Section 2
Implementation

5.0 Level of Service Standards and the Planned Growth Strategy

5.1 Introduction

In past years, the City of Albuquerque and Bernalillo County have struggled with the realities of high levels of growth. While growth produces many benefits, such as job creation and economic development, it also creates new demands and issues relating to infrastructure, urban design, environmental protection, and quality of life. The City and County have commissioned a Planned Growth Strategy to assess the impacts of this growth. The Planned Growth Strategy is a planning effort involving a number of engineering and planning consultants, using public participation and survey efforts to arrive at a Planned Growth Strategy for the community.

As part of the Planned Growth Strategy, the City and County have contracted with the planning and law firm of Freilich, Leitner & Carlisle to provide a bridge between the many planning efforts and implementation of those plans. The purpose of this chapter is to implement a portion of the contract between the City of Albuquerque and County of Bernalillo and Freilich, Leitner & Carlisle. The contract, in part, provides for recommendations about how to tie growth to level of service standards for infrastructure (quantifiable measures of needed infrastructure capacity). In particular, this chapter addresses how to vary level of service standards to encourage compact growth and to discourage sprawl. Specific standards are not provided in this chapter but may be developed later by staff or engineering firms retained by the City and County.

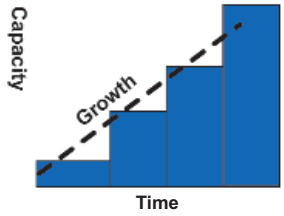
One of the issues relating to new development in the community is the timing and phasing of development. As new development occurs, it requires and places demands upon, public facilities such as roads, water, wastewater collection and treatment, drainage, parks, and other facilities. If new development occurs in locations where inadequate infrastructure capacity exists, facilities become congested. In Town Hall meetings with the public conducted as part of the Planned Growth Strategy, citizens requested specific performance requirements for water, water reuse, air quality, drainage, and energy efficiency.

A reasonable equilibrium between the pace of development and the capacity of infrastructure can be achieved through three major regulatory strategies. First, the local governments can use their police powers to regulate the timing and sequencing of development. This concept, known commonly as "concurrency" or "adequacy of public facilities," ties the approval of designated land use decisions to level of service standards for infrastructure. Second, the local governments can encourage development to occur in locations where services can be efficiently provided, rather than in locations where service provision is costly and inefficient. Finally, local governments can encourage development to occur in a form and a manner that uses services more efficiently. For example, in Town Hall meetings, the public expressed a desire to encourage infill development and to assure that infill development complements development on the periphery of built-up areas. Further, the public suggested that criteria for mixed-use development and increased densities are needed.

This chapter discusses each strategy and briefly relates them to the Planned Growth Strategy and other City/County planning efforts. Section 5.3 describes the concept of an Adequate Public Facilities Ordinance or concurrency system. This strategy ties development approval directly to infrastructure service levels. Sections 5.3 and 5.4 address strategies that indirectly address level of service issues. Section 5.4 describes locational strategies related to urban form. Section 5.5 describes community design regulations that produce efficiencies in the use of infrastructure.

Finally, Section 5.6 describes how these three concepts can be related to an overall Planned Growth Strategy implementation strategy for the City and County.

Chart 5
An Adequate Public Facilities Ordinance is designed to establish a reasonable equilibrium between the timing of new growth and public facilities.



5.2 The Planned Growth Strategy

The Planned Growth Strategy is a strategy designed, in part, to address the linkage between infrastructure and population and employment growth in the region. The Planned Growth Strategy has six major guiding principles, as follows:

1. The location of population and employment growth should be phased and timed to achieve community goals. These goals are represented by the Planned Growth Strategy Preferred Alternative.
2. Critical infrastructure capacity (streets, parks, schools, water, sewer, and storm drainage) is available to support urban growth.
3. The needs of growth, rehabilitation, and the correction of existing infrastructure deficiencies are fully funded.
4. Implementation is guided by adopted plans, e.g., corridor plans, sector (neighborhood) plans, redevelopment plans, and area plans.
5. Charges for infrastructure to support growth reflect the costs of growth to the community.
6. The system is flexible.

As part of the process, short-term (1-10 years) and medium-term (10-25 years) growth areas have been identified.[1] These growth areas can be viewed in several different ways. The areas reflect the community's objectives for the location and density of development. These areas reflect the community's goals for the timing and sequencing of development. In other words, while the fully served areas may be more appropriate for higher densities, it is also

Figure 30
Planned Growth Strategy Short-Term Preferred Alternative (2000-2010)

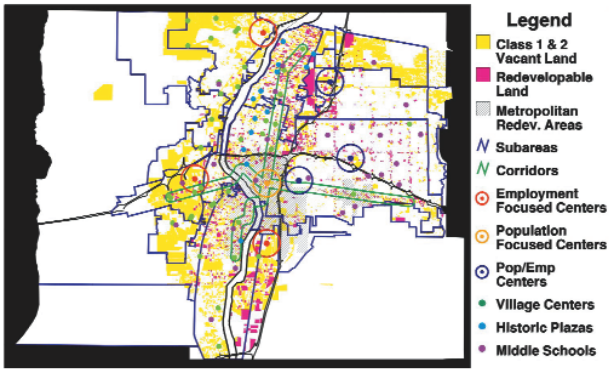
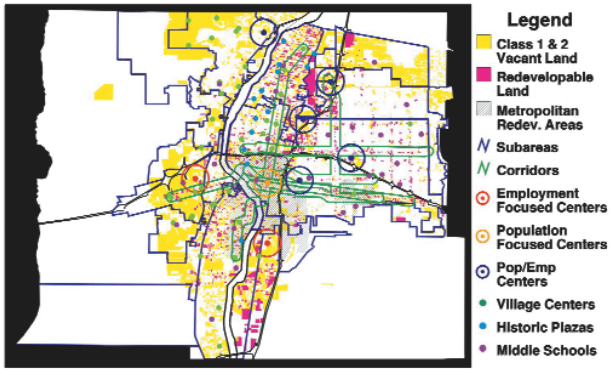


Figure 31
Planned Growth Strategy Long-Term Preferred Alternative (2010-2025)



appropriate that served areas develop before new development occurs in the unserved areas. This chapter is primarily directed toward the second objective, although it has implications about the first objective as well.

The Preferred Alternative is based, in part, on the availability of infrastructure in the community. The location of infrastructure is divided into three broad "tiers." First, the "Fully Served Areas" are areas that contain the full range of urban infrastructure. The Fully Served Areas for water have been divided further into areas with excess water capacity and areas without excess water capacity. Second, "Partially Served Areas" have some, but not all, of the necessary infrastructure and services. Outside of the Fully Served Areas and Partially Served Areas lie the "Unserved Areas," which lack all or most of the needed infrastructure and services. These areas are shown in Figures 32–35 for water, wastewater, hydrology, and streets.

The following tools have been identified to implement the Planned Growth Strategy:

- Capital Improvements Programs
- Service Standards and Concurrency or Adequate Public Facilities Ordinances
- Development Impact Fees
- Development Agreements

Figure 33
Wastewater Tiers

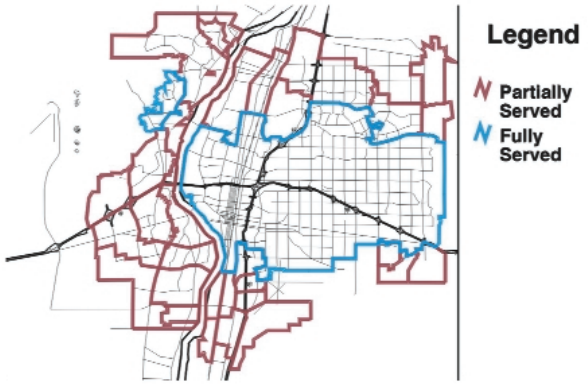


Figure 34
Hydrology Tiers

Figure 32
Water Tiers

Figure 35
Street Traffic Sheds

- Development Incentives and Inducements
- Community Plans

Under the consultant's contract, the scope of this chapter relates primarily to the first and second tools listed above. Those tools directly tie new capital improvements and development to level of service standards. Impact fees are addressed in a separate contract with Growth Management Analysts, Inc. (Chapter 6). Accordingly, this chapter will focus on the use of an Adequate Public Facilities Ordinance and Capital Improvements Program as tools to implement the Planned Growth Strategy. The relationship with the other tools will be explained later in the chapter.

Implementation of the Planned Growth Strategy requires several concrete actions by the City and County. First, an adequate planning basis must be established for the implementation tools. While some have called for an update of the City/County Comprehensive Plan, the community has developed a large number of plans with little implementation in the context of land use controls. The existing plans provide ample basis for moving from planning to implementation. A comprehensive tool, such as an Adequate Public Facilities Ordinance, could tie together many of the policies scattered among the City/County Comprehensive Plan, the Sector Plans, Area Plans, and infrastructure master plans into one set of standards. This not only provides a bridge from the community's land use and infrastructure policies to new development proposals, but it also offers predictability for service providers and developers who now face a bewildering array of policies when undertaking service expansion or development decisions.

Second, the Capital Improvements Program/ Adequate Public Facilities Ordinance approach is sufficiently flexible to be mandatory or incentive-based, or to use a combination of both approaches. A purely mandatory system would directly tie issuance of development permits to level of service standards for infrastructure. A purely incentive-based system would tie the level of service only to increases in density or other regulatory or financial incentives. In practice, most communities use a mandatory system. Some communities (such as Montgomery County, Maryland and Orlando, Florida) use a sophisticated blend of mandates and incentives.

The degree to which the policies focus on mandates or incentives is a policy decision for the community, not for the consultant. However, mandatory systems are generally more effective but less acceptable to the development community. In practice, a system of incentives is advisable to tailor the Adequate Public Facilities Ordinance to the locational and design policies of the Planned Growth Strategy and to offset some unintended negative consequences of the system. For example, a Transfer of Development Rights system (as discussed in Chapter 7) could be used to direct growth to desired development areas and to create incentives for the conservation of areas with a low priority for development. Another example is the use of exemptions or capacity set-asides for affordable housing, which are used by Montgomery County and Orlando to achieve this and other policy outcomes.

Third, while no system can assure that all costs are fully funded, the variable Capital Improvements Program/Adequate Public Facilities Ordinance approach increases the likelihood that critical infrastructure capacity will be available to serve urban growth. Expansion of infrastructure is tied to level of service standards that make sense for particular areas of the community, rather than a uniform approach. Areas where capacity cannot be expanded for policy reasons can be assigned a lower level of service or exempted from an Adequate Public Facilities Ordinance altogether. This creates an incentive for the development of infill areas, such as the Redevelopable Lands, Population/Employment Centers, and Community and Village Centers by removing a step in the development approval process. By using a reasonable, long-term Capital Improvements Program in other areas of the community and a combination of public and private financing, resources otherwise committed to post-hoc capacity in low priority areas can be committed to maintenance and rehabilitation. Further, a long-range constrained

Capital Improvements Program assures that the community is also making land available for future development to accommodate an expanding population and employment base.

Finally, a varied level of service approach assures that infrastructure charges reflect the true costs to the community. Development approvals specified in the system cannot proceed unless the level of service standards will be met.[2] The cost of providing the facilities needed to meet the level of service will be identified in the Capital Improvements Program. Developers can choose to phase their development to match the build out of infrastructure, based on the area's level of service, or to voluntarily advance the facilities with a development agreement. It also provides a basis for determining whether an area "may be provided with municipal services" for purposes of evaluating annexation proposals under the Municipal Boundary Commission legislation and similar statutory requirements.[3]

The balance of this chapter addresses how a varied level of service can be established, how it works with related tools such as development agreements and impact fees, and how potential problems with the system may be addressed.

5.3 Timing and Sequencing: Adequate Public Facilities

An Adequate Public Facilities Ordinance[4] is a recognized comprehensive plan implementation technique designed to assure that necessary public facilities and services to support new development are available and adequate, based on adopted level of service standards, at the time that the impacts of new development occur. An Adequate Public Facilities Ordinance is generally implemented by a general purpose local government, which exercises land use regulatory authority, whether or not that unit of government is the facility or service provider. Implementation is through the land use regulatory process (i.e., master plan amendments, subdivision approval, rezonings, development plans and/or building permits) and a capital improvements program for public facilities.

In practice, most communities tie some development approvals to infrastructure capacity on an ad-hoc basis. Rezonings and subdivision plats are routinely denied in many communities where concerns about "traffic congestion" or other capacity shortfalls arise. The City's Water and Sewer Extension Policy also has limited concurrency concepts in that it prohibits extensions which would exceed the capacity of the system (Ordinance No. 20-1984, § 14). An Adequate Public Facilities Ordinance simply expands and refines concepts routinely enforced by the City and other jurisdictions throughout the nation, in order to integrate them with the planned growth strategy policies and to provide certainty and predictability for the private development community and service providers.

An Adequate Public Facilities Ordinance would augment the City/County Comprehensive Plan, which currently incorporates goals and policies regarding adequacy of public facilities and services, and the land development regulations.[5] While the Plan contains numerous references to the necessity for the availability and adequacy of public facilities as a precondition to development,[6] it does not presently accomplish the key objectives of a Adequate Public Facilities Ordinance because (1) no level of service standards are included by which "adequacy" can be measured, (2) there are no present measurements of some facility capacities to determine whether capacity is "available" to serve a proposed development, and (3) there is no formal mechanism for adequate public facilities review as a systemic part of the development review and approval process.[7]

The seven major objectives of an Adequate Public Facilities Ordinance are:

1. To link the provision of key public facilities and services with the type, amount, location, density, rate, and timing of new development.
2. To properly manage new growth and development so that it does not outpace the ability of service providers to accommodate the development at established level of service standards.

3. To coordinate public facility and service capacity with the demands created by new development.
4. To discourage sprawl and leapfrog development patterns and to promote more infill development and redevelopment consistent with the adopted Comprehensive Plan and the Planned Growth Strategy Preferred Alternative.
5. To encourage types of fringe development especially in the Partially Served Area that incorporate community building principles as identified in the Planned Growth Strategy and reflect Traditional Neighborhood Development approaches.
6. To assure that the provision of public facilities and services to new development does not cause a reduction in the levels of service provided to existing residents.
7. To guarantee that new residents receive all necessary public facilities and services.

Prior to adopting an adequate public facilities/concurrency management ordinance, a number of policy issues must be addressed by the City and County. In addition, the adequate public facilities/concurrency management ordinance must be carefully coordinated with other development review and approval processes.

The major structural components of an Adequate Public Facilities Ordinance are as follows:

1. The areas, and subareas, of the community within which the Adequate Public Facilities Ordinance will apply.
2. The public facilities and services that will be included in the Adequate Public Facilities Ordinance.
3. The level of service standard for each public facility or service to be included in the Adequate Public Facilities Ordinance.
4. Current and projected public facility and service capacities.
5. The types of developments/land uses to which the Adequate Public Facilities Ordinance will apply.
6. The types of development approvals/permits to which the Adequate Public Facilities Ordinance will apply.
7. The point in the development approval process when adequacy of public facilities will be determined.
8. The effect of failing to meet a level of service standard.
9. The conditions and mitigation requirements that may be attached to concurrency approval.
10. The reservation of facility capacity.

5.3.1 How a Concurrency or Adequate Public Facilities Ordinance is Structured

Capital Facilities and Level of Service Standards

The cornerstone of an Adequate Public Facilities Ordinance is the adoption of a level of service standard for each facility subject to the ordinance. The adopted level of service will govern both the amount and timing of growth and development that will be permitted as well as the level of public/private investment needed in order to achieve and maintain that standard. In Florida, where concurrency has been part of the state's growth management legislation for nearly a decade, "level of service" is defined as follows:

> "Level of service" means an indicator of the extent or degree of service provided by, or proposed to be provided by a facility, based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.[8]

As a means of measuring performance, a level of service standard should take into consideration both the capacity of a public facility and the demand currently placed and potentially placed on the public facility from existing

development, approved developments, and projected future growth. By comparing the demand to the capacity of a public facility, the local government may determine how much of the capacity of a given facility may be allocated to development within a designated area upon project approval.

In establishing level of service standards, the City and County should consider their relationship to health, safety, and welfare; political acceptability; availability of funding; feasibility of construction and right-of-way acquisition; external factors (such as regional pass-through traffic for roads); and the period of time over which the standard is to be achieved. The components of the facility and how the level of service standard is to be measured should be carefully defined in the Adequate Public Facilities Ordinance

For most public facilities, there will be more than one measure of capacity that requires analysis; and there will likely be alternative methodologies for measuring concurrency. For some public facilities, such as water, and services, such as fire, there are several critical levels of analysis that should be performed in order to determine whether the level of service standard will be achieved. In addition, there are alternative methodologies for measuring the capacity of the facility. The base unit of demand is typically an equivalent residential unit or an equivalent dwelling unit. This figure is based upon the rate at which one single-family dwelling generates a facility need and, therefore, allows a planner or decision-maker to equate different types of residential dwelling units as well as residential to non-residential square footage. The carrying capacity of the public facility may then be applied uniformly to both residential and non-residential development based upon logical equivalency rates.

Water and Sewer

Water and sewer systems play a critical role in determining where growth occurs on the urban fringe.[9] The City's water (and wastewater) system is regional in scope. The metropolitan area is split essentially into ten "trunks" which essentially constitute independent water systems. Each trunk is divided into pressure zones, which are the basic unit for which water service is provided. A pressure zone within a trunk may be the most costly single element of infrastructure system expansion. The reason for this is that opening a pressure zone generally requires a new well, reservoir, pump stations, and water transmission lines. The total cost for these items is about $7 to $8 million dollars. One important consideration is that opening a new pressure zone provides a "block" of capacity to serve approximately 10,000 persons.

In order to understand how to provide water service to support growth efficiently, it is useful to break down the system into the types of improvements needed to provide service. These include: wells, water rights, SCADA computer control system, reservoirs, pump stations, transmission lines between the wells and the reservoirs, large "master plan" distribution lines, smaller distribution lines which run in the streets, and service connections between the street distribution lines and the lot.

The metropolitan area can be divided into three broad categories of water service in terms of the future increment of cost necessary to support new growth. The first area is nearly completely developed with all the types of water infrastructure and, according to utility engineers, has excess water capacity to support growth (Fully Served Areas). Water trunks with excess capacity include the Montgomery Trunk, Freeway Trunk, and Ridgecrest Trunk. The identification of excess capacity addresses water supply. The second area has a number of important infrastructure items constructed, such as reservoirs and transmission lines, but other types of infrastructure would have to be built to support growth, such as large and small distribution lines and service connections (Partially Served Areas). The third area currently has no service. The full range of new infrastructure would need to be built to support new growth in these pressure zones (Unserved Areas).

This situation is indicated Table 41.

This categorization of the metropolitan area is consistent with the Town Hall participants' support for the provision of infrastructure in an efficient and cost effective manner and the preference that development should occur in areas where existing services are available "as a first priority," Comprehensive Plan policy, and the recommendation that an urban infrastructure services area be defined.

In order to achieve greater efficiency, the Planned Growth Strategy is concerned with fully utilizing the urban water system capacity already constructed. The approach includes the facilities of the City of Albuquerque's water and wastewater utility and of New Mexico Utilities, Inc. However, it does not address small community systems that are not designed for and do not have the capacity to support full urban development.

The same approach was taken with regard to understanding the wastewater utility (and also for streets and hydrology infrastructure) as it relates to the establishment of the Preferred Alternative. The utility has divided its service area into units called wastewater basins (e.g., Uptown, Coors, Four Hills) and sub-basins (UP-01, UP-02, CO-01). More recently, the utility has moved to a more general model of east side and west side of the Rio Grande basins with sub-basins used to compute capacity. As with water service, the metropolitan area can be divided into three general areas in terms of the cost to support new growth with sewer service. The first area is nearly completely developed with all the sewer infrastructure elements needed to support growth. The second area already has an interceptor line constructed, but collection lines and service connections are needed, and treatment plant capacity is required. The third area has no service at present, and the full range of new infrastructure would need to support new growth. This situation is indicated in Table 42.

Since infrastructure efficiency primarily relates to the utilization of facilities already construct-

Table 41 Categories of Water Service

	Fully Served with Excess Capacity*	Fully Served Areas	Partially Served Areas	Unserved Areas
Wells		X	X	X
Water Rights		X	X	X
SCADA	X	X	X	X
Reservoirs				X
Pump Stations				X
Transmission Pipelines				X
Master Plan Distribution Lines (10"–16")			X	X
Distribution Lines in Street (6"–8")			X	X
Service Connections	X	X	X	X

* The Montgomery, Freeway, and Ridgecrest Trunks have excess water capacity.

Table 42 Categories of Wastewater Service

	Fully Served Areas	Partially Served Areas	Unserved Areas
Master Plan Sewer Lines – Interceptors			X
Small Collection Lines		X	X
Lift Station and Odor Control			X
Treatment Plant	X	X	X
Service Lines	X	X	X

ed, from this standpoint, the Planned Growth Strategy is not concerned with unserved infrastructure franchise areas.

For central water facilities, there may be three levels of analysis that should be performed in order to assess whether adequate supplies are available. First, the physical supply of the underlying surface or groundwater source must be sufficient to accommodate demand. The capacity of groundwater/surface water resources ultimately dictates the community's ability to accommodate new growth. This type of provision requires reliable information pertaining to the amount of ground and surface water available. The applicant for development approval should indicate the source of water to be used. Local governments must usually rely on the state procedures for adjudicating and allocating groundwater and surface water resources in order to determine their availability to support a proposed development.[10]

Accordingly, the second level of analysis should require an applicant for development approval to present documentation that indicates the entity that has committed to providing water to the development and proof that the entity has adequate water rights and a sustainable supply to accommodate the needs of the proposed development. Supply can be measured in terms of time (e.g., the right to withdraw from the resource for a minimum of 100 years without depleting the source) and quantity (e.g., the right to appropriate a minimum of "x" gallons per day). Courts in other states have upheld the requirement that a subdivider demonstrate a 300-year supply.[11] In addition, the annual or daily appropriation rights may be translated into a carrying capacity for the source depending upon the equivalent residential unit standard adopted by the community.[12]

If the system serving the development, such as the City's central water system, has sufficient permitted rights for a long period of time, the water resources analysis could be removed for purposes of administrative convenience and regulatory streamlining.

Finally, the applicant for development approval should be required to demonstrate that reservoirs, surface water treatment plants, lift stations, transmission lines, and distribution lines are capable of delivering adequate water to meet the demands created by the proposed development. In addition, the distribution lines must have adequate water pressure to accommodate the scale of development proposed for both domestic use and fire flows. With the exception of physical supply, a similar analysis would apply to wastewater treatment facilities. Specific criteria for measuring demand are provided in the Development Process Manual, as is discussed further in Section 5.6 of this chapter.

For both water and sewer, level of service standards should also be developed for individual wells and septic systems in order to protect public health and safety in areas where devel-

opment is at densities sufficiently low to permit non-central systems. In most jurisdictions, a minimum lot size applies to projects utilizing on-site wells and/or septic systems in order to assure that there is adequate land area for septic disposal, to avoid the excessive concentration of individual disposal systems, and to maintain an adequate distance between the septic system and the well. State and local regulations require connection to a central system where distribution lines are already located within a specified distance of the proposed development. Furthermore, standards are needed for high production industrial wells to protect water sustainability.

Roads

Traffic engineers generally utilize a performance rating system based upon the operational characteristics of a roadway, e.g., speed and travel time, for local, collector, and arterial streets as set forth in the Institute of Transportation Engineers, *Highway Capacity Manual*.[13] While some jurisdictions have developed specific, local methodologies for converting travel speed to the carrying capacity of roadways, most jurisdictions utilize a ratio of volume (e.g., the number of trips on a designated roadway segment during the peak hour) to capacity (the maximum number of trips that the segment may accommodate at the designated level of service standard) as a proxy for performance (the volume to capacity ratio). Table 43 presents a volume to capacity ratio equivalency chart that is utilized in many jurisdictions.

Capacity of existing and planned roadways, particularly collectors and arterials, is only one side of the Adequate Public Facilities Ordinance determination equation for adequacy of road facilities. The other element is the traffic generated by a proposed development which utilizes the available capacity. While each roadway segment and intersection has a specific peak hour carrying capacity, the community may choose the level of service standard that is acceptable, e.g., level of service C which would allow for a maximum of 79% of the roadway capacity to be utilized, or level of service E which would allow 99% of the capacity to be committed to development. (The higher the percentage of roadway capacity used, the greater the delays on roadway segments and intersections.) If the level of service standard is set, for example, at C, once 79% of the peak hour roadway capacity is being utilized, further development would be denied or deferred until additional capacity is made available (e.g., via new roadway construction, additional through lanes, improving and coordinating signalization, providing acceleration and/or deceleration lanes, adding left and right turn lanes, constructing medians, etc.). Another option is to allow an applicant for development approval to undertake mitigation measures to reduce the otherwise applicable traffic impacts.

Utilization of a roadway level of service standard necessitates a sophisticated system for identifying current major roadway volumes and capacities and monitoring changes as

Table 43 Volume to Capacity Equivalency Chart

Level of Service	Volume to Capacity Ratio
A	< 0.59
B	< 0.69
C	< 0.79
D	< 0.89
E	< 0.99
F	> 1.00

capacity is added via roadway improvements and as capacity is consumed by new development. This can be compared with an accounting system of credits (for capacity expansions) and debits (for capacity utilization).

On the demand side of the equation, there are established methodologies to measure the traffic generation impacts of different land uses. The Institute of Transportation Engineers Trip Generation Manual (1991) compiles data about the trip generation characteristics of virtually all common land use developments. For example, a single-family dwelling unit generates approximately 9.6 trips per day, while a multifamily unit generates fewer trips, i.e., 7.8 trips per day. Non-residential development trip generation is typically measured per 1,000 square feet based on the type of non-residential land use, e.g., retail, office, warehouse, industrial, hotel, drive-in facility, etc.

The extent that proposed developments will utilize collector and arterial streets is also a function of four other factors besides the trip generation rate: the average trip length associated with the type of development (the longer the trip, the greater the roadway capacity that is utilized); the predominant direction of travel; the number of "pass-by" trips "captured" by the proposed development as opposed to the generation of new trips; and the time at which most trips are generated, e.g., a.m. peak hour, p.m. peak hour or spread evenly over a 12- or 24-hour period.

In many cases, a transportation analysis is required for a development, demonstrating that capacity is available to accommodate the traffic projected to be generated by the development without causing a diminution in the current or adopted level of service standard. One of the vexing issues that sometimes arises in requiring a transportation analysis is the geographic area and the collector and arterial streets that must be investigated. If the geographic scope is too narrow, more distant impacts may be overlooked; however, if the geographic scope is overly broad, the transportation analysis may be unduly expensive and time consuming. A reasonable approach might be to establish geographic limits for transportation analysis based upon the size and/or location of the project.

Applying these concepts, the Planned Growth Strategy team has inventoried the available vacant land in approved subdivisions, land likely to develop outside of approved subdivisions, and redevelopable land in the Planned Growth Strategy, Part 2 – Preferred Alternative. This information is compiled for land within the urban service area and can be used to iterate the magnitude of improvements needed to reach various level of service standards by subarea. The level of service selected should take into consideration the projected population and employment growth in these areas that are identified in the Preferred Alternative as well as the ability to expand right-of-way and facility capacity.

Drainage

New development has both on-site and off-site storm water impacts. Many subdivision regulations require on-site detention and require that postdevelopment runoff not exceed predevelopment runoff. Minimum detention volume and maximum release rates are typically established. The design storm (2-, 10-, 25- and 50-year recurrence intervals) is critical in determining which storm water management techniques to utilize and how they should be sized. These types of regulations are not typical of other Adequate Public Facilities Ordinance standards because they tend to address internal site improvements rather than off-site capacity.

Urban areas, such as Albuquerque, that have regional storm water management facilities can build off-site capacity into the Adequate Public Facilities Ordinance concurrency review analysis. Developments that discharge to an existing regional facility can be relieved of on-site infrastructure obligations. Further, the capacity of regional facilities can be reserved for developments in particular areas or that meet design criteria that more efficiently utilize the facility.

The City currently has very detailed standards for hydrologic analysis in the Development Process Manual. In order to encourage compact development, it is important that on-site detention or retention does not become standard practice for designated infill development or development in urban tiers.[14]

Programmed Public Facilities: Minimum Requirements for Concurrency

Once the applicable level of service standard has been identified for purposes of issuing development approvals and initiating capital investment and budgeting strategies, the decision maker must resolve the issue of when the level of service must be attained in order for development to proceed. There are two types of facilities that may be considered when measuring compliance with concurrency. The first is existing facilities that are in place at the time a development application is under consideration; the second is programmed facilities that are scheduled for construction but are not already in place.

The critical policy issue is the amount of "lag time" the community will tolerate between the construction and occupancy of the development and the availability of the public facilities needed to serve the development. The question of when public facilities must be available and how they will be guaranteed is referred to as the "minimum requirements" for concurrency. The minimum requirements issue is distinguishable from the level of service that must be attained when those facilities are available. While the adopted level of service standard could affect the community's policy decision regarding the minimum requirements imposed for concurrency—and vice versa—the standards are distinguishable. The former refers to the capacity and/or quality of the public facilities while the latter refers to when the facilities must be available, and, if not presently available, how provision of the public facilities will be guaranteed at the time of actual development.

Minimum requirements may vary depending on the type of public facility. The rationale for variation is that some facilities are more directly related to public health, safety, and welfare than others; and some facilities may require a longer or more unpredictable acquisition and planning process than others. In states with concurrency legislation, only existing facilities may be considered, with several exceptions, when measuring the public facility capacity available to serve a proposed development. Programmed public facilities may, however, be considered for certain facilities, such as parks/recreation and transportation facilities. States, such as Florida, provide that programmed facilities may not be considered for the evaluation of water, sanitary sewer, drainage, or solid waste facilities. No public facilities need necessarily be available at the time of development application so long as they are available at the time of actual development. If they are not available at the time of development application, before approving the development, the community must be satisfied that they will be available and adequate (i.e., with capacity at the time of development) or that the development approval is conditioned upon their availability and adequacy at the time of development or that their availability and adequacy has been guaranteed by the developer (e.g., by the posting of a performance bond or other adequate surety).

Facilities, such as water and sewer, must be available at the time of development as a matter of public health and safety. However, if adequate parks are not available, the development could be allowed to proceed so long as there are assurances that the parks will be provided within a reasonable period of time.

There is a difference between measuring and enforcing compliance with the Adequate Public Facilities Ordinance requirements. While programmed facilities may always be included in the measurement of compliance with concurrency, any facilities used to enforce compliance for water, sewer, drainage, and solid waste must be in existence before the impacts of the development occur. Park and recreation facilities, however, may still be in the planning,

budgeting, or contracting stage at the time the impacts of the development occur. At early stages in the development approval process, such as rezoning and preliminary plat approval, the community should consider programmed facilities in the concurrency evaluation. However, a condition should be attached to the development approval requiring specific public facilities to be completed before building permits are issued.

A minimum requirements system depends primarily on two factors: the stage in the development approval process at which the proposed project is reviewed and the type of public facility. The first variable relates directly to the "lag time" issue. If the concurrency determination will be made early in the development approval process, it is not essential that public facilities be in existence. The need for public facilities to be in place is greatest when the impacts of the development are imminent, such as at the building permit stage. Consequently, some jurisdictions allow "planned" facilities to be used in concurrency determination if such public facilities will be in place at the specified level of service when the impacts of the development are felt.

It is logical to consider the capacity of programmed public facilities if concurrency review occurs early in the development approval process because the impacts of the development will not be felt for several years. While the community could require that all public facilities and services needed to serve new development at the adopted level of service exist at the time of development approval, this approach could impede development if certain public facilities are nearing capacity or are currently over capacity.

If development approval is denied or deferred because of the unavailability of public facility capacity, the community must show that the public facilities forming the basis for the concurrency determination will be provided within a "reasonable" period of time. Unfortunately, case law provides little guidance as to what constitutes a reasonable period of time. In *Golden v. Planning Board of the Town of Ramapo,* 30 N.Y.2d 359, 334 N.Y.S.2d 138, 285 N.E.2d 291, *app. diss'd,* 409 U.S. 1003 (1972), the court approved a concurrency ordinance based upon a staged, eighteen-year Capital Improvements Program that would have deferred some development approvals for the duration of the plan. In *Woodbury Place Partners v. City of Woodbury,* 492 N.W.2d 258 (Minn. App. 1992), *cert. denied,* 113 S. Ct. 2929 (1993), the court affirmed the principle that all use of a property may be denied for a temporary period of time without resulting in a taking. It is unclear whether New Mexico courts would take such a view. However, it appears that most courts will permit the timing and sequencing of development in order to avoid public facilities problems.

Options When Public Facilities Do Not Meet Level of Service Standards

When public facilities are determined to be insufficient to accommodate the impacts of a proposed development: (1) building permits may be deferred pending the availability of public facilities and services at the adopted level of service, (2) the applicant may agree to reduce the density or intensity of the proposed development within the parameters of available facility capacity, (3) the applicant may agree to a phasing schedule, or (4) the developer may agree to provide those public facilities needed (or a full payment to construct these facilities) to attain the adopted level of service, provided that they will be available when the impacts of the development occur. The deferral of development approval or the provision of public facilities by the developer can be addressed through appropriate conditions.

When public facilities are determined to be adequate before a final development order is issued, a key question is whether this finding "reserves" the capacity for the development or whether a new finding must be made at a later stage in the development approval process. If planned facilities are included in the earlier finding, it must be specified whether the reservation remains valid in the event that the facil-

ities are not constructed. Reservations of capacity must be included in a development monitoring system in order to prevent the over-allocation of capacity. Procedures should be developed to prevent the "hoarding" of capacity by approved but unbuilt projects.

Some concurrency ordinances allow developers to construct the necessary facilities and services needed to reach the adopted level of service where the development would otherwise be delayed or denied. If this results in the construction of facilities with excess capacity, the developer may receive reimbursement for the excess capacity when it is allocated to other projects. Thus, where public facilities are currently operating below the adopted level of service, the community has several options:

- Allow the proposed development to proceed if it will not cause the existing level of service to be degraded.
- Deny development approval or defer development approval until the public facilities are operating at the adopted level of service. Thus, development may be delayed until the necessary public facilities are scheduled in the Capital Improvements Program.
- Deny or defer development as provided above, but allow the developer to construct or pay for those public facilities necessary to achieve the adopted level of service standard.
- Allow the applicant to resubmit the application with modifications that would reduce the project's demand on the affected facilities, such as a reduction in the density or intensity of the development or demand management strategies, such as transportation demand management (e.g., ride sharing or vanpooling programs for traffic) or water conservation measures. The developer would be required to quantify the impact of demand-reducing measures on the total demand generated by the proposed project.

In the context of the Planned Growth Strategy, these concepts can be combined with impact fees (and utility extension charges) to create incentives for infill development and redevelopment. Areas defined as Fully Served can proceed with development after paying impact fees without a level of service review assuming the development is consistent with the Planned Growth Strategy Preferred Alternative. In the Partially Served Areas, a level of service review for certain infrastructure would be conducted and developments would be staged and sequenced. Developers wishing to proceed ahead of the Capital Improvements Program may advance facilities, as is currently permitted in the Line Extension Policy. Where impact fees cannot be charged, either because of state law or local policy, development staging can provide an equilibrium between capacity and demand until community resources have provided the necessary facilities.

Allocating and Monitoring Facility Capacity

Compliance with the applicable level of service standard is determined by comparing the projected impacts of a development project with the capacity of those public facilities affected by the project. The following administrative issues are raised by the methodology for applying adopted level of service standards to applications for development approval:

- How will available capacity be allocated when there is insufficient capacity to accommodate all developments for which applications have been submitted?
- How will capacity be monitored to account for (1) additions to capacity from the construction of new public facilities, from changes in consumer behavior, from projects funded by private developers, and, from changes in demand and (2) subtractions from capacity due to development approvals and/or reservations?

A prerequisite to allocating available capacity is determining how much capacity is available and how much capacity is used by specific types of development. In general, capacity is allocated on a first-come, first-served basis as development applications are processed.

However, where available capacity is constricted, the community might consider allocating capacity only to those projects that achieve important goals and objectives of the Comprehensive Plan, that implement the Planned Growth Strategy Preferred Alternative, or that should be granted preferential treatment for hardship or other reasons.

The first alternative for allocating capacity would be the use of a set-aside. Under this system, a percentage of available capacity is reserved for certain types or categories of development. For example, in Montgomery County, Maryland, projects defined as affordable housing may be approved where the available capacity threshold in the applicable impact area has been exceeded, provided that such projects must be reviewed for their impacts on localized facilities (nearby intersections and roadway links). A similar policy is authorized by New Jersey's Council on Affordable Housing, which administers that state's housing policies for local governments. In addition, Montgomery County's program allocates capacity to residential and non-residential projects within each impact area to maintain a favorable ratio between jobs and housing. This is accomplished by computing a separate development threshold within each area for employment and housing.

A second alternative would be a "point system" that enables the reviewing agency to balance concurrency review with other public policies and could include a "weighting system" on the capacity and availability of public facilities for purposes of concurrency review. For example, the community could assign point scores for the availability of a specified amount of capacity for each public facility and/or for the achievement of other public policies such as the provision of affordable housing. Thus, a project that would create a deficiency in one public facility, such as transportation, could receive approval if a compensating point score is achieved for other public facilities and/or for the provision of other public benefits. Care must be taken, however, to assure that minimum standards are met. A related practice is followed in Austin, Texas using the Smart Growth Criteria Matrix. This system assigns points to proposed developments based on achieving desirable objectives such as mixed use, streetscape treatment, transit focus, and so on. Such a matrix could be used in combination with a facility capacity evaluation.[15]

A point system or set-aside can be tailored in a nearly infinite number of ways. Development orders can be "batched" during an annual allocation process and ranked under the point system, with development orders issued only to those projects earning the highest scores. The two alternatives could also be combined. A certain proportion of available capacity could be set aside for those development proposals earning the highest ranking under a point system.

Advancing Facility Capacity

Where public facilities are currently operating below the adopted level of service, developers may be allowed to proceed with their development if the facilities needed to attain the level of service standards and to accommodate the marginal impacts of the proposed development are provided. The alternative would be to await the provision of facilities as scheduled in the Capital Improvements Program, which may result in a delay. Provisions for the advancement of public facilities and services are a mechanism to alleviate the hardship of undue delay and have been approved by courts in other states.[16] It is probably good public policy to allow developers to advance facility capacity in a manner consistent with Planned Growth Strategy policies. The advancement policy can provide funding for infrastructure and allow developers to proceed with project approval. However, developers will have to advance money for all facilities that are deficient for expedited approval to occur. In other words, if both water and sewer facilities are deficient, and the developer provides the necessary facilities to meet the level of service for water but not sewer, building permits will still be deferred until sewer facilities are available at the adopted levels of service. This may discourage developers from utilizing this option except where advancement of only one or two public facilities is needed.

If the public facilities are scheduled in the community's Capital Improvements Program, the policy decision regarding the construction of those facilities has already been made. Therefore, there would be no reason to prohibit the expedited construction of those facilities through developer advancements.

Because some facilities, such as water and sewer mains, must be oversized to accommodate future demands, the question arises whether developers who advance such facilities should be reimbursed for providing capacity in excess of what is warranted by the size of the proposed development alone. Many jurisdictions provide a mechanism for reimbursing developers in this situation. In addition, the correction of existing deficiencies will by definition exceed the marginal impacts created by the development proposal. While most jurisdictions provide for reimbursement for oversized facilities, few address the issue of reimbursement for correcting existing deficiencies. The community could provide a mechanism by which developers would be reimbursed for the use of excess capacity by subsequent development projects within the impact area. Impact fees, user fees, or utility fees for the development of the specific facilities being improved could be transferred to the developer as they are collected. Recommended Planned Growth Strategy policy supports this approach in the Partially Served Areas.

5.3.2 Varying Level of Service Standards

The community may vary the level of service standards applicable to each public facility by geographic area, over time, or by type of development project. Level of service standards may vary by geographic area in order to allow flexibility in the achievement of other public objectives, such as promoting infill development. Level of service standards may also be varied by geographic area where substantial deficiencies exist or where environmental or other constraints prevent facility expansion (these are sometimes referred to as "backlogged" or "constrained" facilities). For example, levels of service may be "tiered" over time in order to avoid the effect of an immediate, high level of service on growth and development in the jurisdiction. To achieve this result, one level of service standard can be set for purposes of review for a specified period of time subsequent to adoption of the Adequate Public Facilities Ordinance, with a higher standard taking effect at a specified future date.

A differential level of service standard is one in which the level of service varies based upon the location of development, the type of development, or other policy considerations. The most typical response is the establishment of higher level of service standards in rural areas in order to discourage sprawl development. Level of service standards can be adjusted to encourage infill, redevelopment, the production of affordable housing, or other public policies. However, the level of service standards must be justified, be supported by data and analysis, and bear a rational relationship to a legitimate public purpose.

In Florida, state legislation expressly authorizes local governments to establish special areas in which transportation level of service standards will be relaxed in order to encourage infill development, transportation demand management, public transit, and other permanent solutions to the seemingly intractable problem of traffic congestion in major metropolitan areas.

Transportation Concurrency Management Areas are a framework for utilizing concurrency management in a manner conducive to mass transit, economic development, and a desirable urban form. While the system could be structured in a number of ways, the designation of major nodes and centers could provide a starting point for the designation of Transportation Concurrency Management Areas and allocation of transportation capacity. Identification of regional service levels and regional improvements establishes a regional transportation carrying capacity, which is then allocated to centers as Transportation Concurrency Management Areas. This could operate in two different ways. First, the carry-

ing capacity would establish a ceiling on regional development. This would provide a basis for the allocation of capacity to centers/Transportation Concurrency Management Areas and would also require the affected agencies to debit capacity utilized in centers from the outlying areas. This would assure that (1) capacity for regional centers is accorded a priority for utilization by the business community and (2) that capacity is taken away from areas where development is assigned a low priority by the public sector, thereby assuring that the goals and objectives of development in the regional centers are not thwarted by competition from outlying areas. Capacity allocated to Transportation Concurrency Management Areas could be allocated on a first-come, first-served basis or subject to certain allocation criteria.

Florida, which is the first state in the nation to mandate concurrency, is the only state with specific requirements for Transportation Concurrency Management Areas.[17] As such, its legislation provides a good example of how levels of service can be varied for transportation requirements. The purpose of the Transportation Concurrency Management Area is to promote infill development and redevelopment. Transportation Concurrency Management Areas must be designated in the local government comprehensive plan. The characteristics of a Transportation Concurrency Management Area relate primarily to urban form rather than location, making the concept particularly suitable to the desire expressed during the Town Hall meetings to encourage more compact development in fringe areas outside of the City's 1960 limits. The Transportation Concurrency Management Area must have the following characteristics:

- a compact geographic area,
- an existing network of roads, and
- multiple, viable alternative travel paths or modes for common trips.

An areawide level of service standard may be established for a Transportation Concurrency Management Area based upon an analysis that provides a justification for the areawide level of service, how urban infill development or redevelopment will be promoted, and how mobility will be accomplished within the Transportation Concurrency Management Area.

To encourage infill, several other provisions of Florida's concurrency legislation supplement the Transportation Concurrency Management Area provisions. First, a proposed redevelopment project located within a defined and mapped Existing Urban Service Area (Fully Served Area) is not subject to concurrency requirements if the transportation impact of the project does not exceed 110% of the transportation impact of the previously existing uses.[18] This provision increases capacity in older areas that new development can use.

Second, the legislation provides for concurrency exceptions in designated redevelopment areas. The legislation begins with the following finding:

> The Legislature finds that under limited circumstances dealing with transportation facilities, countervailing planning and public policy goals may come into conflict with the requirement that adequate public facilities and services be available concurrent with the impacts of such development. The Legislature further finds that often the unintended result of the Adequate Public Facilities Ordinance for transportation facilities is the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan.... Therefore, exceptions from the Adequate Public Facilities Ordinance for transportation facilities may be granted as provided by this subsection.[19]

The legislation authorizes a local government to grant an exception from transportation Adequate Public Facilities Ordinances for developments that promote public transportation or that are located within an area designated in the comprehensive plan for the fol-

lowing: (1) urban infill development, (2) urban redevelopment, or (3) Downtown revitalization.[20] These exceptions must consider the impacts on the Intrastate Highway System and are available only within the specific geographic area of the jurisdiction designated in the comprehensive plan.

Montgomery County, Maryland has also implemented a varied level of service concept. To implement its growth management policies, an Adequate Public Facilities Ordinance was adopted in 1973, patterned loosely after the Ramapo model. The Adequate Public Facilities Ordinance requires an adequacy review for transportation, water/sewer, schools, and police/health clinics at the preliminary plat stage. The adequacy review takes into account approved but unbuilt projects, and also uses a two-tiered policy area review and local area review to limit the geographic service areas where level of service standards must be satisfied. Staging ceilings for population and employment growth are established throughout transportation policy areas, based on areawide level of service standards. Where the staging ceiling is exceeded, applications for preliminary plat approval are denied. Local area review is triggered when large subdivisions are either (1) proposed when total development in the policy area is within 5% of the staging ceiling or (2) located near a congested area. If local area review is triggered, projects may only be approved where peak hour levels of service would be maintained, taking into account mass transit and developer improvements. The Adequate Public Facilities Ordinance is monitored annually through the adoption of an annual growth policy in which various political subdivisions of the county interested in its enforcement review the staging ceilings and suggest methods for administrative reform.

Critical to the Montgomery County program is the assignment of different levels of service to policy areas based upon the availability of transit. Areas that are generally undeveloped are typically assigned a level of service C, while lower levels of service are assigned in areas with available transit capacity.

The Maryland Court of Appeals rejected a takings and equal protection challenge to the differential assignment of level of service by policy area in *Schneider v. Montgomery County,* No. 683 (Court of Special Appeals, September 1991) (unpublished). The plaintiff argued that it was arbitrary to deny plat approval in areas with 45% of capacity unused, while approving development in areas with only 12-23% of capacity unused. The court rejected this argument, relying on the County's finding that it is appropriate to permit greater congestion in areas with alternative modes of travel.

5.3.3 Applying the Concepts

In Albuquerque/Bernalillo County, an Adequate Public Facilities Ordinance would be established within the land development regulations of participating jurisdictions. These regulations include both zoning and subdivision regulations. Details about how level of service standards are interpreted may be added to the Development Process Manual. If the ordinances are combined into a Unified Development Code or a Unified Regulating Code, the technical details can be specified in an Appendix to the ordinance.[21]

Jurisdictional issues include the issue of annexation, which extends the Adequate Public Facilities Ordinance policies into previously unincorporated territory, and interjurisdictional cooperation.

While the major policy issues associated with structuring an Adequate Public Facilities Ordinance have been discussed earlier, interjurisdictional cooperation between the City, the County, and other cities and towns within the urban area would improve the effectiveness of the system.

The New Mexico statutes authorize several methods of annexation: (1) the arbitration method;[22] (2) the boundary commission method;[23] (3) the petition method;[24] and (4) by petition in Class A Counties in limited situations.[25] In 1998, the state legislature established a procedure for referral of annexations in Bernalillo County to the County Commission for

comments prior to approval by the City Council. Within Class A counties, the petition to the City Council or petition to the district court are the methods authorized for most annexations.[26] In those counties, the boundary commission method is only allowed when the territory to be annexed is outside a conservancy district.[27]

Criteria relating to the provision of public services within a reasonable period of time are integral to all of the annexation methods available under New Mexico law. However, there is little guidance for the City Council or the courts to refer to in determining whether public facilities will, in fact, be available within a reasonable period of time. Establishing strong policies in the Adequate Public Facilities Ordinance that define the issue of when public facilities are considered available will help to resolve this issue absent, as is the situation at present, a judicial definition of reasonableness.

Under the petition method, the City already examines public facilities issues during the annexation process pursuant to the City's annexation policy (Resolution 54-1990) and the Development Process Manual, Chapter 10 (applications for annexation approval). The Development Process Manual applies the following criteria for the Central Urban, Established Urban, and Developing Urban Areas related to requirements on the applicant and the ability of the City to reject the annexation petition:

- Anticipated delay in provision of City services is so far into the future as to be speculative and therefore an unreasonable basis to provide for annexation.
- Compliance with City policy regarding land dedication for public facilities is assured.
- The applicant shall agree in writing to timing of capital expenditures for necessary major streets, water, sanitary sewer, and storm-water-handling facilities.
- The City may decline an annexation if … the City concludes that it would be unreasonable to make land owners wait for basic utilities and facilities as long as would probably be the case.[28]

While these criteria are good statements of policy, they provide no direction as to how the timing and availability of facilities is to be judged or how the capacity of facilities is to be measured. Further, there is no formal linkage to the City's Capital Improvements Program. An Adequate Public Facilities Ordinance offers the precision needed to resolve these issues. In addition, the level of service concept provides a basis for working proactively with the County and landowners to encourage annexation where facilities can be efficiently provided.

The ordinance should also address the types of permits subject to Adequate Public Facilities Ordinances. These may include the following requirements of the Zoning Code and Subdivision Regulations:

- Zoning Map Amendments.[29]
- Sector Development Plans or Sector Development Plan Amendments.[30]
- Special Exceptions, which include Conditional Uses, Variances, and Nonconforming Use Expansions.[31]
- Sketch Plats.[32]
- Preliminary Subdivision Plats.[33]
- Final Subdivision Plats.[34]

Adequate Public Facilities Ordinance requirements appear to fall within the state subdivision enabling legislation. This legislation provides broad authority for subdivision regulations. Under this legislation, subdivision regulations may provide for: the harmonious development of the municipality and its environs; adequate open space for traffic, recreation, drainage, light, and air; the distribution of population and traffic that tend to create conditions favorable to the health, safety, convenience, prosperity, or general welfare of the residents of the municipality; land use, including natural drainage; and other matters necessary to carry out the purposes of the Municipal Code.[35]

An Adequate Public Facilities Ordinance would also seem to fall within the purview of a local government's zoning authority. Municipal zoning may be used, *inter alia,* to lessen congestion in the streets and public ways; facilitate adequate provision for transportation, water, sewerage, schools, parks, and other public requirements; and to promote health and the general welfare. Similar language was used to sustain the Adequate Public Facilities Ordinance upheld by the New York Court of Appeals in *Golden v. Town of Ramapo, supra.*

Review for compliance with public facility standards is generally recommended for discretionary permits that occur early in the development approval process, rather than ministerial permits that occur late in the approval process. This allows the developer input as to the availability and capacity of public facilities prior to the commitment of significant resources towards final development approval. Requiring compliance late in the process creates uncertainty in the approval process. Accordingly, it is recommended that review for compliance with level of service standards apply to any rezoning/Sector Plan amendment, special exception, and preliminary plat. The Adequate Public Facilities Ordinance review should not apply to final plats, although final plats may be staged and sequenced in accordance with an approved preliminary plat.

The Adequate Public Facilities Ordinance review should also occur during the plan review process for Planned Communities in Comprehensive Plan Rural and Reserve Areas. An Adequate Public Facilities Ordinance analysis should apply to any plan designated as Rank 2 (Level A Community Master Plan) or Rank 3 (Level B Village Master Plan). A more detailed analysis should apply to any Neighborhood Plan (Level C Subdivision/Site Plan).

In addition to the permit approval process, the City and County should revise their Capital Improvements Program requirements to conform to the Adequate Public Facilities Ordinance. The cost, source of funds, completion dates, and priority of Capital Improvements should continue to be included pursuant to § 2-12-1(B) of the City Code. However, the capacity and the impact on the adopted level of service should also be part of the data for each capital project.

5.4 Locational Criteria

In order to fold concurrency into an overall Planned Growth Strategy framework for the region, a unifying framework is needed for the application of level of service standards to different parts of the Albuquerque/Bernalillo County region. Such systems provide methods for establishing variable level of service standards as well as ancillary community design and zoning regulations. This type of system provides a common thread for the variety of implementation measures that will be required throughout a diverse metropolitan area such as Albuquerque/Bernalillo County. The types of systems that may be used include urban growth boundaries, urban service areas, and tier systems. These systems are described below.

5.4.1 Urban Growth Boundary

Adoption of a fixed long-term geographic restraint, called an Urban Growth Boundary, requires that the community, through a comprehensive planning process involving detailed, well-documented growth projections, establish a perimeter or a boundary beyond which urban scale development is prohibited. This perimeter should be incorporated into the comprehensive plan as a fixed line during the life of the plan. It should be supported by planning studies that demonstrate the desirability of areas within the perimeter for the extension of municipal services, such as streets, sewers, and water, and the inability or undesirability of servicing areas beyond the limit line. Implementing regulations are then adopted that limit development outside the perimeter to rural uses and densities that do not require urban facilities and services. These are often termed "urban limit lines."

5.4.2 Urban Service Areas

A temporary boundary may be used to identify areas not to be serviced within the next 10–25

years based on the capital program and the comprehensive plan. Growth may then be managed through phased service extensions to designated short-term priority areas allowing the community to harmonize short-range needs with long-term goals. This system is more common than urban growth boundaries and differs from urban growth boundaries in that development is controlled through the orderly extension of public facilities and services rather than through regulatory measures.

5.4.3 Tiers

The tier system is an approach for structuring growth management systems by geographic areas as a refinement of Urban Service Areas. Although not an implementation technique in the same sense as others described in this chapter (e.g., Adequate Public Facilities Ordinances), it is an extremely useful mechanism that establishes a framework for determining which of the varied techniques should be used to achieve growth management in different areas of the community.

A principal tenet of this system involves the geographic and functional division of the planning area into subareas ("tiers"). The functional planning area concept recognizes that different areas of the community present different problems relating to growth and development. Nevertheless, while individual geographical or functional areas may need to be separated for specialized treatment, they must still be viewed in terms of their interrelationships with other areas and with the community as a whole.

A framework for a growth management system that allows for major problems to be addressed on a communitywide basis aids local governments in planning for future growth and in understanding the interrelationships between, and implications of, varying growth policies, goals, and implementation techniques. A breakdown into functional and geographic areas allows planning entities to describe goals and objectives in terms of such areas, to evaluate market forces and growth trends selectively for each area, and to consider implementation techniques that are specific for each area. Thus, goals that would be competing or conflicting when applied uniformly can be harmonized when viewed selectively by subarea. For example, preservation of agricultural land in selected areas of the community can be compatible with increasing housing opportunities in other areas. Further, the implementation techniques that may be associated with these goals can also be harmonized and validated within the tier framework. The tiers should be descriptive of the existing data and structure of the area and be capable of functioning as planning and plan implementation units. The tier delineation allows the goals and appropriate techniques employed in a urban growth management system to vary with the geographic or functional subunits of the planning jurisdiction. Such flexibility is essential to the future success of such systems because it provides for articulation of different, and even contrasting, strategies for different areas of the community, with corresponding legal techniques and implementing mechanisms, without jeopardizing the overall comprehensiveness of the system or any of its individual components. Equally important, a tier system permits the courts to adopt the same analytical framework for their review of the legal validity of the system and its component parts.

As stated, the fundamental premise of the tier delineations is that the community can be divided into geographical subunits based upon functional distinctions within the growth management system. This is quite different from a division of a city into neighborhoods since their boundaries correspond to data collection units, streets, topography, and other criteria. The functional delineations of the tier system, however, do relate strongly to the goals and objectives to be achieved through the growth management system.

A growth management system should recognize the concepts of "growth" areas and "limited growth." The typical tier system divides the community into "growth" and "limited growth" categories and adds the tiers as subdivisions of those general categories. Tiers within the growth category are commonly designated "Urbanized" and "Planned Urbanizing." The

tiers within the limited growth category would be "Rural/Future Urbanizing" and "Conservation/Open Space." Each of the tiers has specific geographical boundaries and would be capable of being mapped. In the Planned Growth Strategy, these are associated with the tiers called Fully Served ("Urbanized"), Partially Served ("Planned Urbanizing") and Unserved ("Rural/Future Urbanizing").

The Urbanized tier would consist of those areas that are largely built-out and almost completely served by public infrastructure (i.e., Fully Served Areas). Recognizing that this definition includes areas for which different growth management strategies may be desired, the tier may be further subdivided into two subareas: those that have suffered population losses and those that have increased in population.

The Planned Urbanizing area would represent the "new" growth area (i.e., Partially Served Areas). It, too, can be subdivided. One subarea would consist of those lands that are partially developed but that are distinguished from the Urbanized area by having a less dense overall population. The second subarea consists of those lands that the community wants to target for growth but are mostly vacant at present. The targeted areas are defined once the community has selected a development scenario for this purpose, but might possibly consist of transportation corridors, development "nodes," activity centers, planned communities as broadly defined in the Planned Growth Strategy, and Traditional Neighborhood Developments.

The Rural/Future Urbanizing area may be a permanent rural density development area or may be a temporary holding zone until the growth areas are built out. The Rural/Future Urbanizing tier generally contains lands that are presently unserved and that have a lower population density or no population.

The Conservation/Open Space tier consists of lands containing environmentally sensitive areas or public open space.

Transportation corridors, as areas that would be targeted for future growth, can be integrated into the framework by inclusion in the area mapped and designed as Urbanized and Planned Urbanizing. Transportation corridors can be separately mapped and may overlay the tier delineations. In a typical community, transportation corridors pass through more than one tier and therefore may require the use of differing techniques. For instance, techniques utilized in transportation corridors in the Urbanized tier will likely have a redevelopment/infill focus while techniques utilized in transportation corridors in the Planned Urbanizing area would likely consist of advance acquisition and the like.

The transportation corridor reflects a far broader concept than a mere highway system, both in terms of geographic configuration and function. The corridor is a mapped area whose central focus is a proposed or existing transportation facility, including, but not limited to, a section of the regional or arterial roadway system, a high-speed rail line, or other similar facility. The boundaries of the transportation corridor should be established, based upon sound planning and study, to include not only all rights-of-way necessary to meet projected facility demands but also the entire area that is deemed to be impacted by the facility at its ultimate capacity. Functionally, the transportation corridor is more than an area between two points used for the movement of people and goods. Each corridor is a nexus for major commercial, office, industrial and/or high-density residential development. As such, the physical extension of such corridors into Future Urbanizing Areas should be avoided until consistent with the desired timing and phasing of surban growth. A transportation corridor may be an appropriate recipient of transfers of development rights from noncorridor areas that can then be preserved or land assembled. As a result of higher densities, multi-modal transportation systems, including high-speed and mass transit, may become viable.

5.4.4 Applying the Concept

Urban Growth Boundary systems have some appeal because they are simple and more resistant to political persuasion. A tier system is a more sophisticated implementation of the Urban Service Area concept and is more adaptable because it takes into account the complexities of the Planned Growth Strategy concepts.

The tier system is consistent with the Planned Growth Strategy for several reasons. First, the broad structure of the systems conforms to the Planned Growth Strategy areas: "Urbanized" to "Fully Served Areas"; "Planned Urbanizing" to "Partially Served Areas"; and "Rural/Future Urbanizing" to the "Unserved" areas.

Second, the Planned Growth Strategy has divided the City into 14 subareas within the Planned Growth Strategy study area. The Preferred Alternative allocations of population and employment to these areas and the quality of life and future development goals for them could provide a useful basis for establishing differing policies for zoning, subdivision improvement requirements, level of service standards, redevelopment incentives, and so on.

Third, the Planned Growth Strategy has prioritized corridors and centers within the Preferred Alternative as targets for future development. As mentioned above, these might be subject to different policies for zoning, level of service standards, vested rights in the development approval process, and so on.

Forth, the City has defined 10 Community Planning Areas in the urban area that ultimately may have different priorities for growth and development.

5.5 Community Design

From regional, macro-level urban policies, implementing regulations needed for the design of new development and redevelopment projects must flow. While much effort has been invested in the identification of regional and communitywide growth issues, these benefits will be lost if not translated into tangible improvements in the built form of the urban area. For example, renowned New Urbanist architect Andres Duany observed the following about Portland's noted urban growth boundary system during a visit:

> That as soon as one left the prewar urbanism (to which all my prior visits had been confined) the sectors all the way to the urban boundary were chock full of the usual sprawl that one finds in any American city, no better than in Miami. So the outcome wasn't that different after all, in Portland most of the prewar urbanism is excellent and most of the postwar version is junk. What was missing in the new areas was the traditional neighborhood structure of mixed-use, inclusive housing and walkable streets.[36]

The use of variable levels of standards makes more sense for some types of facilities than others. For water and wastewater facilities, for example, the demands created per unit of development may or may not vary by location. For storm water management, lower discharges may be presumed for cluster or conservation subdivisions that utilize low-impact development practices.[37] Variable levels of service are used most effectively with transportation facilities. The impact of development on transportation facilities varies significantly with the location and design of new development, and this relationship is documented. Moreover, this relationship blends well with the policies emerging from the Planned Growth Strategy process. Development practices that warrant variable level of service are described in greater detail below.

5.5.1 Transportation

The design and form of new development has a significant influence on travel modes and the impacts of new development on roadway capacity. Some of these studies are summarized below.

A comparative analysis of 12 metropolitan areas by Robert Cervero showed that walking

and cycling consistently declined throughout each area but that more than 15% of all journeys to work were by nonvehicular modes.[38] Cervero recommends that sidewalks, trails, and pathways be coordinated with a larger system and not end abruptly.[39] While less than 1% of all trips in the nation are by walking and cycling, office parks with integrated pedestrian systems and on-site amenities such as showers can increase bike travel to 3–5%.[40] He suggests that the impact is more meaningful where employees are concentrated within 1–3 miles of the employment center. He reports that 20% of the workers at the Xerox research facility in Silicon Valley commute by bicycle.[41]

Buildings oriented to the street with frequent openings encourage walking and transit use (right). Blank walls discourage walking (left).

Cervero has further documented how lack of design amenities often discourages pedestrian and bike travel in suburban employment centers.[42] Most walk trips in suburban employment centers are for nonwork purposes, comprising 21.5% of these trips. Foot travel is discouraged by long blocks, disconnected sidewalks, and limited mid-block crosswalk opportunities. Consumers are more likely to walk on avenues with shops, parks and other interesting destinations where a number of trip purposes can be accomplished.[43]

In an extensive summary of research on the issue, Reid Ewing has compiled a listing of pedestrian and transit-friendly features that are summarized in Table 44.[44]

The literature also provides support for the trip reduction potential of walkable communities such as Traditional Neighborhood Developments . There are few empirical studies due to the lack of well-established new communities with a New Urbanist design emphasis. A study of traditional and modern conventional subdivisions in Austin, Texas found that persons walked to the store six times more in traditional subdivisions than in modern conventional subdivisions, and the walk trips were a substitute for driving trips.[45] A study by 1000 Friends of Oregon demonstrated substantial reductions in vehicle miles traveled and trips based on four "Pedestrian Environmental Factors": (1) Ease of street crossings, (2) sidewalk continuity, (3) local street characteristics (grid vs. cul de sac), and (4) topography. The

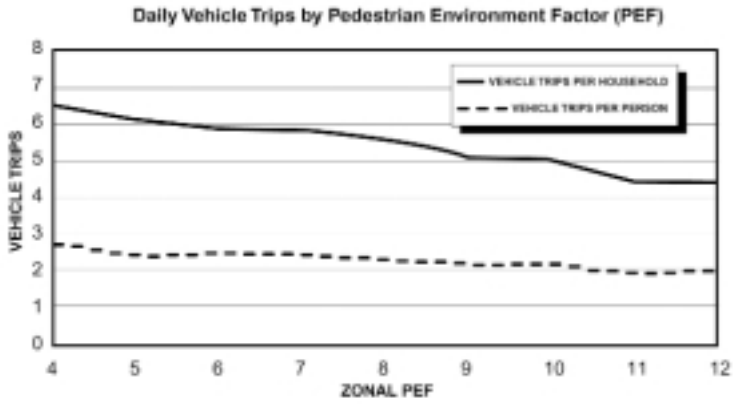
Table 44 Pedestrian and Transit-Friendly Features

Essential	Highly Desirable	Nice Additions
Medium-High Density (7–50 du/ac)	Supportive Commercial Uses	Street Walls
Mixed Land Uses	Grid Streets	Functional Street Furniture
Short-to-Medium Length Blocks (300–500 feet)	Traffic Calming of Access Routes	Coherent, Small-Scale Signage
Transit Routes Every .5 Mile	Closely Spaced Shade Trees on Access Routes	Special Pavement
2–4 Lane Streets	Lack of Dead Space (or Visible Parking)	Public Art
Continuous Sidewalks 4–8 feet wide	Nearby Parks/Public Spaces	
Safe Street Crossings (5–10 foot radii)	Small-Scale or Articulated Large Buildings	
Buffering from Traffic (e.g., street parking)	Attractive Transit Facilities	
Street-Oriented Buildings		
Comfortable/Safe Places to Wait		

study demonstrates that vehicle trips per household decline as much as 30% with increases in Pedestrian Environmental Factors (Chart 6).[46]

A study by Susan Handy indicated that residents in an older community in the San Francisco area walked to the supermarket more, with the pedestrian mode share at 8%.[47] Other studies demonstrate trip reductions for mixed-use/transit-oriented/New Urbanist development.[48] Some studies have shown that mixed-use development can reduce trip generation rates by as much as 25%.[49] An American Society of Civil Engineers simulation study estimated that Traditional Neighborhood Developments produces 57% of the vehicle miles traveled of a conventional suburban development, with a 9.78% reduction in volume to capacity for arterials (0.83 v. 0.92), a 7.45% reduction for collectors (0.87 v. 0.94), and 4.55% reduction for local streets (0.22 v. 0.21).[50] Further, conventional suburban neighborhoods were found to have trip rates 60% higher than traditional neighborhoods in San Francisco Bay area.[51] A study by Handy in San Francisco was inconclusive about substitution, but later studies by her in Austin confirmed that many walk trips do substitute for car trips. Other studies have documented that residents of older neighborhoods travel less in terms of mileage and number of trips.[52]

Chart 6 Daily Vehicle Trips by Pedestrian Environment Factor



5.5.2 Applying the Concepts

Several principles apply to the practice of assigning a level of service to developments with preferred design characteristics. First, the applicable level of service should be defined by area. For example, an exemption could be applied to Major Activity Centers, with level of service D, E, or F applicable to Community Activity Centers or Rural Village Centers. This concept is discussed in greater detail in Section 5.3 relating to Adequate Public Facilities.

Second, a design package or "Use Pattern" needs to be identified, with the design characteristics of pedestrian or transit-friendly development identified. The design guidelines should provide clear guidance as to fundamental development criteria, including the following:

- Size and Location of Site
- Uses and Density
- Adequacy of Public Facilities
- Lot Layout
- Design
- Transportation
- Stormwater Management
- Utilities
- Parks and Open Space
- Natural Resource Protection
- Landscaping/Buffering
- Parking

Local examples of some of these concepts include the design guidelines for the West Side[53] and the *Design Standards and Guidelines for Downtown Central Avenue*[54] in the context of more established urban areas. These criteria should be clear and free of regulatory ambiguity. In addition, they should be written in a manner that permits some degree of design flexibility. Discretionary approvals with extensive or unpredictable approval

processes can discourage development in areas where development is needed.

Finally, transit facilities should be given consideration in level of service review. Transit may be considered as a substitute for roadway facilities. Further, the availability of transit can be used to reduce roadway demands during the traffic impact analysis. The combination of these approaches can provide a more acceptable phasing schedule for developers where roadway facilities are constrained and can also reduce the cost of advancing facilities where such arrangements are desired.

5.6 Legal and Policy Changes

5.6.1 General Considerations

Implementation of an effective tiered levels of service criteria will require a fundamental rethinking of how transportation capacity is defined vis-a-vis various modes of transportation (e.g., between transit and roads), and allocated—both on a geographic basis and between types of development. The first step involves the establishment of regional service levels and resulting constraints on land use based on those improvements. Identification of regional service levels and regional improvements allows the affected entities to establish a regional carrying capacity, which is then allocated to subareas.

The subarea allocation could operate in the following way. The carrying capacity would establish a ceiling on regional development. This would provide a basis for the allocation of capacity to subareas and would also require the affected agencies to debit capacity utilized in centers from the outlying areas. This would assure that: (1) capacity for development desired by the public is accorded a priority for utilization by the business community and (2) that capacity is taken away from areas where development is assigned a low priority by the public, thereby assuring that the goals and objectives of development are not thwarted by competition from outlying areas. Capacity could be allocated to priority subareas on a first-come, first-served basis or subject to certain allocation criteria.

While development within Transportation Concurrency Management Areas might exceed the carrying capacity of arterial and collector roadways, it is assumed that the trips could occur on streets or on transit.[55] Because the community wants transit capacity to be utilized, there is little concern that more transit capacity might be consumed than what might become available. This scenario would provide a justification for further investment in transit. Just as suburban decentralization has historically created the market justification for the expansion of freeways, the situation could be reversed to the point where the key stakeholders begin to demand—and support the necessary revenue increases—for increases in transit capacity.

Allocation of Carrying Capacity

The alternatives are using: (1) allocation criteria or (2) a first-come, first-served system. The establishment of allocation-based criteria can provide an effective tool to encourage the type of growth desired by the community. However, it carries an administrative burden not found with first-come, first-served systems. In addition, other parts of the local governments' land use codes would impose transit-oriented development, mixed-use zoning regulations, and other regulatory criteria in these areas.

The first-come, first-served system allows developers in preferred areas (i.e., Transportation Concurrency Management Areas) to take capacity without additional regulatory requirements. To assure that development taking this capacity is the type of development desired by the community, New Urbanist design or Transit-Oriented Develop-ment zoning regulations will provide a precise visual outcome for development proposals. In order to assure that all Transportation Concurrency Management Area capacity is not allocated to employment generators or to residential uses, the City and County could set aside part of the capacity to employment and part to residential—as in Montgomery County.

Accordingly, the following steps can be undertaken to implement a variable level of service system:

1. Identify the overall development ceiling.
2. Identify existing employment destinations and residential uses in Transportation Concurrency Management Areas—this assures that the system does not reinforce current imbalances with respect to jobs and housing.
3. Based on #2, identify—on a geographic basis—where current deficiencies exist in terms of jobs and housing. In other words, where are jobs and housing needed in order to achieve a balance? How much is needed?
4. Allocate the capacity identified in #1 to the areas identified in #2.
5. If any capacity is left over after #4, allocated it equally between jobs and housing.

Several issues have been raised about this approach that merit discussion. First, will the reallocation of systemwide capacity from areas with excess capacity to areas that lack capacity produce a change in real peak hour traffic conditions? For example, the Northwest Mesa has limited roadway capacity, while the Southwest Mesa has some excess roadway capacity. Will allocating capacity from one area to another cause these roadway conditions to change?

The answer is that changes cannot be expected immediately. Instead, the system simply recognizes that there are situations where lower roadway service levels are appropriate for policy reasons as well as physical and financial constraints. By assigning lower roadway level of service to these areas, capacity is freed for new development. Over time, a development pattern will shift to reflect system capacity conditions within areas. It is also important to note that the perceived restrictions on existing capacity are a function of present standards and procedures for measuring capacity. The solution lies in the standards adopted for each area and defining the extent of each area over which a level of service is assigned.

In areas where the local government cannot expand capacity due to physical, financial, and policy constraints and where further growth is desired, a lower level of service must be tolerated. The alternative is to assign an unrealistic level of service, producing needlessly expensive improvements and, perhaps, roadway improvements that are detrimental to community character. Conversely, a higher level of service can be assigned in areas that are currently undeveloped, again for policy reasons and to reflect the ability to control the relationship between traffic volumes and capacity.

Second, how is the system implemented? Do new permits cease to be issued in areas where peak hour volume-to-capacity ratios exceed 1.0? This question is addressed in Section 5.3 "Options When Public Facilities Do Not Meet Level of Service Standards." The City and County can use a variety of options to avoid development moratoria in areas where capacity is constrained. These include:

- Adopting a lower level of service that more realistically reflects traffic conditions and the City's and County's abilities to correct them.
- Applying a uniform phasing schedule for new development where capacity is unavailable, in order to allow a reasonable use of property to be made.
- Allocating growth using permit allocation systems or density allocations.

Third, would the system implicitly demand that more funds be spent in areas that have high volume to capacity ratios instead of directing a higher percentage of growth to areas with lower volume to capacity ratios? In other words, would revenues be diverted in order to provide for the build out of land at the periphery? This is a troublesome question with most adequate public facilities ordinances, and it is precisely the situation that variable level of service standards avoid. A higher level of service in developing areas, which typically have lower volume to capacity ratios, creates a lower margin of capacity for growth. While there will be pressure to provide funding for capacity in these areas, such pres-

sure already exists. The variable level of service approach simply allows the City and County to address their expenditures in a comprehensive manner, with a uniform framework for evaluating new expenditures and any growth-inducing impacts.

It is important to note that a fundamental premise of a concurrency-based system is that public improvements are phased and sequenced based on the financial capacity of the local government. Neither the courts nor the New Mexico legislature have provided a time period by which improvements must be available. Accordingly, capacity shortfalls in developing areas can be addressed over a reasonable period of time. In determining the appropriate time period, the City and County can properly determine the impact of building new capacity to serve growth on their financial capacities to address rehabilitation and deficiency needs. A reasonable equilibrium between these objectives can avoid the diversion of funds from rehabilitation and deficiency-related improvements.

5.6.2 Revisions to Capital Improvements Program Ordinances

The City's Capital Improvements Program Ordinance already contains several provisions necessary to implement an Adequate Public Facilities Ordinance or tiered level of service policy. However, several changes should be considered in order to strengthen the program. First, the ordinance provides several useful items of information to be included as part of the plan preparation process. These include the following[56]:

- The anticipated capital cost of each project;
- The anticipated source of capital funds for each project, e.g., General Obligation bonds, Enterprise Fund, Gross Receipts Tax, and so on;
- The estimated annual operating cost or savings for each project;
- The estimated completion date of each project;
- The adopted plan or policy, if any, which each project would help to implement;
- The viable alternatives that were considered for each project and the reasons the proposed project is the most cost-effective and practical alternative for meeting the stated objective;
- The project's ranking in whatever sequencing/priority-setting system is used as a basis for proposed programming; and
- The impacts of proposed capital improvements on user rates (for Enterprise Fund projects).

The City's 2001 Capital Improvements Program indicates that the actual implementation of these requirements should be strengthened in the future.

In addition to this information, the Capital Improvements Program should also include the following information:

- The Capital Improvements Program must be an inclusive plan that indicates how the community's goals and the urban growth strategy will be achieved through specific capital projects that are funded through a combination of funding sources. The actual programming of General Obligation and Enterprise Fund capital expenditures should become a secondary focus within this broader approach;
- In order to implement this approach, specific capital projects rather than general programs must be appropriated funds in the Capital Improvements Program;
- The service areas accommodated by the proposed facility;
- The present level of service with the service;
- The level of service that will result after completion of the improvement (based on

current population and employment projections);

- The relationship of level of service capacity in subareas to the forecasts of population and employment in the Preferred Alternative;
- The relationship of level of service capacity to the Planned Growth Strategy Preferred Alternative development goals related to centers, corridors, redevelopment of older neighborhoods, planned communities on the fringe and elsewhere, economic development, and so on;
- All capital funding sources must be included in the Capital Improvements Program including estimated federal and state grants especially used to fund infrastructure, parks, and human services facilities; and
- Whether the facility is needed to accommodate new growth, provide for rehabilitation or renovation, or correct existing infrastructure capacity deficiencies. Past City Capital Improvements Programs indicate that these definitions, although required, are not uniformly applied to projects.

The City has already moved in this direction by providing priorities for maintenance and rehabilitation and the extension of facilities to activity centers in its 2000 resolution providing priorities for the 2001/2002 Capital Improvements Plan.

The Capital Improvements Program Ordinance provides that the City Council establish policy guidelines for the Capital Improvements Program on a biannual basis.[57] As written, these policies can change widely with successive City Councils without reference to adopted plans or core principles. This provision should be revised to incorporate the principles of the Planned Growth Strategy and the Adequate Public Facilities Ordinance, so that requests for infrastructure improvements will have a predictable and sound policy basis.

The degree to which changes in the capital improvement budget will affect capacity within the service areas should also be reflected in the Mayoral authority to amend budgeted capital improvements.[58] The degree to which any change in a budgeted improvement affects the availability of capacity within a service area should be included within the scope of permissible changes and should also be reported when the change is approved.

The County's Capital Improvements Program Ordinance is more general in nature and process focused. It contains the following useful elements: conformance of capital projects to adopted plans, ordinance, policies and defined community goals; and the cost and source of funding for each project. The County's Capital Improvements Program also is reviewed by the County Planning Commission (as is the City's).[59] While the same general recommendations are appropriate for the County as for the City, the critical issue is aligning and coordinating (and perhaps combining) the City's and County's capital programs to implement the Planned Growth Strategy Preferred Alternative and achieve common community goals and objectives.

5.6.3 Line Extension Policy

The City water and sewer utility's Line Extension Policy is addressed primarily to the distribution of financial costs when water and sewer facilities are extended.[60] It is not a concurrency policy, although individual sections of the resolution indicate that service would not be expanded if it would exceed the capacity of the system.[61] In addition, as with many concurrency/Adequate Public Facilities Ordinance systems, developers are permitted to "advance" capital improvements subject to reimbursement.[62]

Within the context of the location-specific Planned Growth Strategy policies, water and sewer systems do not lend themselves to variations in level of service to the same extent as transportation facilities. While the demand for transportation facilities may vary depending on the location and design of a proposed development, the same is not necessarily true of water or sewer systems. While xeriscaping and other

water conservation measures can reduce the demand for water and sewer facilities, these measures do not necessarily depend on the location of development.[63] The decentralized nature of potential arsenic treatment will have a varying cost by location.

The application of an Adequate Public Facilities Ordinance can, however, vary depending on the location of new development. In other words, while the Adequate Public Facilities Ordinance would assume that all new development consumes the same amount of water or produces the same amount of wastewater regardless of its location within or outside of a center or corridor, the areas within the Fully Served Area tiers could be exempt from concurrency review based upon the existing availability of water and sewer service. The Adequate Public Facilities Ordinance would then apply only to the Partially Served tiers, with the Line Extension Policy applicable only to these areas.

This leads to several concrete changes needed in the Line Extension Policies. First, the extension of facilities should be permitted only when consistent with the City/County Compre-hensive Plan, Planned Growth Strategy policies related to the Preferred Alternative and area, sector, or corridor plans.[64] This approach is incomplete in that the City/County Comprehensive Plan does not, and the area or corridor plans might not, provide the level of specificity needed to determine whether an expansion is permitted. Accordingly, a Planned Growth Strategy Preferred Alternative map should be adopted as part of the ordinance that bridges the system expansion policies of the water and sewer master plans with the Planned Growth Strategy.

Second, the Line Extension Policy would apply only to the Partially Served Areas. Development in the Unserved Areas would be addressed through separate development agreements consistent with Planned Growth Strategy policies. Development agreements can be used to negotiate reimbursement schedules that are not subject to rational nexus review. There may be situations where it is to the developer's advantage to negotiate an oversizing arrangement without reimbursement.

Third, while this practice is being followed by the utility, the Line Extension Policy should expressly provide that facilities will not be extended if the proposed development would cause the capacity of Major Facilities within the service area to be exceeded. "Major Facilities" are defined in the Line Extension Policy as "reservoirs, wells, pump stations, master plan lines, lift stations, water and liquid waste treatment facilities." This should be tied to a baseline for measuring demand as set forth in the policy. A cross-reference to the criteria established in Chapter 24, § 2 (sewer facility engineering criteria) and Chapter 25, § 2 (water facility engineering criteria) should suffice.[65] All major facilities, not just distribution and service lines, should be subject to the system design standards. A system for tracking other approved developments should be developed as part of the policy so that capacity is not over allocated.

Fourth, the City should revisit the issue of reimbursement where master plan improvements are advanced pursuant to the Line Extension Policy. Rational nexus principles announced in impact fee cases around the nation do not require the City to reimburse developers for capacity needed to accommodate their own impacts. Neither should the utility forego the collection of Utility Extension Charges revenue for system improvements that the developer has not provided. For example, the developer may construct part of a sewer interceptor with capacity in excess of his project's needs, but no improvement was made to the wastewater treatment plant. At present, however, all sewer Utility Extension Charges revenue collected would be used to repay the developer for the interceptor improvements. Accordingly, a cap on Utility Extension Charges reimbursement could be established at an amount needed to reimburse the developer for impacts exceeding his proportionate share. The part of the Utility Extension Charges reimbursed could be limited by the

proportionate cost of the infrastructure items constructed by the developer to the cost basis of the Utility Extension Charges.

Because of the availability of private wells and septic systems as an alternative to utility service, ancillary policies in other portions of the City Code, as well as the regulations of the County and the Extraterritorial Land Use Authority, should also be considered. The City and County should seek appropriate legislation to clarify their authority to control the proliferation of private wells and septic systems within water and sewer service areas. In addition, however, the City and County should be prepared to permit a reasonable alternative use of property, either through project phasing or rural densities, in order to avoid potential takings liability for developments that cannot obtain central sewer or water service.

5.6.4 Subdivision Regulations

Concurrency/Adequate Public Facilities Ordinance regulations are typically enforced through the subdivision approval process. The City currently requires adequate facilities in its subdivision ordinance, but it has not refined its processes or standards to conform to the Planned Growth Strategy.

City Code § 14-14-2-3 (Land Suitability) contains a basic statement of adequacy of public facilities, as follows:

> (B) Land to be subdivided must have or be provided with adequate infrastructure improvements as specified in Part 4 of this article. Demonstrated capability, agreements, and assurances to provide nonprogrammed facilities through private funding will be satisfactory as provided in Part 5 of this article. Programmed facilities are those included in an adopted Capital Improvements Budget with funds authorized.

However, the following subsection states that the availability of adequate public or private infrastructure "shall all be weighed in considering proposed subdivisions," but that these "are not all necessarily required."[66] Accordingly, the City's standards relating to adequacy of facilities are internally inconsistent. Under the standard as written, the agencies charged with plat approval are free to ignore the availability of public facilities if they feel that they are outweighed by other policies. How this balancing process is to occur and which policies are to be considered, is not described sufficiently in the ordinance.

Article 4 of the Subdivision Regulations contains the design criteria for subdivision approval. Most of the meaningful standards are embodied in the Development Process Manual, which is adopted by reference.[67] The City has provided very detailed and informative criteria for most of the infrastructure standards in the Development Process Manual. However, these standards need to be refined to coordinate with the locational, urban design, and timing policies of the Planned Growth Strategy. The City also has criteria for specific facilities, such as water. A water and sewer service availability statement must be submitted for preliminary plat approval.[68]

The County Subdivision and Land Development Standards Ordinance[69] also provides infrastructure standards. Subdivision disclosure statements (§ 74-82) must contain detailed information about the availability of water supplies, fire stations, police protection, liquid waste disposal, terrain management (storm water protection), recreational facilities, public schools, and public transportation.[70] Maximum water demands must be quantified (§ 74-92), and water availability assessments must be submitted with a 70-year supply required (§ 74-95). The County also has general standards for liquid waste management (§ 74-98), solid waste disposal (§ 74-99), and terrain management (storm water management) (§ 74-101), fire protection (§ 74-103), and open space (§ 74-111). A transportation impact analysis is required for subdivisions above a specified size (§ 74-102). Most of these standards require reporting, but contain no specific or meaningful criteria for judging the impact

of a development and measuring it against available capacity.

Accordingly, the following revisions are needed for the City and County subdivision regulations:

- A level of service standard should be adopted for each selected facility, by area. This could be provided as a summary matrix in the subdivision regulations, with cross-reference to a development process manual for details about how service levels are computed and measured.
- Areas that are exempt from concurrency review should be listed and mapped.
- Procedures for coordinating infrastructure availability with the three-stage sketch, preliminary, and final plat approval should be established.
- The roles and responsibilities of the public and private sectors related to the private financing of infrastructure should reinforce Planned Growth Strategy goals.

5.6.5 Zoning Ordinance

The Concurrency/Adequate Public Facilities Ordinance program creates an opportunity to build the Planned Growth Strategy concepts into the land use approval process in a meaningful way. Numerous changes to the zoning ordinance are needed to make this happen. First, a series of design standards or "Use Patterns" must be defined that reflect the growth objectives of the Planned Growth Strategy. These patterns are described in Section 5.5 of this chapter and elsewhere. The design standards would include minimum densities appropriate to specific areas.

Second, development in major activity centers and community activity centers that lie within major or enhanced transit corridors should be either exempt from concurrency review or should otherwise be allocated sufficient infrastructure capacity. This creates an incentive for compact development patterns to occur and also reflects the availability of transit as a substitute for automotive travel.

5.6.6 Development Agreements

Procedures for the processing and approval of development agreements should be established in City and County Codes. The City and County already use a Subdivision Improvements Agreement to guarantee the construction of on-site infrastructure.[71] A development agreement extends this concept, while at the same time providing procedural protections for the property owner by vesting development rights for the term of the contract.

Whether development agreements constitute invalid contract zoning is an issue untested in the New Mexico courts. However, the New Mexico courts have not invalidated all forms of contract or conditional zoning. In *Dacy v. Village of Ruidoso,* 845 P.2d 793 (N.M. 1992), the New Mexico Supreme Court expressly approved zoning actions that involve "a unilateral contract in which a party makes a promise in return for a municipality's act of rezoning [where] the municipality makes no promise and there is no enforceable contract until the municipality acts to rezone the property."[72] Contract zoning is, however, illegal "whenever it arises from a promise by a municipality to zone property in a certain manner, i.e., when a municipality is either a party to a bilateral contract to zone or when a municipality is a party to a unilateral contract in which the municipality promises to rezone in return for some action or forbearance by the other contracting party."[73] If the development agreement is tied to a site plan approved after a zoning hearing occurs, or is part of a platting or other regulatory process, it does not compromise the local government's land use standards. Instead, it is an important planning tool to enforce standards by establishing a mechanism for resolving potential legal disputes and providing for the financing of infrastructure needed to accommodate growth. In that context, properly used, it does not have the characteristics of illegal contract zoning.

5.6.7 Impact Fees and Utility Extension Charges

Any concurrency/Adequate Public Facilities Ordinance system should be consistent with the land use and capacity assumptions used to calculate impact fees and Utility Expansion Charges. In other words, the level of service used to enforce an Adequate Public Facilities Ordinance should also be the level of service used to calculate the fees.

This approach has several advantages. First, it has the effect of encouraging the types of land use patterns provided for in the Planned Growth Strategy. For example, trip lengths could be used to calculate different fees in Partially Served Areas based upon distance from the urban core and/or whether the project is located in an activity center. This provides lower fees in the areas in which the City and County want development to occur first and at higher densities and intensities. It also has the effect of assuring that development that consumes most of the roadway capacity through longer trip lengths and vehicle miles traveled pays a greater share of growth-related costs. This is consistent with the proportionate share, "rational nexus" concept embodied in the development impact fee statute.[74]

Second, providing the same level of service standards as in the Adequate Public Facilities Ordinance assures that the capital improvements programs for impact fees produced pursuant to NMSA § 5-8-6 are consistent with those produced under the Capital Improvements Program ordinance. In fact, it assures that one document can be prepared for both purposes. This enhances administrative convenience and underscores the rationality of the program.

Finally, level of service standards provide an additional incentive for the City and County to adhere to spending commitments provided for in the Capital Improvements Program. Not only is the Capital Improvements Program augmented with private funding but there is a statutory mandate to earmark the fees and to commit impact fee monies to the improvements.[75] This provides a measure of fiscal discipline missing from most capital improvements programs, including the local ones.

5.7 Conclusion

An Adequate Public Facilities Ordinance includes procedures and standards to assure that development approval does not occur unless public facilities will be in place at specified levels of service concurrent with the impacts of the development. From this straightforward-sounding requirement, a host of issues emerge that belie the simple nature of the statement. Because of substantial differences in capital facility provision responsibilities, level of service standards, capital improvements programming, sophistication of existing development approval processes, existing adequacy and available capacity of public facilities that may be subject to concurrency, existing amounts of development in the "pipeline," and the need to reserve capacity, no Adequate Public Facilities Ordinance developed for one jurisdiction can serve as a precise model for one needed in another jurisdiction. However, knowledge of other systems and approaches has significant benefit because it enables us to:

- appreciate differences in approaches and the rationale for such differences;
- learn from mistakes already made and corrected in other jurisdictions;
- understand the complete range of issues that need to be brought to the attention of staff, the development community, and other interested parties and on which policy decisions will need to be made; and
- understand how a concurrency determination process actually works in practice (not just in theory).

One of the key aspects of concurrency management is that it requires the local jurisdiction to have a monitoring or development tracking system that actually includes two components, the first of which is reasonably common, but the second of which is rare. The first component is the tracking of development in terms of the capacity of public facilities that

will be used or that need to be reserved for the proposed development. That, in turn, will require a measurement of the facility demand generated by development, by type, and by impact area. The second component is the determination and on-going monitoring and update of available public facility capacity by impact area. This would be easier if it only needed to be done annually. However, conditions are changing over time. For example, on the demand side, approved developments may not go forward, thereby freeing up otherwise committed capacity. And, similarly, on the capacity side, capital improvements may be made expanding the available capacity.

The most workable system, given the variety of both infrastructure and design objectives expressed by the community during the Planned Growth Strategy process, is one that combines concurrency review with locational and design criteria. The locational standards supplement concurrency review by applying lower service levels to areas with an existing built form, infill development and redevelopment opportunities, and public transportation. The community design criteria establishes a template for new communities that, because of mixed uses and the relationship of buildings to the public realm, more efficiently use infrastructure capacity. These guidelines permit the community to establish variable levels of service that accommodate the various objectives of the Planned Growth Strategy.

Under this system, the concurrency concept can be combined with impact fees and other private financing sources to provide very low or no cost to developers for infrastructure where excess capacity is used and is consistent with Planned Growth Strategy objectives. Development that creates demand exceeding the available or CIP programmed capacity would pay for the improvements to increase capacity. Defining a lower level of service in the urban core and in activity centers, where roadway expansion is impractical or unnecessary, creates a valuable incentive for infill development. Defining higher levels of service where roadways are presently uncongested and where there is room for expansion of right-of-way, provides an orderly sequencing of urban development outside of the City and County's designated growth areas. This approach is blended with a Capital Improvements Program that would provide infrastructure programming to areas in which certain types of development are desired. The result is a system of financial incentives and disincentives related to the infrastructure system.

6.0 Financial Implementation of the Planned Growth Strategy Preferred Alternative

6.1 Executive Summary

Since the middle 1990s, the City of Albuquerque and Bernalillo County have engaged in a series of studies to determine the most efficient way in which to grow from 2000 to 2025. "Efficient" in this context means least fiscal impact. This is consistent with prior City and County policies such as "no net expense" relating to legally defined new Planned Communities located in the Comprehensive Plan Reserve and Rural Areas.[76] This report sets forth a Preferred Alternative to shape development to 2025.

The present chapter considers the financial implications of the Preferred Alternative, focusing on how it may be financed consistent with adopted policy, relevant New Mexico exactions statutes, and public finance theory. A tier-based program is recommended. Tiers would be based on fully served, partially served, and unserved areas. Financial incentives would be created to encourage development in Fully Served Areas, recover proportionate share capital costs needed to facilitate development in Partially Served Areas, and require full cost financing of development in Unserved Areas. The chapter is composed of the following elements:

Section 6.2 Review of the Preferred Alternative

Section 6.3 Cost of Implementing the Preferred Alternative

Section 6.4 Components of Costs

Section 6.5 General Financing Approaches

Section 6.6 Financing the Growth-Related Costs of the Preferred Alternative

Section 6.7 Creating Incentives to Support the Preferred Alternative

Section 6.8 Review of the Planned Growth Strategy Tier-Based Capital Facility Financing Program

Section 6.9 Concluding Observation

This chapter is intended to be combined with others addressing the design and implementation of the Preferred Alternative. Differences among chapters may exist because of different assignments and perspectives, however.

6.2 Review of the Preferred Alternative

Over the past few years, the City of Albuquerque and County of Bernalillo have evaluated fiscal implications of three general development alternatives:

- Trend
- Downtown
- Balanced

These development scenarios would accommodate the same population but in different proportions between three subareas:

- 1960 City Boundary;
- Current Water Service Area boundary, year 1999; and
- Extended water service area, serving Mesa del Sol, Quail Ranch, and other areas on the fringe.

Various consultants including a team headed by Parsons Brinckerhoff projected subarea population, housing, and employment for each alternative. Table 45 summarizes costs estimated initially by Parson Brinckerhoff and revised and extended to 2025. Costs include water, wastewater, storm drainage, streets, and transit.

The Balanced Scenario is only slightly more costly for both the public and private sectors than the Downtown Scenario, which is the least costly. The Preferred Alternative advanced in this report takes the best features of each of the three analyzed scenarios and the results of public review combined with adopted policy. The

Table 45 Growth Related Costs of Development Scenarios, 2025 (in millions)

Scenario	Public Costs	Total Costs
Downtown	$881.4	$1,787.9
Balanced	$906.6	$1,798.8
Difference	*+$25.2*	*+$10.9*
Trend	$1,028.5	$2,149.3
Difference	*+$147.1*	*+$361.4*

Preferred Alternative itself is applied to 14 subareas, each defined as being fully served, partially served, or unserved by water, wastewater, hydrologic, and street systems.

6.3 Cost of Implementing the Preferred Alternative

Three tables review projections of public capital costs for water, wastewater, storm drainage, street, and transit facilities based on the Downtown Scenario, which is the least costly scenario. Table 46 presents rehabilitation and deficiency costs projected to 2025 while Table 47 compares annualized needs to past spending levels. Deficiency costs are those that exist as of 2000. This table assumes that current deficiencies are projected to be remedied within 15 years. It also shows that the City and County will fall about $20.4 million short (–31%) of meeting its rehabilitation spending needs each year. This figure is lower when combining rehabilitation and deficiency needs and spending. Table 48 projects growth-related annualized needs, past annual spending, and annual shortfalls in revenue. Expenditures include revenue from current Utility Expansion Charges for water and wastewater facilities. This table suggests that the City and County will fall about $10.2 million short of meeting its growth-related spending needs each year even after considering Utility Expansion Charges and other known revenue sources.

The annual needs and spending figures are based on the recommendations contained in Chapter 9. The reader is referred to this chapter for the assumptions made in arriving at these figures.

The tables do not reflect private capital costs. Some infrastructure is built by developers and dedicated to the local government. Developers also pay Utility Expansion Charges which are used to pay for part of the cost of water and wastewater master plan facilities to serve new

Table 46 Rehabilitation and Deficiency Costs, Downtown Scenario (in millions)

Facility	Public Rehabilitation Costs	Public Deficiency Costs	Total Rehabilitation & Deficiency Costs
Water	$505.4	$0.0	$505.4
Wastewater	$347.0	$15.3	$362.3
Storm Drainage	$35.2	$218.1	$253.3
Streets	$1,107.8	$524.0	$1,631.8
Total	**$1,905.2**	**$757.3**	**$2662.5**

Source: Adapted from City of Albuquerque, Planned Growth Strategy Management Committee, correspondence to Growth Management Analysts, October 3, 2000 and updated March 12, 2001. Figures based on "Infrastructure Needs and Levels of Spending" in Section 1.3.5.

Table 47 Revenue and Expenditure Projections, Downtown Scenario (in millions)

Purpose	Water	Sewer	Streets[1]	Hydrology	Total
Annual Public Rehabilitation					
Need	$19.5	$13.9	$32.1	$1.4	$66.9
Spending	$9.1	$7.2	$28.3	$1.9	$46.5
Difference	–$11.1	–$6.7	–$3.8	$0.5	–$20.4
Percent	–55%	–48%	–12%	36%	–31%
Annual Public Deficiencies					
Need	$0	$0	$10.4	$7.7	$18.1
Spending	$0.5	$0.5	$15.4	$8.2	$24.6
Difference	$0.5	$0.5	$5.0	$0.5	$6.5
Percent	na	na	48%	6%	36%

Source: Adapted from City of Albuquerque, Planned Growth Strategy Management Committee, correspondence to Growth Management Analysts, October 3, 2000 and updated March 12, 2001. Based on Chapter 9.0 City and County Financial and Planning Requirements.

1. Street costs reflect only the projected transportation improvement plan, not annual depreciation of the transportation system which is much higher. Street needs and spending only include City and County figures and exclude state figures. All deficiency needs assumed to be public sector responsibility. Wastewater deficiencies adjusted to zero to reflect expansion of lines at same time rehabilitation is performed. Hydrology costs adjusted per rationale contained in "Hydrology System Infrastructure" in Chapter 9

Table 48 City and County Public Growth Costs, Downtown Scenario[1] (in millions)

Item	Annual Growth Related Need	Annual Spending	Projected Spending Shortfall
Water[2]	$4.6	$3.3	–$1.3
Wastewater[3]	$1.2	$1.8	$.6
Storm Drainage	$5.0	$3.0	–$2.0
Streets[4]	$4.3	$6.8	$2.5
Transit	$10.0	$0.0	–$10.0
Total	**$25.1**	**$14.9**	**–$10.2**

Source: City of Albuquerque, Planned Growth Strategy Management Committee, correspondence to Growth Management Analysts, October 3, 2000, updated March 12, 2001. Based on Chapter 9.0 City and County Financial and Planning Requirements.

1. To compare spending needs with actual spending, this table does not remove Utility Expansion Charge revenue from the need figures.
2. The San Juan-Chama project has been removed from the need total because the revenues to construct the project are being collected into a reserve fund but not expended. This action controls for this situation. Need related to New Mexico Utilities, Inc. also have been removed from the table by conservatively assuming that growth will be proportional to the customer base of New Mexico Utilities, Inc. (3.7% of total utility customers). This was done because growth related expenditures were not obtained from New Mexico Utilities, Inc. Cost of water rights also removed to reflect the adequacy of current water rights through the 25-year study period.
3. The cost of expansion of the wastewater treatment plant ($73.4 million) was removed from the growth total because this expansion is not needed for at least 10 years.
4. Street needs and spending only include City and County figures and exclude state figures.

development. To some extent, private costs are not an issue to the public sector but, as will be shown later, they should be.

6.4 Components of Costs

In general, there are five significant types of costs:

1. Replacement and Rehabilitation
2. Deficiency
3. Growth-related
4. Operations and Maintenance
5. Inherited

6.4.1 Replacement and Rehabilitation Costs

Systems wear down and need to be improved to continue service. One form of improvement is *replacement* where a unit of the system is removed and replaced with a newer one. If the unit remains reasonably functional, it may be restored through *rehabilitation*. At some point in time, all system units need to be replaced or rehabilitated (except some Roman sewers that still are in service). Replacement and rehabilitation is financed typically from general rates and taxes, proceeds from bonds, or external sources. Aside from Impact Fees and Utility Expansion Charge revenue, funds for replacement and rehabilitation may come from any source.

Replacement and rehabilitation costs vary, however, by location and density. High cost locations developed at low densities will cost more per unit of service than low cost locations developed at higher densities. Although replacement and rehabilitation costs are not usually apportioned between high- and low-cost areas, there may be no prohibition in doing so. This would improve equity between taxpayers and ratepayers.

6.4.2 Deficiency Costs

If use of a system or a system's components exceeds design standards, a *deficiency* is said to exist. For example, if the local park standard calls for 10 acres of park per 1,000 residents but there are only 7.5 acres presently, there is a deficiency of 2.5 acres of park per 1,000 residents. The presence of a deficiency signals one of two things: either the design standard is set too strictly or a system is not performing adequately. Solutions include relaxing the design standard or expanding the system. If the system must be expanded, the expansion may be financed from general rates and taxes, proceeds from bonds, or external sources. Again, aside from Impact Fees and Utility Expansion Charge revenue, funds to remedy deficiencies may come from any source.

There should be a plan to remedy any deficiency. The plan would describe the nature of the deficiency, estimate the cost to remedy it, and outline the available sources of revenue. Impact Fees and Utility Expansion Charges cannot be used to remedy the deficiency, but general taxes, general rates, nondedicated fee revenues, and external funds may be. The period of time over which a deficiency should be remedied is not clear but would range from a normal capital improvement programming cycle (5–10 years) or a comprehensive planning cycle (20–25 years). Indeed, one Florida court found that a plan to remedy a transportation deficiency over a 20-year period was not unreasonable.[77] So long as Impact Fees and Utility Expansion Charges are not directly used to remedy deficiencies, there may be wide latitude in the means of doing so.

6.4.3 Growth-Related Costs

To accommodate demands generated by new development, some systems need to be expanded albeit sometimes at great cost. How to finance *growth-related* costs is often a significant public policy debate among local officials. While in the past growth related costs have often been financed through general taxation and rates, bond proceeds retired by dedicated property tax or utility revenue, or external sources, nowadays more attention is paid to the extent to which the source of new demand—new development—should be held accountable for it. Impact Fees and Utility Expansion Charges are tools that may be used to help finance growth-related costs. The City and County have indicated a preference for doing so.

Care should be taken, however, to design growth-related costs recovery systems that are equitable. An area that is costly to serve and may only be developed at low density will naturally cost more per unit of development than an area that is not costly to service and can be developed at higher density. "Service areas" can be used to account for differences in growth-related costs between areas of the jurisdiction.

6.4.4 Operation and Maintenance Costs

The operation and maintenance of systems is necessary to assure that service is delivered. Such costs are normally financed through general tax and rate revenues, user fees, and occasionally external sources. Operation and maintenance costs can vary, however, by location and density. An area that is difficult to service and is developed at low density can cost considerably more to maintain than an area that is easy to service and is developed at higher density. Unfortunately, most operation and maintenance costs are borne equally among all users thus creating some inequities in burden.

6.4.5 Inherited Costs

Developers install substantial amounts of infrastructure within their own projects. They then dedicate this infrastructure to local government, which then *inherits* the operation and maintenance and replacement and rehabilitation obligations. Inherited cost is not often considered in local public finance discussions but should be. Accepting infrastructure installed in a high-cost location developed at low density can have the effect of raising total operation and maintenance and replacement and rehabilitation costs on everyone including those in low-cost, higher density locations. Special cost allocation districts may be used to offset this potential disparity.

6.5 General Financing Approaches

Paying for the Preferred Alternative can be accomplished through the use of such general financing approaches as:

1. General Tax and Rate Revenue
2. Exactions
3. Impact Fees and Utility Expansion Charges
4. Development Agreements
5. Special Districts

External revenue sources are not considered here.

6.5.1 General Tax and Rate Revenue

By far the most common way in which to finance infrastructure is through general taxation and rates. In Albuquerque and Bernalillo County, general taxes are mostly from property taxes and gross receipts taxes. Rate revenue is principally from water and wastewater rates charged by an enterprise fund operating within the urban area.

6.5.2 Exactions

Exactions are essentially conditions of development approval often where a change in land-use classification is involved, such as a zone change or conditional use permit. They may be project or system related. Project-related exactions are those that are necessary to assure adequate servicing of a new development, such as ingress and egress lanes, and perhaps a traffic signal serving only it. System related exactions are those that are needed to service the new development but which may also benefit existing or future development.

6.5.3 Impact Fees and Utility Expansion Charges

Impact fees and Utility Expansion Charges are one-time charges imposed on new development to offset the cost of existing or new capital facilities serving that development. They may only be used for capital expansion or recoupment of costs incurred to provide capacity for new development. They may vary by service area and level of service.

6.5.4 Development Agreements

Development agreements are contracts negotiated between local government and a developer providing the developer with a commitment for receiving permits and perhaps other things for the development in exchange for committing to solve impacts associated with the development. They usually affect only the development site although they can include necessary project-related off-site improvements. Many development agreements address only infrastructure financing issues.

6.5.5 Special Districts

Special districts are essentially single purpose local units of government that generate tax and rate revenue from a defined area to manage infrastructure within that area. They can be used to finance all infrastructure including its installation, replacement and rehabilitation, and operation and maintenance.

6.6 Financing the Growth-Related Costs of the Preferred Alternative

Let us consider how best to finance the growth-related costs of the Preferred Alternative. The basic premise considered here is that new development should be assessed its proportionate share of the cost of existing or new facilities. Conceptually, all new development would pay such things as Impact Fees, Utility Expansion Charges, and the like, or proffer exactions equivalent to its proportionate share. In practice, however, there are many limitations. First, in some situations, Impact Fees are based on the Capital Improvements Program, but when off-Capital Improvements Program projects are funded by Impact Fees it is existing taxpayers who finance the funding shortfall that results. Second, Impact Fees are notorious for their policy and time-related discounting. Policy discounts reflect the unease local officials may have about assessing the full fee in favor of half (50%) or three-quarters (75%) or other less-than-full-cost figures. Time-related discounts occur when Impact Fee calculations lag behind current dollars. The City of Atlanta, Georgia, for example, has not changed its Impact Fees since initial implementation in 1993.

There are two other limitations. First, how should it relate to annexations, Planned Communities, and rezonings allowing for more intensive development than anticipated? The problem is that existing or planned infrastructure is based on anticipated development and may not be able to accommodate those forms of development or development that is diverted away from places where it was anticipated. Facility costs may increase as development is directed away from existing infrastructure, but Impact Fees will not be adjusted to reflect higher costs.

Second, how should it relate to development in urban infill and target urban redevelopment areas? If it is desirable to have such development, imposing Impact Fees or Utility Expansion Charges there may be counter-productive.

The proportionate share principle should be refined to reflect underlying principles of the Preferred Alternative to assure that new development truly does pay for its full cost in a manner consistent with fostering development in Fully Served Areas. Growth Management Analysts recommends a program of capital facility financing that is based on three tiers: Fully Served Areas, Partially Served Areas, and Unserved Areas.

The recommended approaches include:

1. Fully Served Areas. Because the Preferred Alternative encourages development in Fully Served Areas where excess capacity substantially exists and where infill and redevelopment are desired, proportionate share assessments may not be necessary for certain categories of facilities. Let us consider four categories of facilities: (a) existing local-serving facilities, (b) existing areawide facilities, (c) the special case of wastewater treatment, and (d) new or expanded facilities.

a. *Existing Local-Serving Facilities.* Local-serving facilities, such as fire stations, police stations, water and wastewater distribution and collection lines, water supply and treatment, streets, and neighborhood/community parks, by definition, are considered to be available in Fully Served Areas. In addition, level of service policies that anticipate more intensive use in Fully Served Areas than elsewhere also contribute to excess capacity. (For example, an existing park in the Fully Served Area need not be expanded to serve perhaps substantially more development nearby that currently exists.) Because capacity exists, financed substantially by existing development in the Fully Served Area, no proportionate share assessments may be needed.

There may be occasions when capital facility expansion is needed to serve new development in Fully Served Areas. To the maximum extent possible, such costs should be borne by the General Fund in most cases and the Enterprise Fund in the case of water and wastewater if the new development is consistent with the Planned Growth Strategy Preferred Alternative. The rationale should be relat-

Table 49 Water—Hypothetical Allocation of Cost to Scenario per Single Family Dwelling

Item	Fully Served with Excess Capacity[1]	Fully Served without Excess Capacity	Partially Served	Unserved Areas
Wells	$0	$933	$933	$933
Water Rights	$0	$1,587	$1,587	$1,587
SCADA	$8	$8	$8	$8
Reservoirs	$0	$0	$0	$807
Pump Stations	$0	$0	$0	$471
Transmission Pipelines	$0	$0	$0	$102
Master Plan Distribution Lines and Lines in Streets	$0	$0	$2,959	$2,959
Service Connections	$1,095	$1,095	$1,095	$1,095
Single Family Dwelling Total	$1,103	$3,623	$6,582	$7,962
Private Cost Amount per Capita	$1,095	$1,095	$4,054	$4,054
Net Public Cost per Single Family Dwelling	$8	$2,528	$2,528	$3,908[2]

Source: City of Albuquerque, Planned Growth Strategy Management Committee, correspondence to Growth Management Analysts, October 3, 2000.

1. Ridgecrest, Freeway, and Montgomery Trunks within the 1960 City Boundary have excess water capacity.

2. For purposes of this table only, 100% of Master Plan Distribution Lines and Lines in Streets assumed to be private sector responsibility. Planned Growth Strategy indicates that 20% of Master Plan Distribution Lines are paid by the public sector.

ed to the general desirability of attracting new development to Fully Served Areas, encouraging infill and redevelopment, facilitating brownfield conversion to beneficial development, and economizing on taxpayer and ratepayer burdens throughout the entire City.

Nonetheless, where capital facility financing costs to accommodate new development in the Fully Served Areas are substantial, perhaps occasioned by success in redirecting development to these areas, Impact Fees may be considered at some later date.

b. *Existing Areawide Facilities.* Some facilities are areawide, such as E-911, specialized facilities such as a zoo or aquarium, regional parks, and regional highways. In these situations, proportionate share assessments on new development in Fully Served Areas may be appropriate.

The characteristics of local-serving and areawide facilities are indicated in Tables 49–51 and are described in more detail in the section below discussing Partially Served Areas.

c. *Special Case of Wastewater Treatment.* There exists considerable excess capacity in the present wastewater treatment plant, on the order of 20 million gallons per day or enough to accommodate roughly 200,000 new residents. The Fully Served Area has shouldered the substantial share of the financing burden over the past 50 years. Inasmuch as new development in the Fully Served Area facilitates neighborhood stability, more efficiently uses existing facilities, improves property values, and is consistent with the Preferred Alternative, the wastewater treatment share of Utility Expansion Charges may be waived in this area, assuming the development is consistent with the Planned Growth Strategy Preferred Alternative.

d. *New or Expanded Facilities.* Although capacity in local-serving facilities exists in throughout the Fully Served Area, there will be occasions when expansion of some facilities is needed to meet unique needs. In these cases, Growth Management Analysts recommends that the General Fund and/or Enterprise Fund be used to

Table 50 Wastewater—Hypothetical Allocation of Cost to Scenario per Single Family Dwelling

Item	Fully Served	Partially Served	Unserved Areas
Master Plan Lines	$0	$0	$512
Small Collection Lines	$0	$1,266	$1,266
Lift Station and Odor Control	$0	$0	$34
Treatment Plant[1]	$1,046	$1,046	$1,046
Service Lines	$2,400	$2,400	$2,400
Single Family Dwelling Total	$3,446	$4,712	$5,258
Private Cost Amount per Single Family Dwelling	$2,400	$3,666	$3,666
Net Public Cost per Single Family Dwelling	$1,046	$1,046	$1,592

Source: City of Albuquerque, Planned Growth Strategy Management Committee, correspondence to Growth Management Analysts, October 3, 2000.

1. The wastewater treatment plant has 76 mgd capacity and current usage of 56 mgd. Excess capacity can be allocated using policy considerations.

finance such facilities if the development is consistent with the Planned Growth Strategy Preferred Alternative. If new or expanded facilities also serve areas outside the Fully Served Area, the share of the cost of those facilities attributable to new development in those outside areas should be assessed proportionately on such new development.

2. Partially Served Areas. For Partially Served Areas requiring a land-use decision or a building permit, the following approaches should be considered to assure that new development pays its proportionate share of the costs for capital facilities.

a. *Impact Fees and Utility Expansion Charges.* In the middle 1990s, the City considered imposing Impact Fees for parks and recreation facilities, transportation facilities, storm drainage facilities, and public safety facilities. It chose not to implement any of them. For water and wastewater facilities, the City chose to continue with Utility Expansion Charges but only at levels below full cost. (The County did enact Impact Fees but set at a relatively small percent of the identified cost of growth.) The City should reconsider Impact Fees and raise Utility Expansion Charges to levels reflecting current costs.

Chapter 5 prepared by Freilich, Leitner & Carlisle puts forth principles guiding service area design and level of service standards for all key public facilities. It is based on assuring that the City and County have an adequate supply of public facilities concurrent with growth and that the fees be related to the tiers advanced by the Preferred Alternative. The conceptual framework is illustrated in Tables 49 and 50.

The Freilich, Leitner & Carlisle chapter lays the foundation for Impact Fee design consistent with the New Mexico Impact Fee Act. It suggests variable levels of service among service areas and layered levels of service. The Growth Management Analysts report, Development Fees and Growth Management (December 3, 1996), lays out in more detail the concept of layered service areas and variable levels of service. The principles behind such an approach are reflected generally in Table 51.

Impact Fees for all legally allowed facilities should be prepared consistent with the Preferred Alternative, wherever possible using layered service areas and variable levels of service. To the maximum extent possible, however, no revenue credit (other than from nonlocal sources) should be considered.[78] This can be achieved if the following approach is used.

Impact Fees and Utility Expansion Charges as the Only Source of Local Growth-Related Capital Revenues. To fully implement the proportionate share cost principle, the City and County will need to institute a number of changes in the manner in which facilities are expanded to accommodate new development. Only three sources of revenue should be available to finance growth-related capital costs:

i. Development agreement revenue,

ii. Nonlocal revenue such as state and federal transportation funds, and

iii. Impact Fees and Utility Expansion Charges.

Growth-related capital expansion revenue must be isolated from other types of revenue and used only for growth related purposes. If this can be accomplished, past and future revenue credits need not be an issue in the calculation of Impact Fees. In addition, the current value of excess capacity in existing facilities should be considered in the calculation of Impact Fees and Utility Expansion Charges.

b. *Capital Improvements Program Improvements.* For capital improvements whether on site or off site that are on the Capital Improvements Program and needed by the development before proceeding, the City or County should give the developer the option to either wait for the local government to install those facilities or to install them before scheduled and be reimbursed

based on the City's or County's scheduled projection of such costs and projected timing of improvement. The reimbursement would be only for that share of Capital Improvements Program system improvements that benefit other developments and only then from the portion of Impact Fees and Utility Expansion Charges associated with the improvements provided. In the partially served tier, new development would pay Impact Fees for both local serving facilities and areawide facilities. This assumes that the normal Capital Improvements Program will provide sufficient facility capacity for the new development. The Capital Improvements Program should be project specific, identify the costs and timing of construction, and provide the services required in a manner consistent with the Planned Growth Strategy Preferred Alternative allocations of population and employment.

c. *Project-Related Costs.* The Impact Fees and Utility Expansion Charges should be based on the Capital Improvements Program. (The Capital Improvements Program should also reflect the current value of existing facilities for which there is excess capacity.) If a project needs an improvement off site, such as a turn lane or traffic signal or wastewater line and the Capital Improvements Program does not show this improvement, the project should provide the financing for it.

d. *Non-Capital Improvements Program System Improvements.* For capital improvements, whether on site or off site, that benefit other property that are not on the Capital Improvements Program but that are needed by the project and generally consistent with the Preferred Alternative, the City and County should afford the developer the option to install those facilities and recover that portion of the value benefiting other properties in a "late-comer" arrangement (perhaps with a 10-year sunsetting provision). This arrangement would be addressed through a development agreement.

e. *Development Agreements.* In situations where a development is desirable to meet the City's and County's community building objectives,[79] but the Capital Improvements Program does not provide adequate facilities to serve the development (i.e., the project is inconsistent with the timing and phasing of the Preferred Alternative), a development agreement may be considered. This development agreement would identify what capital facilities will be built, when they will be built, the cost, and the payment and repayment provision.

3. Unserved Areas. Development agreements should be required of all development in all Unserved Areas requiring a land-use decision (including but not limited to plan amendment, zone change, subdivision approval, and conditional use permit). As a preliminary matter, development approval should be given only under the following conditions:

- Development is consistent with the Comprehensive Plan and with the community building objectives of the Planned Growth Strategy Preferred Alternative.[80] If it is not, then either the plan must be amended or the proposal simply rejected.
- Development does not substantially preempt existing or planned facility capacity that is needed to accommodated projected development. For example, if a wastewater line is installed to serve new 1,000 homes and a discretionary proposal is made that would require extension of that line to serve its 500 homes, even with the developer offering to pay full costs of all infrastructure, the effect of approval would be to displace 500 homes that would have been accommodated closer-in. Though in some situations such development may be considered consistent with the Preferred Alternative, in others it may not. This consideration will need to be applied on a case-by-case basis.
- Adequate public facilities exist to serve the development concurrent with its impacts or provisions are made clearly to have those facilities in place concurrent with the impacts of development.[81]

Providing that these conditions are met, development agreements should include a capital facility installation, renewal, and maintenance section, perhaps simply called "capital facilities provision." This provision would assure that the City's and County's "no net expense" policy is achieved.

One feature of the development agreement would be the formation of a special taxing district encompassing the boundary of the development. This may be problematic for smaller developments. For water and wastewater facilities, a special rate district may be formed for the development.

Other financial features of the development agreement should include the following:

a. *Type of Facilities.* Logically, since developments built pursuant to development agreements impact on all facilities, including but not limited to libraries, parks and recreation, fire, police, general government administration, water, wastewater, storm drainage, education, public health, and transportation facilities, all such facilities should be addressed in development agreements to assure that new development mitigates its impacts.

b. *Project-Related Improvements.* All capital facilities substantially benefiting the development project should be financed by the development. This includes such on-site facilities as water, wastewater, storm drainage, streets, sidewalks, and so forth. It also includes potentially such off-site improvements as street widening and improvement, signalization, extension of mains, and so forth.

c. *System Improvements.* A system improvement is one which serves development throughout its system, such as an arterial street. For capital improvements, whether on site or off site, that are needed by the development before proceeding and that by their nature include excess capacity that may be used for other, anticipated development, the development agreement should require their installation by the developer with a payback provision from revenues derived from special taxing and/or rate districts, so that new development in the district using that excess capacity would reimburse the developer who installed it.

d. *Capital Improvements Program Improvements.* The development agreement should include a provision that would recover from the new development the proportionate share of the costs of area wide Capital Improvements Program improvements. (Even in the Unserved Area, some capital improvements may be included in a Capital Improvements Program which serve the development, such as streets and drainage ways.) Such cost recovery should be based on the tiering arrangement anticipated in the Preferred Alternative. They should not be considered Impact Fees but rather charges consented to in the development agreement.

   With facilities that serve all areas, such as expressways, regional mains, and so forth, cost recovery should be based on cumulative benefit. An expressway, for example, is most heavily used at the center where people from Unserved, Partially Served, and Fully Served Areas converge. Capital cost recovery should thus reflect the cumulative effect that each successive tier from the center imposes. This is illustrated in Table 51; it is generally called the cumulative service area concept. (The idea here is not to add unnecessary complexity to assuring that development agreements cover all reasonable capital costs. A simple layered scheme with associated costs is anticipated.)

e. *Replacement and Rehabilitation.* The special taxing and rate districts would be responsible for financing replacement and rehabilitation of project-related improvements. This can be done through a periodic assessment based on projected depreciation (resulting in level payments) or as needed (resulting in peak payments). These payments would be incorporated

into utility rates and other taxes and fees the City and County may assess.

f. *Operation and Maintenance.* The special taxing and rate districts would also be responsible for the operation and maintenance of project-related improvements. This can be done through a periodic assessment reflecting those costs. These payments would be incorporated into utility rates and other taxes and fees the City and County may assess.

g. *Nontaxing District Option.* If a special taxing district cannot be used, the City and County should establish a special assessment coded to the addresses of the properties within the boundaries of the development to accomplish the same effect. This would also be part of the development agreement.

h. *Utility Expansion Charges and Impact Fees.* Because development agreements cover local serving and areawide capital costs associated with the affected development, Utility Expansion Charges and Impact Fees would not be assessed.

Collectively, these provisions may be considered the basis for the City's and County's "no net expense" policy affecting all development in the Unserved Areas including the legally defined Planned Communities in the Comprehensive Plan Reserve and Rural Areas.

6.7 Creating Incentives to Support the Preferred Alternative

The approaches described above should do much to shift the financial burden such that lower cost areas pay lower fees and charges while higher cost areas pay higher fees and charges. This alone may level the development playing field between Fully Served, Partially Served, and Unserved Areas. It may also reduce the incentive to build in greenfields because unlike current conditions, greenfield development must confront its full costs. However, more can be done. Growth Management Analysts recommends the following:

1. **Brownfield Redevelopment** Brownfields are abandoned or underutilized urban

Table 51 Sample Cumulative Service Area Proportionalities between Categorical Preferred Alternative Areas to be Used to Calculate Proportionate Share Assessments in Development Agreements

Tier	New units	Capital Improvements Program Costs	Share	Cost	Charge
Fully Served[1]	1,000 (25% of total)	$1,000,000	25.0% of Fully Served	$250,000	na
Partially Served[2]	2,000 (50% of total)	$2,500,000	50.0% of Fully and Partially Served	$1,750,000	$875
Unserved[3]	1,000 (25% of total)	$2,000,000	25.0% of all	$3,500,000	$3,500
Total	**4,000**	**$5,500,000**		**$5,500,000**	

1. No development agreements anticipated.
2. Few development agreements anticipated—in situations where the Capital Improvements Program does not provide adequate capacity in time to serve the development.
3. All development requiring land-use decisions would be subject to development agreements.

sites with known or unknown toxic hazards. Brownfields cause neighborhood blight. They are also a key element of urban redevelopment if liability and clean-up cost concerns can be addressed. Given the unusual nature of brownfields and their potential to revitalize the urban area, Growth Management Analysts recommends that their redevelopment be exempt from capital expansion assessments for a sufficiently long period as to make this concession an influential economic incentive—perhaps up to 20 years.

2. **Fully Served Area Infill and Redevelopment.** Because local-serving facilities already exist in the Fully Served Area, new development need not be assessed for capital expansion or recoupment of the value of capacity. It would remain responsible for its proportionate share of area-wide capital expansion and improvements though this may be reduced or eliminated by (a) the share of expansion that benefits new development in partially served or unserved areas (such as expressway improvements) or (b) the capital expansion and improvement financed by the General Fund and/or utility fund assuming the development is consistent with the Planned Growth Strategy Preferred Alternative.

3. **Mixed-Use Incentives.** In all areas, where reasonable demonstration can be made that projects will internalize facility needs or reduce demands on system improvements (such as through creating jobs-housing balance within them, or creating opportunities to substitute vehicular trips with nonvehicular or transit trips), adjustments to Impact Fees, Utility Expansion Charges, or development agreement charges should be made accordingly. Because these reductions may not be known initially, perhaps the full charges would be paid by the development and the impact of the project on facilities monitored for up to two years after project completion. The difference between expected and observed facility impacts would be the basis for a refund of a share of charges paid. The cost of monitoring should be borne by the development while the actual monitoring should be done by the local government.

4. **Low-Income Housing.** To the maximum extent possible, Impact Fees, Utility Expansion Charges, and development agreement charges should be sensitive to:

- Average household size based on housing unit type. Census data usually show that apartments have fewer people per unit living in them than townhouses, which have fewer people than manufactured homes, which have fewer people than single family detached homes. In addition, census data usually show that up to a point, larger detached single family residential units house more people than smaller ones. These considerations should have an effect on Impact Fees and development agreement charges for police, fire, parks and recreation, library, E-911, emergency medical services, and public administration facilities, rehabilitation, and operation and maintenance.

- Plumbing fixture units vary between residential units. Usually the more plumbing fixture units in a residence, the more impact that residence has on water and wastewater consumption. The utility should calibrate its Utility Expansion Charges on the basis of fixture units. Because such data do not exist presently, the utility may undertake a study that generates a reasonable statistical association between type of unit and unit size, and plumbing fixture units, and then use the coefficients from such association as the multiplier to estimate plumbing fixture units for each existing unit. Owners of such units would be invited to submit their own plumbing fixture unit counts which, if accepted by the utility, would substitute for the utility's estimate. Plumbing fixture units of all new residential development should be captured from all plumbing permits.

- Transit and transportation demand varies by numerous factors that usually favor

smaller homes and forms of attached housing. Perhaps each traffic analysis zone within the planning area should include information on trips, trip lengths, peak trips, and trip mode (transit, carpool) by trip purpose (or purposes in the case of trip chaining) by housing unit type and size of detached single family residential units. This information should then be used to adjust Impact Fees or calculate development agreement charges.

The cumulative effect of these impact refinements should be a considerable reduction in Impact Fees, Utility Expansion Charges, and development agreement charges for low-income housing. Nonetheless, additional consideration should be made to encourage provision of low-income housing, such as payment of Impact Fees, Utility Expansion Charges, and development agreement charges for housing units qualifying for the federal low-income housing tax credit program (which requires a minimum 15-year commitment), units qualifying for Housing and Urban Development Section 8 housing vouchers provided the owner commits to this program for a minimum of 15 years, units qualifying for Housing and Urban Development Section 8 home ownership vouchers provided the owner remains eligible for the voucher for a minimum of 15 years, new public housing authority units, and new housing units provided by the public, private, or nonprofit sectors set aside for families of low income (as defined by Housing and Urban Development) for a minimum of 15 years. A sliding scale assessment should be made for units that are used for fewer than 15 years by low-income households, with interest and a reasonable administrative surcharge based on the original Impact Fee, Utility Expansion Charges, or development agreement charge.

The combination of these incentives plus the facility financing approaches outlined should level the playing field between Fully Served, Partially Served, and Unserved Areas. The result should be that development will become more financially attractive in Fully Served Areas than at present.

6.8 Review of the Tier-Based Capital Facility Financing Program

The purpose of this section is to frame the capital facility financing scheme outlined above. It is composed of three elements. The first reviews the general nature of capital facility financing by tier. The second illustrates the nature of Impact Fee assessments by Planned Growth Strategy tier for eligible facilities. The third summarizes key elements of development approvals affecting capital facility financing by Planned Growth Strategy tier.

6.8.1 General Nature of Capital Facility Financing by Tier

a. *Fully Served Area.* This is the area where local-serving public facilities already exist and are able to accommodate new development. The Fully Served Area boundaries depend on each facility type. For example, the Fully Served Area for water may be different than for wastewater, transit, storm drainage, fire stations, and so forth. A series of Fully Served Area boundaries will need to be constructed. This can be thought of as a set of overlapping Venn diagrams that create an inclusive set for specific public facilities and services according to the area.

- *Financing Capital Expansion and Capital Improvements.* Capital facility costs should be covered by the General Fund for most facilities and by the Enterprise Fund for water and wastewater facilities assuming the development is consistent with the Planned Growth Strategy Preferred Alternative.
- *Impact Fees and Utility Expansion Charges.* In general, new development within the Fully Served Area would be exempt from Impact Fees and Utility Expansion Charges for local-serving facilities, because by definition facilities exist and are able to accommodate it. The limiting factors would be consistency with the Comprehensive Plan.

- *Impact and Utility Expansion Charges for Areawide Facilities.* These charges would be assessed on new development but paid by the General Fund or Enterprise Fund if the development was consistent with Planned Growth Strategy goals and objectives and adopted plans.

b. *Partially Served Area.* This is the area where, in service delivery subareas, some public facilities exist and are able to accommodate new development but others do not exist.

   - *Financing Capital Expansion.* To the maximum extent possible, Impact Fees and Utility Expansion Charges should be used to assure that new or expanded facilities needed to support new development are financed through this method. Where the impacts on facilities exceed level of service capacity provided by the Capital Improvements Program, development agreements should be used to finance those costs with pro-rata payback provisions.

   - *Utility Expansion Charges and Impact Fees.* Utility Expansion Charges and Impact Fees would be charged to pay for local-serving and area-serving facilities. The level of these charges within subareas of the Partially Served Area should be based on the Capital Improvements Program that is designed to provide the service required for the population and employment growth assumptions in the Planned Growth Strategy Preferred Alternative.

c. *Unserved Area.* This is the area where all or nearly all public facilities needed to support development do not exist. In these areas, new development should be assessed its full cost of all project facilities and its proportionate share of the full cost of areawide facilities. To the maximum extent possible, tax and rate districts should be formed to assume financial responsibility for all project-related and system capital costs, replacement and rehabilitation, and operations and maintenance for district and system infrastructure that serves the development. The objective in the Unserved Area is to achieve self-sufficiency in terms of capital and service provision, i.e. that the development is the source of all the resources required for capital and operations.

6.8.2 General Nature of Impact Fee Assessments by Tier

Impact Fees and Utility Expansion Charges should be calibrated to reflect unique demands within tiers (local-serving facilities), such as neighborhood and community parks, and collective demands affecting all tiers (area-serving facilities), such as E-911 communication. Table 52 illustrates the nature of service considerations affecting Impact Fee calculations among the tiers and areawide.

6.8.3 Key Elements of Development Approvals Affecting Capital Facilities

Table 53 reviews general principles of apportioning capital facility costs by Planned Growth Strategy tier.

6.9 Concluding Observations

The reformulation of how capital facilities are financed posed here is nothing short of bold but consistent with economic theory (marginal cost pricing), emerging planning theory (full cost accounting), and social justice (assuring that lower income households do not pay more than their proportionate share of their impacts on infrastructure systems). If implemented, the result should be that the private development market internalizes many facility costs that are presently offered by taxpayer and ratepayer subsidy. Said another way, this approach moves closer to free-market costing of services than the current system. If the public costs of development are higher, the development will bear this costs. Alternatively, if the public costs of development are lower, the development receives the benefit of this situa-

tion. The result should be more intensive development of the Fully Served Area than would have occurred otherwise. We know from emerging evidence that the overall effect should be a more urbane metropolitan area with higher quality of life, lower taxes than the alternative, increased choice in housing options, improved ability to move about, and improved environmental quality.

Table 52 Level of Service Standards and Tiers

Facility	Within Tier Level of Service Consideration (local-serving facilities)	Areawide Level of Service Consideration (area-serving facilities)
Water	Pressure zones, wells, reservoirs, transmission lines.	Surface water treatment.
Wastewater	Basins, collection lines.	Central treatment.
Storm Drainage	Basins, collection facilities.	Diversion channels.
Streets	Collector level of service.	Arterial & expressway level of service.
Parks & Recreation	Neighborhood & community parks.	Regional parks & recreation facilities.
Fire/Emergency Medical Services	Stations based on response time.	Fire Academy. E-911.
Libraries	Libraries.	Administration.
Police/Sheriff	Area commands and mini-substations based on response time.	Central facilities such as administration, Police Academy, E-911.
Cultural Services	City/Countywide.	Art Museum, Zoo, Aquarium, Explora, Botanical Gardens, Balloon Museum.

Table 53 Key Elements of Capital Facility Charges Apportionment by Planned Growth Strategy Tier[1]

Facility Element	Fully Served Areas	Partially Served Areas	Unserved Areas
Local-serving facilities	Not applicable	X	
Area-serving facilities	X	X	X
Off-Capital Improvements Program facilities	None	X Pro-rata payback provisions	X Self-sufficiency
Implementation approach	Impact Fees & Utility Expansion Charges	Impact Fees & Utility Expansion Charges. Development Agreement if needed	Development Agreement

1. Assumes that present infrastructure dedication requirements apply.

7.0 Planned Growth Regulatory Structure Approaches

7.1 Introduction

The Planned Growth Strategy is a policy study designed to develop a vision for the pattern and nature of future growth in the Albuquerque/Bernalillo County region. The Planned Growth Strategy combines a series of public workshops and information from citizen surveys with technical studies that developed goals and policies for regional growth and tested the fiscal impacts of alternative growth scenarios. The Planned Growth Strategy has been a process for decision-making, supported by the information already available within key departments and members of the consultant team.

The Planned Growth Strategy is highly responsive to infrastructure issues in the region. Many of the policies identified in the Planned Growth Strategy have their basis in the need to provide infrastructure in a more efficient and cost-effective manner, and in locations that reinforce the desired pattern of urban growth. Closely related to infrastructure is the issue of community design—how development looks and performs.

The City and County, along with other agencies in the region, have a vast number of plans. These include the City/County Comprehensive Plan, numerous Area, Sector (neighborhood), and Corridor plans, and infrastructure plans such as the federally mandated Transportation Improvement Program. However, few of the plans have been followed through with a concerted implementation effort. This gap renders many of the plan policies unenforceable—in effect, nonbinding regulatory guidelines. The ability of private developers and public agencies to circumvent or ignore plan mandates creates a large gap between the vision for future growth established in the plans and the reality of public investment and the location, design, and timing of growth in the region.

The purpose of this chapter is to describe, in narrative form, some approaches to implementation of the Planned Growth Strategy. These approaches are related to the Preferred Alternative for future growth identified in this report. The Preferred Alternative is a combination of the "Balanced" Scenario and the "Downtown" Scenario identified in the study. These scenarios are counter to the Trend Scenario of scattered, dispersed growth that has characterized development in Albuquerque/Bernalillo County and other regions throughout the nation especially since 1950. The Trend Scenario reflects the status quo of relatively low-density development in the Northwest area and the far Northeast portion of the urban area and only 7% growth within the older, 1960 City Boundary of the City. The "Balanced" Scenario represents a more compact distribution of population and employment than the Trend, with employment growth and housing balanced to the east and west of the Rio Grande. Two transit-oriented corridors—an east/west corridor on Central Avenue and a north/south corridor along Isleta Boulevard and 4th Street—are priority areas for infill and redevelopment. The "Downtown" Scenario emphasizes higher density development in selected centers, with a major concentration of employment in the Downtown, University of New Mexico, and Uptown areas, east of the Rio Grande.

The existing laws and regulations governing capital improvement planning, land-use controls, and intergovernmental coordination either encourage dispersed development or fail to adequately address the growth issues identified by the public. Further, because some of the Planned Growth Strategy policies are new, innovative tools are needed in order to direct growth to the centers, corridors, redevelopment areas, and other subareas identified in the Preferred Alternative. This chapter provides approaches for the following issues:

- Linkages between land use and transportation
- Zoning and design standards
- Exactions/Impact Fees/Development Agreement policies
- Line Extension Policy
- Transfer of Development Rights
- Approaches to regionalism
- Housing affordability and mixed-income communities
- Other approaches and policies as appropriate

Land use/transportation linkages and related issues of variable levels of service, Capital Improvements Program revisions, Urban Service Areas, and Tier systems are addressed in Chapters 5, 6, and 8. Some topics addressed previously are covered below when a continuity of ideas is needed. In general, however, this portion of the Planned Growth Strategy, Part 2 – Preferred Alternative report does not repeat material presented elsewhere.

The author would like to acknowledge the contributions of Louis Colombo, Ph.D., Deputy Director for City Council Services, and Lora Lucero, Esq. Dr. Colombo wrote the section on housing affordability. Ms. Lucero wrote the sections of this report relating to transfer of development rights and consistency. Ms. Lucero also contributed sections on the Capital Improvements Program and Impact Fee policies as they related to regionalism. Their contributions made this report a significantly more useful product.

7.2 Land Use and Transportation Linkages

7.2.1 Planned Growth Strategy Policies

One of the fundamental purposes of the Planned Growth Strategy is to address the linkage between land use and transportation facilities. These policy preferences take several forms. First, the policies provide for linking new development to the timing and sequencing of transportation (and other infrastructure) improvements in the Capital Improvements Programs and capital investment plans. Second, the Planned Growth Strategy policies provide for development patterns that encourage alternative transportation modes, such as walking, bicycling, and transit. Finally, the Planned Growth Strategy policies call for connecting neighborhoods via linked transportation centers and with the heart of the urban area via multi-modal corridors.

7.2.2 Issues

A number of studies have found that the design and form of new development has a significant influence on travel modes, and new development impacts roadway capacity. Some of these studies were summarized in Section 5.5.1 above.

The Planned Growth Strategy study estimates that the annual private vehicle expenditure in Bernalillo County will be approximately $2 billion dollars in 2020 (in current dollars).[82] This suggests that there are considerable private savings that can be achieved by reducing the number and length of vehicle trips.

7.2.3 Current Requirements

The City currently addresses the linkage between new development and transportation issues in its regulatory ordinances including the Subdivision Ordinance (Article 14-7), the Zoning Code (Article 14-16), and Section 23 of the City's Development Process Review Manual. The subdivision and zoning criteria are general, with most of the details addressed in the Development Process Review Manual. The Development Process Review Manual is a very comprehensive document, which addresses some of the transportation issues established in the Planned Growth Strategy. It includes some innovative criteria including single access restrictions, maximum block lengths for local streets, and bikeway location and design guidelines. The Development Process Review Manual also requires traffic

impact studies for developments that generate a large amount of vehicle trips.

The County also has zoning and subdivision regulations, with a traffic impact analysis requirement (County Code § 74-102) and a provision that encourages "alternative modes of transportation" in new subdivisions (§ 74-116). Neither section is tied to a level of service standard, and there are no specific criteria for mitigation. The traffic impact analysis requirements mention "infill development rates" and "pedestrian, equestrian and/or bicycle uses" without an explanation of the concepts or how they relate to the traffic impact analysis. The regulations are silent about other concepts such as connectivity, block lengths, or tight curb radii.

7.2.4 Suggested Approaches

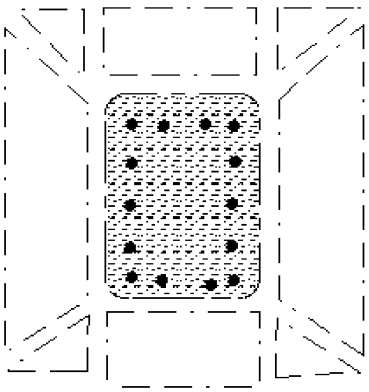
In addition to the beneficial criteria in the Development Process Review Manual, the following revisions should be considered by the County and the City:

- Minimum densities should be established along transit corridors and in major activity centers and community activity centers in order to reduce automobile dependency by providing more efficient transit services.
- Block length restrictions should be reduced to a more pedestrian-friendly scale, such as 300–500 feet. This restriction could be waived for subdivisions that preserve a high degree of open space or environmentally sensitive areas and that fall outside of the corridors and centers identified in the Planned Growth Strategy.
- Local, collector, and minor arterial streets should be restricted to 2–4 lanes. New routes should be required where additional capacity is needed.
- The development rules should clarify the situations where sidewalks are required, instead of stating that they are "normally required."
- The curb return radii should be modified to 5–10 foot radii in appropriate situations in order to assure safe pedestrian street crossings.
- On-street parking should be permitted along local streets with interconnected street systems in order to calm traffic and to provide a sense of enclosure
- Setbacks should be modified, with front setbacks reduced to orient buildings to the street. Maximum setbacks should be considered.
- An index should be considered in order to assure that streets provide a minimum level of connectivity. A "connectivity index" divides the number of street links by the number of intersections. An index of 2.5 produces a pure grid. Most communities adopting a connectivity standard have used a range of 1.4–1.6 in order to preserve connectivity while avoiding interference with market demand for cul-de-sacs and preserving design flexibility.
- Maximum, as opposed to minimum, parking requirements could be established. The standard should be reasonable and allow for vehicular access, while avoiding dead space and pedestrian conflicts.

7.3 Zoning and Design Standards

7.3.1 Zoning Code Revisions

Planned Growth Strategy Town Hall participants endorsed a new approach to urban form with the objective of building and sustaining community. The physical and social elements of this vision have been covered in "Fostering Community" in Section 1.3.4. Participants desired that this community outcome be achieved in undeveloped or partially developed areas on the urban fringe *and* within the developed urban area. Many of these elements are similar to those endorsed by New Urbanist (Traditional Neighborhood Development) standards discussed in this chapter and in Chapter 5.



Central plazas, such as the central plaza in Old Town, were prescribed by the Law of the Indies

"New Urbanism" is a planning and architectural movement that attempts to restore classic principles of civic design that predate the dispersed development patterns of modern suburban development. Leading contemporary spokespersons for New Urbanism, such as Andres Duany, Elizabeth Plater-Zyberk, and Peter Calthorpe, draw upon traditional principles of community design endorsed by Raymond Unwin *(Town Planning in Practice)*, Camillo Sitte *(City Planning According to Artistic Principles)*, Clarence Perry *(Housing for the Machine Age)*, Clarence Stein *(Toward New Towns for America)*, Christopher Alexander *(A Pattern Language)*, and Jane Jacobs *(The Death and Life of Great American Cities)*. The Laws of the Indies, which regulated settlement patterns in the Spanish Americas, used many of the design principles now espoused by New Urbanists. These include an interconnected street system, the use of civic buildings in prominent places, and a central plaza. These rules were issued as early as 1501 by King Ferdinand of Spain.

In *Towns and Town Making Principles*, William Lennertz stated: "Regulatory codes lie at the heart of Duany and Plater-Zyberk's work. Early in their work they realized that existing zoning ordinances—more than economics or planning and design philosophies—were impediments to achieving more urbane communities."[83] The Planned Growth Strategy endorses the adoption of New Urbanist (Traditional Neighborhood Development) codes by the City and County, though not necessarily all principles in all locations.

The more important elements of New Urbanism are as follows:[84]

- The neighborhood area is limited in size with clear edges and a focused center.
- There is a discernible center of the neighborhood that may be a plaza in order to foster a community gathering place. This center can include cultural, social, and religious places as well as shops, public transportation, schools, and offices.
- Most dwellings are within a five minute walk (¼ to ½ mile) from the center of the neighborhood such that walking destinations are within an area that may be served efficiently by transit.
- There is a variety of dwelling types integrated within each neighborhood, including detached houses, row houses, and apartments, such that younger and older

Live-work units facing a central square Vermillion, a New Urbanist community in Huntersville, North Carolina

persons, single persons and families, and poorer and wealthier persons can find places to live.

- There is a variety of places to work in the neighborhood, including live-work units.
- Within or adjacent to the neighborhood, there are shops sufficiently varied to supply the minimum daily household needs.
- A small ancillary building is permitted in the backyard of dwellings for use as a rental apartment or a place to work.
- There is an elementary school or school site available, to which most children in the neighborhood could walk at a distance of less than one mile from their dwelling.

Historic buildings terminate a vista in Downtown San Antonio, Texas

- Parks and other gathering places should be distributed and designed as places for social activity and recreation.
- Civic buildings are well placed to act as symbols of community identity and provide places for purposeful assembly.
- Thoroughfares within the neighborhood form a connected network, providing a variety of itineraries, dispersing traffic, and connecting wherever possible to adjacent development.
- Thoroughfares within the neighborhood should be shaded by rows of trees and designed in a manner to slow traffic and create an appropriate environment for pedestrians and bicyclists as well as automobiles. Internal streets are narrower and on-street parking and the use of alleys is encouraged. Curb radii are decreased to promote their use by pedestrians.
- Compatibility of buildings and other improvements is achieved as determined by their arrangement, bulk, form, design, character, and landscaping to establish a harmonious and diverse environment.
- Architecture and landscaping should respond to the unique character of the region and the place.

The different aspects of the community would be formed into "one complete whole"—the "street, the district [neighborhood], the town as larger wholes, and … each plot and each house so … that they shall contribute to some total effect."[85]

Further principles are contained in *Best Development Practices: A Primer for Smart Growth*, by Reid Ewing, who was one of the presenters at the second Planned Growth Strategy Town Hall.[86] *Towns and Town-Making Principles* contains several model Traditional Neighborhood Development zoning codes from Seaside, Florida, the Avalon Park development in Orlando Florida, and Palm Beach County, Florida.[87]

In 1997, the City Planning Department conducted an assessment of whether Albuquerque development regulations and policies support or defeat the basic principles of Traditional Neighborhood Development. Each of these principles was discussed by an interagency staff group and a judgment made about the extent to which key development control documents supported these principles. The determinations were: Permissive, Mandatory, Discouraged, or Unaddressed. Table 54 contains the group's findings, which lend support to adopting either new codes or amending existing codes to achieve the Planned Growth Strategy community development outcomes.

As Table 54 demonstrates, while many of the principles of New Urbanism are called for in the community's plans, they are often not addressed, or sometimes discouraged, by the community's land-use regulations.[88] The zoning and subdivision regulations are legally enforceable, but plans are not legally binding on most types of development approval. Accordingly, it should come as no surprise that few developments incorporate New Urbanist (Traditional Neighborhood Development) principles when these are not endorsed by the provisions of local land-use regulations.

Related Experience in Albuquerque

The history of the West Side Strategic Plan provides a case in point concerning the need to bring zoning in line with community building goals. This Area Plan, adopted by the City Council in March 1997, contained a number of recommendations that are now reflected in the Planned Growth Strategy, including reconfiguring the West Side into Communities, Villages, and Neighborhoods; providing for mixed-use centers; supporting public transit and pedestrian-friendly development; and so on. The Plan indicated that "The public has

Table 54 Development Controls

New Urbanism Principle	Zoning Code	Subdivision Ordinance/ DPM Standards	Building Code	Metropolitan Transportation Plan	Planned Communities Criteria[1]
Limited neighborhood area with focused center	Permissive	Unaddressed	Unaddressed	Unaddressed	Mandatory
Shops, employment, and diverse housing in close proximity	Permissive	Unaddressed	Unaddressed	Permissive	Mandatory
Narrow streets sized to serve cars and pedestrians equally; short blocks in grid	Discouraged	Discouraged	Unaddressed	Unaddressed	Unaddressed
Buildings sized and located to define streets and squares; small setbacks	Permissive	Unaddressed	Discouraged	Unaddressed	Unaddressed
Public spaces distributed to encourage social activity	Unaddressed/ Permissive	Unaddressed	Unaddressed	Unaddressed	Mandatory
Civic buildings placed to encourage community identity and assembly	Unaddressed	Unaddressed	Unaddressed	Unaddressed	Mandatory
Compact land use promoting public transit	Permissive	Unaddressed	Unaddressed	Permissive	Mandatory
Houses with connections to the street (walks, porches)	Permissive	Unaddressed	Unaddressed	Unaddressed	Unaddressed
Accessory buildings behind homes and above shops	Permissive Conditionally	Unaddressed	Permissive	Unaddressed	Unaddressed
Alleys with driveways to rear garages	Permissive	Unaddressed	Permissive	Unaddressed	Unaddressed

1. Legally defined Planned Communities in Comprehensive Plan Rural and Reserve Areas.

repeatedly asked for a West Side Strategic Plan which 'has teeth,' is enforced, and cannot be easily ignored."[89] While the West Side Strategic Plan suggested that its adoption would address these concerns about implementation, it explicitly did not recommend any (site-specific) modifications of zoning, subdivision or site development approvals already granted.[90] Furthermore, it recommended specific approaches that only would be applied within the West Side.

Community and Village Centers are critical elements of the West Side Plan. The success of implementing these policies has been followed carefully since adoption of the Plan in 1997. In 1998, the City Planning Department stated: "A … weakness, not of the West Side Plan but of existing zoning, is that the centers are not zoned to encourage mixed-use development and pedestrian and transit convenience or to discourage auto-oriented uses. Another weakness is that it doesn't speak to correcting non-residential zoning outside designated centers."[91] The following year, the Planning Department stated: "Unfortunately, not all non-residential developments are occurring only within the designated centers—there are quite a few sites outside of centers that are zoned for commercial or industrial use."[92]

A consulting firm later produced the West Side Community Center and Village Center Design Guidelines that contained recommended zoning changes to implement the Community and Village Centers.[93] However, this plan failed to make its way through the Planning Commission. The Department reported: "Upon testimony from numerous representatives of the development community and affected property owners it was deemed by the Planning Commission to be confusing in that it led the user to possibly conclude that it was recommending rezoning, in conflict with actual zoning."[94] The Planning Commission created a task force and asked them to prepare amendments to the Zoning Code to include new design principles for non-residential zone classification throughout the City. The work of this task force is in progress still.

The history of the West Side Strategic Plan indicates that the issue of modifying zoning needs to be faced squarely if plan recommendations are to be implemented. The deep-seated frustration that many members of the community feel related to the value of their participation in the planning process is directly related to the commitment of planning commissioners and elected officials to taking the perhaps difficult steps required to carry out plan recommendations. The alternative is to put up a false façade of planning. The history of the West Side Strategic Plan appears to indicate that it is unlikely that the well-conceived and desirable vision contained in the West Side Strategic Plan will be achieved without addressing zoning.

Implementing Traditional Neighborhood Development

The City and County essentially have two ways to implement New Urbanist (Traditional Neighborhood Development) codes and processes: (1) as a replacement to existing zoning or (2) as an alternative to conventional zoning. For example, Austin, Texas adopted a Traditional Neighborhood Development code as a separate, optional zoning ordinance that applies to selected areas of the city.[95] Few communities have completely replaced conventional zoning with a New Urbanist code. Some communities, such as Cornelius, North Carolina; Concord/Cabarrus County, North Carolina; and Suffolk, Virginia have written limited New Urbanist concepts (such as connectivity ratios and block length restrictions) into all or most of their zoning districts.

The City of Albuquerque's approach to Downtown planning, in a number of ways, is a relevant example of applying New Urbanist principles to the design, zoning, and development approval processes. The Master Plan for the Alvarado Transportation Center Project Area uses New Urbanist principles to redesign (restore) the urban core.[96] The new zoning code for the Downtown and the new development approval process are contained in the Downtown 2010 Sector Development Plan,

adopted in May 2000. This plan makes it much simpler for a property owner to obtain development approval for a proposal that is consistent with the principles of the plan. In those situations, the property owner would request a building permit directly. This substitutes for the previous, more time consuming and uncertain process of seeking approvals in a series of steps beginning with the Planning Commission.[97]

The Planned Growth Strategy supports a general set of community building principles, encourages greater public participation in the planning process, and endorses a broad, renewed commitment to planning. The adoption of New Urbanist codes and processes should be undertaken through planning efforts involving all stakeholders within different areas of the community. This may occur through Area Plans for Community Planning Areas, Corridor Plans for the prioritized Planned Growth Strategy corridors, Sector Plans and Redevelopment Plans. Consequently, the City and County would implement the New Urbanist recommendations of the Planned Growth Strategy through future planning efforts in defined study areas.

The history of weak implementation of adopted plans in the Albuquerque area suggests that the specific New Urbanist zoning codes crafted in each area with the broad participation of the stakeholders either replace existing zoning or that very strong incentives for creating New Urbanist developments become part of the process. Such incentives should include, at a minimum, exemptions from transportation concurrency review and the permitting of New Urbanist neighborhoods "as of right." The resultant effectiveness of the planning effort will encourage community participation.

7.3.2 Urban Design Standards

The Planned Growth Strategy, Part 2 – Preferred Alternative report contains an assessment of urban growth management practices in a number of other locations around the country conducted by Friedman Resources. A recurring theme of those interviewed was that design standards should be incorporated into the Comprehensive Plan.[98] The Planned Growth Strategy supports this principal. However, the City/County Comprehensive Plan and other planning efforts already endorse many of these design principles, without incorporating them into land-use regulations. Unless design principles are clearly articulated in local land-use regulations and made enforceable, they will not be included in new developments.

Urban design standards often are incorporated into New Urbanist (Traditional Neighborhood Development) Codes. The elements addressed include the following, among others.

- Architectural compatibility with surroundings and with the unique character of the region
- Building forms and materials that are appropriate to the climate. Design with materials successfully used in the Southwest
- Compatible building massing
- Colors that create visual interest and are complemented by the strong shadows and bright light typical of our climate
- Integration of height with adjacent façades
- Division of facades into traditional increments
- Well-defined entrances near the sidewalk
- Human scale details including pattern and scale
- Landscaping, especially xeriscape, features
- Pedestrian scale lighting and signage
- Parallel parking along street frontages
- Pedestrian and bicycle access
- Parking lots behind and between lots

Two publications address these issues: Westside Community Center and Village Design, Design Guidelines by Design Collaborative

Southwest and Guidelines for Construction, Alteration, Demolition within Historic Huning Highland by Architectural Research Consultants.[99] Consistent with the approach described above, the Planned Growth Strategy suggests that urban design standards be incorporated into local land-use regulations which should be updated to implement the plans.

7.3.3 Legally Defined Planned Communities in Comprehensive Plan Reserve and Rural Areas

In the second Planned Growth Strategy Town Hall, participants broadened the application of the term "Planned Community" to address "both new communities in undeveloped areas and to the planning of existing communities to make them more livable."[100] Consequently the recommendations for legally defined Planned Communities in the Reserve and Rural areas merged with those for Albuquerque as a whole.

Specific recommendations related to Planned Communities in the Reserve and Rural areas are contained in "Fostering Community," "Role of Government in Urban Growth Planning," and "Suggestions for implementing the growth management recommendations" in Section 1.3.4. These specifically deal with eliminating the large minimum lot size requirement, increasing average densities, phasing and timing development approvals both among Planned Communities and within Planned Communities, establishing linkages between development approvals for the Planned Communities and the condition of existing neighborhoods, and other approaches.

7.3.4 Suggested Approaches

The following summarizes the Planned Growth Strategy recommendations related to zoning and urban design standards.

1. The Planned Growth Strategy endorses a broad, renewed commitment to planning and encourages greater public participation in the planning process.
2. The adoption of New Urbanist (Traditional Neighborhood Development) codes and processes should be undertaken through a planning process involving all stakeholders within different areas of the community. This may be in the form of Area Plans for Community Planning Areas, Corridor Plans for prioritized Planned Growth Strategy corridors, Sector Plans, and Redevelopment Plans.
3. The Planned Growth Strategy strongly endorses urban design standards. These standards should be addressed in the planning efforts undertaken to implement New Urbanist codes.
4. The Planned Communities standards should be reviewed for consistency with Traditional Neighborhood Development principles. The code requirements for legally defined Planned Communities in the Comprehensive Plan Reserve and Rural Areas should be merged with those for New Urbanism (Traditional Neighborhood Development).

7.4 Exactions/Impact Fees/Development Agreement Policies

7.4.1 Issues

Exactions

Exactions are distinguishable from Impact Fees or Utility Expansion Charges in that they are computed on a case-by-case basis. Like Impact Fees or Utility Expansion Charges, however, exactions should be based on infrastructure level of service standards in order to avoid conflicts with state and federal takings cases and to promote the community's land-use policies.

Dedication of public improvements is required for subdivision plats[101] and through site plans required by the zoning ordinance.[102] Under current practice in the City, developers are responsible for all on-site and adjacent-to-site

street improvements, mitigating off-site impacts on street networks, and providing one paved all-weather access to each development.[103] Regarding drainage, developers must design for a fully developed watershed and construct the improvements necessitated by the development.

The Subdivision Ordinance and Zoning Code do not establish level of service criteria from which to calculate exaction requirements. These details are left to the Development Process Review Manual that establishes level of service standards for water, sewer, transportation and drainage facilities. However, these standards are standard engineering criteria. They do not relate to the growth priorities established in the Planned Growth Strategy Preferred Alternative.

Impact Fees/Utility Expansion Charges

The City assesses Impact Fees for water, wastewater, and parks facilities. The County assesses Impact Fees for park, open space, fire/EMS, roadway, and drainage facilities. While the City does not charge street Impact Fees, it has studied the issue. A series of 1995 Impact Fee studies for the City identified $305 million in its capital improvements costs for roadway, fire, police, parks, open space, and drainage facilities over an eight-year period (1994–2002).

Utility Expansion Charges are one-time fees paid by new water and sewer customers to defray the cost of system capacity used by the customer.[104] Utility Expansion Charges are based on the calculated unit cost of capacity for major infrastructure elements that have been constructed and for projects planned to be constructed as part of the utility's capital plan. The charges do not pay for the cost of internal subdivision facilities, such as lines running down the street to customers, because the City's Line Extension Policy requires developers to pay for those smaller lines when services are extended to new growth areas.

All new water and sewer customers are required to pay Utility Expansion Charges, including schools, institutional users, and federal agencies and facilities. Utility Expansion Charges are proportional to the capacity that each user is requesting, depending on the size of metered service. The charges calculate the cost to replace the system, minus outstanding debt and contributions from the private sector and federal and state grants. Current water and sewer Utility Expansion Charges for the typical residential user total $2,619, but represent only about 50% of the actual cost of extending service. The balance is recovered by monthly user fees paid by all customers. Utility Expansion Charge revenues range from $6 million to $12 million per year depending on development activity.

The limitations of the Utility Expansion Charges as presently applied have been documented in numerous studies. These include the following:

- The fees are based on the replacement cost of the current system, rather than the actual cost of adding new capacity. The fee structure ignores the fact that new capacity is more expensive to add because new development is generally more expensive to serve, subject to current engineering standards, and so on.[105]
- The fee structure is deliberately calculated to generate only a percentage of the full replacement cost. This distorts the market by forcing all ratepayers to bear costs that are avoided by developers and purchasers of new homes. Because developers do not have to bear the full costs of their actions, this encourages them to oversupply new housing.[106]
- The fees do not differentiate between infill and development in unserved areas, even though the actual expenditures required to serve the two locations are significantly different. In effect, the current system penalizes infill developers and subsidizes edge developers by charging everyone a single rate. This could be addressed by

creating multiple service areas based on the level of current infrastructure available; that way, higher Impact Fees could be charged in unserved areas to reflect higher service costs.

Utility Expansion Charges do not vary by location within the utility's service area. New development within areas served by existing collection and distribution systems pay the same Utility Expansion Charges as new development outside of the current service area.

The fees ignore the fact that the urban area over time cannot continue current levels of water consumption from the aquifer. In order to serve additional people, the utility must obtain additional water rights. The Development Fees Act expressly includes "water supply … facilities" as an eligible capital improvement.[107] Accordingly, water supply facilities arguably fall within the purview of the existing legislation, although the issue has not been litigated. Water rights, as opposed to the facilities needed to bring the resource to the customer, are arguably not within the purview of the Act.

Development Agreements

Development agreements, annexation agreements, and settlement agreements are emerging tools for negotiating development approvals. Under a development agreement, the local government agrees to "freeze" the regulations applicable to a particular property, often in consideration for contributions by the landowner to public infrastructure, environmental mitigation, and affordable housing. A number of states now expressly authorize development agreements.[108] A major advantage of development agreements is the ability to avoid successful takings challenges based upon the provision of infrastructure at the expense of private developers. Courts have also indicated a willingness to enforce infrastructure requirements attached to a negotiated agreement, as exactions imposed as part of an agreement voluntarily entered into between the local government and a developer are not subject to constitutional nexus standards.[109]

A similar tool is the use of annexation agreements. Annexation agreements are commonly used in New Mexico and other states. Some states recognize annexation agreements by statute.[110]

While no reported decision has addressed whether development agreement legislation abrogates the "reserved powers doctrine" which prohibits legislative bodies from bargaining away their police powers.[111] In addition, the leading cases have not addressed the effect of the zoning enabling legislation, which expressly grants the authority to amend the zoning ordinance, on agreements which purport to limit the governing body's ability to rezone.

Agreements that limit the exercise of zoning powers for a period of years have been upheld.[112] In *Geralnes*, the City annexed the Denver Technological Center and adopted a "Town Center" zoning classification. The Town Center classification was similar to a Planned Unit Development because it included mixed uses and utilized a procedure for overall density transfers throughout the project. The property was later disconnected as a result of a court decision and later reannexed. Prior to reannexation, the parties executed a preannexation agreement which provided for the sharing of infrastructure costs, streamlined permit processing, and the deletion or modification of certain standards and permitting procedures.[113] Following annexation, the property owner sued for breach of contract, inverse condemnation, impairment of the obligation of contract, vested rights, antitrust and intentional interference with prospective business advantage based on various delays and denials of required permits and attempts by the City to assert jurisdiction over some aspects of development. The City's obligations under the contract were to expire in approximately 23 years.

Noting that the City's obligations were limited to a definite period of time, the court rejected the City's argument that the agreement violated the reserved powers doctrine or amounted to illegal contract zoning. The court cited *City of Farmers Branch v. Hawnco, Inc.*, 435

S.W.2d 288 (Tex. App. 1968), in which the court suggested that a contract *never* to rezone would violate the reserved powers doctrine. The court held that the prohibition in *Farmers Branch* does not apply to a contract that does not completely surrender the City's ability to rezone and is of limited duration. The court in *Geralnes* classified the agreement as conditional rather than contract zoning, discussing a number of Colorado and national cases upholding the practice of rezoning pursuant to annexation. The court did not expressly sanction the use of agreements that *prohibit* rezoning for a certain period of time, nor did it discuss whether such a practice would violate the zoning enabling legislation

Similar agreements have received mixed reviews in other courts, including the New Mexico Supreme Court. Courts have upheld development agreements attached to a rezoning as valid conditional zoning.[114] However, in *Dacy v. Village of Ruidoso*, 845 P.2d 793 (N.M. 1992), the court ruled that contract zoning is illegal because it circumvents the mandatory procedures for zoning under the zoning enabling legislation, such as notice and a hearing.[115] However, the court limited its prohibition to contracts involving a "*promise* by a municipality to zone property in a certain way, i.e., when a municipality is either a party to a bilateral contract to zone or when a municipality is a party to a unilateral contract in which the municipality promises to rezone in return for some action or forbearance by the other contracting party." This doctrine did not, however, apply to unilateral contracts in which a promise is made in return for the *act* of rezoning, where the City makes no promise and no contract arises until the rezoning is completed.[116] The court acknowledged that some courts have invalidated this form of rezoning on the grounds that it provides an improper motivation for the rezoning action.[117]

It appears from this discussion that development agreements and annexation agreements would probably be considered enforceable in New Mexico, depending on how they are structured. Similar agreements are already being used by the City of Albuquerque as part of the annexation process.[118] The County has also incorporated development agreements into its policy for computing the net fiscal cost of discretionary development proposals for legally defined Planned Communities. In the Westland agreement, Westland Development Corporation agreed to design and construct a well, reservoir, pump station facilities, and various master planned water lines. The City agreed to reimburse Westland through its water/wastewater Utility Expansion Charges (Impact Fee) system revenues without hedging regarding best efforts. Westland will convey the facilities to the City upon completion.

As conditions precedent to the City's performance, Westland agreed to obtain annexation for the portion of the development serviced under the agreement, to implement water conservation measures, and to refrain from using other water suppliers or from becoming a water supplier itself for that portion of the development.

7.4.2 Suggested Approaches

1. In general, Impact Fees and Utility Expansion Charges should be revised to more closely reflect the true costs of development. Fees can be lowered for policy reasons within plan designated centers, corridors, and based on design criteria to reflect the more efficient use of public infrastructure. Impact Fees can be waived to support development priorities of the community as recognized in adopted plans.

2. Procedures for the adoption and implementation of development agreements (and annexation agreements) should be established.[119] These procedures are outlined in Chapter 6, which Growth Management Analysts Inc. prepared for the Planned Growth Strategy.

7.5 Line Extension Policy

7.5.1 Issues

The Westland Agreement discussed in Section 7.4.1 illustrates both the advantages of negoti-

ated infrastructure exactions and their potential shortfalls. The flexibility of the tool also creates the potential for infrastructure shortfalls or financial difficulties if the utility commits water and sewer revenues to reimburse developers for privately financed public infrastructure. The City currently uses a reimbursement approach in its Line Extension Policy. The Line Extension Policy is codified in § 3-5-10 *et seq.* of the City's Code of Resolutions.

Under the Line Extension Policy, property owners must pay the equivalent cost of accessible water and sewer lines if the present or future use of the property indicates the necessity of water and sewer service. The City will install lines 14 inches or larger to facilitate master plan facilities use. Petitioners who want to accelerate the installation of such master plan lines must advance the portion of estimated cost in excess of $20,000. They will be reimbursed for the remaining cost upon receipt of 80% of the prorated design and construction cost of the line serving the intervening abutting property. Petitioners proposing developments that increase usage, require shoestring extensions not meeting utility service standards, or require construction of major facilities in advance of Capital Improvements Program funding must either design and construct the system improvements through the Turnkey procedure or advance funds for design and construction to the utility. In situations not otherwise covered by these policies, the cost of design and construction will be paid by the petitioner or property owner.

The Line Extension Policy as written has some advantages and disadvantages. The policy has the potential to encourage compact development because developers have a strong incentive to locate adjacent to existing infrastructure when they have to pay the costs up front. However, the policy can be questioned on the following grounds:

- It allows private development decisions, rather than community planning policies, to drive the Albuquerque metropolitan area's geographic size and growth pattern.
- It is not consistent with the "no net expense" principle in situations where the principle applies, because developers advancing limited increments of water and sewer systems are reimbursed 100% of the Utility Expansion Charges collected. Utility Expansion Charges are calculated on the basis of all major system costs. As a result, the application of Line Extension Policy can be seen as not assessing developers for their total project costs under "no net expense."
- More generally stated, if the City and County wish to discourage sprawl and low-density, peripheral development, a more effective policy would prohibit line extensions until local government is ready to install its own infrastructure as reflected in the Capital Improvements Programs.
- The Utility Expansion Charges do not reflect the current cost of providing the infrastructure.[120]
- The policy diverts Utility Expansion Charges from the Capital Improvements Program to new projects that are not reflected in the Capital Improvements Program.[121] This can lead to gaps in the funding of Capital Improvements Program projects that must be assumed by ratepayers.

7.5.2 Suggested Approaches

1. The Line Extension Policy should be revised to coordinate water and wastewater extensions with the long-term land-use plan contained within the Planned Growth Strategy Preferred Alternative.
2. The policy should be adopted by ordinance and folded into a Unified Development Code.
3. Express authority for denying service where capacity is unavailable should be clearly provided.
4. The policy should reserve and prioritize capacity for development consistent with the Planned Growth Strategy Preferred Alternative. While some courts have over-

turned the denial of utility service for growth management policy reasons, others have upheld the practice. There appear to be no cases addressing this issue in New Mexico.

7.6 Transfer of Development Rights

7.6.1 Introduction

The Transfer of Development Rights concept begins with the understanding that property owners have a "bundle" of different rights associated with ownership of their property, such as (1) the right to bequeath, (2) the right to exclude others, (3) the right to convey an easement, (4) the right to sell, and (5) the right to build or develop. All of these rights are subject to reasonable limitations. The right to build or develop is subject to the community's zoning regulations. The Transfer of Development Rights concept evolved in the United States from zoning techniques.

> The modern idea is that the right to develop land may be considered a quantifiable and transferable incident of land ownership. The next step in the modern notion is that quantified development rights may be separated from rigid and direct affixation to land—that is, that development rights may be severed. ... The modern idea further contemplates that ... rights ... may be made transferable.[122]

Transfer of Development Rights is a land-use regulatory mechanism (usually implemented through zoning ordinances) that allows property owners to transfer the right to develop one parcel of land to a different parcel of land. The parcel of land where the rights originate is called the "sending" parcel. The parcel of land to which the rights are transferred is called the "receiving" parcel. Once the development right is sold, a deed restriction is recorded on the sending property, permanently restricting future development on that site.

The goal of Transfer of Development Rights is to create a "win-win-win" situation. The owner of the sending site can continue the current use of the property and also benefit from the sale of the development right. The owner of the receiving site can develop at a greater density and greater profit, utilizing the development right he purchased. The City and County can realize some of their important planning goals—such as:

1. Keeping future growth within the capacity of existing master plan infrastructure.
2. Protecting environmentally sensitive areas from inappropriate development.
3. Protecting groundwater quality.
4. Eliminating antiquated subdivisions.
5. Preserving open space and rural character while encouraging development in areas suitable for more intensive development, such as in planned centers, corridors, redevelopment areas, and to achieve better jobs-housing balance.
6. Encouraging higher density nodes and corridors in appropriate locations for public transit.

A Transfer of Development Rights program, if successfully implemented, can provide permanence and greater certainty in accomplishing the community's goals than can be achieved through the traditional Euclidean zoning because once the development rights have been transferred to a receiving parcel, future development on the sending parcel is permanently restricted through deed restrictions recorded on that parcel. Property owners are motivated to sell development rights by three basic methods: (1) land-use restrictions placed on the sending parcel, (2) physical constraints on the sending parcel which make development costly, and (3) incentives that can be provided to the property owner in the form of a transfer ratio.[123]

Developers are motivated to purchase development rights and transfer them to a receiving par-

cel because it allows them to achieve a higher, more profitable density in an area where the community wants the higher density. The community can provide additional incentives, such as exempting receiving parcels from certain fees or relaxing development standards on the receiving parcels (e.g., setback, lot coverage, and parking requirements).

The value of the Transfer of Development Rights is a product of a number of factors:

- The geographic area to which the Transfer of Development Rights may be transferred.
- The number of receiving parcels eligible to use the Transfer of Development Rights.
- The complexity and timing of the procedures required to consummate a transfer.
- The extent to which regulatory restrictions on the sending parcels generate a demand for Transfer of Development Rights.
- The level of discretion retained by local government in approving individual transfers.

7.6.2 Suggested Approaches

Appropriate sending areas should be identified within the Planned Growth Strategy Unserved Area tier. Receiving areas should be identified and located at specific nodes, corridors, and redevelopment areas, and to implement New Urbanist principles. The ordinances should make clear that development rights may be transferred across jurisdictional boundaries, from unincorporated to incorporated areas.

In addition, the community should consider whether development rights will rely exclusively on free market transactions, or whether a development rights "bank" will be created. A "banking" approach involves up-front expenditures and greater staff time to implement. However, this approach is more effective because the community can proactively purchase rights in sending areas, rather than waiting for landowners to initiate the transaction. The bank can offset additional expenditures through the resale of development rights.

7.7 Regionalism

7.7.1 Consistency — Connecting Plans to Actions

There are many adopted plans prepared by the City, the County, other neighboring local jurisdictions, the MRGCOG, the State Highway and Transportation Department, the Albuquerque Metropolitan Arroyo Flood Control Authority, Albuquerque Public Schools, and other special districts. Each of these plans influences how growth and development will occur in the region. However, there is little coordination among the different planning activities, as well as a serious disconnect between the plans and the decisions (actions) that follow. Successful implementation of the Planned Growth Strategy policies will require that many of these disconnects be mended, either at the local, regional, or state levels.

Disconnects are gaps or conflicts in the planning and land-use regulatory scheme that hinder or impede sound planning. Given that the New Mexico enabling laws are based on model statutes written in the 1920s for a different era and different challenges, it is not surprising that there are disconnects today.

The situations in which disconnects arise are described below:

1. **Disconnect between plans, regulations, and decision-making.** Lack of consistency (internal consistency, vertical consistency, horizontal consistency, judicial review, monitoring).

- Land use, facility, and funding plans should be internally consistent which means the various elements or components of the plan should support each other, i.e., the land-use element should be consistent with the transportation element.
- Plans should also be vertically consistent. Perhaps most important for the successful

implementation of the Planned Growth Strategy policies is that a strong consistency or linkage be established between the Comprehensive Plan that incorporates the Planned Growth Strategy Preferred Alternative and the Capital Improvements Programs. The Comprehensive Plan and the Capital Improvements Programs should guide development, rather than respond or react to development pressures.

- Plans should be horizontally consistent. Disconnects can occur when a local government creates public policy objectives that are at serious cross-purposes. Within the region, plans of neighboring jurisdictions should support each other. A regional cross-acceptance process (see discussion below) facilitates this type of consistency.
- Vertical consistency also refers to the relationship between decision-making, the regulations, and the plan. Regulations should be consistent with the plans they are meant to implement. And decision-making should be consistent with the regulations.

Since plans may be merely advisory in New Mexico under a current judicial interpretation, the land-use regulations always trump the plan if there is a disconnect between them. Therefore, much of planning may be just wishful thinking and not tied to the realities of growth and development. Without a more sensitive judicial interpretation of the effect of adopted plans in the context of existing zoning, plans that are not supported by underlying zoning have little change of being carried out.

Without plan implementation monitoring, there is no accountability and the implementation of the goals and policies within the plan become the exception rather than the rule.

2. **Disconnect between the public and the planning process.** There is a flagging commitment to long-range planning as witnessed by the City's reduced engagement in Area and Sector Planning. The opportunities for public participation in long-range planning processes, therefore, have been reduced. A commendable effort involving public meetings on the Comprehensive Plan concept of centers and corridors is being carried out by the Shared Vision organization with the City. However, this effort does not substitute for Area and Sector planning. Consequently, members of the public usually get involved late in the development process when they feel threatened and positions are antagonistic (the Not in My Backyard syndrome). On the flip side, the diminishing number of people who make substantial commitments to the planning process often feel thwarted when decision-makers do not follow the plans.
3. **Disconnect between statutory requirements for the Comprehensive Plan and the plans that are adopted.** There is no clear statutory direction about what should be included in the Comprehensive Plan or the level of specificity required. The Albuquerque/Bernalillo County Comprehensive Plan should be the cornerstone (or the "constitution") for future growth and development decisions in the community. If the Plan is vague or ambiguous or lacks the specificity required to guide decisions, it will not be implemented. As suggested above, key parts of the Planned Growth Strategy should be adopted within the joint Albuquerque/Bernalillo County Comprehensive Plan. These elements include the Preferred Alternative, infrastructure funding commitments, tiers, level of service standards, design standards, Impact Fee and development agreement approaches, among others.
4. **New Mexico's statutory framework does not address the state's role in planning.** While decisions about how, where, and when a community will grow should remain at the local level, state agencies unintentionally undermine the community's goals. Two examples currently may impact the Albuquerque/Bernalillo

County region. First, the State Highway and Transportation Department plans a loop road in the northwest quadrant of the County that will stimulate new development in areas that may be inconsistent with the community's plan for new growth and may not be fiscally prudent. Second, the New Mexico Environment Department is responsible for issuing septic tank permits. In most cases, if the parcel meets the minimum size required by New Mexico Environment Department, the permit will be issued, even though the parcel does not meet the minimum lot size established by Bernalillo County regulations.

5. **Disconnect between statutory authorization to plan and the tools that communities can use to implement those plans,** i.e., transfer of development rights and consistency. The Development Fees Act is a good example of the disconnect. Although communities are authorized to assess Impact Fees based upon a Capital Improvements Program that reflects population and employment land-use assumptions, these assumptions are not required by the Act to be consistent with the community's policies about growth and development, such as contained in the Comprehensive Plan or the Planned Growth Strategy Preferred Alternative.

6. **Disconnect between the plans, decision-making, and fiscal impacts.** Under the existing statutory framework in New Mexico, communities are not required to prepare plans that are financially constrained. The unintended consequence of this disconnect is that much of the financial burden for the decisions made today will be passed on to the future.

7. **Disconnect between water planning and planning for land use/development.** The Middle Rio Grande Water Assembly is undertaking a multiyear planning process to prepare a regional water plan that will encompass the Albuquerque/Bernalillo County region. This plan, when completed in 2003, should provide useful information about the resource constraints as well as the demands on the resource. The regional water plan may also select a preferred scenario for future growth in the region that is disconnected from the adopted MRGCOG 2050 regional land-use plan and from the Preferred Alternative of the Planned Growth Strategy. Water resource planning and land-use planning are occurring at different levels of government, based on different assumptions, and there is presently no mechanism to tie them together.

8. **There is no method for interjurisdictional conflict resolution, which undermines the planning efforts of everyone and creates a contentious atmosphere for the development community.**

During the 45th Legislative Session, the New Mexico Legislature will be considering a bill that addresses some of the issues enumerated above.[124] The bill does not require any community to plan, but if a plan is adopted—the community must follow it.

The bill requires that:

- Land-use regulations (zoning, subdivision, Impact Fees, etc.) be consistent with the Comprehensive Plan;
- Development decisions (rezonings, subdivisions, special use permits, etc.) be consistent with the Comprehensive Plan;
- The Comprehensive Plan be adopted by ordinance rather than resolution; and
- The courts void inconsistent regulations and land-use actions.

The legislation provides almost two years for communities to bring their regulations into compliance (January 1, 2003) and requests an appropriation of $3 million to provide grants to communities to assist them in coming into compliance. The consistency requirement can provide the Comprehensive Plan with more effective authority to guide development.[125] The City of Albuquerque should amend its

Charter to address the different forms of consistency mentioned above. The committee working on the proposed charter for the future City and County consolidation should also include a consistency provision.

7.7.2 Capital Improvements Program

Bernalillo County works on a two-year Capital Improvements Program cycle that is very similar to the City's Capital Improvements Program process. Public input is gathered, departments prepare wish lists, and a committee prioritizes recommendations for the bond cycle. None of this process is tied by law to the City/County Comprehensive Plan or to a preferred alternative of urban development. Some informal staff review of Capital Improvements Program projects for consistency does occur. In the City, the Capital Improvements Program is directed by the "Major's Guidelines" issued for each two-year cycle such that the Capital Improvements Program varies from one administration to the next. There is no systematic examination of level of service standards, existing deficiencies, rehabilitation needs, and future growth requirements. Departments usually receive the same percentage of the total available funds from year to year with insufficient prioritization of overall spending needs. While the City's Capital Improvements Program has a 10-year element, there is only moderate consistency in this element across Capital Improvements Programs. There is currently no systematic process for coordinating the City's and County's Capital Improvement Programs to assure that the two jurisdictions are making the most cost-effective decisions. Finally, there is no process for monitoring or evaluating the Capital Improvements Program expenditures to determine if level of service standards have been maintained, if the extent of deficiencies has been reduced, and if rehabilitation needs are being systematically corrected.

A more coordinated approach to the City's and County's Capital Improvement Programs that implements the Planned Growth Strategy Preferred Alternative would better serve both the taxpayer and the development community. Better coordination might accomplish the following:

1. Tax dollars, rate revenues, grants, and Impact Fees could be leveraged more efficiently on joint projects that avoid unnecessary duplication or a mismatch in the timing of service delivery.
2. Capital improvement projects could support the public's growth and development priorities rather than lagging behind.
3. Capital improvement projects could maintain explicit level of service standards rather than responding to critical deficiencies and service delivery problems.
4. A clear signal of where and when public investments will be made in the future (10 years and 25 years rather than 2 years) will provide greater stability for investment decisions in the private sector.

7.7.3 Impact Fee Policies

The City and County should consider preparing a joint, seamless Impact Fee program with joint service areas that reflect the Planned Growth Strategy Preferred Alternative and a common Impact Fee administrator for both jurisdictions. A seamless program would ease compliance requirements on the development community, reduce the chance of an impermissible double-charging, and avoid "shopping" for lower Impact Fees.

7.7.4 Regional Revenue Sharing

The competition for tax base is a significant motivation for zoning and land-use decisions. Local governments are in a perpetual cycle of seeking an increased revenue base in order to provide the public services that residents and new development require. The fiscally driven zoning decisions that flow from this competition for tax base are a significant deterrent to regional cooperation and growth management. This situation is exacerbated by the City's dependence on Gross Receipts Taxes (about 70% of General Fund budget revenues). An

equitable tax revenue sharing agreement between the City and County should be considered to reduce (if not eliminate) this cycle. Other jurisdictions within the region might be included in the revenue sharing agreement.

Minnesota has a partial tax base-sharing system that requires communities to contribute to a regional pool 40% of the growth of their commercial and industrial tax base acquired after 1971. Annually, the pool amounts to about 20% of the regional tax base. Money is then distributed from this pool on the basis of inverse net commercial tax capacity.[126]

7.7.5 Options in Regional Coordination

One of the fundamental policy issues in this process is the decision regarding how the Planned Growth Strategy will be adopted and which agencies will be assigned to implement it. This involves some very important decisions regarding how to structure the relationship between the jurisdictions regarding land-use issues in the community. The options for structuring the implementation of Planned Growth Strategy policies among jurisdictions can be divided into binding and nonbinding options, which are described in greater detail below, as follows:

Nonbinding options

- Model Ordinance
- Referral
- Cross-acceptance

Binding options

- Joint Planning Commission
- Joint Development Review Committee
- Joint Planning Areas
- Joint Powers Agreement
- Consolidated Planning Commission
- Consolidated Planning Department

Nonbinding Options

Model Ordinance

The Model Ordinance approach simply involves the voluntary adoption and separate administration of the Planned Growth Strategy by each jurisdiction. Neither the City nor the County would be obligated to adopt the Planned Growth Strategy, and the Planned Growth Strategy could be adopted in its entirety or in parts. This approach completely preserves local autonomy but raises the potential for individual jurisdictions to undermine the Planned Growth Strategy Preferred Alternative. It also raises the possibility of each jurisdiction adopting different versions of the Planned Growth Strategy, thereby undermining the objective of coordinating and simplifying the development ordinances.

There are several options for implementing the model ordinance:

1. The County or City could adopt the ordinance, with the other jurisdiction permitting the Planned Growth Strategy to apply within its territory pursuant to the Joint Powers Agreements Act, NMSA § 11-1-1 *et seq.* This permission could be withdrawn by providing notice to the other jurisdiction.
2. A nonbinding memorandum of understanding could be adopted that expresses each jurisdiction's intent to adopt and to implement the standards of a unified ordinance.

Referral

A referral procedure involves an agreement between the jurisdictions that applications for development approval within designated areas of influence will be referred to designated jurisdictions. Those jurisdictions would then have an opportunity to comment on the development applications. However, the agency within which the application was submitted would retain final approval authority.

Cross-Acceptance

Cross-acceptance, which is used by New Jersey to implement its State Development and Redevelopment Plan, involves a formal mechanism for assuring consistency among the jurisdictions' zoning and subdivision ordinances. Cross-acceptance would be effectuated by means of a Joint Powers Agreement between jurisdictions.[127]

Binding Options

Binding intergovernmental planning options provide a legal basis for both local governments to commit, at some level, to the implementation of the Planned Growth Strategy. These include joint or consolidated planning commissions and/or development review committees, joint planning areas, and Joint Powers Agreements.

Joint or Consolidated Planning Commissions

Joint or consolidated planning commissions involve the administration of a unified ordinance by a single agency. These mechanisms potentially provide the most powerful and effective mechanisms for accomplishing inter-jurisdictional land-use objectives, while at the same time surrendering local autonomy to a certain degree. The difference between the two approaches is as follows:

- A joint commission would consist of representatives from the Planning Commissions of each jurisdiction in the County, with some matters remaining within the exclusive jurisdiction of each agency.
- A consolidated commission approach would disband the separate planning commissions and/or planning departments for each jurisdiction, combining all land-use authority into one agency.

Several major policy decisions under these approaches are:

- The development of procedures for appointment of the Planning Commission members. Membership on joint municipal-county planning agencies may be agreed to by the City and County. A Development Review Board could be appointed with representatives from City and County staff.
- Delegating authority to the Planning Commission. The Planning Commission may have final review authority on designated matters or may simply submit a nonbinding recommendation for final review by the appropriate governing body (a joint governing body or the County Commission in the unincorporated area outside the extraterritorial jurisdiction, the Extraterritorial Land Use Authority in the extraterritorial jurisdiction, and the City Council in the City limits). For example, the Planning Commission could submit nonbinding recommendations on rezoning petitions but maintain final approval authority for subdivision plats.

Joint Planning Areas

A Joint Planning Area uses any of the institutional approaches discussed in this report on a discrete, geographic basis. A starting point is the extraterritorial jurisdiction of cities as provided in NMSA §§ 3-19-5 (planning), 3-20-5 (subdivision plats), and 3-21-3.2 (zoning), which is now subject to a City/County Extraterritorial Land Use Authority. An example is the use of common development standards in the extraterritorial jurisdiction of local governments. The City and County have already implemented this approach with the appointment of the Extraterritorial Land Use Authority and the adoption of a joint zoning and subdivision ordinance. This has not resulted in the mutual engagement of City and County elected officials and staffs in planning and zoning decisions related to the extraterritorial jurisdiction. Rather, these decisions generally have continued to be extensions of County planning and zoning, as was the practice prior to the creation of the Extraterritorial Land Use Authority.

Joint Powers Agreements

An intergovernmental agreement, known as a "Joint Powers Agreement" in New Mexico, is a

flexible approach whereby each jurisdiction would contractually adopt the Planned Growth Strategy, parts of a Planned Growth Strategy ordinance, development standards, joint or consolidated planning commission, development review bodies, or joint staff in order to implement the Planned Growth Strategy recommendations.

Alternative approaches for structuring a Joint Powers Agreements include:

- The Joint Powers Agreement could contractually bind each jurisdiction to the adoption and implementation of the Planned Growth Strategy.
- The Joint Powers Agreement could establish minimum standards throughout the County, with each jurisdiction retaining the authority to adopt stricter standards for all or parts of the Planned Growth Strategy. A similar approach is followed in the "critical areas" or "development of regional impact" legislation of some states such as Florida and Colorado, in which state and local governments share approval authority over large-scale development approvals or in environmentally constrained areas.

There are several frameworks for effectuating a Joint Powers Agreement in New Mexico. These include the following:

- A Joint Powers Agreement may be adopted pursuant to NMSA §§ 11-1-1 *et seq.*
- Joint Powers Agreements may be used for any powers common to the contracting parties, and joint agencies may be established. A Joint Powers Agreement must specify the purposes of the agreement, the method for accomplishing the purposes, and the manner in which powers will be exercised.

Regional Planning Commission

A Regional Planning Commission could be established by agreement between the City and County pursuant to the Regional Planning Act, NMSA § 3-56-1 *et seq.* The Regional Planning Commission is empowered to prepare a regional plan, which could be based upon the Planned Growth Strategy. A Regional Planning Commission may review zoning and subdivision regulations, as well as requests for capital project assistance, for consistency with a regional plan. The statute does not empower the Regional Planning Commission to review requests for land-use approval for compliance with the regional plan.[128] In other states, similar agencies may exercise any power "capable of exercise" by any of its member agencies.[129]

7.7.6 Ordinance Framework

The Planned Growth Strategy could be adopted as a truly unified ordinance in which each jurisdiction works together to implement common goals and policies. Defined geographic policies for development may be a component of a growth management system. Policies based upon geographic designations can be either short term, for example, based on facility master plans, or long term, where the objective is to establish a permanent framework for growth in the community. An urban services tier system, discussed in Chapter 5, is an example of such a system that could be implemented on a countywide basis.

7.8 Housing Affordability and Mixed-Income Communities

7.8.1 Policy Basis

There are interrelated issues concerning the availability of affordable housing under the Albuquerque/Bernalillo County urban growth management plan. The first is the already adopted policy in the Albuquerque/Bernalillo County Comprehensive Plan (Policy D.5.a) of providing standard quality owner-occupied housing and rental housing at affordable prices for residents. The second issue is the support for mixed-income communities by participants in both Town Halls.[130] Achieving mixed-income communities, by definition, means that moderately priced housing is produced in the market. A third issue revolves around the concern that an undesirable side effect of the success of the Growth Strategy may be gentrification in older neighborhoods

and higher property values and taxes in those areas. The inverse side of gentrification is declining or stagnant property values in older neighborhoods within the 1960 City Boundary.[131]

Chapter 10 includes a report on "Growth Strategy Techniques Used in Other Locations" by Friedman Resources. This chapter identified the need to explicitly address housing affordability in the Planned Growth Strategy. It should be noted that producing affordably priced housing does not necessarily mean that mixed-income communities are being established. All of these issues should be addressed concurrently.

7.8.2 Housing Affordability in Albuquerque

An analysis conducted by Growth Management Analysts indicated that relatively higher housing costs in the Albuquerque area were due primarily to developed lot prices that were significantly higher than in comparable markets, rather than to the cost of housing construction.[132] It may be that above-average lot prices are due to inadequately funding growth-related infrastructure in the past. Chapter 9.0 City and County Financial and Planning Requirements contains additional evidence that supports this suggestion.

If that is the case, the Planned Growth Strategy may not have an inflationary impact on lot prices. The Planned Growth Strategy assumes that sufficient funding should be made available to construct the infrastructure necessary to support the official population and employment growth projections for the urban area. Said another way, the Growth Strategy is concerned with improving the management of expected growth, in part by providing adequate infrastructure, rather than by reducing the rate of growth (or constraining supply in relation to housing demand). Chris Nelson of Growth Management Analysts, in addressing this situation, once wrote, "Ironically, Impact Fees finance the very facilities that expand the supply of buildable land."[133]

It is not assumed that any possible increase in Impact Fees automatically will negatively affect housing affordability. The work conducted by both McKee and Nelson suggests that in competitive housing markets housing prices are set at the maximum the market will bear and that Impact Fee charges may not be easily passed along to the consumer.[134] In addition, several Planned Growth Strategy recommendations (e.g., waiving the cost of development fees for affordable housing, allocating infrastructure capacity to affordable housing, providing adequate funding to support growth, extending services in a phased and timed manner compatible with the Preferred Alternative, producing more compact development and better jobs-housing balance) will offset possible impacts on affordability. Implementing these recommendations will reduce the governmental charges for affordable housing in the local market and may actually increase its supply.

7.8.3 Achieving Housing Affordability and Mixed-Income Communities

Affordable housing projects generally involve a patchwork of inducements and incentives that bridge the gap between the cost as determined by normal development practices and reduced cost to achieve various levels of affordability. These mechanisms in any given affordable housing project include some or a number of the following:

- Grants such as from the federal Community Development Block Grant, Home Investments Partnership Program (HOME), Emergency Shelter Grants Program, Housing and Urban Development Section 202 (elderly), and Housing and Urban Development Section 811 (disabled); private foundations like the Local Initiative Support Corporation; local government funding sources, and so on.
- Reduced interest rates on housing construction and mortgage borrowing, such as from Community Development Credit Unions, the New Mexico Mortgage Finance Authority, and private lending institutions

as part of Community Reinvestment Act agreements. Also reduced interest rates can result from federal agency mortgage guarantees as from Fannie Mae.

- Cost write-downs on land by government, religious organizations, and other sources.
- Property tax abatements, such as through the use of redevelopment bonds for financing.
- Equity production through the sale of low-income housing tax credits and historic renovation tax credits.
- Reduced or waived developer profits as a result of sponsorship by Community Development Corporations or nonprofits, such as Habitat for Humanity, the Home Education Livelihood Project, and the New Mexico Family Housing Development Corporation.
- Reduction of government fees, such as utility expansion charges and permit charges.
- Inclusionary zoning that trades regulatory incentives for set-asides of affordable dwelling units in new subdivisions.

The City and County make available a number of these incentives including direct and indirect grants and land cost write-downs supported by funds from the Community Development Block Grant, Home Investments Partnership Program (HOME), Emergency Shelter Grants Program, Metropolitan Redevelopment Fund (tax increment), Neighborhood Housing and Community Economic Development Fund (Urban Development Action Grant payback), Housing Trust Fund, and the Collateralize Mortgage Obligation Fund; a limited number of waivers from water and sewer Utility Expansion Charges (Impact Fees) and foregone park Impact Fees; waivers of various design review and building permit fees; fast track development reviews; and staff advocacy with federal and state assistance programs and local nonprofit organizations. In 1998, the City adopted the Family Housing Development Ordinance[135] in order to assure that at least 20% of the new housing units produced are affordable to low- and moderate-income residents.

Besides assuring that funding is adequate for infrastructure to support official growth projections, the Planned Growth Strategy proposes a broader program of Impact Fee waivers for affordable housing, redevelopment activities, and new construction in targeted areas, such as plan-approved centers and corridors.[136] In these situations, the Planned Growth Strategy also supports speedy development reviews, targeted infrastructure spending to correct deficiencies and address rehabilitation needs, and allocations of infrastructure capacity.[137]

Establishing mixed-income communities is supported explicitly in Traditional Neighborhood Development zoning codes by calling for mixed residential densities and housing types and local workplaces within new neighborhoods and developments. In *Towns and Town-Making Principles,* the authors state, "The full range of housing types and workplaces [in Traditional Neighborhood Development codes] helps to integrate all age groups and economic classes."[138] The Planned Growth Strategy supports adopting Traditional Neighborhood Development ordinances as part of community planning efforts in different centers, corridors, Community Planning Areas, and neighborhoods.

It is generally assumed that these Planned Growth Strategy implementation efforts will result in the creation of affordable housing and an economically diverse community. It is noted that the housing cost index in the Albuquerque Metropolitan Statistical Area has fallen from 107 to 100.3 in the past two years. The principal housing affordability issue at present is that the earnings index in the Metropolitan Statistical Area is 91, making earnings about 9% lower than the national average. It can be argued that housing affordability locally is an issue of increasing wages through an effective economic development strategy. This also is consistent with Planned Growth Strategy Town Hall participants' sup-

port for creating well paying, quality jobs based on a community-based strategic economic plan.[139]

The Planned Growth Strategy supports the City and County identifying quantitative objectives for housing affordability and for mixed-income communities. These objectives would be monitored regularly through Goals Progress Indicators that would be reported regularly in the Albuquerque Progress Report.[140]

7.8.4 Avoiding Gentrification of Lower Income Neighborhoods

Public housing policy generally begins with a classification of neighborhoods into Stable, Rising, and Declining categories. Different programs are called for within each of these types of neighborhoods.[141] The ideal situation endorsed by the Growth Planned Strategy is the establishment and maintenance of *stable* neighborhoods in which housing supply and demand factors are in balance. Such neighborhoods generally exhibit "incumbent upgrading" of housing and businesses with local residents making investments in the built environment. This is in contrast to improvements being made predominantly by individuals new to the neighborhood in rising neighborhoods and disinvestment, abandonment, and high vacancies in declining neighborhoods.

At this time, the Planned Growth Strategy is concerned about improving conditions in declining neighborhoods where physical and social conditions are becoming worse. As noted above, about 30% of Albuquerque residents in the 1999 Citizen Satisfaction Survey stated that they "noticed in the last year a decline in the appearance of [neighborhood] properties, or that owner-occupied homes are turning into rentals."[142] It appears that the priority objective at this time is to prevent the loss of real housing and business value in older neighborhoods.

In "rising" or gentrifying neighborhoods, problems occur when housing values increase rapidly. This results in higher tax assessments, housing being purchased for speculative reasons, and possibly the displacement of residents. This negative consequence has been addressed by a New Mexico Constitutional amendment passed in November 1998 and the subsequent adoption of New Mexico House Bill 366 signed into law in February 2000. Beginning in tax year 2001, a property's valuation for tax purposes only can increase a maximum of 3% per year—roughly similar to the inflation rate.

The New Mexico Constitutional amendment also allows the state legislature to enact legislation that can limit assessed residential property values on the basis of age, income, or home ownership. The Planned Growth Strategy supports monitoring property values on a neighborhood-by-neighborhood basis. Where gentrification appears to be a problem, the City and County should target programs for grant assistance to low-income individuals to purchase their dwelling. Local governments also should advocate before the state legislature in support of additional property tax controls for low-income individuals.

7.8.5 Suggested Approaches

1. It is not assumed that implementing the recommendations of the Planned Growth Strategy will cause an undesirable increase in housing prices. In the context of adopted public policy supporting the provision of standard owner-occupied housing and rental housing at affordable prices, housing prices and affordability should be monitored.
2. Adoption of a New Urbanist (Traditional Neighborhood Development) zoning code will facilitate the establishment of mixed-income communities. The Planned Growth Strategy objectives for neighborhoods that are diverse in terms of income, age, and ethnicity should be incorporated into Goals Progress Indicators and reported regularly in the Albuquerque Progress Report.

3. The City and County should continue their existing programs to increase the supply of affordable housing. The Planned Growth Strategy also supports a broader program of Impact Fee waivers for affordable housing and supports speedy development reviews, targeted infrastructure spending to correct deficiencies and address rehabilitation needs in older neighborhoods, and the allocation of infrastructure capacity in order to increase the supply of affordable housing.

4. Property values should be monitored on a neighborhood-by-neighborhood basis. Where gentrification appears to be a problem, the City and County should direct programs for grant assistance to low-income individuals to purchase their dwelling. In the event that gentrification becomes a community problem, the City and County should advocate before the state legislature for additional property tax controls for low-income individuals, which are allowed by the New Mexico Constitution.

7.9 Conclusion

This chapter provides a narrative of approaches to address various growth management issues relating to the Planned Growth Strategy. The Planned Growth Strategy provides a long-term framework for development within the region. This chapter together with Chapters 5 and 6 provide suggestions about how to configure infrastructure planning and regulatory approval to encourage development in the pattern suggested by the Planned Growth Strategy Preferred Alternative.

The next step in this study will be the development of an outline of these approaches. The outline will provide a regulatory structure for implementing the Planned Growth Strategy Preferred Alternative. The outline will not present regulatory language or draft legislation. It is hoped that the City and County will use these chapters and the outline as a basis for continued discussions about how to implement the Planned Growth Strategy, in a broad and inclusive fashion. The outline is contained in Chapter 11 below.

8.0 Combining the Level of Service Standards and Financial Implementation

Goals for Planned Growth Strategy

- Community. Identity, pride, mutual responsibility, interaction.
- Stewardship. Of public capital, private wealth, older neighborhoods of Albuquerque.
- Individual Growth and Achievement. Foster the community in which individual growth and achievement occur.
- Planning. Encourage public participation in achieving a better community. Celebrate the plans that result. Respect the plans by implementing them.

Principles Guiding Implementation of the PGS

- The location of population and employment growth is phased and timed to achieve community goals. Represented by the Planned Growth Strategy Preferred Alternative.
- Critical infrastructure capacity (streets, parks, schools, water, sewer, and storm drainage) is available to support urban growth.
- The needs for growth, rehabilitation, and to correct deficiencies are fully funded.

Principles Guiding Implementation of the PGS

- Implementation is guided by adopted plans, e.g., corridor plans, neighborhood plans, redevelopment plans, area plans.
- Charges for infrastructure to support growth reflect costs to the community.
- Land use problems are corrected such as environmental contamination in South I-25 industrial area and mixed quality development on west Central.
- Flexibility.

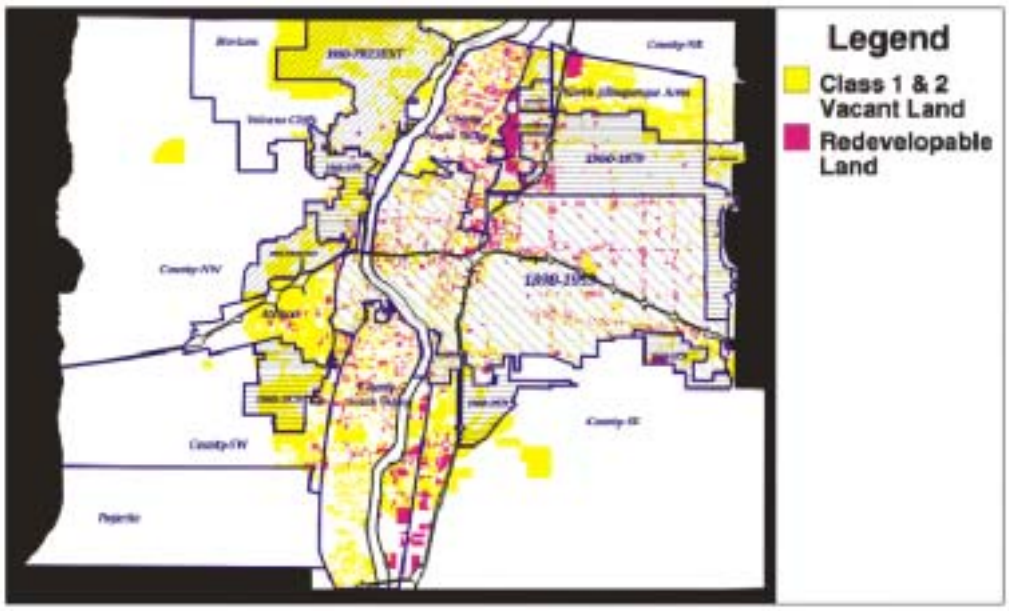
Implementation Tools

1. Capital Plan
2. Service Standards and Concurrency
3. Development Impact Fees
4. Development Agreements
5. Development Incentives and Inducements
6. Community Plans

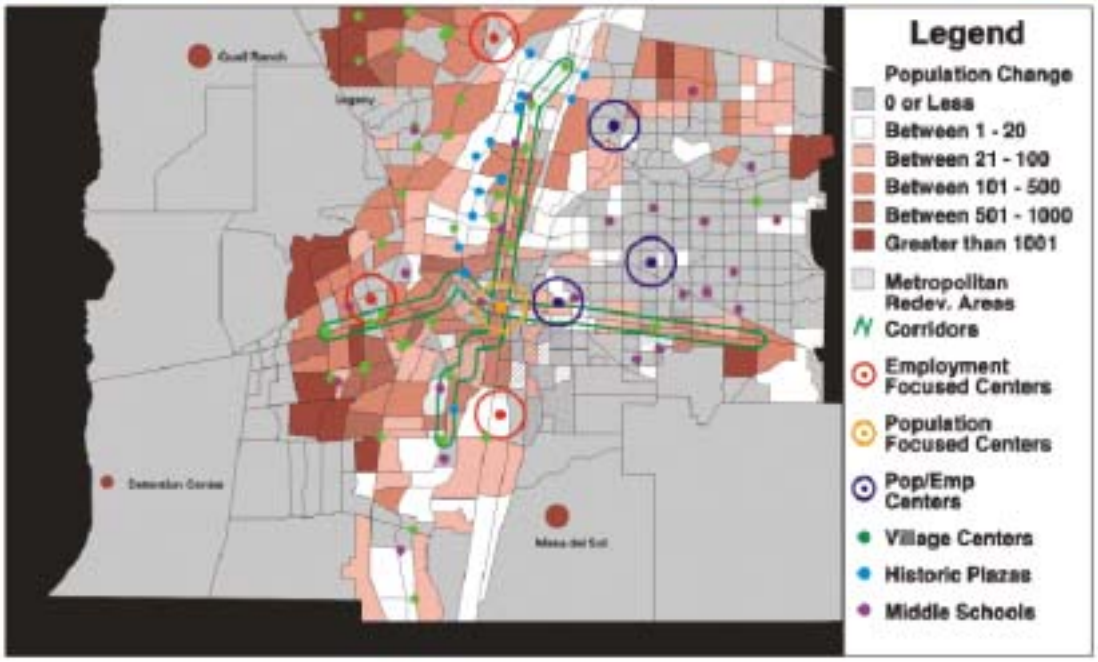
Capital Plan

- Population and employment increases are allocated to Planned Growth Strategy Subareas and to Centers and Corridors in the Preferred Alternative.
- The Capital Plan identifies and funds specific projects to support population and employment growth.
- Infrastructure is timed and phased using two periods: 2000-2010, and 2010 to 2025.
- Population and employment growth in the Planned Growth Strategy Subareas under the Preferred Alternative become the Development Impact Fee "Land Use Assumptions."

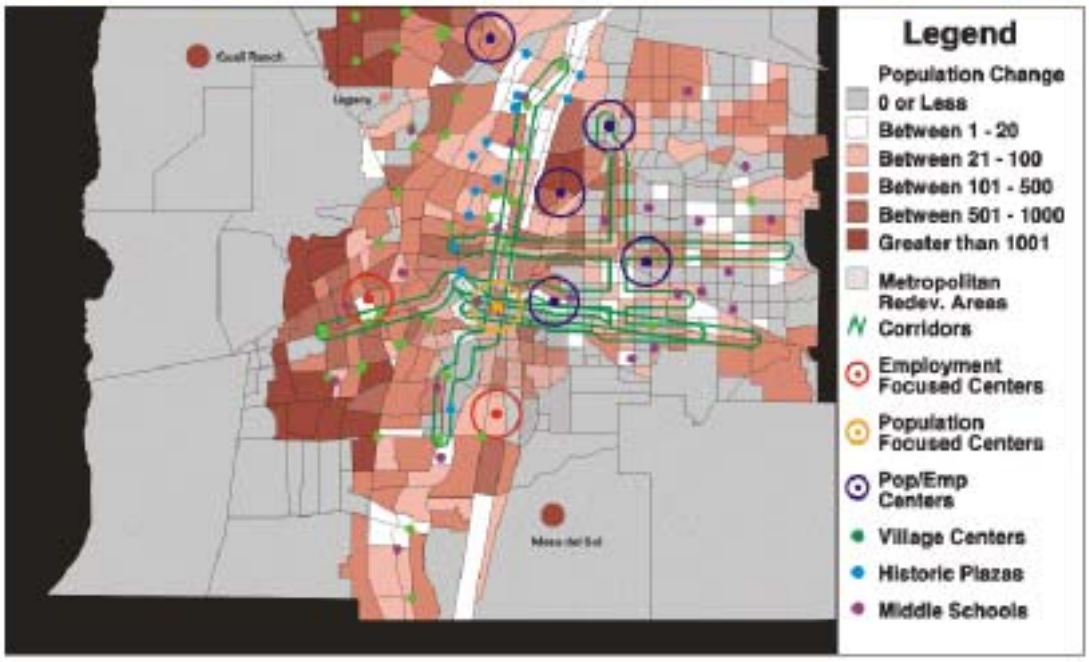
PGS Subareas



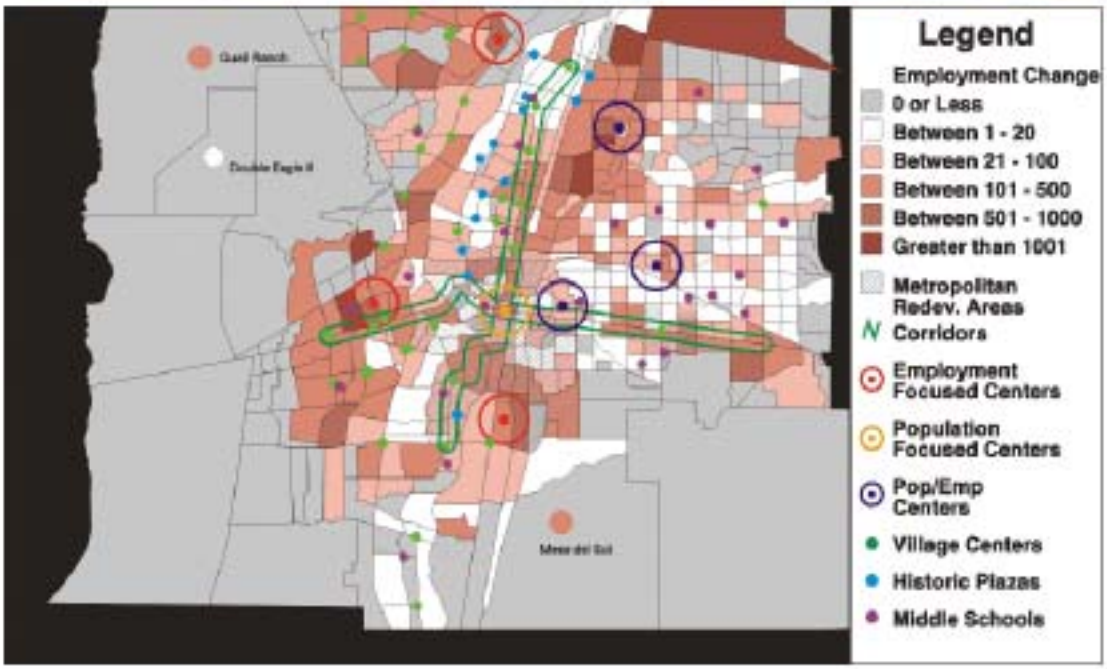
PGS Preferred Alternative Population Projections 2000-2010



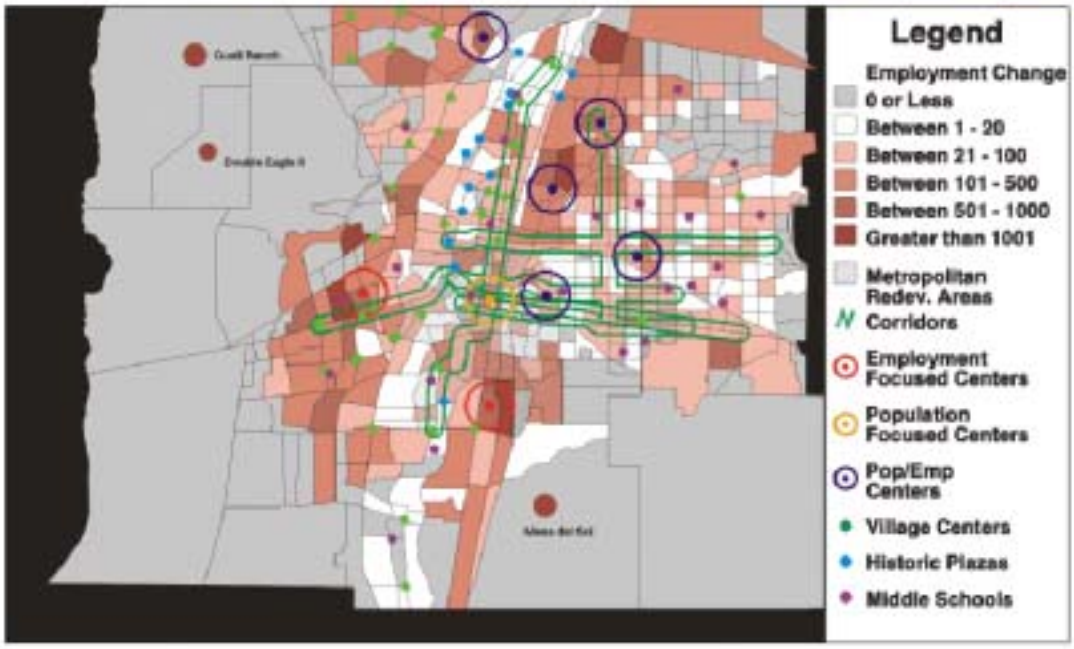
PGS Preferred Alternative Population Projections 2010-2025



Employment Projections 2000-2010



PGS Preferred Alternative Employment Projections 2010-2025



Level of Service Standards & Concurrency

What are Level of Service Standards & Concurrency?

- Level of Service (LOS) Standards / Concurrency is a review of infrastructure either built or in the Capital Improvements Program (CIP) to determine whether adequate capacity exists to support proposed development projects.

Level of Service Standards & Concurrency

How is it different from current practice?

	Infrastructure	Link to CIP	Developer Reimbursement
Current Practice	Water, Sewer	Yes	Pro-Rata (Line Extension Policy)
Proposed	Streets, Parks, Schools, and Hydrology	CIP Based on Growth Strategy	▮ No LOS review in Fully Served areas ▮ Pro-Rata in Fully & Partially Served Areas ▮ Master Development Agreement in Areas Unserved with Urban Infrastructure

Level of Service Standards & Concurrency

What are the benefits of Service Standards and Concurrency?

- Important facilities are available for new residents and new employees
- Unreasonable deterioration of street service is avoided
- Schools have adequate facilities for new families
- Parks are developed in time with growth
- Infrastructure is planned and coordinated
- Transit and street capacities are merged
- Flexibility is provided for unplanned development
- Street congestion declines

Development Impact Fees

What are Development Impact Fees?

- Development Impact Fees are legally allowable charges to developers to build the capital improvements needed to support new growth.

Development Impact Fees

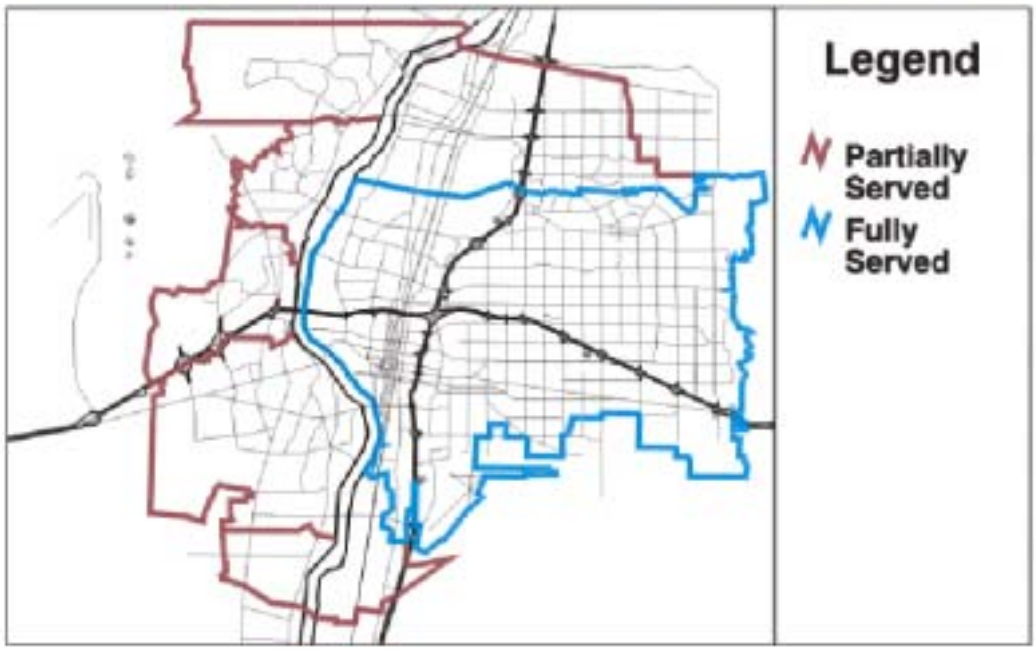
For which improvements can we charge development impact fees?

Impact Fees Allowed	Streets, Water, Sewer, Storm Drainage, Parks, Police, Fire/Emergency Medical Services, Open Space, Zoo, Botanical Gardens, Explora, Aquarium
Impact Fees Not Allowed	Schools, Transit, Libraries, Community Centers, Senior Centers, Multi-Service Centers

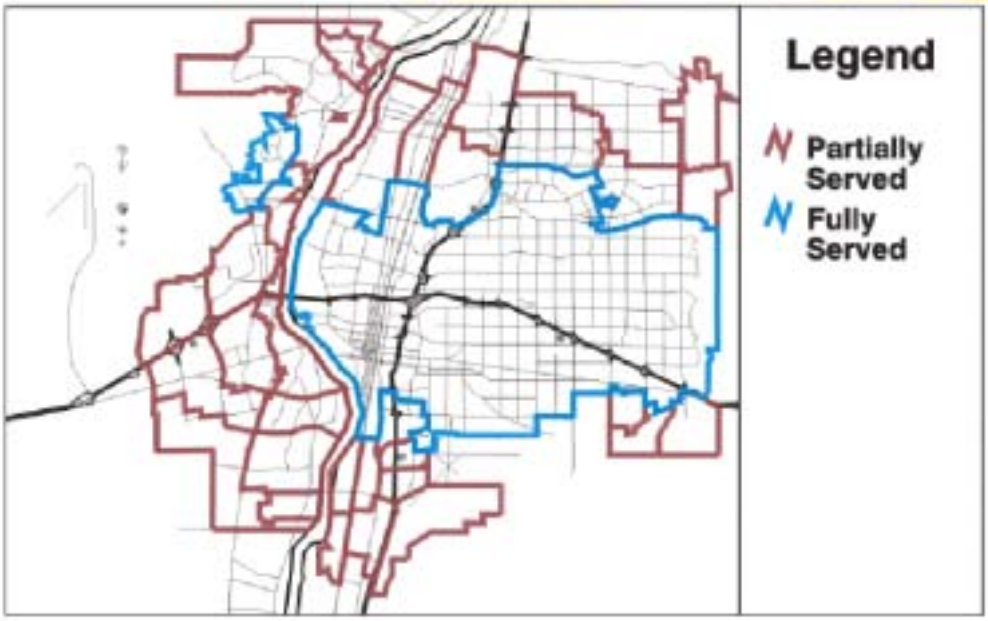
Impact Fees Charges Based on Service Tiers

- Fully Served Areas
- Partially Served Areas

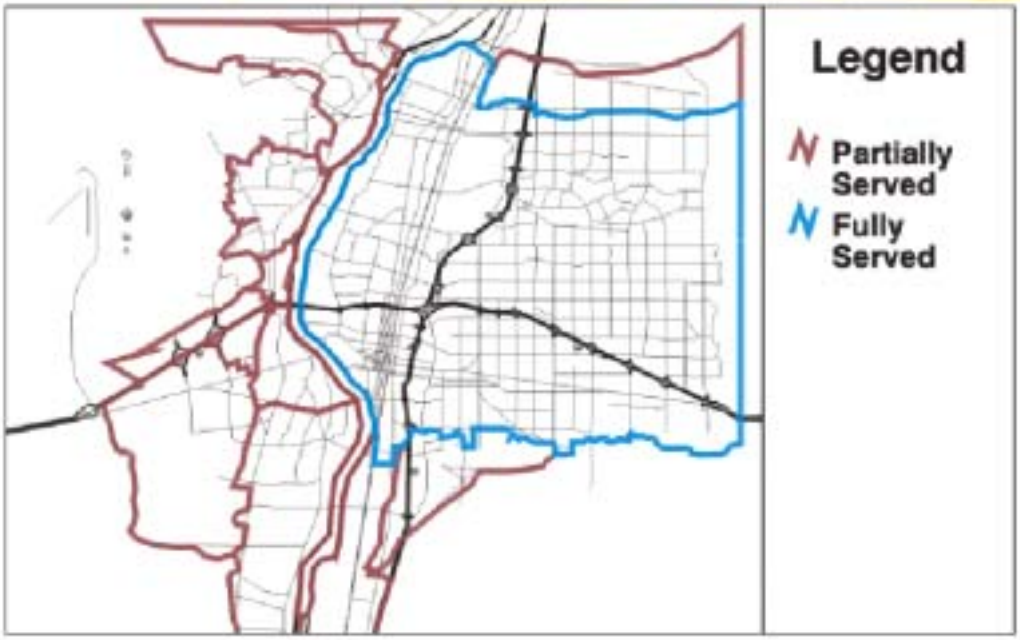
Water Service



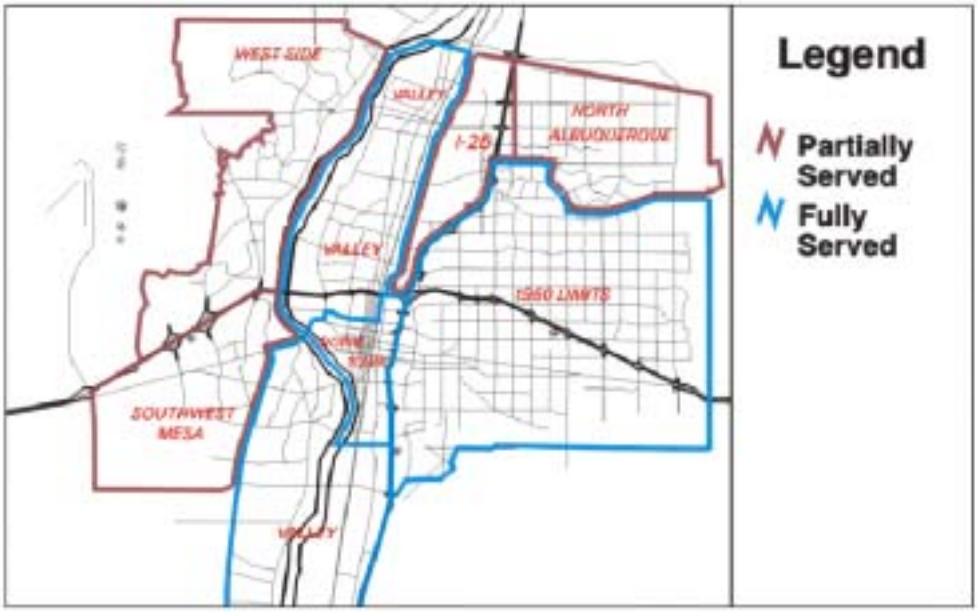
Wastewater Service



Hydrology Service



Street Traffic Sheds



Total Single Family House Water Cost by PGS Tiers

	Fully Served Areas w/ Excess Water*	Fully Served Areas with No Excess Water	Partially Served Areas	Unserved Areas
Wells		X	X	X
Water Rights		X	X	X
SCADA	X	X	X	X
Reservoirs				X
Pump Stations				X
Transmission Pipelines				X
Master Plan Distribution Lines (10"-16")			X	X
Distribution Lines in Street (6"-8")			X	X
Service Connections	X **	X **	X **	X

*** Montgomery, Freeway, and Ridgecrest Trunks in which there is excess water capacity**

**** Many parcels have existing service connections**

Total Single Family House Wastewater Cost by PGS Tiers

	Fully Served Areas	Partially Served Areas	Unserved Areas
Master Plan Sewer Lines			x
Small Collection Lines		x	x
Lift Station & Odor Control			x
Treatment Plant	x	x	x
Service Lines	x*	x*	x

* Many parcels have existing service connections

Under level of service/Concurrency it is possible to allocate excess treatment plant capacity to targeted areas

Classes of Impact Fee Facilities

- **Local Serving**, e.g., Police Station
- **Area Serving**, e.g., APD Central Office, Communications, etc.
- **Infrastructure Specific**, e.g., Collector Street, Water Distribution Line, etc.

Impact Fees Charges Based on Service Tiers

- Most all capital facilities have Local Service areas:
  - Water – pressure zones
  - Wastewater – basins
  - Streets – neighborhood streets
  - Parks – neighborhood parks and community parks
  - Hydrology – basins
  - Fire/EMS – stations
  - Police – area commands and minisubstations
  - Libraries – branch libraries
  - Community Centers – service areas

Development Impact Fees

- Development impact fees are linked with the Preferred Alternative via the Capital Improvements Program. The CIP program identifies which projects will be built, where, when, and at what cost.
- CIP program establishes Local Serving Infrastructure Costs.
- Population and employment allocations in the Preferred Alternative become the Development Impact Fee Statute's "Land Use Assumptions."

Development Agreements

What Are Development Agreements?

- Development Agreements are regulatory agreements freely entered into between governments and developers.
- The contracts are used to establish what infrastructure and other capital facilities will be built, when they will be built, the cost, and payment and repayment provisions.

Development Agreements

Are Development Agreements New in Albuquerque?

- No. Development Agreements are used to carry out the terms of the Line Extension Policy for water and sewer service.

Development Agreements

How Will Development Agreements Be Used in the Growth Strategy?

- *In the Fully Served Areas,* no Level of Service standards / Concurrency review.
- *In the Partially Served Areas*, a Level of Service Standards / Concurrency review is made for water, sewer, streets, hydrology, parks, and schools.
  - If review indicates that the capacity for a particular service is not available or will not be available through the Capital Plan, the developer pays the cost of the improvements needed to create the infrastructure capacity to serve the development. Developer is reimbursed on a net cost basis.
- *In the Unserved Areas*, a Development Agreement is needed for all developments.

Development Incentives & Inducements

Adjustment to Impact Fees Based on Infrastructure Use & Desired Outcomes. For example:

- Reduce hydrology impact fees for functional landscaping, open drainage swales, reduced imperviousness, microstorage, etc.
- Reduced transportation impact fees for business parks with integrated bike and walking trails and transit facilities.
- Reduced transportation charges for employment centers located within three miles of areas with a jobs-housing imbalance.

Development Incentives & Inducements

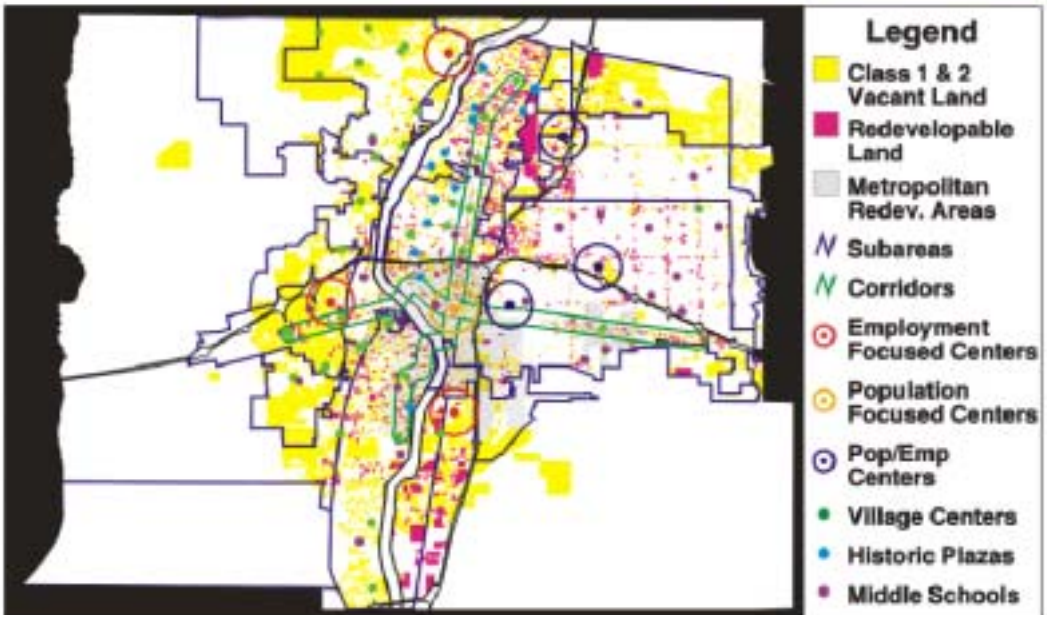
Adjustment to Impact Fees Based on Infrastructure Use & Desired Outcomes. For example:

- Reduced transportation charges for suburban communities with mixed use centers including retail, services, higher density housing, and public spaces and services
- Reduced transportation charges for higher Floor Area Ratio in plan approved locations.
- Reduced transportation charges with Transportation Management Organization and employee transit allowance linked to paid parking.
- Reduce water and wastewater impact fee for affordable housing with on smaller lots and fewer fixtures.

Development Incentives & Inducements

- Impact Fee Waivers for Capital Improvements – Paid by Government in Targeted Growth Areas
  ($10 million per year paid from general fund)
  - Selected Centers
  - Selected Corridors
  - Employment Areas
  - Redevelopment Areas

Preferred Alternative
2000-2010



Preferred Alternative
2010-2025

Development Incentives & Inducements

- **Impact Fees Lower in Fully Developed Areas Based on Actual Cost to Provide Service.**

- **Deficiency Correction Projects Fully Funded & Programmed for Targeted Areas Based on Adopted Plans.**

Development Incentives & Inducements

Level of Service Standards / Concurrency Infrastructure Capacity Allocated to Targeted Areas Based on Adopted Plans

- Separate Allocations of Capacity for Residential Development and for Employment Development.
- Vary Service Standard by Location Consistent with Plans

Development Incentives & Inducements

- **Alternative, Simplified Development Approval Process in Targeted Areas Based on Adopted Plans.**
  - **Based on model of Master Plan for the Alvarado Transportation Center Project Area.**
- **Rehabilitation Projects Fully Funded & Programmed for Targeted Areas Based on Adopted Plans.**

Community Plans

All development incentives and inducements must be consistent with recommendations of current, approved Plans. Plans insure that community residents and other stakeholders participate and establish appropriate goals for each area of the community. For example:

- North Valley Area Plan
- West Side Strategic Plan
- Downtown 2010 Sector Development Plan
- Sandia Foothills Area Plan
- Master Plan for the Alvarado Transportation Center Project Area
- Near Heights Metropolitan Redevelopment Area Plan
- Bridge/Isleta Revitalization Plan
- Barelas Metropolitan Redevelopment Plan
- Martineztown/Santa Barbara Sector Development Plan
- Sawmill/Wells Park Sector Development Plan
- Los Duranes Sector Plan
- University Neighborhoods Sector Development Plan
- South Broadway Sector Development Plan
- Uptown Sector Development Plan
- Southwest Area Plan
- Future Plans in Community Planning Areas

Key Elements of the Development Approval Process Under PGS

- Fully Served Areas
- Partially Served Areas
- Unserved Areas

Summary of Key Elements of the Development Approvals

Under Growth Strategy

	Fully Served Areas	Partially Served Areas	Unserved Areas
Locality Specific Capital Items	None	X	
Area-Wide Capital Items	X	X	X
Off-CIP Capital Items		X Pro-Rata	X Self-Sufficiency
Implementation Approach	Impact Fees	Impact Fees & Development Agreement, if needed	Development Agreement

Assumes that present infrastructure dedication requirements apply.

9.0 City and County Financial and Planning Requirements

This chapter of the Planned Growth Strategy, Part 2 – Preferred Alternative report addresses the infrastructure requirements associated with the Preferred Alternative, the current levels of spending, and changes needed related to infrastructure financing and planning. Recommendations also are made to simplify the connection of funding sources to infrastructure needs in order to increase funding predictability and accountability. The figures reported here generally are the same as given above.[143] Because of the different purpose of this chapter, the need and spending level figures have been modified in some situations. When this occurs, the text provides the rationale. The purpose of this chapter is to provide direction for the City of Albuquerque's and the County of Bernalillo's capital programs regarding annual funding requirements for the next 10 years especially. While this chapter was authored by the Management Committee, in part it is based upon consultants' recommendations.

9.1 Discussion of City and County Infrastructure Spending

9.1.1 Annual Infrastructure Public Spending Needs

The annual City and County infrastructure public spending needs are contained in Table 55 below. Infrastructure elements covered are water, wastewater, streets, hydrology, and transit. Funding needs are identified separately for rehabilitation, correction of deficiencies, and growth. This table combines the expenditure requirements for City and County governments and for the Albuquerque Metropolitan Arroyo Flood Control Authority (AMAFCA). Omitted are the requirements of the State of New Mexico Highway Department related to roadways and of New Mexico Utilities, Inc. All figures in chapter tables are in millions of dollars.

This table indicates a total annual infrastructure spending requirement of $110.2 million for the City, County, and AMAFCA combined. The infrastructure category with the highest level of need is streets ($46.84 million), followed by water ($24.11 million). The percentage distribution of annual need by category is: rehabilitation – 61%; deficiency – 17%; and growth – 23%. What can be considered an infrastructure backlog in the rehabilitation and deficiency categories accounts for 78% of the annual spending need.

Several assumptions have been made in this table that bear attention. These figures result from the Downtown Scenario in the Planned Growth Strategy, Part 1 – Findings Report. This scenario was found to be the least expensive to serve with infrastructure. If the current trend (Trend Scenario) continues, however, the average required spending levels to support growth would increase. In addition, the New Mexico State Highway Department builds a number of street projects in the county. The

Table 55 Annual City and County Infrastructure Public Expenditure Needs (in millions)

	Water	Sewer	Streets	Hydrology	Transit	Total
Rehabilitation	$19.50	$13.90	$32.10	$1.40	na	$66.90
Deficiency	$0.00	$0.00	$10.40	$7.73	na	$18.13
Growth	$4.61	$1.20	$4.34	$5.05	$9.98	$25.18
Total	**$24.11**	**$15.10**	**$46.84**	**$14.18**	**$9.98**	**$110.21**

table assumes that the New Mexico State Highway Department plans are consistent with the Preferred Alternative. However, New Mexico State Highway Department projects are often incompatible with City and County priorities. These projects could seriously distort the Planned Growth Strategy Preferred Alternative and require additional City and County funds to be spent on growth-related projects.

The San Juan-Chama water sustainability project costs have been taken out of this table. This was done because, while rate revenues are being collected for this project, major expenditures have not been made in past years. Therefore, inclusion of this project would distort the picture related to water needs and spending. In addition, water rights acquisition costs were removed from the table. The utility has sufficient water rights, on the assumption that the State Engineer recognizes all claimed rights, to support growth to about 2030–2040, beyond the forecast period of this study. This situation is discussed in the final section of this chapter and is based on the current water utility master plan.

The cost of the next major expansion of the wastewater treatment facility also has been removed. The current treatment plant has sufficient capacity to support growth until at least 2010. Additional water conservation will extend this period further. Therefore, inclusion of this project would distort the need/spending picture in this area. Wastewater deficiencies were zeroed out. These deficiencies are identified as the "parallel line" costs in the Planned Growth Strategy, Part 1 – Findings Report.[144] Since wastewater lines require significant rehabilitation and the additional cost of adding capacity while lines are being rehabilitated is very small, the wastewater deficiency costs were eliminated as a needed additional expense. Water and wastewater Utility Expansion Charges have been added back into the calculation of expenditure needs. This approach was taken to balance the spending levels discussed in the next section that include spending based on Utility Expansion Charge revenues.

The street spending levels are for the first 10 years of the Planned Growth Strategy projection period. Street rehabilitation needs are on a higher level for the first 10 years due to the large backlog of these projects. This issue is discussed in "Infrastructure Needs and Levels of Spending" in Section 1.3.5.

Importantly, the Planned Growth Strategy approach assumes that all deficiency needs will be assumed by the public sector.[145] As a result, assumed public street deficiency needs increase from $5.9 million to $10.4 million per year. Hydrology deficiency needs, also based on the considerations discussed below, increase from $5.8 million to $7.7 million per year.

Hydrology deficiency needs were adjusted by taking into account the special nature of this situation. Some storm drainage infrastructure deficiencies have immediate consequences in terms of public and private flooding. Other deficiencies are of a statistical nature related to the computer modeling of storm flows. The purpose of this chapter is to identify the ongoing spending requirements for hydrology. Public Works Department staff have given each hydrology project a rating in terms of potential flood damages—ranking them into A, B, C, and D categories. It has been assumed that a regular correction program should be put in place for the highest two deficiency categories—A and B. Of total hydrology projects, projects in these categories represent 46.3% of the total requirement.[146] This percentage was applied against the total deficiency need to generate an annual figure of $6.7 million. An additional $1 million per year was assumed to be needed to correct hydrology deficiency projects on a case-by-case basis. This is consistent with the "Infill/Community Vitality" set-aside policy that the City Council adopted in Bill No. F/S R-37 (Enactment No. 118-2000) for the 2001 Capital Improvements Program. Transit rehabilitation and deficiency needs were not identified in the Part 1 – Findings Report.

9.1.2 Annual Infrastructure Public Spending Levels

Table 56 contains the annual average spending levels for the City, County, and AMAFCA for the different types of infrastructure and categories of spending (rehabilitation, deficiency, and growth). These figures were based on information provided by City and County staff responsible for these projects.

Related assumptions were made for this table as for Table 55, i.e., no current expenditures for the San Juan-Chama water project or the wastewater treatment plant expansion, water and sewer Utility Expansion Charge revenues are included in the expenditures, and so on.

Of course, these figures take on importance by comparing them to the levels of needs. This is addressed in the next section.

Table 56 Annual Average City, County, and AMAFCA Infrastructure Public Expenditure Levels (in millions)

	Water	Sewer	Streets	Hydrology	Transit	Total
Rehabilitation	$9.10	$7.20	$28.30	$1.90	na	$46.50
Deficiency	$0.50	$0.50	$15.40	$8.20	na	$24.60
Growth	$3.25	$1.77	$6.75	$2.97	$0.00	$14.74
Total	**$12.85**	**$9.47**	**$50.45**	**$13.07**	**$0.00**	**$85.84**

9.1.3 Estimated Annual Infrastructure Overspending and Underspending, City, County and AMAFCA

By comparing the annual public infrastructure spending needs with the average expenditure levels, it is possible to draw some conclusions about overspending and underspending. As above, these totals are for the City, County, and AMAFCA combined. In order to make a recommendation regarding future City and County spending, it is necessary to break down these figures further. In addition, these totals are summary in nature and should be considered in terms of the discussion below.

In Table 57, positive figures represent suggested additional spending and negative figures are possible overexpenditures in terms of the Planned Growth Strategy assumptions made to this point. Additional discussion is needed before drawing the conclusion that spending levels can be reduced in some areas.

The following points summarize this table.

- The total annual net underfunding is estimated as $24.37 million dollars, or about 22% of the total requirement. This figure rises to $30.9 million per year if one assumes that deficiency projects are not overfunded.

Table 57 Estimated Annual Additional Spending Requirements, City, County, and AMAFCA Combined (in millions)

	Water	Sewer	Streets	Hydrology	Transit	Total
Rehabilitation	$10.40	$6.70	$3.80	–$0.50	na	$20.40
Deficiency	–$0.50	–$0.50	–$5.00	–$0.47	na	–$6.47
Growth	$1.36	–$0.57	–$2.41	$2.08	$9.98	$10.44
Total	**$11.26**	**$5.63**	**–$3.61**	**$1.11**	**$9.98**	**$24.37**

- Transit growth-related projects are underfunded by over $9 million per year. This represents the static nature of the bus system in relation to the Planned Growth Strategy goal of enhancing the system. As indicated in Table 56, there has been no expansion of the bus fleet in the recent past. It bears noting that expanding transit will have significant impacts on the City and County General Fund operating expenditures in contrast to the other infrastructure types.
- Underfunding is greatest in the rehabilitation category, $20.4 million annually, and especially for water and sewer facilities.
- Roadway expenditures appear to indicate that deficiency correction projects are overfunded by $5 million per year. This interesting situation is discussed further below.
- While street rehabilitation needs and spending appear to be generally in line, it should be borne in mind that this is based primarily on City staff assumptions regarding the extent of need. There are some indications that these assumptions should be verified further. The figures take on additional meaning when they are viewed in terms of the City and County governments separately. These topics are discussed further below.

9.1.4 Estimated Annual Infrastructure Overspending and Underspending, City and County Separately

A somewhat different perspective appears when the City and County are considered separately with regard to the annual levels of spending in relation to the norms established in the Planned Growth Strategy. Tables 58 and 59 below identify these tentatively accepted spending adjustments called for in the City and the County budgets.

Tables 58 and 59 are summarized in the points below.

- The City appears to be spending $8.5 million more per year to correct deficiencies in the street system than the norm suggests. The City also appears to be spending $2 million less per year for growth-related projects than is needed. This reinforces the proposition suggested above

Table 58 Annual Additional Spending Requirements, City Only (in millions)

	Water	Sewer	Streets	Hydrology	Transit	Total
Rehabilitation	$10.40	$6.70	$0.06	na	na	$17.16
Deficiency	–$0.50	–$0.50	–$8.49	na	na	–$9.49
Growth	$1.36	–$0.57	$2.01	na	$9.98	$12.78
Total	**$11.26**	**$5.63**	**–$6.42**	**na**	**$9.98**	**$20.45**

Table 59 Annual Additional Spending Requirements, County Only (in millions)

	Water	Sewer	Streets	Hydrology	Transit	Total
Rehabilitation	na	na	$3.78	na	na	$3.78
Deficiency	na	na	$3.54	na	na	$3.54
Growth	na	na	–$4.42	na	na	–$4.42
Total	**na**	**na**	**$2.90**	**na**	**na**	**$2.90**

that the City is in a catch-up mode with roadway infrastructure. Insufficient funding appears to be provided for growth, resulting in the more than $460 million dollar backlog in deficiency projects. In turn, this leads to higher levels of spending to address the problem of resulting street congestion. It can not be automatically concluded that the level of spending for deficiency projects is inappropriately high. It is suggested that roadway spending for growth be increased from $1.8 million per year to $3.8 million. This is consistent with the need to provide sufficient infrastructure in a timely way to implement the Planned Growth Strategy Preferred Alternative.

- In contrast to the City's situation, the County of Bernalillo appears to be spending $4.4 million more per year to support growth than may be needed. The Planned Growth Strategy Downtown Scenario only requires an average County growth expenditure of $580,000. Average recent spending has been estimated as $5 million per year. This suggests that the County has been more assertive in using growth-related street infrastructure to direct the location of urban growth. (As discussed above, when the City and County needs and spending are combined, it appears that $2.4 million more is being spent on growth-related projects than the norm suggests.) This situation is an indication of the need for joint street (and other) infrastructure planning and project development based on a common Preferred Alternative for urban growth.
- City street rehabilitation needs appear to be fully funded according to the assumptions made, while Planned Growth Strategy figures suggest that the County needs to increase street rehabilitation funding by $3.8 million per year. There is a question regarding the level of City street rehabilitation spending needed. In the "Infrastructure Needs and Levels of Spending" in Section 1.3.5, it was pointed out that from 1995–1999, the City Public Works Department lowered the percent of streets in poor and very poor condition from 60% to 25%. The Planned Growth Strategy suggests that the street condition inventory be independently evaluated before drawing the conclusion that sufficient funds are being provided to cover this important need.
- These figures suggest that County spending to correct roadway deficiencies should be increased by $3.5 million per year.
- The figures for City water, sewer, and transit expenditures have not changed from the combined City and County totals because the City is responsible for these infrastructure elements.
- It was not possible to separate out the hydrology funding requirements for the City, County, and AMAFCA. However, storm water infrastructure spending was broken down by City, County, and AMAFCA.

Table 60 contains the annual average spending for hydrology projects by the City, County, and AMAFCA, subdivided by category of expenditure.

Table 60 Average Annual Hydrology Expenditures by Agency (in millions)

	Rehabilitation	Deficiency	Growth	Total
City	$1.19	$5.72	$1.44	$8.35
County	$0.00	$1.00	$0.00	$1.00
AMAFCA	$0.75	$1.49	$1.53	$3.77
Total	**$1.94**	**$8.21**	**$2.97**	**$13.12**

The following conclusions can be drawn from these data.

- In total, the City of Albuquerque spends more than 2.2 times as much on hydrology infrastructure as AMAFCA ($8.35 million compared to $3.77 million).
- However, AMAFCA spends more for growth-related infrastructure than does the City ($1.53 million versus $1.44 million). As in the situation with streets, the City finds itself in a catch-up situation—with nearly 69% of its total hydrology spending going for deficiency projects. This appears to result in the City being reactive to growth projects that are supported, in part, by AMAFCA constructed projects.
- As suggested above, the City, County, and AMAFCA should have a common program for supporting urban growth based on the Preferred Alternative. In this context, it appears than an additional $2 million per year is needed to support all growth-related hydrology needs.

9.2 Capital Program Recommendations

The following recommendations are made for the City, County, AMAFCA, and New Mexico State Highway Department capital programs.

9.2.1 Related to Expenditure Levels

- Water and sewer rehabilitation expenditures should be increased by $17.1 million per year—an additional $10.4 million for water rehabilitation and an $6.7 million for wastewater rehabilitation. Total utility rehabilitation expenditures should be $33.4 million per year. The adopted financial policy for the utility currently calls for $22 million per year to be spent for this purpose and sufficient rate revenues have been allocated toward this end. Therefore, it is necessary to raise revenues to support an additional $11.4 million per year for rehabilitation.
- Water growth-related expenditures should increase by approximately $1.4 million per year.
- The City's street rehabilitation needs should be independently evaluated to confirm whether an average expenditure level of $21.4 million is adequate or whether additional funds are needed. If additional funds are needed they should be obtained by prioritizing this need in the City's regular General Obligation bond program without a tax increase.
- Total City street deficiency projects appear to be funded at $8.5 million more per year than the norm established by Planned Growth Strategy, or 220% higher. The City should evaluate these projects to determine whether their classification as deficiency projects is accurate. Deficiencies in these systems should be addressed in a timely way and if funds are available, correcting these deficiencies is a desirable public purpose.
- The City should increase its growth-related spending for streets by a minimum of $2 million per year. The spending norm for the county was established based on the financially constrained Middle Rio Grande Conservancy District (MRGCD) Metropolitan Transportation Plan. As noted above, based on Metropolitan Transportation Plan spending levels, the lane miles of congested streets would increase from 317 miles in 1995 to over 1,100 miles in 2020. An adjustment upwards in roadway and linked transit spending seems likely. This situation also should be evaluated further.
- Subsequent to further analysis and the integration of City and County transportation planning and project development, the County might decrease its growth-related spending for streets by $4.4 million per year. The Planned Growth Strategy analysis also indicates that the County should increase annual spending for rehabilitation by $3.8 million and for deficiency correction by $3.5 million.

- Very substantial increases in transit system capital (on the order of $9 million per year) appear to be needed based on expanding the system. New funding sources will be needed to address this concern. Expansion of the bus fleet will have significant operating cost impacts that are funded by General Fund sources.
- The City, County, and AMAFCA should increase their growth-related spending for hydrology by $2.1 million per year based on integrating City, County, and AMAFCA programs guided by the Planned Growth Strategy Preferred Alternative.

9.2.2 Related to Capital Programs

These recommendations are of a policy nature and will need to be refined in the actual implementation of the Planned Growth Strategy.

- Funding sources should be directly linked to expenditure categories through the adoption of legal requirements. This action will assure adequate funding for infrastructure needs, funding reliability, and accountability.
- The City's General Obligation Bond program should be devoted entirely to infrastructure, capital facility, and vehicle and equipment rehabilitation and replacement.
- Growth-related expenditures should be funded exclusively from Impact Fees; federal, state, and private grants; exactions; and reimbursed waivers based on adopted plans. The public funding needs identified in this study assume continuation of the current practices of the private sector paying a set portion of infrastructure costs to support growth, such as water and sewer service lines, local streets and hydrology within subdivisions, portions of arterials and collectors. If private payments are reduced, the cost basis of Impact Fees would increase.
- Development Impact Fees should be set initially at just under 100% of the marginal cost of growth as defined in this report after adjusting for realistic levels of grant funding. As discussed below, waivers of Impact Fees should be provided when development supports the objectives of the Planned Growth Strategy Preferred Alternative as contained in adopted Area, Corridor, Sector, and Redevelopment Plans. Establishment of Impact Fees at the actual marginal cost of growth will increase the effectiveness of fee waivers based on adopted plans.
- Phased over time, the City should transfer $10 million per year from the General Fund to achieve the objectives of the Planned Growth Strategy Preferred Alternative as expressed within adopted Area Plans, Sector Plans, Redevelopment Plans, and Corridors Plans. These monies may be used to pay for development Impact Fees (including water and wastewater Impact Fees) of projects that meet the objectives of these adopted plans. This level of funding will represent a significant portion of all Impact Fees owed if projects are compatible with public-approved plans. Tax Increment Financing districts should be established in redevelopment areas to increase the funds available to implement Planned Growth Strategy objectives in these neighborhoods.
- The public sector should assume the current burden of deficiency corrections projects. The private sector would be assessed for these projects only if desired development precedes the City's and County's capital programs. Adequately funding growth-related-projects will reduce (but not eliminate) deficiency projects over time. Deficiency correction projects should be financed by the Transportation Infrastructure Tax (Gross Receipts), federal and state grants, and exactions. (It is possible that some adjustment to the Transportation Infrastructure Tax may be needed to shift additional funding from rehabilitation to deficiency projects based on implementing

the recommendation that the General Obligation Bond program be devoted entirely to rehabilitation and replacement.)

- Growth projects for Community Centers, Senior Centers, and Multi-Service Centers; transit; and schools should be funded by Impact Fees; federal, state and private grants; exactions; and reimbursed waivers based on adopted policies. The Development Impact Fee Statute should be amended to include these facilities.
- Special "Quality of Life" projects, such as the baseball stadium and sports arena, should be funded by grants and dedicated new taxes subject to voter approval. This approach was taken initially with the Explora Science Center, Balloon Museum, and Aquarium.
- The City, County, and AMAFCA should integrate their infrastructure construction programs based on the Planned Growth Strategy Preferred Alternative.
- The State Highway Department's capital plan should be consistent with the Planned Growth Strategy Preferred Alternative.

9.2.3 Financing Capital Needs

Two significant funding challenges identified here are related to additional water and sewer rehabilitation needs totaling $11.4 million annually and transit expansion totaling more than $9 million annually in capital costs and a minimum of an additional $10 million per year in operating costs (which may be as high as twice this amount if one includes paratransit service and assumes lower fare box revenues). The following suggestions are made for addressing these and other less significant funding requirements.

- The cash requirements for water and wastewater system rehabilitation, based on spending $11.4 million more per year, will ramp up over time under the utility's financial policy of 50% cash and 50% debt financing. For the first 10 years, this cash requirement has been estimated by the utility to average $9 million dollars annually. The Impact Fee approaches suggested in the Planned Growth Strategy may net a 50% increase in water and wastewater development fee revenues, or about $4 million per year. It should be noted that these revenues include water and sewer Impact Fees paid by the General Fund for development that meets policy objectives. In addition, the cash requirements of the utility's ammonia treatment facility will decline by approximately $3.5 million per year as bonds are retired in about two years. These additional funds should be specified as a funding source for the utility's existing Water and Sewer Rehabilitation Fund. (Rates sufficient to cover a total annual rehabilitation need of $33.2 million should be dedicated to the Water and Sewer Rehabilitation Fund.) These two methods would yield about $7.5 million per year. The additional $1.5 million (less than 1.5% of utility revenues) probably can be obtained through normal financial management. No rate increase is proposed at this time until these other methods are put in place and evaluated. A small rate increase might be needed afterward to address any rehabilitation funding shortfall found.
- Significant capital and operating increases would be required to expand the transit system. As has been discussed above, the Planned Growth Strategy supports linking transportation capacity sources to include both buses and streets.[147] Transit should become eligible to receive development Impact Fees and exactions. Federal Transit Authority grants, new state grants, Impact Fees, and exactions should be used to expand the bus fleet. The operating cost impact has been estimated to be in the $10 to $20 million dollar range annually. Shifting growth-related infrastructure costs and special Quality of Life projects to grants, Impact Fees, exactions, and special voter-approved taxes should

off-load existing funding sources especially the General Obligation program. Planned Growth Strategy supports dedicating the entire General Obligation program to facility, vehicle and equipment rehabilitation and replacement. It is believed that these recommendations may free funding capacity, now at $65 million per year within the General Obligation program, by approximately $10 million per year. Because this program is bond financed, reducing total expenditures will produce cash savings that increase over time. An analysis conducted by the City Treasurer's office indicated that reducing the General Obligation Program from $65 million to $55 million per year would generate an average cash savings of $10.5 million dollars per year—starting at $4.4 million in the first year. If an overall examination of Citywide rehabilitation needs determines that the General Obligation program can be reduced, property tax revenue now flowing to the General Obligation Bond debt service fund should be shifted to increase transit operating revenues. Furthermore, if the independent review of street rehabilitation needs concurs with staff estimates, it may be possible to fund a significant portion of this operating cost increase by the extension of the Transportation Infrastructure Tax beyond 2010 with a much higher percentage of the revenue stream flowing to transit. Such an extension of the Infrastructure Tax should be subject to voter approval. These two revenue sources may be sufficient to cover expanded transit operating costs from 2000–2025 without an increase in current tax levels.

- Other small increases in spending for growth-related streets and hydrology projects, based on currently estimated needs, can be funded through reasonable Impact Fees.

Special consideration should be given to acquiring additional water rights over time. As noted above, the Planned Growth Strategy assumed that over $3 million per year should be spent to acquire water rights. These costs have escalated significantly in the past two years. Since there appear to be sufficient rights to support urban growth until about 2030–2040 based on the current water utility master plan, these costs were not incorporated into the Planned Growth Strategy need figures. Although this issue is beyond the scope of the Planned Growth Strategy, it is reasonable for the community to aggressively acquire water rights to support growth beyond 2030. The cost of water rights is not currently included in development Impact Fees. In the future, new development might be asked to provide a renewable water supply and water rights or, otherwise, pay an Impact Fee for the utility to acquire water rights. In addition, the community should consider increasing its conservation objective from 30% to 40% or about 150 gallons per person per day. The outcome of this effort would allow existing water rights to support a larger population and employment base and would lower the per capita costs of water rights.

Notes
Section 2

1. See Chapter 2.
2. As is discussed later in this chapter, the categories of land use approvals subject to the system, as well as the consequences of not meeting the level of service standard, are major policy decisions for the community. This chapter is not intended to suggest that an outright moratorium be imposed where a level of service standard is not met. However, increases in density and the staging of development, can be tied to the level of service without resorting to a moratorium.
3. New Mexico Statutes Annotated (NMSA) § 3-7-15.
4. An Adequate Public Facilities Ordinance is often referred to as a "concurrency" regulation. Both terms are used interchangeably in this chapter.
5. Concurrency is also identified as a follow-up issue in the West Side Strategic Plan (March 17,1997), pp. 230-231.
6. See, e.g., Policies II.B.2.a.4 (phase Planned Communities in Reserve Area with respect to Capital Improvements Program), II.B.4.a.7 & b.3 (use Capital Improvements Program to implement development objectives and guide development through facilities plans in Semi-Urban Area); II.D.1.d (review zoning requests for compliance with "service level performance standards"), II.D.4.c.2 (amend land development regulations to provide "service levels and performance standards for streets and intersections").
7. Chapter 23, § 8 of the Development Process Manual requires Traffic Impact Studies and establishes a uniform level of service for signalized and nonsignalized roads. While developers are required to provide information relating to site phasing, the timing and sequencing of development consistent with facility capacity is not required. Instead, the requirement relates to off-site roadway requirements and traffic signalization. The Development Process Manual Chapters relating to Drainage (22), Wastewater (24), and Water (25) contain good information for determining a level of service but do not require the timing and sequencing of development.
8. Florida Administrative Code § 9J-5.003(45).
9. The ensuing discussion is drawn from Section 1.2.2 Urban Development Paradigm Shift.
10. See, e.g., NMSA §§ 72-5-1 (permit from state engineer required for appropriation of surface waters); 72-5A-4 (permit required for governmental agency to use groundwater resources); 72-12-1 (permit for use of underground waters).
11. *Cherokee Water & Sanitation District v. El Paso County*, 770 P.2d 1339 (Colo. App. 1988). This case is cited only as an example of how standards can be measured and does not imply that the standard is appropriate for Albuquerque.
12. Currently, neither City nor County impact fees (Utility Extension Charges) charge for the water resource consumed by the development.
13. Institute of Transportation Engineers, *Highway Capacity Manual*, Special Report No. 209, 1985.
14. See discussion of tier systems in Section 5.4.3.
15. City of Austin, About the Smart Growth Criteria Matrix, http://www.ci. austin.tx.us/smartgrowth/smartmatrix, 2000.
16. *Golden v. Planning Board of the Town of Ramapo*, 30 N.Y.2d 359, 334 N.Y.S.2d 138, 285 N.E.2d 291, *app. diss'd*, 409 U.S. 1003 (1972).
17. Florida Statutes § 163.3180 (7).
18. Florida Department of Transportation, "Making Transportation Concurrency Work," *Community Planning* vol. 9, no. 1 (Winter 2000).
19. Florida Statutes § 163.3180 (5)(a).
20. The legislation also permits development within these areas which pose only special part-time demands on the transportation system to be exempt from the Adequate Public Facilities Ordinance for transportation facilities. A special part-time demand is defined as one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.
21. These concepts will be addressed in Chapters 7 and 11 of the Planned Growth Strategy, Part 2 – Preferred Alternative.
22. See NMSA §§ 3-7-5 through 3-7-10.

23. See NMSA §§ 3-7-11 through 3-7-16.

24. See NMSA §§ 3-7-17 and 3-7-17.1.

25. See NMSA § 3-57-1 et seq.

26. NMSA § 3-57-1 et seq.

27. There has been at least one recent annexation of territory outside a conservancy district that was approved by the municipal boundary commission method of NMSA § 3-7-11 et seq. *In re Application by the West Tijeras Canyon Ltd. Co.*, No. 99-03 (Municipal Boundary Commission, Jan. 14, 2000). The approval of this annexation was appealed to the State Second Judicial District Court by the City of Albuquerque and other interested parties, and was overturned by court order entered January 8, 2001. This case is on appeal.

28. Development Process Manual, Volume 1, Chapter 10, Section 1.

29. City Code § 14-16-4-1. County Code Appendix A, Section 25.

30. City Code § 14-16-4-3, County, Extra-Territorial Zoning Ordinance, Section 20.5.

31. City Code § 14-16-4-2, County Code Appendix A, Sections 5, 23, 24.

32. City Code § 14-14-3-3, County Code Section 74-21 et seq.

33. City Code § 14-14-3-4, County Code Section 74-31 et seq.

34. City Code § 14-14-3-5, County Code Section 74-41 et seq.

35. NMSA § 3-19-6.

36. Andres Duany, posting to Practice of New Urbanism list serve <PRO-URB@LISTSERV.UGA.ED> dated October 8, 1999).

37. The concept of low-impact development is a comprehensive technology-based approach to managing urban storm water. See United States Environmental Protection Agency, Low-Impact Development Design Strategies: An Integrated Design Approach (January 2000), and the United States United States Environmental Protection Agency, Low-Impact Hydrologic Analysis (January 2000). Hydrologic functions such as infiltration, frequency and volume of discharges, and groundwater recharge can be maintained with the use of reduced impervious surfaces, functional grading, open channel sections, disconnection of hydrologic flowpaths, and the use of bioretention/filtration landscape areas. Low-impact development also incorporates multifunctional site design elements into the storm water management plan. Such alternative storm water management practices as on-lot microstorage, functional landscaping, open drainage swales, reduced imperviousness, flatter grades, increased runoff travel time, and depression storage can be integrated into a multifunctional site design.

38. R. Cervero, *Suburban Gridlock*, Rutgers, 1986, p. 37.

39. Cervero, *Suburban Gridlock*, pp. 64-65.

40. Cervero, *Suburban Gridlock*, p. 116

41. Cervero, *Suburban Gridlock*, p. 206.

42. R. Cervero, *America's Suburban Centers: The Land-Use Transportation Link*, prepared for Office of Policy and Budget, Urban Mass Transportation Administration, U.S. Department of Transportation and Rice Center, Joint Center for Urban Mobility Research, 1988, p. 64.

43. Cervero, *America's Suburban Centers*, pp. 64–65. For a detailed discussion of design amenities, see Moudon & Hess, et al., *Effects of Site Design on Pedestrian Travel in Mixed-Use, Medium-Density Environments*, May 1997, Report No. WA-RD 432.1; *Pedestrian Facilities Guidebook: Incorporating Pedestrians Into Washington's Transportation System*, September 1997. The seminal works on pedestrian site design are Richard K. Untermann, *Accommodating the Pedestrian: Adapting Towns and Neighborhoods for Walking and Bicycling*, Van Nostrand Reinhold, 1984 and D. Appleyard, *Liveable Streets*, University of California Press, 1981; see also S. Breines & W. Dean, *The Pedestrian Revolution: Streets without Cars*, Vintage Books, 1974; A. Moudon, *Public Streets for Public Use*, Columbia University Press, 1987; B. Rudofsky, *Streets for People: A Primer for Americans*, Anchor Press/ Doubleday, 1969.

44. See Reid Ewing, *Pedestrian & Transit-Friendly Design*, Public Transit Office, Florida Department of Transportation, March 1996.

45. Susan Handy, *Urban Form and Pedestrian Choices: A Study of Austin Neighborhoods*, Community and Regional Planning Program, School of Architecture, University of Texas at Austin, April 1996.

46. 1000 Friends of Oregon, *Making Land Use Transportation Air Quality Connections, The Pedestrian Environment*, Vol. 4A (Dec. 1993) (at www.bts.gov/ntl/docs/tped.html).

47. Susan Handy, "Understanding the Link Between Urban Form and Nonwork Travel Behavior," *J. Planning Education & Research* 15: 183–198, 1996.

48. See Randall Crane, "Cars and Drivers in the New Suburbs: Linking Access to Travel in Neotraditional Planning," *APA Journal* 51:62, Winter 1996 (summarizing studies).

49. R. Cervero, "Land-Use Mixing and Suburban Mobility," *Transportation Quarterly* (citing Colorado/Wyoming Chapter Technical Committee, "Trip Generation for Mixed Use Developments"), ITE Journal 57(2): 27-32, 1987.

50. American Society of Civil Engineers, *Traditional Neighborhood Development—Will the Traffic Work?* ASCE 1990. (summarized in Book-out, "Neotraditional Town Planning: Cars, Pedestrians & Transit," *Urban Land*, p. 10, p. 15, February 1992.)

51. Crane, p. 62.

52. Handy, "Understanding the Link," p. 183–198; Friedman, Gordon & Peers, "Effect of Neotraditional Neighborhood Design on Travel Characteristics," *Transportation Research Record* 1466: 63–70, 1993; John Holtzclaw, *Explaining Urban Density and Transit Impacts on Auto Use*, Natural Resources Defense Council, January 15, 1991, in California Energy Commission Docket No. 89-CR-90; Kitamura, Ryuichi, Mokh-tarian & Laidet, *A Micro-Analysis of Land Use and Travel in Five Neighborhoods in the San Francisco Bay Area*, Institute of Transportation Studies, University of California at Davis, November 1994.

53. City of Albuquerque Planning Department, *How to Create Village and Community Centers on Albuquerque's West Side*, Draft, Feb. 1999.

54. City of Albuquerque Planning Department, *Design Standards and Guidelines for Downtown Central Avenue*, Dec. 1992.

55. This assumes that the methodology for testing trip generation in these areas does not take into consideration the availability of transit and alternative transportation modes.

56. City Code § 2-12-1.

57. City Code § 2-12-3.

58. City Code § 2-12-4.

59. County Code Section 2-271 et seq.

60. Bill No. R-390, Enactment No. 20-1984.

61. See Line Extension Policies 14.B, 14.C (expansion in designated areas outside of the city limits permitted "within the capacity of the system").

62. Line Extension Policies 8, 10.

63. This statement does not imply that a reduction in water demand level of service should be omitted from a concurrency management system.

64. Private systems are already subject to the City/County Comprehensive Plan. See Line Extension Policy 6.E.

65. Unlike the sewer criteria, the water criteria do not establish a demand per unit of development. This should be specified in the Development Process Manual or Adequate Public Facilities Ordinance if not already specified in the City' subdivision regulations.

66. City Code § 14-14-2-3.

67. City Code § 14-14-4-13.

68. City Code § 14-14-3-4.

69. County Code § 74-1 et seq.

70. Information pertaining to terrain management (storm water protection), recreational facilities, public schools, and public transportation is only required for subdivisions exceeding 100 lots.

71. City Code § 14-14-5-3, County Code Section 74-71, 72, 73.

72. 845 P.2d at 798.

73. 845 P.2d at 797.

74. NMSA § 5-8-7.

75. See NMSA § 5-8-16.

76. The term "no net expense" is not defined by the City but will be characterized later.

77. *Hollywood, Inc. v. Broward County*, 431 SE 2nd 606 (Fla. 4th DCA).

78. Revenue credit occurs when new development adds to a tax or rate base, such as the ad valorem base that, when taxed or assessed rates, generates revenue that is used in part to finance the very facilities which are financed by Impact Fees. The Impact Fees and Utility Expansion Charges may need to be adjusted to offset this revenue credit. However, if there is little evidence of taxes or rates being used for growth-related purposes, the credit may be negligible or nil.

79. See especially "Fostering Community" in Section 1.3.4 Preferences for Albuquerque's Growth and Development.

80. See especially "Fostering Community" in Section 1.3.4 Preferences for Albuquerque's Growth and Development.

81. For details on level of service/concurrency linkage to development agreements, see Chapter 5.

82. See Part 1, Chapter 4, Section 4.5 Transportation System Findings.

83. Andres Duany and Elizabeth Plater-Zyberk in *Towns and Town-Making Principles*, edited by Alex Krieger with William Lennertz, New York: Rizzoli, 1992, 2nd ed., p. 96.

84. Duany and Plater-Zyberk, *Towns and Town Making Principles*, pp. 96-103 and e-mail, Andres Duany to Michael Lewyn, June 12, 2000, Kevin Kelly and Heather Tansey, *New Urbanism*, Lawrence University, Wisconsin, September 1997.

85. Raymond Unwin, *Town Planning in Practice*, 1971 ed., p. 289, p. 381, New York: Benjamin Blom.

86. Reid Ewing with Robert Hodder, *Best Development Practices: A Primer for Smart Growth*, Chicago: American Planning Association with the Urban Land Institute, n.d.

87. Duany and Plater-Zyberk, pp. 96-103.

88. It is common practice for plans to leave detailed regulatory criteria to local land development regulations.

89. West Side Strategic Plan, p. 15.

90. West Side Strategic Plan, p. 2.

91. Correspondence, Planning Department to City Council, April 30, 1998, pp. 27-28.

92. Correspondence, Planning Department to City Council, April 10, 1999.

93. Design Collaborative Southwest Architects, Westside Community Center and Village Center Design Guidelines, draft April 1, 1998.

94. Correspondence, Planning Department to City Council, April 28, 2000.

95. "Planning Practice," *Planning*, August 1997, pp. 11-13; see also Traditional Neighborhood District, Austin Texas Website, //www.ci.Austin.tx.us/development/. Based on this nonbinding approach; however, Austin's Traditional Neighborhood Development code has not been used to date.

96. Moule and Polyzoides and Dekker/Perich/Sabatini, Master Plan, Alvarado Transportation Center Project Area, Albuquerque, New Mexico, August 11, 1999.

97. Planning Department, City of Albuquerque, Downtown 2010 Sector Development Plan, May 2000.

98. See Chapter 10, Section 10.1.1 Common Growth Management Techniques.

99. Architectural Research Consultants, Guidelines for Construction, Alteration, Demolition within Historic Huning Highland, 1979.

100. See Section 1.3.4 Preferences for Albuquerque's Growth and Development.

101. City Code §§ 14-14-2-4 and Article 14, parts 4 and 5.

102. City Code § 14-16-3-11.

103. Memo from Fred J. Aquirre to Lou Colombo, re: Transportation and Drainage Development Requirements, July 19, 2000.

104. Letter from Larry Blair, Director, City Public Works Department to Juan Vigil, Bernalillo County Manager, re: Cost Elements of Water and Wastewater Utility Expansion Charges, January 18, 2000.

105. See Growth Management Analysts, Water and Wastewater Utility Expansion Charges Study, January 1996, hereinafter the "Utility Expansion Charges Study."

106. See "Albuquerque's Growth Trends" in Section 1.3.5.

107. Development Fees Act (NMSA § 5-8-2.D(1)).

108. Ariz. Rev. Stat. Ann. § 9-500.05, 48.701 et seq.; Cal. Gov't Code §§ 65864-65869.5; Colo. Rev. Stat. §§ 24-68-101 et seq.; Hawaii Rev. Stat. § 46-121 et seq.; Fla. Rev. Stat. § 163.3220 - 163.3247; Minn. Stat. Ann. § 462.358(3c); N.J. Rev. Stat. § 40.55-D et seq.; and Nev. Rev. Stat. § 278.0201 - 278.0207; *see generally* Delaney, *Development Agreements, The Road from Prohibition to "Let's Make a Deal,"* 1992 Inst. on Planning, Zoning and Eminent Domain, ch. 2, Matthew-Bender, 1992; Taub, *Development Agreements*, 42 Land Use L. and Zoning Dig. 3, Dec. 1990.

109. *Leroy Land Development Corp. v. Tahoe Regional Planning Agency*, 939 F.2d 696 (9th Cir. 1991); *Thrust IV Inc. v. Styles*, 1995 WL 251276 (N.D. Cal.) (remedy provision of development agreement limiting causes of action to mandamus and specific performance barred action for Fifth Amendment substantive due process).

110. See NMSA 3-7-17.1 ("The municipality may make agreement to annexation a condition of extending sewer and water service if the extension of the service is paid for entirely with municipal money"); Colo.Rev.Stat. § 31-12-121; Ill. Municipal Code § 11-15.1-2. Annexation agreements conditioned on rezoning have been upheld on the grounds that the annexation statute does not prohibit such agreements. *Tanner v. City of Boulder*, 405 P.2d 939 (Colo. banc 1965); *Geralnes v. City of Greenwood Village*, 583 F.Supp. 830 (D. Colo. 1984);

cf. Rooney v. City of Aurora, 534 P.2d 825 (Colo. App. 1975) (dismissal appeal of trial court action challenging contract for annexation and zoning due to lack of final, appealable judgment).

111. Curtin and Edelstein, *Development Agreement Practice in California and Other States*, in 1994 Planning and Zoning L. Handbook §§ 13.01, 13.03), the state legislature cannot authorize a local government to contract away its police powers, *Marco Development Corp. v. City of Cedar Falls*, 473 N.W.2d 41 (Ia. 1991); see also *Colowyo Coal v. City of Colorado Springs*, 879 P.2d 438, 447 (Colo. App. 1994) (reserved powers doctrine); *Sprenger, Grubb and Associates v. City of Hailey*, 127 Idaho 576, 903 P.2d 741 (1995) (finding no contractual intent to implement regulatory freeze, but suggesting in dicta that a regulatory freeze would be unenforceable).

112. *Midcities Company v. Town of Superior*, 916 P.2d 595 (Colo. App. 1995) (annexation agreements valid and enforceable); *Geralnes v. Village of Greenwood,* 583 F. Supp. 830 (D. Colo. 1984) (upholding agreement limiting power to rezone).

113. The agreement provided for approval of subdivision "superblocks."

114. *Giger v. City of Omaha*, 232 Neb. 676, 442 N.W.2d 182 (1989).

115. *Dacy*, 845 P.2d at 797, citing *County of Ada v. Walter*, 96 Idaho 630, 533 P.2d 1199, 1201 (1975), *Midtown Properties, Inc. v. Township of Madison*, 68 N.J. Super. 197, 172 A.2d 40, 45-46 (1961), *aff'd*, 78 N.J. Super. 471, 189 A.2d 226 (1963).

116. *Id.*, 845 P.2d at 797-798.

117. *Id.,* citing *City of Knoxville v. Ambrister,* 196 Tenn. 1, 263 S.W.2d 528, 530 (1953).

118. See the preannexation and development agreement with Westland Development Co. (11/4/98) and the preannexation agreement with the State of New Mexico Land Office regarding Mesa del Sol.

119. These procedures are outlined in Chapter 6 Financial Implementation of the Planned Growth Strategy Preferred Alternative.

120. See Chapter 6.

121. See Chapter 6.

122. Carmichael, "Transferable Development Rights as a Basis for Land Use Control," 2 Fla St.U.L. Rev. 35, 47-48 (1974).

123. The transfer ratio is the amount of development that can be transferred from a sending parcel divided by the amount of development that can be built on the sending parcel. For example, in Montgomery County, Maryland—one unit can be built on a sending parcel for each 25 acres of land; but development rights can be transferred from the sending parcel at a rate of one per five acres. For every unit built on a sending parcel, five units can be transferred, for a transfer ratio of five-to-one. While the majority of Transfer of Development Rights programs in the country have a 1:1 transfer ratio, there have been Transfer of Development Rights programs created with transfer ratios as high as 8:1 (Dade County, Florida), 20:1 (Island County, Washington), 4:1 (New Jersey Pinelands, New Jersey), 6:1 (Oxnard, California).

124. Roughly a dozen states have adopted some type of requirement that regulatory and/or development approvals be consistent with local comprehensive plans. Some are linked to mandatory comprehensive plans, while others are from states in which comprehensive plans are authorized, but not required, by law.

125. Jacobson, Thomas, *The Consistency Doctrine: Policy and Legal Considerations*, prepared for the New Mexico Chapter of the American Planning Association, September 2000.

126. Myron Orfield, *Metro Politics: A Regional Agenda for Community and Stability*, Lincoln Institute of Land Policy, 1997. Orfield believes a more comprehensive sharing system, which included a larger percentage of commercial industrial tax base and some of the high-valued home tax base, would be able to reach the broader aims of reducing competition for tax base and undermining the incentives behind fiscal zoning.

127. See discussion of intergovernmental agreements, below.

128. One possible exception is rezonings, which constitute an amendment to the zoning ordinance.

129. See, e.g., N.C.G.S. § 160A-475(8).

130. See "Fostering Community," in Section 1.3.4 and also recognized in the City's Family Housing Development Ordinance (Section 14-17-3, Revised Ordinances of Albuquerque [ROA] 1994).

131. See Part 1, Section 2.3.3 Pricing Data by Area.

132. Growth Management Analysts, "The Impact of Impact Fees on Economic Develop-

ment" appearing in the *Development Impact Fees Report* (May 1995). (p. 32)

133. Growth Management Analysts, "The Impact of Impact Fees on Economic Development" in the Development Impact Fees Report, May 1995, p. 6.

134. Part 1, Chapter 6 The Benefits of Growth to the Bernalillo County Economy, 2000–2020 and Growth Management Analysts, "The Impact of Impact Fees on Economic Development" in the Development Impact Fees Report, May 1995, pp. 5–7 esp.

135. Sections 14-17-1 et seq. ROA 1994.

136. Mark White, "Development Fees and Exemptions for Affordable Housing: Tailoring Regulations to Achieve Multiple Public Objectives," *Florida State University Journal of Land Use and Environmental Law* 25:6, 1990.

137. See Chapter 8.

138. Lennertz in Duany and Plater-Zyberk, *Towns and Town-Making Principles*, p. 102.

139. "Fostering Community" in Section 1.3.4.

140. See City of Albuquerque, Indicators Progress Commission, Albuquerque 2000 Progress Report, May 2000.

141. See Rolf Goetze, *Stabilizing Neighborhoods: A Fresh Approach of Housing Dynamics and Perceptions*, Boston Redevelopment Authority, 1977.

142. See "Albuquerque's Growth Trends" in Section 1.3.5.

143. See "Infrastructure Needs and Levels of Spending" in Section 1.3.5 and "Inducements to Development – Infrastructure Related" in Section .1.3.6.

144. See Chapter 4, Section 4.4. Wastewater System Infrastructure Analysis.

145. As discussed in the "Infrastructure Needs and Levels of Spending" (Section 1.3.5), it has been assumed that 41% of street deficiency costs and 29% of hydrology deficiency costs are borne by the private sector based on existing law.

146. Public Works Department, Hydrology Division, *Albuquerque Area Wide Storm Drainage Projects*, January 1997.

147. See Chapter 8 Combining the Level of Service Standards and Financial Implementation.