

MINUTES OF THE
SANTA FE COUNTY BOARD OF COMMISSIONERS
AND
EXTRATERRITORIAL ZONING AUTHORITY
SPECIAL JOINT MEETING

May 30, 2001

Santa Fe, New Mexico

1937827

This special joint meeting of the Santa Fe Board of County Commissioners and the Extraterritorial Zoning Authority was called to order by Commissioner Chairman and Authority member Paul Duran at approximately 6:00 p.m. on the above-cited date in the County Administration Building, Commission Chambers, Santa Fe, New Mexico.

Roll Call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

County Commissioners Present:

Paul Duran
Javier Gonzales
Marcos Trujillo
Paul Campos
Jack Sullivan

Commissioner(s) Absent:

None

County Elected Officials Present:

Becky Bustamante, Clerk

Extraterritorial Zoning Authority Present:

Jimmie Martinez, City Councilor, Chairman
Carol Lopez, City Councilor [early departure]
Paul Duran, County Commissioner
Javier Gonzales, County Commissioner
Jack Sullivan, County Commissioner

Member(s) Excused:

None

County Staff:

Jack Kolkmeier, Planning Director
Steve Kopelman, General Counsel
Roman Abeyta, Deputy Land Use Admin.
Anne Lovely, Assistant Counsel
Estevan Lopez, Land Use Administrator
Vicki Lucero, Planner
Paul Olafson, Planner

City Staff:

None

Attached Exhibits:

- Exhibit 1: Memo - Proposed TDR Ordinance - Concerns: from Commissioner Sullivan dated 5/30/01
- Exhibit 2: Memo - Recommended changes and amendments to the TDR Ordinance: from J. Kolkmeier dated 5/30/01
- Exhibit 3: Memo - Recommended changes and amendments to the TDR Ordinance: from J. Siebert dated 5/21/01
- Exhibit 4: Proposed - Extraterritorial Zoning Authority TDR Ordinance
- Exhibit 5: Proposed - Santa Fe County TDR Ordinance

1937823

APPROVAL OF AGENDA

Commissioner Gonzales moved to approve the agenda as published. His motion was seconded by Commissioner Trujillo.

Commissioner Sullivan indicated that he is voting against approval of the agenda because the County's proposed TDR ordinance was not made available in a timely manner prior to this special meeting. He reminded the Commission of its policy that materials must be available in the packet at least 48 hours prior to the meeting.

Planning Director Kolkmeier stated that the packets were distributed to the County Manager's office by 3 p.m. last Thursday. The materials have changed because of the amendments recommended at the previous public hearings.

Chair Duran suggested that following staff presentation, public testimony, and joint Authority and Commission discussion, a decision could be made regarding the Authority and the Commission's readiness to act on the ordinance. An amendment, even if it is first heard this evening, can be incorporated into the ordinance.

County Attorney Kopelman remarked that materials can be distributed at a meeting, and it is at the discretion of the Authority and Commission whether or not to take appropriate action.

The agenda was approved by majority vote with Commissioner Sullivan casting the sole "nay."

PUBLIC HEARING

- A. Board of County Commissioners**
- 1. Ordinance No. 2001-7: An Ordinance creating a new article XVI of the Santa Fe County Land Development Code (Ordinance 1996-10) as amended to provide for land-use and zoning regulations for the Transfer of Development Rights.**
- B. Extraterritorial Zoning Authority**
- 1. Ordinance No. 2001-1: An Ordinance creating a new Section 14 of the Santa Fe Extraterritorial Zoning Ordinance (Ordinance 1997-4) as amended to provide for land-use and zoning regulations for the Transfer of Development Rights.**

Chair Duran reminded the participants that the governing bodies have been working on TDRs for two years. They are not inventing the TDR program, but adopting a program that has been enacted by other communities that share Santa Fe's concerns. He said he hoped the Authority and Commission could move forward to adopt the ordinances. Chair Duran responded to the points addressed in Commissioner Sullivan's memo [Exhibit 1].

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Mr. Kolkmeier proposed a process for this evening's hearing: review staff-proposed amendments to the TDR ordinance, delineate suggested changes on the map, answer questions from elected officials, hear public input, consider additional questions, and take action.

There was consensus that the two governing bodies review the amendments simultaneously for the two ordinances.

Mr. Kolkmeier reviewed the recommendations for changes and amendments to the TDR ordinances [Exhibit 2]. The TDR program is designed to accomplish a goal set out in the County General Plan, City General Plan, and the Highway Corridor, which is to protect as much of the highway corridor as possible. The Highway Corridor plan actually identifies TDRs as a means of accomplishing open space. Responding to the idea that the County or City could purchase these lands for protection, Mr. Kolkmeier suggested the question might be turned around to ask if it is wise to use public funds to purchase property and cited Pop's on Old Las Vegas Highway as an example. TDRs are the result of an examination for a more permanent solution to protect strategic districts and separate urban from non-urban. They have become the third mechanism to protect land, along with zoning and purchasing with bond monies.

Mr. Kolkmeier identified Santa Fe as being in the top five percent of places in the United States that have growth management tools: "We are way, way ahead of the curve." Santa Fe is working programmatically toward a very specific objective.

Mr. Kolkmeier pointed out that the receiving areas are identified in both the City and County general plans as areas where growth will occur over the next 20 years because those areas can be serviced with infrastructure. The issue of annexation is very important; however, the receiving areas have been identified for growth regardless of their annexation status.

Using an area map, Mr. Kolkmeier located the receiving areas and noted that the identifying numbers 1-5 do not correspond to priority. [Map attached to ordinances Exhibits 4 & 5.] The specific sending areas are where TDRs can be sent from within the desired and required setback areas within the Highway Corridor District. In time, other sending areas can be identified, but to initiate the program, the areas on the highway corridor have been designated.

Mr. Kolkmeier confirmed Chair Duran's statement that sending areas provide relief to sprawl. The sending areas strengthen the buffer along the corridor and separate the urban from the non-urban. TDRs help the City meet its primary objective of compact urban form. The County's general plan dovetails the City's and encourages villages rather than with subdivisions.

Commissioner Gonzales remarked that Portland, Oregon, is experiencing enormous growth pressures because the urban area is spreading into the rural area, and rezoning of agricultural land is occurring to facilitate urban growth. TDR and open-space programs allow for permanent open space.

Mr. Kolkmeier agreed and added that Portland also mandated community/neighborhood plans that have been instrumental as a growth management tool.

Commissioner Trujillo asked if the TDR program would impact the commercial node concept to the point of elimination. Mr. Kolkmeier said it is possible, but requires a companion land use code for the highway corridor plan. 1937830

Commissioner Sullivan suggested that passage of the Highway Corridor Ordinance would provide results regarding commercial. Mr. Kolkmeier said the TDR program allows greater flexibility, and zoning will not accomplish the desired results. TDRs create deed restrictions that maintain open space in perpetuity. "Zoning will not protect the highway corridor...it has not done so historically." He added that staff advocates a Highway Corridor Ordinance.

Mr. Kolkmeier reviewed the recommended changes and amendments to the ordinances and identified at what venue they were offered: CDRC, BCC, EZC, or other public forums.

- Receiving Areas 2 and a portion of 1 were reduced, eliminating the existing subdivisions.
- Steep slopes and arroyos can qualify as sending areas for TDRs.
- The TDR program is entirely voluntary.
- The recommendation to eliminate the TDR bank was accepted and is a non-issue.
- Sending areas were better defined to read "desired and required setbacks." Future sending areas for the La Cienega zoning and canyon area may be defined by the La Cienega Community Plan. The BCC and EZA were given authority to identify additional desired setback sending areas within the Highway Corridor provided the setbacks promote the viewshed or the environmental protection of the area.
- In Receiving Area 1, TDRs to address commercial development are appropriate, especially in the areas where the City General Plan calls for mixed use.
- There is an annexation issue in that if the area is not annexed, the property owners operate under the County code, which allows for one dwelling unit per 2.5 acres or, with sewer and water, one dwelling unit per acre. A clause was added that upon annexation by the City, all land uses shall be governed by the City.

He continued by reviewing amendments to each of the five receiving areas

Regarding the timing of TDR acquisition, Mr. Kolkmeier offered a change that would require the developer to acquire an option to purchase TDRs prior to applying for master plan approval. Developers are required to own TDRs to receive preliminary development and/or plat approval of a development project that would require TDRs.

Councilor Lopez suggested clarifying that the TDR program is not part of the City of Santa Fe and that upon annexation, besides compliance with the City's general plan policies and zoning codes, provisions of Section 14 of the EZ Ordinance shall not apply without specific action taken as part of an annexation agreement. Councilor Lopez said at this point, the most important element is to protect the corridor.

Mr. Kolkmeier supported Councilor Lopez' suggested language, stating that it would grant the City greater latitude in initiating the TDR program.

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Commissioner Sullivan profiled his recommended amendments: Delete the option of staff management of the TDR program to avoid inherent conflicts. Retain an independent entity to serve as the TDR manager, and he mentioned Santa Fe Conservation Trust as an interested entity. Revise the TDR allocations for sending areas to specify that only parcels currently zoned for commercial use are eligible for 12 TDRs per acre. Eliminate community water and sewer systems and include a revision that receiving areas must be serviced by either the County, City, or other approved municipal system. Eliminate the term "potential" from district nodes and replace with "existing" commercially zoned tracts.

Councilor Martinez recommended excluding all projects currently in the development process.

Commissioner Trujillo asked staff why they would want to manage the program. Mr. Kolkmeier responded that during the initiation phase, the County should have control. Further, other counties run their own programs. Chair Duran said the program could be transferred to another entity in the future.

Commissioner Sullivan noted an additional recommendation deleting, in its entirety, Receiving Area 1, the Community College District.

Public Comment

Planning consultant, Jim Siebert, lauded the elected officials for being the first in New Mexico to take this innovative and aggressive step. He reviewed three of his recommended changes/amendments [Exhibit 3] and said he said he understands part of the TDR concept is to create additional affordable housing. The design standards cited in the ordinance track the commercial standards developed in the Highway Corridor and he suggested replacing that section in both ordinances with "the design of residential dwellings shall be compatible with the architectural style and development pattern of the area."

Mr. Siebert asked if owning TDRs could increase the threshold density with city water and sewer and would it reflect a credit to the underlying density. If it doesn't, the number of TDRs should be reduced within the redevelopment district.

Regarding the issue of timing in the purchase of TDRs, Mr. Siebert said the ordinance requires purchasing TDRs – which can be a considerable expense – prior to a preliminary development plan. He pointed out that having a master plan does not guarantee that a project will go through to final. He suggested the TDR purchase could occur after final approval but prior to recording the plat or development plan.

Deputy Land Use Administrator Abeyta said Mr. Siebert's summation of TDR purchase is correct and the staff-proposed language tracks the code's requirements regarding water rights.

Chair Duran said he has heard concerns being raised by the public that TDRs have to be purchased prior to receiving full approval.

Commissioner Gonzales appreciated staff's efforts in consistency, but pointed out that water issues encompass health, safety, and welfare and the TDR program is voluntary and incentive based.

Mr. Siebert said the amendment offered by Councilor Lopez applies to Sections 4.a and 4.b.

Carolyn Sigsted said she favors the TDR program as a tool for protecting the highway corridor, but she would prefer the program be piloted on a smaller scale. A project of this "enormity" should, stated Ms. Sigsted, be sponsored by the Regional Planning Authority and, at this point, the RPA has only reviewed the concept superficially.

Ms. Sigsted said Councilor Lopez' amendment is major in that Receiving Areas 1 and 2 could be annexed by the City. The TDR program would lose two out of five receiving areas and then growth would be focused on the southwest sector. She suggested if the Councilor's proposed amendment were heard for the first time this evening, that additional time is needed to act on it.

She recommended tandem passage of the TDR program and the Highway Corridor Plan. The proposed increased development density requires investigation of available water that should be linked to a City or County system, not a community system.

Ms. Sigsted stated that the annexation question could completely change the program as it is envisioned today.

[Councilor Lopez excused herself from the remainder of the meeting.]

Ms. Sigsted spoke against Councilor Martinez' recommended amendment and supported making the receiving areas responsibly address affordable housing issues.

Responding to Councilor Martinez, Mr. Kolkmeier said that since March 1999 there have been over 20 publicized or legally noticed meetings on the topic of TDRs. The project has been "vigorously" discussed and publicized.

Edward Archuleta of 1000 Friends of New Mexico, the organization that brought Rick Pruetz to New Mexico and stimulated the dialogue on TDRs, acknowledged the program as the most innovative tool available to protect open space. He expressed confidence in the program's workability.

Mr. Archuleta said he wished the City was supporting and participating more fully in the program. The receiving areas are within the City's future growth areas and the City needs to be an active partner in the process. "The two governing bodies need to work together." He agreed that it would be in the public's best interest for a neutral third party to serve as TDR manager.

Concluding his comments, Mr. Archuleta said he sincerely hopes the program would not be used to pay off speculators who purchased land along the highway corridor, but rather help those who have been negatively hurt by the bypass running through their properties and the stringent requirements of the plan. He offered the assistance of 1000 Friends in any way.

Bill Kissell of Tierra Oro said when he learned of staff's proposed amendments to the ordinance, he was prepared to reverse his initial support; however, after listening to the staff presentation, his alarm has been reduced. He complimented the audience, elected officials, and staff for the long effort involved in this project.

Mr. Kissell said if the TDR program is viewed as a means to an end and as a dependable tool in the land-use toolkit and, further, if it is employed selectively, intelligently, and responsibly to implement those land-use plans that have been well thought out and, in the end, respects both sides of the equation— residential and growth designations—it can be an indispensable planning tool with credibility that only comes from having established a proven track record. He said it is no surprise that most plans fail, not in the planning stage but in the execution stage.

Speaking as a citizen involved in the highway corridor planning process, Mr. Kissell stated that he has been pleased to see the program unfolding as a broader tool. He thanked Commissioner Gonzales for his foresight and the members of the Highway Corridor Coalition for making their voices heard throughout the process.

Mr. Kissell requested that the node issue be clarified and TDR linkage to the Highway Corridor Plan.

Representing the Santa Fe Conservation Trust, Bill Johnson said the Trust is familiar with deed restrictions and monitoring the uses of conservation easements and lands designated as open space. However, the Trust has not reviewed the manager position and would need time to develop the expertise to do so. Stating the Trust is interested in the program, he supported the County serving as manager.

Doug Frazer, Chair of the Santa Fe Sierra Club, commended the governing bodies for the documents before them. He said preserving the corridor along 599/Veterans Memorial Highway and protecting the water features, agricultural land, and environmental areas around La Cienega make the proposal very sound. The Sierra Club urges the BCC to adopt the Highway Corridor Plan as an ordinance. "It is crucial that the Highway Corridor Plan be given ordinance status by the County, City, and the EZ Authority to demonstrate 'regional commitment' to further insure that the bypass remains a bypass."

Mr. Frazer said the Sierra Club does not believe in the inevitable sprawl, doom of traffic congestion, air pollution, and lost open space. He commended the governing bodies for the expeditious manner in which the TDR program was initiated. He repeated that a regional and local commitment is necessary to effectively reduce sprawl, and cited the achievements of staff, Jack Kolkmeier, the BCC, the EZA, and especially Commissioner Gonzales in their efforts.

Richard Barela said he attended a few of the TDR workshops and while over the years he has become disillusioned by the unresponsiveness of government, in this particular instance government has been pro-active. He said he reviewed staff's amendments and found them to be sound and is pleased this meeting is being held to address this one item.

Tracey Neal supported the TDR program as a useful tool to preserve open space. He said he is particularly pleased that the taxpayers did not have to purchase the land.

ACTION

Amendment: County Ordinance 4.A and 4.B and EZ Ordinance D.1 and D.2

"... and the provisions of Section 14 of the EZ Ordinance and Article 16 of the County Code shall not apply without specific action taken as part of an annexation agreement."

1937835

Board of County Commissioners

Chair Duran moved to approve Ordinance 2001-7 with the staff amendments including the revised map [Exhibit 2]. The ordinance passed by majority [4-1] roll call vote: Commissioners Gonzales, Duran, Trujillo, and Campos voting aye, and Commissioner Sullivan voting nay.

Extraterritorial Zoning Authority

Commissioner Gonzales moved to approve Ordinance 2001-1 with the staff amendment [Exhibit 2] and the map. The ordinance passed by majority [3-1] roll call vote: Commissioners Gonzales and Duran and Councilor Martinez voting aye, and Commissioner Sullivan voting nay.

ADJOURNMENT

Chair Duran declared this meeting adjourned at approximately 8:05 p.m.

Approved by:
Board of County Commissioners

Paul Duran, Chair

Approved by:
EZ Authority

Jimmie Martinez, Chair

Respectfully submitted:

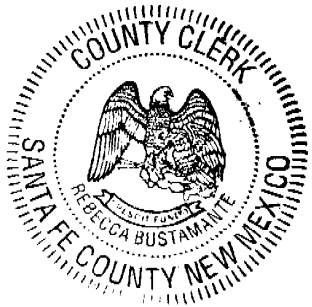
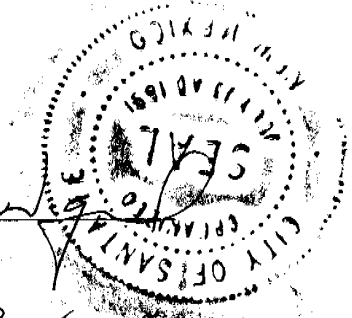
Karen Farrell

ATTEST TO:

Rebecca Bustamante
County Clerk

ATTEST TO:

Yolanda Vigil
City Clerk



1163.607
COUNTY OF SANTA FE
STATE OF NEW MEXICO } SS
I hereby certify that this instrument was filed
for record on the 11 day of July A.D.
20 01 at 8:07 o'clock 2m
and was duly recorded in book 1937
page 827-870 of the records of
Santa Fe County

Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.

Deputy

MEMORANDUM

TO: Commissioner Paul Duran
Commissioner Marcos Trujillo
Commissioner Paul Campos
Commissioner Javier Gonzales
Samuel Montoya, County Manager
Steve Kopelman, County Attorney

FROM: Commissioner Jack Sullivan

SUBJECT: Proposed TDR Ordinance - Concerns

DATE: May 30, 2001

1937836

MEMORANDUM RECORDING 08/16/2004

Outlined below is a summary of the concerns and issues I have brought forward regarding the proposed TDR ordinance. Because of his active sponsorship of the ordinance, I provided Commissioner Gonzales with a copy of my concerns on May 16th. He said he would have staff respond. In addition, I faxed them to Terry Brunner, at his request, last week.

No staff response has been received, other than another version of the ordinance which Commissioners received at 5:15 PM yesterday, to be considered at a joint BCC/EZA meeting scheduled by staff for today. Receipt of this material only one day before a BCC meeting does not meet the Commission's advance notification requirements, adopted by Resolution by the current Commission, the purpose of which is to give commissioners and the public reasonable notice to study and comment on proposed ordinance changes.

My concerns are as follows:

1. **TDR Manager** – Staff presentations by Mr. Preutz and Mr. Kolkmeier reported that TDR programs are normally administered by a land trust or other private non-profit organization, but that one could not be located.

It is my understanding that the Santa Fe Conservation Trust is quite interested in undertaking the task.

My concern is that by managing the program in-house, the County places itself and staff in a position of advocating specific developments rather than providing independent, unbiased review which is very important to me as a Commissioner.

1937837

In addition, by providing management assistance to developers, assistance that can be readily available for a fee through other private sources such as land trusts or even title companies, we are violating the anti-donation provisions of state statutes. We are also adding additional tasks to the planning staff, which we have been advised by its director on numerous occasions is already overloaded.

Recommendation: Delete the option of staff management of the TDR program to avoid the inherent conflicts which staff management creates.

2. **Former Potential Commercial Districts (“nodes”)** -Staff has designated 12 potential commercial nodes along the highway corridor as being eligible for the maximum 12 TDRs per acre (worth \$48,000 per acre) vs. 4 or 5 TDRs per acre allowed elsewhere.

Most of these designated nodes are not currently zoned commercial; they are only designated as *potential* commercial areas because they are within a given distance from road intersections. By treating them as commercial, we are *de facto* zoning them all commercial, when in fact they are not.

Areas within these highway corridor “nodes” which are not currently zoned commercial could still be eligible for 4 or 5 TDRs per acre or for normal residential development.

Recommendation: Revise the TDR allocations for sending areas to specify that only parcels currently zoned for commercial use are eligible for 12 TDRs per acre.

3. **Water and Sewer Services** - Development rights should only be transferred to urbanized areas that have full municipal or county utility services. As currently written, rights may be transferred to developments in non urban areas as long as they have community water and sewer systems. Community water systems can be nothing more than several wells connected together. Community sewer systems can be a series of septic tanks connected to a community disposal field.

Recommendation: Revise the ordinance to provide that receiving sites must be served by City or County water and sewer systems.

4. **Receiving Areas** - The proposed ordinance generates no benefit to receiving areas. The only thing they receive is more density and traffic. For this reason, it is best to test any new program such as this on a pilot basis. There are too many receiving areas (5). At a minimum, Area No. 1 located on either side of Richards Avenue should be eliminated. It is

already densely developed and planned, and Richards Avenue is already committed to its maximum capacity with developments already approved by the County, including the Community College and Rancho Viejo.

Recommendation: Delete receiving area no. 1 until the program has proven itself in other receiving areas.

5. **Public Purpose? Who Are We Benefiting?** - We need to ask the question: "Who are we benefiting, and is there any other way to achieve our goal of highway corridor protection?" The answer is that there is another way. The County can protect the highway corridor by passing the Highway Corridor ordinance, which has not been done.

Because there is another viable way to achieve our goal of protecting the highway corridor, the proposed ordinance has limited public purpose, benefiting **primarily** property owners within the 12 "potential" commercial node sending areas and, to a lesser degree, property owners within the Required Setback or Desired Setback of the Highway Corridor.

La Cienega and Santa Fe Canyon have been deleted from the ordinance because their Community Plan has not yet been adopted; however, there are receiving areas (more heavily impacted because they are receiving areas, not sending areas) which do not have community plans adopted either. Why are we moving forward in these areas with no community plans in place?

Recommendation: Because (1) protecting traditional and agricultural lands in La Cienega was a key goal of the TDR program which is now eliminated from the ordinance, and (2) receiving area impacts have not been taken into consideration in areas which do not have community plans, and (3) ordinance amendments have not been presented to the BCC or public on a timely basis, it appears that adoption of a TDR ordinance is premature, and should be considered at a later date.

In the interim, the Highway Corridor Plan should be adopted to provide the land use protections desired. The Highway Corridor Plan does not constitute a taking for which land owners need to be compensated. Residential development can proceed. It simply prohibits commercial development in certain areas, just as is routinely done through County and City zoning ordinances elsewhere.



Jack Sullivan

**Santa Fe County
Planning Division**

SFC CLERK RECORDING 08/16/2004

Memo

To: Board of County Commissioners
From: Jack Kolkmeier, Director/Planning Division JK
Xc: Roman Abeyta, Deputy Land Use Administrator RA
Anne Lovely, Attorney's Office
Date: 30 May 2001
Re: Recommendations for Changes and Amendments to the TDR Ordinance

1937839

BCC/First Public Hearing – May 8, 2001

Reconsider the Boundaries of Receiving Area #2.

Much of this area is already developed at low density residential.

Define rules for those portions also within the Sending Area of the Highway Corridor.

EZC Public Hearing – May 10, 2001

Clarify the eligibility rules for undevelopable properties within the Sending Area i.e. within the flood plain; on slopes greater than 30% etc. Are they eligible to use TDRs?

County should not use a TDR Bank.

Letter from Jim Siebert dated May 21, 2001

All issues addressed in proposed amendments except those concerning Section 4. C. and E. and 6.C.

CDRC Meeting – May 24, 2001

No formal amendments were recommended. Considerable discussion focused on the potential uses in the community of La Cienega.

Proposed Staff Amendments (Both Versions EZA/BCC)

1. **Map Modifications. Modify Receiving Areas #1 and #2 according to amended map.**

Indicate North, East, South and West Corridors on amended map.

2. **Section 3 Sending Areas – add the following: “Sending Areas within the Highway Corridor District shall be the Required and Desired Setbacks as determined by the Santa Fe Metro Area Highway Corridor Plan. Future Sending Areas for the La Cienega Community Zoning District and the La Cienega/Santa Fe Canyon Area may be defined by the La Cienega Community Plan.”**

Additional Desired Setback Sending Areas may be designated within the Highway Corridor by the BCC/EZA provided that these setbacks add to the visual or environmental protection of the Highway Corridor.

3. Section 3 A.2. c. – amended as follows:

County Version:

Former Potential Districts. Twelve (12) TDRs per net Sending Area acre for areas surrounding intersections at the NM 599/I-25 Interchange, Otto Rd./East Frontage Rd. Intersection, Airport Rd./ NM 599 Insection and I-25/La Cienega Exit Interchange, as previously identified as commercial districts pursuant to Article III, ...

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EZ Version

Former Poetential Districts. Twelve (12) TDRs per net Sending Area acre for areas surrounding intersections at County Road 62/Relief Route (NM 599), Relief Route(NM) 599/Richards, Richards/I-25, Albuquerque Hwy/I-25, St. Francis/I-25, Los Alamos Hwy/Relief Route (NM 599), Las Vegas Highway/I-25, Relief Route (NM 599)/Camino La Tierra, as previously identified as potential commercial districts pursuant to Section 6.B of the Extraterritorial Zoning Ordinance.

3. Section 3. A. 5.

TDRs can be transferred from qualifying land regardless of development restrictions including but not limited to the existence of floodways, floodplains and slopes greater than 30 percent.

4. Section 4.A

TDRs shall not be transferred to portions of this receiving area that are designated as Required or Desired Setbacks in the Highway Corridor Plan or to areas that cannot be developed due to environmental constraints including but not limited to floodways, floodplains and slopes greater than 30 percent.

For non-residential uses, developers must acquire (9) TDRs for each net acre of land rezoned commercial.

Upon annexation to the City of Santa Fe, all land regulations shall be governed by the City of Santa Fe General Plan Policies and Zoning Codes.

5. Section 4.B

TDRs shall not be transferred to portions of this receiving area that are designated as Required or Desired Setbacks in the Highway Corridor Plan or to areas that cannot be developed due to environmental constraints including but not limited to floodways, floodplains and slopes greater than 30 percent.

For non-residential uses, developers must acquire (9) TDRs for each net acre of land rezoned commercial.

Upon annexation to the City of Santa Fe, all land regulations shall be governed by the City of Santa Fe General Plan Policies and Zoning Codes.

6. Section 4.C

TDRs shall not be transferred to portions of this receiving area that are designated as Required or Desired Setbacks in the Highway Corridor Plan or to areas that cannot be developed due to environmental constraints including but not limited to floodways, floodplains and slopes greater than 30 percent.

For non-residential uses, developers must acquire 9 TDRs for each net acre of land rezoned commercial outside of the existing commercial district at the intersection of NM 599/Airport Rd.

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7. Section 4.D

TDRs shall not be transferred to portions of this receiving area that cannot be developed due to environmental constraints including but not limited to floodways, floodplains and slopes greater than 30 percent.

8. Section 4.E

Receiving Area 5 and Highway Corridor Fringe

Section 4.E.1.

Additional Receiving Areas may be designated within the Corridor Fringe provided that they meet the Criteria for establishing a TDRR-5 Zone.

Section 4.E.2.

Receiving Area #5 and Transfer of Development Rights Receiving/ 5 Units Per Acre Zone ("TDRR-5).

9. Section 6. B.

Rewritten as follows:

Developers are required to acquire an option to purchase TDRs prior to applying for master plan approval. Developers are required to own TDRs to receive preliminary development plan and/or plat approval of a development project that would require TDRs.



JAMES W. SIEBERT

AND ASSOCIATES, INC.

915 MERCER STREET * SANTA FE, NEW MEXICO 87501
(505) 983-5588 * FAX (505) 989-7313 * jwsiebert@aol.com

MAY 2001
RECEIVED
11 20 2001

SFC CLERK RECORDING 08/16/2004

MEMORANDUM

Date: May 21, 2001

1937842

To: Jack Kolkmeier

From: James W. Siebert *jws*

Re: TDR Regulations

I am submitting some requested changes to the language in the TDR Regulations. These changes are meant to clarify what I perceive to be issues that may create problems in the implementation of the Regulations. I am using the Extraterritorial version of the ordinance, with the understanding that the changes apply to the County Code version as well.

Section 3 Sending Areas

A.2. TDR Allocation

There is a reference to North and East Corridors and South and West Corridors. There is a Sending Area Map, but I do not see a reference on the map to these corridors. A mapped description should be included as an appendix.

Section 4 Receiving Areas

- A. Receiving Area 1: Urban Growth Area #1
- B. Receiving Area 2: Urban Growth Area #2

Add the following two sentences to the end of the paragraph A and B.

“One TDR is equivalent to 5,000 square feet of non-residential development, exclusive of porches, portals and similar areas which are roofed but not enclosed. Upon annexation to the municipal limits of the City of Santa Fe, all land use regulations shall be governed by the City of Santa Fe General Plan Policies and Zoning Codes.”

Jack Kolkmeier
TDR Regulations
May 21, 2001
Page 3

1937843

Section 6

B. Timing of TDR Acquisition

Developers are ~~not required to own~~ to acquire an option to purchase TDRs when applying for receiving master plan, preliminary plan, and final plan approval. ~~but are required to own TDRs to receive preliminary development plan approval of a development project that would require TDRs. However, developers may wish to obtain options to purchase TDRs at the master plan phase to be assured of TDR availability.~~

B. Sending Area Development Rights Extinguishment Procedures

Prior to recording of final development plan approval of a receiving site project requiring TDRs, the developer of that project shall provide to the TDR Manager a signed, written confirmation that the development rights on the sending area property have been extinguished. This document shall indicate the number of TDRs, and the receiving site project where those TDRs will be used. The document shall also state that the subject TDRs cannot be thereafter conveyed or used. If satisfied that all the information outlined above has been submitted and is complete, the TDR Manager shall record the confirmation document and notify the Santa Fe County Land Use Department that the TDR requirements needed for recording of the final development plan approval of the receiving site project have been met.

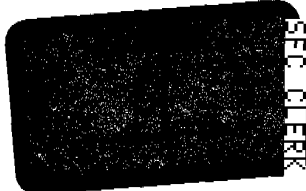
Master Plan does not automatically constitute approval of subsequent preliminary and final plans. Many times conditions are imposed which jeopardize the viability of the project. A developer should not have to commit to using the TDRs until there is an assurance that approval of the receiving site project is assured.

* underlines language is new.

Strike-through is recommended for deletion.

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Draft: 5-24-01 Ordinance



REC. CLERK RECORDING 08/16/2004

SANTA FE EXTRATERRITORIAL ZONING AUTHORITY

Ordinance No. 2001- _____

1937844

AN ORDINANCE CREATING A NEW SECTION 14 OF THE SANTA FE EXTRATERRITORIAL ZONING ORDINANCE (ORDINANCE 1997-4) AS AMENDED TO PROVIDE FOR LAND USE AND ZONING REGULATIONS FOR THE TRANSFER OF DEVELOPMENT RIGHTS

BE IT ORDAINED BY THE EXTRATERRITORIAL ZONING AUTHORITY (EZA) THAT THE SANTA FE EXTRATERRITORIAL ZONING ORDINANCE (EZO) IS HEREBY AMENDED AS FOLLOWS:

SECTION 14.1 TRANSFER OF DEVELOPMENT RIGHTS REGULATIONS

A. REFERENCES, PURPOSE AND DEFINITIONS

1. This EZA Ordinance 2001-____, as amended from time to time, may be cited as the "Transfer of Development Rights Ordinance" or the "TDR Ordinance."
2. Section 14 is adopted to implement the land use goals of County land use plans. These plans include but are not limited to the Santa Fe Metro Area Highway Corridor Plan ("Highway Corridor Plan"), the Santa Fe Extraterritorial Comprehensive Plan and the Growth Management Plan as they currently exist and as they may be amended.
3. Section 14 shall govern and control the allocation transfer and use of transferable development rights within Santa Fe County. Any contradiction, inconsistency or ambiguity between the requirements of this Section 14 and any other provision of the Extraterritorial Zoning Ordinance shall be governed and controlled by the requirements of this Section 14. If not specifically covered in Section 14, the provisions of the Extraterritorial Zoning Ordinance shall apply.

4. Definitions:

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5 a. Corridor Fringe means the area within the Highway Corridor District
6 that is not Required Setback, Desired Setback, or designated for
7 non-residential uses as depicted in the Highway Corridor Plan.
8 b. Desired Setback is the area depicted in the Santa Fe Metro Area
9 Highway Corridor Plan.
10 c. Developed means a lot with at least one existing dwelling unit or
11 commercial structure.
12 d. Highway Corridor Sending Areas, East Corridor means the portion
13 of the Highway Corridor District on Interstate I-25 ("I-25"), east of
14 Cerrillos Road, North Corridor means the portion of the Highway
15 Corridor District on New Mexico State Highway 599 ("NM-599")
16 north of Airport Road, South Corridor means the portion of the
17 Highway Corridor District on NM-599 south of Airport Road, West
18 Corridor means the portion of the Highway Corridor District on I-25,
19 west of Cerrillos Road.
20 e. Minimum Sending Lot Size means the smallest lot size that
21 qualifies as a sending site for TDRs. The minimum size refers to
22 the area of the entire lot, not just a lot portion located within one of
23 two or more sending site categories
24 f. Net Sending Area means the land area of a lot or lot portion after
25 the following area deductions: (1) the area of land precluded from
26 development by dedications and deed restrictions imposed prior to
27 TDR deed restrictions, (2) for each existing dwelling unit, the net
28 sending area shall be reduced by the minimum lot size allowed in
29 the underlying zoning district. At the time of adoption of this
30 Section 14, 2.5 acres would be deducted for each existing dwelling
31 unit in all four Highway Corridor District sending areas as well as
32 the Santa Fe Canyon sending area. Similarly, 0.75 acres would be
33 deducted for each existing dwelling unit in the Traditional
34 Community Zone category of the La Cienega Community Plan
35 Area.
36 g. Receiving Area is an area designated by the Extraterritorial Zoning
37 Ordinance as appropriate for development beyond its base
38 development limits through the transfer of development rights.
39 h. Required Setback is the area depicted in the Santa Fe Metro Area
40 Highway Corridor Plan
41 i. Riparian Land means land that contains or abuts an acequia,
42 spring, stream, river, natural wetlands, natural animal habitats
43 associated with water or natural wetlands, or tree and vegetation
44 areas associated with water or natural wetlands.

- 1 j. Sending Area means an area designated by the Extraterritorial
2 Zoning Ordinance as a sending area appropriate for the
3 conveyance of transferable development rights from the area.
4 k. Transferable Development Rights ("TDRs") means the potential
5 development that may be transferred from a sending area as
6 designated by the Extraterritorial Zoning Ordinance and used at a
7 designated receiving site to allow additional residential or non-
8 residential development as determined by the Extraterritorial
9 Zoning Ordinance. TDR allocations and requirements are
10 expressed in whole numbers, rounding up if .5 or higher.
11 l. Transfer Development Right Threshold ("TDR Threshold") is the
12 existing underlying zoning in the County.
13 m. Transfer of Development Rights means the conveyance of TDRs by
14 deed, easement or other legal instrument to another parcel of land
15 and the recordation of that conveyance among the land records of
16 Santa Fe County.
17 n. Undeveloped means a lot with no existing dwelling units or
18 commercial structures.
19

20 **B. ADOPTION OF HIGHWAY CORRIDOR SENDING AREA MAP AND**
21 **RECEIVING AREA MAP**
22

- 23 1. The Highway Corridor Sending Area Map (EZO Map 16) and the
24 Receiving Area Map (EZO Map 17) attached to this ordinance are hereby
25 adopted and incorporated into the Extraterritorial Zoning Ordinance. The
26 sending areas and receiving areas depicted and shown on the above
27 referenced maps are hereby created, established and adopted.
28

29 **C. SENDING AREAS**
30

31 **Sending Areas within the Highway Corridor District shall be the Required**
32 **and Desired Setbacks as determined by the Santa Fe Metro Area Highway**
33 **Corridor Plan. Future Sending Areas for the La Cienega Community**
34 **Zoning District and the La Cienega/Santa Fe Canyon Area may be defined**
35 **by the La Cienega Community Plan.**
36

37 **Additional Desired Setback Sending Areas may be designated within the**
38 **Highway Corridor by the BCC/EZA provided that these setbacks add to the**
39 **visual or environmental protection of the Highway Corridor.**
40

41 Owners of land within any sending area are not required to transfer TDRs. The
42 transfer of TDRs is an option that owners may voluntarily choose to use or not
43 use.
44

- 45 1. Highway Corridor District: Sending Areas
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- a. Minimum Sending Lot Size:
 - 1) Undeveloped: No minimum lot size
 - 2) Developed: five (5) acres

- b. TDR Allocations:
 - 1) North & East Corridors: five (5) TDRs per net sending area acre

 - 2) South & West Corridors: four (4) TDRs per net sending area acre

 - 3) Former Potential Districts ("nodes"): twelve (12) TDRs per net sending area acre for areas surrounding intersections at County Road 62/Relief Route, Relief Route/Richards, Richards/I-25, Albuquerque Hwy/I-25, St. Francis/I-25, Los Alamos Hwy/Relief Rout, Las Vegas Highway/I-25, Relief Route/Camino La Tierra, as previously identified as potential commercial districts in Section 6.B.4 of the Santa Fe Extraterritorial Zoning Ordinance ("EZO"), ~~and Article III, Section 4 of the Santa Fe County Land Development Code,~~ but subsequently designated for setbacks by the Highway Corridor Plan

- c. Qualifying Lots:

TDRs may be transferred from an **entire lot** if either of the following two conditions is satisfied:

 - 1) The lot is entirely within the Required Setback or the Desired Setback or entirely within both the Required and Desired Setbacks.

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2) The lot is partly within the Required and/or Desired Setback and the portion of the lot that is not within the Desired Setback is less than 2.5 acres.

d. Lot Portions:

TDRs may be transferred from those **lot portions** that are within the Desired Setback or the Desired and Required Setback but not any portion of those lots that are 2.5 acres or more in size and lie outside these setbacks. TDRs shall not be transferred from lots or lot portions in the Required Setback if no portion of the lot is within the Desired Setback and the portion of the lot that is not within the Required Setback is 2.5 acres or more in size.

e. TDRs can be transferred from qualifying land regardless of development restrictions including but not limited to the existence of floodways, floodplains, and slopes greater than thirty (30%) percent.

D. RECEIVING AREAS

1. Receiving Area 1: Urban Growth Area #1

The Santa Fe County Growth Management Plan designates urban Growth Area #1. No TDRs are required to achieve the threshold density. To exceed threshold density, one TDR must be transferred to this area for each additional dwelling unit permitted in excess of the TDR Threshold.

TDRs shall not be transferred to portions of this receiving area that are designated as Required or Desired Setbacks in the Highway Corridor Plan or to areas that cannot be developed due to environmental constraints including but not limited to floodways, floodplains and slopes greater than thirty (30%) percent.

For non-residential uses, developers must acquire (9) TDRs for each net acre of land rezoned commercial.

Upon annexation to the City of Santa Fe, all land regulations shall be governed by the City of Santa Fe General Plan Policies and Zoning Codes.

2. Receiving Area 2: Urban Growth Area #2

The Santa Fe County Growth Management Plan designates urban Growth Area #2. No TDRs are required to achieve the threshold density. To exceed threshold density, one TDR must be transferred to this area

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for each additional dwelling unit permitted in excess of the TDR Threshold.

TDRs shall not be transferred to portions of this receiving area that are designated as Required or Desired Setbacks in the Highway Corridor Plan or to areas that cannot be developed due to environmental constraints including but not limited to floodways, floodplains and slopes greater than thirty (30%) percent.

For non-residential uses, developers must acquire (9) TDRs for each net acre of land rezoned commercial.

Upon annexation to the City of Santa Fe, all land regulations shall be governed by the City of Santa Fe General Plan Policies and Zoning Codes.

- 3. Receiving Area 3: Redevelopment District
The Redevelopment District is designated in the Highway Corridor Plan as appropriate for retail, business-park, light industrial and other non-residential uses. No TDRs are required to achieve the threshold density. For non-residential uses, developers must acquire nine (9) TDRs for each net acre of land rezoned commercial.

TDRs shall not be transferred to portions of this receiving area that are designated as Required or Desired Setbacks in the Highway Corridor Plan or to areas that cannot be developed due to environmental constraints including but not limited to floodways, floodplains and slopes greater than thirty (30%) percent.

- 4. Receiving Area 4: Airport Development District
The Airport Development District is described in the Growth Management Plan as appropriate for residential and non-residential development. **TDRs shall not be transferred to portions of this receiving area that cannot be developed due to environmental constraints including but not limited to floodways, floodplains and slopes greater than thirty (30%) percent.**
 - a. Residential Development:
To exceed the TDR threshold, one TDR must be transferred to this area for each additional dwelling unit permitted in excess of the TDR Threshold.

- b. Non-Residential Development:

1 For non-residential uses, developers must acquire nine (9) TDRs for
 2 each net acre of land rezoned commercial.

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 6 5. Receiving Area 5 and Highway Corridor Fringe

- 7
 8 a. The Corridor Fringe is designated in the Highway Corridor Plan.
 9 **Additional Receiving Areas may be designated within the**
 10 **Corridor Fringe provided that they meet the Criteria for**
 11 **establishing a TDRR-5 Zone.**

12 To exceed the TDR Threshold, one TDR must be transferred to this
 13 area for each additional dwelling unit.

- 14
 15
 16 b. Transfer of Development Rights Receiving **Area #5 and Transfer of**
 17 **Development Rights Receiving / 5 Units Per Acre Zone**
 18 **("TDRR-5")**

19 The County may rezone land in the Corridor Fringe to a zoning
 20 district of Transfer of Development Rights Receiving: 5 Units Per
 21 Acre Zone

22
 23 1) Criteria

24 Applicants requesting a rezoning to the TDRR-5 zoning
 25 district must demonstrate that the following criteria are met
 26 to the satisfaction of the Extraterritorial Zoning Authority.

- 27
 28 a) The property shall be located within the Corridor Fringe as
 29 depicted in the Highway Corridor Plan.
 30 b) The property shall not be located within any community
 31 planning district other than the Highway Corridor District.
 32 c) The property shall be served by community sewer and water
 33 systems.
 34 d) The property shall be located within ¼ mile of existing
 35 commercial uses or land zoned and/or approved for
 36 commercial uses.
 37 e) The property shall be served by vehicular access that meets
 38 all County roadway requirements.
 39 f) The TDRR-5 zoning shall not be applicable until the applicant
 40 has permanently transferred one TDR for each additional
 41 dwelling unit above the established TDR threshold.

42
 43 2) Uses and Development Standards

- 44
 45 a) Allowed uses in the TDRR-5 zone shall be one single-family
 46 residential dwelling unit for each individual single-family

- 1 residential lot as well as all uses permitted by the underlying
2 County zoning.
- 3 b) The developer may elect to exceed the TDR threshold density
4 by transferring to this site one TDR for each residential
5 dwelling unit above the TDR threshold density. The maximum
6 density shall be five dwellings per net acre. A final subdivision
7 map allowing densities above the TDR threshold shall not be
8 approved until the required number of TDRs have been
9 extinguished as prescribed in the Procedures Section of this
10 ordinance.
- 11 c) Current Extraterritorial Zoning Ordinance requirements shall
12 apply to this zoning district for all development standards that
13 are not specifically imposed by the following development
14 standards, which implement the policies of the Highway
15 Corridor Plan.
- 16
- 17 1. Maximum building size shall be 5,000 square feet. (The
18 size of attached garages shall be included in total building
19 size.)
- 20
- 21 2. Maximum building height shall be 24 feet.
- 22
- 23 3. Maximum lot coverage shall be 60 percent including
24 parking and structures. (40 percent minimum undisturbed
25 area.)
- 26
- 27 4. Any goods, equipment or materials not enclosed in a
28 roofed building shall be considered outside storage.
29 Outside storage areas shall not exceed 400 square feet
30 and shall not be visible from the public R.O.W. or adjacent
31 properties. A stucco wall shall enclose all outdoor storage
32 areas at least 6 feet and not more than eight feet high.
- 33
- 34 5. Landscaping shall comply with the standards of Section
35 11.10.B of the Santa Fe Extraterritorial Zoning Ordinance
36 including but not limited to the following:
- 37 a. Only drought-tolerant species shall be located outside
38 of protected courtyards.
- 39 b. Native species and topography shall be preserved on
40 undeveloped areas of property.
- 41 c. For screening of buildings from adjacent roadways, 50
42 percent of all new trees shall be evergreen, minimum 6
43 feet height with 1.5 inch caliper at planting. Acceptable
44 species include: Rocky Mountain juniper (*Juniperus*
45 *scopulorum* cultivars), One-seed juniper (*Juniperus*
46 *monospermia*), Bristlecone pine (*Pinus aristata*), Pinon

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(Pinus edulis), Austrian black pine (Pinus nigra), Ponderosa (Pinus ponderosa) and Scotch Pines (Pinus sylvestris), and Japanese black pine (Pinus thunbergiana).

- d. All pinons over 4 inch caliper that cannot be preserved shall be replaced with minimum 8 feet tall pinons. Pinons shall be plated, irrigated and maintained at a density commensurate with the existing natural landscape.

6. Site Walls

- a. Maximum height for retaining walls on site is 4 feet. Walls may be stepped back a minimum of 3 feet if additional height is necessary.
- b. Maximum height for site walls (stone, stucco or combination with solid wood fence) shall be 6 feet except screening of outdoor storage may be 8 feet.

7. Lighting shall meet current EZOCOUNTY standards including but not limited to the following:

- a. Overhead utilities, including streetlights shall not be located within the required setback area.
- b. All lighting, including signs, shall be fully shielded and directed down.
- c. A maximum of 0.5 average horizontal footcandles shall be permitted.
- d. Parking and security lights shall not be taller than buildings (maximum 24 feet).
- e. Landscape lighting shall be limited to a maximum height of 4 feet.
- f. Façade lighting shall not be used.
- g. Streetlights shall be determined according to AASHTO standards and the Manual of Uniform Control Devices.

8. Other Architectural Standards

- a. Buildings shall be designed with a minimum of 3 distinct masses to be defined by 4 feet of change in both the vertical and horizontal direction.
- b. Building exteriors shall be finished predominantly with earth-tone colors with 5 percent of frontage in brighter highlight and trim colors permitted.
- c. Building roofs shall be limited to a maximum Light Reflective Value of 30 percent.
- d. Building exteriors shall be limited to a maximum Light Reflective Value of 40 percent.

- 1 e. All buildings shall employ Southwestern architectural
 2 styles.
 3 f. The predominant exterior material shall be stucco.
 4 g. Skylights and other rooftop structures and mechanical
 5 equipment shall be setback a minimum of 2 feet from
 6 the building face edges and screened as part of the
 7 building design.
 8 h. Building roofs shall be flat.
 9
 10 9. Community parking lots, if any, shall adhere to the
 11 following standards.
 12 a. Community parking lots shall be located to the sides
 13 and rear of the proposed buildings to minimize the
 14 visual impact from the highway and adjacent residential
 15 properties.
 16 b. Community parking lots shall be screened from the
 17 public R.O.W. by landscape berms (minimum 3 feet,
 18 3:1 maximum side slopes) or walls with landscaping
 19 (minimum 3 feet, maximum 4 feet). Berms may be
 20 combined with walls to provide screening.
 21 c. Community parking lots shall be screened from
 22 adjacent residential properties by a stucco wall
 23 (minimum 4 feet; maximum 6 feet) and landscaping or
 24 naturalistic berm (minimum 3 feet; 3:1 maximum side
 25 slopes).
 26
 27 10. Site Planning
 28 a. Access and internal roads shall be limited to two lanes.
 29 b. Pedestrian and bicycle trails (and equestrian trails
 30 where possible) shall be provided and shall be linked,
 31 when possible, to a master plan trail system and to
 32 trails in the R.O. W and shall be granted for public use.
 33 c. Trails and sidewalks shall be connected to non-
 34 residential services.
 35 d. Pedestrian walkways shall be provided within parking
 36 lots, if any.
 37 e. Natural features such as arroyos, ridge tops and large
 38 trees shall be preserved wherever possible.

39
 40 **E. SENDING AREA PROCEDURES**

- 41
 42 1. Sending Area Owner Options
 43 In conjunction with the deed restriction of an undeveloped sending site, a
 44 property owner may request to convey title to that land to the County or
 45 to other entities authorized by the County to accept title including private
 46 land trusts and non-profit organizations. The TDR Manager shall

1 determine whether or not to accept title based on guidelines approved by
2 the County Land Use Administrator. In developing these guidelines, the
3 County may elect to only allow the conveyance of title to a land trust,
4 non-profit organization or other entity rather than the County. Any
5 landowners requesting to convey title shall demonstrate that the subject
6 site meets environmental standards set forth in those guidelines.
7

8 **2. Sending Site Owner Applies for TDR Easement Approval and**
9 **Recordation**

10 Property owners who wish to transfer TDRs shall apply for approval and
11 recordation of a TDR Easement by submitting to the TDR Manager an
12 application, application fee, title report and signed but unrecorded TDR
13 Easement using forms approved by Santa Fe County. The TDR
14 Easement shall specify the amount of future development to be retained,
15 if any, and the uses allowed on the sending site following recordation.
16 The TDR easement shall state that the grantee of the easement is Santa
17 Fe County and/or a land trust or non-profit organization authorized by
18 Santa Fe County.
19

20 **3. TDR Manager Approves the Application and Records the TDR**
21 **Easement** The TDR Manager shall review the application, title report and
22 unrecorded TDR Easement. If satisfied that the information is complete,
23 the TDR Manager shall approve the TDR Easement. The easement shall
24 include the number of TDRs available for transfer and the serial numbers
25 assigned to these TDRs. The TDR Manager shall record the completed
26 and approved TDR Easement. The TDR Easement shall be recorded
27 before recordation of a Deed of Transfer of Development Rights and
28 before final development plan approval of the receiving site development
29 that requires these TDRs.
30

31 **4. Deed of Transfer of Development Rights**

32 In order to transfer TDRs, the sending site owner shall complete and
33 record a Deed of Transfer of Development Rights using a form approved
34 by Santa Fe County. This Deed shall not be recorded prior to recordation
35 of the corresponding TDR Easement. The Deed shall identify the TDR
36 Easement that created the TDRs, the number of rights conveyed by the
37 Deed, the serial numbers of these TDRs, the property to which these
38 TDRs were originally attached and prior Deeds of Transfer of
39 Development Rights, if any. A new Deed of Transfer of Development
40 Rights shall be recorded each time TDRs are conveyed. TDRs may be
41 conveyed to brokers, developers, investors or any other party before
42 they are ultimately used at a TDR receiving site.
43

1 **F. RECEIVING AREA PROCEDURES**

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3 1. Receiving Area Designation.

4 Section D of this article designates TDR receiving areas, indicates the
5 density threshold for TDRs in each receiving area and states the number
6 of TDRs needed to exceed the TDR threshold. Other than the
7 requirement to obtain TDRs to exceed this threshold, all other
8 requirements and procedures applicable to receiving area development
9 remain unchanged by this Section 14.

10
11 2. Timing of TDR Acquisition.

12 **Developers are required to acquire an option to purchase TDRs**
13 **prior to applying for master plan approval. Developers are required**
14 **to own TDRs to receive preliminary development plan and/or plat**
15 **approval of a development project that would require TDRs.**

16 ~~Developers are not required to own TDRs when receiving master plan~~
17 ~~approval but are required to own TDRs to receive preliminary~~
18 ~~development plan approval of a development project that would require~~
19 ~~TDRs. However, developers may wish to obtain options to purchase~~
20 ~~TDRs at the master plan phase to be assured of TDR availability.~~

21
22 3. Sending Area Development Rights Extinguishment Procedures

23 Prior to final development plan approval of a receiving site project
24 requiring TDRs, the developer of that project shall provide to the TDR
25 Manager a signed, written confirmation that the development rights on
26 the sending area property have been extinguished. This document shall
27 indicate the number of TDRs being used, the serial numbers of those
28 TDRs, the Deed of Transfer of the TDRs, and the receiving site project
29 where these TDRs will be used. The document shall also state that the
30 subject TDRs cannot be thereafter conveyed or used. If satisfied that all
31 the information outlined above has been submitted and is complete, the
32 TDR Manager shall record the confirmation document and notify the
33 Santa Fe County Land Use Department that the TDR requirements
34 needed for final development plan approval of the receiving site project
35 have been met.

36
37 4. Deed Restriction Requirements

38 Along with the confirmation document, a recorded deed that indicates the
39 restrictions to the deed after the TDR transfer shall be submitted .
40

41 **G. TDR MANAGER**

42
43 1. Appointment of TDR Manager

44 The Santa Fe Board of County Commissioners shall appoint a TDR
45 Manager. The TDR Manager may be an employee of Santa Fe County,
46 a firm or individual contracted to perform this duty or a land trust or other

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non-profit organization authorized to do this work. The Board may change this appointment at any time for the benefit of the TDR program.

2. Duties of TDR Manager

- a. The TDR Manager shall develop forms and written procedures that implement this Section 14 to the satisfaction of the Santa Fe County Attorney.
- b. The TDR Manager shall perform all duties assigned to the TDR Manager as required under this Section 14.
- c. The TDR Manager shall provide information to the general public on the program, promote the program to landowners and developers and maintain a list of all parties potentially interested in selling or buying TDRs.
- d. The TDR Manager shall be responsible for the operation of the TDR bank if a TDR bank is created.

3. TDR Bank

If and when the TDR Manager believes that a TDR Bank would improve the Santa Fe County TDR Program, the TDR Manager shall report that finding to the Board of County Commissioners and the Board may authorize the TDR Manager to create a TDR Bank and TDR Bank Program.

H. EFFECT ON APPROVED MASTER PLAN, AND PRELIMINARY AND FINAL PLANS

SF Conservation Trust

- 1. In receiving areas, the requirement to obtain TDRs to exceed the TDR Thresholds outlined in this Section 14 shall not apply to projects that have a recorded final development plan or have received approval for a master plan, preliminary development plan or final development plan.

I. REVIEW PROCEDURES AND SUBMITTAL REQUIREMENTS

- 1. In addition to the requirements under this Section 14, development standards criteria and submittal requirements set forth in Section 9, 10, 11, 12 and the Extraterritorial Subdivision Regulations and all the general requirements of the Santa Fe Extraterritorial Zoning Ordinance shall apply.

J. SEVERABILITY

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- 1. The provisions of this Ordinance are severable, and if any provision, sentence, clause, section, or any part thereof is held illegal, invalid, unconstitutional, or inapplicable, it shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance or their application to other persons or circumstances.

K. EFFECTIVE DATE

- 1. The Transfer of Development Rights Ordinance shall become effective on the 30th day after recording of this Ordinance in the Offices of the County Clerk.

PASSED, ADOPTED AND APPROVED this ___ day of ____, 2001, by the Extraterritorial Zoning Authority.

JIMMY MARTINEZ, CHAIRMAN

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

COUNTY ATTORNEY

CERTIFICATE OF FILING

I, Rebecca Bustamante, County Clerk, do hereby certify that the foregoing ordinance, designated as Ordinance No. 2001 - ____, was filed in my office on the ___ day of ____, 2001, in book Number ___ at Page _____.

SANTA FE COUNTY CLERK

CERTIFICATE OF FILING

I, Yolanda Y. Vigil, City Clerk, do hereby certify that the foregoing ordinance, designated as Ordinance No. 2001 - ____, was filed in my office on the ___ day of ____, 2001, in book Number ___ at Page _____.

1937858

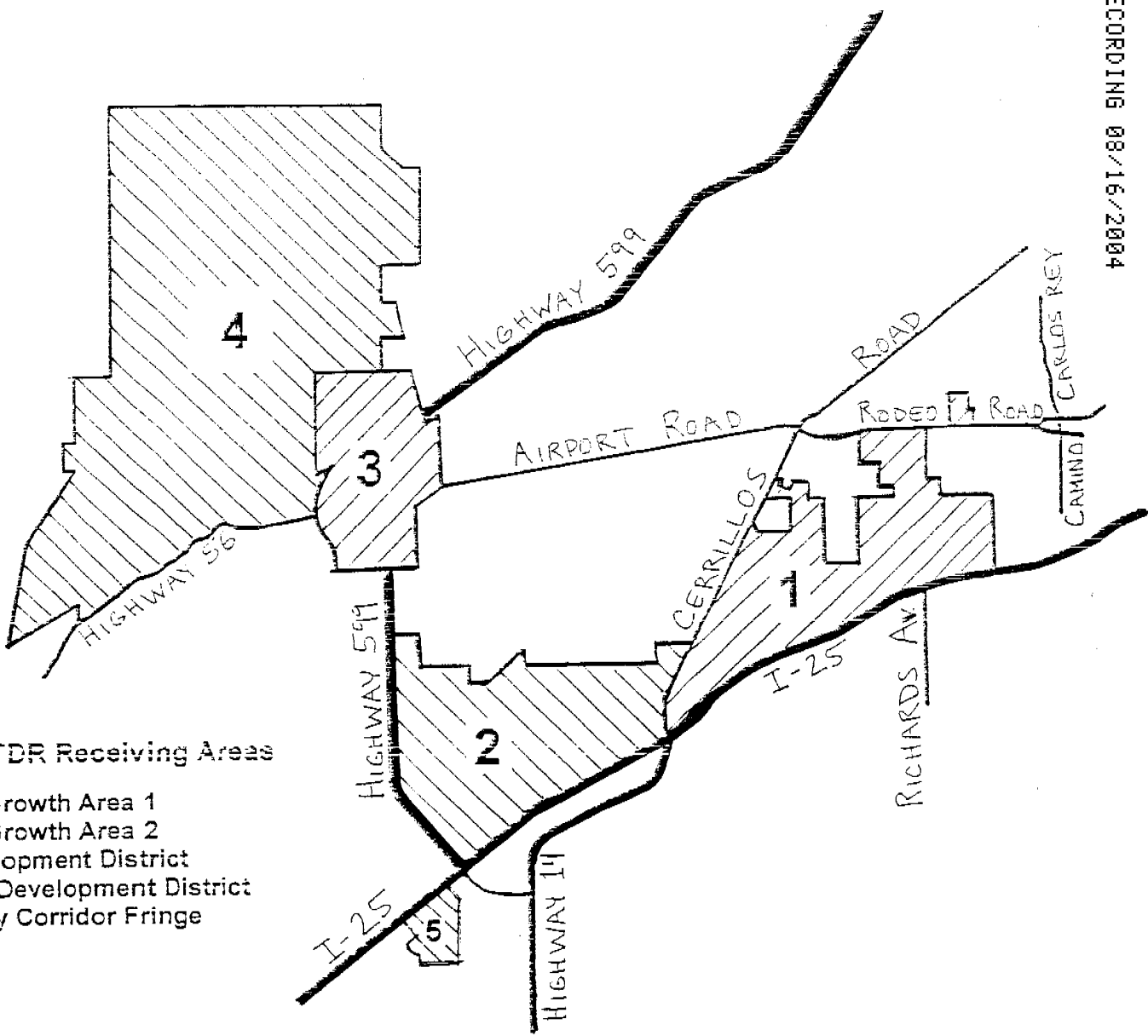
SANTA FE CITY CLERK

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TRANSFER OF DEVELOPMENT RIGHTS (TDR)
RECEIVING AREA MAP

1937859

SFC CLERK RECORDING 08/16/2004



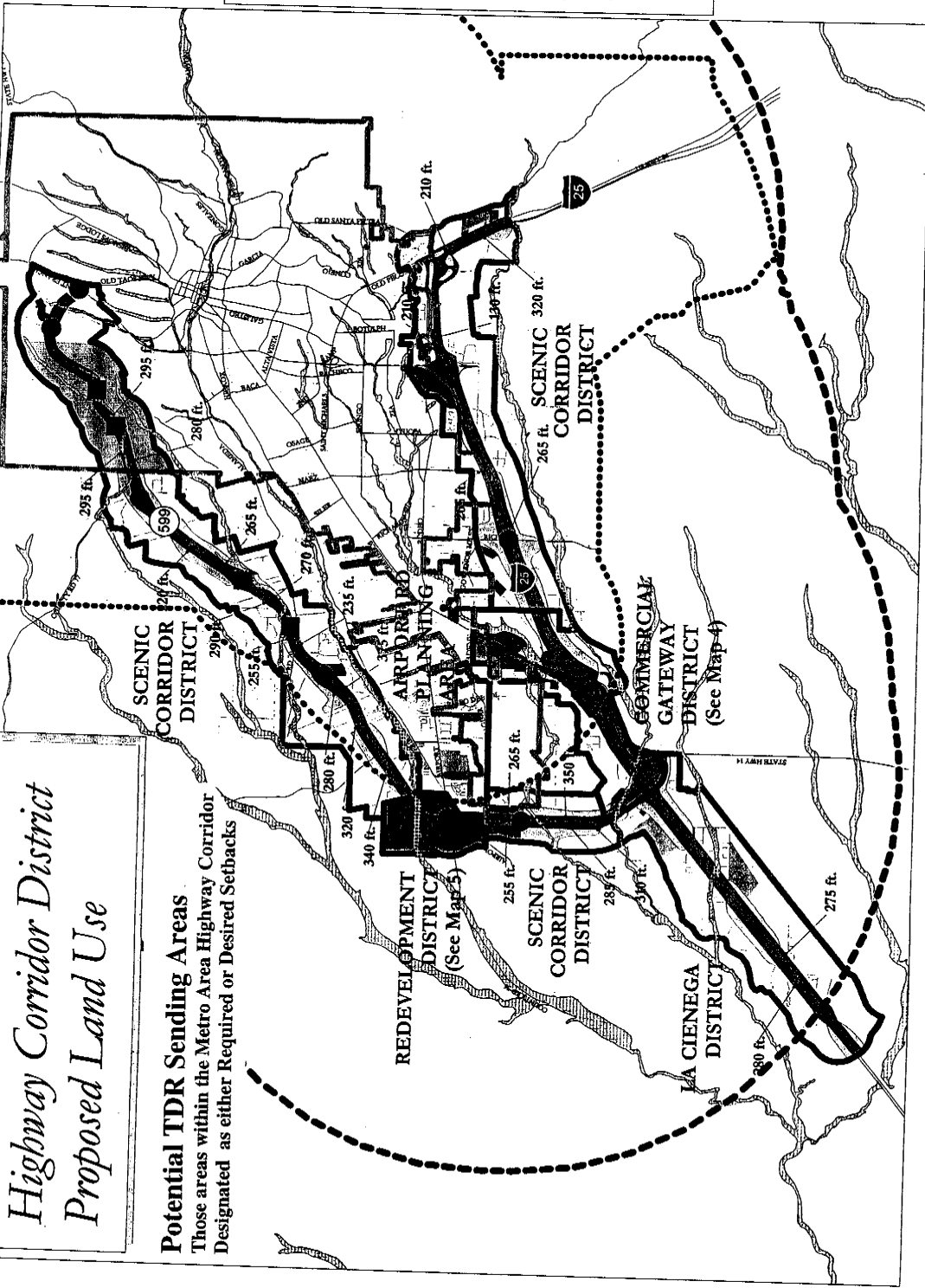
Proposed TDR Receiving Areas

- 1 Urban Growth Area 1
- 2 Urban Growth Area 2
- 3 Redevelopment District
- 4 Airport Development District
- 5 Highway Corridor Fringe

TRANSFER OF DEVELOPMENT RIGHTS (TDR)
HIGHWAY CORRIDOR SENDING AREA MAP 16

*Highway Corridor District
Proposed Land Use*

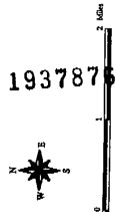
Potential TDR Sending Areas
Those areas within the Metro Area Highway Corridor
Designated as either Required or Desired Setbacks



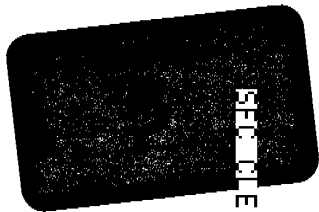
Map 3
*Highway Corridor District
Proposed Land Use
(as approved by
EZA on 5/30/00)*

Legend

- District Boundaries
- Proposed Land Uses**
 - Residential
 - Non-Residential
 - Institutional
 - Recreational
 - 100 Year Flood Zone
- Setback Requirements from ROW**
 - Required
 - Desired
- Santa Fe City Limits
- Major Roads
- Extraterritorial Boundary (5 mile)
- Extraterritorial Boundary (2 mile)
- Interchange Locations
- Over/Underpass Locations



Produced by: Planning and Land
Land Use Department
Planning Division
Phone: 7.26.00



RECORDER RECORDING 08/16/2004

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Draft: 5-8-1Ordinance

SANTA FE COUNTY

Ordinance No. 2001- _____

1937861

AN ORDINANCE CREATING A NEW ARTICLE XVI OF THE SANTA FE COUNTY LAND DEVELOPMENT CODE (ORDINANCE 1996-10) AS AMENDED TO PROVIDE FOR LAND USE AND ZONING REGULATIONS FOR THE TRANSFER OF DEVELOPMENT RIGHTS

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SANTA FE THAT THE SANTA FE COUNTY LAND DEVELOPMENT CODE IS HEREBY AMENDED AS FOLLOWS:

ARTICLE XVI TRANSFER OF DEVELOPMENT RIGHTS REGULATIONS

SECTION 1 REFERENCES, PURPOSE AND DEFINITIONS

- A. This BCC Ordinance 2001- XVI, as amended from time to time, may be cited as the "Transfer of Development Rights Ordinance" or the "TDR Ordinance."
- B. Article XVI is adopted to implement the land use goals of County land use plans. These plans include but are not limited to the Santa Fe Metro Area Highway Corridor Plan ("Highway Corridor Plan"), the La Cienega Community Plan and the Growth Management Plan as they currently exist and as they may be amended.
- C. Article XVI shall govern and control the allocation transfer and use of transferable development rights within Santa Fe County. Any contradiction, inconsistency or ambiguity between the requirements of this Article XVI and any other provision of the Land Development Code shall be governed and controlled by the requirements of this Article XVI. If not specifically covered in Article XVI, the provisions of the Land Development Code shall apply.

1 D. Definitions:

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- 3 1. Corridor Fringe means the area within the Highway Corridor District
4 that is not Required Setback, Desired Setback, or designated for
5 non-residential uses as depicted in the Highway Corridor Plan.
- 6 2. Desired Setback is the area depicted in the Santa Fe Metro Area
7 Highway Corridor Plan.
- 8 3. Developed means a lot with at least one existing dwelling unit or
9 commercial structure.
- 10 4. Highway Corridor Sending Areas, East Corridor means the portion
11 of the Highway Corridor District on Interstate I-25 ("I-25"), east of
12 Cerrillos Road, North Corridor means the portion of the Highway
13 Corridor District on New Mexico State Highway 599 ("NM-599")
14 north of Airport Road, South Corridor means the portion of the
15 Highway Corridor District on NM-599 south of Airport Road, West
16 Corridor means the portion of the Highway Corridor District on I-25,
17 west of Cerrillos Road.
- 18 5. Minimum Sending Lot Size means the smallest lot size that
19 qualifies as a sending site for TDRs. The minimum size refers to
20 the area of the entire lot, not just a lot portion located within one of
21 two or more sending site categories
- 22 6. Net Sending Area means the land area of a lot or lot portion after
23 the following area deductions: (1) the area of land precluded from
24 development by dedications and deed restrictions imposed prior to
25 TDR deed restrictions, (2) for each existing dwelling unit, the net
26 sending area shall be reduced by the minimum lot size allowed in
27 the underlying zoning district. At the time of adoption of this Article,
28 2.5 acres would be deducted for each existing dwelling unit in all
29 four Highway Corridor District sending areas as well as the Santa
30 Fe Canyon sending area. Similarly, 0.75 acres would be deducted
31 for each existing dwelling unit in the Traditional Community Zone
32 category of the La Cienega Community Plan Area.
- 33 7. Receiving Area is an area designated by the Land Development
34 Code as appropriate for development beyond its base development
35 limits through the transfer of development rights.
- 36 8. Required Setback is the area depicted in the Santa Fe Metro Area
37 Highway Corridor Plan
- 38 9. Riparian Land means land that contains or abuts an acequia,
39 spring, stream, river, natural wetlands, natural animal habitats
40 associated with water or natural wetlands, or tree and vegetation
41 areas associated with water or natural wetlands.
- 42 10. Sending Area means an area designated by the Land Development
43 Code as a sending area appropriate for the conveyance of
44 transferable development rights from the area.
- 45 11. Transferable Development Rights ("TDRs") means the potential
46 development that may be transferred from a sending area as

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designated by the Land Development Code and used at a designated receiving site to allow additional residential or non-residential development as determined by the Land Development Code. TDR allocations and requirements are expressed in whole numbers, rounding up if .5 or higher.

- 12. Transfer Development Right Threshold ("TDR Threshold") is the existing underlying zoning in the County.
- 13. Transfer of Development Rights means the conveyance of TDRs by deed, easement or other legal instrument to another parcel of land and the recordation of that conveyance among the land records of Santa Fe County.
- 14. Undeveloped means a lot with no existing dwelling units or commercial structures.

SECTION 2 ADOPTION OF HIGHWAY CORRIDOR SENDING AREA MAP AND RECEIVING AREA MAP

The Highway Sending Area Map and the Receiving Area Map attached to this ordinance are hereby adopted and incorporated into the Land Development Code. The sending areas and receiving areas depicted and shown on the above referenced maps are hereby created, established and adopted.

SECTION 3 SENDING AREAS

Sending Areas within the Highway Corridor District shall be the Required and Desired Setbacks as determined by the Santa Fe Metro Area Highway Corridor Plan. Future Sending Areas for the La Cienega Community Zoning District and the La Cienega/Santa Fe Canyon Area may be defined by the La Cienega Community Plan.

Additional Desired Setback Sending Areas may be designated within the Highway Corridor by the BCC/EZA provided that these setbacks add to the visual or environmental protection of the Highway Corridor.

Owners of land within any sending area are not required to transfer TDRs. The transfer of TDRs is an option that owners may voluntarily choose to use or not use.

A. Highway Corridor District: Sending Areas

- 1. Minimum Sending Lot Size:
 - a. Undeveloped: No minimum lot size
 - b. Developed: five (5) acres
- 2. TDR Allocations:
 - a. North & East Corridors: five (5) TDRs per net

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sending area acre

b. South & West Corridors: four (4) TDRs per net sending area acre

c. Former Potential Districts ("nodes"): twelve (12) TDRs per net sending area acre for areas surrounding intersections at the State road 599/I-25 Interchange and I-25/La Cienega exit Interchange, previously identified as potential commercial districts in Section 6.B.4 of the Santa Fe Extraterritorial Zoning Ordinance ("EZO"), and Article III, Section 4 of the Santa Fe County Land Development Code, but subsequently designated for setbacks by the Highway Corridor Plan

*Commercially zoned
fract
Commercially zoned tract*

- 3. Qualifying Lots:
TDRs may be transferred from an **entire lot** if either of the following two conditions is satisfied:
 - a. The lot is entirely within the Required Setback or the Desired Setback or entirely within both the Required and Desired Setbacks.
 - b. The lot is partly within the Required and/or Desired Setback and the portion of the lot that is not within the Desired Setback is less than 2.5 acres.

- 4. Lot Portions:
TDRs may be transferred from those **lot portions** that are within the Desired Setback or the Desired and Required Setback but not any portion of those lots that are 2.5 acres or more in size and lie outside these setbacks. TDRs shall not be transferred from lots or lot portions in the Required Setback if no portion of the lot is within the Desired Setback and the portion of the lot that is not within the Required Setback is 2.5 acres or more in size.

- 5. TDRs can be transferred from qualifying land regardless of development restrictions including but not limited to the existence of floodways, floodplains and slopes greater than 30 percent.

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B. La Cienega Community Zoning District
This Section is reserved and will be completed after the La Cienega Community Plan is adopted.

C. Santa Fe Canyon
This Section is reserved and will be completed after the La Cienega Community Plan is adopted.

SECTION 4 RECEIVING AREAS

*Johns
Woods deleted
Richard
above density*

A. Receiving Area 1: Urban Growth Area #1
The Santa Fe County Growth Management Plan designates urban Growth Area #1. No TDRs are required to achieve the threshold density. To exceed threshold density, one TDR must be transferred to this area for each additional dwelling unit permitted in excess of the TDR Threshold.

TDRs shall not be transferred to portions of this receiving area that are designated as Required or Desired Setbacks in the Highway Corridor Plan or to areas that cannot be developed due to environmental constraints including but not limited to floodways, floodplains and slopes greater that 30 percent.

For non-residential uses, developers must acquire (9) TDRs for each net acre of land rezoned commercial.

Upon annexation to the City of Santa Fe, all land regulations shall be governed by the City of Santa Fe General Plan Policies and Zoning Codes.

ad

B. Receiving Area 2: Urban Growth Area #2
The Santa Fe County Growth Management Plan designates urban Growth Area #2. No TDRs are required to achieve the threshold density. To exceed threshold density, one TDR must be transferred to this area for each additional dwelling unit permitted in excess of the TDR Threshold.

TDRs shall not be transferred to portions of this receiving area that are designated as Required or Desired Setbacks in the Highway Corridor Plan or to areas that cannot be developed due to environmental constraints including but not limited to floodways, floodplains and slopes greater that 30 percent.

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For non-residential uses, developers must acquire (9) TDRs for each net acre of land rezoned commercial.

Upon annexation to the City of Santa Fe, all land regulations shall be governed by the City of Santa Fe General Plan Policies and Zoning Codes.

C. Receiving Area 3: Redevelopment District
The Redevelopment District is designated in the Highway Corridor Plan as appropriate for retail, business-park, light industrial and other non-residential uses. No TDRs are required to achieve the threshold density. For non-residential uses, developers must acquire nine (9) TDRs for each net acre of land rezoned commercial.

TDRs shall not be transferred to portions of this receiving area that are designated as Required or Desired Setbacks in the Highway Corridor Plan or to areas that cannot be developed due to environmental constraints including but not limited to floodways, floodplains and slopes greater that 30 percent.

D. Receiving Area 4: Airport Development District
The Airport Development District is described in the Growth Management Plan as appropriate for residential and non-residential development.

- 1. Residential Development:
To exceed the TDR threshold, one TDR must be transferred to this area for each additional dwelling unit permitted in excess of the TDR Threshold.
- 2. Non-Residential Development:
For non-residential uses, developers must acquire nine (9) TDRs for each net acre of land rezoned commercial.

TDRs shall not be transferred to portions of this receiving area that cannot be developed due to environmental constraints including but not limited to floodways, floodplains and slopes greater that 30 percent.

E. Receiving Area 5 and Highway Corridor Fringe

- 1. The Corridor Fringe is designated in the Highway Corridor Plan. To exceed the TDR Threshold, one TDR must be transferred to this area for each additional dwelling unit.

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Additional receiving Areas may be designated within the Corridor Fringe provided that they meet the Criteria for establishing a TDRR-5 Zone.

2. ~~(Transfer of Development Rights Receiving: 5 Units Per Acre Zone ("TDRR-5")~~ Receiving Area #5 and Transfer of Development Rights Receiving/5 Units Per Acre Zone ("TDRR-5").

The County may rezone land in the Corridor Fringe to a zoning district of Transfer of Development Rights Receiving: 5 Units Per Acre Zone

a. Criteria

Applicants requesting a rezoning to the TDRR-5 zoning district must demonstrate that the following criteria are met to the satisfaction of the Board of County Commissioners.

1. The property shall be located within the Corridor Fringe as depicted in the Highway Corridor Plan.
2. The property shall not be located within any community planning district other than the Highway Corridor District.
3. The property shall be served by community ~~(sewer and water systems.)~~ *either County or other GP*
4. The property shall be located within 1/4 mile of existing commercial uses or land zoned and/or approved for commercial uses.
5. The property shall be served by vehicular access that meets all County roadway requirements.
6. The TDRR-5 zoning shall not be applicable until the applicant has permanently transferred one TDR for each additional dwelling unit above the established TDR threshold.

Need through TDR -

b. Uses and Development Standards

1. Allowed uses in the TDRR-5 zone shall be one single-family residential dwelling unit for each individual single-family residential lot as well as all uses permitted by the underlying County zoning.
2. The developer may elect to exceed the TDR threshold density by transferring to this site one TDR for each residential dwelling unit above the TDR threshold density. The maximum density shall be five dwellings per net acre. A final subdivision map allowing densities above the TDR threshold shall not be approved until the required number of TDRs have been extinguished as prescribed in the Procedures Section of this ordinance.

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3. Current Santa Fe County Code requirements shall apply to this zoning district for all development standards that are not specifically imposed by the following development standards, which implement the policies of the Highway Corridor Plan.
 - a. Maximum building size shall be 5,000 square feet. (The size of attached garages shall be included in total building size.)
 - b. Maximum building height shall be 24 feet.
 - c. Maximum lot coverage shall be 60 percent including parking and structures. (40 percent minimum undisturbed area.)
 - d. Any goods, equipment or materials not enclosed in a roofed building shall be considered outside storage. Outside storage areas shall not exceed 400 square feet and shall not be visible from the public R.O.W. or adjacent properties. A stucco wall shall enclose all outdoor storage areas at least 6 feet and not more than eight feet high.
 - e. Landscaping shall comply with the standards of Article III § 4.4.4. f. of the Santa Fe Land Development Code including but not limited to the following:
 1. Only drought-tolerant species shall be located outside of protected courtyards.
 2. Native species and topography shall be preserved on undeveloped areas of property.
 3. For screening of buildings from adjacent roadways, 50 percent of all new trees shall be evergreen, minimum 6 feet height with 1.5 inch caliper at planting. Acceptable species include: Rocky Mountain juniper (*Juniperus scopulorum* cultivars), One-seed juniper (*Juniperus monosperma*), Bristlecone pine (*Pinus aristata*), Pinon (*Pinus edulis*), Austrian black pine (*Pinus nigra*), Ponderosa (*Pinus ponderosa*) and Scotch Pines (*Pinus sylvestris*), and Japanese black pine (*Pinus thunbergiana*).
 4. All pinons over 4 inch caliper that cannot be preserved shall be replaced with minimum 8 feet tall pinons. Pinons shall be planted, irrigated and maintained at a density commensurate with the existing natural landscape.
 - f. Site Walls
 1. Maximum height for retaining walls on site is 4 feet. Walls may be stepped back a minimum of 3 feet if additional height is necessary.

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2. Maximum height for site walls (stone, stucco or combination with solid wood fence) shall be 6 feet except screening of outdoor storage may be 8 feet.
- g. Lighting shall meet current County standards including but not limited to the following:
 1. Overhead utilities, including streetlights shall not be located within the required setback area.
 2. All lighting, including signs, shall be fully shielded and directed down.
 3. A maximum of 0.5 average horizontal footcandles shall be permitted.
 4. Parking and security lights shall not be taller than buildings (maximum 24 feet).
 5. Landscape lighting shall be limited to a maximum height of 4 feet.
 6. Façade lighting shall not be used.
 7. Streetlights shall be determined according to AASHTO standards and the Manual of Uniform Control Devices.
- h. Other Architectural Standards
 1. Buildings shall be designed with a minimum of 3 distinct masses to be defined by 4 feet of change in both the vertical and horizontal direction.
 2. Building exteriors shall be finished predominantly with earth-tone colors with 5 percent of frontage in brighter highlight and trim colors permitted.
 3. Building roofs shall be limited to a maximum Light Reflective Value of 30 percent.
 4. Building exteriors shall be limited to a maximum Light Reflective Value of 40 percent.
 5. All buildings shall employ Southwestern architectural styles.
 6. The predominant exterior material shall be stucco.
 7. Skylights and other rooftop structures and mechanical equipment shall be setback a minimum of 2 feet from the building face edges and screened as part of the building design.
 8. Building roofs shall be flat.
- i. Community parking lots, if any, shall adhere to the following standards.
 1. Community parking lots shall be located to the sides and rear of the proposed buildings to minimize the visual impact from the highway and adjacent residential properties.
 2. Community parking lots shall be screened from the public R.O.W. by landscape berms (minimum 3 feet, 3:1 maximum side slopes) or walls with landscaping

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- (minimum 3 feet, maximum 4 feet). Berms may be combined with walls to provide screening.
- 3. Community parking lots shall be screened from adjacent residential properties by a stucco wall (minimum 4 feet; maximum 6 feet) and landscaping or naturalistic berm (minimum 3 feet; 3:1 maximum side slopes).
- j. Site Planning
 - 1. Access and internal roads shall be limited to two lanes.
 - 2. Pedestrian and bicycle trails (and equestrian trails where possible) shall be provided and shall be linked, when possible, to a master plan trail system and to trails in the R.O. W and shall be granted for public use.
 - 3. Trails and sidewalks shall be connected to non-residential services.
 - 4. Pedestrian walkways shall be provided within parking lots, if any.
 - 5. Natural features such as arroyos, ridge tops and large trees shall be preserved wherever possible.

SECTION 5 SENDING AREA PROCEDURES

- A. Sending Area Owner Options

In conjunction with the deed restriction of an undeveloped sending site, a property owner may request to convey title to that land to the County or to other entities authorized by the County to accept title including private land trusts and non-profit organizations. The TDR Manager shall determine whether or not to accept title based on guidelines approved by the County Land Use Administrator. In developing these guidelines, the County may elect to only allow the conveyance of title to a land trust, non-profit organization or other entity rather than the County. Any landowners requesting to convey title shall demonstrate that the subject site meets environmental standards set forth in those guidelines.
- B. Sending Site Owner Applies for TDR Easement Approval and Recordation

Property owners who wish to transfer TDRs shall apply for approval and recordation of a TDR Easement by submitting to the TDR Manager an application, application fee, title report and signed but unrecorded TDR Easement using forms approved by Santa Fe County. The TDR Easement shall specify the amount of future development to be retained, if any, and the uses allowed on the sending site following recordation. The TDR easement shall state that the grantee of the easement is Santa Fe County

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and/or a land trust or non-profit organization authorized by Santa Fe County.

C. TDR Manager Approves the Application and Records the TDR Easement
The TDR Manager shall review the application, title report and unrecorded TDR Easement. If satisfied that the information is complete, the TDR Manager shall approve the TDR Easement. The easement shall include the number of TDRs available for transfer and the serial numbers assigned to these TDRs. The TDR Manager shall record the completed and approved TDR Easement. The TDR Easement shall be recorded before recordation of a Deed of Transfer of Development Rights and before final development plan approval of the receiving site development that requires these TDRs.

D. Deed of Transfer of Development Rights
In order to transfer TDRs, the sending site owner shall complete and record a Deed of Transfer of Development Rights using a form approved by Santa Fe County. This Deed shall not be recorded prior to recordation of the corresponding TDR Easement. The Deed shall identify the TDR Easement that created the TDRs, the number of rights conveyed by the Deed, the serial numbers of these TDRs, the property to which these TDRs were originally attached and prior Deeds of Transfer of Development Rights, if any. A new Deed of Transfer of Development Rights shall be recorded each time TDRs are conveyed. TDRs may be conveyed to brokers, developers, investors or any other party before they are ultimately used at a TDR receiving site.

SECTION 6 RECEIVING AREA PROCEDURES

A. Receiving Area Designation.

Section 4 of this article designates TDR receiving areas, indicates the density threshold for TDRs in each receiving area and states the number of TDRs needed to exceed the TDR threshold. Other than the requirement to obtain TDRs to exceed this threshold, all other requirements and procedures applicable to receiving area development remain unchanged by this Article.

B. Timing of TDR Acquisition.

~~(Developers are not required to own TDRs when receiving master plan approval but are required to own TDRs to receive preliminary development plan approval of a development project that would require TDRs. However, developers may wish to obtain options to purchase TDRs at the master plan phase to be assured of TDR availability.)~~

Developers are required to acquire an option to purchase TDRs prior to applying for master plan approval. Developers are required to own TDRs to

preliminary and/or final plat

1 receive preliminary development plan and/or plat approval of a development
 2 project that would require TDRs.
 3

4 C. Sending Area Development Rights Extinguishment Procedures

5 Prior to final development plan approval of a receiving site project requiring
 6 TDRs, the developer of that project shall provide to the TDR Manager a
 7 signed, written confirmation that the development rights on the sending area
 8 property have been extinguished. This document shall indicate the number
 9 of TDRs being used, the serial numbers of those TDRs, the Deed of Transfer
 10 of the TDRs, and the receiving site project where these TDRs will be used.
 11 The document shall also state that the subject TDRs cannot be thereafter
 12 conveyed or used. If satisfied that all the information outlined above has
 13 been submitted and is complete, the TDR Manager shall record the
 14 confirmation document and notify the Santa Fe County Land Use
 15 Department that the TDR requirements needed for final development plan
 16 approval of the receiving site project have been met.
 17

18 D. Deed Restriction Requirements

19 Along with the confirmation document, a recorded deed that indicates the
 20 restrictions to the deed after the TDR transfer shall be submitted .
 21

22 **SECTION 7 TDR MANAGER**
 23

24 A. Appointment of TDR Manager

25 The Santa Fe Board of County Commissioners shall appoint a TDR
 26 Manager. The TDR Manager may be ~~an employee of Santa Fe County~~, a
 27 firm or individual contracted to perform this duty or a land trust or other non-
 28 profit organization authorized to do this work. The Board may change this
 29 appointment at any time for the benefit of the TDR program.
 30

31 B. Duties of TDR Manager
 32

- 33 1. The TDR Manager shall develop forms and written procedures that
 34 implement this Article to the satisfaction of the Santa Fe County
 35 Attorney.
 36
- 37 2. The TDR Manager shall perform all duties assigned to the TDR
 38 Manager as required under this Article.
 39
- 40 3. The TDR Manager shall provide information to the general public on
 41 the program, promote the program to landowners and developers and
 42 maintain a list of all parties potentially interested in selling or buying
 43 TDRs.
 44
- 45 4. The TDR Manager shall be responsible for the operation of the TDR
 46 bank if a TDR bank is created.

SF Conservation Trust

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C. TDR Bank

If and when the TDR Manager believes that a TDR Bank would improve the Santa Fe County TDR Program, the TDR Manager shall report that finding to the Board of County Commissioners and the Board may authorize the TDR Manager to create a TDR Bank and TDR Bank Program.

SECTION 8 EFFECT ON APPROVED MASTER PLAN, AND PRELIMINARY AND FINAL PLANS

In receiving areas, the requirement to obtain TDRs to exceed the TDR Thresholds outlined in this Article shall not apply to projects that have a recorded final development plan or have received approval for a master plan, preliminary development plan or final development plan.

SECTION 9 REVIEW PROCEDURES AND SUBMITTAL REQUIREMENTS

In addition to the requirements under this Article, development standards criteria and submittal requirements set forth in Articles III, V, VI, VII and all the general requirements of the Santa Fe County Development Code shall apply.

SECTION 10 SEVERABILITY

The provisions of this Ordinance are severable, and if any provision, sentence, clause, section, or any part thereof is held illegal, invalid, unconstitutional, or inapplicable, it shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance or their application to other persons or circumstances.

SECTION 11 EFFECTIVE DATE

The Transfer of Development Rights Ordinance shall become effective on the 30th day after recording of this Ordinance in the Offices of the County Clerk.

PASSED, ADOPTED AND APPROVED this ____ day of _____, 2001, by the Santa Fe County Board of County Commissioners.

PAUL DURAN, CHAIRMAN

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ATTEST:

REBECCA BUSTAMANTE
COUNTY CLERK

1937874

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

COUNTY ATTORNEY

CERTIFICATE OF FILING

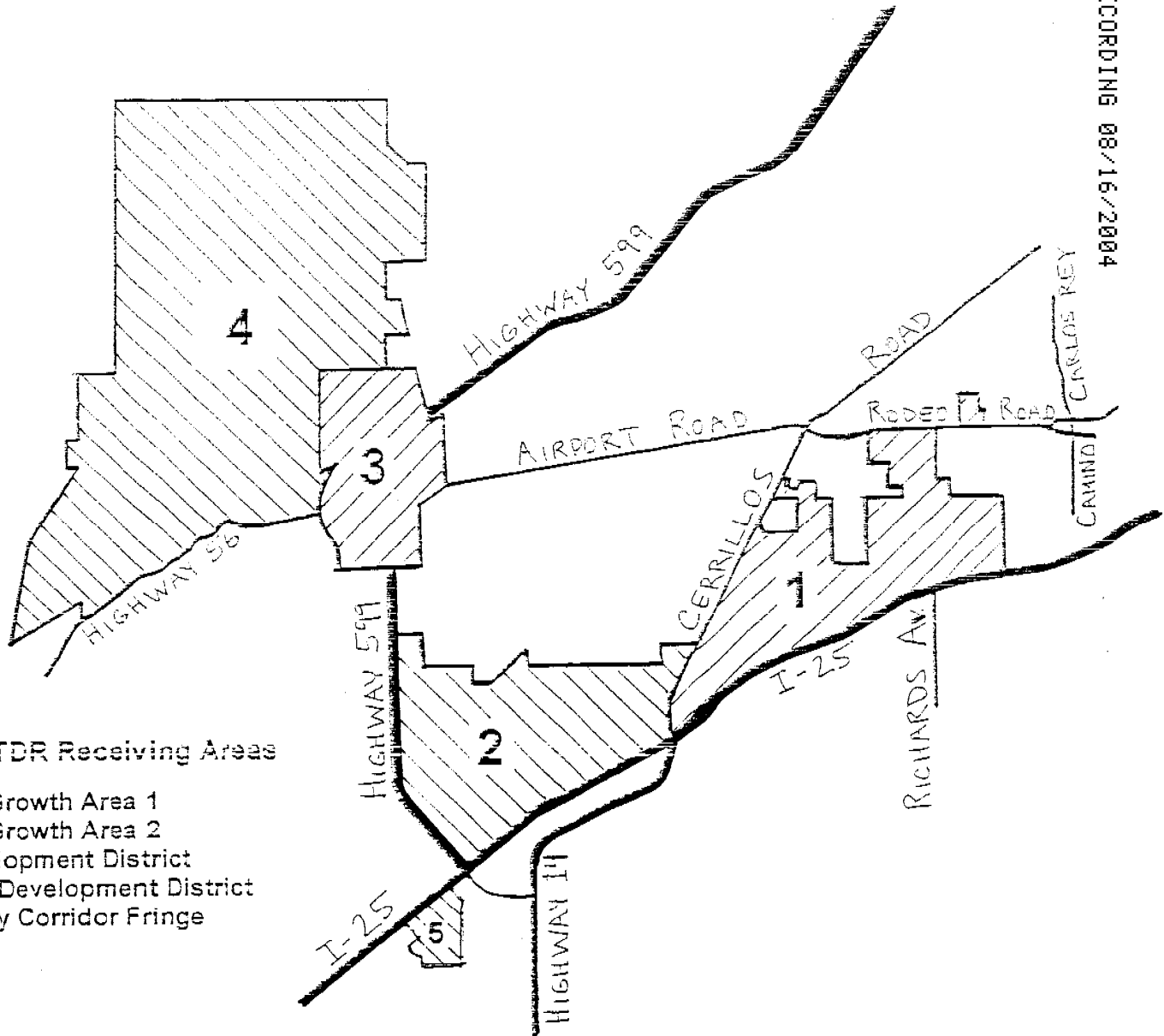
I, Rebecca Bustamante, County Clerk, do hereby certify that the foregoing ordinance, designated as Ordinance No. 2001 - __, was filed in my office on the ___ day of ____, 2001, in book Number ____ at Page ____.

SANTA FE COUNTY CLERK

TRANSFER OF DEVELOPMENT RIGHTS (TDR)
RECEIVING AREA MAP 17

1937875

SFC CLERK RECORDING 08/16/2004

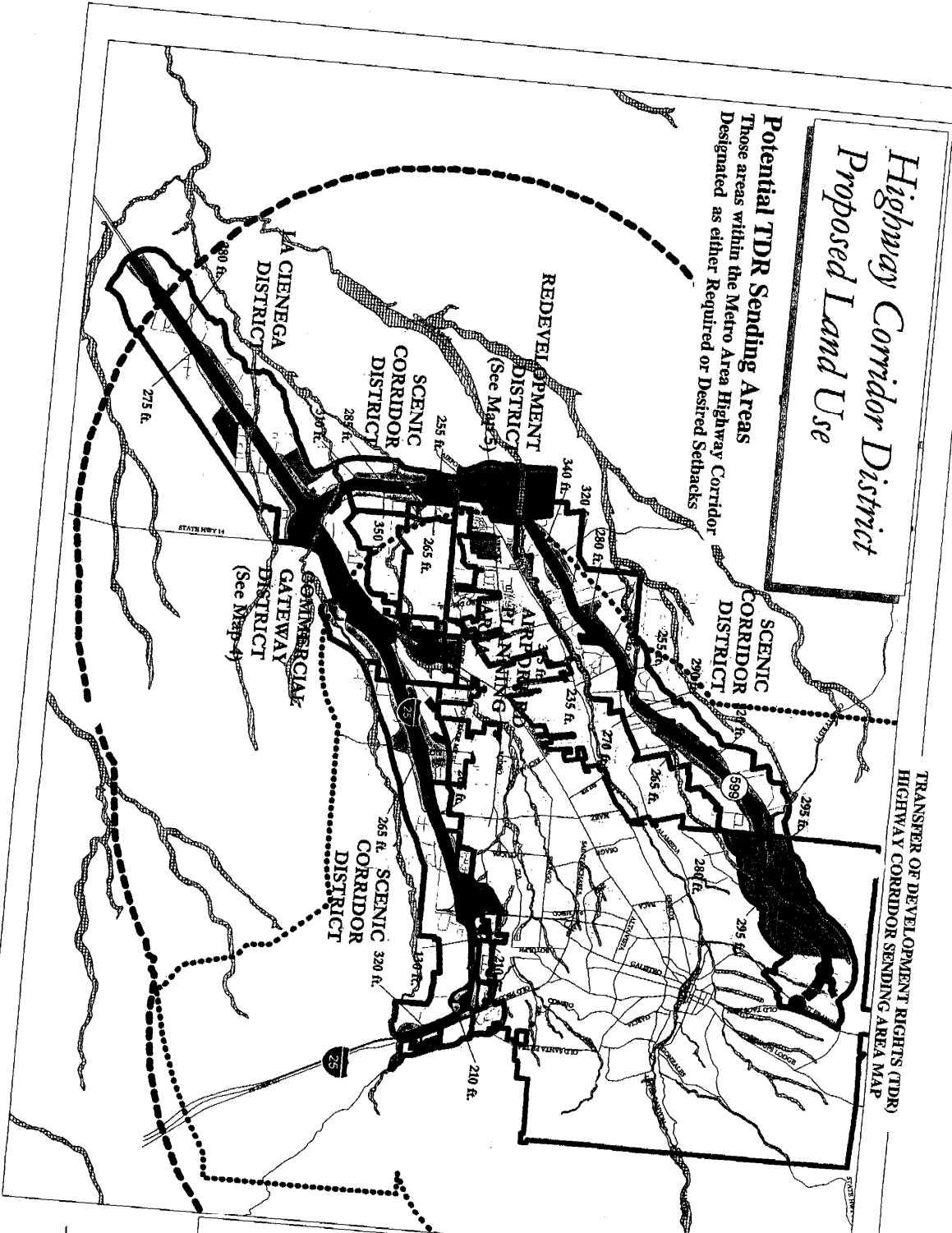


Proposed TDR Receiving Areas

- 1 Urban Growth Area 1
- 2 Urban Growth Area 2
- 3 Redevelopment District
- 4 Airport Development District
- 5 Highway Corridor Fringe

Highway Corridor District Proposed Land Use

Potential TDR Sending Areas
Those areas within the Metro Area Highway Corridor Designated as either Required or Desired Setbacks



TRANSFER OF DEVELOPMENT RIGHTS (TDR)
HIGHWAY CORRIDOR SENDING AREA MAP

Highway Corridor District
Proposed Land Use
(as approved by
EZA on 5/30/00)

Map 3

Legend

- District Boundaries
- Proposed Land Uses
 - Residential
 - Non-Residential
 - Institutional
 - Recreational
- ▨ 100 Year Flood Zone
- Setback Requirements from ROW
 - ▬ Required
 - ▬ Desired
- ⋈ Santa Fe City Limits
- ⋈ Major Roads
- ⋈ Extraterritorial Boundary (3 mile)
- ⋈ Extraterritorial Boundary (2 mile)
- Interchange Locations
- Over/Underpass Locations



Produced by Planning and Land
Use Department
Planning Division
Plotted 7/26/00

1937860