



**COMMUNITY DEVELOPMENT SERVICES
PLANNING AND BUILDING DEPARTMENT**

2850 Fairlane Court, Placerville, CA 95667
Phone (530) 621-4650, Fax (530) 642-0508

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TO: Board of Supervisors

FROM: Roger Trout, Director, Planning and Building Department

Subject: Measure Y Policy TC-Xa 3 Sunset Date

Background

The voter approved Measure Y (General Plan Policy TC-Xa 3) has a sunset date of December 31, 2018. On September 19, 2017 the Board of Supervisors (Board) directed staff to:

- 1) Analyze and return to the Board with recommendations regarding the extension of Measure Y Policy TC-Xa 3 sunset date;
- 2) Analyze and return to the Board with recommendations to memorialize the General Plan Transportation and Circulation Element, Table TC-2 sunset date extension;
- 3) Determine what is necessary to meet California Environmental Quality Act (CEQA) requirements for both these actions; and
- 4) Return to the Board in approximately 30 days with the timeline necessary to meet the June 2018 ballot.

Staff has prepared an analysis to address Item 1 of the Board's direction further below.

Item 2 of the Board's direction has been resolved. The Court's findings on Measure E resulted in the conclusion that General Plan Table TC-2 does not sunset in 2018. It is linked to Policy TC-Xa 2, which is extended in perpetuity as part of Measure E. The Board action amending the General Plan to implement the Court decision can be viewed in Legistar 17-1114 on October 24, 2017. The General Plan Policy amendments were approved by Resolution 159-2017.

Item 3 of the Board's direction asks about the required environmental analysis for the recommendations of Policy TC-Xa 3 expiration. Staff has prepared three options for the Policy TC-Xa 3 sunset date in the analysis that follows. Option 1 is to allow the Policy to expire, which is not a project and therefore requires no environmental analysis. Options 2 and 3 consider adoption of Policy TC-Xa 3 by the Board (Option 2) or by the voters (Option 3), which is a project and requires environmental analysis. Staff believes this analysis can be done with an Addendum to the General Plan Environmental Impact Report (EIR).

Item 4 of the Board's direction asks for the timeline to meet the June 2018 ballot. The Elections Department has established January 31 as the deadline for Resolutions calling for a measure to be placed on the ballot. Attachment B is the Elections' Measure Calendar for the June 5, 2018 Primary Election.

Discussion

General Plan Policy TC-Xa 3 is a Policy in the General Plan's Transportation and Circulation Element. It was approved by the voters as part of 2008's Measure Y. A comprehensive background and history of Measure Y is contained in Attachment C for reference.

Policy TC-Xa 3 states: "Developer paid traffic impact fees combined with any other available funds shall fully pay for building all necessary road capacity improvements to fully offset and mitigate all direct and cumulative traffic impacts from new development during peak hours upon any highways, arterial roads and their intersections during weekday, peak-hour periods in unincorporated areas of the county. This policy shall remain in effect until December 31, 2018."

Analysis of Policy TC-Xa 3: The Policy requires new development to "fully pay" its fair share of costs associated with new development's traffic impacts. This is an important Policy and has caused the County to create a Capital Improvement Program (CIP) and Traffic Impact Mitigation (TIM) Fee Program. The TIM Fee Program quantifies new development's impacts and allocates costs. TIM fees are collected at time a building permit is issued. The fees are then spent to design and construct roads identified in the CIP. The CIP and TIM Fee Programs are updated annually, with major updates every five years, to keep the programs accurate and relevant.

The Board has three primary options discussed further below:

Option 1: Allow Policy TC-Xa 3 to sunset on December 31, 2018

Option 2: Adopt Policy TC-Xa 3 into the General Plan

Option 3: Place Policy TC-Xa 3 on the ballot

Discussion of Options:

Option 1: Allow Policy TC-Xa 3 to sunset on December 31, 2018

Should Policy TC-Xa 3 sunset on December 31, 2018, there would be no immediate impacts on the General Plan, review of discretionary land use applications, the County CIP, TIM Fee Program, or any other matter.

The reason there is no immediate impact is that there are other General Plan Policies that effectively perform the same function as Policy TC-Xa 3. This is because in 2008 the Board had approved (contingent on the voters passing the amended 2008 Measure Y) a series of new Policies and amendments that implemented 2008 Measure Y, including Policy TC-Xa 3's requirement that new development fully mitigate traffic impacts. A summary is listed below:

1. Policy TC-Xb amended the CIP and TIM Fee Program to “ensure the County does not exceed available roadway capacity” and “specify roadway improvements to be completed within the next 20 years to ensure compliance with all applicable level of service and other standards in this plan.”
2. Implementation Measures TC-A and TC-B were amended to reflect language for CIP and TIM programs in TC-Xa, TC-Xb, and TC-Xg. TC-Xb and TC-B requires the fee program to be fully funded so that “the County does not exceed available roadway capacity.”
3. Policy TC-Xh was clarified to require payment of TIM fees at time of building permit issuance.
4. Table TC-2 was amended to change the sunset date from 2008 to 2018 and then extended indefinitely with Measure E.

Policy TC-Xb and Implementation Measures TC-A and TC-B resulted in a CIP and TIM Fee Program that requires new development to fully mitigate cumulative traffic impacts, consistent with Policy TC-Xa 3. Policy TC-Xf requires mitigation of new development’s impacts. The sunset of Policy TC-Xa 3 on December 31, 2018 would have no immediate effect on the CIP, TIM Fee Program, or the collection of TIM fees at building permit issuance.

If Policy TC-Xa 3 sunsets, the Board would have the ability to amend Policies and Implementation Measures, without the constraint of the voter adopted Policy TC-Xa 3. The Board would have some more flexibility to amend the CIP and TIM Fee Programs. However, any amendments to the General Plan, CIP, or TIM Fee Program would require public notice, public hearings, and CEQA analysis.

The sunset date of Policy TC-Xa 3 was established in 2008 by the voters that approved Measure Y. It would take no additional County resources to allow the Policy to sunset. General Plans are intended to be reviewed regularly and amended from time to time. Policies implemented by ballot measures can frustrate flexibility necessary to address changing circumstances and priorities. The sunset of Policy TC-Xa 3 is not an unusual event for a voter initiative.

However, Option 1 does result in some uncertainty regarding the General Plan Transportation Policies, the CIP, and the TIM Fee Program. There may be unintended consequences from this uncertainty. Changes to County General Plan Policies that were otherwise supported by Policy TC-Xa 3, could be changed for various well intended reasons (such as for economic development or affordable housing). Over time, these changes could have a deleterious effect on the CIP and TIM Fee Programs. Policy TC-Xa 3 is a strong Policy that requires new development to “fully pay” its fair share of costs associated with new development’s traffic impacts. This requirement is an important foundation for the TIM Fee Program. The sunset of Policy TC-Xa 3, if not replaced by similar Policy direction, could result in an underfunded CIP and a TIM Fee Program that is less defensible as a fee program.

Option 2. Adopt Policy TC-Xa 3 into the General Plan

Option 2 is the Board adoption of Policy TC-Xa 3 into the General Plan. The Board would adopt Policy TC-Xa 3 as it would any other General Plan Amendment. The Board could adopt the Policy with a sunset date, revisions, or no changes. The immediate effect is not much different than allowing the Policy to sunset, as described in Option 1.

The distinction between Option 1 (sunset) and Option 2 (adoption) is that in Option 2 the General Plan Transportation Policies, CIP, and TIM Fee Program would remain relatively stable and predictable for the foreseeable future. The CIP and TIM programs have been successfully working to collect funding to address new development's traffic impacts. Hundreds of millions of dollars have been allocated to the construction of roads, intersections, and interchanges on local and State roads. The County has been more successful acquiring State and federal grants for road projects partially because of the level of planning (CIP) and available funding (TIM).

Adoption of Policy TC-Xa 3 would preserve the current programs and allow them to continue to deliver road improvements necessary to maintain the levels of service identified in the General Plan. Policy TC-Xa 3 provides the framework for the CIP and TIM by requiring new development to fully pay their fair share for road impact mitigation.

After adoption of Policy TC-Xa 3, the Board may consider amending the General Plan Transportation Policies, Implementation Measures, CIP, or TIM Fee Programs to address issues associated with:

- 1) Affordable housing;
- 2) State Laws requiring traffic analysis using Vehicle Miles Traveled (VMT) metric;
- 3) Safety on rural roads;
- 4) Economic Development;
- 5) CEQA analysis for discretionary land use applications (i.e. subdivisions, use permits);
- 6) Balance with other General Plan Policies, including Transportation goals and policies; and
- 7) Traffic congestion relief from tourist weekend traffic.

However, this range of flexibility to amend General Plan Transportation Policies is tempered by voter adopted Policies that remain in the General Plan in perpetuity. Policy TC-Xa 1 states that traffic from residential development of five or more units shall not result in or worsen Level of Service F roads. Policy TC-Xa 2 restricts the Board's ability to add road segments allowed to perform at Level of Service F identified in Table TC-2 of the General Plan without getting voter approval.

This is not to suggest that the sunset of Policy TC-Xa 3 (Option 1) would resolve those issues or that placing Policy on the ballot for the voters (Option 3) would be better. Option 2, adoption of TC-Xa 3 by the Board, would create more flexibility to comprehensively analyze the complex relationships between General Plan Policies and the County's goals.

One example is that there are Policies in the General Plan that rely upon a fully funded TIM Fee Program to mitigate new development's traffic impacts. This has been helpful in addressing cumulative traffic impact analysis from new development. With the fully funded TIM Fee Program, cumulative traffic impacts are more easily addressed. Changing the program, such as reducing TIM fees without having a funding source to close any funding gaps, would complicate and jeopardize cumulative traffic impact analysis conclusions.

If the Board chooses this option, then staff would prepare the General Plan amendment staff report, hold a hearing with the Planning Commission, and bring the Planning Commission recommendation to the Board for final decision. The environmental review would likely consist of an Addendum to the General Plan EIR, describing that the adoption of Policy TC-Xa 3 would not create any new environmental impacts that were not already identified in the General Plan EIR. Revisions to Policy TC-Xa 3 or other Policies could result in the need for additional technical studies and environmental analyses.

Option 3. Place Policy TC-Xa 3 on the ballot

Option 3 is the Board placing Policy TC-Xa 3 on the ballot, allowing the voters to decide whether to approve the Policy or not.

June 5, 2018 is the next Election Day. The Election Department has stated that January 31 is the deadline that Resolutions calling for a measure on the ballot are due to the Registrar of Voters.

The Board may add a sunset date to Policy TC-Xa 3, similar to the original 1998 Measure Y and the 2008 Measure Y. Without a sunset date, the Policy would remain in effect until the voters amend or repeal the Policy.

The Board may place any revisions to Policy TC-Xa 3 on the ballot. The Board in 2008 placed Measure Y on the ballot, which included some changes from the 1998 Measure Y. The Board also adopted a set of companion Policies to address the implementation of Measure Y. The combination of ballot measure and companion Policies has allowed the County to successfully implement Measure Y through the CIP and TIM Fee Programs as well as the discretionary land development review process.

One specific issue resolved in 2008 was how Measure Y (Policy TC-Xa 1) affected potential affordable housing development. The State would not certify the County Housing Element with the 1998 Measure Y Policy. The Board successfully modified Measure Y to remove the obstacle for affordable housing and the Policies were approved by the voters in 2008. The County's Housing Element was then certified by the State.

Policy TC-Xa 1 has been reestablished by the voters with Measure E in 2016. It is unclear whether Policy TC-Xa 1 will have the same negative consequence on the

County's Housing Element. A more comprehensive analysis is required and beyond the scope of this discussion paper.

Should the Board decide to place Policy TC-Xa 3 on the ballot, the voters may approve or reject the ballot measure. The Board should be prepared for either outcome. If the voters reject the measure, then the consequences would be similar to Option 1 (Policy TC-Xa 3 sunsets). If the voters approve the measure, then the consequences are less favorable than Option 2 (adoption of Policy TC-Xa 3) because the County would then have less flexibility.

If the Board chooses this option, it would take a moderate level of County staff and resources to place Policy TC-Xa 3 on the ballot depending on the level of revisions associated with the task. The environmental analysis would likely consist of an Addendum to the General Plan EIR, describing that the adoption of Policy TC-Xa 3 would not create any new environmental impacts that were not already identified in the General Plan EIR. Revisions to Policy TC-Xa 3 or other Policies could result in the need for additional technical studies and environmental analyses.

Recommendation:

Option 2, adopting Policy TC-Xa 3 into the General Plan is the preferred option for the following reasons:

1. Any unintended consequences of not having Policy TC-Xa 3 would be avoided;
2. Limited County staff or resources are needed to implement the option, depending on any revisions being considered concurrently;
3. The current CIP and TIM Fee Programs will continue to operate as designed;
4. The CIP and TIM Fee Programs will continue to require developers to fully pay for their impacts;
5. Traffic congestion Policies will continue to require minimum Level of Service Standards; and
6. Policy TC-Xa 3 will be a General Plan Policy that the Board retains flexibility to comprehensively update to address changing circumstances and priorities, including but not limited to:
 - a. Affordable housing;
 - b. State Laws requiring traffic analysis using VMT metric;
 - c. Safety on rural roads;
 - d. Economic Development;
 - e. Environmental analysis for discretionary land use applications (i.e. subdivisions, use permits);
 - f. Balance with other General Plan Policies, including Transportation goals and policies; and
 - g. Traffic congestion relief from tourist weekend traffic.