

## Turquoise Trail Corridor Management Plan Version 2.0

### 6.0 Intrinsic Asset Protection Plan

This corridor management plan does not suggest that change is inevitable or that it is not desired, but rather to suggest that the Turquoise Trail Scenic Byway has opportunities for preservation, growth, and development that can all be accommodated within a program that recognizes the special appeal of the scenic corridor. This must be done to (1) enhance the recreational qualities of the area while (2) safeguarding the natural beauty, open space, and other primary attractions, and (3) provide safe and efficient transportation. Balancing all the issues influencing the use and development of the Turquoise Trail, if properly understood, planned for, accommodated or avoided, can increase the basic appeal of the byway and quality of service to both the resident and the visitor.

It is critically important that the intrinsic assets of the TTSB be protected and preserved, otherwise they will cease to exist as we know them today. Only by increasing the level of public awareness and advocacy by stakeholders will the intrinsic qualities of the byway be preserved. Since the first version of the CMP, attempts at protecting assets has been uneven. While Cerrillos Hills Historic Park became a reality in the northern portion of the byway, building has continued in the southern portion slowly transforming the rural area into a more suburban one. Continued construction of homes and a mini-industrial area in the northern tip of the byway has also occurred.

Other activities and tools should be explored to determine their usefulness and effectiveness. Some examples are conservation easements, purchase of development rights, acquisition of sites, and land use controls.

### 6.1 CONSERVATION TECHNIQUES

A conservation easement is a legally recorded agreement by which landowners may voluntarily restrict the use of their land. A conservation easement protects important land resources and can be held by a qualified conservation organization (such as the Taos Land Trust) or local unit of government. Provided that certain conditions are met, donors of easements may be eligible for income, estate and/or property tax benefits. One condition is that there must be an established, recognizable public benefit, such as protecting rare species, public water supplies, or scenic vistas visible from roads. Public access is not a requirement.

Although the duration of a conservation easement can vary depending on the desires of the landowner, tax benefits are available only for perpetual easements. Many land trusts will only accept perpetual easements, since

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they provide permanent protection by subjecting all future landowners to the same restrictions. Conservation easements are also the principal legal mechanism used to protect land in a Purchase of Development Rights (PDR) or Transfer of Development Rights (TDR) program.

### 6.1.1 What Types of Land Can Be Protected through Conservation Easements?

Any type of undeveloped or sparsely developed property can be protected with a conservation easement. Conservation easements can be used to protect agricultural land, forested land, wildlife areas, wetlands and other scenic or natural lands.

### 6.1.2 What Effect Does This Agreement Have on a Landowner's Property Rights?

A landowner who conveys a conservation easement retains all rights to use the land for any purposes that do not interfere with the conservation of the property as stated in the terms of the easement. The landowner retains the title to the property, the right to sell it, the right to restrict public access, and the right to give it to whomever he or she chooses. However, most or all of the rights to develop are restricted or eliminated. The terms of a conservation easement are individually tailored to reflect each landowner's particular needs, situation and county property. For example, one landowner may want to prevent any future development. Another may want to retain the right to construct an additional barn or shed. A third landowner may want to reduce, beyond what is allowed by current zoning, the number of homes that may be built on a certain parcel. The easement can be written to apply to the entire property or to only a portion of it.

### 6.1.3 How Is the Easement Value Determined?

Land ownership can be viewed as owning a variety of separate rights on the property. These rights include, but are not limited to, the right to farm the land, the right to build on the land, and the right to exclude the public. When a conservation easement limits any of these rights, the value of the land is affected. The value is determined by having a 'before' and 'after' appraisal completed by a qualified appraiser who meets IRS requirements. First, the land is appraised in light of its full development potential. Then the land is appraised again, taking into account the easement restrictions which limit some or all of the property's development rights. The difference between these two figures is the value of the easement. In instances where the easement is donated and qualifies under IRS regulations, this amount also is the value of a charitable contribution which can be taken as an

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income tax deduction. Appraisal costs are the responsibility of the landowner considering donating a conservation easement.

#### 6.1.4 What are the Tax Benefits of a Donated Conservation Easement?

- **Federal Income Tax Benefits**-Under the IRS code, the donation of a qualified conservation easement may be treated as a charitable contribution. The value of the contribution can be deducted at an amount up to 30 percent of the donor's adjusted gross income in the year of the gift. If the easement's value exceeds 30 percent of the donor's income, the excess can be carried forward and deducted (again, subjected to the 30 percent limit) over the next five years, if needed. The tax code is complicated and always changing; therefore, property owners should seek professional tax advice.
- **Estate Tax Benefits**-Donation of easements, whether during the landowner's life or by bequest, can reduce the value of the land upon which estate taxes are calculated. This can greatly benefit the landowner wishing to transfer land to relatives. The estate tax benefits of a conservation easement can often mean the difference between heirs having to sell property to pay estate taxes or being able to keep the property in the family.
- **Property Tax Benefits**-The conveyance of a conservation easement may reduce a landowner's property taxes. This depends on current zoning and land use, current assessed value, and whether the owner participates in a current-use assessment program. Under New Mexico law, county assessors must take a conservation easement into consideration in establishing the market value of the land subject to the easement. However, existing tax basis, assessed value, and current zoning of each piece of property are important factors in determining the potential benefits of any easement. The exact terms of each individual easement also have a bearing on its effect on property taxes.

#### 6.1.5 What Criteria Must Be Satisfied?

To be eligible for most of the above tax benefits, the agreement must be entered into with a qualified conservation organization, such as the Taos Land Trust, or with local governing bodies, such as Edgewood, Tijeras, Bernalillo County, Sandoval County, Santa Fe County or the state of New Mexico. In addition, the terms of the easement must be perpetual and they must meet other IRS requirements. The criteria that must be satisfied for the Taos Land Trust to accept such a donation are available upon request.

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### 6.1.6 What Rights Does the Easement Holder Have to the Land?

If a qualified organization accepts an easement on your land, it is obligated to oversee and enforce the easement's terms and conditions. For example, an organization has the right to enter and inspect the property (usually once a year) to ensure that the terms of the agreement are being upheld. Except in unusual circumstances, these visits are scheduled with the landowner. The organization does not have the right to use your property, nor does the easement allow public access to the property since it remains privately owned.

- Purchase of Development Rights (PDR) programs have been used successful in many areas around the nation. They were pioneered in Suffolk County, New York in 1974 and have since been used across the nation to preserve an estimated 400,000 acres of farmland alone. Programs focused on natural areas and other open spaces have protected additional acreage. Under a PDR program, a landowner voluntarily sells his or her rights to develop a parcel of land to a public agency or a charitable organization interested in natural resource conservation. The landowner retains all other ownership rights attached to the land, and a conservation easement is placed on the land and recorded on the title. The buyer (often a local unit of government) essentially purchases the right to develop the land and retires that right permanently, thereby assuring that development will not occur on that particular property. The landowner is generally compensated for the value of the right to develop the land through the following formula:

Appraised Value For Development	minus	Appraised Value For Agriculture/ Conservation	equals	Appraised Value of Development Rights
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When considering where PDR fits into a community's land conservation plan, one should consider the cost involved in purchasing development rights on a significant amount of land. In areas with high growth pressure, the cost of a PDR program can be high as the difference between development value and conservation value increases. Used strategically, however, a PDR program can be an effective tool to help maximize a community's conservation efforts. Money for PDR programs can be raised through a variety of means, including bonding initiatives, private grants, and various taxation options. Many communities have found matching dollars from state and federal sources.

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- **Acquisition of sites:** Due to the cost of land in the Turquoise Trail corridor and the limited financial resources of the Turquoise Trail Association, it seems very unlikely that actual purchases of land will be made to protect scenic, natural and other resources. However, the TTA does intend to work with property owners to encourage them to assist in preserving resources.
- **Land Use Controls:** Currently the counties who have jurisdiction over the Turquoise Trail area all have zoning regulations in place. Much of the area is zoned agricultural and residential. Residential is restricted in that no multi-family housing is allowed and each house must be on a minimum of two acres. In certain areas, commercial and neighborhood shopping areas are allowed.

### 6.2 EXISTING PROTECTIONS

- *Archaeological:* Some assets, such as archeological sites, are and can be protected by not telling people they exist. For example, the Archeological Conservancy stated their position regarding the protection of archaeological intrinsic qualities. They believe that if the general public is aware that these assets exist, there will be so much interest in them that they cannot be protected and preserved because the resources would be stolen or ruined.
- The Archeological Conservancy has purchased most of the San Marcos Pueblo and it is open for educational tours, as well as, scientific field work.
- The Museum of Archaeology and Material Culture, located on the TTSB has immediate plans (if the FY 2000 TEA-21 Scenic Byway Grant is received) to develop interpretive materials which will help in promoting preservation of archaeological artifacts.
- *Cultural:* Plans are currently underway for the development of a Civilian Conservation Camp (CCC) museum and park off of Highway 536. Additionally, there are historic groups which preserve the cultural and historical system of acequia (ditch) irrigation and protection of water supplies. These are just two examples of cultural preservation.
- *Historic:* The communities of Cerrillos and Madrid have several properties listed on the National Register of Historic Places. In 2005, some residents in the Cerrillos community researched and placed plaques on thirteen properties. The plaques include early site history and ownership. Funding was provided from private sources.

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- The New Mexico Heritage Preservation Alliance, in an attempt to preserve historic properties by increasing public awareness has created a list a list of endangered properties. The Old Coal Mine Museum in Madrid was placed on the list in 2004. The NM State legislature has been made aware of the list, but has not provided any funding or passed any laws to prevent the destruction of the properties on the list.
- Madrid is attempting to obtain funding to restore the ballpark.
- *Natural:* The USFS manages and maintains the Sandia Mountain Wilderness area which protects many natural resources of the Sandia Ranger District of the Cibola National Forest. Highway 536 and the right-of-way are also managed by the USFS and there are several facilities in this area. In 2004/2005, the USFS completed construction of a visitor interpretive center at the Crest.
- *Recreational:* The USFS has been in the business of protecting and preserving intrinsic assets for many years. They do a wonderful job of both protection and interpretation. Most management activities are aimed at preventing overuse and abuse of the forest. The TTA plans to further develop its partnership with the USFS to preserve intrinsic qualities. Research indicates there are no other protection methods in use at this time.
- Paa-Ko Ridge Golf Course completed an additional nine holes in 2005 and now has 27 holes. Many of the local residents were opposed to the golf course, but it has been popular with visitors to the area since it was first built in 2000 and has made popularity lists in major golf publications.
- *Scenic:* In addition to land use controls, there was an organization called the East Mountain Legal Defense Fund which tackled conservation, preservation and protections issues. The organization was disbanded. A new organization, the Turquoise Trail Preservation Trust has sprung up to take up many of the same issues.
- The same scenic preservation issues still exist since the first version of the CMP was written. The issues include light pollution, cellular telephone towers, billboards, and high density and unplanned growth.
- In a bit of progress, a large cellular tower was removed due to the action of local residents. Two smaller ones at different locations replaced it.

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- The Turquoise Trail Association, the Concerned Citizens of Cerrillos, the Rural Conservation Alliance (Cerrillos), and the Madrid and San Marcos landowner associations previous fought against the widening and straightening of Highway 14 in those areas. Over a period of several years they were successful in preventing many of the original highway concepts that would have ruined scenic views. As part of that process at least two scenic overlooks have been placed on the byway.
- Edgewood is engaged in the prevention of billboards along a six mile segment of the byway in its jurisdiction. However, there are still signs on the byway that ruin the viewscape.
- There is concern about mining in the area and it's affect on the scenic aspects of the byway. Mining has been a major part of the cultural and history of New Mexico and is still the major private industry in the state. In recent times, as mining jobs have become less important in certain areas, residents have banded together to prevent future mining. Most of the current disputes involve Bureau of Land Management property and the effects of the hauling of mined materials on the byway. There is also some concern on the effects of mining on the local water supply. While mining in some locations may affect the viewscape, it's minor compared to the transition to a suburban region.
- Campbell Corporation has sold some of it's property in Edgewood to SunCor Development Company. At the time of this writing the closing had not taken place. SunCor intends to develop over 800 residential units. Edgewood has previously refused to provide police and fire protection to the area, which is one reason development has slowed. The new owner may have resources to provide those services. When developed, the viewscape will change, as will the amount of local traffic on the byway.
- It's likely the local economy, builder competition in the surrounding Albuquerque area, the fear of snow, and the lack of inexpensive water, will continue to slow residential building in the southern portion of the byway. Paa-Ko, a development almost two decades old still has not completed it's build out. Paa-Ko may have more than a thousand approved building lots available.

### 6.3 PROTECTION GOALS

- A. To preserve and protect the intrinsic assets of the TTSB.
- B. Protect natural resources.

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#### 6.4 PROTECTION OBJECTIVES

- A. Identify the 5 assets most in need of protection and implement the following strategies by the year 2010.
- B. Put in place the adopt the highway program for at least 50% of the byway by the year 2010.

#### 6.5 PROTECTION STRATEGIES

- A. Communicate the importance of retaining the environmental integrity of the byway.
- B. Initiate personal relationships with land developers such as Campbell Corporation and SunCor Company along the TTSB. Provide them with copies of the CMP and encourage them to comply with the goals of the plan.
- C. Engage in extensive partnerships with volunteer citizen organizations to provide high levels of vegetation management. Activities should include trash pick up and other beautification programs.
- D. Initiate personal relationships with Edgewood.
- E. Continue to promote the NM Clean and Beautiful program
- F. Continue to promote the activities of the National Trust for Historic Preservation and the NM Office of Cultural Affairs.

#### 6.6 REALITY CHECK AND PROGRESS REPORT

Over the past five years, there has been little progress in our objectives and strategies for preservation, though we have tried. While there have been some successes, especially commendable with our limited resources, we have not been able to energize the general public. This is not expected to change in the future. Many of our successes have been random in nature completed by people that have never read the CMP.

We changed some of our previous objectives and strategies, because we did not think we would be able to attain them in the next five years. Rather we will try to focus and be successful with a less ambitious work list.