TOWNSHIP OF MONTGOMERY

SOMERSET COUNTY
NEW JERSEY

MASTER PLAN

TRAFFIC CIRCULATION PLAN ELEMENT
2005 Amendment No. 1

March 15, 2005

A PROPOSED REALIGNMENT OF THE SOUTHERN PORTION
OF THE PROPOSED ROUTE 206/HILLSBOROUGH BYPASS
TO PROVIDE AN ACHIEVABLE AND VIABLE
DIRECT CONNECTION TO COUNTY ROUTE 601,
AND RELATED ROUTE 206 CORRIDOR IMPROVEMENTS

PREPARED BY: COPPOLA & COPPOLA ASSOCIATES
PRINCETON JUNCTION ~ NEW JERSEY

TOWNSHIP OF MONTGOMERY

SOMERSET COUNTY
NEW JERSEY

MASTER PLAN

TRAFFIC CIRCULATION PLAN ELEMENT
2005 AMENDMENT NO. 1

THE ORIGINAL OF THIS REPORT WAS SIGNED AND SEALED IN ACCORDANCE WITH N.J.S.A. 45:14A-12

Richard T. Coppola, P.P. # 1378

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PREPARED BY: COPPOLA & COPPOLA ASSOCIATES
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TOWNSHIP OF MONTGOMERY
MASTER PLAN

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ADDENDUM I: **SUMMARY EXCERPTS OF THE RECOMMENDATIONS OF THE APRIL 30, 2003 "2003" AMENDMENT NO. 1" TO THE "TRAFFIC CIRCULATION PLAN ELEMENT" OF THE MONTGOMERY TOWNSHIP MASTER PLAN AS ADOPTED BY THE PLANNING BOARD ON MAY 12, 2003.**

ADDENDUM II: **RESOLUTION #02-2-66A ADOPTED BY THE MONTGOMERY TOWNSHIP COMMITTEE ON FEBRUARY 21, 2002 SUPPORTING THE REPLACEMENT OF THE CSX RAILROAD BRIDGE.**

ADDENDUM III: **JANUARY 13, 2005 LETTER FROM MICHAEL B. GERRARD, ESQ. TO MARY E. PETERS, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, REGARDING THE ROUTE 206 BYPASS THROUGH SOMERSET COUNTY AND THE NEED FOR A FULL SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT.**

TOWNSHIP OF MONTGOMERY
MASTER PLAN

TRAFFIC CIRCULATION PLAN ELEMENT
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TOWNSHIP OF MONTGOMERY
MASTER PLAN

TRAFFIC CIRCULATION PLAN ELEMENT
2005 AMENDMENT NO. 1
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INTRODUCTION

The Township of Montgomery is situated in the southeastern corner of Somerset County and contains approximately 32.26 square miles, or 20,646 acres of land. The municipality is traversed from north to south by State Route 206, County Route 601 (the Belle Mead-Blawenburg and Great Roads), County Route 533 (River Road North), and County Route 605 (River Road South). East-west access is provided by County Route 518 (the Georgetown and Franklin Turnpike), County Route 604 (Dutchtown-Harlingen Road), and County Route 602 (Skillman Road) in conjunction with Orchard Road and portions of Sunset and Burnt Hill Roads.

The Township of Montgomery is bounded by Hillsborough Township to the north; Princeton Township to the south; Franklin Township to the east; Hopewell and East Amwell Townships to the west; and surrounds the Borough of Rocky Hill on its north, west and south sides.

Very importantly regarding traffic circulation in Montgomery Township, the natural boundaries of the Sourland Mountains to the west and the Millstone River to the east are particularly significant, since they effectively limit intra-municipal vehicular access points and channel most traffic flow to a north-south direction, *along both State Route 206 and County Route 601.*

The current Master Plan of Montgomery Township originally was dated November 1971 and was adopted by the Planning Board on April 13, 1972. During the past thirty-three (33) years since that time, the Master Plan has been reexamined, changed, modified, refined and expanded.

Today, the existing Master Plan of the Township of Montgomery consists of the following nineteen (19) documents, which include six (6) of the principal Master Plan Elements as permitted and noted at N.J.S.A. 40:55D-28 of the Municipal Land Use Law:

- **MASTER PLAN**, dated November 1971 and adopted by the Planning Board on April 13, 1972;

- **LAND USE PLAN ELEMENT**, adopted by the Planning Board on April 15, 1985;

- **MASTER PLAN PERIODIC REEXAMINATION REPORT**, dated August 1986, which was incorporated by reference in the **MASTER PLAN PERIODIC REEXAMINATION REPORT**, dated July 1988 and adopted by the Planning Board on August 8, 1988;

- **Part I: BACKGROUND STUDIES**, dated October 1988 and adopted by the Planning Board on October 31, 1988, with updated information appearing in subsequent Master Plan documents;

- **Part II: TRAFFIC CIRCULATION PLAN ELEMENT**, dated December 15, 1986 and adopted by the Planning Board on December 15, 1986, with five (5) amendments adopted thereafter through December 13, 1993;

- **Part III: LAND USE PLAN AND HOUSING PLAN ELEMENTS**, dated November 1989 and adopted by the Planning Board on November 20, 1989;

- **Part IV: RECREATION PLAN AND CONSERVATION PLAN ELEMENTS**, dated July 1991 and adopted by the Planning Board on August 12, 1991;

- **Part V: EXISTING LAND USE UPDATE AND BUILD-OUT ANALYSIS**, dated June 1990 and adopted by the Planning Board on October 15, 1990;

- **Part VI: HISTORIC PRESERVATION PLAN ELEMENT**, dated May 1992 and adopted by the Planning Board on July 13, 1992;

- **Part VII: HOUSING PLAN ELEMENT AND FAIR SHARE PLAN**, dated February 1995 and adopted by the Planning Board on February 27, 1995, with later modifications as requested by the New Jersey Council On Affordable Housing (COAH) and "Substantive Certification" granted by COAH on March 5, 1997;

- **MASTER PLAN SUMMARY DOCUMENT**, dated June 1993 and adopted by the Planning Board on June 14, 1993, which included an updated "Land Use Plan Element";

- **MASTER PLAN ADDENDUM: GENERAL DEVELOPMENT PLAN FOR THE NORTH PRINCETON DEVELOPMENTAL CENTER PROPERTY**, dated February 1996, adopted by the Township Committee and formally adopted by the Planning Board as part of the Master Plan on May 11, 1998;

- **MASTER PLAN PART III: LAND USE PLAN PERIODIC REEXAMINATION AND UPDATE REPORT**, adopted by the Planning Board on May 13, 1996;

- **SUPPLEMENTAL MODIFICATIONS NO. 1 TO THE MONTGOMERY TOWNSHIP MASTER PLAN PART III: LAND USE PLAN PERIODIC REEXAMINATION AND UPDATE REPORT**, adopted by the Planning Board on August 8, 1997;

- **MASTER PLAN AND DEVELOPMENT REGULATIONS PERIODIC REEXAMINATION REPORT**, dated April 1998 and adopted by the Planning Board on May 11, 1998, which comprehensively reexamined and updated the various elements of the Master Plan and the implementing Land Development Ordinance regulations;

- **MASTER PLAN AND DEVELOPMENT REGULATIONS PERIODIC REEXAMINATION REPORT**, dated May 2000 and adopted by the Planning Board on June 12, 2000, which specifically recommended the rezoning of approximately 138.10 acres of land to be included in a new "ARH" Age-Restricted Housing zoning district;

- **MASTER PLAN AND DEVELOPMENT REGULATIONS PERIODIC REEXAMINATION REPORT**, dated November 2001 and adopted by the Planning Board on December 10, 2001, which specifically recommended that lands previously included within the "R-2" and "R-3" zoning districts be rezoned into a new "R-5" zoning district, requiring a minimum lot size of five (5) acres for the construction of a single-family detached dwelling, and that the zoning provisions governing development of the lands within the "MR" zoning district be changed to require a minimum lot size of ten (10) acres for the construction of a single-family detached dwelling;

- **TRAFFIC CIRCULATION PLAN ELEMENT, 2003 AMENDMENT NO. 1**, dated April 30, 2003 and adopted by the Planning Board on May 12, 2003, which specifically recommended new roadways to help alleviate traffic congestion at the Route 206/518 intersection, and at the Route 206 intersection with Cherry Valley Road & Princeton Avenue, and related Route 206 corridor improvements; and

- **LAND USE PLAN ELEMENT, 2003 AMENDMENT NO. 1**, dated June 30, 2003 and adopted by the Planning Board on July 14, 2003, which specifically proposed land use alternatives for development within the study area bordered by Orchard & Montgomery Roads to the north, by Cherry Valley Road & Princeton Avenue to the south, by Cherry Hill & Opossum Roads to the west, and by Rocky Hill Borough & Montgomery Road to the east.

GOALS AND OBJECTIVES OF THE TRAFFIC CIRCULATION PLAN ELEMENT

The "Master Plan Part II: Traffic Circulation Plan Element" portion of the Montgomery Township Master Plan originally was adopted on December 15, 1986 and has been amended eight (8) times since then, most recently on May 12, 2003.

The following goals and objectives originally were adopted on November 30, 1992 as part of the "Part II: Traffic Circulation Plan Element" and remain valid at this time:

1. The Township should utilize the existing roadways within the Township to the greatest extent possible in order to increase the probability of having the Traffic Circulation Plan implemented due to the practicality of improving existing roads rather than building new ones.

2. All roadways in the Township should be provided with the minimum improvements necessary to provide safe travel; over improvements will cause traffic speeds to unnecessarily increase, will cut-back many existing front yards, and will require the removal of any existing vegetation along the road's frontage.

3. No particular roadway in the Township should be called upon to move volumes of traffic which will result in the necessity to improve the roadway in a manner incompatible with residential development; therefore, traffic should be diffused among a variety of alternate routes rather than channeling traffic to any particular route.

4. Residential lots which abut or have direct driveway access to Route 206 and certain other relatively major roadways in the Township should be relatively large in size and have relatively wide frontages in order to achieve the following related objectives:

    a. To lessen the number of potential new driveway access points, thereby lessening turning movements and interference with the through flow of traffic;

    b. To lessen the need to provide wide paved cartways on the roads, thereby maintaining the rural residential character of the Township to the maximum extent possible; and

    c. To set back a house a sufficient distance from the "arterial" or "major collector" road in order to protect the residents from the nuisances associated with the relatively high volumes of traffic that will travel the roads in the future.

Summarily, an overall theme of the "Traffic Circulation Plan Element", which was stated in the originally adopted 1986 version and which remains the same today, is that the residents of Montgomery Township are willing to endure a certain amount of inconvenience in the layout and design of the roads within the Township in order to prevent the creation of an interregional traffic pattern.

TRAFFIC GENERATION AND THE PRESERVATION OF THE RURAL RESIDENTIAL CHARACTER OF MONTGOMERY TOWNSHIP

As noted previously, a basic goal of the traffic circulation planning in Montgomery Township is to utilize, as much as possible, the existing roadways within the Township. As a result, small-scale "doable" improvements to the existing road system are preferred and generally have the greatest probability of being accomplished. Additionally, small-scale improvements to the road system will provide the greatest possibility of preserving the rural residential character which prevails throughout most of Montgomery Township.

Since all of the existing roadways in Montgomery Township, including State Route 206 (Van Horne Road), have an effect on the prevailing rural residential character of the Township, it is important that the "Land Use Plan Element" portion of the master plan and the implementing "Land Development Ordinance" provisions appropriately limit the amount of traffic that will be generated as a result of the permitted development.

Indeed, recognition of the potential adverse repercussions of increased traffic volumes within and through Montgomery Township has led to modifications and changes to the "Land Use Plan Element" and amendments to the "Land Development Ordinance" in an effort to lessen the amount of traffic to be added to the road system.

A major modification to the "Land Use Plan Element" was adopted during 1989 when the Township lessened the amount of acreage planned for nonresidential development and also lessened the intensity of the development permitted. More specifically, the permitted floor/area ratios (FAR) within the "REO" zoning districts were reduced, the "RD" zoning district was eliminated in its entirety, and the "LM" zoning district (i.e., the prior MFG" district) was reduced in size and its permitted FAR also was reduced.

On December 19, 2001, the Township rezoned approximately 138.1 acres of land north of Route 518 into a new "ARH" Age-Restricted Housing district. Previously, almost the entirety of the subject land area was zoned within the "REO-3" zoning district, which could have resulted in the construction of approximately 451,979 square feet of office space on the subject lands. Under the adopted "ARH" ordinance provisions, the subject land is being developed with 218 age-restricted dwelling units, 30,000 square feet of office space and up to 120 beds in an "Assisted Living Facility".

As quoted hereinbelow from the May 2000 "Master Plan And Development Regulations Periodic Reexamination Report", which was adopted by the Planning Board on June 12, 2000, a threshold reason for the rezoning of the subject property was a consideration of traffic impacts:

> "The major problem always associated with the development of the subject "REO-3" lands has been how to handle the traffic which would be generated, particularly the traffic impact along Route 518 and at its intersection with Route 206."
> (Page 9)
>
> "Clearly, the proposed rezoning for the age-restricted housing units, plus the relatively small amount of offices (i.e., 30,000 sf), will generate little automobile traffic relative to the traffic volume that would result from the approximately four hundred thousand (400,000) square feet of office space which theoretically could be development under the current "REO-3" zoning provisions."
> (Page 15)

Approximately two (2) years later, on December 29, 2003, the Township adopted ordinance provisions to permit an optional "Planned Shopping Complex" within those portions of the "HC" and "REO-3" zoning districts north of the airport and south of Route 518. This rezoning was recommended by the Planning Board in the June 30, 2003 "2003 Amendment No. 1" to the Land Use Plan Element portion of the Township Master Plan, which was adopted by the Board on July 14, 2003.

The overall purpose of the "Planned Shopping Complex" optional ordinance provisions is to create a comprehensively designed, pedestrian oriented, compact development of mixed uses, mostly retail, and including a small number of age-restricted residential units in proximity to the existing seven (7) homes on the south side of Route 518, provided that the homes are integral with the design of the overall development.

A fundamental reason for adopting the "Planned Shopping Complex" ordinance provisions was to encourage development which would have less peak hour traffic generation than the approximately 130,000 square feet of office/research uses allowed by the underlying "REO-3" zoning district.

Most recently, on May 20, 2004, the Township adopted ordinance provisions to permit an optional "Planned Office Complex" within those portions of the "R-2", "REO-2" and "REO-3" zoning districts north of the airport and south of Route 518, also as recommended by the Planning Board in the "2003 Amendment No. 1" to the "Land Use Plan Element" portion of the Township Master Plan.

The overall purpose of the "Planned Office Complex" optional ordinance provisions is to create a comprehensively designed development of offices, research laboratories and supportive land uses in a campus-like setting, with specific open space areas and pedestrian oriented amenities for the employees and visitors of the complex and as may be necessary in order to implement the recommendations of the Montgomery Township Master Plan.

Additionally, and very importantly, both the "Planned Shopping Complex" and the "Planned Office Complex" ordinance provisions require that the developments be designed, phased and approved to implement the recommendations of the April 30, 2003 "2003 Amendment No. 1" to the "Traffic Circulation Plan Element" portion of the Township Master Plan, which was adopted on May 12, 2003.

The recommendations of the "2003 Amendment No. 1" to the "Traffic Circulation Plan Element" were comprehensively prescribed to help alleviate traffic congestion at the Route 206/518 intersection as well as at the Route 206/Cherry Valley Road intersection. The overall intention was to provide safe and timely vehicular travel along the Route 206 corridor without the necessity to overly widen the highway and destroy the predominant rural residential character of Montgomery Township.

ROADWAY DESIGN SPECIFICATIONS

As noted above, one (1) of the principal goals and objectives of the planning for traffic circulation within Montgomery Township has been to design and construct roads with the "minimum improvements necessary to provide safe travel".

Since the adoption of the December 3, 1993 amended "Traffic Circulation Plan Element", both the Montgomery Township Committee and Planning Board have reviewed the proposed design specifications for new or reconstructed roadways within the Township on a case-by-case basis and, oftentimes, have approved roadway designs with less cartway and right-of-way widths than indicated in the "Traffic Circulation Plan Element".

Moreover, the Commissioner of the New Jersey Department of Community Affairs promulgated the "New Jersey Residential Site Improvement Standards" (N.J.A.C. 5:21-1, et seq.) which were adopted as law and became operative on June 3, 1997. These standard prescribe the right-of-way and cartway widths for roads within residential developments in New Jersey.

As a result, it continues to be recommended that the "Roadway Design Specifications" included in the December 13, 1993 "Traffic Circulation Plan Element" be considered the *maximum* design specifications for existing and proposed roadways within Montgomery Township, and that the applicable "Land Development Ordinance" provisions be amended accordingly and in consideration of the "Residential Site Improvement Standards".

ONGOING TRAFFIC CIRCULATION STUDIES

Montgomery Township has continued to benefit from citizen participation and an outward expression of different views regarding the appropriate modification and changes which should be made to the "Traffic Circulation Plan".

During 1986, four (4) separate committees met and offered their comments regarding the goals and policies felt appropriate as a basis for Montgomery Township's decisions regarding changes to the roadway system in the Township and, additionally, offered substantive recommendations for particular road segments. The four (4) committees included the Planning Board's "Traffic Committee", the Township Committee's "Ad Hoc Traffic Committee", the "Montgomery Year 2000 Task Force Committee" and the "Citizen's Advisory Committee On Traffic Circulation".

Most recently, the Montgomery Township Committee appointed a "Transportation Advisory Committee" which, as indicated at its first meeting on June 6, 2001, is to perform the following duties:

a. Familiarize itself with the terms and conditions of the Township's settlement with NJDOT with respect to Route 206 and the Traffic Circulation Plan Element of the Master Plan;

b. Identify areas in the Township where traffic circulation is currently problematic, and where future problems are anticipated;

c. Consider the location of internal destinations, such as neighborhood shopping areas, which may reduce internal traffic;

d. Study means of improving traffic circulation within the Township, including: (1) improvements to existing roadways and intersections within the Township, provided same are consistent with the principles established by the items referenced in subparagraph a. above; (2) mass transit and public transportation options; (3) enhanced pedestrian and bicyclist routes; (4) van-pooling, staggered work shifts at off-peak hours, and other traffic management tools; and, in so doing, (5) identify purported means of improving traffic circulation that have been unsuccessful;

e. Investigate the availability and requirements of grants for transportation projects;

f. Research the implementation of traffic calming devices in other communities, and their viability for traffic conditions in Montgomery Township;

g. Be available to and cooperate with development boards and master planning subcommittees as they evaluate development applications and consider master plan and zoning alternatives; and

h. Perform such other tasks as may, from time to time, be requested by the Township Committee.

The designated Transportation Advisory Committee (TAC) has been meeting continuously since 2001, and has studied locations within Montgomery Township where traffic circulation is problematic and where additional future problems are anticipated unless remedial action is quickly accomplished.

Additionally, the TAC has identified possible and prudent ways to improve traffic circulation within Montgomery Township which, at the same time, will help to maintain the existing rural residential character of development which prevails throughout most of the Township. The TAC is receiving ongoing technical input from the Township's Traffic Engineer, John Rea, and from the Township's Special Projects Engineer, Donald Johnson.

The Transportation Advisory Committee has formulated two (2) "Problem Statements", each of which defines the need for connector roadways to divert traffic from Route 206, and each of which are fundamental to the safe and timely movement of traffic along the Route 206 corridor. Additional statements may be formulated in the future as the ongoing work of the TAC continues.

One "Problem Statement", which reads as follows, identifies the need to help alleviate traffic congestion at the Route 206/518 intersection, the need to provide for a flood free roadway connection between Orchard Road and County Route 518 over Bedens Brook and, at the same time, the need to provide a roadway connection to and from the Route 206/River Road/Orchard Road combined intersection which would satisfy the evident southwest to northwest traffic flow desire line:

> ***"A major traffic pattern that has developed on Routes 206, 518 and 533 (River Road) is a southwest to northeast traffic flow desire line through central New Jersey, crossing Hillsborough, Hopewell and Montgomery Townships. Specifically, Route 533 terminates at the intersection of Route 206 and Orchard Road. Existing traffic wishing to continue on the southwest to northeast traffic flow desire line must use Route 206 south to Route 518 or Orchard Road to Burnt Hill Road to Route 518. Approximately 1,210 vehicles utilize Route 206 south, 400 vehicles utilize Orchard Road west during the AM Peak hour, 920 vehicles utilize Route 206 north, and 120 vehicles utilize Orchard Road east during the PM Peak Hour. The existing Route 206/Route 518 intersection operates at a Level of Service "F" for extended periods during the day. Presently, no flood free crossing of the Bedens Brook exists in Montgomery Township, causing a stoppage of traffic during major storm events.***
>
> ***With the expected completion of the Route 206/Hillsborough Bypass, which will terminate at Belle Mead/Griggstown Road, the traffic volumes through that portion of Route 206 are expected to increase by approximately 5,000 vehicles per day. The planned configuration of the Bypass terminus strongly discourages the use of Route 601 as an alternate to Route 206 in Montgomery Township. Without a direct flood free connection to Route 518 from Orchard***

Road, the project, as currently proposed, will significantly increase traffic congestion on Route 206, Burnt Hill Road, Orchard Road and Route 518 in Montgomery Township. Presently, there are no roadway features planned to address the anticipated congestion and provide a flood free access. A comprehensive and viable plan is needed to disperse traffic at the southern terminus of River Road."

The other "Problem Statement", which reads as follows, identifies the need for efficient vehicular access, with appropriate provisions for pedestrian access, between the State Route 206/Hillsborough Bypass and County Route 601:

"A major element in the traffic volumes presently evident on Routes 206, 518 and 601 is a southwest to northeast traffic flow desire line through central New Jersey, crossing Hillsborough, Hopewell and Montgomery Townships. Specifically, Route 601 from Blawenburg to Belle Mead and Route 518 from Blawenburg to the Borough of Rocky Hill serve as shunts for the portion of Route 206 in Montgomery Township. Approximately 25 – 30 percent, of the Average Daily Traffic (ADT) traveling south on Route 206 from Hillsborough Township utilize Route 601 as a means of bypassing the existing traffic congestion areas on Route 206 in Montgomery Township and to follow the northeasterly to southwesterly desire line through Montgomery Township.

With the expected completion of the Route 206/Hillsborough Bypass (Bypass), which terminates at Belle Mead/Griggstown Road, the traffic volumes through that portion of Route 206 are expected to increase by approximately 5,000 vehicles per day. The planned configuration of the Bypass terminus strongly discourages the use of Route 601 as an alternate to Route 206 in Montgomery Township. Without the direct connection to Route 601, the project, as currently proposed, will have a significant negative environmental impact on the historic Village of Harlingen and increased traffic congestion on Route 206, Dutchtown Harlingen Road, Sunset Road, Orchard Road and Route 518 in Montgomery Township. Presently, there are no roadway features planned to address the alleviation of the anticipated congestion. A comprehensive and viable plan is needed to disperse traffic at the southern terminus of the Bypass."

As noted in the November 2001 "Master Plan And Development Regulations Periodic Reexamination Report", "the efforts of the appointed 'Transportation Advisory Committee' may result in recommendations for modifications to the 'Traffic Circulation Plan Element', which should be considered by the Planning Board at that time."

Accordingly, during March 2002, the Transportation Advisory Committee (TAC) recommended to the Planning Board that certain improvements be made to the Route 206 intersection with Cherry Valley Road and Princeton Avenue as a means of improving the intersection's capacity and safety.

- The specifics of the recommendation and a documentation of the need for the improvements and the benefits to the public which would result are detailed in a March 8, 2002 report prepared by McDonough & Rea Associates, the Township's Traffic Engineer. The March 8, 2002 traffic report was attached to and made part of the "2003 Amendment No. 1" to the "Traffic Circulation Plan Element" document, which was dated April 30, 2003.

- The Planning Board agreed with the recommendations of the Transportation Advisory Committee and adopted the proposed improvements as part of the amendment to the Montgomery Township "Traffic Circulation Plan Element" on May 12, 2003.

Thereafter, during July 2002, and later more comprehensively during April 2003, the Transportation Advisory Committee (TAC) recommended to the Planning Board that certain new roadways be constructed which would help alleviate traffic congestion at the Route 206/518 intersection, provide a flood free connection between Orchard Road and County Route 518 over Bedens Brook and, at the same time, provide a roadway connection to and from the Route 206/River Road/Orchard Road combined intersection which would satisfy the evident southwest to northwest traffic flow desire line.

- The specifics of the recommendation and a documentation of the need for the improvements and the benefits to the public which would result are detailed in an April 29, 2003 report prepared by McDonough & Rea Associates, the Township's Traffic Engineer. The April 29, 2003 traffic report also was attached to and made part of the "2003 Amendment No. 1" to the "Traffic Circulation Plan Element" document.

- The Planning Board agreed with the recommendations of the Transportation Advisory Committee and adopted the proposed improvements as part of the amendment to the Montgomery Township "Traffic Circulation Plan Element" on May 12, 2003.

For the convenience of the readers of this document, the recommended proposed traffic improvements contained in the April 30, 2003 "2003 Amendment No. 1" to the "Traffic Circulation Plan Element" are summarized, with accompanying maps, in Addendum I attached to this report.

THE BELLE MEAD NODE STUDY AREA

Since the adoption of the "2003 Amendment No. 1" to the "Traffic Circulation Plan Element" on May 12, 2003, the Montgomery Township Planning Board, in cooperation with the Township Committee and the Traffic Advisory Committee has begun a comprehensive study of the Belle Mead node area of the Township, which is located along the Route 206 corridor in the northernmost portion of the municipality.

The overall study area encompasses the following land areas, which can be seen on the current March 15, 2004 "Zoning Map" on the following page of this report:

- Lands in the "R-1" Single-Family Residential zoning district bordered by Willow Road to the east, existing Route 206 to the west, Township Line Road and Hillsborough Township to the north, and Belle Mead-Griggstown Road to the south, and includes the vacant lot located at the northeastern quadrant of the Route 206/Belle Mead-Griggstown Road intersection. Existing development within this land area includes the "Pike Run" and "Miller Grove" residential developments, homes along Township Line Road, and the "Mattawang Country Club";

- Lands in the "REO-1" Research, Engineering & Office zoning district bordered by existing Route 206 to the east, the railroad right-of-way to the west, the existing Route 206 bridge over the railroad to the north, and an "R-2" Single-Family Residential zoning district to the south. This land area is entirely vacant;

- Lands in the "LM" Limited Manufacturing and "SB" Small Business zoning districts bordered by the railroad right-of-way to the east, "R-2" and "PPE" zoning district areas to the west, County Route 601 (Trent Place) to the north, and a "PPE" zoning district area to the south. Excepting for a few commercial uses along Reading Boulevard and some scattered residences, this land area is vacant;

- Lands in the "R" Single-Family Residential and "CC-1" Community Commercial zoning districts bordered by existing Route 206 and County Route 601 to the east, the "R-5" Single-Family Residential zoning district to the west, Hillsborough Township to the north, and County Route 601 (Trent Place) to the south. This land area is mostly developed and contains the residential and non-residential uses which comprise the historic "Belle Mead" area of Montgomery Township;

- Lands in the "R-5" Single-Family Residential zoning district bordered by the "R-5" zoning district to the east, Pleasant View Road to the west, Hillsborough Township to the north, and County Route 601 (Trent Place) to the south. This land area is entirely vacant;

- Lands in the "MR" Mountain Residential zoning district bordered by Pleasant View Road to the east, a "PPE" Public, Parks & Education zoning district to the west, Hillsborough Township to the north, and County Route 601 to the south. This land area contains the "Carrier Foundation", but is mostly vacant land.

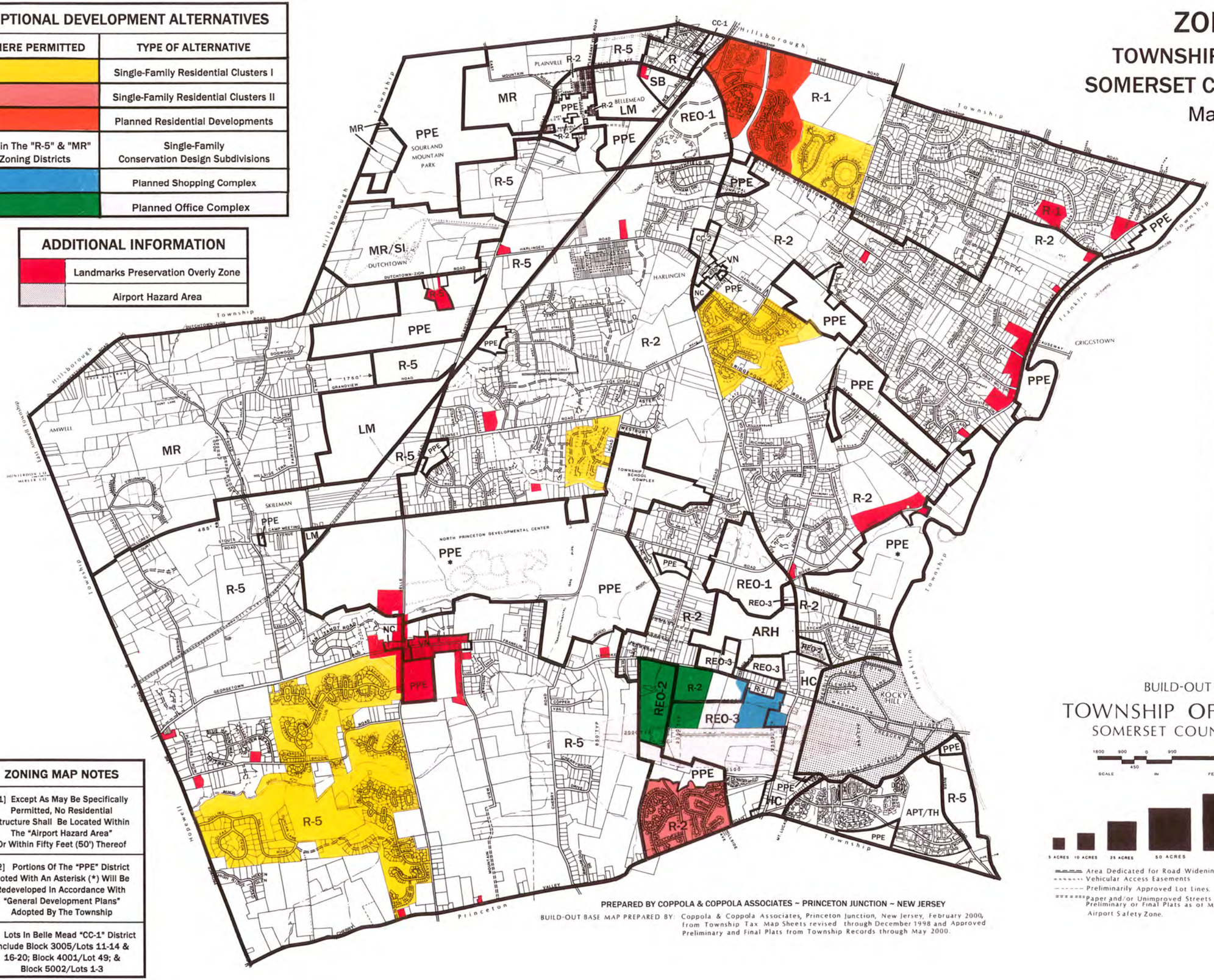
ZONING MAP

TOWNSHIP OF MONTGOMERY
SOMERSET COUNTY ~ NEW JERSEY

March 15, 2004

OPTIONAL DEVELOPMENT ALTERNATIVES	
WHERE PERMITTED	TYPE OF ALTERNATIVE
	Single-Family Residential Clusters I
	Single-Family Residential Clusters II
	Planned Residential Developments
Within The "R-5" & "MR" Zoning Districts	Single-Family Conservation Design Subdivisions
	Planned Shopping Complex
	Planned Office Complex

ADDITIONAL INFORMATION	
	Landmarks Preservation Overly Zone
	Airport Hazard Area



ZONING DISTRICTS	
PPE	Public, Parks & Education
MR	Mountain Residential
R-5	Single-Family Residential
R-2	Single-Family Residential
R-1	Single-Family Residential
R	Single-Family Residential
VN	Village Neighborhood
APT/TH	Apartment/Townhouse Residential
ARH	Age-Restricted Housing
NC	Neighborhood Commercial
CC-1	Community Commercial
CC-2	Community Commercial
HC	Highway Commercial
SB	Small Business
REO-1	Research, Engineering & Office
REO-2	Research, Engineering & Office
REO-3	Research, Engineering & Office
LM	Limited Manufacturing
MR/SI	Mt. Residential/Special Industrial

BUILD-OUT BASE MAP

TOWNSHIP OF MONTGOMERY

SOMERSET COUNTY • NEW JERSEY

1800 900 0 900 2700
SCALE 450 IN FEET

5 ACRES 10 ACRES 25 ACRES 50 ACRES 100 ACRES

Area Dedicated for Road Widening Purposes
Vehicular Access Easements
Preliminarily Approved Lot Lines.
Paper and/or Unimproved Streets and/or Streets on Approved Preliminary or Final Plats as of May 2000.
Airport Safety Zone.

ZONING MAP NOTES
[1] Except As May Be Specifically Permitted, No Residential Structure Shall Be Located Within The "Airport Hazard Area" Or Within Fifty Feet (50') Thereof
[2] Portions Of The "PPE" District Noted With An Asterisk (*) Will Be Redeveloped In Accordance With "General Development Plans" Adopted By The Township
[3] Lots In Belle Mead "CC-1" District Include Block 3005/Lots 11-14 & 16-20; Block 4001/Lot 49; & Block 5002/Lots 1-3

PREPARED BY COPPOLA & COPPOLA ASSOCIATES ~ PRINCETON JUNCTION ~ NEW JERSEY

BUILD-OUT BASE MAP PREPARED BY: Coppola & Coppola Associates, Princeton Junction, New Jersey, February 2000, from Township Tax Map Sheets revised through December 1998 and Approved Preliminary and Final Plats from Township Records through May 2000.

While the overall Belle Mead node study encompasses lands to the east and west of existing Route 206, the two (2) largest remaining vacant properties in the "Belle Mead node" of Montgomery Township are the lands currently zoned within the "REO-1", "SB" and "LM" zoning districts. In aggregate, these lands comprise approximately 291.27 acres and theoretically could be developed with approximately 1,667,623 square feet of office space under the current zoning, as follows:

Zone	Total Acreage	Non-Critical Acreage & FAR	Critical Acreage & FAR	Total Square Footage & Assumed Use
REO-1	**158.58 Ac**	**150.28 @ 0.15 (981,930 sf)**	**8.30 @ 0.03 (10,896 sf)**	**992,776 sf (Offices)**
LM	**98.35 Ac**	**83.34 @ 0.08 (290,423 sf)**	**15,01 @ 0.016 (10,461 sf)**	**300,884 sf (Offices)**
SB	**34.34 Ac**	**33.44 @ 0.25 (364,162 sf)**	**0.90 @ 0.25 (9,801 sf)**	**373,963 sf (Offices)**
Totals:	**291.27 Ac**			**1,667,623 sf (Offices)**

The "Belle Mead node" of Montgomery Township is one (1) of the two (2) major areas of the Township with existing and anticipated traffic congestion. The other major area of existing and anticipated traffic congestion is the "Rocky Hill node" which, as previously noted, has been the subject of ongoing study by the Township officials and staff.

The result of the ongoing study of the Rocky Hill node area has been the development of a comprehensive traffic circulation plan for the area and a rezoning of the largest vacant land areas to mitigate the excessive peak hour traffic that would have been generated by their development under the prior zoning provisions.

As previously noted in this Master Plan report, the adopted traffic circulation plan for the Rocky Hill node area is documented in the "2003 Amendment No. 1" to the Montgomery Township "Traffic Circulation Plan Element", and the rezoning of the largest vacant land areas is documented in the "2003 Amendment No. 1" to the "Land Use Plan Element".

During 2004, Montgomery Township started a comprehensive interdisciplinary study of the Belle Mead node area including considerations and analyses of traffic issues, the potential impacts of the current zoning provisions within the area, market limitations and opportunities, the potential of a transit oriented development within the area, and the possible use of the transfer of development tool to safeguard the Sourland Mountain portion of the Township. Additionally, the Township has been seeking input from interested residents and landowners within the subject area and other areas of the Township as part of the decision making process.

THE THRESHOLD TRAFFIC CIRCULATION ISSUES IN THE BELLE MEAD AREA

The two (2) threshold traffic circulation issues in the Belle Mead area are the construction of the Route 206/Hillsborough Bypass and the reconstruction of the Route 206 Bridge over the CSX Railroad (formerly Conrail). Both of these construction projects have been the topic of study and discussion by and between Montgomery Township and the New Jersey State Department of Transportation (NJDOT) for many years.

The CSX Bridge

The CSX Bridge has been documented in need of replacement since 1994, when the Bureau of Structural Engineering Services submitted a "problem statement" to the NJDOT recommending the replacement of the bridge.

Reasons cited by the NJDOT for the necessity to replace the bridge included the following:

- The poor condition of the existing bridge due to severely disintegrated concrete and severe rusting and section loss of the superstructure;
- The functional obsolescence of the existing bridge due to its inadequate roadway width;
- The substandard approach roadway alignment to and from the bridge, both horizontally and vertically; and
- A high vehicular accident rate near the bridge structure.

Regarding the need to replace the existing CSX Bridge, the Montgomery Township Committee adopted Resolution #02-2-66A on February 21, 2002 in "support for rebuilding the bridge". However, the adopted resolution also "requests that the Department of Transportation continue to work with the Township in establishing a mutually satisfying alignment". A copy of Resolution #02-2-66A is attached to this report as Addendum II.

The Route 206/Hillsborough Bypass

The history and status of the proposed Route 206/Hillsborough Bypass is relatively long and complicated. The design process for the bypass essentially began in the 1980's, when the Belle Mead area of Montgomery Township was largely undeveloped.

However, Montgomery Township was in the process of satisfying its obligations to provide affordable housing in accordance with the precepts of the "Mt. Laurel II" litigation, which was decided by the New Jersey State Supreme Court on January 20, 1983.

In order to meet a portion of its constitutional affordable housing obligations, Montgomery Township rezoned lands in the Belle Mead area of the Township for the construction of a "Planned Unit Residential Development", which now includes 210 "low" and "moderate" income units. The subject land area is bordered by existing Route 206 to west, Pike Brook to the east, Hillsborough Township to the north and Belle Mead-Griggstown Road to the south.

It is instructive and important to note that the term "Planned Unit Residential Development" is defined in the "Municipal Land Use Law" (N.J.S.A. 40:55D-1, et seq.) as follows:

> "Planned unit residential development" means an area…to be developed as a single entity according to a plan containing one or more residential clusters, which may include appropriate commercial, or public and quasi-public uses all primarily for the benefit of the residential development." (NJ.S.A. 40:55D-6)

The rezoning of the subject lands in the Belle Mead area by Montgomery Township to meet a portion of its affordable housing obligations was approved by the Superior Court via a "Judgement of Compliance" which was entered on July 31, 1985. This during the same period of time during which the design of the Route 206/Hillsborough Bypass was being worked on by the New Jersey State Department of Transportation (NJDOT).

Indeed, Montgomery Township expressed concern to the NJDOT regarding the design of the southern segment of the proposed bypass which was to pass, in a north/south direction, in the middle of the proposed, and Court required, "Planned Unit Residential Development", which became known as "Pike Run".

The "Pike Run" development includes a total of 1,288 residential homes, comprised of single-family detached units on various sized lots, townhouses and apartments. A recreational complex, centrally located along Pike Run Road, includes a club house, an in-ground swimming pool, a wading pool, four (4) tennis courts and a tot lot area. The recreational complex is accessible via automobile using Pike Run Road, the looped road which integrates the development, and via walking and bicycling via a sidewalk system which integrates all the neighborhood areas. Additional tot lots are located throughout the planned development. Finally, two (2) retail commercial areas have been planned, including one containing approximately 80,000 square feet and one containing approximately 20,000 square feet.

The concerns regarding the segment of the bypass through "Pike Run" which were expressed to the NJDOT by Montgomery Township all related to the need to design the roadway in a manner which would have minimal adverse effect upon the 1,288 residential homes and many thousands of people who would be residing in "Pike Run", including 210 "low" and "moderate" income households.

Of utmost importance was that the roadway not be constructed to block Pike Run Road and be a barrier to separate the vehicular and pedestrian interaction among the residents in the "Pike Run" development which, in accordance with the Municipal Land Use Law definition, was designed to be "developed as a single entity".

As a result of the dialogue between Montgomery Township and the NJDOT, and a litigation between the parties which was settled in 1992, the parameters of a design of the bypass segment through "Pike Run" was stipulated that would reasonably safeguard the quality of life for the future residents of the development.

However, since the 1992 settlement agreement, the NJDOT has made a number of changes to the design of the bypass segment through "Pike Run" including, but not limited to, the following:

- There now is to be a grade separated interchange at Township Line Road, with no access ramp connection to southbound Route 206;

- There now is to be a "flyover" grade separated alignment of the roadway over Pike Run Road, with no ramp connections, thereby splitting the residential community in half and defeating the design and the development of "Pike Run" as a single community with a number of residential neighborhoods, including homes for "low" and "moderate" income households;

- The current roadway design now will exceed the boundary lines established by the 1992 settlement agreement for the acceleration and deceleration lanes at the Route 206/Belle Mead-Griggstown Road intersection;

- The current roadway design now will cause a taking of property at the northeast corner of the Route 206/Belle Mead-Griggstown Road intersection that was previously to be untouched by the roadway;

- The current roadway design now will have a median transition beginning approximately 1,100 feet south of Township Line Road, versus the requirement of the settlement agreement that the median transition begin "immediately south of Township Line Road"; and

- The current roadway design now will have noise barriers located outside of the preserved alignment for the bypass road.

These changes are documented in a January 13, 2005 letter from Michael B. Gerrard, Esq. to Mary E. Peters, Administrator of the Federal Highway Administration, which is attached to this report as Addendum III.

The primary purpose of the letter is to indicate the inadequacy of the August 3, 1988 "Finalized Environmental Impact Statement" to justify the currently proposed alignment and roadway design of the bypass, including the segment through "Pike Run". The letter documents significant changes to both the design of the Route 206/Hillsborough Bypass and the project area, including the "Pike Run" planned development, as well as significant new information that has come to light during the past twenty-five (25) years relating to environmental issues in the project area.

The letter concludes that, if the current alignment and roadway design as currently proposed by NJDOT is not changed, then a full "Supplemental Environmental Impact Statement" (SEIS) is required in accordance with provisions of the National Environmental Policy Act (NEPA).

A BETTER ALTERNATE ALIGNMENT

The current proposed alignment of the Route 206/Hillsborough Bypass in Montgomery Township is shown in yellow on the "Belle Mead Node-Approved Alignment" map, which appears on the following page of this report.

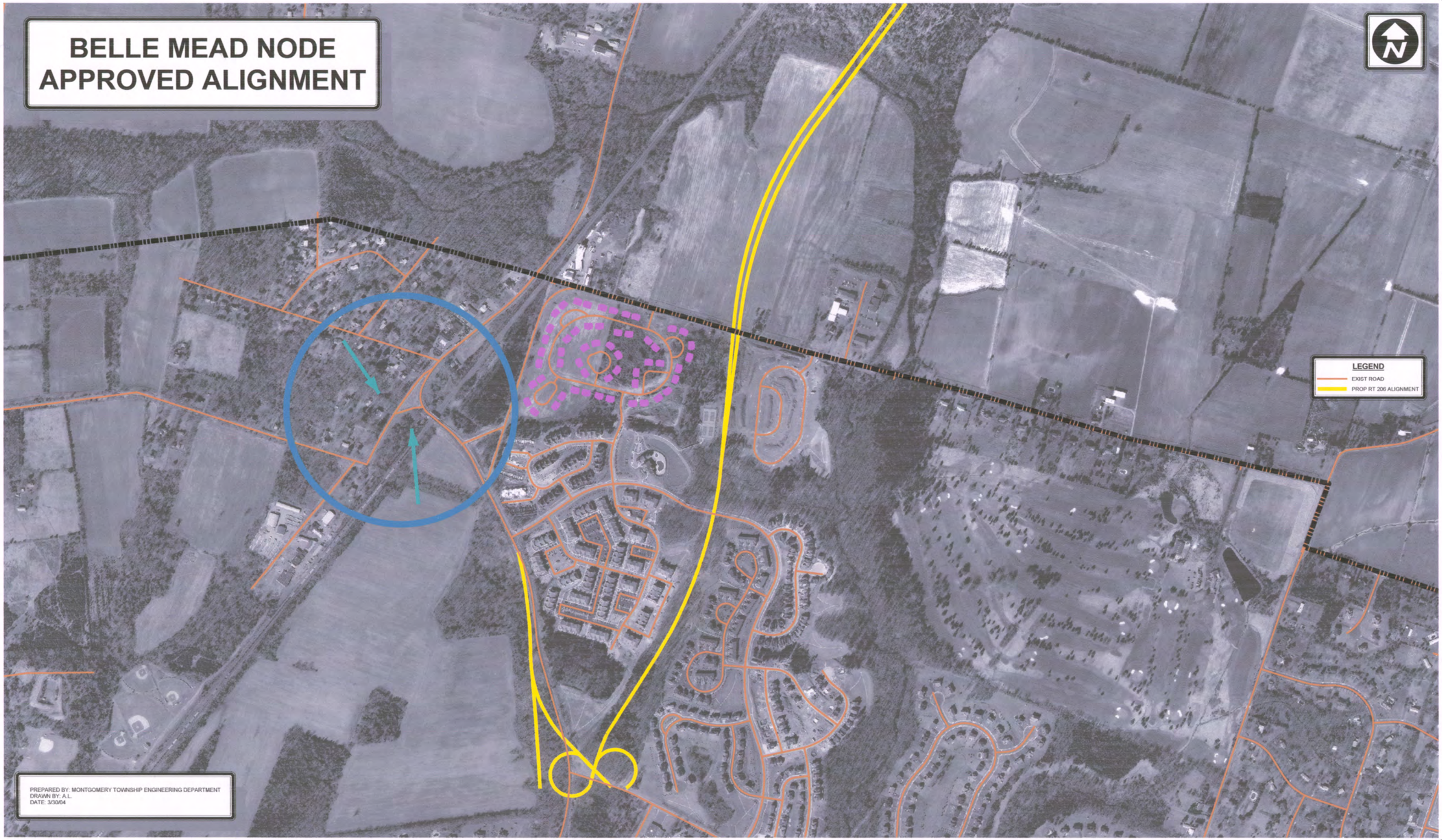
As previously noted, the current design being proffered by the New Jersey Department of Transportation (NJDOT) will prevent vehicular access between the residential neighborhoods in "Pike Run" west of the bypass and the residential neighborhoods east of the bypass.

As an example of the detriment which would be caused to the "Pike Run" community, residents east of the bypass would have to drive to the recreational complex by traveling south on Pike Run Road "East" to Belle Mead-Griggstown Road, then proceed west to old Route 206, then proceed north to Pike Run Road "West" and then turn into the recreational complex. A similar traffic pattern would have to be followed by residents east of the bypass when traveling to the planned major retail commercial center to be located at the southern end of the development between the currently proposed bypass and old Route 206 to the west.

Additionally, bicycle and pedestrian movement between the separated east and west portions of the residential community would be limited, if not totally precluded.

Equally important to the destruction to the quality of life which would be caused to the residents of "Pike Run" as a result of the construction of the bypass as currently proposed by the NJDOT is the fact that it will not serve to satisfy evident traffic circulation needs of the region, and will only worsen the traffic congestion problems in Montgomery Township which, in concert with the NJDOT, the Township has diligently striven to minimize.

BELLE MEAD NODE APPROVED ALIGNMENT



The following facts and observations regarding the repercussions of the bypass road currently proposed by the New Jersey Department of Transportation (NJDOT) in Montgomery Township can be briefly summarized as follows:

- The completion of the Route 206/Hillsborough Bypass is expected to add approximately 5,000 vehicles per day to the portion of Route 206 between the "Belle Mead node" and the "Rocky Hill node", the two (2) most congested areas within Montgomery Township.

- It is evident that the present traffic volumes on Routes 206, 601 and 518 in Montgomery Township and in neighboring municipalities show a northeast to southwest traffic flow desire line, crossing Hillsborough Township, Montgomery Township, Hopewell Borough, Hopewell Township and Lawrence Township.

- The current planned terminus of the Route 206/Hillsborough Bypass at Belle Mead-Griggstown Road, south of a direct access to Route 601, will discourage and effectively preclude the use of Route 601 as an alternative from Route 206 for traffic desiring to travel in a southwest direction.

- Without a direct connection to Route 601, the Route 206/Hillsborough Bypass will distribute most of the increased traffic volumes southwardly on Route 206, which will have direct negative effects on historic Harlingen Village and indirect negative effects on the east-west roads intersecting with Route 206 in Montgomery Township, including Dutchtown-Harlingen Road, Sunset Road, Orchard Road and Route 518.

- Finally, without a direct connection to Route 601, the Route 206/Hillsborough Bypass will simply move the traffic congestion problems currently existing along Route 206 in Hillsborough Township further to the south into Montgomery Township, eventually to a severe bottleneck at Route 518 in the "Rocky Hill node", and ultimately to a standstill at the border of Princeton Township, with no meaningful ability for the traffic at these points to proceed to the southwest.

As a result of these facts and observations, Montgomery Township presented a modified alignment of that portion of the proposed bypass south of Hillsborough Road in Hillsborough Township. The realignment is shown in blue on the "Belle Mead Node-Alternative B" map, which appears on the following page of this report.

BELLE MEAD NODE ALTERNATE B

It should be noted and emphasized that no changes to the alignment or design of the Route 206/Hillsborough Bypass was requested by Montgomery Township north of Hillsborough Road.

Essentially, the proposed realignment takes southbound traffic back onto existing Route 206 south of Hillsborough Road, but north of the CSX Bridge. At the bridge, which is shown on the "Belle Mead Node-Alternative B" map to be the bridge alignment as currently proposed by the NJDOT, a connection would be made to Route 601. In that way, drivers could make a choice whether to continue on southbound Route 206 or travel in a southwest direction on Route 601.

Summarily, and for all the reasons noted in this report, the two (2) threshold reasons for the proposed realignment of the Route 206/Hillsborough Bypass south of Hillsborough Road are to prevent the bypass from splitting the "Pike Run" community in half, and to provide a direct connection with Route 601.

CONCLUSIONARY COMMENTS

All Master Plan documents of every municipality in New Jersey are required to make recommendations that are in concert with the purposes of the Municipal Land Use Law at N.J.S.A. 40:55D-2.

It is interesting to note that the alignment and design of the Route 206/Hillsborough Bypass currently being proposed by the NJDOT, versus the alternative alignment and design proposed by Montgomery Township, can be compared relative to certain of the stated "purposes" of the Municipal Land Use Law (i.e., N.J.S.A. 40:55D-2 d., h. & k.), as follows:

"d. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole."

Comments: The NJDOT proposal will conflict with the development and general welfare of the citizens within Montgomery Township, while the Township proposal will not interfere with the desire of NJDOT to have the bypass, or the plans of Hillsborough Township to have the bypass constructed as proposed by NJDOT north of Hillsborough Road.

"h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight."

Comments: The NJDOT proposal will increase traffic congestion along Route 206 in Montgomery Township, while the Township proposal will distribute traffic along documented traffic flow desire lines.

"k. To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development of the particular site."

Comments: The NJDOT proposal will effectively destroy the viability of a "Planned Unit Residential Development" and negate the benefits achieved by the design and layout of the mixed-use development, while the Township proposal will safeguard the integrity of the community.

ADDENDUM I

SUMMARY EXERPTS OF THE RECOMMENDATIONS OF THE APRIL 30, 2003 "2003 AMENDMENT NO. 1" TO THE "TRAFFIC CIRCULATION PLAN ELEMENT" OF THE MONTGOMERY TOWNSHIP MASTER PLAN AS ADOPTED BY THE PLANNING BOARD ON MAY 12, 2003

PROPOSED NEW ROADWAYS
TO HELP ALLEVIATE TRAFFIC CONGESTION
AT THE ROUTE 206/ROUTE 518 INTERSECTION
AND RELATED ROUTE 206 CORRIDOR IMPROVEMENTS

At this time, the Transportation Advisory Committee has recommended a number of new roadways to help alleviate traffic congestion at the Route 206/Route 518 intersection and related Route 206 corridor improvements. The specifics of the recommendations, the need for the improvements and the benefits to the public which will result are discussed in an April 29, 2003 report prepared by McDonough & Rea Associates, the Township's Traffic Engineer.

The proposed roadway improvements are shown on the two (2) attached aerial photograph maps. Each roadway is proposed to provide for 2-way traffic within a fifty foot (50') right-of-way.

The following summarizes the proposed new roadways, and the descriptions are organized by the quadrant of the Route 206/Route 518 intersection within which they are located

Northwest Quadrant

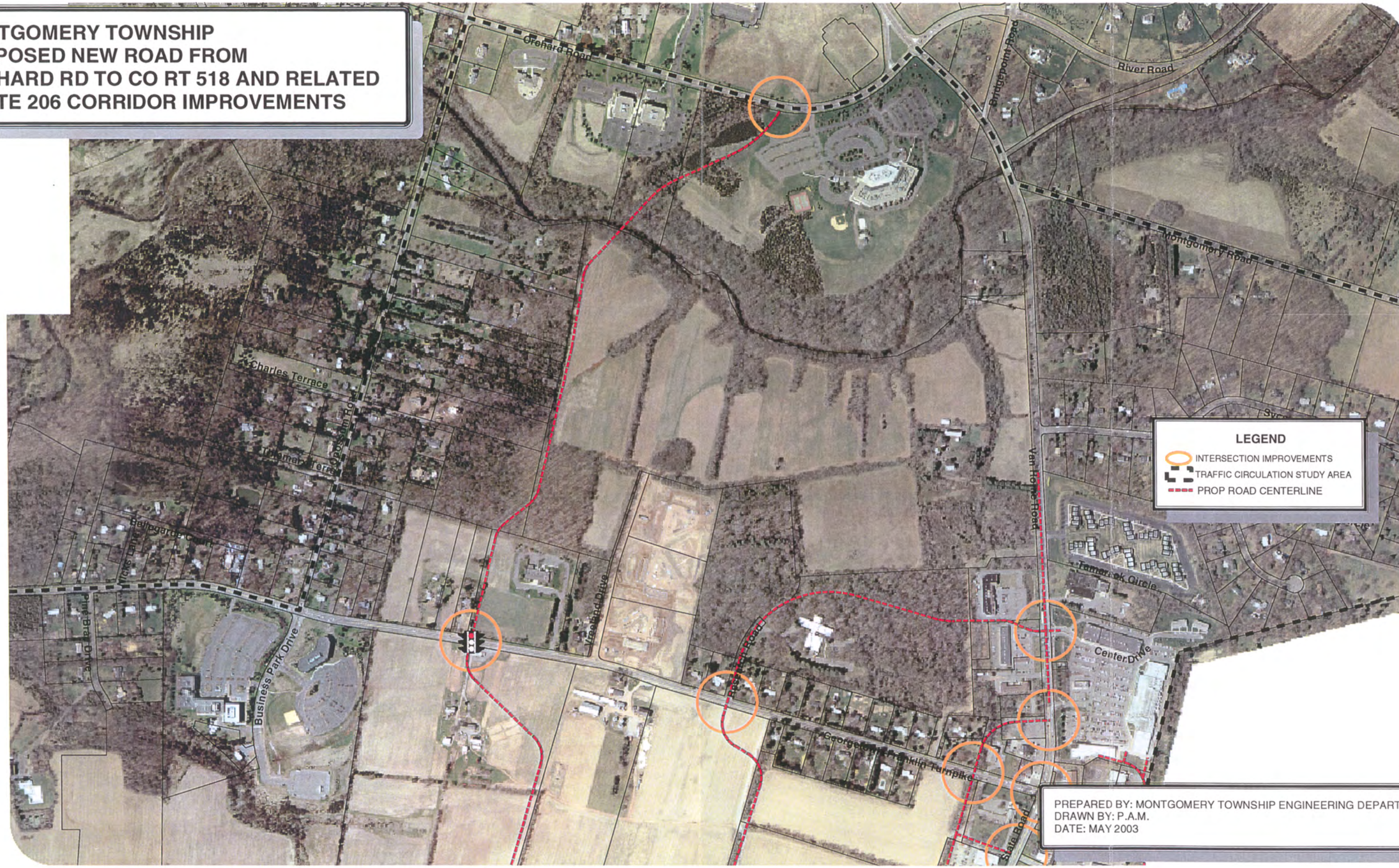
In the northwest quadrant of the Route 206/518 intersection, three (3) new loop roadways are proposed, as follows:

1. An "inner loop" roadway linking Route 518 to Route 206 is proposed behind the properties in the vicinity of the "Tigers Tale" restaurant.

2. An "intermediate loop" roadway is proposed which will connect with Route 518 at the existing Research Road intersection, extend northerly via Research Road, and then turn in an easterly direction through the "Village Shopper" shopping center to an intersection with Route 206 at the traffic signal currently located at the intersection with the driveway accessing the "Montgomery Shopping Center".

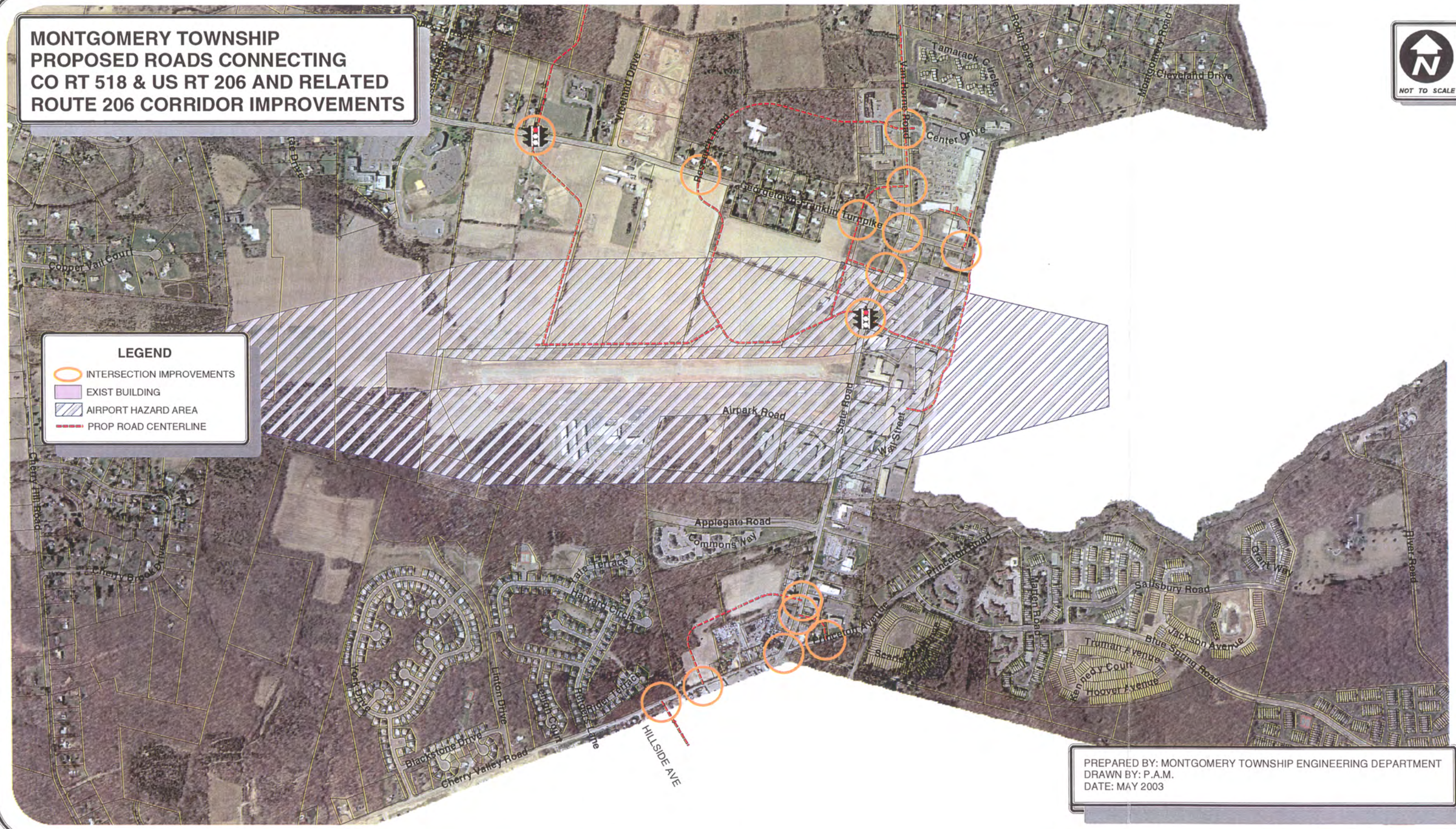
3. Finally, an "outer loop" roadway is proposed from a signalized intersection at Route 518, extending northerly along the western boundary of the "Sharbell" adult community tract between Route 518 and Bedens Brook, crossing Bedens Brook at a flood free bridge crossing, and intersecting with Orchard Road west of the Orchard Road/Route 206 intersection.

MONTGOMERY TOWNSHIP
PROPOSED NEW ROAD FROM
ORCHARD RD TO CO RT 518 AND RELATED
ROUTE 206 CORRIDOR IMPROVEMENTS



PREPARED BY: MONTGOMERY TOWNSHIP ENGINEERING DEPARTMENT
DRAWN BY: P.A.M.
DATE: MAY 2003

MONTGOMERY TOWNSHIP PROPOSED ROADS CONNECTING CO RT 518 & US RT 206 AND RELATED ROUTE 206 CORRIDOR IMPROVEMENTS



PREPARED BY: MONTGOMERY TOWNSHIP ENGINEERING DEPARTMENT
DRAWN BY: P.A.M.
DATE: MAY 2003

Southwest Quadrant

In the southwest quadrant of the Route 206/518 intersection, three (3) new loop roadways are proposed to connect Route 518 with Route 206, as follows:

1. An "inner loop" roadway is proposed from Route 518 along the westerly and southerly sides of the "Amboy Bank" property to a new intersection with Route 206. Additionally, an extension of the "inner loop" along the westerly side of the "Amboy Bank" property will continue southwardly along the westerly side of the former "Z&W Mazda" car dealership to a "T" intersection with another new roadway (i.e., the "intermediate loop" discussed in the next paragraph) extending westerly from a new lighted intersection with Route 206 opposite the boulevard entrance to the "Princeton North Shopping Center".

2. An "intermediate loop" roadway is proposed to extend westerly from a new lighted intersection with Route 206 through undeveloped lands which are being considered for the development of a "shopping village", which primarily is to include an assortment of retail uses. The "intermediate loop" will turn north and intersect with Route 518 opposite Research Road.

3. An "outer loop" roadway it proposed to extend to the west from a "T" intersection with the "intermediate loop", proceed parallel and close to the northern boundary of the "Princeton Airport" in order to safeguard the continued agricultural use of the subject property, if desired by the property owner, and then turn north to a signalized intersection with Route 518 opposite the "outer loop" roadway in the northwest quadrant of the study area.

Southeast Quadrant

In the southeast quadrant of the Route 206/518 intersection, new interconnected roadway segments are shown on the proposed "Traffic Circulation Plan". Most of these new roadway segments are located in neighboring Rocky Hill Borough, and whether or not they eventually are constructed will depend upon the results of ongoing discussions between the two (2) municipalities. The municipalities do share proprietary interest in the currently named "Schaeffer Tract" park, and the proposed roadway segments are proposed to provide alternative vehicular access into the park. Additionally, the proposed roadway segments will further help to enhance traffic circulation along Route 518 and at the Route 518/206 intersection. The new roadway segments include the following:

1. A north/south connector is shown to extend from Route 518 via Young Drive southwardly into the park, where it intersects with a new public roadway, which will be in place of, and an extension of, the existing boulevard driveway entrance into the "Princeton North Shopping Center" from the newly planned lighted intersection with Route 206.

2. The north/south connector is shown to extend further to the south through the park, and then turn west to an intersection with the existing loop driveway within the "Research Park" office complex.

Northeast Quadrant

In the northeast quadrant of the Route 206/518 intersection, vehicular and pedestrian access to the "Montgomery Shopping Center" is intended to be provided from Route 518 through a portion of the "Princeton Gamma Tech" property.

PROPOSED NEW ROADWAYS TO HELP ALLEVIATE TRAFFIC CONGESTION AT THE ROUTE 206 INTERSECTION WITH CHERRY VALLEY ROAD AND PRINCETON AVENUE AND RELATED ROUTE 206 CORRIDOR IMPROVEMENTS

The Transportation Advisory Committee (TAC) previously recommended to the Planning Board that certain improvements be made to the Route 206 intersection with Cherry Valley Road and Princeton Avenue. The specifics of the recommendation and a documentation of the need for the improvements and the benefits to the public which will result are detailed in a March 8, 2002 report prepared by McDonough & Rea Associates, the Township's Traffic Engineer.

The recommendation from the Transportation Advisory Committee (TAC) for the improvements at the subject intersection was timely, since applications had been filed by "SDI, LLC" for the development of a "Commerce Bank" building and a "CVS Pharmacy" building on a tract of land at the southeast corner of the intersection. The subject tract of land straddles the Montgomery Township/Princeton Township boundary, and both Township's reviewed the proposed development.

The submission of the applications to develop the subject tract of land precipitated a dialogue between the municipal officials and staff members of Montgomery and Princeton, since both Townships recognize the safety problems associated with the relatively large volumes of traffic attempting to pass through the intersection, which has an irregular geometry and no left-turn lanes.

The municipal officials and staff members of Montgomery and Princeton Townships held meetings together and also met with representatives of the New Jersey Department of Transportation (NJDOT) to determine a viable means of improving the traffic capacity and safety at the intersection.

The proposed improvements to the Route 206 intersection with Cherry Valley Road and Princeton Avenue are shown on the attached aerial photograph map and include the construction of a two-way municipal roadway in the northeast quadrant of the intersection in Montgomery Township, behind the existing Sunoco station, in combination with a similar two-way roadway to be constructed in the southwest quadrant of the intersection within Princeton Township. Both of the proposed roadways are to be under municipal jurisdiction in the respective Townships.

As explained in more detail in a March 8, 2002 report from the Township Traffic Engineer, the construction of the new roadways would result in the prohibition of all left-turns at the intersection itself, and would shift the left-turn movements to the new municipal roadways.

At this time, the Transportation Advisory Committee has recommended to the Planning Board that a new roadway be constructed in the northwest quadrant of the Route 206 intersection with Cherry Valley Road and Princeton Avenue. The specifics of the recommendation and a documentation of the need for the improvements and the benefits to the public which will result are detailed in the March 8, 2002 report prepared by McDonough & Rea Associates, the Township's Traffic Engineer.

As shown on the aerial map which appears on the following page, a new loop roadway is proposed from Cherry Valley Road, through primarily vacant land behind the "Nassau Conover" car dealership, to a new intersection with Route 206.

In addition to permitting southbound Route 206 traffic destined for westbound Cherry Valley Road to bypass the Route 206/Cherry Valley Road intersection, the new roadway also will provide vehicular access for any new development on the subject vacant land, thereby eliminating or significantly minimizing the need for any additional curb cuts along Route 206 and Cherry Valley Road near the subject intersection.

PROPOSED ROADS, PRINCETON AREA (NEAR RT 206)

LEGEND

- PROP ROAD
- TANK
- BUILDING
- MONTGOMERY PARCELS

PREPARED BY: MONTGOMERY TOWNSHIP ENGINEERING DEPARTMENT
DRAWN BY: P.A.M.
DATE: FEBRUARY 12, 2002

ADDENDUM II

RESOLUTION #02-2-66A
ADOPTED BY THE MONTGOMERY TOWNSHIP COMMITTEE
ON FEBRUARY 21, 2002
SUPPORTING THE REPLACEMENT OF THE
CSX RAILROAD BRIDGE

TOWNSHIP OF MONTGOMERY
SOMERSET COUNTY, NEW JERSEY

RESOLUTION #02-2-66A - SUPPORTING THE REPLACEMENT OF CSX RAILROAD BRIDGE

WHEREAS, The Route 206 Bridge over the CSX Railroad tracks has been deemed by the Department of Transportation to be in a state of disrepair and in dire need of replacement; and

WHEREAS, The New Jersey Department of Transportation has proposed rebuilding the Bridge; and

WHEREAS, The Montgomery Township Committee concurs in the need for a new bridge but does not commit to the support of any particular alignment.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee this 21st day of February, 2002, that the Committee authorizes the Township Clerk to inform the New Jersey Department of Transportation of the Committee's support for rebuilding the bridge.

BE IT FURTHER RESOLVED That the Township Committee requests that the Department of Transportation to continue to work with the Township in establishing a mutually satisfying alignment.

CERTIFICATION

I HEREBY CERTIFY THE ABOVE TO BE A TRUE COPY OF A RESOLUTION ADOPTED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTGOMERY AT A MEETING HELD

FEBRUARY 21, 2002

_____

Township Clerk

ADDENDUM III

JANUARY 13, 2005 LETTER
FROM MICHAEL B. GERRARD, ESQ.
TO MARY E. PETERS, ADMINISTRATOR,
FEDERAL HIGHWAY ADMINISTRATION,
REGARDING THE ROUTE 206 BYPASS
THROUGH SOMERSET COUNTY
AND THE NEED FOR A FULL
SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT

ARNOLD & PORTER LLP

Michael B. Gerrard
Michael_Gerrard@aporter.com

212.715.1190
212.715.1399 Fax

399 Park Avenue
New York, NY 10022-4690

January 13, 2005

Mary E. Peters, Administrator
Federal Highway Administration
400 7th Street, S.W., 4th Fl.
Washington, DC 20590

Re: New Jersey Route 206 Bypass Through Somerset County

Dear Administrator Peters:

I am writing on behalf of Montgomery Township, Somerset County, New Jersey.

The New Jersey Route 206 Bypass project last received comprehensive environmental review under the National Environmental Policy Act (NEPA) in 1988. Since that time, there have been significant changes to both the project and to the proposed project area; significant new information has also come to light in the past twenty-five years about environmental issues in the project area. None of these changes or new information have been thoroughly assessed to determine the project's environmental impacts in light of these issues that were not addressed in the initial environmental review. It is incumbent upon the Federal Highway Administration (FHWA) to demand that a new hard look be taken at the project in its present design and present circumstances. FHWA should require that the New Jersey Department of Transportation (NJDOT) undertake an Environmental Assessment of the project so that FHWA may determine whether a full Supplemental Environmental Impact Statement (SEIS) is required.

Regulatory Framework

The purpose of NEPA is to "'prevent or eliminate damage to the environment and biosphere' by focusing Government and public attention on the environmental effects of the proposed action." *Marsh v. Oregon Natural Resources Council*, 109 S. Ct. 1851, 1858 (1989) (citing 42 U.S.C. § 4321). Accordingly, preparation of a SEIS is sometimes necessary to accomplish NEPA's purpose to "ensure[] that the agency will not act on incomplete information, only to regret its decision after it is too late to correct.... It would be incongruous with this approach to environmental protection, and with the Act's manifest concern with preventing uninformed action, for the blinders to adverse environmental effects, once unequivocally removed, to be restored prior to the completion of agency action simply because the relevant proposal has received initial approval" *Marsh*, 109 S. Ct. at 1858.

Under FHWA's regulations with respect to NEPA, a Final Environmental Impact Statement (FEIS) may be supplemented at any time. *See* 23 C.F.R. § 771.130 (a). In particular: "An EIS shall be supplemented whenever the Administration determines that: (1) Changes to the proposed action would result in significant environmental impacts that were not evaluated in the EIS; or (2) New information or circumstances relevant to environmental concerns and bearing on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS."[1] *Id.* However, a SEIS will not be necessary when the changes or new information result in a decrease of adverse environmental impacts evaluated in the FEIS. *See id.* § 771.130 (b). The FHWA requires written reevaluation of a FEIS to determine whether a SEIS is necessary if more than three years have passed since the last major FHWA approval or grant. *See id.* § 771.129 (b). "Where the Administration is uncertain of the significance of the new impacts, the applicant will develop appropriate environmental studies or, if the Administration deems appropriate, an EA [Environmental Assessment] to assess the impacts of the changes, new information, or new circumstances." *Id.* § 771.130 (c). An EA is a public document that briefly provides sufficient evidence and analysis to evaluate whether an EIS, or supplementation to an EIS, is necessary. *See* 40 C.F.R. § 1508.9 (a). It must include discussions of the need for the proposed action, alternatives, and environmental impacts of the proposed action and alternatives. *See id.* § 1508.9 (b). The FHWA has commented that: "An EA would be appropriate where a number of different environmental effects need to be assessed and, in the [FHWA]'s view, there is uncertainty as to the significance of these effects." 52 Fed. Reg. at 32656. Simply stated, the FHWA directs that "an EA shall be prepared... where the FHWA believes an EA would assist in determining the need for an EIS." 23 C.F.R. § 771.119 (a). The Third Circuit has held that under the FHWA's regulations, "the key to whether a Supplemental Environmental Impact Statement is necessary is not whether the area has undergone significant change, but whether the proposed roadwork will have a significant impact on the environment in a manner not previously evaluated and considered." *South Trenton Residents Against 29 v. Federal Highway Administration*, 176 F.3d 658, 663 (3d Cir. 1999).

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[1] Council on Environmental Quality (CEQ) regulations implementing NEPA explain that "significance" should be evaluated in terms of context and intensity. Context indicates that significance of actions, changes, and impacts should be viewed in multiple contexts, like society in general, the affected region, and the affected locality, both in terms of long-term and short-term impacts. Intensity concerns severity of an impact, and may be beneficial or harmful. Factors relevant to intensity include effects on public health and safety, unique characteristics of the geographic area, degree of controversy, precedential value, cumulative effects, effects on scientific, cultural, or historic resources, effects on threatened or endangered species, and whether the proposed action threatens to violate environmental protection laws or regulations. *See* 40 C.F.R. § 1508.27.

History of this Project

In the case of the proposed bypass to U.S. Route 206 in Somerset County, New Jersey (the Bypass), a FEIS was finalized on August 3, 1988. The Record of Decision was completed in 1989. Since the time of the FEIS, there have been changes to both the plans for the Bypass and to the region and community in which the project is proposed which result in significant environmental impacts that were not evaluated in the FEIS. Accordingly, the FHWA should require an EA to evaluate the impacts of those changes and to determine whether a SEIS is necessary.

In April 1998, NJDOT submitted an Environmental Reevaluation of the Bypass project to FHWA. It appears that after reviewing this document, FHWA was "leaning toward requiring a Supplemental EIS." *See* July 23, 1998 Memorandum from H.A. Vaezi, Godkind & O'Dea, Inc., to 1741 Chrono. NJDOT hoped to circumvent this need by submitting a more detailed, revised Reevaluation. *See id.* On March 29, 1999, NJDOT officials met with FHWA officials to determine whether a SEIS would be required for the Bypass project or whether NJDOT could merely prepare a revised Environmental Reevaluation. *See* Memorandum from George Worth, NJDOT, to Record (March 29, 1999). No members of the affected communities or their representatives appear to have been present at the meeting. *See id.* The only record of this meeting appears to be the Worth Memorandum, which is very cursory, stating on the topic that: "After detailed discussions concerning changes to the project alignment and the associated environmental impacts since the Environmental Impact Statement (EIS) was approved in 1989, Mr. Schroeder [FHWA Program Operations Team Leader] determined that an Environmental Re-evaluation (ER), not an SEIS, is the appropriate document to assess the relatively minor changes to the project." *Id.* In September 1999, NJDOT undertook an Environmental Reevaluation of the impacts of the Bypass.

Despite FHWA's determination in 1999, this Reevaluation does not suffice to fulfill the FHWA's obligations under NEPA for three reasons. First, the Reevaluation took place more than three years ago, so at the very least, the FHWA's regulations require that a current Reevaluation be undertaken even if it does not agree to the advisability of an EA at this time. Second, the Reevaluation was selective, cursory, and inadequate in discussing the impacts to the environment not previously considered in the FEIS. Finally, significant changes to the area around the proposed Bypass setting have occurred since the Reevaluation, including the completion of the Pike Run residential development (Pike Run), discussed below. The development of Pike Run in particular presents a perfect example in which an EA is appropriate because "a number of different environmental effects need to be assessed" in connection with the existence of a large new housing development right in the footprint of the proposed Bypass.

Changes to the Proposed Action

Since approval of the FEIS, there have been numerous changes to the road improvements discussed in the FEIS. The project has been segmented into five pieces and the section of the project south of Belle Mead-Griggstown Road has been aborted. *See* Reevaluation at 3-4. Segment VI in the FEIS corresponds to the Bypass. In the FEIS, the entire Bypass was designed as a four-lane roadway. The Reevaluation changes the section of the Bypass south of Township Line Road to a two-lane roadway. *See id.* at 6. In March 1995, NJDOT and Bellemead Development Corporation (BDC), the builders of Pike Run, executed a developer's agreement that shifted the alignment of the Bypass to the west, with a maximum shift of 158 meters, between Belle Mead-Griggstown Road and Hillsborough Road in exchange for BDC reserving a right of way for the Bypass. In 1998, the alignment of the Bypass between Pike Run waterway and the former Conrail right of way was also shifted west, with a maximum shift of 114 meters, to decrease impact to wetlands. *See id.* at 3-4, 6-7. In or around 2000, the Belle Mead-Griggstown Road intersection was shifted northeast, also to decrease impact to wetlands. *See* November 17, 2000 letter from John Fusella, Goodkind & O'Dea, Inc., to Kevin Hayes, Pike Run.

An additional road, not contemplated in the FEIS, was added to the Bypass plans in or around 1996. This two-lane road will run at-grade connecting Hillsborough Road and Homestead Road, parallel to and 275-450 meters east of the Bypass (the Connector Road). *See* Reevaluation at 5. There is very minimal discussion in the Reevaluation of any environmental impacts associated with this entirely new proposed road.

The FEIS provided for signalized, at-grade intersections of the Bypass with Belle Mead-Griggstown Road, Township Line Road, Hillsborough Road, Homestead Road, Amwell Road, and Old Somerville Road with turns accommodated by jughandle ramps; and a signalized, at-grade intersection with only right turn allowed at Hamilton Road. *See id.* at 5, Table 1. The design of the Bypass's intersections has been significantly modified. The Reevaluation calls for grade-separated interchanges at Township Line Road, Hillsborough Road, and Amwell Road. There will be no access ramp from Township Line Road to southbound Route 206. Grade separations without ramps to the Bypass will occur at Homestead Road, Hamilton Road, and a road that was not in existence at the time of the FEIS: Pike Run Road. *See id.* at 5, 7-7A, Table 1. Grade separations would clearly have different visual and aesthetic impacts than would at-grade intersections, as contemplated in the FEIS. *See id.* at 18. Furthermore, there have continued to be modifications to the ramp designs subsequent to the Reevaluation. *See, e.g.,* November 10, 2000 Memorandum from John J. Fusella, Goodkind & O'Dea, Inc., to 1741 Chrono ("At the request of the Department, Goodkind & O'Dea has redesigned Amwell Road and the interchange ramps in order to achieve 80 km/h design speed.").

Steinmetz Road, a residential street in Hillsborough Township that will be bisected perpendicularly by the Bypass, was intersected at-grade with the Bypass in the FEIS. The design of the Bypass has changed such that Steinmetz Road will now be converted into two cul-de-sacs that will not have direct interchange with the Bypass. *See id.* at 7. The environmental impacts of this design change do not appear to have been assessed.

The Reevaluation briefly examines the environmental impacts that would result from the changed intersection and interchange patterns described above and concludes that "no appreciable differences in environmental impacts has been identified among any of the alternative intersection/interchange configurations considered," other than the decreased wetlands impacts from the alignment shift mentioned above. *See id.* at 7B-7C. The Reevaluation does not cite any studies in support of this conclusion and does not discuss in any detail the different environmental impacts that could result from the project design changes other than the intersection configurations.

New Information or Circumstances Relevant to Environmental Concerns and Bearing on the Proposed Action or its Impacts

Development of Pike Run

The FEIS used 1980 Census counts showing that Montgomery Township had a population of 7360. About 76% of Montgomery was vacant, agricultural, or wooded, and land use along Route 206 was primarily agricultural or vacant. *See* FEIS at III-2. Since that time, Montgomery has changed drastically to its current "primarily residential character." *See* Outline of Montgomery Presentation to DOT (April 1, 2004). The 2000 Census counted 17,481, and projects made by Somerset County show a current population of about 21,000 – almost triple what the FEIS assumed. There are now "several large housing developments located on both sides of the highway." *See* October 5, 1999 Memorandum from Daniel W. Raine, Parsons Brickerhoff, to Bill Feldman, NJDOT, included in U.S. Route 206 Over CSX Railroad Feasibility Assessment Report, Appendix E (June 2002). In particular, the Pike Run residential community, through which the Bypass alignment runs, was constructed beginning in the late 1990s. Pike Run consists of 1288 housing units, significantly increasing Montgomery's population from the 1980 level, plus about 67,000 square feet of commercial development. Of these units, 310 are designated as "affordable" under the Mount Laurel program. Pike Run includes playgrounds, four tennis courts, a swimming pool, and a recreation center. The Reevaluation recognized that the development of Pike Run was a "notable change" since the FEIS, but – in its most glaring inadequacy – did not go into any detail evaluating the impacts that the Bypass would have on Pike Run.

Visual

The Reevaluation noted with respect to visual and aesthetic impacts: "According to the FEIS (p. III-25), the 'Belle Mead Bypass portion' of the proposed improvements would 'have little effect on residences since so few are present in the area.' This conclusion is no longer valid." Reevaluation at 18. The Reevaluation mentioned the possibility of erecting noise barriers at Pike Run that could serve as visual screens, but does not explore the idea in any depth. *See id.* at 20. The Reevaluation proceeded to dismiss the visual impacts to Pike Run, though, by explaining that residents of Pike Run were notified by the developer at the time of purchase that NJDOT was planning to build the Bypass. Therefore, "[t]he perceived change to the character of the area cannot be legitimately regarded as an aesthetic alteration by residents of the Pike Run development." *Id.* This conclusory determination makes no sense; simply because residents were aware that the Bypass might be constructed does not negate the fact that there will be visual and aesthetic impacts of constructing it. These impacts must be assessed.

The Reevaluation concurred with the FEIS that construction in the vicinity of Steinmetz Road, Amwell Road, Hamilton Road, and Old Somerville Road would have moderate to severe visual and noise impacts as well as a moderate to severe degree of change in the character of the area even with mitigation. *See id.* at 19. The grade separation at Amwell Road would exacerbate these impacts. Such serious impacts should be carefully reviewed in a public fashion – through an EA. The Reevaluation adopts the same mitigation measures that were originally contained in the FEIS, with the possibility of the barriers noted above, but these measures should be reassessed in detail with regard to Pike Run and the changed design of many of the Bypass's intersections lifting them above grade and making them more visually obvious.

Noise

The development of Pike Run also presents the need to take a hard look at noise impacts on this residential community that were not evaluated in the FEIS or in the Reevaluation. Analysis of noise impacts in the FEIS was done based on studies conducted between 1978 and 1980, a time when Montgomery was three-quarters vacant, agricultural, or wooded. *See* FEIS at III-2, III-63. Noise levels at "sensitive receptors," including residences, churches, schools, developed parks, hospitals, and other community facilities, were measured and noise levels at these receptors were predicted for the year 2000. *See* FEIS at III-66 – III-71. Not surprisingly, the vacant land that later became Pike Run was not evaluated as a sensitive receptor. In 1997, NJDOT conducted another noise measurement study, which included receptors in Pike Run, which was then under construction. This study acknowledged its own serious limitations with regard to Pike Run, admitting that: "Since the Pike Run Development was actively under construction during this noise measurement study construction activities influenced the hourly noise

samples" such that "it was not possible to obtain hourly noise samples without construction noise." Noise Measurement Study at 1-2 (December 1997). A technical analysis discussed in the Reevaluation indicated that approximately 139 existing or proposed sensitive receptors would exceed the noise abatement criteria or experience a substantial increase in noise levels if the Bypass were built. *See,* Reevaluation at 26. The Reevaluation recommended acoustic barriers, but indicated that no final noise study had yet been drafted, nor had any decisions regarding barriers been made. *See id.* Pike Run was not completed at the time of any of these studies, so no study has been done that reflects actual noise levels in Pike Run as it exists today as a residential community. Such studies should be done in order to gauge cumulative noise impacts of the proposed Bypass on the community.

Air Quality

The development of Pike Run as a residential community rather than as the undeveloped land it was at the time of the FEIS also suggests that air quality impacts of the Bypass at Pike Run should be assessed. The FEIS evaluated air quality at ten "sensitive receptors," defined as "locations of frequent human use and habitation within the project study area that may be deleteriously affected by localized high concentrations of CO," such as "schools, nursing homes, hospitals, residences, playgrounds, recreation areas, parks, libraries, and churches." FEIS at III-57. None of the ten sensitive receptors evaluated in the FEIS were in Montgomery Township. The Reevaluation noted that only two of the receptors discussed in the FEIS are situated along the current Bypass alignment. *See* Reevaluation at 24. The Reevaluation and its Air Quality Assessment only assessed air quality at one additional receptor – the intersection of the Bypass with Belle Mead-Griggstown Road – because that is expected to be the more heavily-traveled intersection of the only two intersections in the Bypass still planned to be signalized. *See id.*; Air Quality Assessment, included in Appendix to Reevaluation at A-11 – A-14 (September 1998); Air Quality Assessment (May 2000).

Accordingly, there has been no assessment whatsoever of the Bypass's effects on air quality at the residences, playgrounds, and recreation areas of Pike Run. Even further, the Reevaluation's conclusion that "the project therefore will have no impact on local air quality," Reevaluation at 24, appears to be based solely on the 1998 study of a single intersection and on analysis of two sensitive receptors back in the 1980s.

Traffic

Development of a large residential community with recreational amenities on previously vacant land would necessarily alter traffic patterns and volumes for the area from those previously contemplated in the FEIS. *See, e.g,* October 14, 2003 facsimile from Ali Vaezi, Goodkind & O'Dea, Inc., to George Worth, NJDOT (since 1995, there have been "moderate traffic increases north of the Bypass, and a substantial increase in

the southern portion of the Bypass"); February 16, 1996 letter from Craig Johnson, Goodkind & O'Dea, Inc., to Peter Rayner, Montgomery Township Administrator. The impacts of the Bypass given these changed traffic patterns were not assessed in the Reevaluation.

Residential and Business Displacements

The FEIS found that only one residence would need to be displaced, but the FEIS did not take into account properties that would be taken because driveway access to them would be obstructed. *See* Reevaluation at 12-13. Since the FEIS, five additional residences have been identified as being displaced. Two of these homes and a recreational facility on the northern side of Hillsborough Road will be taken because of the shifts in Bypass alignment. *See id.* These displacements are documented in the Reevaluation, but their effects are not assessed in any meaningful way.

Wetlands

The FEIS determined that the Bypass as planned in 1988 would require the taking of .95 acres of wetlands. *See* FEIS at III-104 – III-112; Reevaluation at 32. However, regulatory definitions and methods of identifying and delineating wetlands have changed since the FEIS. *See* Reevaluation at 32. According to the Reevaluation, the Bypass would disturb about 5.9 acres of wetlands. *See id.* The Reevaluation relied upon a formal delineation of wetlands by NJDOT based on field investigations done in 1994 and 1995 and a subsequent Letter of Interpretation (LOI) by the New Jersey Department of Environmental Protection (NJDEP), dated January 2, 1998. *See id.* at 33; Application for Letter of Interpretation Wetlands and Open Waters Regulatory Line Verification, Wetland Investigation Summary at II (March 1996). The Reevaluation admitted: "The delineation and LOI identified the boundaries and described the types of areas regulated under the FWPA [Freshwater Wetlands Protection Act] in greater detail than was achieved in the FEIS, and revealed that wetlands/open waters occupied a greater portion of the project area than was described in the FEIS." *Id.* The Reevaluation dismissed the change in total wetlands impacts as "not significant" because it stated that the current design of the Bypass would result in decreased impact to wetlands when compared with the original Bypass design in the FEIS when viewed under the current regulatory scheme. *See id.* at 35.

Although the Reevaluation's conclusion may be valid, FHWA may not rely upon it now because it is based on an outdated delineation and LOI. The January 2, 1998 LOI explicitly states: "Pursuant to the Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A-1 et seq., you are entitled to rely upon this jurisdictional determination for a period of five years from the date of this letter." LOI from Christopher Jones to Curtis Helm, included in Appendix to Reevaluation at A-16. The five year validity period for the LOI expired on January 2, 2003 and no subsequent wetland delineations have been

undertaken. Accordingly, there is no current information regarding impacts to wetlands from the Bypass and this important environmental issue should be addressed in an EA. Additionally, the Reevaluation notes that "some filling in wetlands transition areas may be necessary" in connection with building the Hillsborough Road-Homestead Road connector, a road segment not contemplated in the FEIS. Reevaluation at 35. These impacts must be evaluated.

Groundwater

In 1995, the Environmental Protection Agency (EPA) notified NJDOT that the Bypass project area lies within the New Jersey State 15 Basin Aquifer System, which was designated a Safe Drinking Water Act Sole Source Aquifer (SSA) in June 1988. *See* Route 206 Corridor Improvements Sole Source Aquifer Groundwater Assessment (September 1998). The FEIS contained only a very brief section concluding that there would be no major impacts on groundwater as a result of the Bypass. *See* FEIS at III-95. This section in the FEIS contained no discussion of the presence of an SSA. Additionally, the FEIS's finding of no major impact was based in part on the observation that "[t]he impervious area covered by the existing highway plus the improved highway [the Bypass] represents only a minute fraction of the total recharge area. *Id.*

As noted above, conditions in the Bypass area have changed over the past twenty-five years. In particular, Montgomery Township is no longer 76% vacant, agricultural, or wooded – construction of Pike Run and other suburbanization have necessarily increased the amount of impervious surface in the SSA's recharge area. NJDOT performed a SSA Groundwater Assessment in 1998 and found that there would not be adverse impacts to groundwater recharge from building the Bypass based largely on the finding that only one dominant recharge area along the Bypass alignment was isolated. (NJDOT explained that "greatest impact on recharge area would be experienced where large areas of new impervious surfaces are placed through smaller isolated dominant recharge areas."). SSA Groundwater Assessment at 42-45. However, the SSA Groundwater Assessment was conducted in 1998[2] and construction has occurred in the Bypass area in the past six years, including significant further construction on Pike Run, some of which could have resulted in the isolation of additional dominant recharge areas as well as adding to impervious surface in the area. The impact of building the Bypass on groundwater should be assessed cumulatively with the increased amount of impervious surface and other changed conditions affecting the SSA at the present time.

[2] NJDOT conducted a slightly more recent study related to groundwater, but that study was limited to examining the effects of cuts and grading of the Bypass rather than impacts of the Bypass in general on groundwater. *See generally* Groundwater Report (September 1999).

The Reevaluation also admits: "The design alternatives in the FEIS were not well enough developed to have addressed the nature of the stormwater management measures which need to be adopted for the Bypass," so the Reevaluation proceeds to "tentatively identify the approximate locations of the detention basins to be constructed to attenuate the stormwater runoff increases which will result from construction of the Bypass improvements." Reevaluation at 8. However, since the Reevaluation, it has become clear that the "area south of Township Line Road is densely developed precluding inclusion of a detention basin. Water quality ditches will be used where possible." October 24, 2001 Memorandum from Ali Vaezi, Goodkind & O'Dea, Inc., to 1741 Permits. Furthermore, at least one existing stormwater detention basin was known, at the time of the Reevaluation, to be impacted by the Bypass running through its current location. *See* Reevaluation at 10. Since the Reevaluation, the 2000 decision to shift the Belle Mead-Griggstown Road intersection northeast will decrease the size and storage volume of another existing detention basin that receives runoff from Pike Run. *See* November 17, 2000 letter from John Fusella, Goodkind & O'Dea, Inc., to Kevin Hayes, Pike Run. NJDEP has expressed particular concern regarding "the potential of flooding the tributary to Pike Run within the Pike Run Development since no [additional] drainage basin could be provided due to impacts to residential properties." October 24, 2001 Vaezi Memo. In addition to the impacts of the increased runoff, the impacts concerning the detention basins addressed in the Reevaluation need to be assessed in more detail than the one or two sentences that the Reevaluation gives to each of them, and the impact to the Pike Run detention basin must be assessed.

Archaeological Resources

In 1998 and 1999, NJDOT undertook Historic Architectural Evaluation and Phase I Archaeological Surveys (the Historic Surveys) intended to update the cultural resource material in the FEIS. An examination of historical maps conducted during the Historic Surveys indicated that the area along Hillsborough Road and between Hillsborough Road and Homestead Road "had a high potential to contain historic archaeological resources." Historic Architectural Evaluation and Phase I Archaeological Survey at 15 (June 1999); Historic Architectural Evaluation and Phase I Archaeological Survey at 15 (September 1998). Specific sites within the Bypass "project corridor" were identified and the surveys determined that they would not be affected.

Notably, the Historic Surveys assumed that the connector road between Hillsborough Road and Homestead Road (the Connector Road) had been dropped from the Bypass project design. *See* Historic Surveys at 43. The Historic Surveys found that a site designated as 28-So-125 between Hillsborough and Homestead Roads and encompassing the Stryker House yielded a large quantity of late nineteenth and early twentieth century artifacts. *See id.* at 25-27, 43. The Stryker House is a contributing element in the Hillsborough-Pleasant View Historic District, but the Historic Surveys saw no impact of the Bypass, noting: "According to current project plans, Site 28-So-125 is

located more than 1,000 feet (304 meters) from the proposed bypass, and is therefore well outside the construction zone. Moreover, the proposed connector road that was to extend from Hillsborough Road to Homestead Road, several hundred feet east of Site 28-So-125, has been dropped from the current project design." *Id.* at 43-45. The Reevaluation reincorporated the Connector Road into the project design, *see* Reevaluation at 5, but failed to evaluate its impact on the Stryker House or any of the other potential historic resources between Hillsborough Road and Homestead Road. Instead, the Reevaluation relied upon a finding of no adverse impact from the Historic Preservation Office that was issued on May 19, 1986, based upon the initial design of the Bypass before a Connector Road was ever contemplated. *See id.* at 22. Based upon the Historic Surveys' finding of a high potential for historic archaeological resources in the vicinity of Hillsborough Road and Homestead Road, the impacts on cultural resources of the Connector Road must be evaluated.

Contaminated Soils

Both the FEIS and the Reevaluation found no hazardous waste sites requiring any kind of remediation in the Bypass project area. *See* FEIS at III-81; Reevaluation at 28. However, a subsequent study was performed in 2002 in accordance with the NJDEP Historic Pesticide Contamination Task Force Final Report, Findings and Recommendations for the Remediation of Historic Pesticide Contamination, not published until March 1999, and not mentioned in the Reevaluation. *See* Limited Site Investigation Report at 1-1 (January 2002). This report found four parcels of land whose soil would be disturbed by the Bypass which had concentrations of various contaminants, including lead and benzo(a)pyrene, above the NJDEP soil cleanup criteria. *See id.* at i, 4-1 – 4-6. Plans for the Bypass call for excavation of soil at three of the four parcels and fill to be placed on the fourth parcel. *See id.* Accordingly, for the parcels to be excavated, the Limited Site Investigation Report called for Soil Reuse Plans, Deed Notices to document reuse locations, and Property Acquisition Environmental Cost Estimate (PAECE) Reports. For the parcel to be covered with fill material, the Limited Site Investigation Report recommended a PAECE report and a Deed Notice to document the extent of contaminated soil left on the property. *See id.*

Because neither the FEIS nor the Revaluation assessed the potential environmental impacts of the Bypass on the contaminated soil in the project area, and contaminated soil was discovered in the area, an assessment must be performed.

Transit

There is no public transportation on the section of Route 206 in the vicinity of the proposed Bypass. *See* October 5, 1999 Memorandum from Daniel W. Raine, Parsons Brickerhoff, to Bill Feldman, NJDOT, included in U.S. Route 206 Over CSX Railroad Feasibility Assessment Report, Appendix E (June 2002). However, there have been

several proposed transit improvements that should be weighed in determining need for the Bypass and addressing alternatives to construction of the Bypass. The FEIS very briefly discussed and rejected mass transit and paratransit alternatives to the Bypass, but these analyses were based on studies more than twenty years old. *See* FEIS at II-22 – II-25. Need and alternatives were not revisited in the Reevaluation.

New Jersey Transit is considering restoring commuter passenger rail service on the railway between West Trenton and the Raritan Valley Line (the West Trenton Line) currently used only for freight. *See* March 19, 1999 letter from Jack M. Kanarek, New Jersey Transit, to Chris Lawrence, NJDOT, included in U.S. Route 206 Over Conrail (CSX) Concept Development Report, Appendix C (July 1999). One of the proposed stations for the West Trenton Line would be at Belle Mead, close to the Bypass alignment. *See id.* The Belle Mead Station would include a parking lot with 300 parking spaces, with access from Township Line Road. *See* January 12, 2001 Memorandum from Carl Karakos, Greenman-Pedersen, Inc., to Chris Lawrence, NJDOT. This new mode of transportation for Somerset County commuters could alleviate traffic burden on Route 206, and at the very least, would change traffic patterns as commuters travel to the new parking lot.

NJDOT has also adopted the goal of making all of Route 206 more bicycle and pedestrian accessible in order to decrease single-occupant vehicle trips on Route 206 in southern Somerset County. *See* Bicycle and Pedestrian Mobility Review of Route 206 Preliminary Plans Milepost 63.0 to 71.2 (the Mobility Review) at 3 (April 6, 1999). Neither the FEIS nor the Reevaluation addresses bicycle and pedestrian accessibility to the Bypass or encouragement of those modes of transportation as a means of alleviating vehicular traffic congestion. The Mobility Review suggests several options for improving nonvehicular transit on and across the Bypass that should be evaluated.

The Somerset County Planning Board has also investigated the possibility of building park-and-ride facilities to mitigate the increased commuter traffic resulting from "[e]xtensive residential and commercial development [that has] occurred along and near Routes 27, 206, and 202/206." Somerset County Park-and-Ride Study at 26 (June 1994). This study advocated opening new bus routes in Somerset County and encouraging carpooling and vanpooling through construction of park-and-ride lots throughout the county, including in the Hillsborough and Montgomery areas near the Bypass alignment. Construction of such lots would add to the "virtually non-existent ... local transit options" and reduce congestion on Route 206. *See id.* at 44.

Agricultural Soils

The Reevaluation used a more comprehensive methodology than did the FEIS to determine impacts of the Bypass to prime farmland soils and actively-used soils of statewide importance. Under this methodology, the Reevaluation includes loss of soils

for construction of intersection ramps, interchanges, and takings of a greater magnitude than that minimally needed. *See* Reevaluation at 27-28. Under this methodology, the Reevaluation found that the collective impacts to agricultural soils were expected to be 9 to 10% higher than those anticipated in the FEIS, with much of the increased impact due to the shifts in the Bypass's alignment and the reconfiguration of ramps at the Township Line Road crossing. *See id.* The Reevaluation does not actually *evaluate* these increased environmental impacts, but instead conclusorily dismisses them by saying that the subject property, although currently used for agriculture, is zoned for non-agricultural uses, so may be converted to non-agricultural uses in the future. *See id.* Accordingly, the environmental impact of the loss of these additional agricultural lands has not been assessed.

Wildlife Habitat

The Bypass alignment proposed at the time of the FEIS would have impacted approximately 48 hectares (119 acres) of habitat areas. The current alignment will impact approximately 55 hectares (135 acres) of habitat areas. *See* Reevaluation at 29. This increase in habitat area impacts is a direct result of reconfigurations of ramps at intersections and the addition of the Connector Road. *See id.* at 29-30. The Reevaluation dismisses these increased impacts by saying conclusorily that the "design modifications [that caused the impacts] have not occurred as a result of a change in the project's scope, the construction of a controlled access, four-lane highway on new alignment east of existing Route 206." *Id.* at 30. This conclusion is nonsensical – under this logic, *any* design modification that kept the Bypass as a controlled-access, four-lane highway east of the existing Route 206 would not change its scope. The fact remains that almost 15% more habitat area will be impacted because of changes to the Bypass's design. These impacts were not addressed in the FEIS; therefore, they should be assessed.

Public Opinion and Degree of Controversy

There has been considerable controversy over the Bypass project since its inception, including litigation between Montgomery Township and NJDOT that culminated in a settlement agreement in 1992. Controversy has increased more recently, though, since the completion and inhabitation of Pike Run. In particular, both the Pike Run Master Homeowners' Association (the Homeowners) and Montgomery Township have provided alternatives to the current Bypass alignment that have not been adequately addressed. The Homeowners proposed a swapping of land that would allow the Bypass to be shifted west, thereby avoiding bisecting Pike Run. *See, e.g.,* July 3, 2001 letter from Scott Baron to George Worth, NJDOT. NJDOT's response was cursory, dismissing the Homeowners' proposed alignment because of its alleged impacts on the Reverend Peter Labagh Farmstead (the Labagh Site) and Belle Mead Train Station historic sites (the Train Site). *See* July 31, 2001 letter from Dennis Keck, NJDOT, to Scott Baron. The main house at the Labagh Site, though, was dismantled in the 1980s, so the site had no

architectural significance even at the time of the FEIS. *See* FEIS at III-43 – III-44. NJDOT's letter cites no authority that suggests the Labagh Site could be of archaeological significance and the Historic Architectural Evaluation and Phase I Archaeological Surveys for the Bypass did not investigate this site.[3] Similarly, NJDOT states that the Train Site is simply "being studied to determine its historic significance and may ultimately be found as being eligible for listing in the National Register of Historic Places." *See* July 31, 2001 letter from Keck to Baron. Although NJDOT certainly has obligations under the National Historic Preservation Act to avoid adverse impact to historic properties, NJDOT's two-page letter does not appear to have taken a hard look at the alternative suggested.

In 2004, Montgomery Township responded to an invitation from NJDOT to present alternatives to the Bypass. *See* Montgomery Township, Partnering for Innovative Improvements to State Route 206 (April 1, 2004). NJDOT has not responded to Montgomery's suggestions.

Montgomery Township has also posed concerns that some elements of the current Bypass design violate the 1992 settlement agreement between NJDOT and Montgomery. *See* September 26, 2000 letter from Donato Nieman, Montgomery Township Administrator, to John Mycoff, NJDOT. In particular, Montgomery posited that the roadway design exceeded the boundary lines established by the settlement in the acceleration and deceleration lanes at the intersection of Route 206 and Belle Mead-Griggstown Road and that the design of the northeast corner of that intersection would cause a taking of property that was supposed to be untouched. *See id.*; January 17, 2001 letter from Donato Nieman, Montgomery Township Administrator, to John Mycoff, NJDOT. Additionally, Montgomery suggested that the gradual median transition beginning 1100 feet south of Township Line Road did not comply with the settlement's requirement that the median transition begin "immediately south of Township Line Road." *See* January 17, 2001 letter from Donato Nieman, Montgomery Township Administrator, to John Mycoff, NJDOT. Finally, Montgomery found that the proposed noise barriers were located outside of the alignment in Pike Run preserved for that purpose. *See id.*

Therefore, it is clear that there is a significant degree of public controversy concerning this project. A thorough assessment of the environmental impacts of the Bypass's current design in its current circumstances and surroundings would be appropriate.

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[3] The FEIS suggested that the Labagh Site could be of archaeological significance, but it does not appear that any digs or studies have been done since and NJDOT's letter does not rely on the FEIS.

Environmental justice

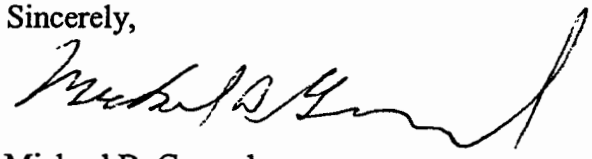
As noted above, the Pike Run development includes 310 units of affordable housing. The flyover roadway included in the revised plan would bisect the community between the affordable housing and the other units, thus isolating these 310 units from the balance of the community. This raises serious issues of environmental justice, since it disproportionately affects lower-income residents. Thus the project requires an evaluation under Executive Order No. 12,898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations."

Conclusion

Clearly, there have been changes to the proposed action that could result in significant environmental impacts that were not evaluated in the FEIS. Equally clearly, there are new information and circumstances relevant to environmental concerns and bearing on the proposed action or its impacts that could result in significant environmental impacts not evaluated in the FEIS. There are a multitude of different environmental effects to be assessed and there is uncertainty as to the significance of the effects. In such a case, an EA is the appropriate vehicle to determine whether preparation of a SEIS is necessary.

In view of the above, Montgomery Township demands that the FHWA require NJDOT to undertake an EA of the Bypass. We look forward to your response.

Sincerely,



Michael B. Gerrard

cc: John F. Lettiere, Jr.
Commissioner
New Jersey Department of Transportation
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Trenton, New Jersey 08625