

# PROCEDURES FOR THE IMPLEMENTATION OF TRANSPORTATION CORRIDOR OFFICIAL MAPS

## BACKGROUND

In 1987, the General Assembly provided a number of right-of-way protection measures designed to clarify and enhance the ability of the Department of Transportation and the local governments to protect rights-of-way for important highway projects. The legislation was amended in 1998 to allow for the protection of railroad corridors. Among those measures is the authority to adopt and establish Transportation Corridor Official Maps (hereafter referred to as Official Maps). The adoption of such a map places temporary restrictions on private property rights by prohibiting for up to three years the issuance of a building permit or the approval of a subdivision on property within an adopted alignment.

## PURPOSE

The purpose of this paper is to provide guidelines and procedures for the implementation of Official Maps by the Department of Transportation.

## PROCEDURES

### 1. Pre-adoption Activities

#### a. Project Selection

Candidate projects for selection as Official Maps should be limited to those major control of access facilities where pressure from development is existing or anticipated, where inaction could lead to excessive costs for future rights-of-way or possible elimination of highway alternatives, and where other less restrictive measures are deemed to be ineffective or inappropriate. Since the authority to adopt Official Maps is granted to the cities as well, the Department will generally limit its use of this authority to those projects or portions of projects outside of municipal jurisdictions. Where appropriate, municipal adoption of Official maps will be encouraged.

As an additional requirement, candidate projects must have environmental studies or preliminary engineering activities either completed or anticipated within one year of adoption. For projects with completed environmental documents, no additional activity is required. For other projects, it is unclear what the intended statutory definition of preliminary engineering activity is supposed to be. It can be inferred, however, that some significant pre-construction engineering event should occur within the one year period. Preferably this would be the initiation of the environmental studies, but conceivably it could be some other preliminary engineering activity.

If environmental studies are underway, the adoption of the Official Map should await the determination of the recommended alternative and the preparation of preliminary design drawings. On candidate projects, efforts should be made to provide preliminary design drawings as quickly as possible after alternative selection. This may require some modifications in existing procedures and/or revisions in contractual arrangements with consultants. In cases where environmental studies have begun, the public hearing for the Official Map can, with minor modifications in the existing procedures, be combined with the Design Public Hearing.

For projects where Official Map designation is deemed necessary, but where environmental studies have not been initiated, a thorough environmental screening of alternative alignments should be conducted. The screening should identify areas of potential environmental consequences and assure to the extent possible that the recommended alignment is the most appropriate of those considered. If, after the screening, the alignment is deemed feasible, it may be protected by means of an Official Map; however, it should be understood that the evaluation of other alternatives may still be required in the environmental study.

#### b. Map Preparation

Several types of maps may be required for various stages of the adoption process.

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(1) Corridor maps may be required for Official Map projects initiated in advance of the environmental studies. Similar to standard corridor maps, the corridor maps prepared in these situations should show broad corridors representing one or more alternatives. These corridors should be determined early enough to allow for the environmental screening by the Project Development and Environmental Analysis Branch. The corridor map will be used at the public meeting to be held prior to the required public hearing.

(2) Design Maps will be required for all Official Map projects. Standards for the design maps are essentially the same as for design public hearing maps. In fact, in most instances the Official Map and design public hearings will be combined with one map sufficient for both purposes. The design map should be of sufficient detail to clearly identify the proposed project in terms of functional design, location, and preliminary right-of-way boundaries. Existing property boundaries should be identified along with the names of the affected property owners. The termini of the proposed Official Map designation should be clearly labeled and a title block should indicate the project as a Transportation Corridor Official Map. Several half-size versions will be required for distribution to local officials. The exact number of half-size maps will vary according to project location.

In addition to the design map, a small public notice map must be prepared. This map, to the extent possible, should show the approximate location of the project in relation to other roads or landmarks, and be of a manageable size. This map will be attached to a public notice that is to be posted at the appropriate courthouse doors. The notice will indicate that the larger map is available for public viewing elsewhere in the courthouse.

(3) Once the precise alignment is determined, and prior to adoption by the Board of Transportation, Recording Maps must be prepared. Recording maps are scale maps of the project that are to be recorded with the Register of Deeds Office. These maps should show the proposed alignment and the existing property boundaries. The right-of-way monuments (preferred) or the centerline must be tied to the North Carolina State Coordinate Grid System (1983 Datum preferable). Intersecting streets and other key landmarks should be clearly labeled.

In addition, a title and signature block must be included on each page and the individual pages must be indexed on a map index. The pages should measure 12" by 18" and be on a reproducible medium (the statute requires that the map recorded with the Register of Deeds measure 12" by 20" with a binding space on the left-hand side. This binding space will be handled at Reproduction).

Two lists of the names of the affected property owners must be provided. The first list should be included in recording map packet and should be keyed to the properties identified on the map. A second list containing the names of only those property owners within the proposed right-of-way must be provided on legal size paper (8.5"x14") clearly identified as a Transportation Corridor Official Map for the appropriate project number. Along with the names of the property owners should be the tax map and parcel number and deed book reference of each of the affected properties. This information should be updated to the most recent tax listing period.

## 2. Map Adoption Process

### a. Establish Public Hearing Date and Location

Once the project has been selected and the mapping prepared, the Public Hearing Officer will arrange the date and location of the required public hearing. The date must be sufficiently advanced to allow for the required public notice. Notice of the hearing will be provided:

(1) By publication at least once a week for four successive weeks prior to the hearing in a newspaper having general circulation in the county in which the proposed project will be located. The notice should indicate that the hearing is to consider the adoption of a Transportation Corridor Official Map for the stated project, and that copies of the proposed map are to be posted at the courthouse door and are available for review in the office of the appropriate district engineer.

(2) By two week written notice to the Chairman of the Board of County Commissioners, and the Mayor of any city or town through whose corporate or extraterritorial jurisdiction the proposed alignment passes. (The Public Hearing Officer will assure that these individuals are contacted.)

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(3) By posting copies of the proposed Official Map or amendment at the courthouse door for at least 21 days prior to the hearing date. (Due to the difficulties of posting large maps, this posting may consist of a smaller replica of the Design Map and a public notice clearly stating the location of the Design Map elsewhere in the courthouse.)

To comply with the notice requirements above, copies of the proposed map must be delivered to the appropriate district engineer and to the courthouse of those counties affected by the project. Additional copies will be maintained in the Program Development Branch.

### b. Contact Local Officials

Staff from the Program Development Branch will contact local Officials in areas affected by the project and make them aware of the intended Official Map and its likely implications. Officials and staffs contacted will include the Register of Deeds, tax supervisors or collectors, planners, and building inspectors. Each will be given copies of the guidance prepared by the Department for each respective area of responsibility. In addition, as appropriate, tax officials and planners will be given a half-size copy of the public hearing map in order to transfer the project alignment to their tax and ongoing maps. The purpose of these contacts is to make the local officials aware of the intended Official map and allow them time to make any necessary local preparations for the implementation and administration of an Official Map program.

### C. Hold the Public Hearing

The Public Hearing Officer will conduct the public hearing in accordance with the established practices and procedures for similar types of hearings. (Note: For Official Maps being prepared in advance of environmental studies, the public hearing may follow a less formal public meeting at which several alternatives will be presented.) Public comment at the hearing should be directed towards the designation of the stated project as an Official Map and any impacts and hardships created by such designation. If the Official Map hearing is combined with the Design Public Hearing, and comments are received that lead to design modifications, the State Highway Administrator will decide if the design modifications are significant enough to warrant a new Official Map public hearing. Generally, if additional property owners become involved due to the design modifications, a new hearing will be necessary. If a new hearing is called for, the public notice procedures must be repeated. Transcripts or a summary of the comments of all hearings will be prepared and made available to the Board of Transportation.

### d. Adopt the Official Map

The Board of Transportation, following a review of the transcripts or the summary of the comments from the public hearing, may adopt an Official Map at one of its regular meetings. The initial review of the Official Map proposal will be made by the Finance and Programming Committee.

## 3. Post-adoption Activities

### a. Legal Notice

A legal notice must be prepared to be filed along with the list of affected property owners at the Register of Deeds Office. The notarized signature of the Manager of Program Development serves as the certification of the authenticity of the Official map. In addition, a check must be drawn to cover the costs of recording the map with the Register of Deeds office. The pages of the recording map are \$5.00 each. The legal notice and list of property owners are generally \$14.00 for the first page and \$3.00 for each subsequent page; however, these costs should be verified before requesting a check.

### b. Map Distribution

Following the adoption by the Board, copies of the Official Maps will be distributed in the following manner:

(1) A copy will be maintained by the Program Development Branch.

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- (2) A copy will be filed in the office of the district engineer and with the city clerk of each city affected by the project.
- (3) A Copy will be furnished to the tax supervisor of any county and tax collector of any city affected by the project.
- (4) A certified copy along with the list of affected property owners will be filed with the Register of Deeds for the counties affected by the project.
- (5) A Copy will be provided to the building inspections and planning officials in the affected jurisdictions.

### c. Variance Procedures

Property owners affected by an Official Map adopted by the Board of Transportation may petition for a variance from the requirements associated with such designation by directing a request for consideration to the Manager of Program Development. The property owner may request that an administrative hearing be held in the county where the affected property is located, or may simply outline the reasons for and any evidence supporting such a request in a letter to the Manager of Program Development. If a hearing is to be held, the Manager of Program Development will provide written notice of the time and location of the hearing to the Mayor and the Chairman of the Board of County Commissioners of any affected city or county.

The burden of proof lies with the property owner. The property owner must provide sufficient evidence supporting his request. A variance may be granted only upon a showing that:

- (1) Even with the tax benefits authorized under this statute, no reasonable return may be earned from the land; and
- (2) The requirements of the statute result in practical difficulties or unnecessary hardships.

A variance in this context can be defined as the full or partial relief from the requirements of the statute (i.e., the prohibition on the issuance of buildings permits or the approval of subdivisions on property within the alignment). A variance request, for example, might propose some temporary use involving limited improvements that might otherwise be prohibited in the strict reading of the statute.

Eased on the facts of the particular case, as determined from evidence provided by the property owner, the Manager of Program Development may grant a variance or deny the request. If the circumstances warrant, however, the property may be recommended for advance acquisition based on the hardship criteria. A written record of the decision will be provided to the property owner within thirty days of the hearing or the receipt of the written request for variance.

If the property owner disagrees with the decision of the Manager of Program Development, he may request a review of the case by the State Highway Administrator. The request should be in writing and should include the reasons for the review. The State Highway Administrator will evaluate the case and provide the final administrative decision in writing within thirty days. Further appeal options may be available in the North Carolina Court System.

### d. Advance Acquisition

Properties located within an adopted Official Map alignment may be considered for advance acquisition prior to the expiration of the three year time period if the circumstances meet the criteria for a hardship acquisition as defined in the existing advance acquisition policies. All such requests for hardship acquisition should be in writing and should include all supporting documentation. These requests should be directed to the Manager of Program Development for review and processing before proceeding to the Right-of-Way Branch for consideration and recommendation.

The three-year reservation period begins with the request by the property owner for a building permit or subdivision approval on property located within an Official Map alignment. Consequently, the three-year time period will likely start at a different date for each parcel or property within the alignment. There are no provisions in the statute for renewing the reservation period. As a result, properties reaching the end of their three-year time period must be acquired or the development plans must be allowed to proceed. If the

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reservation period expires before the right-of-way acquisition is scheduled for the project, protective purchase procedures may be required.

### a. Amendments

Amendments to an adopted Official Map may be necessary in cases where design revisions or refinements result in changes in the alignment or right-of-way boundaries that are significantly different from the adopted Official Map. Proposed amendments may be evaluated on a case by case basis. For situations where the design revisions will require additional right-of-way the development potential of the needed right-of-way must be weighed against the requirements for amendments. In cases where the design revisions result in retraction of needed right-of-way or the freeing up of property that was part of the adopted official map, an amendment will be required to relieve the property owner of the development restrictions.

If an amendment is required, the adoption process must be repeated. New maps will be required, a new public hearing will be necessary, and amendments will have to be adopted by the Board of Transportation.