

# SANTA FE ASSOCIATION OF REALTORS®

## MEMORANDUM

### County Sustainable Land Development Plan Santa Fe, New Mexico

November 2009

#### BACKGROUND

Santa Fe County is proposing to revise and updated its current General Plan with a new plan entitled “The Santa Fe County Sustainable Land Development Plan.” The SLDP will “update previous planning documents, provide a long-range vision of sustainability for the County and define goals, policies and strategies to achieve that vision.”<sup>1</sup> In addition the SLDP will include “addressing growth and development patterns, housing, economic development, natural and cultural resource protection, transportation, public facilities and services, and other important issues.”<sup>2</sup>

The County has hired a consultant team to assist in preparing the SLDP. The County and the consultant team released the first draft of the SLDP during a meeting with the County Development Review Committee (“CDRC”) on October 1, 2009. The County has held several public input sessions on the SLDP during the month of September and October with key stakeholders, and has scheduled to present the SLDP to the CDRC during public hearings on November 12, 2009 and December 17, 2009.

The current draft of the SLDP is organized into the following volumes:

**Volume I: A Sustainable Vision — Policy Framework and Implementation.** This volume (151 pages) provides the full list of goals, objectives, and policies for the SLDP, and is promoted as the “day-to-day guidance for decision-makers.”<sup>3</sup> It also includes an “Action Plan,” a list of action items that are “scored and prioritized based on how well it protects agricultural and environmental lands; prevents sprawl; provides for adequate facilities and services; provides incentives for sustainable development; and furthers the goals, objectives and policies of the SLDP.”<sup>4</sup>

**Volume II-A: Plan Elements — The Systems and Settings of Santa Fe County.** This volume (220 pages) provides a description of existing conditions in the County and challenges and opportunities facing the County with respect to the various elements covered by the plan. It also provides a detailed description of sustainable/smart growth techniques and policies that are being

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<sup>1</sup> Santa Fe County Website: The Sustainable Land Development Plan Update, available at [http://www.santafecounty.org/about\\_us/growth\\_management\\_department.php](http://www.santafecounty.org/about_us/growth_management_department.php) (last viewed on November 2, 2009).

<sup>2</sup> *Id.*

<sup>3</sup> SLDP, Executive Summary at 2.

<sup>4</sup> *Id.*

promoted in the SLDP.

**Volume II-B: Plan Elements —Oil and Gas Element.** This volume (128 pages) will incorporate the previously adopted Oil and Gas Element into the SLDP.

**Volume III: Suitability Analysis — Sustainable Land Development Suitability Analysis.** This volume (92 pages) presents an analytical tool for land suitability assessments, using GIS data and a weighting system, to help decision-makers determine whether lands are suited for development, conservation or other uses.

**Volume IV: Capital Improvements Plan and Financing.** This volume (86 pages) serves as the framework for the implementation of a Capital Improvements Program (“CIP”) and presents a preliminary list of Capital Improvements Projects for fiscal years 2011 through 2015 that County staff identified during the summer of 2009.

**Volume V: Community Planning.** This volume (303 pages) incorporates previously adopted community plans into the SLDP.

**Maps Atlas.** A total of 70 maps and 3 figures are presented in the Maps Atlas and Supplement.

**Appendix.** The Appendix (92 pages) contains a glossary, and various references, such as a Renewable Energy Financing Guide and Leadership in Energy and Environmental Design (LEED®) checklists.

## **ANALYSIS**

In general, the Santa Fe Association of REALTORS® finds that the SLDP is quite thorough and easy to read. It contains good references and supporting information and it is focused on a number of issues important to Santa Fe County, such as issues relating to water supply. However, in a number of respects the SLDP, as proposed, raises concerns about how it would affect the interests of the real estate community.

In preparing this memorandum, the Association primarily focused on Volumes I and II-A, which contain the majority of the substantive recommendations and planning elements, and also reviewed and will provide comments on Volumes III and IV. The Association did not provide any analysis of Volume II-B: Oil and Gas Element as this element has already been adopted by the County. In addition, the Association does not provide any analysis of Volume V: Community Planning, as it is our understanding that these plans have already been adopted by the communities.

## **GENERAL CONCERN**

The primary tool that will be used by the County to implement the SLDP will be the Sustainable Land Development Code (the “Code”). The Code is being prepared at the same time as the SLDP, with only a portion of it having been released for public comment in August. In our earlier comments, the Association raised concerns that not having the proposed Plan (the SLDP)

to review side by side with the this portion of the proposed Code made it difficult to fully assess the potential impact of the provisions in this released portion of the Code. Similarly, just as the Code suffered from the lack of the SLDP, the SLDP suffers from lack of the full Code being available for review. For example, the SLDP contains 218 items proposed as Code Amendments. These items are not fully documented in a draft Code at this time, making it difficult to fully ascertain the implications if they are adopted.

**Recommendation:** Because the Code is being drafted while the SLDP is under review, the Association requests that the public review process allow for adequate review of both documents in their full form prior to adoption of either the SLDP or the Code.

#### ANALYTICAL SHORTCOMINGS OF THE SLDP

**Issue: The SLDP fails to adequately address the full range of housing needs in the County.**

#### **Flawed Data**

Section 2-8.2 of the SLDP states that “Santa Fe County has an estimated 2009 population of 149,807; occupying 67,052 housing units (Source: Al Pitts, 2009).”<sup>5</sup> It also states that “[a]pproximately 51 percent of this total resides in the City of Santa Fe.”<sup>6</sup> In addition, in Section 2-2.3.1, the SLDP discusses land consumption rates that reflect population projections through the year 2050.

The SLDP’s data appears to be based on a 2009 study by Al Pitts, according to the cited references. This study, available on the County’s website,<sup>7</sup> provides population and housing unit projections for 2009 through 2050 for the County. It divides these projections between the “Santa Fe Urban Region” and the remainder of Santa Fe County.<sup>8</sup> The Santa Fe Urban Region includes the City of Santa Fe and its proposed annexation area.<sup>9</sup> In the projections for the remainder of the County, the study does not differentiate between the unincorporated County (i.e., the area for which the SLDP is being prepared and over which the County has regulatory jurisdiction) and other areas, such as the incorporated areas of Edgewood and Espanola and the significant areas of tribal lands in the County (over which the County’s jurisdiction is limited). This failure to isolate the housing and population projections for the unincorporated areas over which the County has regulatory jurisdiction means that the County does not have the most relevant data it needs to adequately project the future needs of the County, as to both the number of housing units, and the demand for County services, such as schools.

Also, the SLDP does not contain any housing market analysis that would document and project trends in housing unit types or housing size. The need for this data is also supported by the trends projected in the study by Al Pitts, such as a decreased average household size (which

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<sup>5</sup> SLDP at VIIA-95 (citing Al Pitts, 2009).

<sup>6</sup> *Id.* (with no citation provided).

<sup>7</sup> Pitts, A. *Regional Housing and Population Projections, Santa Fe County, 2000-2050*, June 15, 2009, available at [http://www.santafecounty.org/about\\_us/documents/Project\\_Projections.pdf](http://www.santafecounty.org/about_us/documents/Project_Projections.pdf).

<sup>8</sup> *Id.*, See Table A-01, Total Population, and Table A-02, Total Housing Units.

<sup>9</sup> *Id.*, Context Map.

could affect relative demand for housing of various types) and an increasing percentage of overall population residing outside of the Santa Fe Urban Area (which should factor into the County's growth planning).<sup>10</sup> The American Planning Association ("APA"), in *Growing Smart™ Legislative Guidebook*, recommends that comprehensive plans take into account market factors, stating:

Unless policymakers understand market dynamics, governments can cause land supply shortages by adopting excessive development regulations, causing needless delays in reviewing development proposals, and setting overly tight restrictions (such as through urban growth areas) on the size of areas designated for urban development.<sup>11</sup>

Without a better understanding of the factors related to current and future housing demand, the County is poorly prepared to plan for its future housing needs.

### **Lack of Specific Goals**

The SLDP only provides for one housing goal:

Establish a public-private program to provide adequate supplies of affordable, work force and senior housing ("affordable housing") for low, very low and moderate income Santa Fe County residents, households, families and employees.<sup>12</sup>

The objectives and policies are in line with this goal.

However, the SLDP does not contain any goals, objectives, or policies that address the full range of housing needs in the County, including market rate units. By failing to address market rate housing, the SLDP seemingly ignores the common housing dynamic, wherein buyers of market rate units are often the sellers of work force and affordable housing. The APA recommends that a comprehensive plan's housing element include numerical goals for all housing units for a five-year period.<sup>13</sup>

Without addressing all needs, the SLDP does not provide a comprehensive approach.

### **Failure to Link Strategies to Needs**

In addition to the shortcomings of the data and the lack of specific goals, the SLDP fails to demonstrate how the various growth management strategies and the variety of sustainable development techniques it recommends will allow for the development that is truly needed and desired in the County to accommodate future population growth. None of the plans, figures, or written descriptions identifies the actual amount of housing that could be produced through the intended growth management strategies and sustainable design measures. The absence of such

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<sup>10</sup> *Id.*, Table A-01, which projects that 42.4% of the total County population will reside outside of the Santa Fe Urban Region in 2009 (63,500/149,907) and that 46.8% of the total County population will reside outside of the Santa Fe Urban Region in 2009 (115,050/245,602).

<sup>11</sup> American Planning Association's *Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change*, 2002 Edition (Stuart Meck, FAICP, Gen. Ed.) (Hereinafter "*Growing Smart*") at 7-93.

<sup>12</sup> SLDP at VI-38.

<sup>13</sup> *Growing Smart* at 7-126.

analysis suggests that the County has not fully examined whether the goals, policies, and objectives of the SLDP will be sufficient to meet the future housing needs of the County.

***Recommendation:*** The Association requests that the County revise the population and housing unit projections to specify the future projections for the unincorporated areas of the County. The revised projections should discuss the observable trends of reduced household size and the trend towards greater relative population growth outside of the Santa Fe Urban Region, and provide an analysis of what these trends could mean for future housing demand. The Association requests that the County include goals, objectives, and policies that address all of the County’s housing needs and not just the affordable housing segments. The Association further requests that the County incorporate a detailed discussion of how the future housing needs of the County will be attained in light of the SLDP’s growth management techniques and sustainable design strategies.

**Issue:** **The SLDP fails to provide an adequate analytical foundation for the Alternative Future Growth Scenarios, which undermines the land use models and Sustainable Development Tier recommendations.**

Section 2-2.3 of the SLDP discusses the “Alternative Future Growth Scenarios.” It begins by stating:

Overall growth trends in Santa Fe County can be quantified in terms of two major variables: (a) The amount of land consumed per capita; and (b) The degree of dispersion (i.e., scattering) that characterizes the pattern of development. Alternative future growth scenarios can then be generated by varying the amount of land consumption per capita and the degree of dispersion that are assumed over the next 20 to 40 years. In order to create alternative future scenarios based on growth trends, it is first necessary to create a baseline scenario by extrapolating current trends into the future.... Currently, there are about 1.31 acres of developed land per capita in the unincorporated portion of the County.<sup>14</sup>

The SLDP then presents the Baseline Case Scenario for Future Development, also referred to as the “Business as Usual” scenario. It states:

Based on current land consumption rates, the total amount of developed land in the unincorporated County would increase from 85,964 acres in 2008 to about 204,497 acres in 2050 – an increase of 118,533 acres.<sup>15</sup>

It is unclear how the drafters of the SLDP were able to extrapolate a “land consumption rate” based on 2008 data that provides a ratio of the developed land area in the unincorporated County to the population. This ratio does not appear to have any relationship to a specific period, making it unsuitable for use as a “rate” in future projections. For example, if the ratio of developed area to population was historically higher than the number in 2008, the County’s land consumption rate may actually be in decline.

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<sup>14</sup> SLDP at VIIA-43.

<sup>15</sup> *Id.*

Also unclear is how the drafters measured “developed land” for purposes of this measurement. The SLDP references Map 7 for the calculation of developed land, which, upon review, does not present sufficient detail to determine what constitutes “developed land.” Is developed land measured based on the presence of a building or structure or based on a certain percentage of impervious area? Is an entire parcel considered developed if there exists a building or impervious surface only on a portion of the parcel?

It would appear that, in providing the Baseline Case Scenario, the SLDP is analyzing the future developed land area per capita, assuming that the 2008 ratio is maintained into the future. That assumption is problematic, as it ignores overall development trends that may already be at work in the County. To more accurately predict future land use changes, the County would be better served by analyzing past changes in developed land area and population to better extrapolate an annualized land consumption rate.

The Baseline Case Scenario estimates are also unclear, as the County is predicting a 238% increase in the developed area between 2008 and 2050 (52,964 acres to 204,497 acres), whereas the County’s population as a whole is only projected to increase 166% (from 147,741 to 245,602) in this same period.<sup>16</sup> It is possible that the SLDP’s projections for a greater relative increase in developed area as compared to population are justified based on the spatial allocation of expected development patterns, or demographic trends such as decreasing household size. However, the SLDP fails to adequately identify or support the validity of any such contributing factors. Also, as previously noted, it does not appear that the County has the necessary population projections specific to the unincorporated County and it is therefore unclear how it could generate any per capita projections.

The failure to adequately justify the Baseline Case Scenario has significant implications for the validity of the alternative scenarios for future growth, as these alternative scenarios, including the Recommended Scenario, are based on targeted percentage reductions in the land consumption rate of the Baseline Case Scenario.<sup>17</sup> Further, as the Recommended Scenario supports the introduction of the growth management tiers for the County, the inadequacy of the justification for the Baseline Case Scenario also undermines the validity of this integral component of the SLDP.

Finally, it is also unclear why the SLDP includes projections for the land consumption rate that extend out to 2050. The SLDP is designed to address growth and development in the County through the year 2025.<sup>18</sup> The APA recommends that comprehensive plans utilize projections of up to 20 years to support land use planning.<sup>19</sup> There are too many variables inherent in growth trends and land use patterns to assume that current trends would remain fixed for a 40+ year projection period.

**Recommendation:** The Association requests that the County reassess the Alternative Future Growth Scenarios on the basis of historical data that could help to refine current and projected

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<sup>16</sup> Pitts, Table A-01, *supra* note 8.

<sup>17</sup> See Sections 2-2.3.4 through 2-2.3.7, SLDP at VIIA-44 - 46.

<sup>18</sup> SLDP at VI-1.

<sup>19</sup> *Growing Smart* at 7-85.

land consumption rates. If this reassessment changes any of the projections in the Baseline Case Scenario, the County should revise the alternative scenarios accordingly, and reconsider the recommended scenario and implementation approach. The Association also requests that the County provide a better explanation of how it determined the extent of developed land and how it determined future population estimates for the unincorporated areas. Lastly, the Association requests that the County revise the land consumption projections to reference a 15-20 year planning horizon as a basis for examining land development scenarios rather than the longer, more speculative 40-year period that the SLDP presents.

**Issue: The SLDP does not provide an adequate foundation for the selection and weighting of factors in the Sustainable Land Development Suitability Analysis.**

The Sustainable Land Development Suitability Analysis presented in Volume III of the SLDP provides an elaborate analytical tool based on a Geographic Information System (GIS). The SLDP describes the tool as follows:

The [Sustainable Land Development Suitability Model] was created to provide a consistent, technically defensible system for the evaluation of development proposal [sic] the County. The model measures a wide variety of factors, such as distance to surface water, habitat value, distance to infrastructure and other environmental and community factors. Data was obtained from various local, State, Federal and Private entities. These factors are weighted in importance based on the relevance of the factor to the County's goals, objectives and policies. The model is intended to aid decision-making by assessing the impact of development on the County's natural, cultural, archaeological, economic, infrastructure and other community resources.<sup>20</sup>

The analysis identifies a total of 58 suitability factors, covering 10 categories. To create the output of the analysis, the GIS data "needs to first be processed (i.e., re-coded) so that the coding of data reflects the suitability value that is attributed to information in the data set."<sup>21</sup> For this analysis, "all input datasets were set to a low (1), moderate (2) or high (3) suitability based upon staff, consultant and various other entities' expertise." In addition, "[t]he various suitability factors were weighted first, before summing the values, by applying multipliers that reflect judgments regarding the relative importance of these factors."<sup>22</sup> Volume III of the SLDP contains descriptions of the GIS data for all of the suitability factors.

There are several problems with the Sustainable Land Development Suitability Model as presented. First, the selection of the suitability factors and the assignment of multipliers to weigh the factors must have involved a significant amount of discretion on the part of those with the "expertise." Yet, the SLDP does not sufficiently disclose and explain the process involved in the selection of the factors or the weighting of the factors. Also, the table in Volume III listing all of the factors appears to show that each factor was assigned a weight of 1, meaning that all factors were considered to be equally as important and that no factors were relatively more important than any other. This results, for example, in Factor 9.9 (Hydrologic Zones/Groundwater Availability) having the same weight as Factor 3.3 (lands with high bird species richness).

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<sup>20</sup> SLDP at VIIA-49.

<sup>21</sup> SLDP at VIII-1.

<sup>22</sup> SLDP at VIII-1.

Given the County's concerns for water availability, which is well documented in Volume II-A of the SLDP, it appears odd that the analysis would not assign a greater relative weight to the groundwater availability factor.

Also, the SLDP claims that the factors are "weighted in importance based on the relevance of the factor to the County's goals, objectives and policies."<sup>23</sup> However, the supporting documentation in Volume III does not provide any reference to specific goals, objectives or policies in the description of the suitability factors that would otherwise help explain the relationship. It would be helpful if the documentation provided specific references to support the selection and potential weighing of the factors.

***Recommendation:*** The Association requests that the County revise the SLDP to provide much more detail and explanation regarding the selection and weighting of the suitability factors, and on the relationship between the factors and the SLDP's goals, objectives, and policies.

**Issue:** **The Sustainable Land Development Suitability Model should be used solely for the County's planning efforts and not for review of specific development proposals.**

Assuming that the County can provide the appropriate documentation and support for the model/analysis, it is possible that this tool could be useful for the County's land use planning efforts now and in the future. However, it is inappropriate to use such a tool to evaluate specific development proposals as currently suggested in Section 2-2.4.1 of the SLDP.<sup>24</sup> Development proposals should be evaluated based on their conformance to applicable zoning requirements and should not be subjected to evaluation based on a subjectively derived analytic model. Consider the situation in which the County, using the suitability tool, generates a zoning map and prepares the Code with specific requirements for development proposals in the zoning districts. A property owner then proposes a development project, which meets all of the applicable requirements for work in the respective zoning district. It would be fundamentally unfair to the property owner if the County then used the suitability tool to evaluate the development proposal and found that the proposal was not suited to the land.

***Recommendation:*** While recognizing that certain types of land use such as oil and gas drilling may require suitability modeling and more extensive land use controls due to the potential long term negative environmental impacts, the Association requests that the County recognize that the use of the Sustainable Land Development Suitability Model should be limited to the County's land use planning and should not be extended to review of development proposals.

**Issue:** **It is unclear whether the County has sufficient baseline information to measure future progress in attaining certain objectives.**

Many of the goals in the SLDP provide specific measureable objectives. It is not clear in all cases that the County has enough baseline information to evaluate its progress towards meeting the objectives, such as the following.

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<sup>23</sup> SLDP at VIIA-49.

<sup>24</sup> *Id.* ("The [Sustainable Land Development Suitability Model] was created to provide a consistent, technically defensible system for the evaluation of development proposal in the County").

Objective 8.A: Reduce per capita land consumption by 50% by 2020 in Sustainable Development Areas over existing levels for conventional development patterns.

Objective 9.A: Reduce vehicle miles travelled and number of daily trips from new development by 20%.

Objective 35.B: Reduce energy use Countywide by 20% by 2020 as measured by \_\_\_\_.

Objective 35.C: Reduce County-wide greenhouse gas production by 20% by 2020.

Objective 36.C: Decrease aquifer and well depletion 20% by 2020 by existing residential and non-residential development, through aquifer recharge of gray water and other conservation and mitigation efforts.

Objective 41.A: Reduce County-wide per capita VMT by 20% by 2020.

For several of these objectives, the SLDP does not provide current or historical values. For example, for the two goals related to reducing vehicle miles travelled (VMT), the SLDP only provides a qualitative discussion of issues related to VMT in the County.<sup>25</sup> It is difficult to ascertain if the abstract goal of a 20% reduction in VMT for new development or for the County as a whole is feasible, or to understand all of its implications, without putting that percentage goal into terms of the actual current and target total VMT values.

***Recommendation:*** The Association requests that the County revise the SLDP to provide baseline measurements for the measured objectives in order for the public to be more fully informed about the implications of these objectives, and so that the effectiveness of SLDP implementation in achieving progress towards those goals can be tracked and implementation adjusted as necessary. If the County does not have any baseline measurements, the Association requests that the goals be removed or modified until such information is available.

## BURDENSOME REQUIREMENTS

**Issue: Many of the SLDP's policies will be burdensome to property owners and developers.**

Many of the SLDP's policies, and several of the objectives, have the potential to be burdensome to property owners or developers when implemented. These burdensome requirements will likely increase the cost of development. These policies and objectives include the following:

**Policy 4.12:** Comprehensive Public Facility Financing for New Development

**Policy 5.2:** Use of "Green" Materials and Techniques

**Policy 8.3:** Demonstrate the Availability of Adequate Public Facilities

**Policy 8.15:** Require Complete, Integrated Development

**Policy 16.1:** Require Adequate Public Facilities and Services Assessments

**Policy 17.1:** Require Participation in Funding Public Facilities and Services

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<sup>25</sup> Found in Section 2-6.3.1, SLDP at VIIA-80.

**Policy 26.4:** Require Adequate and Available Public Facilities and Services  
**Objective 35.D:** Require Solar Hot Water

These policies and objectives are copied in full below and discussed:

**Policy 5.2:** Require the use of “green” construction and neighborhood development materials and techniques for residential and non-residential development equivalent to silver LEED rating, to achieve environmental benefits and low utility costs, using federal, state and county tax credits, tax deductions, loan and grant incentives and flexible regulation.

The reference to a “silver LEED rating” is not appropriate, given that the LEED rating systems are subject to modification by a private independent entity (the U.S. Green Building Council). This policy also leaves unclear what is meant by “equivalent” to the rating and how the County would be able to administer and oversee such a determination. The policy is also unclear as to whether the requirement is only applicable when tax credits, deductions, or other measures are available, or in all situations.

**Policy 8.15:** Require any substantial development in identified “growth areas” to take the form of complete, integrated, master-planned communities, with a mix of land uses and housing types, an interconnected system of local roads, and requirements for clustering, minimum net densities, and open space preservation.

Restricting development to “complete, integrated, master-planned communities” may not be economically feasible, and could deprive landowners of the opportunity to develop their property. There should be clarification of what “substantial development” means (how big a site, how many units of housing, etc.) in order to understand the implications of this policy.

**Objective 35.D:** Residential structures with >16 units and all non-residential structures (> \_\_ square feet) shall provide at least 60% of their domestic hot water energy from solar thermal collectors.

This objective will require certain developments to utilize solar thermal collectors for hot water. There could be site conditions or other factors that make such a requirement cost-prohibitive to some new developments. The SLDP should provide more flexibility for projects that may not be able to achieve this objective.

**Policy 4.12:** Require that all development projects participate in comprehensive public facility financing plans on a pro-rata basis as a condition of development approval, except where an increased level of participation exceeding these requirements is established through negotiated legal mechanisms.

**Policy 8.3:** Require public and private development to demonstrate the availability of adequate public facilities and services at adopted levels of service.

**Policy 16.1:** Require adequate public facilities and services assessments of the availability of infrastructure and public services for proposed projects.

**Policy 17.1:** Require new development to participate in funding all public facilities and public services need generated by the development.

**Policy 26.4:** Require adequate and available public facilities and services prior to the approval of new development.

The SLDP includes requirements for new development to participate in comprehensive public financing plans, as well as to demonstrate the availability of adequate public facilities and services at adopted levels of service, and allows for the County to expand its impact fee program to cover all public facilities and services. In this respect, it appears that the County may be intent on using any available mechanism to allocate the cost of infrastructure improvements to new development. While it is reasonable to expect new development to pay its share of public services, the SLDP should be careful not to create too much overlap in these programs, which would potentially result in new development being overburdened with these costs.

**Recommendation:** The Association requests that the County revise the particularly burdensome policies contained within the SLDP to ensure that there is an appropriate level of flexibility when these policies are implemented through Code provisions. Desirable additional flexibility could be accomplished in many cases by changing the wording of these policies from “require” to “encourage.” Providing additional flexibility in these policies will help to avoid creating undue regulatory burdens on new development. The rigid policies otherwise could result in inflexible code provisions which could thwart desirable projects, increase development costs disproportionately to the benefits achieved, and cumulatively have a stifling effect on growth in the County.

**Issue:** The SLDP’s proposed use of Specific Plans is unnecessary and counterintuitive to other goals and policies.

Section 1-4.1.11 of the SLDP provides for the use of “specific plans” for individual property or properties, which “should be required for all mixed use or planned developments, such as infill, new urbanism, transit-oriented development and traditional neighborhood development.”<sup>26</sup>

Specific plans are amendments to the SLDP and County’s Land Development Code that are “specific” to an individual development project. The use of specific plans may be a concept borrowed from land use planning in California, which provides for the use of specific plans in the planning statutes.<sup>27</sup> In California, the procedures for adopting a specific plan is the same as it is for adopting a general plan, both requiring a significant amount of time and effort and both being subject to the discretion of a legislative approval body.<sup>28</sup>

The SLDP does not provide any justification for requiring the use of specific plans. Santa Fe County is currently undertaking a significant process to prepare and adopt the SLDP and it is not clear that there is any value to be added by a specific plan process that will require future parcel-specific amendments to this planning effort. Also, the specific plan will be required for “mixed use or planned developments, such as infill, new urbanism, transit-oriented development and

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<sup>26</sup> SLDP at VI-62.

<sup>27</sup> See Cecily Talbert Barclay, *Curtin's California Land Use and Planning Law* (Solano Press, 29<sup>th</sup> ed. 2009) at 39-41.

<sup>28</sup> *Id.* at 39.

traditional neighborhood development.”<sup>29</sup> These types of development are cited throughout the SLDP as being the solutions to the County’s problems of sprawl and as supporting the goals of sustainability. There is nothing in the SLDP that would explain why these types of development require costly and time-consuming specific planning efforts separate and apart from the County’s current planning efforts and why appropriate review of these developments cannot be accommodated through the development review process under the Code.

The Association understands that the County’s consultant has indicated that the specific plan process is intended to be helpful for advancing desired projects through the approval processes. However, based on the information available, this does not appear to be the case. The process associated with getting a specific plan adopted and the discretionary nature of such approval would almost certainly act as disincentive to a developer considering a project that requires a specific plan. Without better justification and illustration of the benefit of this process, requiring a specific plan for desired development is not warranted.

***Recommendation:*** The Association requests that the County remove the requirement for use of a specific plan for all mixed use or planned developments and instead ensure that these types of projects are adequately encouraged and provided for in the SLDP and allowed under the Code with an appropriate level of process.

**Issue: The recommended implementation of a Capital Improvements Program should incorporate procedural due process and substantive limitations to protect property rights.**

The use of a Capital Improvements Program (“CIP”) can be a helpful tool for the County and the regulated public, as it provides a reliable source of information on the capital projects that are planned for the County and the schedule by which they are likely to be implemented. A CIP can result in concerns from the standpoint of the real estate industry when its use is tied to the creation of impact fees, adequate public facilities programs, or concurrency requirements. These financing tools and requirements are all discussed in the SLDP as potential means for accommodating the cost of the County’s infrastructure requirements.<sup>30</sup>

In the absence of the specific implementation language (which we understand is currently being drafted for public review as part of the later chapters of the Sustainable Land Development Code), there are several procedural requirements and limitations that should be provided with the introduction of a CIP to ensure that property owners seeking to develop their land are not severely overburdened as a result of the CIP and related financing programs. For example, the SLDP mentions that certain states predicate the imposition of impact fees on the existence of a CIP.<sup>31</sup> Such a requirement could be implemented through the Sustainable Land Development Code that is currently being drafted and will be adopted following the adoption of the SLDP. This could help to ensure that the County is diligent in adopting and updating the CIP.

In addition, the CIP should be clearly limited to “capital improvements.” Maintenance projects and County studies or planning efforts should not be incorporated into a list of capital

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<sup>29</sup> SLDP at VI-62.

<sup>30</sup> SLDP at VIIA-63 – 67.

<sup>31</sup> SLDP at VIIA-86.

improvement projects. Finally, a CIP should incorporate procedures to allow for amendments or modifications, in order to provide flexibility in the event of a planned development being proposed that requires capital improvements.

**Recommendation:** The Association requests that the County incorporate appropriate language in the SLDP to support procedural requirements and limitations on the CIP and related financing tools or requirements.<sup>32</sup>

## MISCELLANEOUS ISSUES

**Issue:** Many of the policies listed under Goal 4 do not appear to solely relate to this goal.

Goal 4 in the SLDP is stated as: “In [Sustainable Development Area (“SDA”)]-3, balance the demand for development and the need for facilities and services with the preservation of rural, agricultural, equestrian and ranch uses and protection of environmental lands.”<sup>33</sup> There are 14 policies listed after this goal, several of which do not appear to specifically relate to the goal. For example, Policy 4.8 proposes a Future Land Use program that, based on a review of the Future Land Use Map (Map 3) is relevant to SDA-1 and SDA-2 as well. Similarly 4.9 through 4.14 also appear as though they should apply to the County as a whole, and not just be limited to SDA-3.

**Recommendation:** The Association requests that the County review the policies under Goal 4 to determine if they should be relocated to another section of the SLDP.

**Issue:** The County should prepare and make available larger scale copies of the maps for public review and/or provide a web-based GIS application for viewing the maps in greater detail.

In general, the SLDP’s maps appear to be well prepared and they are very thorough in the scope of issues that are covered by the mapping. The only major flaw in the maps is the scale at which they are drawn and distributed. The portable document format (pdf) version of the maps does not provide sufficient resolution of the maps to zoom into certain areas, such as the more densely developed areas around the City of Santa Fe. This inability to see the specific details of the Growth Tiers boundaries, or the Future Land Use designation boundaries could make it difficult for a property owner to understand the specific implications of these maps for its property.

**Recommendation:** The Association requests that the County provide a format to allow the maps to be viewed in greater resolution, either by creating large scale versions of the maps, providing expanded sections, or providing a web-based Geographic Information Systems tool that is readily available to the public.

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<sup>32</sup> It is likely that these and other comments on the proposed use of a CIP by the County may be more applicable upon release of Code language for the CIP. According to the County’s website, the CIP will be incorporated into Chapter 8 of the Sustainable Land Development Code, a draft of which is proposed to be released later this year.

<sup>33</sup> SLDP at VI-22.