



March 11, 2008

TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

Ms. Martha Carver
Tennessee Department of Transportation
505 Deaderick St/900
Nashville, Tennessee, 37243-0349

RE: FHWA, ARCHITECTURAL SURVEY REPORT, I-40 INTERCHANGE/SR-196,
UNINCORPORATED, FAYETTE COUNTY

Dear Ms. Carver:

In response to your request, received on Wednesday, February 27, 2008, we have reviewed the documents you submitted regarding your proposed undertaking. Our review of and comment on your proposed undertaking are among the requirements of Section 106 of the National Historic Preservation Act. This Act requires federal agencies or applicant for federal assistance to consult with the appropriate State Historic Preservation Office before they carry out their proposed undertakings. The Advisory Council on Historic Preservation has codified procedures for carrying out Section 106 review in 36 CFR 800. You may wish to familiarize yourself with these procedures (Federal Register, December 12, 2000, pages 77698-77739) if you are unsure about the Section 106 process.

Considering the information provided, we find that the area of potential effect contains no architectural resources eligible for listing in the National Register of Historic Places affected by this undertaking. You should notify interested persons and make the documentation associated with this finding available to the public.

All borrow areas outside proposed rights-of-way will require separate certification as specified under Section 107.06-Federal Aid Provisions. If your agency proposes any modifications in current project plans or discovers any archaeological remains during the ground disturbance or construction phase, please contact us to determine what further action, if any, will be necessary to comply with Section 106 of the National Historic Preservation Act. This office appreciates your cooperation.

Sincerely,

E. Patrick McIntyre, Jr.
Executive Director and
State Historic Preservation Officer

EPM/jyg



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
505 DEADERICK STREET
SUITE 900, JAMES K. POLK BUILDING
NASHVILLE, TENNESSEE 37243-0349
615-741-3653

February 25, 2008

SUBJECT: Architectural and Historical Assessment, I-40 Interchange at State Route 196 (Hickory Withe Road), Fayette County, Tennessee, PIN #105597.00

To Whom it May Concern:

The Tennessee Department of Transportation (TDOT) in cooperation with the Federal Highway Administration is proposing to build a new interchange on I-40 at State Route 196 (Hickory Withe Road) in Fayette County, Tennessee.

Pursuant to regulations set forth in "36 CFR 800: Protection of Historic Properties" cultural resource staff from TDOT surveyed the general project area in an attempt to identify National Register-included or eligible properties which could be impacted by the proposed project. Historians from TDOT identified no properties that are National Register listed or eligible within the project area of potential effect.

The enclosed report discusses TDOT's survey findings. You are receiving this report because TDOT has identified you as a Fayette County party or individual with historic preservation interests. The Advisory Council on Historic Preservation Regulations specify that members of the public with interests in an undertaking and its effects on historic properties should be given reasonable opportunity to have an active role in the Section 106 process. As such, TDOT would like to give you the opportunity to participate in that process. If you feel that commenting on such projects is outside the interests of your organization, please notify me and I will remove your name from our list.

If you have any comments on historic issues related to this project, please write me. Federal regulations provide that you have thirty days to respond from the receipt of this letter.

Sincerely,

A handwritten signature in blue ink that reads "Holly Barnett".

Holly Barnett, Historic Preservation Specialist

Enclosure
cc: Mr. Patrick McIntyre, TN-SHPO



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
505 DEADERICK STREET
SUITE 900, JAMES K. POLK BUILDING
NASHVILLE, TENNESSEE 37243-0349
615-741-3653

February 25, 2008

Mr. Patrick McIntyre
Deputy State Historic Preservation Officer
Tennessee Historical Commission
Clover Bottom Mansion
2941 Lebanon Road
Nashville, TN 37214

SUBJECT: Architectural and Historical Assessment, I-40 Interchange at State Route
196 (Hickory Withe Road), Fayette County, Tennessee, PIN #105597.00

Dear Mr. McIntyre:

Enclosed is an architectural assessment the above referenced project. TDOT historians identified no National Register listed or eligible properties within the project area. It is the opinion of TDOT that there are no historic properties within the project area of potential effect. On behalf of the Federal Highway Administration, we request your review of this report pursuant to regulations contained within 36 CFR 800.

We look forward to your comments. Thank you for your help in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Martha Carver".

Martha Carver
Historic Preservation Manager

Enclosure

cc: Mr. Joe Matlock

TENNESSEE DEPARTMENT OF TRANSPORTATION

**HISTORICAL/ARCHITECTURAL ASSESSMENT,
PURSUANT TO 36 CFR 800
AND SECTION 4(f) EVALUATION**

I-40 Interchange at State Route 196 (Hickory Withe Road)

Fayette County



January 2008

Holly Barnett
Environmental Division
Suite 900 James K. Polk Building
505 Deaderick Street
Nashville, TN 37219
615-741-3653
fax: 615-741-1098

**HISTORICAL/ARCHITECTURAL ASSESSMENT AND
DOCUMENTATION OF ADVERSE EFFECT PURSUANT TO 36
CFR 800 AND SECTION 4(f) EVALUATION**

**FOR THE I-40 INTERHCHANGE AT STATE ROUTE 196
(HICKORY WITHE ROAD)**

FAYETTE COUNTY

MANAGEMENT SUMMARY

The Tennessee Department of Transportation with funding made available through the Federal Highway Administration is proposing to construct an interchange on I-40 at State Route 196 (Hickory Withe Road) in Fayette County.

Historians from the Tennessee Department of Transportation (TDOT) performed a search of the files of the TN-SHPO to find that there are no National Register of Historic Places listed properties in the general project area. After performing field research and inventorying three properties, it is the opinion of TDOT that there are no historic resources within the project area eligible for listing on the National Register of Historic Places.

Therefore it is the opinion of TDOT that there would be no Section 4(f) use of a historic property.

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**HISTORICAL/ARCHITECTURAL ASSESSMENT AND
DOCUMENTATION OF ADVERSE EFFECT
PURSUANT TO 36 CFR 800
AND SECTION 4(f) EVALUATION**

FOR I-40 INTERCHANGE AT STATE ROUTE 196 (HICKORY WITHE ROAD)

FAYETTE COUNTY

STATEMENT OF DETERMINATION

The Tennessee Department of Transportation with funding made available through the Federal Highway Administration is proposing to construct an interchange on I-40 at State Route 196 (Hickory Withe Road), Fayette County, Tennessee.

Federal laws require TDOT and FHWA to comply with Section 106 of the National Historic Preservation Act of 1966, as amended. Appendix A contains a fact sheet about Section 106. Regulations detailing the implementation of this act are codified at 36 CFR 800. This legislation requires TDOT and FHWA to identify any properties (either above-ground buildings, structures, objects, or historic sites or below ground archaeological sites) of historic significance. For the purposes of this legislation, historic significance is defined as those properties which are included in the National Register of Historic Places or which are eligible for inclusion in the National Register. Appendix B contains a copy of the National Register criteria. Once historic resources are identified, legislation requires these agencies to determine if the proposed project would affect the historic resource. Appendix C contains a copy of the Criteria of Effect. If the proposed project would have an adverse effect to a historic property, the legislation requires FHWA to provide the Advisory Council on Historic Preservation (an independent federal agency) an opportunity to comment on the effect.

The U.S. Department of Transportation Act of 1966, as amended, also requires FHWA to assess the applicability of Section 4(f). This law prohibits the Secretary of Transportation from approving any project which requires the "use" of a historic property unless there is no prudent and feasible alternative to that use and unless the project includes all possible planning to minimize harm to the historic resource. Appendix D contains a fact sheet about Section 4(f).

Pursuant to 36 CFR 800.4 which requires TDOT and FHWA to identify historic resources near its proposed projects, architectural historians from TDOT surveyed the area of potential environmental impact for this proposed project in an effort to identify any National Register-included or eligible properties. TDOT historians surveyed the project area and inventoried three properties. It is the opinion of TDOT that these properties are not eligible for the National Register and therefore no properties within the project area are eligible for listing on the National Register of Historic Places. Therefore there will not be a Section 4(f) use of a historic property.

The archaeological assessment is contained within another document. This document has been prepared in consultation with the TN-SHPO and will be circulated to the TN-SHPO and local historians.

I-40 INTERCHANGE AT STATE ROUTE 196 (HICKORY WITHE ROAD)

PROPOSED UNDERTAKING

LIT/RECORDS SEARCH: 31 March 2006 Holly Barnett
FIELD STUDY: 01 December 2006, Tammy Sellers and Holly Barnett
U.S.G.S. QUADS: Gallaway 415SE, Arlington 415SW
COUNTY: Fayette (Location Map, Figure 1)

PROPOSED IMPROVEMENT

The proposed improvement is a standard diamond interchange that permits future construction of loop ramps in all four quadrants. The cross section will be three 12-foot lanes within the interchange: two 12-foot traveling lanes, a 12-foot continuous left-turn lane and 10-foot shoulders.

All interchange ramps would have 16-foot lanes and 6-foot shoulders. Orr Road, which currently intersects SR-196 immediately south of the interstate, would need to be relocated 960 feet south of its present location to allow for the construction of the ramp in the southwest quadrant of the proposed interchange. The realignment of Orr Road will be designed to meet minimum standards.

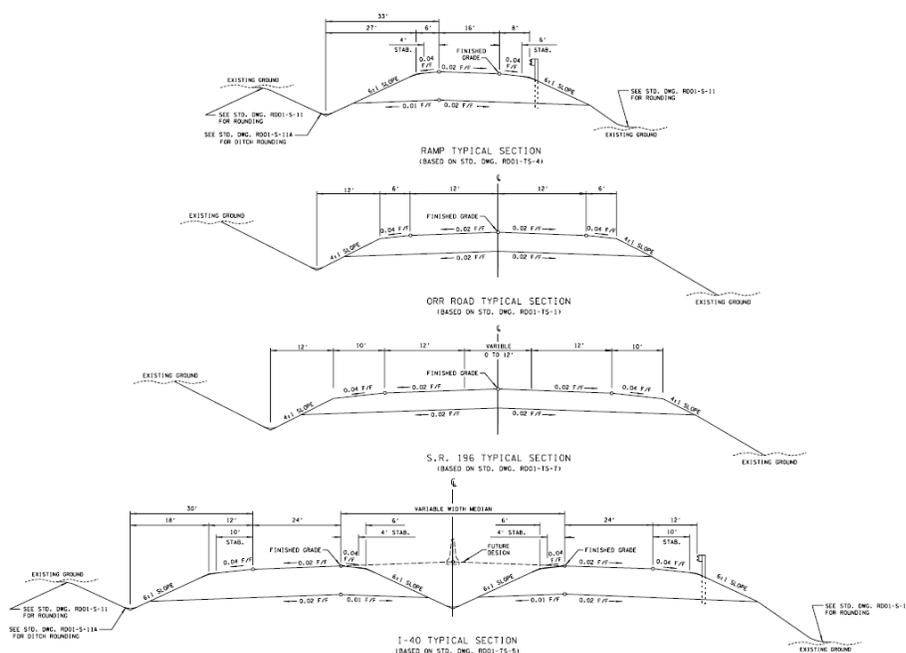


Figure 1: Proposed Typical Sections for the Interchange project

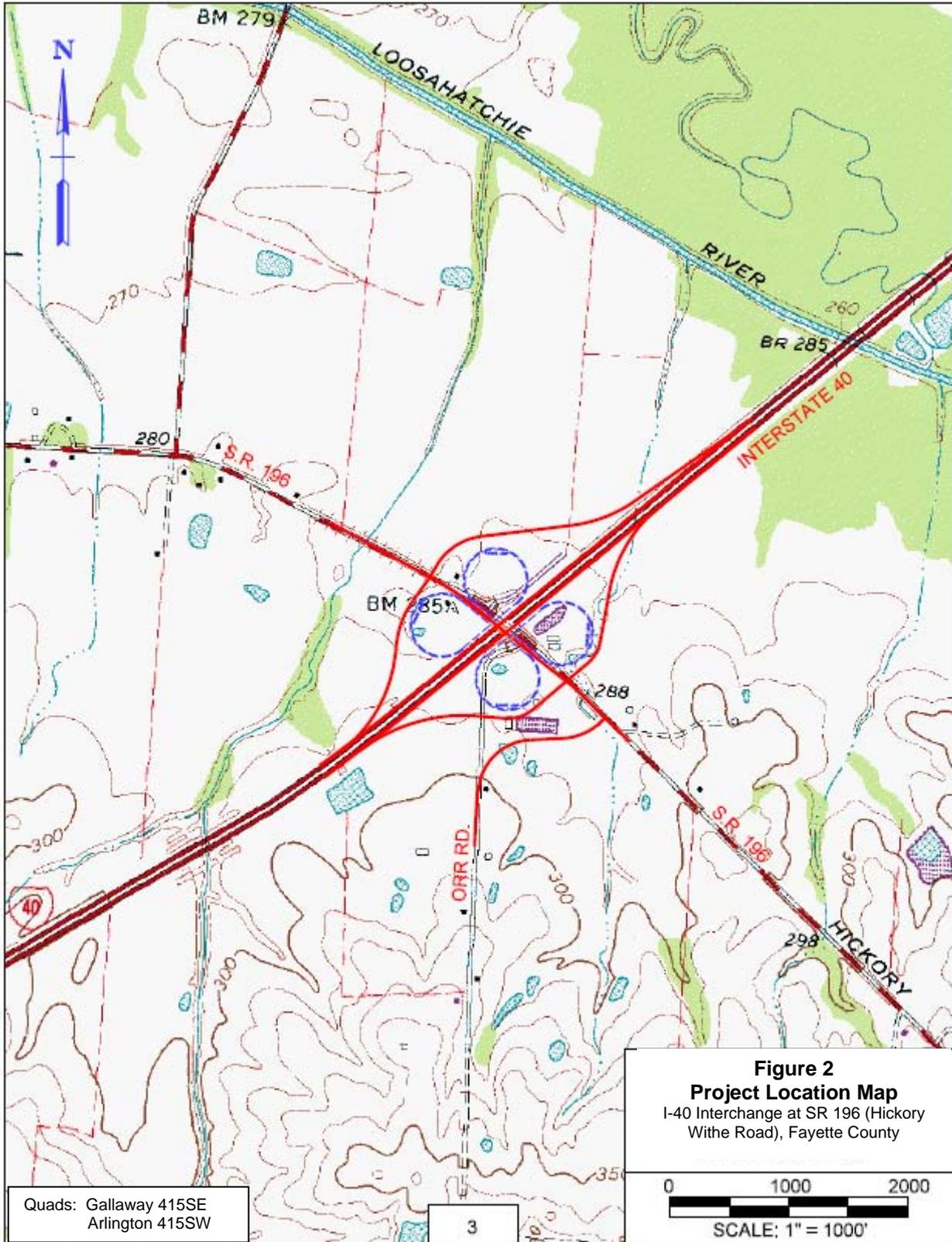


Figure 2
Project Location Map
 I-40 Interchange at SR 196 (Hickory Withe Road), Fayette County

Quads: Gallaway 415SE
 Arlington 415SW

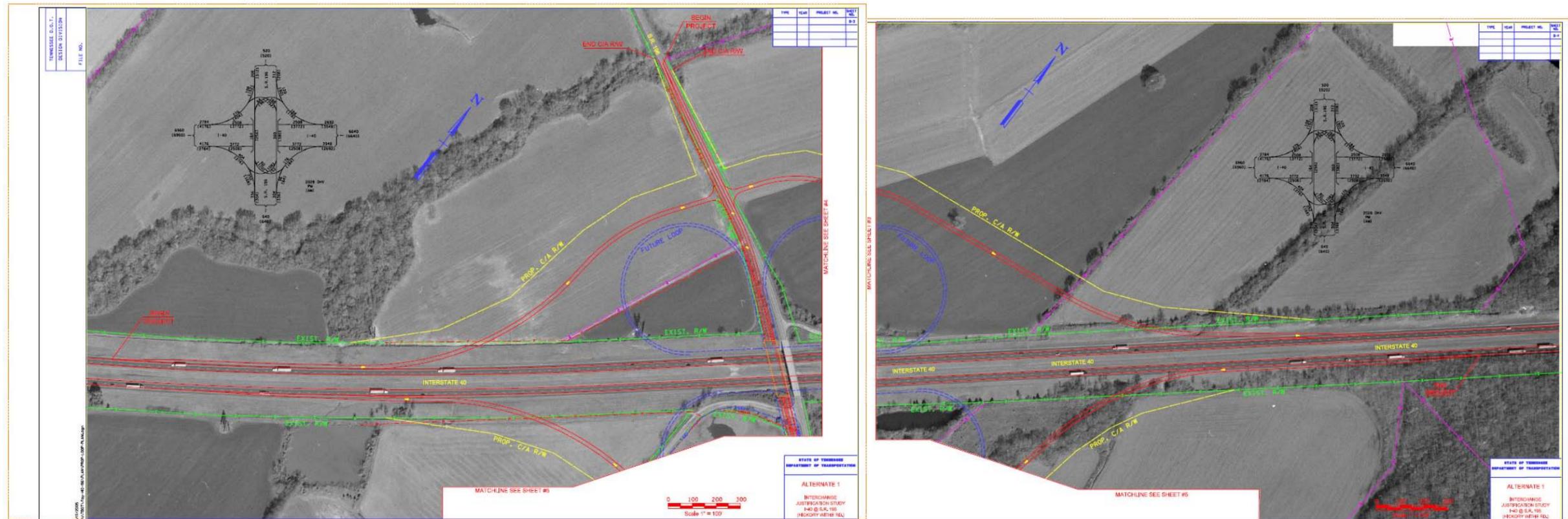


Figure 3: Functional Layouts of the Proposed Interchange Project



ENVIRONMENT AND LAND USE

Fayette County is located in the southern area of western Tennessee. Fayette County adjoins Hardeman County to the east and Shelby County to the west. The county is generally rural-agricultural in nature. The county has a small to medium urban area at the county seat and strip commercial development along the existing transportation corridors. There are also industrial park developments and growing suburban and residential areas.

HISTORIC CONTEXT

Named for the Marquis de Lafayette, the Tennessee General Assembly established Fayette County in 1824. Somerville was established as the county seat and named in honor of Lieutenant Robert Somerville, a hero of the battle of Tohopeka in Alabama. Settlers began inhabiting the area as early as 1820, with Somerville and LaGrange incorporated by 1826. Fayette County now has nine incorporated towns: Braden, Gallaway, LaGrange, Moscow, Oakland, Piperton, Rossville, Somerville, and Williston (Morton, 303).

The county has been traditionally agricultural with cotton historically serving as the primary crop. A few large plantation homes remain representing Fayette County's role in the cotton culture of the nineteenth century, subsidized by African slaves. After the Civil War many African-Americans remained in Fayette County as tenant farmers or sharecroppers. Unfortunately, living conditions for these citizens, who made up the majority of the county's population, did not improve. By the early 1960s Fayette County became a center of Civil Rights activity. In response to black tenant farmers who were evicted for attempting to register to vote, activists established two "tent cities" as shelter. African-American citizens also organized boycotts and marches. Through the 1970s, Civil Rights activists worked to improve the quality of life for citizens by holding voter registration drives and pushing for school integration (Morton, 303).

Fayette County has traditionally had an economy supported solely on agriculture, primarily cotton and corn. Farms large and small brought their goods to the gins in every town and villages. In recent decades, the dominance of cotton has waned with soybeans, beef cattle, dairying, and eggs becoming increasingly important to the Fayette County economy. Although agriculture is still dominant in Fayette County, industry entered the county in the late twentieth century. In the 1960s Troxel Manufacturing Company opened a factory in Moscow, and several towns have industrial parks to lure companies to the county. Also suburban sprawl from Memphis in recent decades has removed numerous agricultural acres from production (Morton, 304).

Transportation in Fayette County has been important in getting agricultural goods and later manufactured goods to market. The State of Tennessee chartered the county's first railroad, the LaGrange-Memphis Railroad in 1835. The railroad became the Memphis and Charleston Railroad, and was eventually subsumed into the Southern Railway System. Now, the Norfolk-Southern Railway crosses southern Fayette County and Interstate 40 clips its northwestern corner (Morton, 304).

PUBLIC INVOLVEMENT

On 13 December 2007 TDOT wrote to ten Native American tribes or representatives asking for information regarding the project and if they would like to participate in the Section 106 review process as a consulting party. To date, TDOT has received no responses related to architectural resources. Attachment Three contains copies of relevant correspondence.

Augustine Asbury
Alabama-Quassarte Tribal Town

Joyce Bear
Muscogee (Creek) Nation

Virginia "Gingy" Nail
The Chickasaw Nation

Carrie Wilson
Quapaw Tribe of Oklahoma

Terry D. Cole
Choctaw Nation of Oklahoma

Rebecca Hawkins
Shawnee Tribe

Robin Dushane
Eastern Shawnee Trime of Oklahoma

Charles Coleman
Thioptlocco Tribal Town

Gary Bucktrot
Kialegee Tribal Town

Lisa Stopp
United Keetoowah Band of Cherokee Indians

On 13 December 2007, TDOT wrote to the local government official and asked him for information about the project and asked if he wished to be a consulting party in the Section 106 review process. To date TDOT has received no responses related to architectural resources. Attachment Three contains copies of relevant correspondence.

TDOT has prepared a list by counties of historic groups, county historians, and other such individuals or organizations that might be interested in proposed projects. TDOT regularly updates and refines the list. TDOT will mail a copy of this report to the following groups and individuals. Attachment Three contains copies of relevant correspondence.

Fayette County Mayor
Room 204
Fayette County Courthouse
Somerville, TN 38068

Mrs. J. R. Morton
Fayette County Historian
P. O. Box 127
Moscow, TN 38057

Fayette County Historical Society
P. O. Box 304
Somerville, TN 38068

SURVEY METHODOLOGY AND RESULTS

Pursuant to regulations set forth in 36 CFR 800 guidelines, TDOT historians field reviewed this project on 1 December 2006. The purpose of this survey was to determine if any properties in the project impact area were either eligible for inclusion or are included in the National Register of Historic Places. A project's area of potential effects (APE) is defined in 36 CFR 800.16 (d) as

the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

The proposed project is located in a rural built-up area east of Arlington. Downtown Arlington is listed on the National Register as a historic district, but at nearly three miles from the proposed interchange with considerable new development surrounding the historic district, it is the opinion of TDOT that the Arlington Historic District is outside the area of potential effect for this project. The proposed project area is located in a transition area with a mixture of open farmland, residential development, and some commercial development.

The area of potential effect for this project includes the following:

- A corridor approximately one-half mile surrounding the interchange. Limitations to this corridor would be topographic features such as a hills that are between the proposed project and other resources in the study corridor;
- Areas within the nearby viewshed of the proposed project;
- Areas within the potential noise impact area (up to 500 feet from the proposed improvements);

The U.S. Department of Transportation Act of 1966, as amended, also requires FHWA to assess the applicability of Section 4(f). This law prohibits the Secretary of Transportation from approving any project which requires the "use" of a historic property unless there is no prudent and feasible alternative to that use and unless the project includes all possible planning to minimize harm to the historic resource (see Attachment One).

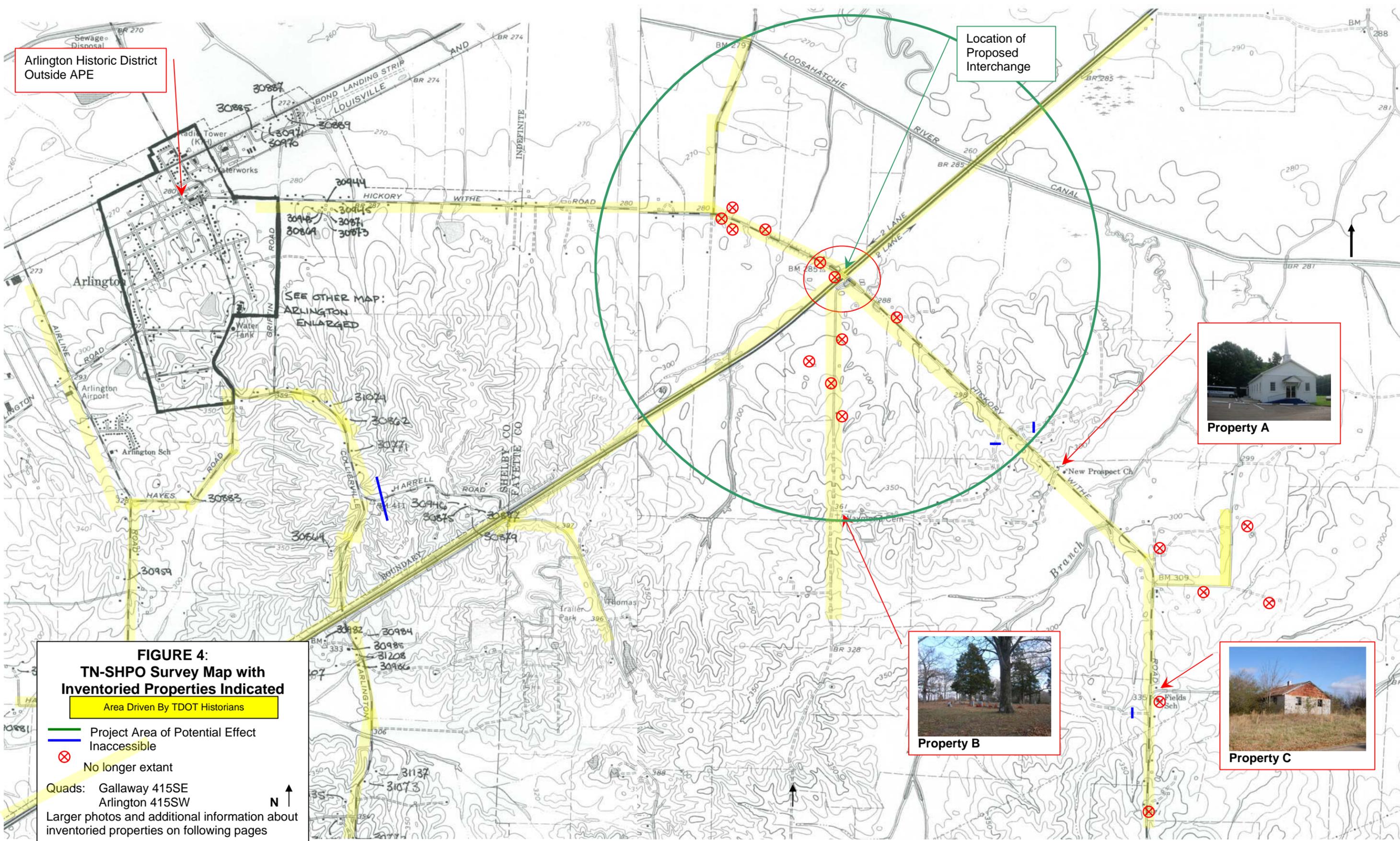
TDOT checked the survey records of the Tennessee State Historic Preservation Office (TN-SHPO) to determine if any previous surveys had identified any historic properties in the area. The TN-SHPO has not surveyed the area and has identified no properties as eligible for the National Register.

Staff historians conducted field surveys of the project's area of potential effect in October 2007. This field survey sought to identify any previously unidentified resources that merited further evaluation. The survey was also intended to determine the potential for National Register eligibility of any individual resources or historic districts in the area. Figure 4 illustrates the coverage (roads driven) of the architectural field survey.

Staff surveyed and evaluated for National Register eligibility properties considered to be in the project's area of potential effect. The area surrounding the proposed interchange east of Arlington contains residential architecture dating from the mid-twentieth century to the present. There is no known architectural or historic significance that would make

this area eligible for listing on the National Register of Historic Places under Criterion A, B, or C. TDOT historians identified no other properties in the area eligible for the National Register.

TDOT historians surveyed the project area and inventoried three properties in a chart format. It is the opinion of TDOT that these properties are obviously not eligible for the National Register and did not require further National Register evaluation. Therefore, in the opinion of TDOT, no properties within the project area are eligible for listing on the National Register of Historic Places and there will not be a Section 4(f) use of a historic property.



Arlington Historic District Outside APE

Location of Proposed Interchange



Property A



Property B



Property C

**FIGURE 4:
TN-SHPO Survey Map with
Inventoried Properties Indicated**

Area Driven By TDOT Historians

Project Area of Potential Effect

Inaccessible

No longer extant

Quads: Gallaway 415SE
Arlington 415SW

Larger photos and additional information about inventoried properties on following pages

TABLE:	INVENTORIED PROPERTIES	
PROPERTY NAME	DESCRIPTION	PHOTOGRAPHS
<p align="center">Property A</p> <p align="center">New Prospect Church</p>	<p>The Divine Purpose Baptist Church is a 1946 frame building faced with concrete. The church has changed congregations or changed its name since 1965 when the USGS topo map from that year identifies the church as New Prospect. The building has a rectangular plan and a gable front roof with a recent simple central steeple with a small cross located at the top and impressed on all sides of the base. The central double glass and metal doors have a small gabled portico above them supported by wood brackets. Four-light windows flank the central doors and are located in a series of six windows on the side elevations. The church has been altered significantly since it was built with the inclusion of vinyl siding in the gable fields, replacement steeple, doors, and windows.</p>	
<p align="center">Property B</p> <p align="center">Waymond Cemetery</p>	<p>This small cemetery is located on east side of Orr Road. The cemetery has a few markers that date from the late-nineteenth and early twentieth century but primarily consists of markers dating from the 1950s-80s. The cemetery does not have a church or farmhouse associated with it. The markers appear of typical type and design for this period.</p>	

Property C
Tenant House

This tenant house is composed of concrete block and is a side gable plan. The roof and gable fields are composed of standing seam metal. The building has a central door and six-light casement windows. The structure has been abandoned for some time, has trees and brush growing very close to the façade, and is missing the door and several window panes. There are no agricultural or residential structures nearby that the house appears to be associated with.



CONCLUSIONS

The Tennessee Department of Transportation (TDOT), with funding made available through the Federal Highway Administration (FHWA), is proposing to construct an interchange on Interstate 40 at State Route 196 (Hickory Withe Road) in Fayette County, Tennessee.

TDOT historians inventoried three properties within the project area. It is the opinion of TDOT that these properties are not eligible for the National Register. TDOT historians identified no other National Register listed or eligible properties within the project area. It is the opinion of TDOT that there are no historic properties within the project area of potential effect. Therefore, there will be no Section 4(f) use of a historic property.

BIBLIOGRAPHY

Morton, Dorothy Rich. "Fayette County" in Tennessee Encyclopedia of History and Culture. Carroll Van West, ed., Nashville: Rutledge Hill Press, 1998.

Folmsbee, Stanley J., Robert E. Corlew, and Enoch L. Mitchell. *Tennessee: A Short History*. Knoxville: University of Tennessee Press, 1969.

Harris, Cyril M. *American Architecture: an Illustrated Encyclopedia*. New York: W.W. Norton & Company, 1998.

McAlester, Virginia and Lee. *A Field Guide to American Houses*. New York: Alfred A. Knopf, 1998.

ATTACHMENT ONE

FACT SHEETS

**Section 106 Review, National Historic Preservation Act of 1966
Eligibility Criteria of the National Register of Historic Places
National Register of Historic Places, TDOT Summary Sheet
Criteria of Adverse Effects, Codified at 36 CFR 800.5
Section 4 (f), TDOT Act Of 1966, TDOT Summary Sheet**

Section 106 Review, National Historic Preservation Act of 1966

Section 106 of the *National Historic Preservation Act* requires that Federal agencies consider what effects their actions and/or actions they may assist, permit, or license, may have on historic properties, and that they give **the Advisory Council on Historic Preservation (Council)** a “reasonable opportunity to comment” on such actions. The Council is an independent Federal agency. Its role in the review of actions under Section 106 is to encourage agencies to consider, and where feasible, adopt measures that will preserve historic properties that would otherwise be damaged or destroyed. The Council’s regulations, entitled “Protection of Historic Properties” (36 CFR Part 800) govern the Section 106 process. The Council does not have the authority to require agencies to halt or abandon projects that will affect historic properties.

Section 106 applies to properties that have been listed in the *National Register of Historic Places (NRHP)*, properties that have been determined to be eligible for inclusion in the NRHP, and properties that may be eligible but have not yet been evaluated. If a property has not yet been nominated to the NRHP or determined eligible for inclusion, it is the responsibility of the Federal agency involved to ascertain its eligibility.

The Council’s regulations are set forth in a process consisting of four basic steps which are as follows:

1. **Initiate Section 106 Process:** The Federal agency responsible for the action establishes the undertaking, determines whether the undertaking has the potential to affect historic properties (i.e., properties listed in or eligible for listing in the National Register of Historic Places), and identifies the appropriate State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO). At this time, the agency plans to involve the public and identify other consulting parties.
2. **Identify Historic Properties:** If the agency’s undertaking has the potential to affect historic properties, the agency determines the scope of appropriate identification efforts and proceeds to identify historic properties within the area of potential effects. Identification involves assessing the adequacy of existing survey data, inventories, and other information on the area’s historic properties. This process may also include conducting further studies as necessary and consulting with the SHPO/THPO, consulting parties, local governments, and other interested parties. If properties are discovered that may be eligible for the National Register, but have not been listed or determined eligible for listing, the agency consults with the SHPO/THPO and, if needed, the keeper of the National Register to determine the eligibility status of the property.
3. **Assess Adverse Effects:** The agency, in consultation with the SHPO/THPO, assesses the potential effects to historic properties affected by the undertaking. The agency at this time will determine that the action will have “no adverse effect” or an “adverse effect” on historic properties. Consulting parties and interested members of the public are informed of these findings.

The regulations provide specific criteria for determining whether an action will have an effect, and whether that effect will be adverse. Generally, if the action may alter the characteristics that make a property eligible for the

National Register, it is recognized that the undertaking will have an effect. If those alterations may be detrimental to the property’s characteristics, including relevant qualities of the property’s environment or use, the effects are recognized as “adverse.”

4. **Resolve Adverse Effects:** The agency consults with the SHPO/THPO and others, including consulting parties and members of the public. The Council may choose to participate in consultation, particularly under circumstances where there are substantial impacts to historic properties, when a case presents important questions about interpretation, or if there is the potential for procedural problems. Consultation usually results in a Memorandum of Agreement (MOA).

If agreement cannot be reached, the agency, SHPO/THPO, or Council may terminate consultation. If the SHPO/THPO terminates consultation, the agency and the Council may conclude the MOA without SHPO/THPO involvement. If the SHPO/THPO terminates consultation and the undertaking is on or affecting historic properties on tribal lands, the Council must provide formal comments. The agency must request Council comments if no agreement can be reached.

ELIGIBILITY CRITERIA OF THE NATIONAL REGISTER OF HISTORIC PLACES AS SET FORTH AT 36 CFR 60.4

The quality of significance in American history, architecture, archaeology, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

CRITERION A . that are associated with events that have made a significant contribution to the broad patterns of our history (history); or

CRITERION B. that are associated with the lives of persons significant in our past (person); or

CRITERION C. that embody the distinctive characteristic of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that components may lack individual distinction (architecture); or

CRITERION D. that have yielded, or may be likely to yield, information important in prehistory or history (archaeology).

Ordinarily, cemeteries; birthplaces or graves of historical figures; properties owned by religious institutions or used for religious purposes; structures that have been moved from their original locations; reconstructed historic buildings; properties primarily commemorative in nature; and properties that have achieved significance within the past 50 years are not considered eligible for the National Register of Historic Places; however, such properties will qualify if they are integral parts of historic districts that do meet the criteria or if they fall within the following categories:

EXCEPTION A. a religious property deriving primary significance from architectural or artistic distinction or historical importance; or

EXCEPTION B. a building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or

EXCEPTION C. a birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with his productive life; or

EXCEPTION D. a cemetery which derives its primary significance from graves or persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or

EXCEPTION E. a reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or

EXCEPTION F. a property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or

EXCEPTION G. a property achieving significance within the past 50 years if it is of exceptional importance.

NATIONAL REGISTER OF HISTORIC PLACES SUMMARY SHEET PREPARED BY TDOT

What is the National Register of Historic Places? The National Register, maintained by the Keeper of the Register within the National Park Service, Department of the Interior, is the nation's official list of districts, buildings, sites, structures, and objects significant in American history, architecture, archeology, engineering, and culture.

What are the benefits and restrictions of listing? In addition to honorific recognition, listing in the National Register results in the following benefits for historic properties:

- Section 106 provides for consideration of National Register listed or eligible properties in planning for Federal, federally licensed, and federally assisted projects;
- Eligibility for certain tax provisions for the certified rehabilitation of income-producing National Register structures such as commercial, industrial, or rental residential buildings;
- Consideration of historic values in the decision to issue a surface mining permit where coal is located in accordance with the Surface Mining Control Act of 1977; and
- Qualification of Federal grants for historic preservation, when funds are available.

Does National Register designation place any additional burdens or obligations on the property owner? Owners of private property listed in the National Register are free to maintain, manage, or dispose of their property as they choose, provided that no Federal moneys are involved.

How is a property nominated to the National Register? The first step is for the owner to contact the Tennessee State Historic Preservation Office (TN-SHPO), Clover Bottom Mansion, 2941 Lebanon Road, Nashville, TN 37243-0442; 615-532-1558. Ordinarily, private individuals (or paid consultants) prepare nomination forms. The TN-SHPO submits these nominations to a State Review Board, which meets three times a year. This body reviews the nominations and votes to recommend or deny National Register listing. If approved, the TN-SHPO submits the nomination to the Keeper of the Register in Washington, D.C. for consideration for listing. The Keeper's Office has 45 days to review the nomination, and its decision regarding National Register listing is final.

How long does the nomination process take? The process varies but typically takes between eight and twelve months.

CRITERIA OF ADVERSE EFFECT

Regulations codified at 36 CFR 800 require Federal agencies to assess their impacts to historic resources. The regulations provide specific criteria for determining whether an action will have an effect, and whether that effect will be adverse. These criteria are given below.

36 CFR 800.5 Assessment of Adverse Effects

(a) *Apply Criteria of Adverse Effect.* In consultation with the SHPO/THPO and any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to identified historic properties, the Agency Official shall apply the criteria of adverse effect to historic properties within the area of potential effects. The Agency Official shall consider any views concerning such effects which have been provided by consulting parties and the public.

(1) *Criteria of adverse effect.* An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the National Register. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.

(2) *Examples of adverse effects.* Adverse effects on historic properties include, but are not limited to:

- (i) Physical destruction of or damage to all or part of the property;
- (ii) Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation and provision of handicapped access that is not consistent with the Secretary's Standards for the Treatment of Historic Properties and applicable guidelines;
- (iii) Removal of the property from its historic location;
- (iv) Change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance;
- (v) Introduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features;
- (vi) Neglect of a property which causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to an Indian tribe or Native Hawaiian organization; and
- (vii) Transfer, lease or sale of property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance.

SECTION 4(f), TDOT SUMMARY SHEET

WHAT IS SECTION 4 (f)? Codified at 49 CFR 303, "Section 4 (f)" refers to a section of the U.S. Department of Transportation Act which gives special consideration to the use of park and recreation lands, wildlife and waterfowl refuges, and historic sites by Federally assisted transportation projects. Section 4 (f) applies only to those projects using funds from the U.S. Department of Transportation. The law states:

(c) The Secretary may approve a transportation program or project (other than any project for a park road or parkway under section 204 of title 23) requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if -

- (1) *there is no prudent or feasible alternative to using that land; and*
- (2) *the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.*

WHAT IS THE SECTION 4 (f) PROCESS FOR HISTORIC PROPERTIES? To be considered "historic," a property must either be listed in the National Register of Historic Places or be determined eligible for such listing by the Keeper of the Register or the State Historic Preservation Officer (SHPO). On any project, the primary objective is to develop a design that does not have Section 4(f) involvement. If such a design is not possible, then the Section 4 (f) documentation is prepared and circulated. Such documentation is circulated to all appropriate agencies or groups (consistent with the Section 106 process and the National Environmental Policy Act), and as applicable, to the U.S. Department of the Interior, Housing and Urban Development, and Agriculture. It is also circulated to the agency having authority over the Section 4 (f) property. For historic properties, such agencies are the SHPO and the Advisory Council on Historic Preservation (ACHP). After review of any comments received, the final Section 4(f) documentation is sent to the Federal Highway Administration (FHWA) which determines if the requirements of the Section 4(f) statute are met. If the requirements are satisfied, then the FHWA will approve the use of the Section 4 (f) property.

HOW ARE SECTION 4 (f) AND SECTION 106 RELATED? Section 106 is a provision of the National Historic Preservation Act of 1966, which requires all federal agencies to consider the effects of their projects on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) an opportunity to comment on those effects. The ACHP has promulgated regulations at 36 CFR 800 that describe the procedures that agencies must follow in order to comply with Section 106. Many of the Section 106 documentation requirements overlap the Section 4 (f) documentation requirements for historic properties. For this reason, for projects having a 4(f) use of a historic site, the documentation for Section 106 and Section 4 (f) is usually combined into one document and circulated to the appropriate groups described above. The consent of neither the SHPO nor the ACHP is necessary for FHWA to approve a Section 4 (f) use, but FHWA gives great consideration to comments from these agencies.

ATTACHMENT FOUR
PUBLIC PARTICIPATION

Sample Letter to Local Government Officials



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
THE ENVIRONMENTAL DIVISION
SUITE 900, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-0334
(615) 741-3655
Fax (615) 741-1098

December 13, 2007

Mr. Skip Taylor
P.O. Box 218
Somerville, TN 38068

RE: Section 106 Initial Coordination for Proposed Interchange on Interstate 40 at State Route 196 (Hickory With Road), Fayette County, Tennessee

Dear Mr. Taylor:

The Tennessee Department of Transportation (TDOT) in cooperation with the Federal Highway Administration is proposing to improve the above referenced project. Its location is shown on the enclosed map.

The 2001 Advisory Council on Historic Preservation regulations stipulate that TDOT invite local government representatives to participate in the historic review process as a consulting party. TDOT would like to invite you, as the local government official, to participate as a consulting party for the proposed project.

If you choose to participate as a consulting party, you will receive copies of TDOT's environmental reports and will be invited to attend project-related meetings between TDOT and the Tennessee State Historic Preservation Office (TN-SHPO), if any are held. As a consulting party, you should be prepared to attend any such meetings between TDOT and the TN-SHPO and provide a response to TDOT's reports in written form within 30 days upon receipt of the report. TDOT also wishes to seek your comments on the identification and evaluation of historic properties that the proposed project might impact.

If you would like to participate as a consulting party, please write to me at the above address. To facilitate our planning process, please respond within 30 days of receipt of this letter. Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads 'Martha Carver'.

Martha Carver
Historic Preservation Program Manager

Enclosure

Letter to Native Americans



**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
THE ENVIRONMENTAL DIVISION**
SUITE 900, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-0334
(615) 741-5257
Fax: (615) 741-1098

December 13, 2007

SUBJECT: Section 106 Initial Coordination for Proposed Interchange on Interstate 40 at State Route 196 (Hickory With Road), Fayette County, Tennessee

To Tribal Historic Preservation Office:

The Tennessee Department of Transportation (TDOT) in cooperation with the Federal Highway Administration is in the planning stages of evaluating the above-referenced project for possible implementation. The location of the proposed project is shown on the enclosed map.

The 2001 Advisory Council on Historic Preservation regulations, 36 CFR 800, stipulate that Indian tribes that attach religious and cultural significance to properties that may be affected by an undertaking be invited to participate in the project review process as consulting parties. TDOT would like to invite you to participate as a consulting party for the proposed project. This letter is also TDOT's request for comments on the identification of properties in the project's area of potential effect that may be of religious and cultural significance to your tribe.

If you choose to participate as a consulting party on the above-referenced project, you will receive copies of cultural assessment reports that identify Native American related properties. You will also be invited to attend project-related meetings with FHWA, TDOT and the Tennessee State Historic Preservation Office (TN-SHPO), if any are held. We respectfully request written responses to project reports and other materials within thirty (30) days of receipt.

If you would like to participate as a consulting party, please respond to me via letter, telephone (615-741-5257), fax (615-741-1098) or E-mail (Gerald.Kline@state.tn.us). To facilitate our planning process, please respond within 30 days of receipt of this letter. If you do not respond, you will not receive reports related to this project unless you specifically request them at a later date. Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads 'Gerald Kline'.

Gerald Kline
Transportation Specialist I
Archaeology Program Manager

Enclosure

cc. Augustine Asbury, Alabama-Quassarte Tribal Town
Virginia "Gingy" Nail, The Chickasaw Nation
Terry Cole, Choctaw Nation of Oklahoma
Robin Dushane, Eastern Shawnee Tribe of Oklahoma
Gary Bucktrot, Kialegee Tribal Town
Joyce Bear, Muscogee (Creek) Nation
Carrie Wilson, Quapaw Tribe of Oklahoma
Rebecca Hawkins, Shawnee Tribe
Charles Coleman, Thlopthlocco Tribal Town
Lisa Stopp, United Keetoowah Band of Cherokee Indians



Sample Letter to Public

**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

505 DEADERICK STREET
SUITE 900, JAMES K. POLK BUILDING
NASHVILLE, TENNESSEE 37243-0349
615-741-3653

January 28, 2008

SUBJECT: Architectural and Historical Assessment, I-40 Interchange at State Route 196 (Hickory Withe Road), Fayette County, Tennessee, PIN #105597.00

To Whom it May Concern:

The Tennessee Department of Transportation (TDOT) in cooperation with the Federal Highway Administration is proposing to build a new interchange on I-40 at State Route 196 (Hickory Withe Road) in Fayette County, Tennessee.

Pursuant to regulations set forth in "36 CFR 800: Protection of Historic Properties" cultural resource staff from TDOT surveyed the general project area in an attempt to identify National Register-included or eligible properties which could be impacted by the proposed project. Historians from TDOT identified no properties that are National Register listed or eligible within the project area of potential effect.

The enclosed report discusses TDOT's survey findings. You are receiving this report because TDOT has identified you as a Fayette County party or individual with historic preservation interests. The Advisory Council on Historic Preservation Regulations specify that members of the public with interests in an undertaking and its effects on historic properties should be given reasonable opportunity to have an active role in the Section 106 process. As such, TDOT would like to give you the opportunity to participate in that process. If you feel that commenting on such projects is outside the interests of your organization, please notify me and I will remove your name from our list.

If you have any comments on historic issues related to this project, please write me. Federal regulations provide that you have thirty days to respond from the receipt of this letter.

Sincerely,

A handwritten signature in blue ink that reads "Holly Barnett".

Holly Barnett, Historic Preservation Specialist

Enclosure

cc: Mr. Patrick McIntyre, TN-SHPO