Chapter 14 Governance - Selected Issues
From: Sustainable Land Development Plan [Draft 4/15/2010, pp 278-95]
Prepared for the CDRC, April 29, 2010

Executive Summary:

While both the planning staff and the United Communities have put hundreds of hours of time into this chapter, the topic of "Governance" remains controversial. This document lists only some of the aspects of the chapter that we feel need to be revisited.
Perhaps the largest area of concern is an apparent lack of continuity in the process. Precisely who is responsible for a specific action, when the action is required, and who pays for the activity is presented unevenly and in some instances incoherently. We have tried to create flow charts that would assist in this process, but have not got consensus from the Planning Division as to their accuracy. Some of these are attached. Almost all of the arguments made have been made in writing during the course of the substantial review of the second draft. Since they were not addressed in the third draft, we bring them forward once again – this time for your consideration. Suggested alteration have been printed in red.

14.1 CRITICAL FINDINGS

The following Critical findings were suggested during the planning process but were not added to draft three.

Inadequate enforcement of existing regulation and ordinance and the public's perception that future ordinance will be similarly poorly enforced serve to limit public respect for County Governance.
(suggested addition to Key Issues in Draft 2, does not appear in Draft 3)

The County has not focused in obtaining or administrating outside funding and assistance for land use projects or administration. There is a common perception that the county is ill-prepared to follow through in the development submission or administration of grants proposals and cost sharing plans. Considerable funding has been lost due to poor administrative policy.

The County is not prepared to adequately support the preparation of Requests For Proposals and other contracting vehicles with regard to obtaining quality technical support studies and documentation.

The current organization, limitations, and weaknesses of current Governance is poorly documented

Financial Costs of Land Use Administration is unknown.

Estimates of the Financial Costs passed on to the developer and to the public as part of the review process has not been clearly defined.

The Structure of Land management Policy governance is poorly defined and hard to track.

There is little or no code of ethics spelled out for the County or its employees in terms of its role as a manager of land use

The needs of Traditional Communities are not adequately recognized or addressed under existing land-use policy and is not a focus of Governance.

The future planning goals, personnel requirements and changing needs of County Governance are not addressed insofar as ten or twenty year projections.

There is an expectation that existing Traditional, contemporary and district plans and ordinances will be forced to adjust their zoning plans and ordinances to reflect the County's desires for the broader "Tier" land densities outlined in Chapter two of the Plan.

14.1.2 "Keys to Sustainability"

6: ADD: "and other government agencies"

14.2 COMMUNITY PLANNING AND PUBLIC PARTICIPATION

[clip]
Recognition of RO's. ROs may be recognized by the Administrator upon the filing of an application for recognition as an RO to include the following:

14.2 Suggested Change

2. A list of the officers ~~members~~ of the organization….

Reason for Change:

: *A list of the members of an org is not something that even the NM PRC requires and would be burdensome and questionable for organizations who may have policies about sharing their membership lists, or for large organizations like Sierra Club. What is the intention here? (Ross and Annie)*

14.2.1.2 Suggested Change:

Add: The planning committee shall recommend the establishment of a Community organization, as part of its submission of its draft community plan. The BCC shall concurrently approve both the plan and the

Community Organization so that a mechanism exists for the plan's ordinances to be reviewed and any recommendations for change can be put forward.

14.2.1.2.1 Suggested Change

A list of the officers of the organization, including the CO mailing and e-mail addresses and telephone numbers for the receipt of notices from the Administrator; if the proposed CO is incorporated by the State of New Mexico, OR a list of members of the organization, if the proposed CO is not incorporated in the State of New Mexico"

Reason for change:

New Language in Version three switches from list of officers to a list of members. This is like asking for a list of all share holders in a Corporation..

14.2.1.2.1 Suggested Change

The right to receive notice and provide written recommendations for any application for non-discretionary development approval pending within the geographic area designated in the resolution of the Board recognizing the CO or notice of any public hearing or public meeting concerning such application;

Reason for Change:

Requested in Version 2 and in version 3. This is similar to the current system of "posting notification" in current land use policy.

14.2.1.2.1 Suggested Change

All other rights and obligations described elsewhere in the Plan or that may, from time to time, be delegated by the BCC

14.2.1.3 Suggested Change

Areas that have been defined by a Traditional, Community or district Plan developed through County ordinance 2002-03 shall have a single Community Organization associated with the area defined within that plan. Boundaries defined in a traditional, community or district plan shall not overlap.

Reason for Addition:

The original reason for creating the Community organization, first established during the Charette process in 2008, was to provide an alternative to the Local Development Review Committees, identified in both traditional, community and Regional Plan and Ordinance. The LDRC's were set up to assist in governance at the local level.
Without the recommended change, the community organization will lose the

focus necessary to defend its traditional planning effort – since multiple "community planning Organizations" could conceivably be created to represent the planned area. It is far better to let a single CO hash out its community vision internally, than to have multiple CO's claiming to be the voice that represents an adopted plan and ordinance.

14.2.1.3 Suggested Change

The plan recognizes the need to re-establish planning committee's to effectively revise existing Traditional, Community and District Plans and Ordinances. The requirements for re-establishing a planning committee for the purpose of recommending revisions or changes to a plan for BCC approval are outlined in Public ordinance 2002-3
A Recognized Community Organization (4.2.1.3) who's geographical boundaries are identical to those previously established by an accepted plan, may apply to the BCC to act as a planning committee for the purpose of plan development or plan revision, providing that all requirements under ordinance 2002-3 are met. A CO requesting recognition by resolution from the BCC for a previously identified Traditional, Community, or District Plan, may seek concurrent approval as a Planning Committee.

Planning Committees enacted to provide recommendations to revise or alter existing plans do not require County Staff participation, but all suggested revisions must go through the appropriate county review process and be approved by the BCC.

Reason for Suggested Addition

The County Plan recommends that all existing Traditional, Community, and District Plans and ordinances be revised within three years. However, experience has shown that the County's Planning Division cannot provide assistance to those communities seeking to create community plans – often creating a two to three years delay before approval is sought to even begin the planning process. Re-creating sixteen or more planning Committee's and providing County Staff assistance to all of them at once is both unreasonable and unacceptable. Since Ordinance 2002-3 requires the establishment of a planning committee in order for recommendations to alter an approved plan to be made by the community, there must be a method adopted to permit speedy formulation of each planning committee, and a reasonable method established to review and approve the changes recommended.
Without such structure for revision, the plans and ordinances produced under ordinance 2002-3 will remain un-reconciled with the SDLP and the SDLC .

14.2.1.3 Registered Organizations Recommended Change

A list of the officers of the organization, including the RO mailing and e-mail addresses and telephone numbers for the receipt of notices from the Administrator; if the proposed RO is incorporated by the State of New Mexico, recognized by the State of New Mexico, (ie. A ditch Association) or has a national affiliation, OR a list of members of the organization, if the proposed CO is not incorporated in the State of New Mexico, or is more "informal" in nature.

Reason for Suggested Change

Change from version 2 to version 3 states that the decision to provide notice is made "as deemed appropriate by the Administrator" rather than as deemed appropriate by the BCC. Since the BCC recognizes the RO in the first place, it would appear that this change lessons the requirement for the administrator to provide notice. We recommend that this change be struck.

14.4 REGULATORY STRUCTURE

Suggested Change

14.4.1.1 BOARD OF COUNTY COMMISSIONERS (Ross and Annie)

The Board of County Commissioners (Board), in addition to other powers and responsibilities, will have the following powers and duties in relation to the SLDC:
Suggested revisions and comment should apply also to the duties of the PC and the Hearing Officer:
~~Initiate~~ Annual amendments review ~~to~~ of the SLDP, ~~area plans, specific plans or community plans~~;….

Reason for Change

: *An ability to initiate amendment of the Plan/Code at any time, especially in relation to an application before them for review could be subject to political abuse.*
Instead, we recommend annual review of amendments unrelated to applications as the present code does. It has a fair and acceptable procedure that maintains predictability not only for a developer, but for the public as well*: (Santa Fe County Land Development Code, Section 12 - Annual Review).*

COMMENTS Concerning Language: the word "approval" is used with much ambiguity throughout both the draft SLDP and the SLDC. "Approval" can be both a noun & verb, and should not be used to replace the noun "application". Otherwise it becomes a biased framing of a process that must remain impartial. The word Application remains neutral. The following is an example we have tried to mend:

14.4. 2 FEES AND APPLICATIONS

14.4.21: (Fees)

Recommended Change:

Create a clear process for the establishment of fees, the collection of fees, and the appeal of fees.

Reason for Addition

Fees could be expensive and could be used as a way to prevent development. Who sets the fees? To what standard are fees set? Does the Administrator figure our and set fees. There is no identified method for an applicant to protest or appeal the fees. There is no clear requirement for the County to break down the costs to an applicant so that "reasonableness" could be determined.

14.4.2.2 APPLICATION FORMS

Application forms for proposed developments or land use changes should be easy to understand, concise and consistent with a streamlined development review process. The County should revise each of its current application forms and attach them as an Appendix to the SLDC. The Administrator will have the authority to return applications that are incomplete, subject to such review, remedies and enforcement as the SLDC will provide.

Recommended Addition

Add: At a minimum, the County shall provide application forms for the following types of development: Major Site Plan; Minor Site Plan; Major and Minor Type 1 Subdivision; Major and Minor Type 2 subdivision, Major and Minor Type 3 Subdivision, Major and Minor Type 4 Subdivision; Conditional use; Variance, Rezoning, boundary adjustment, Special use, Beneficial use, Building Permit, grading permit, minor land use disturbance, road construction, driveway, utility hook-up, floodplain development, NPDES, LEED Construction, neighborhood development.

14.4.3 PROCESSES AND PROCEDURES

14.4.3.1 Pre-Application Meeting

14.3.3.1 Recommended addition:

The pre-application neighborhood Meeting shall also provide the community with "full disclosure"information concerning the proposed development's ownership to include:

Name and Address of any corporation or entity associated with the proposed development;
List of corporate officers or owners;
Name and address of any linked, associated, or parent company;
List of properties owned by the applicant or parent company within two miles of the proposed development
Name of any individual or entity that is linked to the proposed project in any substantive way.

Reason for Change:

One of the biggest "holes" in the pre-application process is the fact that reports, studies, and assessments will not have been conducted prior to a land use application being submitted. Therefore, the public will not have these documents in hand to assist them in forming an opinion about the validity of the application. Because of this, a second "neighborhood" meeting should be conducted, this time by the County, to present their findings to the public.

Since the reason for a pre-application neighborhood meeting is to inform the public, the following information should be required of the pre-applicant to be presented:

Statement of Corporate Ownership to include where the company is registered, a list of all owners, corporate owners holding over twenty percent of a corporations stock, list of all officers, list of all co-owned or associated businesses, list of any properties held within two miles of the proposed land development project.
A List of all reports, studies, and assessments that will be required for the project to proceed and who will be responsible for their preparation
A map showing the exact location of the project and the location of plats and roads immediately adjacent to the proposed project, all proposed roads utilities, and structures, and other improvements

Recommended Addition

After the meeting the owner should prepare a written report on the results of the meeting, included with the filing of the development application. Details of the meeting, such as the following, should be included:
(Ross and Annie)
ADD THIS: A list of the owner or owners along with addresses and contact information. If the owner is an organization, corporation, LLC, etc. a list of the board of directors, along with a contact person.

Reason for Addition:

The public has the "right to know" who or what comprises the "owner". Corporations, for example, sometimes have records of compliance that might be important to consider along with an application.

Rights of "RO" Number 1

Comment: Along with this right, other forms of public notice should be used, such as NMED sends monthly for water discharge plans. Then this right isn't subject to the Administrator's discretion. We suggest this policy:
New Policy Provide alternatives for public notice to include timely posting on the County website of applications as they are submitted, as for example, searchable by the 4 regional management areas.

14.4.3.2 GENERAL APPLICATION PROCESS

The general procedure for development applications should be similar to the following:
Submittal of a complete application containing the required fees, affidavits, data, information, reports, assessments and studies; Review of the application by the Administrator, County staff, Hearing Officer, the Planning Commission, the Board and other applicable regional, state or federal agencies; Issue of a development order approving, approving with conditions or denying the application, together with written findings describing and supporting the action adopted;
Any appeal of the development order; and Any application for a variance or beneficial use or value determination.

PROBLEM: There is a distinct need to refine this section

Reason for Revision:

This statement does not include the pre-application meeting as a part of the procedure. There is a problem with the process flow when it comes to the production of reports, studies and assessments. If the County plans to produce these documents, then the application needs to be submitted prior to their production. That implies another step in the process. It suggests that an application needs to be evaluated prior to its formal declaration of completeness – to determine if there is sufficient data to proceed with the development of any required studies, reports, etc.
There is also a requirement that the completed application be reviewed by CO's and RO's prior to any development order being issued.

PROBLEM: There is a PROCESS problem

: A "complete" application cannot be "submitted" since reports, assessments, and studies cannot be started until required fees are assessed and possibly paid. This is especially true if TAC is to either write an RFP for the reports, or if TAC is to prepare the reports.

Reason for Revision::

a "completed Application" containing all of the reports, assessments, and studies, must also be provided to the CO's and RO's by the Administrator and sufficient time must be provided for their review as well. It would be appropriate for the Administrator to state the type of approval process the application is being considered for so that the CO's and RO's can make the appropriate written response.

14.4.3.2. PROBLEM with Process

This is the place where a "mediation" meeting needs to be scheduled. Since the Pre-application Neighborhood meeting calls for the applicant to present a summary of all unresolved issues, and the "completed" application includes all reports, assessments, and studies and requests review, the Administrator should call for a mediation meeting prior to issuing any recommendations for development "action" orders.
The Administrator shall schedule the meeting and assign a mediator when circumstances require.

Reason for Change:

Since it would appear that only the BCC can issue a Development Order, all committee, or individual orders must be considered as "drafts". If this is the case, then all draft development orders should be forwarded for comment to the CO;s and RO's as well. If this is NOT the case, then the Governance Element needs to be revised or clarified. CO's and RO's need to be informed of the Development Order in any case, so that they might have the opportunity to appeal the decision

14.4.3.2 Problem with Process

The first step is to submit a complete application including studies and reports. Clearly, there must be some process that permits the applicant to both find out what needs to be done to inaugurate an application (a pre-application meeting) and a meeting with the Administrator or TAC to determine what types of fees, studies and reports will be necessary in order for the County to accept an application. This process has not been defined.

Reason for Revision

The General Application Process has clearly not been defined in this section. Clear description and flowcharts that show the process have not been added, as was recommended by both staff and consultants. Flowcharts submitted by the public have not been included.

TYPES OF APPROVALS

Recommended Change:

14.4.3.3 TYPES OF ~~APPROVALS~~ APPLICATIONS

Three basic types of ~~approvals~~ applications should be created to handle all of the different types of developments ~~applications~~. All applications fit within the following three types: Legislative ~~Development Approvals~~, Quasi-Judicial ~~Development Approvals~~, and Ministerial ~~Development Approvals~~. (Ross and Annie)

OR the Following Recommended Change

14.4.3.3 Types of Approval **Process**

Three basic types of approval process should be created to handle all of the different types of applications. All applications fit within the following three types: Legislative Development **process**, Quasi-Judicial Development **process**, and Ministerial Development **process**.

14.4.4.3

Legislative Development Approval

Legislative development approvals involve a change in land-use policy by the Board, upon recommendation of the Planning Commission. For such approvals a public hearing is required, but the procedural requirements of a quasi-judicial hearing do not apply. Legislative development approval should be required for the following:

CHANGE:

Legislative Development Process

The text should be altered to clearly reflect intent. For example:

County Land Use Policy is found in the SDLP and the SDLC and other County Ordinances and directives issued by the BCC.
The Legislative development approval process requires the BCC to change land-use policy based upon a development application recommended by the Planning Commission. For such approvals public hearings are required, but the procedural requirements of a quasi-judicial hearing do not apply. The process of Legislative development approval should be required for the following:

Under Legislative development Approval:

Add:

Appeal of any development order, development agreement or specific plan produced by any board or individual governed by the Board of County Commissioners.

14.4.3.3
Under Quasi-Judicial Approval

Quasi-Judicial Development Approval

A quasi-judicial development approval involves the use of a discretionary standard to an application for discretionary development approval that is applicable to specific land in common ownership or to an area of land in which the predominant ownership lies in lands in a single common ownership. Such approvals should require a public hearing providing procedural due process. Examples include:

Recommended Change:

Quasi-Judicial Development Process

A Quasi-Judicial Development Process is inaugurated when an applicant applies to the Administrator for proposed land development activities that are specific to parcels of land held in common ownership by the applicant(s) and does not seek to change land-use policy.

A quasi-judicial development process requires that an applicant attend at least one hearing before a hearing officer appointed by the County during which the applicant shall present evidence supporting the development application, present the complete application, all studies, reports and assessments, all written review, and the findings of a pre-application meeting. The hearing Officer, after reviewing the evidence in support of the application, shall review any written evidence submitted against the application. If there is no objection to the application, the hearing-officer shall present his findings and recommendations in the form of a development order to the Planning Commission. If there are minor objections filed against the application, the hearing Officer shall notify all stake-holders and schedule a quasi-judicial hearing date for informal testimony to be heard from both applicant and plaintiff(s). A result of this hearing will be the creation of a draft development order recommending approval, approval with conditions, or denial of the application.
If the hearing Officer feels that significant objections have been made against the application, he will initiate a process of due process and discovery leading to a formal hearing of submitted evidence. Results of this process will lead to the formulation of a recommended development order issued to the Planning Commission by the hearing officer for their approval.
All development Orders created by the Quasi-Judicial Process and approved by the Planning Commission may be appealed to the Board of County Commissioners.

Examples are:

Or:

The Quasi Judicial process will be detailed in the SDLC to insure that both the applicant and any protestant will have sufficient opportunity for discovery and have equal opportunity to present their case before a hearing Officer.

The Quasi-Judicial Process will:

Afford the applicant with sufficient opportunity to present evidence supporting the application;
Afford Potential protestants with timely notification of the Quasi-Judicial process;
Afford Both applicant and protestants sufficient time for discovery and other aspects of due-process;
Insure that the County shall provide a hearing Officer, hearing date or dates and sufficient time to hear arguments for and against the application
Insure that the hearing Officer shall prepare a written"recommended Development Order" for consideration by the Planning Commission.

Examples are:

Or:

Paraphrase Chapter 4 Page 127, 4.6 "Quasi-Judicial Public hearing" in the book"21st Century Land development Code" by Robert H. Freilich, S. Mark White, and Kate F. Murray, 2008.

REASON FOR SUGGESTED CHANGES:

Since the "Quasi-Judicial process" will form the basis for most future land development approvals in Santa Fe County, it is absolutely imperative that the SLDP clearly define the process and its implications. The two sentence paragraph in the draft does not do this, and provides no guidance for the Code writers as to intent, or potential stucture.

The first paragraph of 14.4.3.3 would indicate that the purpose of the section is to describe three distinct types of process. The body of the section merely describes when they might be applied.

It is important to fully describe the Quasi-Judicial Process since implementation by the County and compliance by both developers and Community Organizations could be both expensive and time costly. Insuring that the process provides for both relatively simple paths to the issuance of a development order, and a very complex and expensive path to the same development order will insure that all parties involved will seek agreement prior to inauguration of the Process itself.

If the Proposed SLDP does not do this, then it must insure that the SLDP does by directing Policy in Chapter 14 to that end.

Problem with Process

☒ Amendments to the Sustainable Land Development Plan or an area, specific, or traditional community plan;

If an amendement or change to a community plan is voted on by the BCC then it requires a "legislative Development approval" and not a quasi-judicial approval.

☐ Amendment to the text or map of the SLDC;

If an amendement or change to a text or map of the SLDC plan is voted on by the BCC then it requires a "legislative Development approval" and not a quasi-judicial approval.

☐ Development agreements;

If an amendement or change to a development agreement is voted on by the BCC then it requires a "legislative Development approval" and not a quasi-judicial approval.

☐ Overlay zoning district classifications for developments of Countywide impact; and

If an amendement or change to a zoning classification is voted on by the BCC then it requires a "legislative Development approval" and not a quasi-judicial approval.

☐ Administrative appeals.

If the hearing officer does not make development orders, then the only entity that would make them would be the Planning Commission. An appeal of a development order created by the planning commission would be made by the BCC and would be considered a Legislative Development Qction.

Ministerial Approval

Ministerial development approvals involve nondiscretionary application of the standards of the SLDC to an application and typically occur late in the development review process. A public hearing should not be required for any ministerial development approval. Examples include:

This paragraph is just waiting to confuse someone.

Reommended Change:

Applications that completely conform to the requirements of the SLDC and require no further review other than that of the Code Administrator, can be approved by the Code Administrator by the issuance of a "nondiscretionary Development Order". Notification of these orders must be forwarded to CO' and RO's that may wish to appeal the order

Ministerial Approval

Ministerial development approvals involve nondiscretionary application of the standards of the SLDC to an application and typically occur late in the development review process. A public hearing should not be required for any ministerial development approval. Examples include:

Change to:

The Ministerial development Approval Process (MDAP) allows the administrator to review an application for completeness and determine if it complies in its entirety with all SLDC requirements. Having made a determination, the Administer may issue a Development Order to approve,

approve with conditions or direct the application to the Quasi-Judicial Process for further handling. MDAP does not require a public hearing prior to the issuance of a draft development order, but does require the administrator to notify CO's and RO's of the draft development Order prior to it's submission to the Planning Committee for approval.

Reason for Suggested Changes

The wording in draft three is vague and misleading, confusing to the public, and does little to direct the Code writers. While MDAP does not require any public hearing of the proposed developmental activity, the process must provide an opportunity for the public to launch an objection to the Development Order should the public so desire. To do so, notification is essential.

Ministerial Approvals

construction and driveway permits, utility hook-p permits, floodplain development permits, NPDES permits, LEED construction permits, and neighborhood development permits;

☒ Administrative interpretations of the SLDC; and

☒ Issuance of certificates of completion and certificates of occupancy.

Recommended Change

Administrative interpretations of the SLDC must be made in writing and are subject to challenge within the framwork of the quasi-judicial process.

14.4.4. STUDIES, REPORTS AND ASSESSMENTS

This is unchanged from previous drafts:

Comment: The problem identified in previous iterations of the plan has not gone away. Non-conforming uses pre-date the plan, so would never have been subject to a discretionary development review process. The wording here means that any property that has a non-conforming use and wishes to apply for a building permit, would be required to produce studies, reports and assessments. This is impractical. Far more work needs to be put into the treatment of existing and therefore-non-conforming properties.

14.4.4 STUDIES, REPORTS AND ASSESSMENTS

RECOMMENDED ADDITION

The SLDC should require a number of studies, reports and assessments to insure decision-makers are adequately informed f the impacts of development to make the best decision possible. The County should prepare all studies, reports and assessments **at the expense of the applicant** unless the applicant wants to prepare them at their own cost

and expense. **An escrow account must be set up by the applicant to insure that all agreed upon reports and studies prepared for the applicant by the County, will be paid for regardless of the outcome of the application process**. Studies, reports and assessments should be required for all applications for discretionary development approval on private property, public property leased a private person or entity, and capital facilities projects in the unincorporated portion of the County, including schools and assessment or improvement districts. Such reports should not be required for minor variances, the registration of a non-conforming use or an application for ministerial development approval which has been subject to a prior discretionary development review process, **or has a vested right to development. EIS studies should b required for DCI expansions.**

REASON FOR ADDITIONS

The County should not be required to pay for required Studies, Reports, and Assessments that are solely originated by the actions of an applicant for land development. This oversight would provide an unacceptable burden on the County. History has shown that many land development projects collapse due to market conditions, bankruptcies, etc. The County should not be left "holding the bag" in these situations.

There are many ministerial development situations for which an applicant may have a vested right to develop, but because the right was vested prior to the code being adopted, could not have been required to go through a discretionary development review process.

RECOMMENDED ADDITION

Studies, Reports, and Assessments prepared by County Staff, Private consultants, or the applicant must be prepared against a Scope-of-work prepared by the Administrator. Completed Draft Studies, report, and Assessments must be released to any agency or community group having standing prior to the preparation of any development order. Opportunity for comment should be provided to assist the Administrator in determining whether or not the Scoping criteria have been met. Scope-of-work orders shall, at a minimum, reflect the critera described in the SLDC. Once the review process has been completed, the Administer shall accept, Accept with Revision, or reject the Reports, Studies, and Assessments. All reviews shall accompany the SRA's through the development review process.

REASON FOR ADDITION:

Many of the County's Land Use decisions that wind up in Court do so because of challenges to the accuracy or adequacy of the information utilized to promulgate the development order. It is therefore imperative to provide guidance to the code writers that a clear review process must be written into the code. Review can only determine "adequacy" if performed to a standard. The scope-of-work based on critera identified in the SLDC is the standard to which SRA's must be judged.
The process identified in the SLDP for the creation of Development Orders requires a pre-application community meeting which would be performed prior to the creation of any Studies, Reports, and Assessments. Community Organizations and RO's would not,therefore, have the benefit of these Studies, Reports, and Assessments to judge the

merits of the proposed development application. The application process should therefore, include these organizations with standing, in the document review process. If this does not occur, any process that requires a quasi-judicial application will be required to produce these documents as part of the discovery process, and the probability of an adversarial contest is dramatically increased.

Recommended Change

STUDIES, REPORTS AND ASSESSMENTS (Ross and Annie)

~~The County should prepare all studies, reports and assessments unless the applicant wants to prepare them at their own cost and expense.~~
The applicant may opt to either prepare the SRAs, or to have the County prepare the SRAs and
reimburse the County for the consultant fees, staff time and other expenses The applicant shall also pay all application and administrative fees. *--Source: a direct quote from 3.22.10.2. of the* SLDC

Reason for Change

: *a new writing of the Plan & Code was partly sold to the public with the promise long overdue that under a new SLDP & Code, developers would shoulder the expenses that their developments create rather than putting that on the County taxpayer. That is still what is boasted of in interviews with County personnel. Here in the draft SLDP we find that expectation already being undermined.*

14.4.5.1 Specific Plans

Specific plans accompany the development of an individual property or properties, providing a bridge between the SLDP and other applicable plans. Specific plans should be required for all mixed use or planned developments, such as infill, new urbanism, transit-oriented development and traditional neighborhood development. Specific plans should be considered amendments to the SLDP and the LDC and should include information such as the following:

Comment: This is just another name for variance. You do not want to wind up in a situation where the proliferation of specific plans derails the value of the SDLP and SDLC. We do not want amendments to the plan created in what might be considered a haphazard way – amendments to the plan should be coldly calculated, and only amendments that benefit the county at large should be entertained..

Description of site and development attributes, such as the distribution, number and type of residential units, parking, open space, description of services provided and proposed;
Sustainable design and improvement standards and criteria, standards for the conservation of cultural, historical and environmentally sensitive lands and natural resources;

A program of implementation and action measures including development approvals and land use techniques required to complete the project, including all phases; and

A statement of the relationship and impact of the proposed plan to the SLDP and any applicable area or traditional community plans.
Specific plans will require only a single integrated public hearing for all of the discretionary development approvals i ncluded within the plan. Specific plans will enable a streamlined development approval process for development that carries out the priorities of the SLDP.
Santa Fe County, New Mexico Sustainable Land Development Plan

Specific plans need to be subject to the same types of approvals as any other proposed land use. If there is a combination of requirements, then it should go to the Quasi-Judicial format first. If you don't then ALL development applications will wind up as "specific plan" applications

14.4.5.1 SPECIFIC PLANS

Specific plans accompany the development of an individual property or properties, providing a bridge between the SLDP and other applicable plans. Specific plans should be required for all mixed use or planned developments, such as infill, new urbanism, transit-oriented development and traditional neighborhood development. Specific plans
should be considered amendments to the SLDP and the LDC and should include information such as the following:

Specific plans will require only a single integrated public hearing for all of the discretionary development approvals included within the plan. Specific plans will enable a streamlined development approval process for development that carries out the priorities of the SLDP.

RECOMMENDED DELETION

It is recommended that 14.4.5.1 SPECIFIC PLANS be deleted in its entirety.

Reason for deletion:

The draft plan does not provide a coherent definition of "Specific Plan". "Specific Plans… provide a bridge…" is not a definition. Since there is no definition, there is no direction for the Code, and the development of Specific Plans could provide a very large loophole where developers could propose amending the SDLP and SDLC rather than complying with existing County ordinance.

Recommended Change if Specific Plan left in:

Specific plans will require only a single integrated public PROCESS for all…

Reason for Change:

Based on the plan itself, none of the processes identified in 14.5.3 accept "Ministerial", allow for a single step public hearing. The attached flowchart illustrates the reality of the proposed Plan's process for permitting "specific plan amendments". If this process is incorrect, then the plan writers must clearly define what IS correct.

14.5.5.3 COMMUNITY PLANS

Recommended Change:

.It is recommended that over a 3-year period following adoption of the SLDP, that

Community Plans and Community Zoning Ordinances should undergo a community planning review ~~be reviewed and revised~~ and revision to incorporate the binding principles enunciated in the SLDP

GOALS, POLICIES AND STRATEGIES (Ross and Annie)

Comments: there's little or nothing about public notice of applications in this section. Nor is there a policy that the code (& plan) be written in layman's language.

Strategy 44.3.1: Update community plans and zoning ordinances to be consistent with the SLDP and SLDC within three (3) years from the date of adoption of the SLDP.

Comment: What is the Planning dept. or Legal Dept. thinking that is not consistent with the SLDP & SLDC in the existing community plans/codes that they might press to overturn in 3 years?

NEW Policy 44.3.2: Ensure that all language used in the SLDP and SLDC is clear, unambiguous and that technical or specialized words are defined in context sufficiently so that all citizens can read with comprehension.

NEW Policy 44.3.3: Ensure that the residents and communities of the County are allowed sufficient time to review and comment on any development applications.

New Policy Provide alternatives for public notice to include timely posting on the County website of applications as they are submitted, as for example, searchable by the 4 regional management areas.

Policy 46.5: Updates or amendments to the SLDP, area plans, specific plans, and community plans should be prepared in accordance with the SLDP.

NEW Policy: **Ensure that any proposed amendments to the SLDP and SLDC are raised for public review annually within a predictable and equitable time frame.**