the isolated location, as well as establishing ownership and all rights that may be involved with the area that is to be impacted by the proposed improvement. Tier 2 projects require an acquisition plat be created to document the acquisition area. See Chapter VI for further guidance on acquisition plats.

Tier 3: This tier consists of projects that will have major impacts outside of the existing Right-of-Way. Capital projects normally fall under this tier. This tier requires research necessary to establish ownership and all rights that may be involved with the area that is to be impacted by the proposed improvement and to create an archivable record of the proposed acquisitions. Tier 3 projects should be undertaken by the Practitioner and require that Right-of-Way plans be created. The Practitioner should consult with Team Support on whether the R/W plans should

be a stand-alone set or if they can be incorporated into the construction plans. Tier 3 projects generally utilize the most complex levels of Right-of-Way verification, as further discussed in this chapter.

A. Research

The existing R/W Mosaic development begins with performing research to determine the existing R/W baseline and existing R/W width(s), the property ownership information, and the presence of any existing easements within the project limits. Research is typically performed by the Practitioner, however, for some DelDOT in-house projects, the Team Support Section may be requested to assist the in-house Practitioner with the research.

1. *Historic Plans*

The research to determine the existing R/W baseline and existing R/W width(s) includes obtaining and reviewing the DelDOT historic plans for the road(s) within the project limits. The historic construction and right-of-way plans may or may not contain information on the baseline, the existing R/W at the time of the project, and the proposed acquisitions. Each historic contract should, but will not necessarily, reflect what was built or acquired as shown on the previous historic contract. The Practitioner will need to review all historic contracts applicable to the project and determine the information that needs to be held from each. Information contained in the old survey field books for the historic contracts can be used to aid in the reestablishment of the historic baselines. The old survey field books can be found in Archives, and if appropriate, be used.

a. Sources

There are multiple sources that can be utilized to obtain the historic contract plans, and other pertinent contract documents. The contract titles listed on the historic plans are the contract titles that should be used on the title sheet for the associated contracts. The frequency of updates to the various databases differs. The DelDOT Gateway Website is updated on an as needed basis as per the individual data updates for each layer. DelDOT's Record Center and the State of Delaware's Archives are updated on demand when projects have been archived. There is no defined period of frequency for those updates.

i. Gateway

The Practitioner can find archive plans on the DeIDOT Gateway by accessing the DeIDOT website and clicking on the Gateway icon. Archive plans are one of the many layers that are available on Gateway that will allow internal and external users to access a list of historic contract plans geographically by clicking on the road(s). Directions on how to use Gateway can be found on the DRC under Right-of-Way>Guidelines.

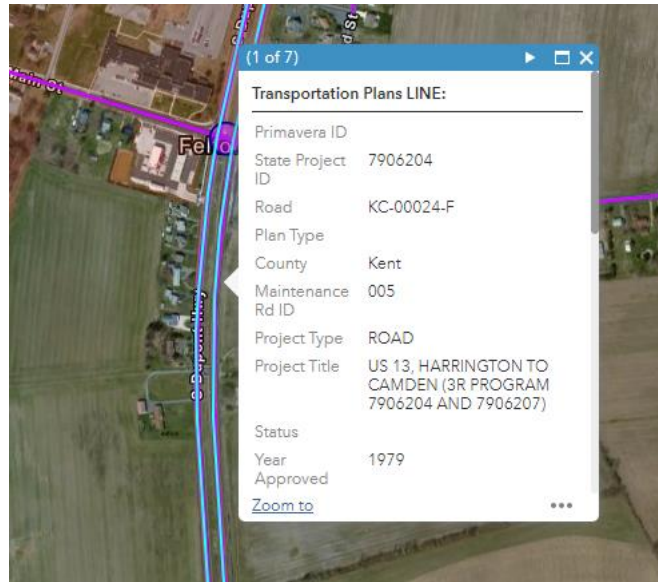


Figure 2-1 Archived Plans on DeIDOT Gateway

ii. DeIDOT Online Archive

If plans are not found on Gateway, the Practitioner can use DeIDOT's online archives, which include historic contract plans. The DeIDOT Archives can be found online under the Business/Publications tab.

The first step is to find the maintenance road number by using the Lookup Table by county that lists the maintenance number of each road in that county. The online DeIDOT archive is organized for each county by maintenance road number. Each maintenance road number contains the contract numbers, the titles of the contracts, the plan types, the contract types (e.g., bridge, road, subdivision, traffic, etc.), archive status and years the contracts were approved.

To request historic plans, the Practitioner can make a request to DOT.ArchiveRequest@delaware.gov.

iii. DeIDOT Records Center

The DeIDOT Records Center contains project files which will have historic plans and documents which may be useful to the Practitioner. These files are housed at DeIDOT's Records Center located at 245 McKee Road, Dover, DE 19904. An appointment must be made to access the Records Center. The contact phone number for DeIDOT's Archives is (302) 739-4935.

iv. State of Delaware Archives

The State of Delaware's archives include legislation pertaining to specific roads and bridges, historic contract documents and/or correspondence during construction, miscellaneous information, etc. When there is minimal documentation on a maintenance road or bridge, or when the facilities are maintained by a Municipality instead of the State, this is a good option to research additional information to help determine existing R/W widths, etc. The State of Delaware archives building is located at 121 Martin Luther King Jr Boulevard North, Dover, DE 19901. The email address is archives@delaware.gov. A request for information based on maintenance road number and relevant limits and/or historic contract number must be made, then the archivists will pull the relevant information and notify the requestor when they are available for review.

b. Plans vs As-Acquired Deeds

The Practitioner should review the DeIDOT historic contract plans versus the as-acquired deeds for the contract. As-acquired deeds can be accessed through the New Castle, Kent, and Sussex County websites or requested from DeIDOT. During this review, the Practitioner will either confirm that the acquisitions were completed per plan or will note any differences between the two. If there are differences, the as-acquired deeds will supersede the historic plans since that is what was actually purchased under the contract. The Practitioner should obtain the as-acquired deeds and organize them per project parcel. Note that some deeds may pertain to more than one project parcel due to subdivision of lands that occurred after the acquisition was recorded. As-acquired deeds will also describe the rights DeIDOT has to easements that were acquired.

i. As-Acquired Plans

When as-acquired Right-of-Way Plans are prepared, any differences between the acquisitions that were originally proposed and what was actually purchased should be noted. Differences generally include ownership at the time of acquisition, acquisition type and/or acquisition area. The as-acquired deeds of record are also noted on the as-acquired Plans.



For example, Final Approved R/W plans show Parcel 100 being owned by John Smith, with a proposed R/W acquisition area of 1000 square feet. Through the Right-of-Way negotiation process, it is determined that the property ownership has changed to Mary Johnson. DelDOT's Acquisitions, Relocations and Settlements Section negotiates with Ms. Johnson and the result is the 1000 SF R/W area is revised to a 750 SF PE and 250 SF R/W. On the as-acquired plans, the original information is struck through and the updated information is noted next to it, including any bearings, distances, and areas.

The as-acquired plans are processed and uploaded to Gateway on demand, as they are received for archiving. If as-acquired plans are available for a historic contract, they should be obtained and reviewed to help with the existing R/W determination within the project limits. Any permanent easements shown on the as-acquired plans should also be included in this research.

2. Title Searches/Deeds

When a project is initiated, the In-House Practitioner should submit the Initial Project Research Request memo found on the DRC. The information that can be requested for each project includes title searches, traffic signal agreements, railroad rights-of-way, in-progress subdivisions, deeds, DelDOT excess lands, tax ditches and existing utilities.

For any title search requests, 60-year title searches will be prepared for the properties requested (requested by tax map parcel number). A 60-year title search includes the chain of title and any recorded existing easements for the property for the past 60 years.

The limitations of a 60-year title search are exactly that, it only goes back 60 years. There may be existing utility and/or access easements on a property that date back further than the 60 years. In such cases, secondary research should be conducted to obtain said documents. It is important to review each title search to see if the chain deeds or plats contain any easement references that weren't included in the title search. It is also important to review each title search to verify that the chain deeds include both metes and bounds descriptions for the property and that they follow the ownership for the correct property. Sometimes errors are made, and the incorrect chain is followed. For example, a larger parcel could have multiple outsales and the wrong outsale could be followed. Also, the chain of title may need to be traced back further than the 60-year limit to find a chain deed that contains a metes and bounds description of the property. In such cases, secondary research should be conducted by the Practitioner to obtain said documents if the project is being prepared by a consultant, or by Team Support if the project is being prepared by in-house staff. It should also be noted that the tax map parcel number listed at the top of a deed, if included, could be incorrect so it should not necessarily be held over the content of the deed.

An example title search can be found on the DRC.

The current deeds of record for the properties within the project limits should be obtained by the Practitioner from the respective county's recorder of deeds if the project is consultant designed. If the project is in-house, Team Support will perform the deed search. The deeds should be reviewed for any additional information, to include plot books associated with the property and/or any existing easements. Additional deeds and archival documentation outside of the Project Limits may be required to verify existing rights-of-way. Will Records are an example of archival documentation that may be used to transfer land and may include a prior deed when one is not listed in the County's records. Additional easements may be discovered during the Utility Coordination process for a project. Refer to the Utility Manual for additional information on when easements are requested from the Utility companies.

a. Establish Limits Needed

Prior to requesting or performing deed research and/or title searches, it is important to establish the project limits and the extent of the research needed. Title searches take time to prepare. The better the Practitioner can tie down the limits of research needed for the project, the less likely additional title searches will need to be requested further down the line. If additional title searches need to be requested later in the project, more time will need to be allotted for them to be completed.

b. Timing of Request vs Survey & Subdivision Requests

If possible, the title search request or the Practitioner's research should be performed prior to the survey and subdivision requests. If the title searches are received and reviewed prior to the survey request, the Practitioner should provide a draft property mosaic (a copy of the county tax maps in the project area will suffice) noting any monumentation mentioned in the deeds that the survey crew should look for and locate in the field.

Also, if the title searches are received prior to the subdivision request, they should typically include any previously recorded subdivision plats within the project limits. The subdivision request may not return previously recorded subdivision documents, only newer or more recent site information that may still be going through the process. Note, the title search, field survey and subdivision requests can be performed concurrently so as not to delay a project.



c. Field Review to Note Existing Conditions

The Practitioner should visit the project site and note any existing conditions that would indicate the existence of easements. For example, existing utilities that appear to be outside of the existing R/W should be noted for a possible utility easement. Also, if multiple properties share a driveway or other inter-connections, there is likely an existing cross access easement. Features like these should be noted so the Practitioner can look for them when reviewing the title searches. It is possible that the title searches may not include these easements if they are older than the 60-year timeframe as previously discussed.

3. Plats

Some parcels have recorded, and unrecorded, plats associated with them. Recorded and unrecorded plats can be typical Boundary Surveys, Minor or Major Subdivisions of land, Subdivision Construction Plans, Site Plans, an ALTA/ACSM Plat, etc. Components of a plat could include the tract's size, boundary location and metes and bounds, existing and/or dedicated rights-of-way and/or easements, source of title, zoning, reservations, grantor/grantee, open space, found and/or proposed monumentation, etc. The Practitioner should contact the Engineer/Surveyor of record and try to obtain a copy of the unrecorded plat.

The plat may be referenced in the chain deed text. Other times, it may be listed in the parcel data on the respective county GIS mapping website. In New Castle County, a recorded plat is referred to as a microfilm (abbreviated MF). In Kent and Sussex Counties, a recorded plat is referred to as a plot book (abbreviated PB) and may be given an instrument number or a deed of record and page number.

Each recorded plat for a parcel should be reviewed to help the Practitioner establish the existing right-of-way along the parcel frontage. Also, any easements, dedications and/or reservations should be included in the R/W mosaic. The Team Support Section should be consulted if there are any questions on how the easements, dedications and/or reservations should be shown.

It should be noted that any general (blanket) easement notes on a recorded plat should be included in the R/W mosaic even if the utility or other feature has not been installed. The easement will still exist until the recorded plat sunsets.

4. Easements

An easement is the legal right to use someone else's property for a specific limited purpose, but the legal title to the land itself remains with the property owner. When land is encumbered by

an easement, the value of the property is impacted. Also, when an easement is impacted by an acquisition, those other interests in the property are entitled to fair and just compensation. So, it is important to include any known existing easements in the R/W mosaic for valuation purposes and for DelDOT to obtain the full rights within the proposed acquisitions.

There are multiple types of easements that can be encountered on a project, including but not limited to those discussed below.

a. Utilities

A utility easement is an easement that allows the utility company the right to use and access private property to construct, maintain and/or remove their respective facilities. Such facilities may include overhead or underground features for gas, electric, water, sewer, communication lines, etc.

There are two types of utility easements that can be encountered. Depending on the language in the easement, it is either a defined easement or a blanket easement. A defined utility easement has a known width and/or location on a parcel and is typically centered on the utility's facilities. A blanket utility easement includes generic language, with no width or location identified, or a possible width from the utility as placed or constructed, etc.

b. Tax Ditches

A tax ditch is constructed on a right-of-way owned jointly by the property owners who have formed an organization on a watershed basis to construct and maintain a drainage system. The right-of-way includes the area to construct and maintain a tax ditch and/or use the lands to spread materials from maintenance dredging of the tax ditch. This right-of-way is treated as an easement since the underlying lands are owned by private property owner(s) and a tax ditch organization has been granted rights to access the ditch.

There are tax ditches in all three counties in the state, with the majority being in Kent and Sussex Counties. In New Castle and Kent Counties, tax ditch agreements are recorded as normal documents for those counties. In Sussex County, tax ditch agreements are recorded in tax books and are assigned tax book and page numbers.

The online mapping engines for all three counties have layers that show Tax Ditch Segments and Tax Ditch Maximum ROWs. However, it is recommended that the tax ditch easement widths be verified through DNREC's tax ditch mapping database. This information can be found by visiting DNREC's website and clicking on the Division of Watershed Stewardship>Tax Ditches>Delaware Tax Ditch Map. DNREC's database shows the easement widths on both sides of the ditch, if



applicable, specifies where the measurement is from, Centerline (CL) or Top of Bank (TOB), and when identified, gives the name of the tax ditch, and sometimes branches of a tax ditch, all of which should be labeled on the plans.

c. Miscellaneous

Other types of easements that should be included in the research and plan preparation include, but are not limited to: aerial easements; blanket easements; ingress/egress/regress easements; cross access easements; shared-use path easements; drainage easements; agricultural preservation easements; forest land preservation easements; other conservation easements; slope easements; and daylight (sight) easements. These types of easements may be called for in the chain deed(s), shown on a plat, and/or included in the title search. Some of these easements may also be apparent when noting the existing conditions during the field review.

5. File Naming Protocol

For consistency within DelDOT and for all Consultants as well, the following research file naming protocol has been established. This format should be used for all recorded documentation that is saved. All documentation for a project parcel will be combined into a single PDF file for that parcel for upload to ProjectWise. These single PDF files will replace the need for separate parcel folders under the **280_Existing_Property_Rights** folder. Note, when the files are combined into the single PDF file, the file names assigned to the individual files will automatically be created as bookmarks in the PDF. This allows for easy navigation in the combined PDF.

File naming format is as follows:

- Combined PDF File: Tax Parcel Number
 - Note: Assign Parcel ID number in ProjectWise under Document > Properties > Attributes
- Deeds:
 - Deed of Record: DR + Book – Page
 - Example: DR 123-456
 - Example: DR A12-345
 - Instrument Number (now referred to as DR): DR + Instrument Number
 - Example: DR 20200212-0012345
- Wills:
 - Will Record: WR + Book – Page (if applicable)
 - Example: WR 234-567
 - Example: WR 34567

- Easements:
 - Follow file naming convention for deeds and include “EASEMENT” at end. This will help distinguish between a chain deed and an easement deed in the combined PDF.
 - Deed of Record: DR + Book – Page + EASEMENT
 - Example: DR 456-789 EASEMENT
 - Instrument Number (now referred to as DR): DR + Instrument Number + EASEMENT
 - Example: DR 20221128-0034567 EASEMENT
- Plats:
 - Plot Book: PB + Book – Page
 - Example: PB 1-234
 - Microfilm (now referred to as PB): PB + Microfilm Number
 - Example: PB 14110
 - Example: PB 202211280012345

When the individual documents are combined into the single PDF file, they should be grouped by deed, will, easement then plat, and within each group, sorted in descending chronological order (newest to oldest).

Figure 2-2 is the template DelDOT uses internally for the Chain of Title Tracking for each individual parcel on a project. The electronic file of this template can be found on the DRC.

<u>Chain of Title Tracking</u>						
Project						
Project Link						
Parcel Number TBD						
Tax ID						
Deed / Instrument Plat / MF	Date Recorded	Date Signed	Grantor	Grantee	Type	Comment

Figure 2-2 Chain of Title Tracking template



B. Survey

After the parcel and right-of-way research has been performed, and preferably the aforementioned draft property mosaic created, the next step is to obtain field survey of the project area. Note, these tasks can be performed concurrently so as not to delay a project. This includes not only the physical features needed for design (i.e., flexible and rigid surfaces, buildings, structures, drainage, vegetation, etc.), but also physical evidence and property monumentation (i.e. concrete monuments, pins, rebar, etc.) to help resolve the R/W mosaic and property side lines and any features on a property that could potentially be impacted by the project.

1. *Boundary Survey Principles & Law*

The Delaware Board of Professional Surveyors has developed minimum standards regarding topographic and boundary survey that all licensed surveyors in the state of Delaware must adhere to. These standards are defined in the State Code Title 24, Chapter 27. In addition to these standards, DelDOT's Survey Section has put together a guidebook to help with consistency between DelDOT projects.

The DelDOT Survey Guidebook is available on the Design Resource Center, under Survey > Guidelines, and its purpose is to provide guidance and conformity to both in-house and consultant survey crews. It highlights the minimum standards DelDOT requires pertaining to GPS control, traverse, vertical control, field procedures and stakeout. These standards are the minimum DelDOT requires, and the in-house and consultant survey crews are allowed to provide survey at a higher degree of accuracy if they so choose.

The DelDOT Survey Guidebook or State of Delaware Title 24 minimum standards shall be utilized, whichever is more stringent.

2. *Survey Request Requirements*

For in-house projects, when the DelDOT Practitioner submits a survey request to the DelDOT Survey Section, the following should typically be provided with the request:

- Type of project so Survey Section knows the types of features to locate.
- Graphic showing the project area and limits of survey needed, typically an aerial map.
- Current deeds of parcels needing to be resolved in the R/W mosaic. Note, this information may not be available if task is being performed concurrently so as not to delay the project.

- Archived contract plans within the project limits.
- If research has been completed, graphic or draft property mosaic showing where existing monumentation is called for in deeds, plats, and archived plans. This helps the surveyors know where to focus their efforts in locating monuments. Placing the draft mosaic on the graphic should fit close enough for existing monument searches.

For DelDOT in-house survey requests, the Practitioner should fill out and submit the Survey and GPS Control Request form, located on the DRC, under Survey > Forms.

It is recommended that Consultants follow a similar process.

3. Traverse

Before the survey can be performed, the project control network must be established. The control points shall be set in the field based on DelDOT's minimum standards, as laid out in the DelDOT Survey Guidebook.

4. Found Monumentation

Not all monumentation is cited in deeds since many boundary surveys have been performed for other reasons than the transfer of title. Monumentation may have been installed for earlier deeds that are not included with the 60-year title search and not described in the more current deeds. Ensure that any monumentation that is discovered is located, whether called for in the deed or not.

When monumentation is called for in a deed, plot, or archived plans, it is important for that information to be given to the Survey Section so those monuments can be recovered in the field if they still exist.

The found monumentation will help with the placement of the properties in relation to each other. It also helps with establishing the location of the R/W corridor. The more existing monumentation that can be found and located, the better the end result for the R/W mosaic. Monumentation in the backs of the properties should also be located to ensure the R/W is correct and that the side lines are correct. Survey crews should also locate evidence of possession (i.e., fences) during their search for monumentation. Pictures and descriptions of what was found, including pipe sizes, color of cap and what is written on the cap, should be provided to the Practitioner. This is important information to have as different monuments carry different priorities when resolving the properties and right-of-way.



5. *Locate Existing Features with Potential Impacts*

It is also important for Survey to locate all existing topographic features on a property that may potentially be impacted by the project. These features are important for the Appraisal Section when they are making their valuations on the impacts to a property. For example, septic systems, wells, and parking stalls in a parking lot should all be located, in addition to all buildings, landscaping and other man-made features.

a. Septic Systems

It is important to locate the septic system on a property, if present, and it should be shown and identified on the plans. Impacts to septic systems should be minimized/avoided, if possible. When any element of a septic system is impacted by a DelDOT project, the Acquisitions, Relocations and Settlements Section will work with the Practitioner to determine the extent of the impacts and the best path forward for the acquisition process.

Minor impacts could mean relocating the drain field. Major impacts could mean a whole septic system redesign and installation, or if that is not possible because of site constraints, then a total acquisition of the property and relocation of residents or businesses may be necessary. There could also be the potential to tie into existing public sewer facilities in the area if they exist. Major impacts like this cost time and money for DelDOT and should be avoided when possible, so as not to delay the project.

Existing septic permits can be obtained by going to DNREC's website under the Division of Water>Septic System Information. From there, the Practitioner can go to the Delaware Open Data website to search the database.

Click on 'View Data', then search by tax map parcel number in 'Find in this Dataset'. If there are any permits on file for the parcel, it will populate. Then scroll all the way to the right of the screen and click on each URL. On the left-hand side of the next page, if any documents have been scanned for that permit for the parcel, they will show up under 'Documents'. They can then be viewed and downloaded. A graphic, step-by-step process can be found on the DRC.

Note that there are limitations to the information available, notably if the septic system has been in place for a long period of time. Field reviews and discussions with the property owners, in conjunction with representatives from the DelDOT Right-of-Way Section, may be needed. Note that even if there are public sewer facilities in the area, all properties or facilities on a property may not be connected to it.

b. Wells

It is important to locate any wells on a property, if present, and they should be shown and identified on the plans. Electric power to the well and water lines from the well to buildings or other facilities, such as irrigation devices, should be identified, if possible. Impacts to wells should be avoided, if possible. When a well is impacted by a DelDOT project, the Acquisitions, Relocations and Settlements Section will work with the Practitioner to determine the extent of the impacts and the best path forward for the acquisition process.

Impacts to a well could mean relocating the well, depending on site constraints for the property, or installing a new water hookup if there is currently water service in the area. Wells cannot be located within proposed R/W. The Practitioner should consult with Team Support to determine if a well can be located within a proposed PE.

Existing well permits can be obtained from DNREC's database by going to:

[Well Permits | Delaware Open Data Portal](#)

DNREC also has Well Viewer at the following site:

[DNREC Well Viewer \(arcgis.com\)](#)

Directions for accessing the well permits are the same as the septic permits. Click on 'View Data', then search by tax map parcel number in 'Find in this Dataset'. If there are any permits on file for the parcel, it will populate. Then scroll all the way to the right of the screen and click on each URL. On the left-hand side of the next page, if any documents have been scanned for that permit for the parcel, they will show up under 'Documents'. They can then be viewed and downloaded.

For residential and commercial properties, there may be both potable and landscape irrigation wells. Agricultural lands may have crop irrigation wells. All features associated with these systems should be located and impacts avoided, if possible.

c. Parking Stalls

It is important to locate not only the limits of the parking lot on a property, but also the parking stalls, curbs, islands, circulation markings, walkways, parking bumpers, etc., within the project limits. Designated handicapped parking stalls and their associated signs and markings should be identified. If a property loses parking stalls as part of a DelDOT project, the property owner may receive compensation depending on zoning requirements. Also, a certain number of parking spots are required by code, so if that minimum number can no longer be provided, then the property owner may need to be relocated, adding time and cost to the project. Parking, circulation, and access must also be considered for any temporary and permanent conditions of the project; therefore, information on these amenities on a property, but outside of the immediate project limits, may be required.



C. Resolve Right-of-Way Mosaic

Note: Steps C, D and E may be performed concurrently or in the order best suited to the Practitioner.

The metes and bounds in the deeds and plats for each parcel within the project limits should be plotted in the mosaic file. These boundaries can then be pieced together based on the common property lines and placed/rotated on the found monumentation, allowing any gaps and/or overlaps to be resolved, as set forth in the practice and principles of Land Surveying in the State of Delaware (24 Del. C., Chapter 27). Checks must also be made to ensure the property works within itself and adjoining parcels. It is also recommended that the most recent aerials be referenced into the design file to visualize the Mosaic's placement and rotation. Note, when using Bentley Products, the current best practice is to utilize the Bing Maps add-in directly inside the Bentley software.

Any discrepancies with the called for bearings and/or distances, closure errors or issues with the monumentation should be noted, along with found monumentation that was not held. Details on this information should be included in the Project Survey Report.

D. Establish Existing Right-of-Way Baseline

The existing Right-of-Way baseline needs to be established. Generally, this process involves recreating the most pertinent baseline(s) from the archived plans, including the geometry and stationing, and placing it on a best fit of the baseline of the road, as originally constructed and any called for R/W monumentation within the archived plans. It is also recommended to reference the most recent aerial photography into the design file as a general guide in the placement and rotation of the baseline. Note, when using Bentley Products, the current best practice is to utilize the Bing Maps add-in directly inside the Bentley software.

In some instances, there are multiple existing R/W baselines that have been utilized to purchase Right-of-Way and will need to be recreated from the different archived contracts. If requested, the limits of the various baselines and their sources (i.e., historic contract) should be noted.

It should also be noted that for roadways that only have dirt road projects as archived plans, the R/W baseline should be established as a best fit of found improvements called for in the archived plans, the centerline of the road as originally constructed and acquisition deeds prior to any improvements, including curves wherever necessary. The stationing from the dirt road projects should not be used (typically given in miles not feet). Note, permanent easements for dirt road projects only provide the offset from the centerline and the adjoining owners. Daylight

easements are usually separate deeds. None of these documents typically include full descriptions of the acquisitions.

The Practitioner can use information contained in archived survey field books in the reestablishment of the baselines if it is available.

Any deviations from and/or discrepancies with the baselines on the archived plans should be noted in the Project Survey Report.

E. Resolve Existing Right-of-Way

While the existing Right-of-Way baseline and property boundaries are being established, the existing Right-of-Way corridor needs to be established. Using the archived plans and as-acquired deeds, the existing R/W baseline should be offset the distances called for at the stations specified to create the R/W corridor. Generally, these offsets should be even numbered distances, unless otherwise specified. Also, the existing R/W corridor should end up being a best fit of the found monumentation, to include archived plan called for monuments, and hit most evidence relatively well.

Any found evidence that was not held when establishing the existing R/W corridor should be noted in the Project Survey Report.

Aside from the existing R/W being established by DeIDOT archived contracts, it could also have been established by King's roads/highways, Statute Law or 20-Year Law, as discussed below. The difference between existing R/W by Permanent Easement and existing R/W in FEE is also discussed below. Other aspects of existing R/W, including denial of access, R/W dedications, R/W reservations, railroad crossings, water rights and conservation easements are discussed below as well.

1. Existing Right-of-Way by Permanent Easement

Right-of-Way by Permanent Easement defines the existing R/W line as established by a permanent easement granted to the State. One source of these conveyances was the Dirt Roads Program, which began in the 1950's and has since ended. In essence, dirt roads typically ran along property lines and were commonly used by the public, so the State negotiated with property owners to pave and maintain the dirt road in exchange for a permanent easement. There was no geometry established, and the plans provided project limits and a typical section. Permanent Easements were recorded for both daylight corners and the corridor, which specified an offset from the road "as constructed". The result of this program was newly paved roads

within the R/W established by permanent easement. Figure 2-3 is an example of a Permanent Easement on a dirt road project.

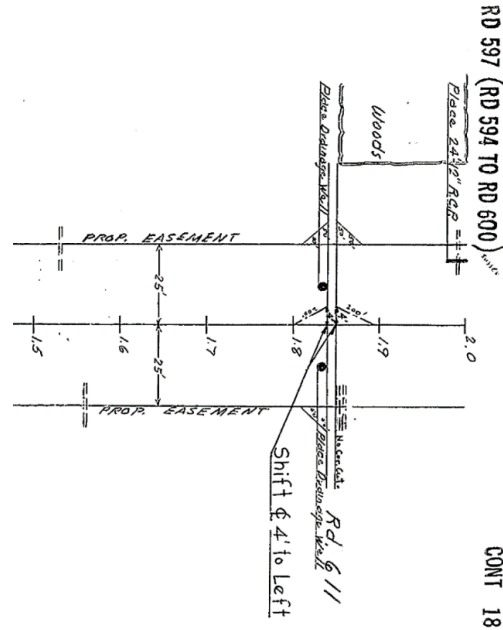


Figure 2-3 Easement Purchased for Dirt Road Project

Easements such as King's roads and highways, Statute Law, 20-year Law, and Dirt Road Easements, are shown as Right of Way by Permanent Easement (RW/PE) on the Right-of-Way Plans.

a. King's Roads/Highways

With the arrival of settlers to Delaware, the Dutch and English Kings called for the construction of roads, often called "King's Roads", although no sufficient proof appeared that they were laid out with legal authority. However, legislative papers (Court of General Sessions) in the 1700's enacted by the King's representatives state that roads and highways be established in all three counties in Delaware for safe and convenient travel. These legislative papers also established the right-of-way width for the various roads. It is rare that any of these original rights-of-way remain as the roads in question have been widened, realigned and reconstructed since their inception.

The following link can be used to view the Laws of the State of Delaware, where many of the acts that created widths for the first roads in Delaware exist: [Laws of the State of Delaware: From the Fourteenth Day of October, One ... - Delaware - Google Books](#)

b. Statute Law

Legislation by the Levy Courts after the founding of the United States of America established certain public roads, highways, and bridges in the three counties in Delaware. This legislation also established the right-of way for these facilities. Generally, the three counties maintained twenty-five foot to sixty foot widths on all public roads. On July 1, 1935, by legislation, DelDOT was given absolute care, management, and control of all county roads, highways, and bridges, and therefore the corresponding rights-of-way. It should be noted that these legislative acts established DelDOT's rights to the use of the land (i.e., an easement) and not ownership in FEE Simple of the rights-of-way.

c. 20-Year Law

Delaware Code [\[17 Del. C. §509\]](#) specifies that all public roads, causeways, and bridges that have been both in use and maintained by the State of Delaware for at least 20 years are considered public roads. The usage by the public for 20 years or more alone does not constitute the road as public, it must have also been maintained by the State for 20 years or more. It should be noted that this provision for public use constitutes a permanent easement and does not change the underlying FEE Simple ownership of the rights-of-way.

2. Existing Right-of-Way in FEE

Existing Right-of-Way in FEE is land or property that has been acquired by the Department, including the underlying FEE simple ownership. The Department has clear ownership of this land. This ownership is typically recorded in some type of document in the respective County's Recorder of Deeds.

3. Denial of Access

A denial of access is a section of a property that is denied direct access to a State maintained road. It is delineated with a "DA" linestyle with regards to the plans, unless otherwise specified. When a denial of access is established, it can coincide with the Right-of-Way or can be a separate line within the Right-of-Way depending on the project needs. A denial of access should not be eliminated without concurrence from DelDOT, and possibly FHWA.



4. *Right-of-Way Dedications*

A Right-of-Way Dedication is land that is granted to the Department as right-of-way, but the private property owner may still retain the underlying FEE simple ownership. Right-of-way dedications should be treated as easements with regards to the plans unless otherwise specified, as discussed below.

a. Recorded Plats vs Recorded Deeds

A Right-of-Way Dedication shown on a recorded plat should be treated as an existing easement if the dedication note or other notes on the plat do not indicate the intent of the transfer of the land to the State of Delaware is in FEE. If a strip of land is noted to be dedicated within a recorded deed, then the Grantor is aware of this transfer and the intent is that it is in FEE. The existing right-of-way would then be expanded to include this area. The Practitioner may need to consult with the Team Support Section to determine the intent of the dedication. If further clarification is required, the Team Support Section will consult with DelDOT Legal. This applies to both in-house and consultant projects.

Each County may or may not treat dedications on plats as right-of-way in FEE. Regardless, all R/W dedications should be evaluated on a case-by-case situation. Research is performed to determine intent through deed research, tax records, and conversations with the County and Team Support, as needed.

b. Development Coordination

DelDOT's Development Coordination Section has established regulations on the dedications of land in Section 3.2.5.2 of the Development Coordination Manual. The Practitioner is to follow the guidance in the DelDOT Development Coordination Manual, which can be found on the DelDOT website under Business/Doing Business tab in the Development Coordination Portal.

5. *Right-of-Way Reservations*

A Right-of-Way Reservation is a commitment by the Department for future acquisition from an owner of any interest in a property, in exchange for an agreement by the owner to refrain from further developing the property within the reserved or designated area. Right-of-way reservations should be treated as easements with regards to the plans, with reference to the appropriate supporting document. These Right-of-Way Reservation areas may be outside of other existing Rights-of-Way by Permanent Easement or existing Rights-of-Way by FEE.

R/W reservations typically occur through the development coordination process. R/W reservations are not compensated; however, they are considered by the Appraisal Section during the appraisal process.

6. Railroad Crossings

Typically, there is an agreement between the railroad and the State that dictates the conditions of the State having a road crossing through the railroad's property. The railroad property boundaries are normally shown as existing property lines and the State's existing R/W lines typically stop at the railroad property on either side of the crossing. See the following example in Figure 2-4.

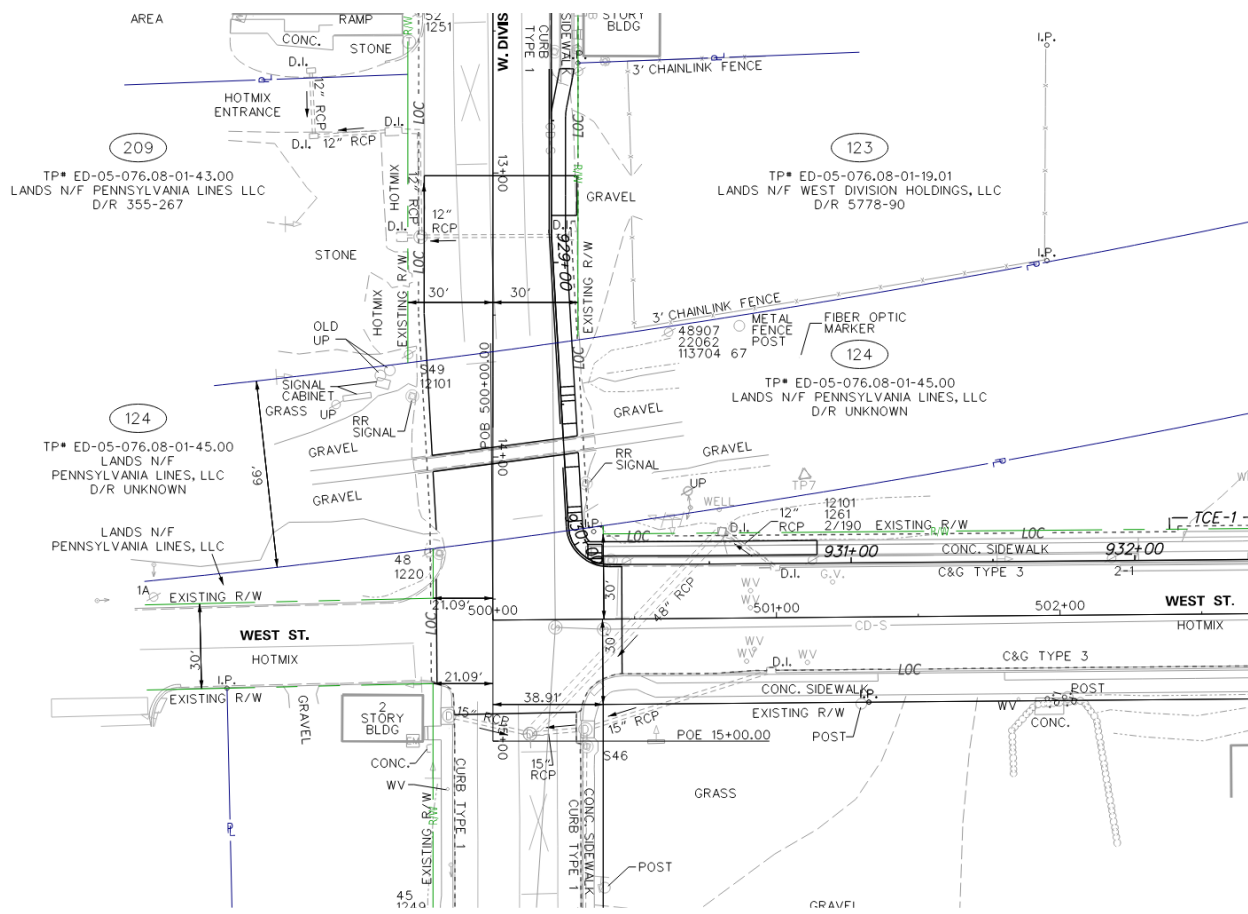


Figure 2-4 Railroad Crossing Example

At some road crossings of railroad property, DelDOT acquired Permanent Easements. These should be shown as such, and the appropriate documentation identified. See the following example in Figure 2-5.

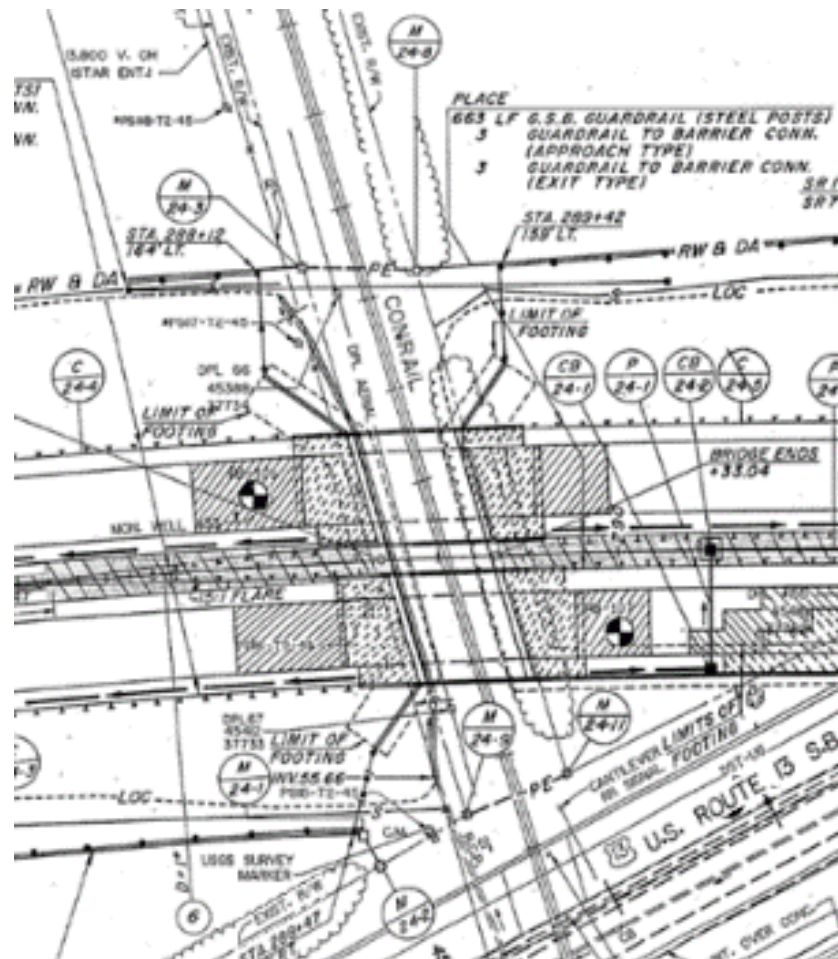


Figure 2-5 Railroad Crossing with Easement Acquisitions Example

7. Water Rights/Riparian Boundaries

Water rights and riparian boundaries come into play when there is a body of water adjacent to or part of a property. Water rights also pertain to all tidal and non-tidal lands within the State of Delaware. DNREC has control of all subaqueous tidal lands within the State under state law. This means that all tidal lands are owned by the State and any adjoining property owners own to the mean low watermark of the tidal boundary. Note, all subaqueous tidal lands within designated Canals and other navigable waters in the State are owned and controlled by the US Army Corps of Engineers, also referred to as Waters of the US.

Riparian rights pertain to any non-tidal waterways in the State. They are those rights and obligations that are incidental to owning land adjacent to or abutting these natural watercourses, such as ditches and streams. Typically, the adjacent property owners have rights to the meandering centerline of the ditch or stream, unless otherwise specified in their deed of record.

8. Conservation Easements within Existing Right-of-Way

A conservation easement imposes limitations on an area for the purpose of preserving the historical, architectural, archaeological, or cultural aspects of the property. This also includes, but is not limited to, protecting natural, scenic, or open-space values of the property, assuring the availability for agricultural, forest, recreational or open-space use, protecting natural resources, fish and wildlife habitat, rare species, and natural communities, and maintaining or enhancing air or water quality.

If an existing conservation easement is found during the research for a project, it should be included in the R/W mosaic as an existing easement and noted as such.

F. Existing Government Boundary Lines

Existing Government boundary lines, such as Hundred, Town, County and/or State, should be included in the R/W mosaic when the project limits fall along these boundary lines. Any gaps and/or overlaps between the government boundary(ies) and the parcel boundaries should be discussed in the Project Survey Report. The State boundary must be shown to ensure that acquisitions are being performed within the State. Project limits and acquisitions outside of Delaware will require agreements with the respective neighboring state.

1. Municipality

If some or all the project limits are located within a municipality, the boundary should be included in the R/W mosaic to be shown on the plans. It should be shown in the project location map on the title sheet and on the corresponding plan sheets. This should also be noted with the plan submission. Identifying this is important because a Town Agreement or notification will need to be prepared for maintenance responsibilities for the project. The municipal boundary may affect the valuation of a property by the Appraisal Section.

2. County

If the project limits are split between counties, the county boundary lines should be included on the R/W mosaic and title sheet of the plans. This should also be noted with the plan submission. This is important for valuation of properties by the Appraisal Section.



3. State

If the project limits or involved parcels are adjacent and/or include the State boundary, it should be included on the R/W mosaic, title sheet and on the plan sheet(s). If the deed boundaries of a project parcel that requires acquisition extend across a state line, the total area of the parcel and the area of the parcel within Delaware should be shown. If the area within Delaware is not identified in the deed or other recorded document, then the assessed area can be used.

The relevant state line monuments should be pulled from the NGS website, located in the field, and plotted and incorporated into the R/W mosaic, relative to the project control network.

G. Project Survey Report

After the R/W mosaic has been fully resolved, including the found monumentation, existing R/W, existing property boundaries and existing easements, the Project Survey Report should be prepared by the Practitioner for consultant projects. This report should include all background information on how the R/W mosaic was established. Detailed notes should be taken during the creation of the R/W mosaic to aid in the preparation of the Project Survey Report. The historic contracts that were used to re-establish the existing R/W baseline and the existing R/W corridor should be discussed. The process for how each project parcel was resolved, including the found monumentation that was held and any closure issues, should also be discussed. Any existing easements for each project parcel should also be noted. An example of a Project Survey Report and general guidance has been included on the DRC.

The Project Survey Report should be included with the first submission for the project (survey or preliminary). The Project Survey Report helps to streamline the review of the existing R/W mosaic. Without this document, the reviewer will have to piece together what was done and may not be aware of what decisions, determinations, and judgment calls were made by the Practitioner to determine the existing R/W mosaic. This may result in longer review times and more comments than necessary. The Project Survey Report can be a ready source of information if any questions arise later during the acquisition process, saving time since the Practitioner would not have to research the decision-making process.



Delaware Department of Transportation

**RIGHT-OF-WAY ENGINEERING
MANUAL
2023 EDITION**

Chapter III

ACQUISITIONS

III. ACQUISITIONS

Acquisition is the act of purchasing (in FEE Simple or by easement) property for the purpose of building infrastructure for transportation purposes. The acquisition is based on the amount of land needed to build the infrastructure project, including all facilities needed to support the maintenance and operation of the infrastructure project.

Infrastructure can be roads, pathways, sidewalks, bus shelters, or parking areas to support public transit. Facilities to support infrastructure include toll equipment, traffic signal and communication equipment, ITMS, lighting, utilities, drainage, stormwater facilities, maintenance facilities, etc. that are required in support of the Project’s Engineering Need.

This chapter is meant to provide guidance to the Practitioner in determining what type of acquisition is appropriate. If there are any non-typical situations, the Practitioner is directed to contact DeIDOT Team Support for clarification. Presentation of acquisitions on the Right-of-Way plans is covered in Chapter IV, Plan Preparation.

The general decision-making process for acquisition is shown in the flowchart in Figure 3-1. This is a simplified version of how the type of acquisition is determined. All projects are different, and projects can have unusual circumstances that may not fit these criteria. Team Support will assist the Practitioner if there are any questions about which type of acquisition is appropriate.

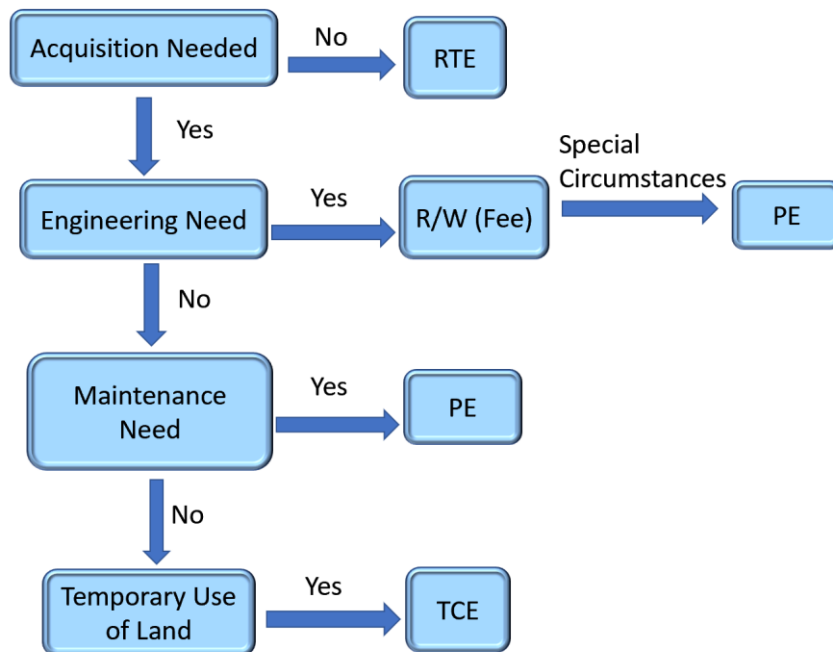


Figure 3-1 Acquisition Decision Flowchart

A. Limit of Construction (LOC)

The first step in determining the type of acquisition is to know the area in which work will be required as part of the construction. Limits of Construction (LOC) are the boundaries that define the area within which the Contractor must confine the work. The Practitioner must establish the LOC such that the contractor will not trespass into areas that have historic, cultural, or environmental restrictions, or HAZMAT concerns. The Practitioner must coordinate with the Environmental Stewardship Section to determine any limits around sensitive areas that should not have construction disturbance.

The LOC is established first to determine what type of acquisition is necessary. The acquisition is typically placed on the plans at least one foot or more outside of the LOC. See Figure 3-2 for an example of establishment of the LOC within the acquisition area.



Figure 3-2 Limit of Construction within a Permanent Easement

B. Proposed Right-of-Way (R/W)

Proposed Right-of-Way in FEE Simple (R/W) is land or property that is acquired for or devoted to transportation purposes and represents the Engineering Need for the project. The Proposed R/W should include all lands needed for features such as roadway, utilities, sidewalk, traffic equipment, ITMS, lighting, drainage, stormwater facilities, guardrail, landscaping, etc. Clear zone should be part of the R/W only if it is required due to design standards. Access to all features of

the improvements should also be considered as part of the R/W to allow safe access for construction and maintenance of the facilities.

Features and facilities used to support the maintenance and operation of the roadway, whether for maintenance and operations, environmental mitigation sites, or some other purpose, should be within Operational Right-of-Way. The Delaware General Assembly includes language every session in what is referred to as the “Bond Bill”. The language pertains to Maintenance and Operations facilities and gives special authority to exempt DelDOT from local zoning ordinances:

Building structures and facilities constructed, or to be constructed, within the Department of Transportation's operating right of way that facilitate maintaining the highway system and are used to assist in the operational and maintenance activities for all roads, shall not be subject to zoning, subdivision or building code ordinances or regulations by any political subdivision of the State. Types of structures may include equipment sheds, crew quarters, equipment maintenance, equipment washing, material storage sheds (i.e., salt, sand, and other bulk materials), fuel centers and other maintenance structures required to maintain the highway system such as security (cameras and fences) including necessary maintenance and replacement items such as upgrades to existing facilities. The Department shall not construct any such facility without first conducting a public workshop to describe such plans and gather public input into the effect of such plans. (SB 40, January 26, 2023)

The Practitioner should consider any existing agreements or deed restrictions that apply to project parcels when establishing the proposed R/W corridor. A thorough search for all information should be done prior to establishing the proposed R/W line. Agreement language or deed restrictions can affect the placement of the proposed Right-of-Way line. For more information on Agreements, see Chapter VIII of this manual.

If the Practitioner expects that there may be total acquisitions of parcels or if a parcel will be bisected, then consideration should be given to the future sale of excess lands. The Land Services Section, which is part of the Right-of-Way Section, will assist the Practitioner in identifying the proposed Right-of-Way to maximize the excess lands available for sale.

Establishing the proposed R/W is based on the Engineering Need for the facilities to be built. When establishing the proposed Right-of-Way for a project, care must be taken to limit the acquisition as much as is practical. The new construction should strive to find the best-fit that will allow for the needs of the project design components, in conjunction with the least impact to residences, businesses, and the environment. For example, in Figure 3-3, the roundabout was shifted away from the residences and the existing Right-of-Way was used as much as possible. Although one structure was impacted, the impacts to all other residences was lessened.

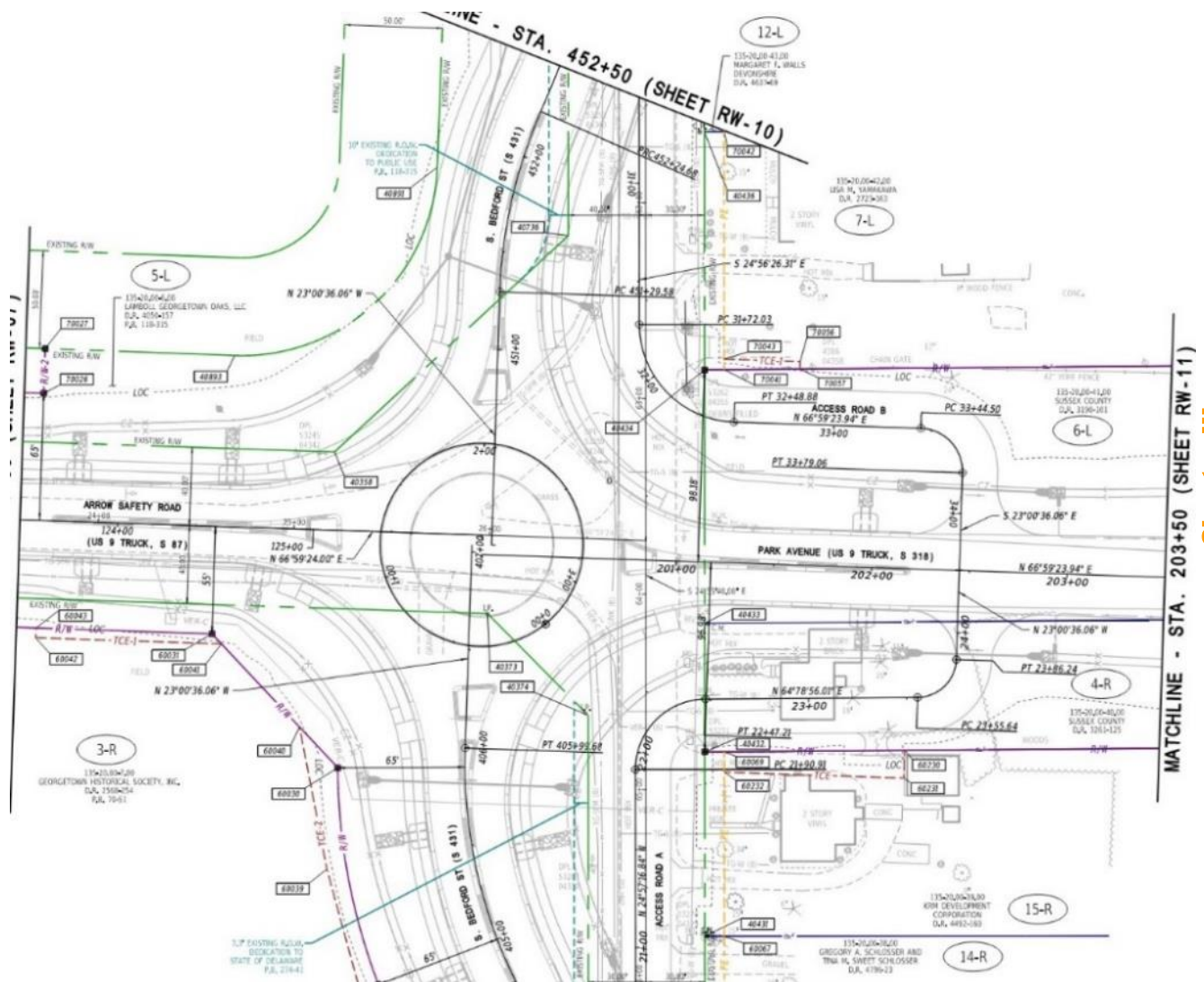


Figure 3-3 Establishing Proposed Right-of-Way

C. Denial of Access (DA)

Denial of Access prohibits a portion of the property that abuts the roadway from having direct access to the roadway. DeIDOT is authorized to regulate access on state maintained roadways under [\[17 Del. C. §146\] Access to State Maintained Highways](#). The Federal Highway Administration has jurisdiction over Denial of Access to the Interstate system and controlled access roads built with Federal funds. During the preparation of the existing Right-of-Way Mosaic, any existing Denials of Access must be identified on the plans. Denials of Access may be part of the Right-of-Way line (R/W-DA) or separate lines (DA).

Denial of Access is found on interstate facilities such as I-95, and limited access facilities such as SR 1 and US 301. Full control of access along the mainline and ramps, along with control of access

on the crossroad(s) at interchanges, is critical to providing a high level of service in terms of safety and mobility. On other roadways, there may be a Denial of Access, such as near an intersection, to preserve capacity. A thorough review of existing Construction and Right-of-Way plans and the acquisition documents should be conducted to properly identify the presence of any existing DA's within the project limits. The information in the plans versus the acquisition documents must be checked to ensure they agree. Any discrepancies should be reviewed with Team Support.

Highways that are in the Corridor Capacity Preservation Program are an example of a highway that is subject to the access management protocols developed for the Corridor. The controlled access facility, including ramps and crossroads, will have a Denial of Access line. Access to abutting properties will be provided by the local road system that exists or is reconfigured to form a frontage road system. The Corridor Capacity Preservation Program is discussed more fully in Chapter VIII, Agreements.

If the Practitioner determines that a new Denial of Access must be placed on an existing R/W of a state-maintained roadway that normally has access, the Practitioner must work collaboratively with the Traffic Engineering Section and Development Coordination Section to determine the placement of the Denial of Access from a traffic safety perspective. The Practitioner must also consult with Team Support and Team Support will recommend the placement of the Denial of Access.

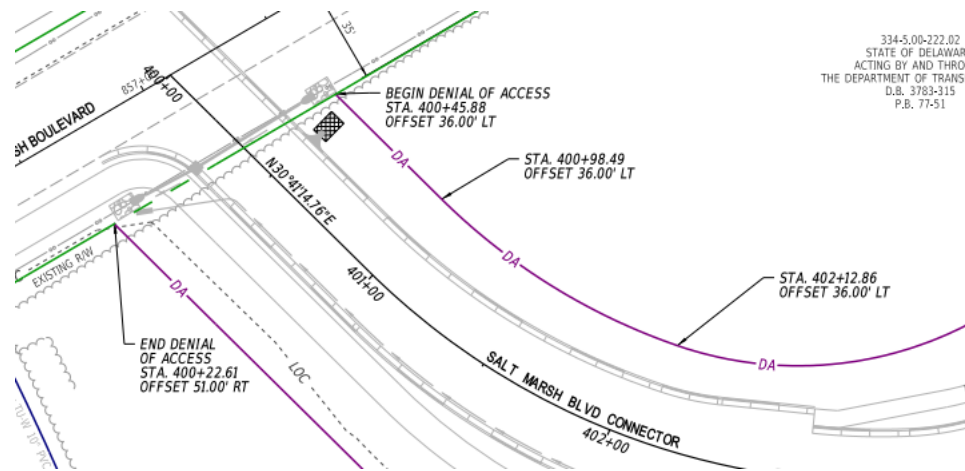
When only the need for access rights (and no additional right-of-way) are identified, DelDOT will not purchase or condemn unless the Right-of-Way Section finds a material impairment of direct access on and off the property that affects the market value. Absent that finding, access will be controlled via authorization under 17 Del C. §146 and the property line will continue to be shown as Existing Right of Way or existing Right of Way by Permanent Easement. If there is an effect on market value, the property line is shown as a DA on the plans.

The Right-of-Way Section will record the Denial of Access as part of a deed for the property.

1. Proposed

The Practitioner should determine if the roadway warrants a Denial of Access because of its functional classification as a limited access highway, or if traffic conditions warrant limiting access to any locations along a normally full access highway.

Figure 3-4 illustrates the placement of a Denial of Access line. The beginning of a DA and the end of a DA must be identified with station and offset. Any intermediate points needed to describe the location of the DA line must be identified.



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STATE OF DELAWARE
ACTING BY AND THROUGH
THE DEPARTMENT OF TRANSPORTATION
D.B. 3783-315
P.B. 77-51

Figure 3-4 Denial of Access on a Limited Access Highway

The Right-of-Way and Denial of Access may occupy the same line and can be denoted as R/W-DA. The R/W line may diverge from the DA if there is additional land being used as operational Right-of-Way. In Figure 3-5, the DA line describes the Engineering Need and the R/W-1 line describes the operational right-of-way.

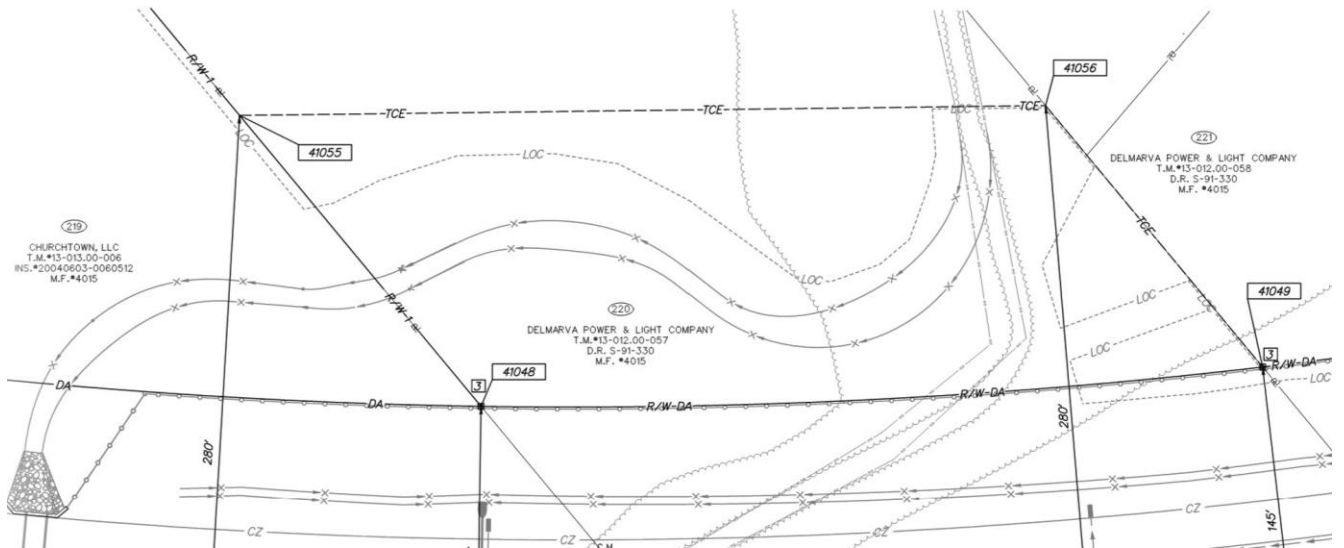


Figure 3-5 Diverging Denial of Access and Right-of-Way lines

A separate DA line may also be used when a limited access highway is adjacent to another road that is otherwise fully accessible. In this instance, the operational Right-of-Way extends to the 'far side' of the fully accessible road and a separate DA line would be located between the fully accessible road and the limited access highway. Figure 3-6 illustrates a frontage road adjacent to SR 1. A DA line is drawn on both sides of SR 1 and a R/W line is shown on the "far side" of the frontage road.

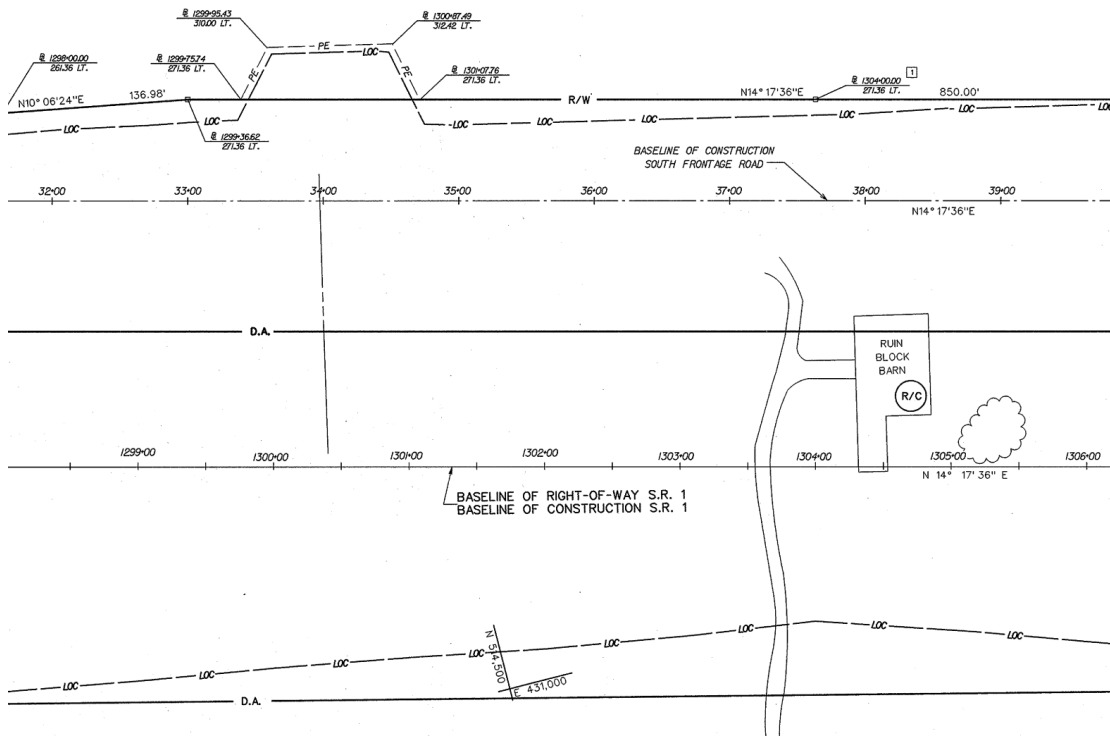


Figure 3-6 Frontage Road and Limited Access Facility

When a limited access highway bridges over or under another road, the Denial of access does not extend across that road as shown in Figure 3-7. The DA ends at the existing R/W of the road under the proposed bridge. Other variations on the application of R/W-DA and separate DA lines may arise on a project and they should be reviewed with Team Support.

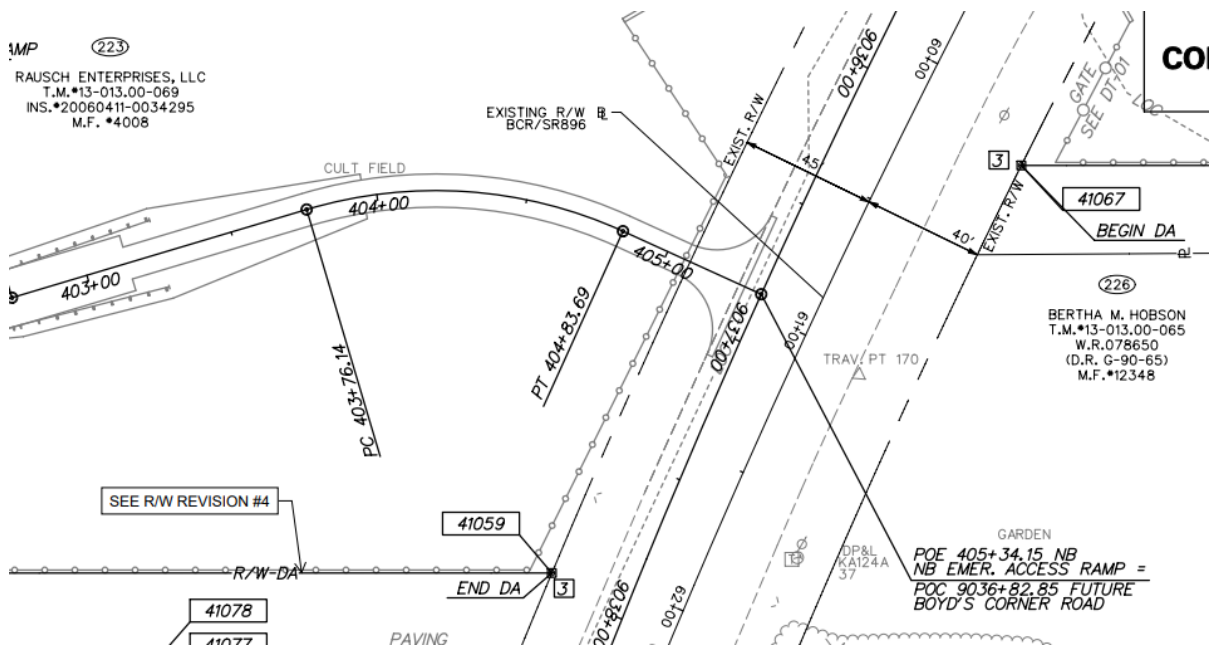


Figure 3-7 Denial of Access on Crossroads and Ramps



2. **Breaking Existing DA**

There are times when DelDOT may be asked to revise the limits of an existing Denial of Access. This can be by a property owner request or because of changes to the roadway.

On the Interstate System, DelDOT must request approval from the FHWA to decide whether new or revised points of access are acceptable. The FHWA's decision to approve a request is dependent on the proposal satisfying and documenting the following:

- “The operational and safety analysis has concluded that the proposed change in access does not have a significant adverse impact on the safety and operation of the Interstate facility or on the local street network based on both the current and the planned future traffic projections.”
- “The proposed access connects to a public road only and will provide for all traffic movements.”

For more information, the *Policy on Access to the Interstate System* can be found by searching the FHWA website. DelDOT has also adopted Policy Implement R-05, *Access Control Policy*, found on the DelDOT intranet. The DelDOT policy is to be used to revise any existing Denial of Access on access controlled non-interstate highways. If a DA is to be revised, then the revision is to be noted in the Remarks field in the Metes and Bounds table for the affected parcels in the Right-of-Way plans.

D. Permanent Easement (PE)

A Permanent Easement provides DelDOT certain rights to the land, as described in the PE agreement, while the property owner retains the underlying FEE simple ownership of the land. Templates for Permanent Easements and the rights that DelDOT obtains from a PE can be found on the DRC.

Note, if there is an existing PE on a parcel within the area needed for the project and it is desired to utilize that PE, the Practitioner should research archived plans and recorded deed information carefully to determine what type(s) of rights DelDOT has within the PE. For example, the recorded document for the PE could limit the use of the area specifically to drainage. If the area is needed for other uses, such as utilities, sidewalk, etc., then the PE agreement must be amended in a new recorded document to expand DelDOT's rights to include all required uses. Figure 3-8 shows a new PE that overlapped an existing drainage easement. The new PE agreement will include expanded DelDOT rights to include all required uses.

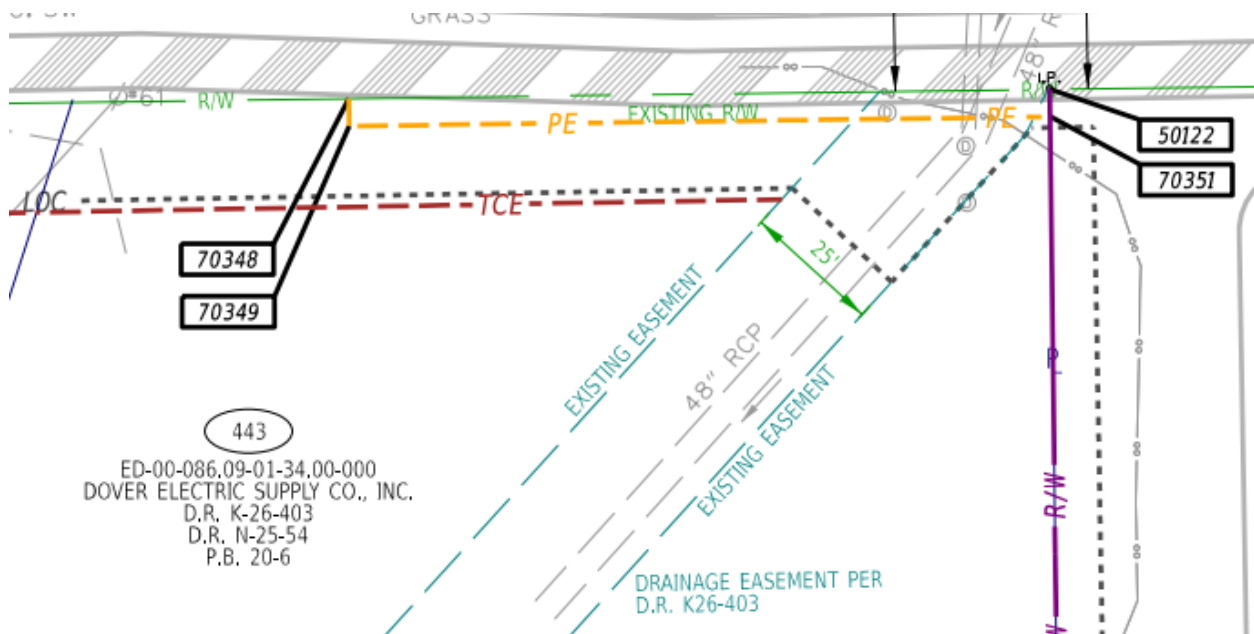


Figure 3-8 Permanent Easement

If the grading for a roadway will require a cut or fill slope that is steeper than 3:1 and that slope is outside of the typical proposed Right-of-Way, normally a PE is preferred for the slope. This allows the private property owner to retain ownership but allows DeIDOT to maintain the slope if needed. Team Support should be contacted by the Practitioner to review the application of PE for slopes outside of the typical proposed Right-of-Way.

Facilities located along the roadside may require placement of a fixture and/or require future maintenance, which can be accommodated by a PE. An example of this could be for a drainage easement, guy wire for a utility pole, an access road to a utility, or to provide access for equipment to make future bridge repairs, inspections, or maintenance. Figure 3-8 is an example of a PE used to preserve access to a drainage system. Note that an acquired PE can be used for any of the rights described in the PE agreement and that, in this example, the use of the PE would not be restricted to only the drainage.

For presentation of a PE on the plans, or numbering of multiple PE's on a parcel, the Practitioner should follow guidance on the DeIDOT CADD Wiki and Example Plans.

In some circumstances, an Aerial PE may be used for above ground utilities or for canopies of structures. An Aerial PE is rarely used but would be used in a situation where it is beneficial to accommodate commercial parking or other site improvements. The word AERIAL is shown in front of PE in the linestyle. If space is limited, the word AERIAL can be labeled adjacent to the PE text. See Figure 3-9 for an example showing both ways to note AERIAL with the PE line. The Practitioner should take note that underground facilities such as wells, storage facilities or privately owned underground services should not be located within an Aerial PE. Maintenance activities on the aerial facilities may affect the underground facilities. The Aerial PE provides the

rights to construct, maintain, repair, and replace overhead facilities. Concurrence with the Utility Section, Team Support and Right-of-Way needs to be obtained prior to use of an Aerial PE.

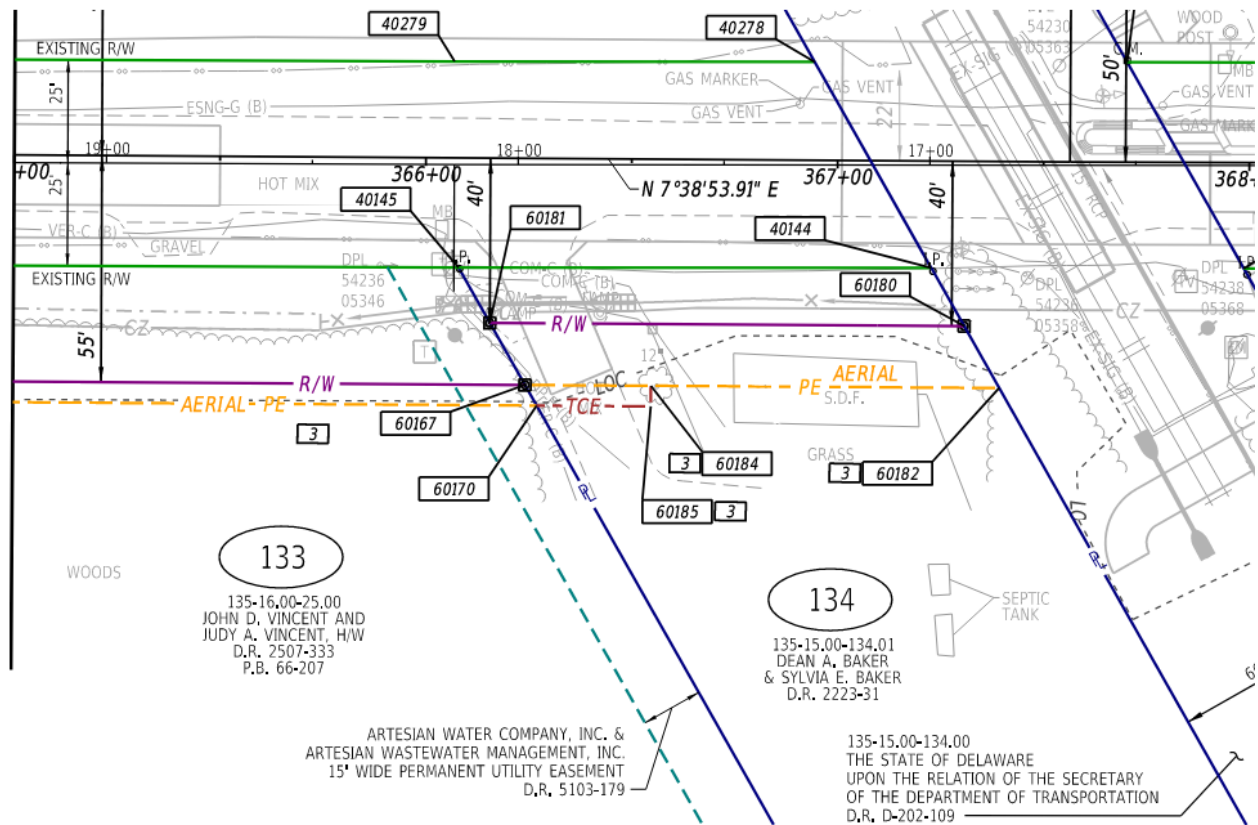


Figure 3- 9 Example of AERIAL PE text on R/W Plans.

If an Aerial PE is located on a parcel with other standard PE's, the Aerial PE is included in the numbering sequence described above. A note in the Remarks box of the Data Table must be included to identify which PE acquisition area is an Aerial PE.

1. R/W vs PE

Typically, a R/W acquisition is used rather than a Permanent Easement (PE) acquisition for permanent features. However, there are times when a PE acquisition is preferred. Typically, a Permanent Easement is used rather than a R/W acquisition in situations where DelDOT or a utility company need to install and maintain a facility. The standard PE agreement provides the rights to install and maintain any transportation related improvement within the PE and includes restrictions on what the owner of the underlying R/W may do within the PE. Figure 3-10 illustrates a sidewalk constructed within a PE.

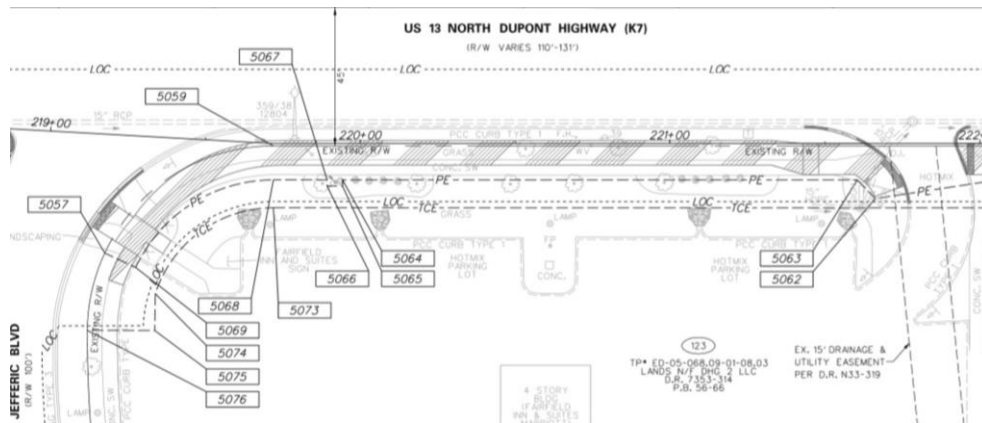


Figure 3-10 A permanent feature constructed within a Permanent Easement

a. Recommendations

The use of a PE rather than a R/W is reviewed by Team Support on a case-by-case basis. Team Support will review and recommend which acquisition is appropriate.

b. Identify Potential Issues

A PE can be used in place of a R/W acquisition if the property owner would like to retain ownership rights. For example, a PE can be used around a stormwater management facility, utility, sidewalk, or environmental mitigation site. Note that joint use of stormwater management facilities between DeIDOT and other private or public entities requires a separate Stormwater Management Joint Use Agreement. In working with the property owner, the Practitioner should determine what the wishes of the property owner are in relation to a R/W vs PE. Sometimes, a property owner would rather keep FEE Simple ownership because of zoning regulations for development of the parcel. The use of a PE can obtain the required rights for DeIDOT while minimizing impacts to the parcel, since set-back distances are typically defined from a R/W line by local land use agencies and the owner can use the land for any purposes that aren't in conflict with the terms of the PE agreement. It should be noted that the payment to the property owner is normally larger if a R/W is used rather than a PE, although this should be verified with the Appraisal Section.

c. Negotiations

It is recommended that the Practitioner verify the property owner's wishes early in the project, but there are times when the property owner does not verify this information until after an offer is made by the Acquisitions, Relocations and Settlements Section. The property owner may wish

to have a PE rather than a R/W. In this case, the Practitioner will have to revise Right-of-Way plans based on the outcome of negotiations. The Practitioner must act quickly to make the revisions as the Acquisitions, Relocations and Settlements Section needs this information to make the corrected offer.

E. Temporary Construction Easement (TCE)

A Temporary Construction Easement (TCE) is an agreement granting temporary use of an area on a private property for access, grading, etc. The TCE provides the working room for the contractor to complete the work. The agreement is effective for the duration cited in the TCE agreement. The Practitioner will communicate to the Team Support Section, the Appraisal Section, and the Acquisitions, Relocations and Settlements Section the proposed timetable of the contract. This can be done through the Parcel Impact Form. A TCE ends when the time period is complete. The duration must include all work that is to be performed within the TCE, including any advance utility relocations, and performing work on punch-list items after substantial completion of the work.

The TCE is typically activated when Notice to Proceed has been given to the contractor. The need for access to the TCE prior to the start of construction must be communicated by the Practitioner to the Right-of-Way Section prior to offers being made. If there are any delays during construction that extend the contract beyond the original TCE duration, the new completion date will need to be communicated by the Practitioner to the Acquisitions, Relocations and Settlements Section along with the parcels that will be affected.

Each TCE for a parcel should be calculated separately and noted in the Data Tables of the Right-of-Way plans. A TCE is shown in Figure 3-11.

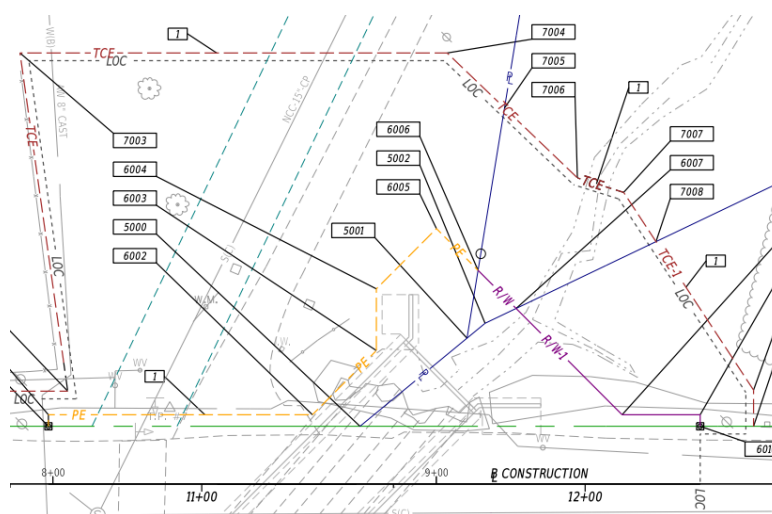


Figure 3-11 Temporary Construction Easement

F. Right to Enter (RTE)

A Right to Enter (RTE) is used to enter onto private property to maintain, repair, or reconstruct to current standards an existing publicly financed transportation asset. The use of an RTE is made on a case-by-case basis considering the scope of the project with concurrence from the DelDOT Chief of Right-of-Way.

The right to enter is based on the Delaware Code which states that DelDOT may make repairs and reconstruction of public facilities on private property [\[17 Del. C. §132 \(c\)\(13\)\]](#). The Delaware Code also allows for repairs on drainage facilities [\[17 Del. C. §504\(a\)\]](#) and maintenance of ditches, drains, streams and creeks within their channels [\[17 Del. C. §504\(b\)\]](#). Additionally, the Code identifies that if a roadway has been maintained at the public expense for 20 years it is deemed publicly owned. [\[17 Del. C. §509\]](#)

The Code excerpts above grant DelDOT a codified right to enter private property for “surveys, repairs, reconstruction and operation of publicly financed improvements”. The various components of a roadway, such as pipes, gutters, water control structures, ditches, drains, culverts, sewers, sidewalks, curb ramps, and traffic control equipment that have been “maintained at the public charge for 20 years or more” are deemed part of the public road or highway and therefore, are “publicly financed improvements”.

This authority allows DelDOT to make in-kind replacements of public-use facilities to bring the facility up to current standards. Some alteration of slopes, vertical and horizontal dimensions is also allowable, such as to update a facility to current standards, provided the work does not increase the footprint of permanent infrastructure specifically upon the private property, relocate the facility further onto private property, or otherwise increase the burden on the private property.

The authority described above allows DelDOT to assert police powers and is not asserting eminent domain powers. Police powers are not considered acquisition activities and therefore just compensation is not owed nor is just compensation to be considered an option.

This authority does not apply to new facilities. Where new facilities are constructed, DelDOT must use eminent domain powers to acquire necessary property rights to construct the new facilities.

Except for routine maintenance, when DelDOT intends to exercise its above authority to enter private property to perform repair or reconstruction work on publicly financed improvements, plans and/or detailed drawings shall be prepared clearly depicting the limits of the area DelDOT will enter.

The Practitioner will add an RTE to the Construction and Right-of-Way plans in the areas where the LOC will extend outside of the existing R/W. A standard project note shall be added to the corresponding Construction and Right-of-Way Plan sheets. The note is for both internal DeIDOT review purposes and for the contractor's reference. Note 1 should only be shown on the plan sheets if there is an RTE. If there is no RTE, do not show the note. For illustration purposes, see Figure 3-12 below. Any features on the parcel within the RTE line that should not be disturbed during the work shall be clearly marked on the plans with a DND identifier.

NOTE:
 1. WHERE A RIGHT TO ENTER (RTE) LINE IS DESIGNATED ON THE PLANS, IT INDICATES A LOCATION WHERE THE DEPARTMENT ALREADY HAS THE RIGHT UNDER DELAWARE CODE TO ENTER ONTO PRIVATE PROPERTY TO MAINTAIN, REPAIR OR RECONSTRUCT FACILITIES USED BY THE PUBLIC AND MAINTAINED AT PUBLIC EXPENSE.

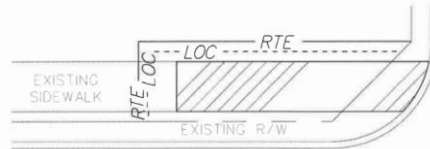


Figure 3-12, RTE and Project Note

There are some circumstances where a TCE, instead of the statutory RTE, would be appropriate. This decision is based on several factors, including the duration of impact, the benefits to the private property owner, and the effects upon the private property's value. Private/commercial driveways and entrances are generally not eligible for RTE use and must use a TCE, unless the entrance was publicly funded or maintained by the state for 20 years. The final decision as to whether land rights, in the form of a TCE, must be acquired will fall to DeIDOT's Chief of Right-of-Way.

During the design phase of a project, notification shall be sent as a courtesy by the Practitioner to the property owner, and tenant if applicable, indicating DeIDOT's intention to exercise its codified right to enter. A templated letter can be found on the DRC. The intent of the letter is to alert the property owner to the authority of DeIDOT. The Practitioner should obtain concurrence from the DeIDOT Project Manager prior to sending this letter.

If the property owner challenges DeIDOT's proposed entry onto their property, the Practitioner must decide as to whether the work can be excluded from the project and/or determine reasonable alternatives under the specific circumstances. The Practitioner must use engineering judgement and applicable standards when determining whether the work can be excluded. If the Practitioner chooses not to pursue the original proposed work, a letter to the property owner must be sent that indicates that DeIDOT still maintains the right to enter authority, but that DeIDOT will not pursue the original proposed work. A templated letter that explains that DeIDOT will not be using the RTE can be found on the DRC. If it is deemed necessary to reconstruct the existing facility, then the Practitioner should contact the DeIDOT Legal Section to discuss the appropriate path forward to exercise the State's police powers.

If it is determined during construction activities that additional land rights are required, the Chief of Right-of-Way shall be contacted as to appropriate procedures.

G. Parcel Impact Forms

The Parcel Impact Form contains information that assists the Right-of-Way Section in the review of Right-of-Way plans, appraisal, and acquisition processes. The Parcel Impact Form is filled out by the Practitioner, for all projects that require acquisitions. The Practitioner is to identify why the impact is necessary and what type of acquisition is needed, i.e., R/W, PE, TCE, and/or Area Occupied by existing R/W. A description of any impacted item(s) on the parcel should be described along with the impact. This could include landscaping, access/circulation, buildings, wells/septic/irrigation, parking, utility services, etc. Impacts during construction and for the final improvement conditions should both be described when applicable. If site improvements are not to be disturbed, any DND is to be noted on the Parcel Impact Form. Prior property owner meetings that the Practitioner may have had should also be noted and described. The timing of the need for any TCE should be noted on the form. The information is intended to give the Right-of-Way Section a complete understanding of why the property is to be acquired, what is being acquired (e.g., R/W, PE, TCE, etc.), impacts to the parcel, and what understandings the property owner may have. The form is located on the DelDOT DRC under Right-of-Way.

H. State Owned Parcels

Lands owned by the State of Delaware should note the Department responsible for the parcel on the Right-of-Way plans and R/W Data Tables. This could be the Department of Natural Resources and Environmental Control (DNREC) and any of its Divisions, DelDOT, or another Department as shown in Figure 3-13. If a TCE is needed, DelDOT does not purchase a TCE from a State-owned parcel. All R/W and PE are purchased from State agencies unless a prior agreement states otherwise.

334-5,00-222.02
STATE OF DELAWARE,
ACTING BY AND THROUGH
THE DEPARTMENT OF TRANSPORTATION
D.B. 3783-315
P.B. 77-51

Figure 3-13 State-Owned Lands

I. Advanced Acquisitions

The Advanced Acquisition Program allows DelDOT to acquire an interest in real property prior to approval of Final Right-of-Way plans for a particular transportation project and in accordance



with [Title 2 Delaware Administrative Code, §2406](#). The Advanced Acquisition Committee will determine if the acquisition is consistent with the State's overall goals for land use planning.

The Practitioner may be required to produce a display that illustrates the future project and the impact on the property being acquired. The display should show the best-known alignment and future Right-of-Way needs that are known at the time.

Team Support may be required to have complete boundary surveys prepared for the Advanced Acquisition Committee.

Any lands that are acquired prior to the start of the project through Advanced Acquisition will be shown on the plans in accordance with the documents executed for the Advanced Acquisition approval on the plans.

J. Extinguishing Existing Easements

Existing private easements that are within the proposed R/W area must be extinguished. These easements include, but are not limited to, utility easements and tax ditch easements. The Practitioner will note the easement in the Data Tables on the Right-of-Way plans. The note should include the deed of record or plot book and the square footage of the area of the easement that is within proposed R/W or PE and must be extinguished. This is important to note so that the Acquisitions, Relocations and Settlements Section can compensate for the loss of the easement and extinguish the area from the deed of record. An example of the entry of information into the Data Sheet is shown in Figure 3-14.

DELDOT EASEMENT (PB 234-51) 254.6282 SQFT. TO BE EXTINGUISHED
TU EASEMENT (D 03411 217) 681.8901 SQFT. TO BE EXTINGUISHED
TU EASEMENT (D 3394 052) 3032.9685 SQFT. TO BE EXTINGUISHED
DEC EASEMENT (D 2108 340) 28886.2002 SQFT. TO BE EXTINGUISHED
DEC EASEMENT (D 2028 205) 2552.6336 SQFT. TO BE EXTINGUISHED

Figure 3-14 Extinguishment of Easements



Delaware Department of Transportation

**RIGHT-OF-WAY ENGINEERING
MANUAL
2023 EDITION**

Chapter IV

PLAN PREPARATION

IV. PLAN PREPARATION

This chapter of the Manual discusses how the various elements of the existing right-of-way mosaic and the proposed acquisitions should be shown on both the Construction and Right-of-Way plans.

A. Checklists

There are two checklists that should be followed when determining what is shown on the various types of plan sheets within the Construction and the Right-of-Way plan sets.

1. *Construction Plan Submission Checklist*

The Construction Plan Submission Checklist details the existing and proposed features and information that should be shown on the different sheet types within the construction plan set. Each type of sheet serves a different purpose, therefore the information that is required has been broken out by sheet type within the checklist.

Plan Submission Checklists can be found on the DRC. The Practitioner should check the DRC prior to the initial project setup and any submissions of the construction plans to verify they are utilizing the most current checklists.

2. *Right-of-Way Plan Submission Checklist*

The Right-of-Way Plan Submission Checklist is like the Construction Plan Submission Checklist in that it details the existing and proposed right-of-way features and information that should be shown on the different sheet types within the Right-of-Way plan set. The existing right-of-way mosaic and the proposed acquisitions should be shown on the applicable sheet types, as spelled out in the Right-of-Way Plan Submission Checklist, and as shown on the example plans.

The current Right-of-Way Plan Submission Checklist can be found on DelDOT's DRC. The Practitioner should check the DRC prior to the initial project setup and any submissions of the Right-of-Way plans to verify they are utilizing the most current checklist.



B. DeIDOT CADD Standards

DeIDOT has developed standards for how the various existing and proposed features should be shown on plans. These CADD standards can be found on the DRC under the CADD Wiki.

1. *Linestyles*

A linestyle is a specific pattern of line and text that is used to represent a feature on the plans. The existing and proposed Right-of-Way features can be found on the Legend sheet of the example plans. See the DRC's CADD Wiki for the most current version.

2. *Text Orientation*

Text is generally placed on plan sheets so that the bottom of the text is aligned with the bottom or right edges of the sheet border. When element labeling requires text rotation, follow the examples in the figure below for direction and position of text at the various rotation angles. When it comes to placing text in a file, generally the text should be oriented so that it is square with the sheet(s) it will be displayed on. For labeling linework and match lines, the text should be oriented to be square with the corresponding line. It should also be noted that the placement of text should be considered so overlap is avoided. Text should not be upside down on the plans. For information on text orientation, the Practitioner should refer to the DRC CADD Wiki.

C. Example Plans

The DeIDOT Design Resource Center contains Example Plans that provide plan presentation information for both Construction Plans and Right-of-Way Plans. These example plans show what existing and/or proposed features should be shown on the various types of plan sheets. The example plans also show what the symbology (black, dark gray, light gray, color, etc.) of those features should be on the various types of plan sheets.

1. *Construction Plans*

The example construction plans for roadways and bridges are located on the DeIDOT DRC. The example bridge plans are broken out by type of bridge. The example highway plans are broken out by plan sheet type (construction plans, grades and geometrics, signing and striping, etc.).

2. *Right-of-Way Plans*

The example right-of-way plans are located on the DRC. Example plans are provided for the two scenarios the Practitioner may encounter:

- Stand-alone plan sets
- Incorporated into Construction Plan sets

D. *Formatting/Drafting*

While the aspects of what should be shown on the various plan sheets are specified on the checklists and shown on the example plans, there are a few details that require further discussion with regards to the formatting and drafting of the plans.

1. *Labeling*

There are several features that should be labeled on the various plan sheets. These features and the labeling of them are discussed in more detail in this section.

a. *Baseline*

Existing and proposed baselines should be labeled in accordance with the DeIDOT CADD Wiki and the appropriate plan checklist. The Practitioner should also refer to the R/W Plan Development FAQ that can be found on the DRC.

The Practitioner shall provide the relationship between the existing R/W Baseline and the Proposed R/W and/or Construction Baseline(s) on the Horizontal and Vertical Control Sheets. Also, if there were any differences on how the existing R/W baseline was resolved versus the historic contract plans, this should be discussed in the Project Survey Report that describes how the existing right-of-way was established.

The Practitioner shall reference the Baselines when choosing the type of acquisition. During the establishment of the existing Right-of-Way, a Right-of-Way baseline will be established. The Proposed Right-of-Way corridor will preferably be established off the baseline used for the existing Right-of-Way on archived Right-of-Way Plans. The Proposed Right-of-Way should be even distance offsets from the baseline and that distance maintained throughout the project as much as possible. The offset from the baseline should be noted on the plans at the beginning and end of the project and at all breaks in the baseline alignment (PC's, PT's, etc.), and show all



road widths at breaks along the Right of Way lines. In the case of major roads, corridor baselines should be established to document acquisitions.

In cases where a road alignment is changing, existing and proposed Right-of-Way baselines can be different. Normally Construction and Right-of-Way baselines are the same, but occasionally that may not occur.

b. Property Ownership Information

The current property ownership information should be labeled on the plans for each parcel shown within the project limits, regardless of potential acquisition impacts or not. Note, if a parcel spans more than one plan sheet, that parcel's ownership information should be labeled on each plan sheet. The Project Parcel ID assigned to each property within the project limits should also be labeled on every sheet.

DelDOT's CADD Resources includes a parcel identifier bubble and a property ownership information cell under the RW cell library, see Figure 4-1.

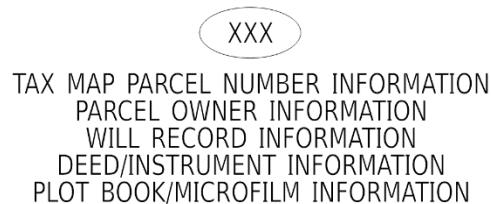


Figure 4-1 Property Ownership Information Identifier

The order of the information under the Project Parcel ID should be Tax Map Parcel number, Property Owner, will record if applicable, current deed of record or instrument, and any recorded plots or microfilm. It is preferred that the tax parcel number be preceded by the abbreviation "T.M." Also, tax map parcel numbers should be labeled as they appear on the Tax Parcel Map viewer for each county. For example:

New Castle County:	12-020.00-003
Kent County:	2-05-077.00-01-18.00
Sussex County:	135-16.00-19.00

The breakdown of each tax map parcel number by county can be seen in Figure 4-2.

See Figure 4-4 for an example of project parcel numbering. If a parcel is bisected by the road, the Practitioner should consult with Team Support on how to number.

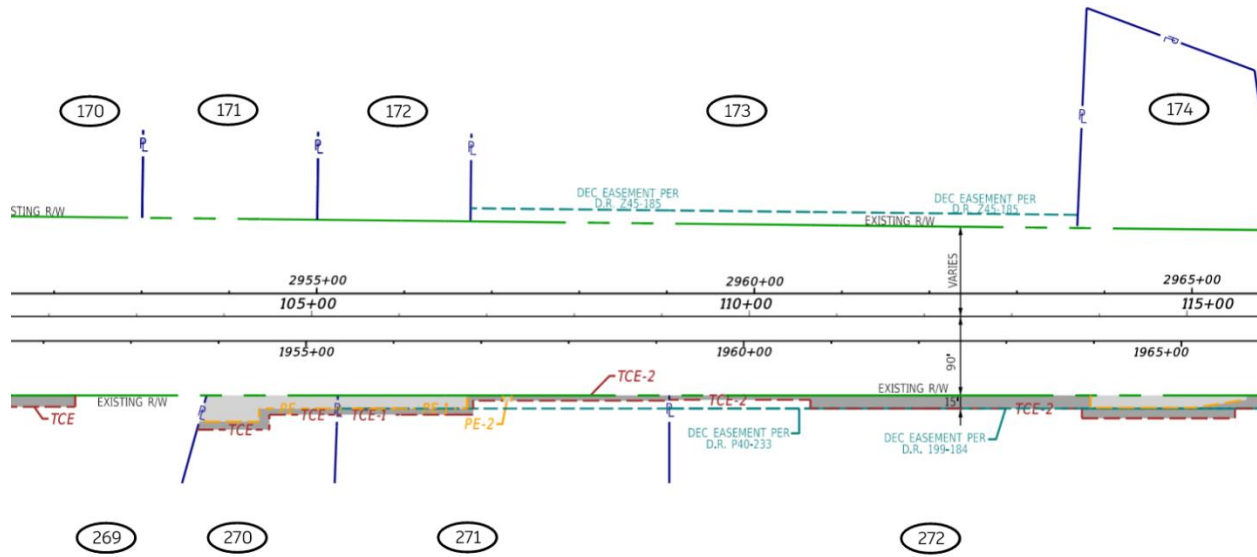


Figure 4-4 Project parcel numbering example

It is recommended that the Parcel IDs be assigned at the research stage of the project. This makes for easier tracking from the research stage through to final right-of-way. This also allows for the numbers to be assigned in sequential order, from start to end. This also reduces the chances of a parcel being missed. Note, Parcel IDs should be assigned to all parcels within the project limits, whether acquisitions will be required from them or not.

The proposed parcel numbering scheme should be submitted to Team Support for review and concurrence. Once assigned, the Parcel ID cannot be changed. The initial parcel numbering should also consider the possibility of the project limits extending during the project development process. If, during the project development process, parcels are added due to extension of the project, the parcel numbering will continue sequentially with the next available number, as shown in Figure 4-5 with Parcels 276-282.

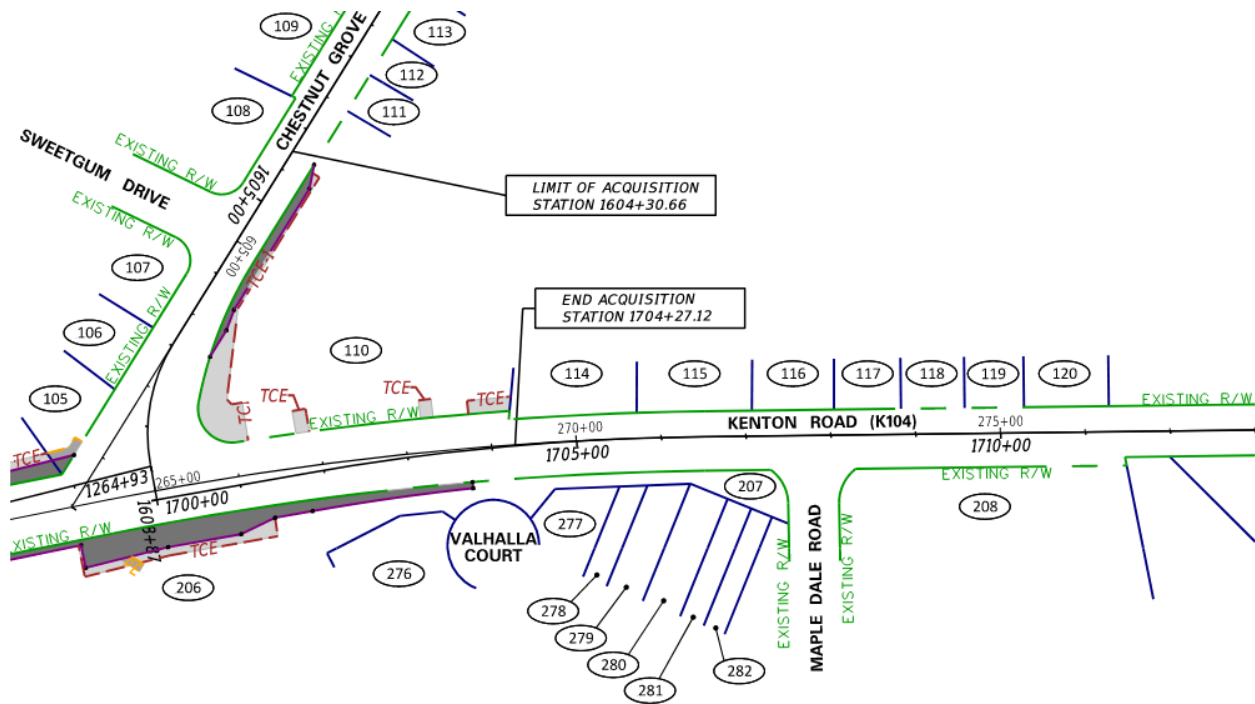


Figure 4-5 Addition of Project Parcels to project example

When new tax parcels are created through the County’s Subdivision Section, the Project Parcel ID assignment should be reviewed with Team Support prior to being finalized. Generally, new parcels that are created by the County would be numbered using the original Project Parcel ID followed by a decimal. For example, Project Parcel 234 is subdivided into several new parcels, as shown in Figure 4-6. The parent tract parcel remains numbered 234 and the newly created parcels are numbered 234.01 through 234.12. Even if any of the parcels have the same ownership, each individual Tax Parcel must be identified with a Project Parcel ID.

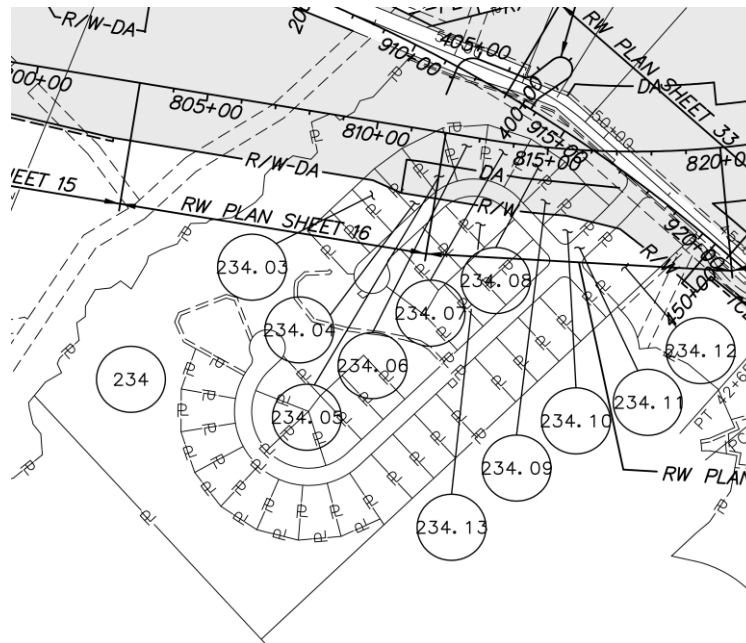


Figure 4-6 Project parcel numbering with parcel creation example

Note, the parcel numbering should not include preceding zeros.

ii. Current Ownership Text

The current property owner information that is shown on the plan sheets should match **verbatim** what is shown in the current deed or will of record. It is understood that there is limited space on the plan sheets and sometimes the ownership information can be lengthy (i.e., multiple owners, trustees, etc.). In these instances, it is acceptable to abbreviate the ownership information that is shown on the plan sheets, but the full ownership text must be included in the R/W data tables and in the Ownership of Record tables on the R/W Mosaic Sheets. If the Practitioner desires to follow this method of using abbreviated text, the Practitioner should submit an excel spreadsheet that documents the full ownership text and the abbreviation that is proposed to be used on the plan sheets to Team Support for review and concurrence. This approved excel spreadsheet should then be included with all subsequent plan submissions.

It should also be noted that when deeds spell out suffixes and extensions, abbreviations are acceptable. For example, “husband and wife”, “his wife”, “her husband”, can be abbreviated “H/W” or “W/H”. Other acceptable abbreviations include Sr., Jr., Inc., L.L.C., Corp., etc.

c. Existing Right-of-Way

The existing Right-of-Way should be shown on all applicable plan sheets, see checklists and example plans. The Practitioner should also refer to the DeIDOT CADD Wiki and the R/W Development FAQ document on the DRC for further guidance.

d. Existing Dedications & Reservations

Existing Right-of-Way Dedications and Reservations should be shown on all applicable plan sheets, see example plans. They should be shown using the existing easement linestyle. They should also be labeled as existing R/W Dedication or Reservation, as applicable, per the recorded source document. See Figure 4-7 for an example of how a R/W Dedication is shown and labeled on plans. To clarify if the intent of the dedication on the record document is as an easement, the label should read “EX 15’ ROW **EASEMENT** DEDICATION TO PUBLIC USE PB 120-216”.

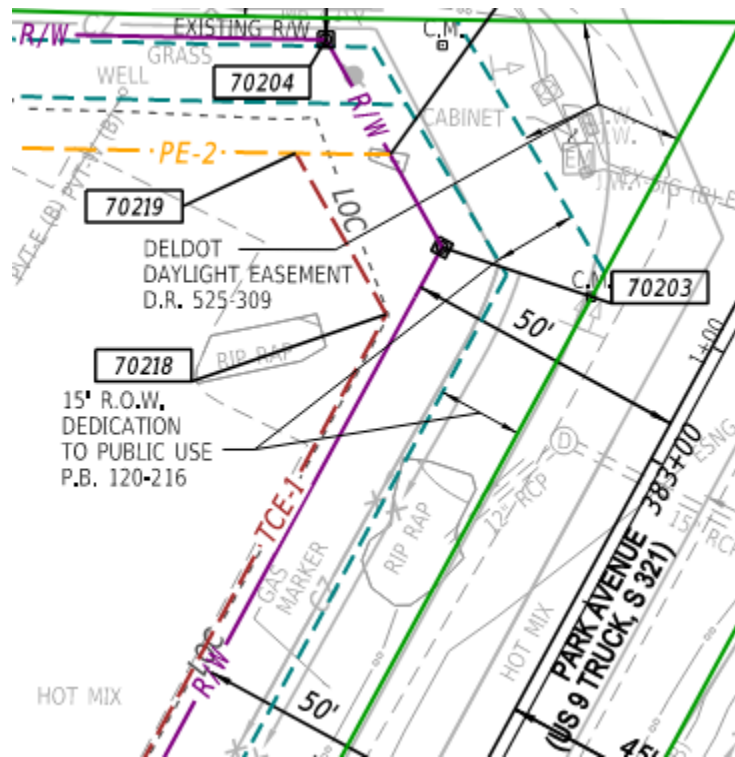


Figure 4-7 Example of existing R/W Dedication

At the R/W Concurrence Meeting, all existing dedications and reservations should be discussed to determine their intent and how they should be included on the plans.

e. Existing Easements

All existing easements should be shown on all applicable plan sheets, see checklists and example plans. If the DelDOT easement acquisition identified is only for a specific purpose, that purpose should be labeled. Existing DelDOT easements, apart from existing R/W by PE, should be shown using the existing Permanent Easement linestyle. All other existing easements (private, utility, access, etc.) should be shown using the existing Easement linestyle with easement type labeled above or below the line. See Figure 4-8 for existing easement linestyles from the Legend Sheet.

EASEMENT - OTHERS	<u> EASEMENT TYPE </u>
PERMANENT EASEMENT	<u> -PE </u>

Figure 4-8 Existing Easement linestyles

All existing easements, DelDOT and other, should be labeled where shown on the plan sheets. Easement labels should include width, if applicable, and the recorded source document. When a width is provided, the standard practice is to label parallel with the dimension. See Figure 4-9 for an example of existing easement labels on plans.

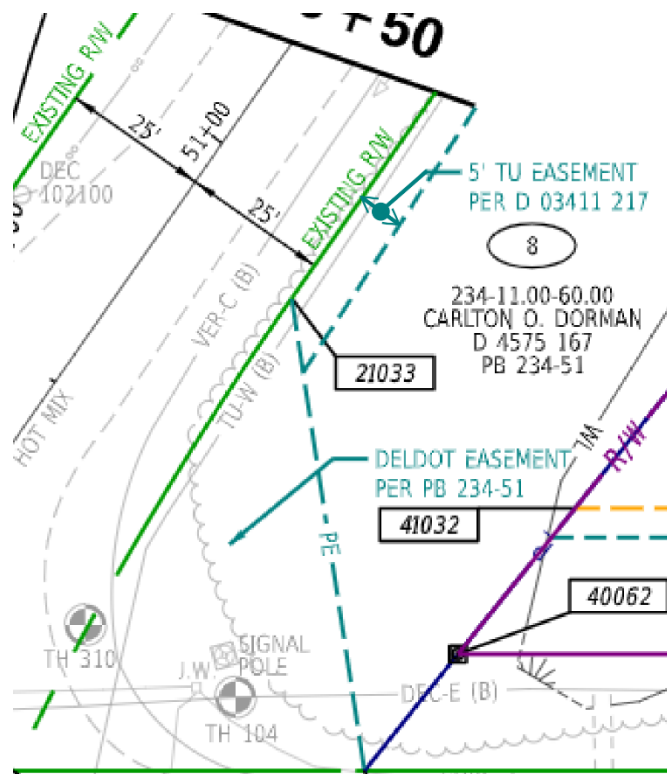


Figure 4-9 Example of existing DelDOT and existing Tidewater Utility (TU) Easement labels

f. Existing Property Boundary Lines

The existing property boundary lines should be shown on all applicable plan sheets, see checklists and example plans. Existing property lines should be shown using the existing Property Line linestyle. Note, the PL on all property lines should be oriented using the same rule of thumb as the text orientation that was discussed in Section B.2 in this chapter.

It should also be noted that if a property boundary line was not required to be resolved for the project but is shown on the plans, the line should be labeled as “approximate”. This situation may occur on a bridge project, for example, where the dividing line between two parcels is outside the area of acquisition but within the project area. The dividing line needs to be shown on the plans but resolving it would be outside the scope of the project, so an approximate location is sufficient. See Figure 4-10 for an example. A discussion of this issue should be included in the Project Survey Report and noted during the Survey Concurrence Meeting.

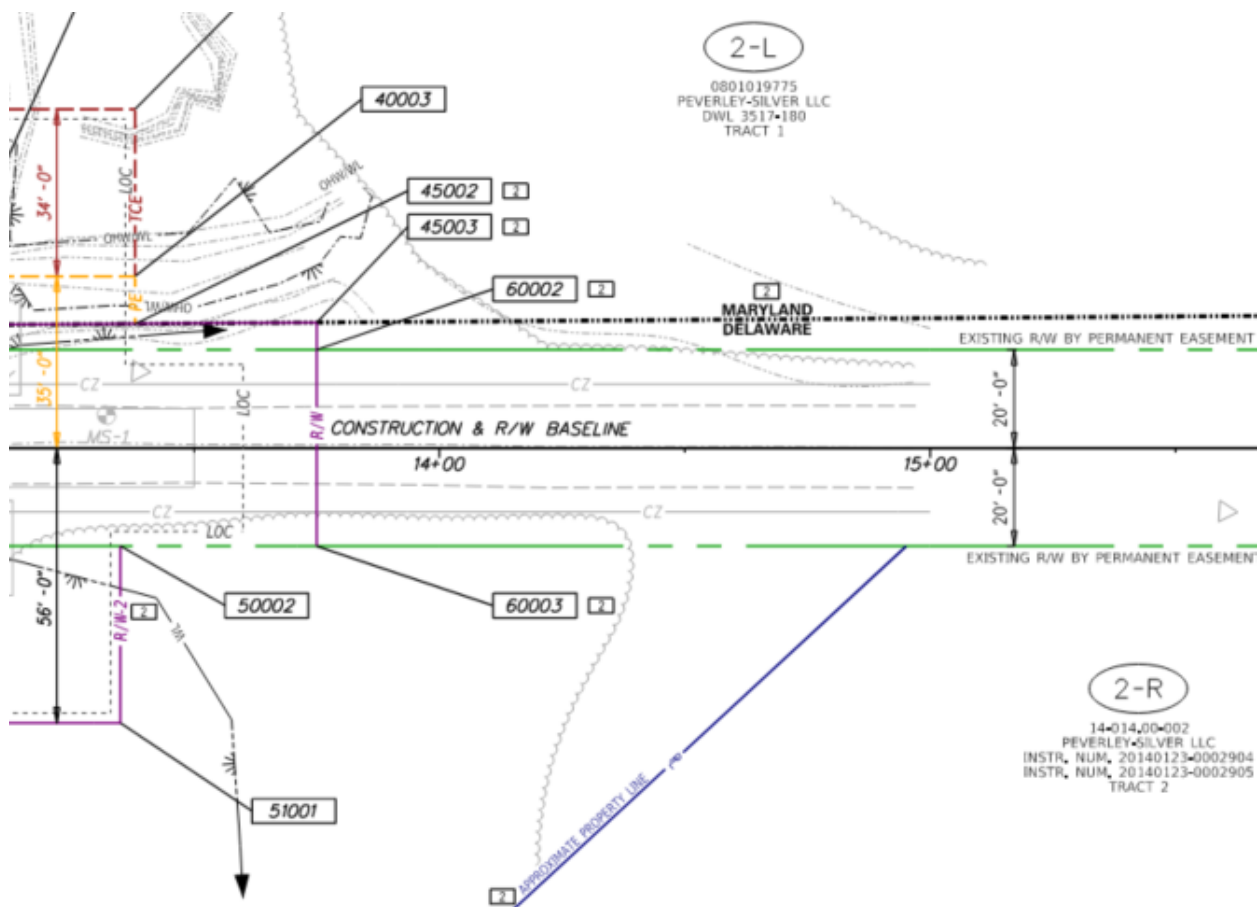


Figure 4-10 Example of an Approximate Property Line



g. Road Numbers

Road Names and Maintenance Road Numbers should be labeled in accordance with the DelDOT CADD Wiki and the appropriate plan checklist. The Practitioner should also refer to the R/W Plan Development FAQ that can be found on the DRC.

The Maintenance Road Number label should include the first initial of the County the project is located in (New Castle, Kent or Sussex) and the Maintenance Road Number, as can be found on the DelDOT Gateway site, under the Road Maintenance Responsibility tab and then the Road Number data (not the Roadway ID). State Route, Interstate and U.S. Route numbering should be included along with the Maintenance Road Number and road name, when applicable. The name of the road should be labeled as shown in the DelDOT Gateway.

2. Dimensioning

On the R/W and Construction plans, both the existing and proposed right-of-way should be dimensioned on all appropriate sheets.

a. Existing Right-of-Way

The existing Right-of-Way should be dimensioned from the existing R/W baseline to the left and right, on both the left and right limits of the plan sheet along the main road and at least once on each side of any intersecting road within the plan limits. At least one dimension for both left and right shall appear on each sheet. Any jogs or transition points from one width to another should also be dimensioned.

b. Proposed Right-of-Way

The Proposed Right-of-Way should be dimensioned preferably from the existing R/W baseline. If this is not feasible, the Proposed R/W baseline or R/W and Construction baseline is to be used. The proposed R/W should be dimensioned to the left and right of the baseline, on both the left and right limits of the plan sheet along the main road and at least once on each side of any intersecting road within the plan limits. At least one dimension for both left and right shall appear on each sheet. Any jogs or transition points, from one width to another, in the proposed right-of-way should also be dimensioned.

3. Match Line Text

For larger or more complex projects, it may be requested that sheet numbers and/or plan sheet designations be included in the match line text on all plan sheets. This is helpful when the Reviewer is trying to navigate between plan sheets, especially when trying to locate where side roads match up on more complex projects.

4. R/W Mosaic Sheet

Per DelDOT CADD Standards, the R/W Mosaic Sheet should display all existing properties and existing right-of-way within the project limits. The project Parcel IDs should be shown in relation to each parcel and a table listing the project Parcel ID, current ownership information and County assessment number should also be included. The owner’s name shall be the full verbatim name from the current deed or will of record. All proposed acquisition linework should also be shown. All mainline and side street baselines, stationing, road names and maintenance road numbers should be shown as well.

See Figure 4-11 for an example of the Ownership of Record table to be included on the R/W Mosaic Sheet.

OWNERSHIP OF RECORD SCHEDULE		
ID	OWNER NAME	COUNTY ASSESSMENT NO.
XXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXX
XXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXX
XXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXX

Figure 4-11 Ownership of Record table

a. Shading Protocol

For larger or more complex projects, shading of the proposed acquisitions on the R/W Mosaic Sheet may be requested. Reviewers find it helpful to quickly see the acquisition areas by parcel and where any total acquisitions are located.

Impacts of the project may require total acquisition of some parcels. The Practitioner should identify any parcels recommended for consideration of total acquisition. Team Support, in conjunction with Right-of-Way, will review and confirm which parcels will be pursued for total acquisition. For total acquisitions, the Parcel ID oval on the R/W Mosaic plan view and the ownership information in the Ownership of Record table should both be shaded to signify the parcel is a total acquisition. See Figure 4-12 for an example of total acquisitions on the R/W



Mosaic Sheet. Note, the Parcel ID oval for a total acquisition is not shaded on the R/W or Construction plan sheets.

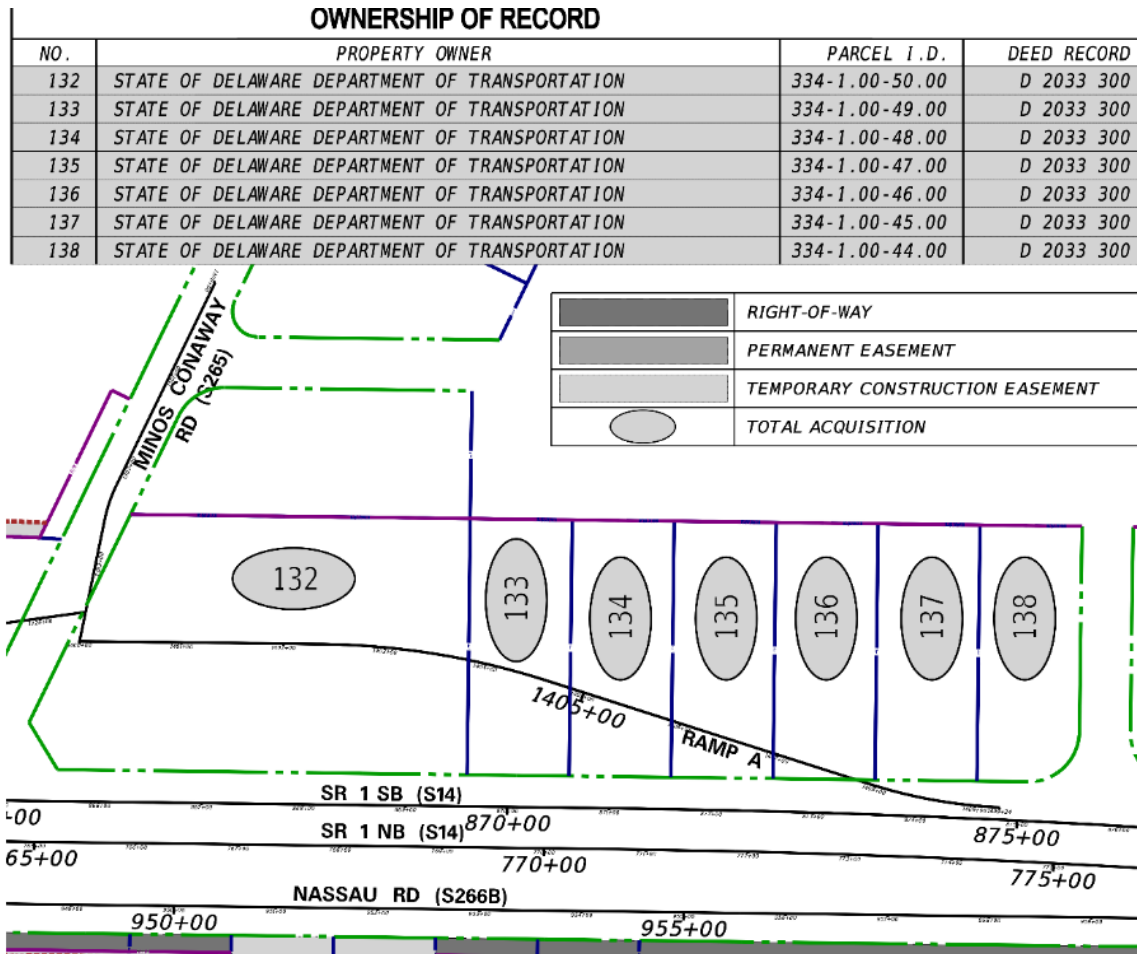


Figure 4-12 Total Acquisitions on the R/W Mosaic Sheet

E. Justifications for all Acquisitions

Every proposed acquisition and the extent of the acquisition needs to be justified. The need for the acquisition should be shown and/or noted on the Construction and Right-of-Way plans.

On the Construction and Right-of-Way plans, the justification for each proposed acquisition can be shown and/or noted in a few different ways. The most common way to justify the need for an acquisition would be to show the limit of construction at the full extent needed for all elements of the proposed construction, access, erosion and sediment control needs, etc. The need can also be noted on the plans. For example, if a TCE is required for a temporary topsoil stockpile, that should be noted on the Construction plans with a callout. Also, if a PE is required

for some element of the proposed construction that is not normally shown on the plans, such as aerial utility lines or clearance for crane operations, the reason for the PE should be noted in the Remarks field in the Data Table.

F. Right-of-Way Colorization

In the Right-of-Way Plan set, the Legend, R/W Mosaic Sheet and all individual R/W Plan Sheets shall be printed in color. This aids the DeIDOT Acquisitions, Relocations and Settlements Section in their preparation of the negotiation and acquisition documents for each property. Utilizing the current DeIDOT CADD resources, the existing and proposed R/W linework will print in color. Please refer to the Example R/W plans and the CADD Wiki on the DRC.

It should be noted that at this time, the colors do not scan for recordations at each County's Recorder of Deeds.

G. Proposed Right-of-Way Monumentation

Proposed Right-of-Way monuments are required at the start and end points of new R/W and R/W-DA and at all break points (changes in lateral offsets, PC's, PT's, etc.). Where there are long distances between break points, proposed R/W monuments should be included in between at a maximum interval of 500'. Proposed R/W monuments are not required at the intersection between each existing property sideline and the proposed R/W unless there is a break point in the new R/W at that location. R/W monuments should also be set at Begin DA and End DA points if those locations do not already have R/W monuments.

Note, within the construction limits of a project, if the existing R/W is not monumented per the above guidelines, the monumentation should be installed as part of the project.

There are two main types of R/W monuments that are typically used, capped iron pins and concrete monuments. The type, location and scale of the project influences which type of monument is to be used. It is preferred that concrete R/W monuments be placed on proposed R/W and R/W-DA's at Start, End, PC's, PT's, Begin DA, End DA, all breaks in those lines, and at 500' intervals between breaks. Capped iron pins are typically placed on proposed PE's at Start, End and all breaks. Team Support will make the final determination regarding the type of monument to be used. Any alternative monument types shall be agreed upon by Team Support.

Concrete monuments are not typically placed for Permanent Easements but may be if requested by DeIDOT or the property owner and approved by Team Support. Monuments are not placed for Temporary Construction Easements. Monument locations should also avoid streams, ditches,



hard surfaces, or other features that would impede the physical placement of the monument. Placing monuments close to R/W break points that fall within such features may be required.

Each R/W monument should be identified on the R/W and Construction Plan Sheets, numbered in ascending order following the project baseline stationing, and included in the R/W Monument Schedule. The R/W Monument Schedule will only be included in the R/W Plans, not in the Construction Plans. See Figure 4-13 for an example of the R/W Monument Schedule.

RIGHT-OF-WAY MONUMENT SCHEDULE					
<i>NO.</i>	<i>TYPE</i>	<i>STATION</i>	<i>OFFSET</i>	<i>NORTHING</i>	<i>EASTING</i>
<i>XXXXX</i>	<i>IRON PIN</i>	<i>XXXX+XX.XX</i>	<i>XXXX.XX</i>	<i>XXXXXX.XXXX</i>	<i>XXXXXX.XXXX</i>
<i>XXXXX</i>	<i>CONCRETE</i>	<i>XXXX+XX.XX</i>	<i>XXXX.XX</i>	<i>XXXXXX.XXXX</i>	<i>XXXXXX.XXXX</i>

Figure 4-13 R/W Monument Schedule

Furnishing and installing the R/W monuments may either be included as a pay item in the construction contract or be furnished and installed by DeIDOT or their representative. The Practitioner should confirm with the DeIDOT Project Manager and Team Support for the desired approach. Either way, the R/W Plans are typically furnished to the road contractor that is awarded the project.

H. DeIDOT Right-of-Way Data Sheets

The Practitioner should refer to the DeIDOT CADD Wiki for the process on how to generate the metes and bounds data for each proposed acquisition area. The CADD Wiki also details how to create the R/W Data Sheets.

It should be noted that when the Practitioner is defining the boundary points within an acquisition figure, the points should be parallel to the proposed baseline at even offsets where possible. Breaks in the R/W line should also be at even stations and offsets where possible. Also, when creating the acquisition figure, the boundary points should start at a point of beginning along the existing R/W line and/or existing property line and run in a clockwise direction.

1. Parcel Order

On the R/W Data Sheets, the proposed acquisitions should be sorted by project Parcel ID, starting at the lowest and continuing in ascending order. For example, Parcel 100, 101, 102, 103, etc.

2. Acquisition Type Order

On the R/W Data Sheets, in addition to being sorted by project Parcel ID, the proposed acquisitions should be sorted by acquisition type for the parcel. The order of the acquisitions should be as follows:

- RW/PE – Existing R/W by PE
- RW – Proposed Area of Acquisition
- PE – Proposed Permanent Easement
- TCE – Proposed Temporary Construction Easement

If acquisitions are required from multiple separate areas on a parcel, then the acquisition types should be numbered sequentially following the proposed baseline stationing. These multiple acquisitions should then be sorted in ascending numerical order on the R/W Data Sheets. For example, RW-1, RW-2, PE-1, PE-2, TCE-1, TCE-2, etc.

The Practitioner should refer to the DelDOT CADD Wiki for further guidance on creating the acquisition figures.

3. Property Area

When determining the Property Area for each parcel and inputting it into the *DelDOT_PW_RW_Parcels* application, there are a few details to note. The Area Method is how the property area was derived; this is either by Deed, Assessment or Calculated. If the entire limits of the parcel were resolved for the project, then the property should be computed as a figure in the design program and the calculated area determined and used. If the property was only partially resolved, then the property area should be pulled from the deed, if given. If the property area is not specified in the deed, then the assessment area should be used. The Practitioner should have a record of the area method used for each parcel on a project, as this information is reviewed during the R/W plan review process and is also independently verified by Right-of-Way during the preparation of the acquisition documents. If using the property area in the deed, the Practitioner must verify if any outsales from the property have occurred since that deed was recorded and adjust the area accordingly. Parent deeds are typically not revised after an outsale.

There are two input options for the Property Area: by square foot or by acre. If the deed specifies the property in square feet, that should be used as the input. If not, then the area in acres should be used. The area should be input to the same level of precision as it was given (do not round). It is important to note all of this because the method in which the area is input in the *DelDOT_PW_RW_Parcels* application will affect the Property Area Remaining in the R/W Data



Table. During the review, the property area will be compared to the total of the R/W and RW-PE acquisition areas plus the property area remaining. If those areas are not equal, those discrepancies will be noted in the review.

4. Remarks

The Remarks data field in the R/W Data Table should be used to note any information that Right-of-Way needs to know relating to the parcel and the proposed acquisitions during the acquisition process. This information should be input in the Remarks data field in the Element Properties for each individual proposed acquisition figure. Refer to CADD Wiki on the DRC for further instruction.

Examples of the information that should be noted in the Remarks column are: the area occupied by an existing private easement within each acquisition area and the owner of the private easement; special property designations; Hazmat information; proposed aerial utility easements; the number of parking spaces impacted; if parcel is a total acquisition; and/or agreements. See Figure 4-14 for an example of Remarks information in the R/W Data Table.

ASSESSMENT NUMBER		OWNERSHIP OF RECORD				
ED-00-056.00-01-09.02-000		(301) STEVEN G. PUDDICOMBE AND SHARON M. PUDDICOMBE, HIS WIFE				
PT. NO.	ALIGN. NO.	STATION	OFFSET*	NORTH	EAST	BEARING
40021	P_BL_E. Central Church	402+32.70	-16.29	434346.6266	605781.8188	S 59°48'14.10" E
40022	P_BL_E. Central Church	402+29.03	-50.00	434375.9340	605764.7641	
40024	P_BL_E. Central Church	403+40.48	-50.00	434421.9085	605865.1232	N 59°48'13.02" W
40025	P_BL_E. Central Church	403+42.97	-21.49	434397.1716	605879.5183	S 27°21'17.55" W
40021	P_BL_E. Central Church	402+32.70	-16.29	434346.6266	605781.8188	
FIGURE 3012 AREA = 3413.223 SQ. FT. (0.08 ACRES). REMAINING AREA = 147069.153 SQ. FT. (3.38 ACRES) CUMULATIVE REMAINING AREA = 147069.153 SQ.FT (3.38 ACRES)						
DEED RECORD OF ACQUISITION:						
REMARKS: 234.56 SF TIDEWATER EASEMENT PER D.R. 2323-59; 4 PARKING SPACES IMPACTED						

Figure 4-14 Example of Remarks information in R/W Data Table

a. Area Occupied by Existing Easement

The area within a proposed acquisition figure that is occupied by an existing public or private easement needs to be noted in the Remarks data field in the R/W Data Table for that figure. The Appraisal Section needs this information to properly establish a value of the proposed acquisition. These areas are also used to extinguish the area of the existing private easement within the proposed R/W and/or PE acquisitions, as applicable. The acquisition figure, area of the private easement within the acquisition (in square feet), the private easement type/ownership and document of record for the easement should all be noted. See Figure 4-9 for an example of how an existing private easement is shown within a proposed acquisition area.

Also see Figure 4-14 for an example of the area of an existing private easement noted in the Remarks data field in the R/W Data Table. Note, the two examples are not correlated.

Existing R/W Dedications and Reservations should be noted in the Remarks data field similarly. Right-of-Way needs to know this information because it affects the valuation of the proposed acquisitions.

b. Special Property Designations

Special property designations that Team Support and Right-of-Way need to be aware of should also be noted in the Remarks data field in the R/W Data Table. Examples of such designations include historic properties/districts, 4f/6f parcels, agricultural preservation areas, transfer of development rights, etc.

c. Hazmat Information

If there is Hazmat information provided for a property within the project limits, it should be noted in the Remarks data field in the R/W Data Table and on the Parcel Information form. Noting “See Hazmat Report” in the Remarks field is sufficient.

5. Number of Decimal Places

The number of decimal places used on the R/W Data Sheets should be consistent. Figure 4-15 shows the precision of the output the DeIDOT CADD resources automatically generates on the R/W Data Sheets.



Data	Decimal Places				
	Zero (0)	One (0.1)	Two (0.01)	Three (0.001)	Four (0.0001)
Bearing	X				
Chord Bearing	X				
Station			X		
Acquisition Area (SF)			X		
Acquisition Area (AC)				X	
Parcel Area (AC)				X	
Offset				X	
Distance				X	
Chord Length				X	
Arc Length				X	
Radius				X	
Northing					X
Easting					X

Figure 4-15 Precision of data on R/W Data Tables.

Note, the same significant digits for similar data should be held for the Horizontal and Vertical Sheets except for Bearings and Chord Bearings. Those values should be held to two (2) decimal places on the H&V Sheets since a higher level of precision is desired on those sheets.

6. Protocol for Bisected Properties

When a project parcel is bisected by the alignment, the Property Area Remaining needs to be separated out into the parcel area remaining left and right relative to the direction of the baseline stationing and noted in the Remarks field in the R/W Data Table. The note should read “Area Remaining Left: XXXX SF/XXXX AC; Area Remaining Right: XXXX SF/XXXX AC”. These areas remaining are not assigned separate project Parcel IDs. Right-of-Way needs this information for use in the valuation of the remnant property areas.

I. Plan Revisions

Revisions to Right-of-Way Plans should be done in accordance with the Example Plans on the DRC. Below are guidelines that should be followed when creating Right-of-Way plan revisions:

- Revisions are to be numbered consecutively starting with the number 1.
- The revision number is to be shown inside of a square block.
- Changes to Right-of-Way plans should be done via erasures. For example, if the metes and bounds of a permanent easement line are to be changed, the previous permanent easement line should be erased and a new line drawn. In rare situations for clarity purposed, “X’s” or “cross outs” are permitted. The use of “X’s” and “cross outs” should be confirmed with the Team Support Section prior to their use in a Right-of-Way revision.
- Where any changes are made to a sheet in the Right-of-Way plans, aside from the Title Sheet, the revision number inside of a square box must be placed next to the location of the change.
- The “Revision” signature blocks are placed on the Revision sheet for projects that have standalone Right-of-Way plans, and on the Right-of-Way plan sheet for projects that have Right-of-Way plans incorporated into the Construction plan set. The revision number, sheet number(s) affected, and parcel numbers affected are noted in the “Revision” signature blocks.
- For contracts with standalone Right-of-Way plans, a summary of the revisions are noted in the “Revisions” block on the Revisions Sheet and in the sheet border of each affected plan sheet. The revision notes should include a brief description of the change(s) and should only mention changes that are pertinent to that plan sheet. The Title Sheet would only have revisions noted if changes were made to the Title Sheet itself.
- For contracts with the Right-of-Way plan sheet incorporated into the Construction plan set, the revisions are noted in the “Revisions” block in the sheet border of the plan sheet. The revision notes should include a brief description of the change(s).



Delaware Department of Transportation

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Chapter V

TEAM SUPPORT REVIEW PROCESS



V. TEAM SUPPORT REVIEW PROCESS

This chapter discusses the process Team Support goes through when reviewing Construction and/or Right-of-Way plans through the various plan stages.

A. Submission Requirements/Checklists

Team Support requires certain items at the different design stages to facilitate their review.

At the Survey and Preliminary Plan submissions, the following items are to be included:

- All research (historic contracts and project parcel research, organized by project parcel in chronological order with a list of the information that is included, see Chapter II Section 5). Any updates to this information that occurs during the project development should be included in subsequent plan submissions, when applicable.
- Project Survey Report, see Chapter II, Section G.
- MicroStation design files (alignments **AL**, field survey **FS** and existing R/W mosaic **RM** or **RW**).

For all subsequent plan submissions, including Revisions, the following items are to be included:

- MicroStation design files (alignments **AL** and proposed R/W **RW**).
- For R/W plan submissions, including Revisions, the corresponding Construction plans at that current stage of design.
- Comment responses that pertain to the existing R/W and the proposed acquisitions. These are not necessarily limited to the comments provided by Team Support and Right-of-Way and may be comments made on the construction and/or R/W plans.
- If needed, updates to items included with prior submissions (such as research, design files, etc.) with a description of the updates.
- Completed R/W Checklist, which can be found on the DRC. This is required for Semi-Final and Final R/W plan submissions.
- Completed Parcel Impact Form(s) for each parcel requiring acquisition(s). This is required for Semi-Final R/W and all subsequent plan submissions.

B. Bluebeam Review

DelDOT has transitioned all plan reviews for Capital Transportation Projects to Bluebeam Studio review sessions. Under this process, PDF's of the plans and any other documents requiring

concurrent review for a project's plan submission are loaded into a review session in Bluebeam. Designated reviewers are granted access to the review session and then can make comments directly in the PDF(s). Multiple reviewers can access the review session simultaneously and can see other reviewers' comments. The review session closes on the date assigned as the end of the comment period. After the review session closes, the DelDOT Project Manager will save the PDF(s) containing the comments to the project directory. The Practitioner is to address all comments and provide responses within the PDF(s). Comment responses from the Practitioner will be made available with the next submission.

Each plan submission for a project will have a separate Bluebeam review session assigned to it. R/W Plan Revisions may or may not have a separate Bluebeam review session, depending on the extent of the changes. Team Support will make this determination when the R/W Plan Revision is received.

C. Review Stages

The Team Support Section approach to plan reviews depends on which stage of design the plans are at when submitted. During the earlier stages of design, the review is more heavily focused on the existing R/W mosaic. During the later stages of design, the review is geared more towards the proposed acquisitions. The documentation required to properly review each plan submission is discussed below. Insufficient and/or inadequately formatted documentation may be a basis for a delay or partial plan review.

The Practitioner should refer to the DelDOT DRC, and more specifically PM-20-001: Electronic Plan Review Best Practices, for additional information.

1. Scoping Meeting

The Right-of-Way Section should be invited to scoping meetings at the start of the project so that potential property impacts can be discussed with the Practitioner and project team. The Right-of-Way Section should also be invited to public workshops to ensure that property owners are aware of the impacts and the Right-of-Way Section can be part of the coordination. All Public Outreach coordination should be documented in the NEPA document for the project. The Practitioner should note that acquisitions should not start until the NEPA document for the project is complete and approved, except through the Advance Acquisition process. The appropriate NEPA documentation should be coordinated with the Environmental Stewardship Section.



2. Survey Plans

At the Survey Plan stage, Team Support's review is focused on the establishment of the existing baseline(s) and existing R/W mosaic. The Reviewer will go through the research provided for the project, including but not limited to, the historic contracts, title searches, deed, and easement documentation, will records and recorded plats. The Reviewer will verify that all of the relevant documentation has been provided. If additional historic contracts and/or deed and easement documents are required, the Reviewer will provide comments requesting those references. If additional historic documentation is required to complete the review, the Practitioner will be required to provide the additional documentation and resubmit the Survey Plans.

The Reviewer will then compare the research with the existing baselines(s) that have been established. If the baseline differs from what was previously established in the historic contract(s), those comments will be provided. The Reviewer will compare the existing R/W as was established based on the historic contracts and recorded documentation. Any discrepancies between what is shown on the plans and the recorded documentation will be noted in the comments if sufficient explanation for the discrepancies has not been provided in the Project Survey Report.

Next the Reviewer will examine the parcel documentation to assess the property boundary linework that was established. The existing found monumentation and stream/riparian boundaries will be considered during the review. Any comments and/or recommendations on the property boundary linework will be provided. The Practitioner should verify current parcel ownership and any boundary changes or outsales within two weeks prior to the Survey Plan Submission. The Reviewer will check current parcel ownership via the appropriate County website and provide comments accordingly.

The Reviewer will review the existing topographic survey features shown on the plans, possibly including an on-site review. The Practitioner will be responsible for updating the existing topography due to any road or private improvements that might occur during project development.

Upon completion of the Survey Plan review, the DelDOT Project Manager will schedule a Right-of-Way Concurrence Meeting. All DelDOT sections impacted by the project will be invited to attend and provide comments. Discussions will include establishment of the R/W baseline, R/W mosaic, project schedule and other significant findings. See the DRC for the DelDOT Existing Right-of-Way Concurrence Meeting agenda.

3. Preliminary Construction Plans

Team Support participates in the review of the Preliminary Construction Plans. A separate Preliminary Right-of-Way Plan submission is not required. If the Survey Plan stage was bypassed for a project, the Preliminary Plan review will include the process as discussed in the Survey Plan section above and the relevant research and documentation should be included with the Preliminary Plan Submission.

If Survey Plans were previously submitted for review, the next submission is the Preliminary Plans. The submission should include a discussion of any changes made from the previous submission, with regards to the existing R/W mosaic. At the Preliminary Plan stage, Team Support's review is focused on verifying all Survey Plan comments provided by Team Support have been addressed satisfactorily. Team Support will then review the preliminary acquisition linework and make recommendations on the potential R/W impacts based on the proposed design in the Preliminary Construction Plans. The Practitioner should verify current parcel ownership and any boundary changes or outsales within two weeks prior to the Preliminary Plan Submission and include documentation and a discussion for any changes. The Reviewer will check current parcel ownership via the appropriate County website and provide comments accordingly.

The Reviewer will check the horizontal data for the proposed baseline(s) on the H&V sheets versus the design files and provide any comments.

4. Semi-Final R/W Plans

At the Semi-Final Plan stage, Team Support's review is focused on the proposed acquisitions and any design changes between the Preliminary and Semi-Final submissions. If the project limits have changed since the previous submission, a brief discussion of those changes should be included with the submission. Significant changes in the project limits and/or baselines may require the Reviewer to re-evaluate elements outlined in the previous reviews. Note, if the Right-of-Way plan set is separate from the Construction plans, a full set of Construction plans at that stage shall be included with the submission. The Reviewer will verify that all Preliminary Plan comments from the Team Support Section have been addressed satisfactorily. Plans will be reviewed to confirm that the proposed acquisitions encompass all the proposed design features, including but not limited to, proposed grading, phasing, temporary construction access, E&S, signing, stormwater facilities, drainage, signal, lighting, and utility relocations. The Reviewer will also check the need for the proposed acquisitions. If the proposed acquisition appears that it can be reduced in size based on the need shown on the construction plans, the recommendation will be provided with the comments.



The Practitioner should verify current parcel ownership and any boundary changes or outsales within 2 weeks prior to the Semi-Final Plan Submission and include documentation and a discussion for any changes. The Reviewer will check current parcel ownership via the appropriate County website and provide comments accordingly. Proposed acquisition closures will be verified by the Reviewer, who will comment on any needed revisions.

Once the Semi-Final Plan review is complete, the Semi-Final R/W Concurrence Meeting will be scheduled by the DelDOT Project Manager to discuss the project and comments. See the DRC for the Semi-Final Right-of-Way Review Concurrence Meeting agenda. Representatives from Design, Right-of-Way Engineering, Utilities, Acquisitions, Relocations and Settlements, Appraisals, and any other DelDOT sections that are impacted by the project, such as Environmental Stewardship, Water Resources, Land Services, etc., as discussed during the Survey Concurrence Meeting, should attend the meeting. At the meeting, the proposed acquisitions and the potential impacts will be discussed. Any potential total acquisitions and other acquisitions that may be required due to uneconomic remnants or lack of access will also be discussed. Parcel impact forms for all parcels with proposed acquisitions are to be included in the Semi-Final submission.

5. Revised Semi-Final R/W Plans

At the Revised Semi-Final R/W Plan stage, Team Support's review is again focused on the proposed acquisitions and any design changes between Semi-Final R/W and Revised Semi-Final R/W. The submission should include a discussion of any changes from the previous submission. Significant changes in design may require the Reviewer to re-evaluate elements outlined in the previous reviews. Note, if the Right-of-Way plan set is separate from the Construction plans, a full set of Construction plans at that stage shall be included with the submission. The Reviewer will verify the Semi-Final R/W Plan comments have been addressed satisfactorily. The Reviewer will check any updates to the proposed acquisition linework and metes and bounds and will provide comments accordingly. The Practitioner should verify current parcel ownership and any boundary changes or outsales within 2 weeks prior to the revised submission and include documentation and a discussion for any changes. The Reviewer will check current parcel ownership via the appropriate County website and provide comments accordingly. Updated parcel impact forms for all parcels with proposed acquisitions are to be included in the Revised Semi-Final submission.

The Revised Semi-Final R/W review process repeats until all design/acquisition changes have been made, closures confirmed, parcel ownership is correct, and all comments have been addressed. Any revised submissions should include a discussion of any changes from the previous submission.

6. Final R/W Plans

Once all comments from Team Support have been addressed, the R/W plans are considered Final. Note, if the Right-of-Way plan set is separate from the Construction plans, a full set of Construction plans at that stage shall be included with the submission. Parcel impact forms for all parcels with proposed acquisitions are to be included in the Final submission. The Reviewer will verify the Revised Semi-Final R/W Plan comments from Team Support have been addressed satisfactorily. The Reviewer will check any updates to the proposed acquisition linework and metes and bounds and will provide comments accordingly. The Practitioner should verify current parcel ownership and any boundary changes or outsales within 2 weeks prior to the submission and include documentation and a discussion for any changes. The Reviewer will check current parcel ownership via the appropriate County website and provide comments accordingly.

The Reviewer will check the Final R/W Memo to verify all impacts to existing monumentation and existing easements have been identified.

Once the Reviewer has determined that all comments have been addressed, the DelDOT Project Manager will be notified to submit a Final R/W Plan Set with the signature and seal of the Engineer of Record. Plan approval requirements are detailed in the *Engineering Plan Approval Policy* PI D-4, found on the DRC. Once the Final R/W Plan Set has been signed by all appropriate individuals, Team Support will forward the fully signed Final R/W Plans to the Right-of-Way Section to begin the acquisition process.

7. Right of Way Certification

After the Right-of-Way Plans have been finalized on a project, the Acquisitions, Relocations and Settlements Section will proceed with obtaining the proposed acquisitions. Any subsequent approved R/W Revisions will be immediately forwarded to the Acquisitions, Relocations and Settlements Section by the Team Support Section to update the acquisitions and negotiations for all affected project parcels. The Practitioner should be aware of parcels that are having appraisals performed for the R/W acquisition process. Changes to the proposed acquisitions on these parcels need to be communicated by the DelDOT Project Manager to the Acquisitions, Relocations and Settlements Section as soon as they are known to minimize impacts on the appraisal process time and cost.

Once the acquisitions have been completed, the Chief of Right-of-Way will issue the Right-of-Way Certification. The R/W Certification attests that:

- All necessary property interests have been acquired in accordance with current FHWA and State acquisition policies;



- All necessary rights-of-way have been acquired, including legal and physical possession;
- All project rights-of-way are currently available in accordance with the project R/W plans;
- Any residential displacements have been relocated or adequate replacement housing has been provided in accordance with current FHWA relocation policies;
- All occupants have vacated the lands; and
- The State has physical possession and the right to remove, salvage or demolish any improvements acquired as part of the project, and enter on all land.

There are various levels of R/W Certifications that the Right-of-Way Section can issue for a project. Refer to the Right-of-Way Manual for further information.

8. R/W Plan Revisions

The following changes made to the Right-of-Way Plans that occur after final signature require a formal Right-of-Way plan revision:

- Changes to the plans that will affect the proposed metes and bounds of a proposed property acquisition.
- Changes to the plans that will affect the rights to be acquired during a proposed property acquisition.

The plan revision should be executed expeditiously so as not to delay a project's R/W acquisition. As soon as it is determined that a Right-of-Way revision may be needed, both the Team Support Section as well as the Acquisitions, Relocations and Settlements Section should be contacted to alert them of the pending change. The Practitioner should also contact any other support sections that may need to be aware of the proposed change. This includes, but is not limited to, the following sections:

- Utilities
- Traffic Design
- Traffic Safety Programs
- Environmental Stewardship
- Water Resources
- Development Coordination
- Engineering Support
- Materials and Research
- Project's Area Engineer
- Maintenance District
- Legal

The Practitioner should prepare the Right-of-Way Plan Revision in accordance with the guidelines in Chapter IV of this Manual and the Example Plans located on the DRC. Once the plans have been updated, a Bluebeam review session should be created by the Practitioner. A templated memo for the Bluebeam review of the R/W Plan Revision can be found on DeIDOT's DRC under the Project Management tab. Right-of-Way Plan Revision submissions shall include documentation with the reason(s) for the change(s), the parcels affected, and the sheets affected. The Practitioner must also provide updated Construction Plan sheets if they are separate from the Right-of-Way plans with the Right-of-Way Revision for review purposes. If the Practitioner determines that updated Construction Plan sheets cannot be submitted based on extenuating circumstances, they must communicate the circumstances to Team Support to determine an appropriate path forward before submitting.

For R/W Plan Revisions, Team Support reviews the changes for correctness and formatting. The Reviewer will verify that any changes are correct and are carried through to all appropriate sheets. Team Support will either approve the revision or make comments on the revision.

Comments should be addressed by the Practitioner and resubmitted to Team Support. Once it is determined that the revision needs no corrections, the "Revision" signature block on the Revision sheet for projects with separate Right-of-Way plans can be signed thus completing the revision. For Right-of-Way plans incorporated into the Construction Plans, the "Revision" block on the Right-of-Way plan sheet must be signed to complete the revision. The Practitioner will prepare a memo that will be provided to the Team Support Section and subsequently to the Acquisitions, Relocations and Settlements Section describing the approved revision. The templated version of the memo can be found on the DRC under the Project Management tab.

D. Priority of Reviews by Plan Type

Plan submissions are prioritized for review based on the design stage and the type of project. The further along in the design process the project is (i.e., Semi-Final or Final), the higher it falls in priority for review. Plan Revisions take the highest precedence over any other design stages.

The type of project is also a factor in the priority of review. Projects with federal obligations and emergency projects will take priority over other projects due to their timeline restrictions. The hierarchy of the other design projects will be as identified by DeIDOT Management in conjunction with the appropriate design staff.



Delaware Department of Transportation

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MANUAL
2023 EDITION**

Chapter VI

ACQUISITION PLAT PREPARATION



VI. ACQUISITION PLAT PREPARATION

In lieu of the plan submissions discussed in previous chapters, an acquisition plat may be utilized on projects requiring minimal Right-of-Way impacts. Projects that typically have limited Right-of-Way impacts include the Pedestrian Accessibility Route (PAR) Program, the Transportation Alternative Program (TAP), the new Active Transportation Community Connections (ATCC) program, the Pavement & Rehabilitation (P&R) Program, installation of traffic control devices, and repairing and maintaining existing transportation assets. If other projects or programs have minimal Right-of-Way impacts, the decision to use a Plat, rather than Right-of-Way plans, will be made on a case-by-case basis. The Practitioner will work in collaboration with the DelDOT Chief of Right-of-Way to consider the scope of the project and degree of Right-of-Way impact to determine if the project is a Tier 2 project. Tier 2 projects have minor impacts outside of the existing right-of-way at isolated locations.

A. Process

Once it is established that an acquisition plat is suitable for the project, research to establish the existing R/W must be conducted by the Practitioner. For information on researching the existing R/W, please refer to Chapter II, Establish Existing R/W Mosaic, for a full discussion on the topic.

For information on the type of acquisition that is required, please refer to Chapter III, Acquisitions. The Team Support Section will provide guidance to the Practitioner on the appropriate type(s) of acquisition for the project. The Practitioner will send the Plat to the Team Support Section for their review. Plats will be reviewed by Team Support for accuracy of the proposed acquisition. After all comments have been addressed, the Engineer of Record is to sign the plat and send to the Team Support Section for signature by the Group Engineer.

B. Plat

Acquisition plats are developed in conformity with the example plat shown on the DRC. Guidance on the establishment of the existing Right-of-Way Mosaic can be found in Chapter II of this manual. Guidance on formatting and drafting can be found in Chapter IV, Part D of this manual. The Data Table can be created using the directions on the DRC CADD Wiki under Plan Production>Right-of-Way.

C. Legal Description

A Legal Description defines the boundary lines of lands, and the boundaries are described as metes and bounds. Metes are the bearing directions and distances from point to point along the boundary, while bounds are a more general description of where the metes are located, such as along the property line of adjacent lands/owner, a road Right-of-Way, a certain watercourse, or other physical feature. A description of any physical feature located at the start and/or end of a boundary line, and any features located in between, are included, such as a found concrete monument, capped iron pin set, etc.

The Practitioner will create a Property Description Report by using the instructions on the CADD Wiki located on the DRC. The procedure is described under the Proposed ROW Acquisition Creation – RW2202. For In-House projects, the Property Description Report is submitted to Team Support in a format that can be edited. The Team Support Section will send to the Acquisitions, Relocations and Settlements Section to create a Legal Description for the property. For consultant projects, the consultant is to create the Property Description Report and edit to create a Legal Description. A sample of an edit to the Property Description Report to create a Legal Description can be found on the DRC. The Property Description and the Legal Description should be sent to Team Support for their review during the Semi-Final and Final plan submissions.



Delaware Department of Transportation

**RIGHT-OF-WAY ENGINEERING
MANUAL
2023 EDITION**

Chapter VII

AS-ACQUIRED



VII. AS-ACQUIRED

As-Acquired Plans document the acquisitions associated with a project. The As-Acquired Plans also provide information to support the identification and sale of excess real property after the completion of the project.

Team Support serves as the lead in the effort of creating As-Acquired Right-of-Way plans and will initiate data collection, plan updates, coordinate deed recordations if necessary, and coordinate the archiving of the plans. The final As-Acquired Plans are uploaded to ProjectWise archives and Gateway.

A. Process

Following completion of all acquisitions for a project, the Acquisitions, Relocations and Settlements Section will issue a Project Closeout Letter to the Finance Section with the Team Support Section copied in. This letter informs the Team Support Section that all Right-of-Way has been acquired and that the deeds and/or easements are in the project file. Team Support begins the process of collecting all files, plan revisions, deeds, and any other pertinent information about the acquisition process. Other information can include Town Agreements, Utility Easement Extinguishment Documents, Tax Ditch Agreements or Railroad Agreements. The data gathering is an important part of the process as it will determine the quality of the final As-Acquired Plan.

Team Support will begin the data gathering with support from the Practitioner, Right-of-Way Section, Environmental Stewardship Section, Railroad Coordinator and Utility Engineer. The following information is involved:

Team Support will contact the Acquisitions, Relocations and Settlements Section for:

- all acquisition files, to include copies of the recorded deeds.
- all documents that extinguished private easements within the acquired Right-of-Way.
- any lands that were acquired under the Advance Acquisition process.
- any lands that are excess along with the status of the excess land. Is the land still considered to be excess, or has the land been sold? If sold, then the name of the person sold to, as well as the Deed of Record and copy of the deed are needed.
- any lands deemed uneconomic remnants either through Court order or through the Right-of-Way negotiation process.
- The Environmental Stewardship Section is contacted for documents that have since, or will be recorded, to fulfill environmental permit conditions for the project.

- The Practitioner is contacted for all Right-of-Way plans and Right-of-Way Plan Revisions in a pdf format.
- All Town Agreements, Railroad Agreements, Tax Ditch Agreements, Property Owner Agreements, Transportation Improvement District Agreements, and any other pertinent agreements are identified.
- In cases where the land is State owned and has been converted to R/W, Team Support will notify the DelDOT GIS Section and the appropriate County GIS mapping team of the new Right-of-Way line or Parcel Boundary.
- Other information as may be pertinent to depict the current status of the acquired Right-of-Way and excess lands.

B. Plans

The Team Support Section will develop the As-Acquired plans starting with the Final Right-of-Way plan set, including all revisions. The plans are updated to reflect changes that have occurred after the issuance of the last Revised set. The following information will be updated on the plans with Bluebeam using a .pdf format. All changes on the plans will be made in red and if space permits, circled with a red cloud symbol.

- Clearly show on the cover sheet of the Right-of-Way plans or on the sheet of the Construction Plans where acquisitions are shown, the stamp for As Acquired located in the Bluebeam Resources on the DRC, CADD Wiki.
- Update the plans to reflect changes that have occurred that were not processed as a plan revision.
- Update the Deed of Record and/or Easement Agreement information in the Data Sheet and all other affected plan sheets. The Deed of Record of sale to DelDOT is to be noted. If there is a new property owner, note the person(s) the land was sold to and the Deed of Record and Deed Date.
- Identify actual limits of acquisitions, beyond the Right-of-Way shown on the Final Right-of-Way plans, resulting from the acquisition/negotiation process or by court action. Note the reason for the change on the plans and in the Data Sheet. An example of this could be a remnant that is determined through the negotiation process or by court action to be uneconomic and was subsequently included in the acquisition. Coordination with the Acquisitions, Relocations and Settlements Section and the Land Services Section should be performed to determine if these lands should be identified as excess lands or incorporated into the operational R/W by drawing a R/W line on the As-Acquired plans. PE or other rights for DelDOT may also need to be considered on this type of parcel.
- Determine where adjustments to the R/W should be made to incorporate lands into the R/W and make the revisions. On excess lands converted to R/W, show the new R/W line and add a note indicating the date and who approved the revision. For excess lands that are added to DelDOT's Land Services portfolio, add the assigned Inventory Number.



- After finishing the updates, the Team Support Section will submit the As-Acquired Plans for review by all sections within Right-of-Way, the Environmental Stewardship Section, Railroad Section, the Practitioner and any other appropriate DelDOT sections. The review process will utilize a Bluebeam Studio Session.

C. Deeds

The deeds in the project files will be reviewed by the Team Support Section to determine if the recorded deed matches the land acquisition shown on the Right-of-Way plans. The following should be checked on the plans and compared to the recorded deed in the appropriate County to determine if they match.

- Grantors name
- Tax Map Parcel Number
- Metes and Bounds and area of acquisition

If the information described in the deed does not match the acquisition area described in the Final R/W Plans, including all revisions, the Team Support Section will coordinate with the Acquisitions, Relocations and Settlements Section to determine if a corrective deed should be recorded.

D. Archives

Team Support will coordinate the storage of all As-Acquired Plans in ProjectWise, DelDOT Gateway, DelDOT Records Center and the Delaware State Archives. Once As-Acquired plans have been finalized by the Team Support Section, the plans are to be signed and dated by the Chief of Right-of-Way. The following sections receive a copy of the plans in .pdf form:

- Right-of-Way (Land Services and Operation Services)
- Finance Budgets and Programs
- Development Coordination
- Environmental and Administrative Support

Once all copies have been distributed, a memo from the Team Support Section goes to the Environment and Administrative Support Section and the GIS Section stating the As-Acquired plans for a project have been approved, the deeds have been recorded and the documents are ready to be scanned into ProjectWise. The As-Acquired Plans will also be linked to the DelDOT Gateway system by the GIS Section.

E. Excess Lands

The Land Services Section will prepare the following information to dispose of the lands that are determined to be excess:

- Areas of Right-of-Way that can be revised to maximize adjacent excess lands for sale will be identified. Land Services may receive a formal request from an adjacent property owner, or Land Services may pre-identify lands as potential excess. The Land Services Manager will initiate the distribution to the Department sections with information on the land interest. The Land Services Manager will ask for any comments on the change in Right-of-Way line and possible sale of the excess land.
- For all acquired land interest with the potential of being excess, a Land Inventory Plat will be prepared. Land Services will arrange for plats. After the land interest has been determined excess, when necessary, a physical survey will be done. The plat shall be signed and sealed by a Professional Land Surveyor registered in the State of Delaware. Legal descriptions shall be prepared, and a physical survey performed of the excess land that includes placement of DeIDOT Right-of-Way monuments on the Right-of-Way and capped iron pins or other appropriate monumentation on all corners. An example of a Land Inventory Plat can be found in on the DRC.
- If requested, a Resource Exhibit will be prepared to illustrate the various restrictions on the excess lands for use by the Appraisal Section to determine the Fair Market Value. Restrictions can include cultural resources, environmental resources, or other restrictions that may be found as part of the data gathering process. The exhibit should include acreage of the parcel and acreage of the restricted areas. For an example of a Resource Exhibit, see the DRC.



Delaware Department of Transportation

**RIGHT-OF-WAY ENGINEERING
MANUAL
2023 EDITION**

Chapter VIII

AGREEMENTS



VIII. AGREEMENTS

Agreements document a legally binding arrangement between parties and can affect the acquisition of land for transportation projects or the valuation of a property. This chapter is meant to provide the Practitioner with a general understanding of the types of agreements and where one may find them. Reviewing agreements and understanding the content is essential for creating an accurate set of Right-of-Way plans.

The Author of any Agreement is reminded that if an agreement is sent to DeIDOT Legal for comments, an updated version should be sent to the Legal Section before getting signatures. The final signed agreement should be forwarded to the Legal Section.

A. Town Agreements

State maintained roads that enter the municipal limits of a Town/City within Delaware require a Town Agreement to document the ownership and maintenance responsibilities between DeIDOT and the Municipality, as well as the type of construction that will be performed within the Municipality's limits. When a project is initiated within the Municipality's limits, a Town Agreement is needed before construction can commence. Team Support should be notified that a Town Agreement is needed as early as possible in the design process by the Practitioner.

The Practitioner should develop a display that can be used to illustrate the understandings between the Municipality and DeIDOT in the final document. The display should show final alignment of the roadway or general locations on a map if there are multiple project locations.

The Team Support Section will assemble the document and request signatures from DeIDOT personnel and municipality personnel. A copy of the signed agreement will be sent to the Practitioner, the Municipality, and uploaded to the Municipal Agreement website. The Municipal Agreement website can be found on the DeIDOT website under Business.

1. *Master Town Agreement*

A Master Town Agreement establishes a list of roads within the Municipality that will be maintained by DeIDOT. Typically, the construction and maintenance responsibilities for DeIDOT within a Municipality are from face of curb to face of curb. The Municipality typically has responsibility for lighting, drainage, curbs, and sidewalks within the municipal limits. Responsibility for maintaining traffic signals should be confirmed with the DeIDOT Traffic Section.

Municipal limits are to be shown on the Right-of-Way plans and on any Right-of-Way plats or exhibits when applicable. See Chapter II for more details on this.

Master Town Agreements can be found on the DelDOT website under Business>Municipality Agreements.

2. Vehicle/Bicycle/Pedestrian Detours

Even though a project may not enter a Municipality, if a vehicle, bicycle, or pedestrian detour enters the Municipality, a Town Agreement is required. The Practitioner should send a detour plan to be used as a display in the Town Agreement. Team Support will create the document, coordinate signatures, send signed copies to the Practitioner and Municipality, and upload to the Municipal Agreement website.

3. Procedures

Team Support has been authorized to prepare all Town Agreements necessary for projects that fall within incorporated City/Town limits. There are two types of agreements that are prepared by Team Support. There is the City/Town Agreement and the Letter Agreement. The following will explain the difference between the agreements, when to use each agreement format and the procedure for each agreement.

a. City/Town Agreement

This type of agreement is used for any State project that deals with the acquisition of right-of-way or the realignment of a highway or bridge. The Town Agreements are prepared when the final right-of-way has been approved for the project.

The following is the procedure taken when preparing a Town Agreement:

1. Determine if the project falls within an incorporated Town or City limits.
2. Determine who will be signing the agreements for the Town. The website Delaware League of Local Governments has an online directory indicating who the mayors and town managers are for all the incorporated cities and towns. It is suggested to call the town to see if the town is aware of the project and to confirm who the mayor or town manager is at this stage.



3. Take a standard Town Agreement form and adjust the agreement to fit the scope of the project to include which town the agreement is with, the limits of the project, maintenance responsibility and right-of-way required.
4. Attached to the agreement should be an 11 x 17 copy of the Title Sheet, labeled Exhibit A, and right-of-way plan sheets. The right-of-way plan sheets should have the proposed right-of-way highlighted. For other (maintenance and pave and rehab) projects, an 8 ½ x 11 copy of the location map and scope of work is needed. **Steps 1 through 4 should take one week.**
5. When the agreement is completed, the agreement needs to be sent out within DelDOT for comments. It is suggested to give two weeks for comments to be due. **Should take two weeks.** At a minimum, the following indicates who should receive the draft town agreement for review and comment:
 - Project Manager
 - District Engineer
 - Utilities Engineer
 - Chief Traffic Engineer
 - Director of Maintenance & Operations
6. When all comments have been returned, make any necessary corrections.
7. After the cover memo is signed by the Group Engineer for Right-of-Way Engineering, the agreements are ready to be sent to the Town for their review and approval. It is suggested to give three to four weeks for the agreements to be due since most towns must go through their town meetings to approve the agreement and the meetings usually occurs at the beginning of each month. It is also helpful to add a note for the town to call to confirm receiving the agreements. If the agreements are not back by the due date, give the town a call to see if there are any questions or concerns. **Should take three to four weeks.**
8. When the agreements are returned from the town, the Deputy Attorney General, the Chief of Right-of-Way and the Director of Finance need to sign the agreements. To do this an Agreement Transfer Sheet needs to be prepared. **Should take one week.**
9. When the agreements are returned from the Deputy Attorney General, the Chief of Right-of-Way and the Director of Finance, the town agreement is considered executed. Now a letter can be prepared to the town stating the agreement is approved. Once the letter has been prepared, the agreements are ready to be distributed to the town and within the department.

10. Along with the three original signed agreements, seven copies of the signed agreement will need to be made for distribution. The following indicates who will receive the town agreements:

• Agreement to file	1 original
• Agreement to Town	1 original
• Director of Finance	1 original
• Assistant Director, Program	1 copy
• Chief Traffic Engineer	1 copy
• District Engineer	1 copy
• Chief of Right-of-Way	1 copy
• Director of Maintenance & Operations	1 copy
• Planning Administration (uploads to TA website)	1 copy
• Deputy Attorney General	1 copy

The entire town agreement process should take between 8 to 10 weeks to complete, but in cases when there is a rush for a town agreement, it is suggested to do the following:

1. Notify the town as soon as possible to see if the town can expedite their procedures quicker.
2. Email a rough copy of the agreement to the town for their review before mailing the originals.
3. UPS the agreement overnight to the town.
4. Hand carry (deliver the agreements to the city/town).

By using this expedited process, the agreements should take around **4 to 6 weeks to complete** a town agreement.

b. Letter Agreement/Electronic Agreement

This type of agreement is used for any State projects within the limits of a City/Town that deal with resurfacing of highways or bridges with construction occurring within the limits of existing public right-of-way and that no right-of-way is required for the project. The following is the procedure taken when preparing a Letter Agreement:

1. Determine if the project falls within an incorporated Town or City limits. Once it has been determined, an email is prepared to the appropriate Design Section stating whether or not a Letter Agreement is required.



2. Determine who will be signing the agreement for the town. The website Delaware League of Local Governments has an online directory indicating who the mayors and town managers are for all the incorporated cities and towns. It is suggested to call the town to see if the town is aware of the project and to confirm who the mayor or town manager is at this stage.
3. Take a standard Letter Agreement form and adjust the agreement to fit the scope of the project to include which town the agreement is with, the limits of the project and the maintenance responsibility. Attached to the Letter Agreement should be an 8 ½ x 11 copy of the location map and scope of work, labeled Exhibit A.
4. Two copies of the letter agreement need to be made when completed. The cover letter then needs to be signed by the Group Engineer for Right-of-Way Engineering.
5. When the letter is signed, the agreements are ready to be sent or emailed to the town for their review and approval. It is suggested to give the town one or two weeks (electronic), or three to four weeks (letter) to approve the agreements since most towns must go through their town meetings to approve the agreement and the meetings usually occur during the beginning of each month. It is also helpful to add a note for the town to call to confirm receiving the agreement. Both Letter Agreements are signed by the town and if the agreement is not back by the due date, give the town a call to see if there are any questions or concerns. **Should take three to four weeks.** If the due date for the electronic agreement has passed, then it is considered concurrence by the town. **Should take one week.**
6. When the agreements are sent back by the town, the Deputy Attorney General signs the two originals. A memo is prepared stating that the signed Letter Agreement by the Town is attached and is then sent to the Town. One original Letter Agreement is scanned and goes into Team Support's file.

B. Tax Ditch Agreements

A tax ditch is a system of ditches used to manage stormwater and drainage for a specific area. The tax ditch includes easements for construction and maintenance of the facility. Delaware tax ditches are established under Delaware state law (7 Del. Code, Chapter 41). A Tax Ditch Association is an organization, formed by a legal process in Superior Court, that comprises all landowners (also referred to as taxables) of a particular watershed or sub-watershed. The Tax Ditch Agreement outlines the operations of a tax ditch as overseen by Tax Ditch Managers/Chairpersons and a Secretary/Treasurer.

The Delaware Department of Natural Resources and Environmental Control (DNREC) maintains a website to search for tax ditches. The Practitioner can view the locations of Tax Ditches and easement widths by visiting DNREC's website and clicking on Division of Watershed Stewardship/Tax Ditches/Delaware Tax Ditch Map

Prior to proceeding with any proposed construction work whether it is a capital project or maintenance project, DeIDOT needs the concurrence of the Tax Ditch Manager to use the existing tax ditch easement within the LOC of a project to construct and maintain the project. The Practitioner will note the tax ditch easement on the plans. The Practitioner will identify a R/W, PE, TCE or RTE needed to construct and maintain the improvements to be built.

The existence of a tax ditch on a project parcel should be noted in the Right-of-Way Data Sheet or in the Data Table on an Acquisition Plat. The tax ditch easements are extinguished within the proposed R/W limits. It is important to note the tax ditch so that the Acquisitions, Relocations and Settlements Section can coordinate with the Tax Ditch Association for any type of acquisition of property within the tax ditch easements.

Once the plans are complete with the revised limits of the tax ditch easements, the Team Support Section will prepare the documents necessary to send to the Tax Ditch Association. Team Support will complete the following Tax Ditch Agreement Procedures for contacting the Tax Ditch Association.

1. Determine what tax ditch district the project is located via Tax Ditch Application at <http://maps.dnrec.delaware.gov/taxditch>
2. Prepare map of tax ditch boundary and obtain tax ditch limits from website above.
3. Request tax ditch manager names and addresses via email to: DNREC_Soil_TaxDitch@state.de.us
4. Prepare letter to send to tax ditch administrator and include construction plan attachment and map.
5. Send two (2) letters on DeIDOT letterhead with signature line and attachments. Include self-addressed stamp envelope for return of one original letter to DeIDOT.
6. Log in date letter was sent to the tax ditch administrator into the Agreement tracking spreadsheet/database on the shared drive.
7. Once letter is returned, make sure it is signed and attested in the appropriate location. If the letter is not attested, re-send letter to tax ditch administrator.
8. Log in date letter was returned from tax ditch administrator into the Agreement tracking spreadsheet/database.
9. Prepare internal memo to distribute signed Tax Ditch letter agreement advising that the Tax Ditch Chairman has given the State approval to use the existing tax ditch easement in order to construct the project.
10. Scan and file original tax ditch agreement under contract folder in ProjectWise.



11. The final step is performed by the Legal Team. A court order change must be made to record the new limits of the tax ditch easements, in the respective County in which the tax ditch resides.

C. Interagency Agreements

DelDOT may enter into agreements with neighboring States, or other State of Delaware Agencies and County Agencies. These agreements can describe land acquisitions, the design process, stipulations on how construction is to be performed, or financial arrangements between parties. Each agreement is different and will provide information that may affect the Construction or Right-of-Way plans. Normally these agreements would reside in the project files with the DelDOT Practitioner that is responsible for the project or with the DelDOT Legal Section.

D. Environmental Agreements

DelDOT may enter into agreements with State Agencies or private owners to satisfy environmental commitments needed for its projects. The agreements reside with the DelDOT Environmental Stewardship Section.

These agreements may involve cultural areas, wetlands, and HAZMAT areas that need to be avoided. Normally these agreements call for avoidance of the resource, but there may be times when an Environmental Agreement allows for disturbance of the area. The areas of non-disturbance are shown on the Construction Plans as a Limit of Construction (LOC) line to alert the contractor that there can be no disturbance beyond the LOC.

The Practitioner should review all Section 106 documents to understand which cultural areas must not be disturbed. The areas of avoidance will be documented in a Memorandum of Understanding (MOU) between DelDOT and the State Historic Preservation Officer. The LOC line must avoid cultural resources unless otherwise agreed to by the MOU. As part of the MOU, some archeological sites may have conservation easements recorded on the property. The conservation easements will be recorded in the respective County in which the archeological site resides.

The Practitioner should review all permits issued by the Army Corps of Engineers or the Delaware Department of Natural Resources and Environmental Control. The permit for a project will have the areas of avoidance that must be documented by a wetland symbol on the Construction Plans and the Environmental Compliance plans. The LOC line must avoid wetlands unless the permit allows for disturbance. It is important to note areas that cannot be encroached upon to avoid penalties for noncompliance with the Environmental Agency permit. In some instances,

conservation easements may be used to protect sensitive habitats. The conservation easements are recorded in the respective County in which the property resides.

To view mapping of HAZMAT sites in Delaware, DNREC has a database to search for HAZMAT areas and property owner/DNREC agreements. This information would be used at the project scoping stage to initiate a Hazardous Materials (HAZMAT) Report for the project that is typically prepared through DelDOT's Hazardous Materials Section. The Practitioner should review the Hazardous Materials (HAZMAT) Report for a project to determine if there are specific areas that must be avoided or remediated before construction can begin in the area. The Practitioner should coordinate with the DelDOT HAZMAT Coordinator.

E. Railroad Agreements

Before any DelDOT project can commence within Railroad property, the DelDOT Railroad Section must obtain a formal written agreement between the railroad company and DelDOT, to allow access to the Railroad property. The DelDOT Railroad Section maintains its own Maintenance Agreements and Master Agreements with most railroad companies. Master Agreements provide the framework for individual project agreements and streamline coordination between DelDOT and the railroad companies, as they have already been approved by the engineering and legal sections of both parties.

The Practitioner must coordinate with the DelDOT Railroad Coordinator to start the process of obtaining a Railroad Agreement as early in the design process as possible. All work within the Railroad property must be coordinated with DelDOT's Railroad Section. There are no acquisitions within the Railroad property, it will be coordinated within the railroad agreement. More information on railroad coordination can be found in the DelDOT Railroad Coordination Manual.

The Practitioner should note that the property line for a Railroad should be shown on the plans as a property line and not a Railroad Right-of-Way line as discussed in Chapter II.

F. Shared Stormwater Agreements

DelDOT may enter into agreements with property owners to share stormwater facilities for roadway and development use. The agreements outline who is responsible for construction and maintenance of stormwater facilities.

The Practitioner should work with the property owner, DelDOT Water Resources Engineer, DelDOT NPDES Engineer, Team Support Section, Acquisitions, Relocations and Settlements Section, DelDOT Legal Section, and the property owner's Engineer when developing a Shared



Stormwater Agreement for the project. For the latest guidance, the Practitioner should contact the DelDOT NPDES Engineer at npdes@delaware.gov.

A notation of the Shared Stormwater Agreement is made for the parcel in the Data Sheet of the Right-of-Way plans. Shared Stormwater Agreements are recorded in the respective County in which the development resides.

G. Deed Restrictions

Restrictions on a property are often documented in the current deed, a separate recorded deed, or on the subdivision record plan for the property. The Practitioner should review the deeds and record plans for the project parcels to determine if there are any conditions that could affect the construction or Right-of-Way on the parcel. Examples of restrictions could be environmental covenants, cultural resource covenants, or agricultural preservation covenants. These restrictions can be with governmental agencies or private entities or a combination of public and private.

If it is impossible for the Practitioner to avoid acquiring the deed restricted areas, early coordination is needed with the Environmental Stewardship Section. For cultural resources, the Practitioner will work with the Environmental Stewardship Section to prepare a 4(f) document. 4(f) documents and other preservation covenants should be noted in the Remarks box in the Data Sheet, with square footage of the covenant within the proposed acquisition noted. Any deed restrictions should be noted in the Parcel Information Form.

H. Developer Agreements

Developer Agreements between DelDOT and the property owner(s) are common when large developments are to be built. The agreement may describe the project in stages and give milestones as to what infrastructure shall be complete along with assigning maintenance responsibilities. Installation of traffic signals also require an agreement. Information on traffic signals can be found in Section J, Traffic Signal Agreements, of this Chapter.

Traffic Mitigation Agreements (TMA) are needed if a Developer is not able to meet specific level of service or adequate facility requirements adopted by a Land Use Agency. TMAs are recorded in the respective County in which they reside.

Transportation Improvement Districts (TID) are areas identified in local comprehensive plans where development is encouraged, and transportation investments are focused to complement the comprehensive plans. TID Agreements are recorded in the respective County in which they reside. The DelDOT TID Program Manager can be reached at 302-760-2236. More information

about Transportation Improvement Districts can be found on the DeIDOT website under the Business/Program tab.

The DeIDOT Development Coordination Section is involved with Developer Agreements and should be contacted for information. The Development Coordination Section can be reached at 302-760-2122. The Development Coordination Portal can be found on the DeIDOT website under the Business>Doing Business tab. Executed agreements, or those in process, should be reviewed to determine if there are any conditions that would affect the proposed acquisitions, such as commitments for the developer to dedicate lands to DeIDOT for a future signal. These conditions should then be noted on the Right-of-Way plans and/or in the Data Sheet, as appropriate.

I. Corridor Capacity Preservation Program

The Corridor Capacity Preservation Program focuses on managing access to identified road corridors to increase the capacity of the existing highway. The capacity of the corridor can be increased simply by eliminating features that interfere with the flow of traffic, such as entrances and at-grade crossings. The overall approach being developed for the corridor considers the locations of existing and future intersections or interchanges, driveways, service roads, environmental constraints, and county land use plans. The Practitioner can find more information about the program and its impact on Construction and Right-of-Way plans by visiting the DeIDOT website and choosing Business/Programs.

J. Traffic Signal Agreements

DeIDOT's Traffic Section may initiate an Agreement with a Municipality for a particular traffic control device or system placed along State-maintained roadways to document approval and/or ownership and maintenance responsibilities between DeIDOT and a municipality. Typical examples may include, but are not limited to, roadway lighting, signals, signage, pedestrian crossing systems, colored pavement markings, etc.

When coordinating with Developers, DeIDOT may determine that a traffic signal may be required in the future or that an existing traffic signal requires modification. The developer enters into a Traffic Signal Agreement (TSA) with DeIDOT prior to obtaining entrance approval. Traffic Signal Agreements fall into three categories:

- Agreement Type "A" – Off-Site Developer Agreement. This agreement is typically used when a developer is required to contribute to the cost of a new or upgraded traffic signal or ITS device that is not located directly on the development's property.



- Agreement Type “B” – On-Site Developer Agreement. This agreement is typically used when a developer is required to contribute to the cost of a new or upgraded traffic signal or ITS device that is located on or directly adjacent to the development’s property.
- Agreement Type “C” – Right of Entry Agreement. There is no cost component to this agreement. It simply allows DelDOT right of entry onto the property to install, operate and maintain signal and ITS devices. Property owners must willingly enter into this agreement without compensation.

Under certain circumstances, described in the Development Coordination Manual, a Developer has the option of voluntarily contributing to a Traffic Signal Revolving Fund (TSRF) in lieu of entering into a signal agreement. Concurrent with payment into the TSRF, the developer will enter into a Traffic Signal Revolving Fund Agreement, which will document that the Developer has no further financial obligations associated with a particular development to fund existing or future traffic signals at the intersection or intersections in question. They will also be informed that there is no guarantee a signal will be installed when and where they may want it.

The Development Coordination Manual can be found on the DelDOT website under Business>Doing Business. Traffic Signal Agreement information can be found in the former Appendix I of the DelDOT Development Coordination Manual. More information on Traffic Signal Agreements and Traffic Signal Revolving Fund Agreements can be found in Section 2.5 of the Development Coordination Manual. Traffic Signal Agreements and Traffic Signal Revolving Fund Agreements are recorded in the respective County of the development and then input on DelDOT’s OnBase system. A notation of any Traffic Signal Agreement should be noted in the Data Sheet of the Right-of-Way plans.

K. Utility Franchise, Permits and Agreements

DelDOT uses three different types of documents to manage the installation and/or occupancy of utility facilities on, under or across State right-of-way. These documents include franchises, permits, and agreements. Public Utility Annual Master Franchises, Use and Occupancy Agreements, Utility Construction Permits, and Letter Agreements are further described in the Utility Manual, Chapter 4. The Utility Manual can be found on the DelDOT website under Business/Publications. The DelDOT Utility Section can be contacted at 302-760-2515 for more information.