

WHAT IS RIGHT OF WAY?

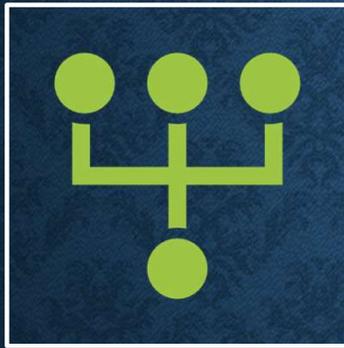
Right of Way is the real property (land and improvements) and rights therein acquired for public use to construct highways for the betterment and safety of the public. Right of Way may be acquired through negotiated settlements or condemnation. It is one of the last major steps before a project is released to bidders for construction

Subject to Government Laws, Statutes, Rules and Regulations

Key element is the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Act) 49 CFR Part 24

In the acquisition of right of way, NCDOT must treat all property owners with impartiality, fully explain all legal rights, pay just compensation in exchange for property rights and furnish relocation assistance, if needed.

WHO IS INVOLVED?



Planners, Design Engineers, Utility Coordinators, Construction staff, Utility Contractors, and Right of Way staff in collaboration with the Public (persons & entities) coordinate efforts to establish the location and design of transportation projects that will minimize impact and be of the greatest benefit to the public.



The final design takes into consideration feasible engineering, safety, economics, public well-being, and convenience to the public.

RIGHT OF WAY RESPONSIBILITIES

- Contact property owners to explain plans and impacts, present offers and answer questions about the project & the ROW process
- Ensure that all affected property owners are afforded their legal right to an appraisal
- Appraise proposed rights of way and easements to be acquired including any damages and costs to cure to remainder property
- Settle or condemn proposed property rights to allow NCDOT access to the property
- Mediate complicated or condemned right of way claims with the Attorney General's office
- Provide relocation assistance, including financial assistance, to persons and businesses displaced by right of way acquisitions
- Inspect for asbestos and demolish structures on acquired rights of way not included in the Roadway Contract
- Dispose of any surplus or residue properties acquired by NCDOT
- Manage assets acquired by NCDOT prior to construction
- Mediate complicated or condemned right of way claims with the Attorney General's office
- Acquire secondary road rights of way
- Monitor & certify Local Municipal Projects requiring Federal or State funding
- Provide Environmental Impact Studies for Environmental documents as needed

RIGHT OF WAY PROCESS TIMELINE



RIGHT OF WAY PROJECT TROUBLE SPOTS

Property Owner
Bankruptcy

Contamination of
proposed acquisition
sites (Gas Stations, dry
cleaners, tire stores,
etc.)

Complicated relocation
moves (i.e. businesses,
farms, condos,
apartment buildings,
billboards, etc.)

Complicated appraisal
items (i.e. golf courses,
retention ponds,
access issues, parking
lots etc.)

Title issues (multiple
known/ unknown heirs,
deed of trust releases,
etc.)

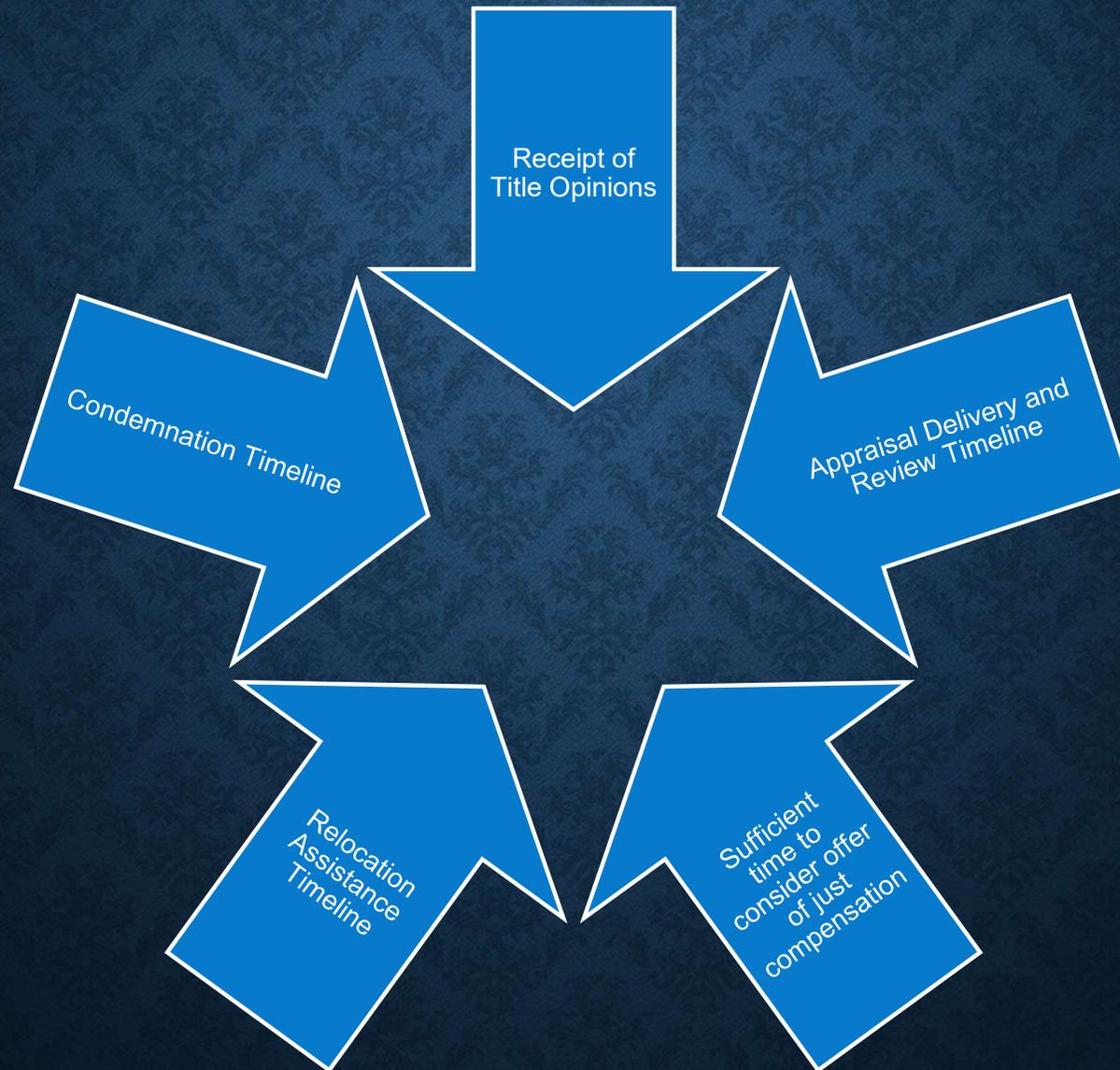
Septic tanks and wells

Underground Storage
Tanks

NCDOT structures or
lanes that are in close
proximity to private
structures

Utilities in conflict with
the project

RIGHT OF WAY SCHEDULE IMPACTORS



PLANNING: FIND POTENTIAL ALTERNATIVE PROCEDURAL OPTIONS TO IMPROVE COLLABORATION

Acquisition vs. Condemnation No. of Claims				Acquisition vs. Condemnation % of Claims	
Fiscal Year	Acquisition	Condemnation	Total Acq/Cond	Acquisition	Condemnation
2017	1652	475	2127	78%	22%
2018	2175	661	2836	77%	23%
2019	2800	583	3383	83%	17%
2020	2711	443	3154	86%	14%
2021	1272	438	1710	74%	26%
2022	2138	706	2844	75%	25%



- Average Condemnation Rate is 21.17% per year (every 2 out of 10 parcels)
- What measures can we take to reduce the number of condemnations statewide?

SOLUTIONS

PLANNING: FIND POTENTIAL ALTERNATIVE PROCEDURAL OPTIONS TO IMPROVE COLLABORATION

- Involve ROW staff and consultants Design Recon WAK1 tion Plans (alignment is decided). The Design Engineer and Project Man WAK1 n receive input at this time as to how the alignment will affect WAK0 d properties to be acquired. The Division ROW Agent and Area Appraiser WAK0 advise as to the complexity of certain acquisitions and identify possible advance/ early acquisition candidates.
- Prior to field inspection development of design plans, Division ROW Agent and Area Appraiser can survey the project and identify potential issues (driveway grades, changes in access, sites that require 2 appraisals). Early coordination is essential to project management and can eliminate possible conflicts that could arise later in the process and become potential condemnation claims.
- Use preliminary engineering plans to build the acquisition and appraisal team prior to Right of Way authorization by the Board of Transportation for more effective communication on impacts to property owners to minimize potential condemnation claims.
- *For claims appearing to have a just compensation amount over \$1M or to be complex in nature, request two appraisals at the beginning of right of way acquisition.
- Obtain any traffic studies WAK2 d for appraisals after the ROW start up meeting instead of after the initial WAK2 with the property owner.
- Obtain any septic evaluations required for appraisals during the preliminary engineering phase to avoid potential conflicts if possible.
- Collaborate with our utility partners and design engineers early in the Project Design phase to identify properties that could be acquired as Early Acquisitions prior to Right of Way authorization to relieve schedule impact to critical path business parcels and complex relocation claims.
- Begin initial contacts and appraisals for relocation claims 4 months prior to ROW authorization in order to allow more time for relocations to assess their replacement site options.
- * Per NCDOT Right of Way Manual, Chapter 5, Section 97, “two appraisals may be obtained in any cases where the nature of the taking and the appraisal problems are complex.”

Slide 8

WAK0

Should this be "Project Manager" ?

White, Allison K, 2022-07-07T19:41:59.681

FHL0 0

Yes I will change

Fulghum, Heather L, 2022-07-13T11:54:15.448

WAK1

This is also when the ROW estimate is requested. I realize estimates can not be used for appraisals. Is the information provided in the ROW estimate used by ROW agents in any way?

White, Allison K, 2022-07-07T19:59:08.122

FHL1 0

No- estimates are not necessarily performed by appraisers. Offers to property owners must be approved appraisals or approved waiver evaluations. We want to make sure we don't mix estimates and fair market value in order to maintain compliance. Is the 30% an accurate percentage for alignment plans at this phase of the project?

Fulghum, Heather L, 2022-07-13T12:13:04.687

WAK2

How do Traffic Studies affect appraisals?

White, Allison K, 2022-07-07T20:01:27.264

FHL2 0

The traffic studies to which we are referring, are the internal flow of traffic studies that are site specific both before and after. Ex: gas station for truck refuel, fast food drive thru restaurants. This helps us determine up front if a property is going to be reduced from its current highest and best use.

Fulghum, Heather L, 2022-07-13T11:56:42.159

ADDRESS THE CONCERNS OF IMPACTED PERSONS AND ENTITIES, WITH A FOCUS ON PROJECTS THAT IMPACT BUSINESSES OR COMMERCIAL PROPERTIES

	Relocation Spend by Type					Relocation % of Spend by Relocatee Type				
	2017	2018	2019	2020	2021	2017	2018	2019	2020	2021
Residential Moving Costs	\$ 622,584.74	\$ 544,545.77	\$ 848,315.51	\$ 968,350.40	\$ 858,037.14	5%	5%	9%	7%	8%
Business Moving Costs	\$ 6,978,486.76	\$ 4,409,550.19	\$ 4,032,048.83	\$ 7,132,286.20	\$ 6,668,022.85	58%	44%	43%	50%	62%
Business Re-establishment Payments	\$ 1,049,006.62	\$ 955,697.70	\$ 790,133.77	\$ 1,082,151.72	\$ 918,554.73	9%	10%	8%	8%	9%
Residential Owner Housing Payments	\$ 1,994,327.16	\$ 2,378,082.15	\$ 1,575,409.42	\$ 2,623,235.74	\$ 933,728.15	17%	24%	17%	18%	9%
Residential Tenant Housing Payments	\$ 1,392,199.74	\$ 1,771,022.75	\$ 2,103,596.46	\$ 2,564,530.50	\$ 1,406,637.66	12%	18%	22%	18%	13%
Totals	\$ 12,036,605.02	\$ 10,058,898.56	\$ 9,349,503.99	\$ 14,370,554.56	\$ 10,784,980.53					

- From the data above, Business Moving Costs are substantially the most expensive relocation group, out of 5 relocation groups, in the Right of Way Relocation Program.
- Business Moving costs average 51.40% of total relocation spend per year.
- Average relocation period for non-residential moves is 8.5 months based on a study of business relocation moves from 2021 projects.

SOLUTIONS

2. PROCEDURE: ADDRESS THE CONCERNS OF IMPACTED PERSONS AND ENTITIES, WITH A FOCUS ON PROJECTS THAT IMPACT BUSINESSES OR COMMERCIAL PROPERTIES

- Revise Right of Way Acquisition and Right of Way Relocation informational brochures, in English and Spanish, and distribute to property owners and tenants at initial contacts and public hearings.
- Develop and implement a Right of Way acquisition and relocation video, in English and Spanish, for YouTube ® for public information. ROW video will be shown at all public hearings and meetings where affected property owners/tenants will meet with the Department.
- Initiate a Right of Way telephone and email hotline where questions regarding right of way acquisition, relocation and appraisal can be routed for subject matter expert response.
- Initiate and maintain a 2 year Right of Way training program dedicated to acquisition agents, appraisers, and relocation agents. Internal staff, transportation professionals, and ROW industry consultants will receive training to improve right of way staff knowledge and efficiency to provide better service to the public.
- Identify potential complex relocation claims in the planning process and begin early acquisition to allow more time for relocation to replacement site.
- Identify zoning regulations for business sites on each project in the planning process in order to determine if businesses may be a relocation claim due to affects of the acquisition causing conflicts with local zoning codes.
- Allow Business Relocation Move Planner consulting fees to be eligible for reimbursement for the business in order to allow specific business knowledge personnel to provide additional customized services to our business owners/tenants.

RELEASED ROW ACQUISITION BROCHURE JAN 22

The revised Right of Way Acquisition Brochure:

- Informs owners of their legal rights during the Right of Way acquisition process
- Explains that property owners have the right to negotiate the offer for just compensation
- Explains the steps of the condemnation process
- Explains the steps of a transportation project
- Informs owners that the Department cannot take possession of any property without payment to landowner during settlement or Clerk of Court through condemnation

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INITIAL CONTACT WITH NCDOT

Once a transportation route is approved and the design is complete, detailed plans are developed which determine the amount of land needed for the construction of the transportation project. If you are identified through a title search as an owner of property needed for the project, a Right of Way agent will contact you to discuss the highway project and its impact on you.

Right of Way agents are trained to explain the project and answer any questions you have.

- The transportation project may require only a portion of your property (partial acquisition) or your entire property
- You will be shown highway right of way plans to see how your property may be affected
- You will be advised of your legal rights during the initial meeting



YOU HAVE THE LEGAL RIGHT TO:

1. Have your property appraised by a licensed appraiser
2. Accompany the appraiser on the inspection of all structures on your property
3. Have your property appraised for value without any appraiser conflict of interest and without undue influence or coercion reflected in the appraised value
4. Receive a written offer for compensation
5. Negotiate with NCDOT on your written offer
6. Be paid the full amount of compensation prior to being required to vacate your property
7. Receive an offer to purchase any small, remaining tracts left over from your acquisition at market value
8. Be informed of your rights and benefits under the Relocation Program if your dwelling or commercial building is in the path of the highway project
9. Be assured of your rights under Title VI, the Civil Rights Act of 1964, N.C. General Statutes, and 49 CFR Code of Federal Regulations
10. Have your compensation determined by a court of law if you cannot reach a settlement with NCDOT

WHAT HAPPENS IF YOU DON'T AGREE ON A PRICE WITH NCDOT FOR THE SALE OF YOUR PROPERTY?

The North Carolina Constitution permits the State to acquire your property for a transportation project, provided you are paid just compensation. There is no requirement that you reach a settlement with NCDOT for the sale of your property. To fully protect your rights, the laws of North Carolina allow you to have compensation determined by a court of law.

If you and the department do not reach an agreement on the value of your property, the Right of Way agent will request the Attorney's General office to initiate a lawsuit allowing NCDOT to acquire your property through the Clerk of Superior Court in the county where your property is located. This process is known as condemnation.

STEPS FOR CONDEMNATION:

- STEP 1** NCDOT notifies you or your representative of an impending condemnation lawsuit action. The date of the filing of the lawsuit should be clearly stated to you in a written letter.
- STEP 2** The Attorney General's office will file the condemnation action on the date stated to you.
- STEP 3** The Attorney General's office will also deposit with the Clerk of Court in the county where your property is located, the amount which NCDOT has offered you as just compensation for your property. Just compensation is the fair market value indicated on your written offer letter.
- STEP 4** Once NCDOT makes a deposit with the Clerk of Court, the department has the right to enter onto your property. If necessary, NCDOT will notify you of a date you need to vacate premises. We want to work with you to provide as much as time as possible to find and move to a new home while keeping the project on schedule.

<https://connect.ncdot.gov/business/ROW/ROWManualsandPublications/Right-of-Way-Brochure-Single%20Page%20layout.pdf>

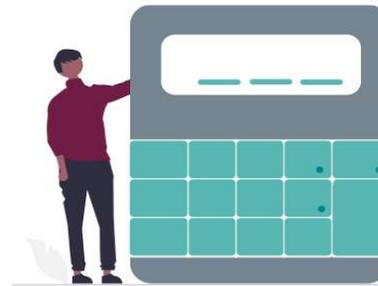
RELEASED ROW NON-RESIDENTIAL RELOCATION BROCHURE APR 22

The revised Right of Way Non-Residential Relocation Brochure:

- Informs owners/ tenants who must relocate that they are eligible to receive reimbursement for moving
- Explains the process for receiving non-residential relocation reimbursement
- Explains the Department must provide relocation advisory services to non-residential relocation owners/ tenants
- Informs the non-residential relocation owner/ tenants of which items are NOT eligible for reimbursement during the move process

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WHAT MOVING EXPENSES ARE ELIGIBLE FOR PAYMENT?

If you choose a payment for actual, reasonable, and necessary moving and related expenses, you may be reimbursed for the following costs:

- ✓ Transportation of your personal property. Transportation costs beyond 50 miles are ineligible, unless the department determines that relocation beyond 50 miles is justified.
- ✓ Packing, crating, unpacking and uncrating personal property.
- ✓ Disconnecting, dismantling, removing, reassembling, and reinstalling relocated personal property including machinery, equipment, substitute personal property and connections to utilities available within the building. This also includes modifications to the personal property mandated by federal, state, or local law, code or ordinance necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site to the personal property.
- ✓ If necessary, upon approval from NCDOT, storage of the personal property for a period not to exceed 12 months.
- ✓ Insurance for the replacement value of the property in connection with the move and any approved storage.

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<https://connect.ncdot.gov/business/ROW/ROW%20Documents/Right-of-Way-Residential-Relocation-brochure-Update-2022-03-08-P2.pdf>

- ✓ The replacement value of property lost, stolen, or damaged in the process of moving where insurance covering such loss, theft, or damage is not reasonably available.
- ✓ Any license, permit or certification required at the replacement location. However, the payment will be based on the remaining useful life of the existing license, permit or certification.
- ✓ Professional services as the Agency determines to be actual, reasonable, and necessary for planning the move of the personal property, moving the personal property, and installing the relocated personal property at the replacement location.
- ✓ Re-lettering signs and replacing stationery on hand at the time of displacement that is made obsolete because of the move.



- ✓ Loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation.
- ✓ The reasonable cost of attempting to sell an item that is not to be relocated.
- ✓ If an item is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, you may be reimbursed the lesser of: the cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or the estimated cost of moving and reinstalling the replaced item but with no allowance for storage.
- ✓ Reimbursement, up to \$2,500, for time spent searching for a replacement location.

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RELEASED ROW RESIDENTIAL RELOCATION BROCHURE APR 22

The revised Right of Way Residential Relocation Brochure:

- Informs owners/ tenants who must relocate that they are eligible to receive reimbursement for moving
- Explains how relocation housing payment supplements are determined
- Informs owners they have the right to appeal the determination of their relocation benefits
- Explains Relocation Advisory Assistance Checklist

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REPLACEMENT HOUSING PAYMENTS

If you are displaced from your residence, you will be given a written eligibility notice at least 90 days prior to being required to move. The notice will describe, in detail, all the relocation benefits you may be eligible to receive. One of these benefits is a Replacement Housing Payment, which depends on if you are a homeowner or tenant, and how long you have lived at the current residence.

Replacement Housing Payments can be better understood by familiarizing yourself with the terms *Comparable Replacement Property* and *Decent, Safe and Sanitary*.

COMPARABLE REPLACEMENT PROPERTY



The asking price or rent of a comparable replacement dwelling will establish the maximum amount you may receive for your replacement housing payment. The comparable replacement dwelling should be functionally similar to your present dwelling.

While it will not be identical, the replacement should have certain attributes such as:

- Similar number of rooms and living space
- Located in an area not subject to adverse environmental conditions
- Generally, not located in an area less desirable than your present location with respect to public utilities and commercial and public facilities
- Currently available to you
- Land area that is typical in size for similar dwellings located in the same, or similar, neighborhood or rural area
- Within the financial means of the displaced person

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IN ADDITION TO PERSONAL CONTACTS

Your Right of Way/Relocation Agent is available to assist you during convenient hours, including evening hours when necessary. Your agent has access or can refer you to the appropriate person/agency for a variety of information concerning.

- Listing of available replacement properties
- Local housing ordinances
- Building codes
- Social services
- Security deposits
- Interest rates and terms
- VA and FHA loan requirements
- Real property taxes
- Consumer education literature on housing

SOCIAL SERVICES PROVIDED BY OTHER AGENCIES

Your right of way/relocation agent is familiar with the services provided by other public and private agencies in your community. If you have particular needs, the agent will make every effort to secure assistance from those agencies who have the expertise to help. You should talk to your relocation agent if you would like these kinds of services.

RELOCATION ADVISORY ASSISTANCE CHECKLIST

This checklist summarizes the relocation advisory assistance you will receive if you are displaced. Your right of way/relocation agent will meet with you to:

- Determine any specific needs and/or requirements
- Explain the relocation process and entitlements
- Offer relocation advisory assistance
- Offer transportation, if necessary
- Ensure the availability of a comparable property ahead of displacement
- Provide referrals to comparable properties
- Provide the amount of your maximum replacement housing entitlement in writing, 90 days or more before the required vacate date
- Inspect replacement homes for decent, safe and sanitary (DSS) standards. This is required on all replacement dwellings.
- Supply information about other federal, state and local programs offering assistance to displaced persons
- Help minimize hardships

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OTHER COMMUNICATION OPPORTUNITIES

Public Meetings

Public meetings are the first occasions for owners to meet with a Right of way agent, and discuss the projects need, alternate routes and possible conflicts/concerns related to their property

Hotlines

NCDOT established a telephone hotline number and an email address for general right of way acquisition, appraisal and relocation questions

Contact the Right of Way Team:
919-707-4397 or rowpublicrequests@ncdot.gov

YouTube® Videos

(English & Spanish)

Provides current social media access to Right of Way acquisition and relocation information. Better informs affected individuals and businesses prior to NCDOT ROW acquisition

<https://www.youtube.com/watch?v=oMH7xp7s4yA>

FREQUENTLY ASKED QUESTIONS

Q: What is the Project Manager role during condemnation and attorney representation process?

A: Any NCDOT employee can be in contact with property owners provided that the property does not have legal representation. This is true for active right of way claims and condemnation. Some property owners obtain legal representation at the initial contact. Often, Project Managers and Design Engineers are not going to know if a property owner has legal representation. Confirm with the ROW agent if the property owner has legal representation. Once a property owner has legal representation, we **MUST** not contact the property owner and must communicate only with the attorney representing the property owner, unless the attorney gives the PM permission to directly communicate with the property owner.

If you do receive permission to discuss the project directly with the property owner, please keep notes of all conversations.

FREQUENTLY ASKED QUESTIONS

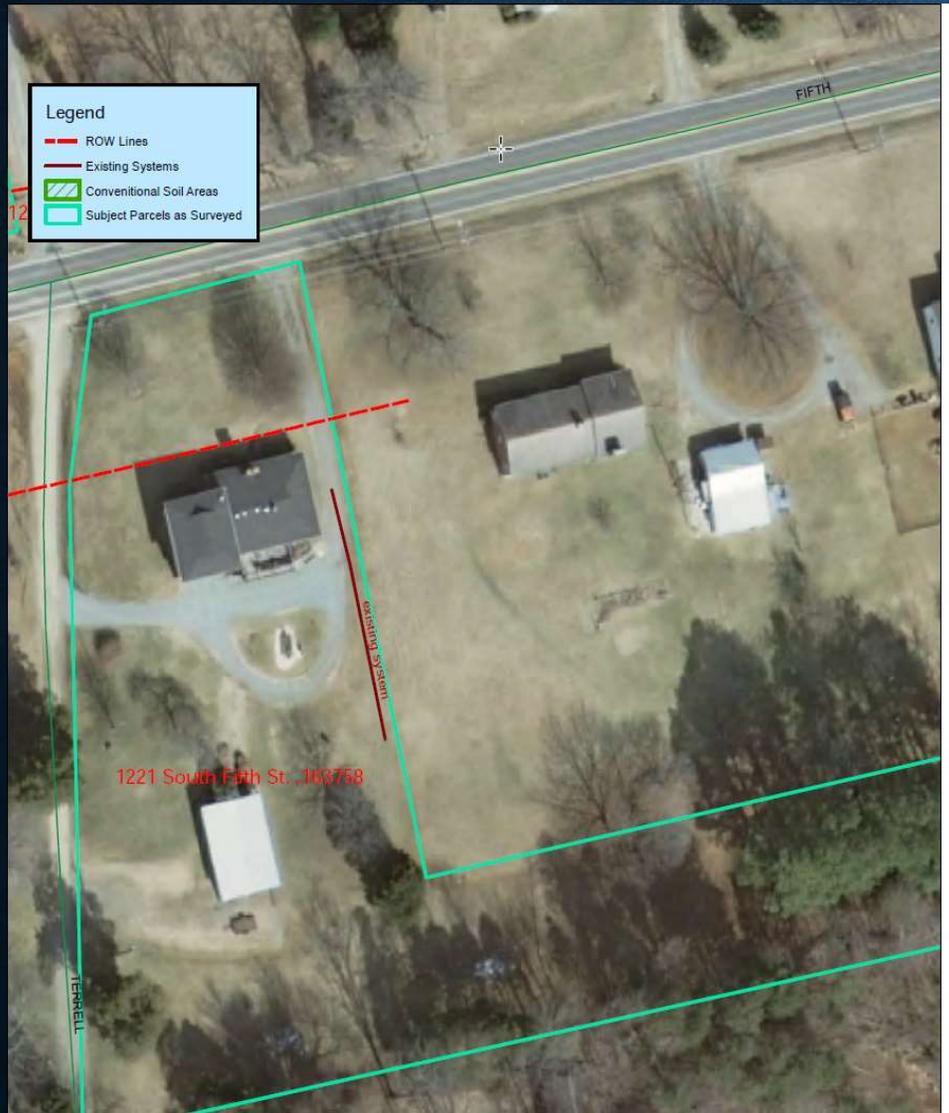
Q: The discovery of septic field conflicts can cause late design changes and create unexpected relocations and costs in the acquisition process. Are there ways to address this earlier?

A: Our best practice guidance is to obtain a septic survey as part of the preliminary engineering component. It is wise for Project Managers and Design Engineers to make sure that it is included as part of the PEF scope so they can incorporate conflicts into the plans. PEF's can certainly utilize the assistance of firms that are allowed by each county to perform septic inspections in that county at a very early stage in the project. The county Environmental Health Department can tell you which firms are pre-qualified for inspection work in their respective county.

At the same time, the Department does not have the ability to enter onto property to gather information. GIS overlays are preferred for early conflict detection.

Another option is to secure a septic firm to perform inspections at the time of initial contacts and have the septic firm to perform all inspections at once. This avoids parcel by parcel mitigation.

FREQUENTLY ASKED QUESTIONS



NCDOT ROW CONTACTS

Heather Fulghum	Manager of Right of Way	919-707-4363	hfulghum@ncdot.gov
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QUESTIONS????

