

Appendix T

***Corridor Capacity Preservation
Program***

- I. Purpose**
- II. Policy**
- III. County/Municipality Coordination Process**
- IV. Subdivision and Entrance Review Criteria**
- V. Real Estate**
- VI. Justification**

I. Purpose

This document constitutes the Delaware Department of Transportation’s policy on the Corridor Capacity Preservation Program. The Program was established in accordance with the provisions of Title 17, Section 145 of the Delaware Code. As indicated in the Delaware Code, the purpose of the Program is to focus development toward existing locations, reduce the need for expansion of the transportation system, and otherwise advance the quality of life of Delawareans and the development policies adopted by the Cabinet Committee on State Planning Issues. This document describes the Department’s policy with regards to these aforementioned goals.

II. Policy

A. Authority

Title 17, Section 145 of the Del. Code required the Department of Transportation to develop a long-range plan that meets the transportation needs of the State. As part of the long-range plan, the Department identified transportation routes requiring corridor capacity preservation. The Del. Code states that corridor capacity preservation is needed in order to:

- “Focus development towards existing locations”
- “Reduce the need for expansion of the transportation system”
- “Otherwise advance the quality of life of Delawareans and the development policies adopted by the Cabinet Committee on State Planning Issues.”

In accordance with the Del. Code and the State's overall planning initiatives, Delaware's *Statewide Long-Range Transportation Plan* (LRTP, or Plan) was completed in 1996. The Plan sets forth major goals, policies, strategies, and priority actions designed to meet the future transportation needs of the State.

In February 1997, after a series of public hearings on the LRTP, the following corridors were formally adopted into the Corridor Capacity Preservation Program:

- SR1 (Dover Air Force Base to Nassau Bridge)
- U.S. 13 (Route 10 to the Maryland State line)
- U.S. 113 (Southern limits of the City of Milford to the Maryland State line)
- Route 48 (Hercules Road to Route 41)

B. Program Goals

One of the primary goals emphasized in the Plan is the preservation of existing transportation facilities. The LRTP details the need to manage existing transportation facilities in order to derive their most efficient and safest use. The Corridor Capacity Preservation Program is specifically identified in the Plan as a priority item whose purpose is to preserve the capacity of certain existing transportation routes.

As listed below, the Corridor Capacity Preservation Program has four primary goals:

1. Minimize the need to build an entirely new road on new alignment
2. Minimize the transportation impacts of increased economic growth
3. Maintain an existing road's ability to handle traffic safely and efficiently
4. Preserve the ability to make future transportation-related improvements within the existing corridor, if needed.

In addition to the aforementioned goals, the Corridor Capacity Preservation Program is designed to maintain the regional importance and intended function of existing designated transportation routes. Also, the social, environmental, and economic benefits gained through a management and preservation program outweigh the impacts associated with the construction of a new route on new alignment.

Upon the adoption of this Policy, no additional permanent access points or expansion of existing access points to abutting property shall be permitted within the designated corridors, unless the access is consistent with the Program, or, if applicable, the Corridor Capacity Preservation Plan.

C. State Investment Areas

In December 1999, the Governor's Cabinet Committee on State Planning Issues adopted the *Strategies for State Policies and Spending* (SSPS). This document outlines strategies to ensure that the State's quality of life is improved in the future. As indicated in the document, "State agencies will use the strategies to coordinate state spending to revitalize existing cities and towns while protecting the environment." The document was last updated in 2010.

The *Strategies for State Policies and Spending* document delineates the state into 5 types of strategy levels: Level 1, Level 2, Level 3, Level 4, and Environmentally Sensitive Areas. The document describes the spending and management strategies that the state will use to guide its decisions in each of these areas.

As part of the Corridor Capacity Preservation Program, and in accordance with the goals of the Cabinet Committee on State Planning Issues, the Department is taking the following approach in each of the State investment areas noted above. There are no Environmentally Sensitive Areas designated on any of the current Corridor Capacity Preservation routes.

Level 1 Areas – “State policies will encourage redevelopment and reinvestment.” (SSPS) **and**

Level 2 Areas – “State investment and policies will be targeted to accommodate existing development and orderly growth.” (SSPS)

1. The Department is pursuing infrastructure investment (local road connections, access roads, road and intersection improvements, etc.) in these areas to accommodate existing and future development without degrading the capacity of the corridor. Level 1 and Level 2 Areas will generally be the Department’s highest priority area in terms of funding and implementing future projects, in order to focus investment and development towards existing communities.
2. For proposed developments, direct access to the corridor may be permitted if reasonable alternative access (either to an existing secondary road or through an adjacent property) is not available.
3. If a property has reasonable alternative access to a secondary road, no direct access to the corridor will be permitted. In determining reasonableness, the Department will evaluate the impact of the alternative access on the functionality and the legal use of the property. If the alternative access requirement is determined to be unreasonable, direct access to the corridor may be permitted.
4. If alternative access is determined to be reasonable but degrades the operation or safety of an adjacent intersection (as determined by a traffic engineering study), then direct access to the corridor may also be permitted.
5. Direct access to the corridor may be temporary. At such time that the Department constructs an improvement project along the corridor, such as a local access road, the property’s direct access may be removed, and access would be provided via the access road.
6. The Department will concentrate its investment in Level 1 and Level 2 Areas by planning, designing, and constructing transportation improvement projects that maintain the capacity of the corridor. However, as part of the normal subdivision approval process, there may be instances in which developers are required to complete projects as part of their development that may be part of a future project identified by the Department as part of its Corridor Capacity Preservation Plan.
7. Cross-access easements may be required as part of the site plan approval for proposed developments.

Level 3 Areas – “The state will promote efficient, orderly development and the coordinated phasing of infrastructure investment, consistent with the extent and timing of future growth, and within the limitations of state financial resources.” (SSPS)

1. The Department does not intend to focus its infrastructure investment in Level 3 Areas, in terms of funding projects such as access roads, local road connections, and significant road and intersection improvements. However, as indicated in the *Strategies for State Policies and Spending* document, the Department will fund projects “where state and local governments agree

that such actions are necessary to address unforeseen circumstances involving public health, safety or welfare” (SSPS).

2. For proposed developments, direct access to the corridor may be permitted if reasonable alternative access (either to an existing secondary road or through an adjacent property) is not available.
3. If a property has reasonable alternative access to a secondary road, no direct access to the corridor will be permitted. In determining reasonableness, the Department will evaluate the impact of the alternative access on the functionality and the legal use of the property. If the alternative access requirement is determined to be unreasonable, direct access to the corridor may be permitted.
4. If alternative access is determined to be reasonable but degrades the operation or safety of an adjacent intersection (as determined by a traffic engineering study), then direct access to the corridor may also be permitted by way of rights-in/rights-out access only.
5. The Department will only issue entrance permits for direct access to the corridor for proposed land uses that generate 200 vehicular trips per day or less per parcel, as determined by the latest edition of the Institute of Transportation Engineer’s Trip Generation Manual (ITE Manual).
6. For properties proposed to be subdivided, the Department will only issue an entrance permit for direct access to the corridor if the total trip generation for the subdivided parcels equals or is less than 200 trips per day. For example, if a property is subdivided into 3 lots, the total trip generation for the 3 combined lots can not exceed 200 trips per day.
7. For properties that are proposed to be assembled together for future development, each parcel with exclusive frontage to the corridor will be permitted a trip generation of 200 trips per day. For example, 3 properties that are assembled together as one development will be permitted a use that generates a maximum of 600 trips per day provided that each individual parcel was large enough to support a land use that would conform with County or municipal requirements and generate at least 200 trips per day per the ITE Manual.
8. In these areas, the Department’s philosophy is to connect adjacent properties to reduce access points. In support of this, developers may be required to construct access roads as part of their development to ultimately provide connections to adjacent properties.
9. All access locations will be considered temporary until such time that the access can be combined with the access to adjoining properties. Once contiguous properties with connecting cross-access easements have temporary entrances located within 500 feet of one another, the entrances may be required to combine into a single entrance.
10. Cross-access easements may be required as part of the site plan approval for proposed developments.
11. The Department will compensate property owners for their compensable interest in the property through the purchase of development rights, for the denial of an entrance permit for proposed uses that exceed the 200 trip per day criteria. The compensation afforded the property owner is based on an independent real estate appraisal, as described in Section V of this Policy.

Level 4 Areas – “State policies will encourage the preservation of a rural lifestyle and discourage new development.” (SSPS)

1. The Department does not intend to focus its infrastructure investment in this Area, in terms of funding projects such as access roads, local road connections, and significant road and intersection improvements. As indicated in the *Strategies for State Policies and Spending* document, “transportation projects will include only necessary drainage, maintenance, and safety improvements, and programs to efficiently manage regional highway facilities.” (SSPS) The Corridor Capacity Preservation Program’s primary goal is to manage and preserve existing regional highways, which is in accordance with the State investment strategies.

2. No new or expanded direct access to the corridor will be permitted in these areas. Access will be permitted to existing secondary roads. If alternative access is determined to be reasonable but degrades the operation or safety of an adjacent intersection (as determined by a traffic engineering study), then direct access to the corridor may also be permitted by way of rights-in/rights-out access only.

No expanded access will be permitted in these areas except as noted below.

- A single residential driveway can be expanded to serve no more than four additional residential lots. For example, a new minor subdivision may be permitted provided all access is internal to the subdivision and access to the corridor is limited to one existing residential driveway. No future subdivision utilizing this driveway will be permitted.
- Existing commercial driveways will be permitted to expand for a proposed use that generates less than 100 trips per day. For example, if expansion of an existing business or the addition of a new business is proposed to utilize an existing commercial driveway, the additional new trip generation may not exceed 100 trips per day.

III. County/Municipality Coordination Process

A. The Corridor Capacity Preservation Program Section of the Division of Planning will provide comments on all rezoning requests that are located within designated Corridors, consistent with the current Memorandum of Agreement with the Counties.

B. All properties located along Corridor Capacity Preservation routes will be subject to the same rezoning process that is currently required by DelDOT and will require a finding with respect to traffic impact. The Development Coordination Section of the Division of Planning will carry out this review.

C. In order to conform to the Corridor Capacity Preservation Program, adequate conditions must be noted on the approved plan prior to DelDOT finalizing its findings with respect to traffic impact or issuing an entrance permit. The conditions shall address such issues as mitigation of traffic, phasing, site access and dedication or reservation of rights of way, as well as applicable Federal, State and local laws, regulations and ordinances.

IV. Subdivision and Entrance Review Criteria

The review criteria which, in addition to existing Departmental policies and regulations, guide the actions by DelDOT to preserve the traffic capacity, maintain safe travel within the existing corridor, and secure the means to provide long term improvements as needed, include the following:

- A. All development proposals located along Corridor Capacity Preservation routes are subject to a review process that ensures conformance with the Corridor Capacity Preservation Program

- B. A preliminary conference between DelDOT and the Applicant is encouraged in order to ensure compliance with the corridor access criteria.

- C. In order to conform to the Corridor Capacity Preservation Program, adequate right of way reservation may be necessary in order to preserve the capacity of the existing road.

- D. Proposed site plans may be required to contain provisions for ultimately converting direct access to controlled access. Such access could be provided by means of:
 - 1. Access Roads
 - 2. Access to existing secondary roads which intersect with a Corridor Capacity Preservation Route
 - 3. Combining entrances with adjacent properties.
 - 4. Street layout that includes stub end streets to be connected with future adjacent subdivisions.

- E. If proposed access locations are not in conformance with the Corridor Capacity Preservation Program or if right of way and access control requirements unreasonably preclude the owner's otherwise legal use of the property, DelDOT will attempt to indemnify the owner through planning for the construction of alternative access, making financial compensation for development restrictions caused, or purchasing real estate interests.

- G. Development along a designated Corridor that will exceed the capacity of the road will only be approved subject to mitigating improvements being made by the developer that may include roadway improvements and/or traffic management agreements.

- H. Cooperative shared access agreements between adjacent land owners will be encouraged.

- I. DelDOT will monitor traffic operations and implement minor projects on an interim basis, such as roadway relocations and intersection improvements, as long as they are consistent with the Corridor Capacity Preservation Program. Ultimately, as the need arises, existing traffic signals will be replaced by grade separated interchanges. In the interim, no additional traffic signals will be allowed on Corridor Capacity Preservation routes. DelDOT will review signal warrants, in accordance with current procedures. At locations where signal warrants have been satisfied, the Department will pursue alternatives to traffic signals that address the particular signal warrant issue.

V. Real Estate

Acquisition Strategy

It is preferable to restrict access in order to preserve a corridor's capacity via management measures as previously described. The reduction of entrances has a positive effect upon the capacity of the highway, and this strategy should be pursued as a priority along these corridors. However, acquisitions of real estate (in fee, or such partial interests necessary to achieve the Program goals and objectives) become warranted when the application of this policy creates unreasonable hardship with respect to the sale or legal use of property.

The preservation of the capacity of existing corridors within the context of the Statewide Long Range Transportation Plan and specific Corridor Capacity Preservation Plans establishes two basic relationships with individual affected properties. Either additional right-of-way is required for projects (access roads, system modifications, intersection upgrades), or the corridor capacity will be maintained through regulatory authority or acquisition of real estate interests.

For the most part, transportation investment will be focused in Community Areas and Developing Areas to support existing and planned growth. Where future service roads or other alternative property access plans have been developed, such that right-of-way will be needed, it is appropriate to consider temporary access to the corridor where practical alternatives are not available and:

- A. Acquire the necessary right-of-way in accordance with the Department's policy on advanced acquisitions if hardship is demonstrated, or a protective buy is warranted.
- B. Otherwise, in response to land development proposals, request reservations of right-of-way, or seek accommodation with future plans (additional building setbacks, with landscaping, stormwater management, or other uses that can be practically relocated).

Acquisition Process

The determinations developed through the technical review process described in

Section V may include the acquisition of real estate interests in order to protect the corridor from roadside development that compromises the safety or capacity of the facility. The real estate acquisition process associated with the Corridor Capacity Preservation Program will be as follows:

- A. Project Manager forwards the Advanced Real Estate Acquisition Approval Form to the Director of Planning and then the Chief of Real Estate for recommendations to purchase real estate interests, and provide an estimated cost of purchase.
- B. Upon receiving the recommendations of the Director of Planning and the Chief of Real Estate, the Project Manager forwards the Approval Form to the Division of Financial Management & Budget to determine funding availability for acquisition. If the purchase is estimated to be equal to or greater than \$250,000, or 5 acres in size or larger, the Department shall seek public input by advertising in at least one newspaper of general circulation for at least two weeks requesting comments from the public by a certain date. The public will have 30 days to respond. To the extent that there is significant public opposition to the acquisition, the Department will reconsider its decision to acquire the property.

E. If the Director of Planning approves the acquisition of the property interest, the request will be submitted to the Chief Engineer for approval, if the estimated purchase price is less than \$500,000, or the Secretary of Transportation for approval, if the estimated purchase price exceeds \$500,000.

F. For fee simple real estate acquisitions - If the Chief Engineer or the Secretary approve the acquisition, it is forwarded for review to the Advance Acquisition Committee consisting of the Secretary of the Department of Natural Resources and Environmental Control, the Secretary of the Department of Transportation, the Secretary of the Department of Agriculture, the Director of the Delaware Economic Development Office, the Governor's Chief of Staff, a member of the Senate designated by the President Pro Tempore, a member of the House of Representatives designated by the Speaker of the House, and two members of the public, one designated by the President Pro Tempore of the Senate and one designated by the Speaker of the House. This Committee was established in accordance with Title 17 of the Delaware Code, Section 137 (a)(2). The role of the Committee is, "To determine the consistency of such action with the State's overall goals for land use planning." (17 De. C. 137 (a)(2))

If the acquisition is approved by the Committee, the Project Manager forwards the approval to the Chief of Real Estate, and the Real Estate Section may begin the process of acquiring the property. However, if the acquisition is not approved by the Committee, the Project Manager will reevaluate the acquisition in terms of consistency with the Corridor Capacity Preservation Program.

G. For non-fee simple acquisitions only - If the Chief Engineer or the Secretary approve the acquisition of a real estate interest less than fee simple acquisition such as the acquisition of access rights or development rights, the Project Manager sends a Notice to Proceed to the Chief of Real Estate to begin the real estate acquisition process. In the annual report to the General Assembly, the Chief of Real Estate will notify the Committee referenced above of the Department's acquisitions of non-fee simple real estate interests, including a description of the interests acquired.

H. The Department's normal acquisition process will be followed, which involves the preparation of an appraisal, the making of an offer to purchase the property or property interest based upon the approved appraisal value, the execution of a purchase agreement and settlement.

I. When subdivision property lines were created as part of a recorded, approved subdivision prior to this Policy revision and the lots are not configured to allow for corridor right-of-way requirements, including frontage roads where required, the Department will reimburse the owner for engineering costs needed to reconfigure the subdivision to correspond with this Policy.

J. DelDOT Planning and Real Estate personnel will monitor the corridors for potential real estate property purchase opportunities.

K. As noted in Title 17, Section 145 of the Delaware Code, the Department may exercise the power of eminent domain to purchase property by condemnation as part of this Program. When a property owner does not object to DelDOT's acquisition of property or property rights but disagrees with the Department's offer of just compensation, then in such cases, condemnation action will be employed in order that the court decide the matter of compensation.

VI. Justification

To provide a policy on preserving the capacity of designated regionally important highway corridors throughout the state, in accordance with overall State planning goals.

No single list of policy guidelines can comprehensively address every situation or circumstance that exists, or may occur in time with respect to the application of this policy in its intent to provide for the long term safety and mobility of the general public, while programmatically addressing the social, environmental, and economic concerns of planning and providing for that mobility. Nothing stated or implied within this document may substitute for sound collective judgement in the application of this policy.

References

The Delaware Office of State Planning Coordination – *Strategies for State Policies and Spending*.

Delaware Code Title 17, Section 137 (a) (2)