

SANTA FE ASSOCIATION OF REALTORS®

MEMORANDUM

Revised County Sustainable Land Development Plan Santa Fe, New Mexico

March 19, 2010

BACKGROUND

Santa Fe County is proposing to revise and updated its current General Plan with a new plan entitled “The Sustainable Land Development Plan.” The Revised SLDP is proposed as “a comprehensive revision and update of the Santa Fe County Growth Management Plan (General Plan) adopted in 1999.”¹ As stated in the Revised SLDP:

The SLDP, and all future amendments to the SLDP, including the attached Official Map and Capital Improvements Plan (“CIP”), which will also be separately adopted as ordinances, will constitute the constitution for, and controlling document over all planning, environmental, public facility and service, fiscal, land use, housing, resource conservation, renewable energy and green development legislation, administrative regulation, and development approvals, financing and fees, all of which should be consistent with the SLDP.²

The Revised SLDP is composed of the following parts:

- Chapter 1: A Sustainable Vision
- Chapter 2: Land Use Element
- Chapter 3: Economic Development Element
- Chapter 4: Agricultural and Ranch Element
- Chapter 5: Resource Conservation Element
- Chapter 6: Open Space, Trails, Parks and Recreation Areas Element
- Chapter 7: Renewable Energy and Energy Efficiency Element
- Chapter 8: Sustainable Green Design and Development Element
- Chapter 9: Public Safety Element
- Chapter 10: Transportation Element
- Chapter 11: Water, Wastewater and Stormwater Management Element
- Chapter 12: Adequate Public Facilities and Financing Element
- Chapter 13: Housing Element
- Chapter 14: Governance Element
- Chapter 15: Implementation
- Appendix A: Participation Data

Chapters 2 through 14 address the elements of the Revised SLDP. Each chapter contains a set of

¹ Revised SLDP at 1.

² *Id.*

binding principles, a discussion of critical findings, and a list of goals, policies, and strategies. Various figures and maps are incorporated into the plan as well.

ANALYSIS

The Revised SLDP is significantly different from the October draft. It has been substantially reduced in size, going from over 1100 pages to just under 300 pages. The revised draft has eliminated the Community Planning volume, the Oil and Gas Element volume, and the Capital Improvements Plan and Financing volume (although it maintains references to a Capital Improvements Plan, which is proposed for separate adoption as an ordinance). In addition, the Revised SLDP has integrated the volumes previously referred to as “A Sustainable Vision — Policy Framework and Implementation” and “Plan Elements — The System and Settings of Santa Fe County” into the 15 chapters of the Revised SLDP, making it more focused and concise than the October draft.

The Revised SLDP has addressed a few of the concerns previously raised by the Santa Fe Association of REALTORS®. Most notably, the Revised SLDP contains a more complete analysis of housing needs and objectives, revises the October draft’s approach to reducing land consumption rates, which appeared to be based on flawed data, removes the analysis of Alternative Future Growth scenarios which needlessly projected trends into 2010 and also appeared to be based on questionable data and assumptions, and revises many of the unclear and/or burdensome and policies and objectives that appeared in the October draft.

However, several of the concerns we previously identified are not adequately addressed by the Revised SLDP. We provide an updated analysis of these issues below. We also raise concerns about the Revised SLDP’s governance model, a subject which we previously discussed in our prior comments. We also raise two new concerns: one about the green design and development requirements and the other about the adequate public facilities assessment contained in the Revised SLDP.

PREVIOUSLY IDENTIFIED ISSUES THAT REMAIN A CONCERN IN THE REVISED SLDP

Issue: The Revised SLDP’s analysis of future growth in the County appears to be based on questionable data.

Section 2.3.1 of the Revised SLDP (Growth Projections) provides population projections for the County. The projections are divided between the incorporated areas and the unincorporated areas, with a further breakdown of the unincorporated areas projections into projections for the four identified growth management areas.

The Revised SLDP’s data, like the data in the October draft, appears to be based on a 2009 study by Al Pitts (“Pitts study”). This study, available on the County’s website,³ contains County population and housing unit projections for 2006 through 2050. The Pitts study contains an

³ 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.

introductory discussion of the population projections, explaining why its projections are notably higher than those provided by the U.S. Census Bureau and how the study's author chose between two alternative growth projections for the County. The Pitts study divides the population and housing projections between the "Santa Fe Urban Region" and the remainder of Santa Fe County.⁴ The Santa Fe Urban Region includes the City of Santa Fe and its proposed annexation area.⁵

There are several problems with the population and housing projections presented in the Pitts study. First, the study's author selection of a more aggressive growth trend for the County is not sufficiently supported. The aggressive growth trend and the slower growth trend projections that the author uses in his analysis are both based on data prepared by the Bureau of Business and Economic Research (BBER) at the University of New Mexico. The more aggressive growth projections are based on older projections prepared by the BBER in September of 2000, which predict that the County's population will rise to approximately 177,000 by 2020. The slower growth projections are based on more recent projections prepared by the BBER in August of 2008, which predict a more modest rise to approximately 166,000 by 2020. The author's justification for selecting the 2000 data for the basis of his projections is that the projections prepared by the BBER in 2000 proved to be accurate through 2008.⁶ The author does not explain why he chose to reject BBER's updated projections even though he acknowledges that the same agency provided reliable predictions in 2000. The study lacks an adequate explanation for why the more recently developed slow growth projections are "less probable" than the older projections of faster growth.

The second problem with the Pitts study is that it does not clearly differentiate between the unincorporated County (i.e., the area for which the Revised SLDP is being prepared and over which the County has regulatory jurisdiction) and incorporated areas other than the City of Santa Fe, such as the City of Espanola and the Town of Edgewood. It also does not address population and housing within the tribal lands in the County, which encompass a sizeable area over which the County's jurisdiction is limited. The author also fails to provide any description of the methodology used to allocate the population and housing projections between the Santa Fe Urban Region and the remainder of the County. He also does not explain how he further allocates the "remainder of the County" projections into the four growth regions. This data overlap and the shortage of methodological information make it difficult to determine whether the study's projections are likely to be reliable for the sub-areas, let alone for the County as a whole.

A third problem with the population and housing projections, and with the Revised SLDP's growth projections section, is that they fail to adequately address the timing of annexation for land around the City of Santa Fe. This omission leaves it unclear how the annexation of this land should factor into the County's growth projections.

⁴ *Id.*, See Table A-01, Total Population, and Table A-02, Total Housing Units.

⁵ *Id.*, Context Map.

⁶ Pitts at 2. (stating "... the BBER 2000 (Series A) projection correctly foresaw that the County's growth would remain steady through 2008. And it produced a very accurate prediction of the County's cumulative growth rate during that period.")

The problems with the Pitts study create legitimate concerns as to whether the County is using accurate population and housing projections in the Revised SLDP. Accurate population and housing projections are important to ensuring that the County has the most relevant and reliable bases for projecting the future number of housing units the County needs, and the future demand for County services, such as schools, fire and police services, and infrastructure. The accuracy of the projections is also critical because they will be used as the basis for any impact fee and adequate public facilities programs that are established pursuant to the Revised SLDP.

Recommendation: The Santa Fe Association of REATLORS® requests that the County revisit the population and housing unit projections to ensure that they are as accurate as possible in assessing the future growth of the unincorporated areas of the County and that they also, particularly, account for the annexation of land around the City of Santa Fe. The revised projections should include a description of the methodology used to allocate growth between incorporated and unincorporated areas and within growth regions of the unincorporated County. The revised projections should also address any issues related to timing of annexation for land around the City of Santa Fe. The County should also incorporate into the Revised SLDP a discussion of the Pitts study and the assumptions which form the basis of the County’s population and housing projections. This discussion is essential in the event that the County’s actual growth is more consistent with the slower growth projections contained in the Pitt study’s slow-growth alternative or with the U.S. Census Bureau estimates, as slower realized growth will factor into the analysis of Levels of Service for public facilities.

Issue: **The Revised SLDP proposes consistency review requirements that are burdensome.**

The Revised SLDP states that it “should be the standard against which all development approvals, the SLDC, other applicable ordinances, codes, regulations and decisions are made, requiring consistency with all elements of the SLDP, the CIP, the Official Map and all applicable area, specific or community plans.”⁷ This consistency requirement was incorporated into the July draft of the SLDC, which requires that an applicant for a discretionary development approval demonstrate consistency with the General Plan and area or specific plans through the submission of a Consistency Report.⁸

The consistency requirements of the Revised SLDP and the consistency reporting proposed in the SLDC should be unnecessary in most cases, assuming that the County implements a truly vertical consistency program. In such a case, a proposed development that meets the use and dimensional and other standards of a zoning district should already be consistent with the Revised SLDP, subject, at most, to a limited form of site plan review.⁹

Recommendation: The Santa Fe Association of REALTORS® requests that the County reconsider the requirement that development proposals must be subject to individual consistency reviews, given that the Revised SLDP requires consistency for all ordinances and maps which

⁷ Revised SLDP at 258.

⁸ Section 5.5.10.7 of the SLDC.

⁹ We refer to a “limited” form of site plan review process here, noting that the scope of site plan review described in the July draft of the SLDC is far too expansive. We anticipate making comments on future revisions and additional chapters of the SLDC to emphasize this point.

obviates the need to re-evaluate a proposed project for plan consistency.

Issue: The Revised SLDP does not provide an adequate foundation for use of the Sustainable Land Development Suitability Model.

The Revised SLDP does not fully incorporated “Sustainable Land Development Suitability Analysis” that was contained in Volume III of the October draft. It does, however, continue to reference the Sustainable Land Development Suitability Model and its corresponding Land Development Suitability Analysis.¹⁰ The Revised SLDP describes the model as follows:

The Sustainable Land Development Suitability Model (SLDSM) is a Geographic Information Systems (GIS-based) land use model. The SLDSM was created to provide a consistent, technically defensible system for land use planning in 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, policies and strategies. 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. The model factors are shown in Figure 2-7, and the composite development suitability is shown on Map 2-2.¹¹

The Revised SLDP lists 59 suitability factors,¹² which are similar to those factors contained in the October draft, and provides the Land Development Suitability Analysis map.¹³ The Revised SLDP does not even contain the as much detail about the model, the factors, or the map as the October draft, which itself was not adequate.

The inclusion of the model and map in the Revised SLDP make it appear unlikely that the County has refined the supporting analysis. In our prior comments, we raised concerns about the selection, assignment, and weighting of the suitability factors.¹⁴ Because the supporting text and materials related to the SLDSM have been removed from the Revised SLDP, it is not possible to determine if these concerns have been addressed.

In addition, the Revised SLDP states that the model is to be used to “aid decision-making by assessing the impact of development on the County’s natural, cultural, archaeological, economic, infrastructure and other community resources.”¹⁵ Assuming that the County can provide the appropriate documentation and support for the model/analysis, it is possible that the model could be useful for the County’s land use planning efforts now and in the future. However, the Revised SLDP should be clarified to indicate that it does not propose the use of the model/analysis to evaluate specific land development proposals. Development proposals should be evaluated based on their conformance to applicable zoning requirements and not also

¹⁰ Revised SLDP at 27-29.

¹¹ Revised SLDP at 27.

¹² Figure 2-7, Revised SLDP at 28.

¹³ Map 2-2, Revised SLDP at 29.

¹⁴ See SFAR’s November Memorandum at p.7.

¹⁵ Revised SLDP at 27.

reviewed on the basis of a subjectively derived analytic model. Consider the situation in which the County, using the suitability tool, generates a zoning map and a Code with specific requirements for development proposals in the zoning districts. If 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 for the County to also use the suitability tool to evaluate the development proposal again and conclude that the proposal was not suited to the land.

Recommendation: The Santa Fe Association of REALTORS® requests that the County further revise the Revised SLDP to incorporate a discussion of the suitability factors, including the selection and weighting of the factors, and their relationship to the Revised SLDP’s goals, objectives, and policies. The Association also requests that the County confirm that the use of the Sustainable Land Development Suitability Model will be limited to the County’s land use planning and will not be extended to the review of specific land development proposals.

Issue: **The Revised SLDP’s proposed use of Specific Plans is a questionable approach for encouraging mixed use and infill development.**

In prior comments, the Association raised concerns about the County’s proposed use of “Specific Plans” for development sites on which a developer proposed to build a mixed use, infill, new urbanism, or transit-oriented development project. It was not clear in the SLDC or the October draft of the SLDP that the Specific Plan concept would provide any value to development proponents. Moreover, the level of effort and time involved in a discretionary process appeared to be counter-intuitive to the County’s goals of advancing these types of projects.

The Revised SLDP has provided an additional rationale for using the Specific Plan approach in stating that the Specific Plan process can be used to expedite the processing of applications by incorporating all “plan amendments, zoning text and map amendments, major, minor and Type I through V subdivision approvals; major and minor site plans, special and conditional use permits and variances” into one process.¹⁶ As further outlined in Section 14.5.5.1, the Specific Plan “will require only a single integrated public hearing for all of the discretionary development approvals included within the plan” and their use “will enable a streamlined development approval process for development that carries out the priorities of the SLDP.”¹⁷

Despite this additional rationale, we remain concerned that the discretionary nature of the Specific Plan approval process will detract from the potential benefits of streamlined review. In addition, the County has yet to demonstrate why it is unable to plan for and encourage mixed use and infill growth through the SLDP and SLDC themselves without requiring the overlay of an additional Specific Plan process. Enabling these types of projects to be constructed as-of-right, in identified districts, without discretionary review, would be the most effective way to plan and zone for these desired patterns of growth. Alternatively, the County has proposed a site plan review process in the July draft of the SLDC, which, if modified in scope, could be appropriately used to review a development application to ensure that it meets the requirements of the

¹⁶ Revised SLDP at 259.

¹⁷ Revised SLDP at 273.

applicable County ordinances and regulations.¹⁸ If the County undertakes the necessary planning to enable mixed use and infill development, a limited site plan review process will provide a sufficient means for County review of such projects.

Recommendation: The Santa Fe Association of REALTORS® continues to request that the County revisit its proposal to require the use of Specific Plans for all mixed use or planned development and consider allowing such projects by right, subject only to a limited form of site plan review.

Issue: **The Revised SLDP creates a complex administrative process for development review and approval that will increase the cost of development and may be difficult for the County to implement.**

The regulatory structure proposed in Chapter 14 of the Revised SLDP is very similar to that proposed in the draft chapters of the Sustainable Land Development Code (“SLDC”), published by the County for review in July of 2009. As we discussed in prior comments, the regulatory structure appears to be very elaborate, creating a very extensive and time-consuming process for development approvals, particularly for discretionary development approvals such as plan amendments, map and text amendments to the code, major and minor subdivisions, conditional use permits, site plans, development agreements, area variances, and beneficial use and value determinations. Such a burdensome and time-consuming process for development review will increase development costs, which may stifle opportunities for new development in the County.

The level of detail associated with the development review process also raises questions as to the County’s ability to administer the approval process. Additional staffing may be necessary to fill the various roles in the review process created by the Revised SLDP, which could further strain the County’s resources or, if review costs are shifted to those seeking approvals, further add to the development cost burden.

Recommendation: The Santa Fe Association of REALTORS® requests that the County evaluate the likely implications of the Revised SLDP on the cost and timing of development approvals in the County. This evaluation should take the form of a cost-benefit analysis. Furthermore, the County needs to address the level of staffing and additional revenues that the County would need to properly administer the regulatory structure proposed in the Revised SLDP.

Issue: **The Revised SLDP should include additional requirements for Community Organizations for standing in administrative appeals.**

The Governance Element contained in Chapter 14 of the Revised SLDP, like the SLDC, creates a role for community input into the development approval process through the creation of

¹⁸ See *supra* note 9, which notes that the scope of site plan review contained in the July draft of the SLDC is far too expansive. Site plan review should be limited to review of the site details of a development, and should not be used to address issues that were addressed in establishing the applicable zoning district. See also Brian W. Blaesser, *Discretionary Land Use Controls: Avoiding Invitations to Abuse of Discretion* (Thomson-Reuters/West: 2009), Sections 5:1; 5:20.

Community Organizations (“COs”) and Registered Organizations (“ROs”).¹⁹ The Revised SLDP proposes certain requirements for the establishment and management of COs and ROs, and allows for their input during the development approval process through public notice requirements and inclusion at pre-application meetings. In addition, COs are given standing in administrative appeals of development approvals.²⁰

The provisions for public notice to COs and attendance at pre-application meetings should help to facilitate community involvement in the application review process. However, giving the COs standing to appeal a development approval would potentially allow an organization to unjustifiably delay a project even if it does not participate in the review process or have any particularized interest in the project.

Normally, standing to appeal zoning decisions is limited to persons “aggrieved” by the decision—those who have been or will be adversely affected by the decision.²¹ This requirement is echoed in the New Mexico statutes, which permit an “aggrieved person” to initiate an appeal to a zoning authority.²² However, the Revised SLDP appears to grant COs automatic standing to initiate appeals and does not impose any requirement for them to assert an aggrieved status.

The County should require that a CO demonstrate a meaningful level of involvement in a development review process as a prerequisite for being able to initiate or take part in an appeal of a development approval. For example, the Revised SLDP could require that a CO have both attended the public hearing and submitted substantive written comments during the review process. Such a requirement would help to ensure that the appeal process is not used to delay the approval process and put financial pressure on a developer. In addition, such a requirement could also be more consistent with New Mexico’s requirements for demonstrating aggrieved party status, as the CO’s participation and involvement during the review process would help define its potential concerns about a development project, making it more evident whether the CO will potentially be adversely affected by a decision.

Recommendation: The Santa Fe Association of REALTORS® continues to request that the County limit the right of COs to initiate administrative appeals of development approvals by requiring that they produce evidence of attendance at hearings and the submittal of written comments during the review process that demonstrates a particularized interest in the development under consideration. Furthermore, in order to establish standing for appeal a CO must have both attended the hearings on the project and submitted written comments.

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.

¹⁹ SLDP at 267-268.

²⁰ SLDP at 267 (“COs will have the following rights and responsibilities, upon recognition of the CO by the Board ...The right to participate as a party in administrative adjudicatory proceedings pending within the area designated in the resolution of the Board recognizing the CO, and as such will, as appropriate, be permitted to present evidence and witnesses at a quasi-judicial hearing before the Board, Planning Commission, or Hearing Officer.”).

²¹ Ziegler, Edward H. Jr., *Rathkopf's The Law of Zoning and Planning* § 63:3 (4th ed.).

²² N. M. S. A. § 3-21-8 (2009).

In general, the Revised SLDP's maps appear to be well prepared and they encompass a very broad scope of information. 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 Sustainable Development Area 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 Santa Fe Association of REALTORS® requests that the County provide the maps in a format that permits them 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.

NEW ISSUES REGARDING THE REVISED SLDP

Issue: Many of the Revised SLDP's proposed green building and energy efficiency requirements are not appropriate subjects for zoning regulation or other forms of county oversight.

Chapter 8 describes the Sustainable Green Design and Development Element of the Revised SLDP. Included in this chapter are requirements for minimum standards for green construction and neighborhood development materials and techniques and minimum energy efficiency requirements.²³ In particular, the Revised SLDP states:

The County will require compliance with energy efficiency standards in all (1) new buildings, systems and equipment; (2) additions, extensions or increases in the floor area or height of a building outside of the existing building envelope (3) alterations to all or portions of buildings and their systems, where the work area exceeds fifty (50) percent of the aggregate area of the building; or (4) buildings or spaces undergoing a change of occupancy that would result in an increased demand for either fossil fuel or electrical energy; but not in buildings (i) that do not use fossil fuels or electricity produced by fossil fuels; (ii) that meet the minimum certification requirements of LEED Silver; (iii) that qualify as historic buildings; or (iv) whose equipment and those portions of the building or structure that use energy to provide for industrial, manufacturing or commercial processes.²⁴

The Revised SLDP also proposes requirements for heating, ventilation, and air conditioning, power distribution systems, lighting, and Energy Star appliances.²⁵ For the majority of these requirements, the Revised SLDP calls for review during the site plan approval process. Practically, it is unlikely that a developer will be able to provide significant details related to many of these elements at the time of a site plan approval application. Generally, at the time

²³ Revised SLDP at 109.

²⁴ Revised SLDP at 109-110. NOTE: Clause iv in this paragraph does not appear to be grammatically correct and may be missing language.

²⁵ Revised SLDP at 110.

zoning approvals are sought, most of the building elements in question are not designed at a sufficient level to allow for the detailed review that the Revised SLDP contemplates.

In addition, energy efficiency requirements and heating, ventilation, and air conditioning requirements are generally regulated through a building code, and not through zoning ordinances. The State of New Mexico appears to have a uniform energy code, and the state and certain municipalities, including the City of Santa Fe, have authority over building codes.²⁶ Also, the City of Albuquerque, New Mexico was recently challenged when trying to promulgate ordinances that impose minimum energy efficiency standards for commercial and residential buildings, based on an argument that such ordinances are preempted by federal law.²⁷

The Revised SLDP does not address the County's authority to regulate minimum energy efficiencies or require certain standards for heating, ventilation and air conditions or EnergyStar appliances. To the extent that any proposed ordinances or regulations appear to conflict with statewide energy code, the state building code, or potentially run into subjects of federal preemption, these ordinances and codes are likely to be challenged.

Recommendation: The Santa Fe Association of REALTORS® request that the green building and neighborhood design requirements be limited to aspects of a development that can properly be addressed through the implementing zoning ordinances. The Association requests that the County focus on providing an incentive program, such as FAR or density incentives proposed in Section 8.2.4, to implement its green building and neighborhood design objectives, rather than imposing burdensome mandates. The Association requests that the County provide additional information on its authority to regulate energy efficiency, power distribution systems, heating, ventilation, and air conditioning and EnergyStar appliances.

Issue: The Revised SLDP's explanation of levels of service for the Adequate Public Facilities program is inadequate and confusing.

Chapter 12 of the Revised SLDP contains the Adequate Public Facilities and Financing Element. As described in the chapter, the Revised SLDP proposes to implement an Adequate Public Facilities program and adopt regulations to “ensure that adequate capital facilities are in place at the time final discretionary development approval is granted.”²⁸ The chapter describes the existing Levels of Service for community facilities as well as proposed levels of service the

²⁶ Information on the state building code can be found on the New Mexico Regulation & Licensing Department's website (<http://www.rld.state.nm.us/cid/>). The City of Santa Fe's building code can be found on the City's website (<http://www.santafenm.gov/index.aspx?NID=672>). In addition, the U.S. Department of Energy publishes information about state and municipal energy codes on its website (http://www.energycodes.gov/implement/state_codes/state_status.php?state_AB=NM). This website indicates that the state of New Mexico requires the use of the 2006 International Energy Conservation Code statewide.

²⁷ See “Albuquerque Lawsuit Threatens Green Building Codes” posted at BuildingGreen.com (<http://www.buildinggreen.com/auth/article.cfm/2008/11/24/Albuquerque-Lawsuit-Threatens-Green-Building-Codes/>), discussing *AHRI v. City of Albuquerque*, 2008 U.S. Dist. LEXIS 42135 (D.N.M. 10/3/2008). The specific federal laws that arguably preempt aspects of the Albuquerque ordinances are the Energy Policy and Conservation Act (“EPCA”), 42 U.S.C. 6201, et seq., as amended by the National Appliance Energy Conservation Act (“NAECA”), Pub. L. No. 100-102 (1987), and the Energy Policy Act of 1992 (“EPACT”), 42 U.S.C. §§ 6311-17.

²⁸ Revised SLDP at 226.

County will adopt to meet the adequacy levels provided in its Capital Improvements Plan (“CIP”) (“adopted levels of service”).

The assessment of existing and proposed levels of service is unclear. The existing levels of service are discussed in Sections 12.3.7.2 (Transportation), 12.3.7.3 (Law Enforcement, Fire, and EMS), and 12.3.7.4 (Parks, Trails, Trailheads and Open Space). The adopted levels of service are then discussed in Sections 12.3.8.1 (Transportation), 12.3.8.2 (Law Enforcement, Fire, and Emergency Response), and 12.3.8.3 (Water and Sewer Lines, Treatment Plants and Related Facilities) and 12.3.8.3 (Parks, Recreation, Trails, Trailheads and Open Space Areas). We note the following issues, organized by public facility type:

Transportation. The existing levels of service are provided in miles per 1,000 residents and public employees assigned to roads per 1,000 residents. The proposed adopted levels of service are provided in a lettered scale assessment of roadway service capacity (e.g., “D” and “C”). This approach provides no basis for comparing existing levels of service to the adopted levels of service for roads. It is not clear why the existing and adopted levels of service are not presented using common units of measurement.

Law Enforcement, Fire, and Emergency Response. The existing levels of service for law enforcement and fire/EMS are 1.44 officers per 1,000 residents and 1.46 officers per 1,000 residents, respectively.²⁹ However, in the discussion of adopted levels of service, the Revised SLDP states that there are currently 0.85 sheriff’s officers and office personnel per 1,000 residents and 0.93 paid employees in the fire department per 1,000 residents (although Figure 12-5 indicates that these values are expressed in “officers per 1,000 residents”).³⁰ It is not clear why there is a discrepancy in these numbers and whether the levels should be expressed in terms of “officers per 1,000 residents” or “officers and office personnel per 1,000 residents.” Also, there is a discussion in the Revised SLDP of a current standard for capital facilities (buildings and vehicles) for law enforcement,³¹ but the Revised SLDP does not specifically identify this level of service as the adopted standard. For fire and emergency response, the Revised SLDP does not list existing levels of service for these capital facilities or identify a proposed level of service standard. Establishing levels of service standards is critically important to an adequate public facilities and services program and the lack of such standards may lead to invalidation of regulations.³²

Water and Sewer Lines, Treatment Plans and Related Facilities. There is no separate discussion of water and sewer facilities in the existing conditions subsection. For the adopted levels of service, the Revised SLDP provides information on maximum desired service levels (expressed in acre-feet per dwelling unit per year or acre-feet per 10,000 square feet of development per year), employees per 1,000 residents, and capital improvements per 1,000 residents. While it appears that the County is operating at or near these adopted levels of service, it is not clear whether the adopted service levels are reflective of the Revised SLDP’s water

²⁹ Figure 12-4, Revised SLDP at 228.

³⁰ Figure 12-5, Revised SLDP at 231.

³¹ Revised SLDP at 230 (“Capital facilities for the sheriff’s office should reflect expenditures in the CIP for the primary period. Currently, this is \$41,000 per 1,000 residents for a 7-year period (using full County population).”).

³² *Rathkopf’s* at §15:32.

conservation goals, which could presumably lower the appropriate service levels in the future. In addition, Figure 12-5 lists stormwater management as a public facility, but the Revised SLDP provides no discussion of levels of service for stormwater.

Parks, Recreation, Trails, Trailheads, and Open Space Areas. The adopted levels of service would increase the existing levels of service for trails and trailheads. There is no justification or supporting data provided for the proposed increase.

Recommendation: Given the significant implications that an adequate public facilities program can have for the timing, location, nature and extent of development, the Santa Fe Association of REALTORS® requests that the County address these shortcomings in the program and clarify its analysis and discussion of public facilities levels of service, in order to provide a better understanding of the County's existing levels of service and the potential consequences of imposing newly adopted levels of service in the adequate public facilities program.