



## Legislation Text

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**File #:** 18-1401, **Version:** 1

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HEARING - To consider the recommendation of the Planning Commission on General Plan Amendment GPA18-0001 to adopt and authorize the Chair to sign Resolution **201-2018** adopting a new Policy TC-Xc to the Transportation and Circulation Element of the General Plan that would duplicate current Policy TC-Xa 3. Policy TC-Xa 3 is a 2008 voter-adopted Measure Y Policy that requires new development to fully pay for road capacity improvements and is scheduled to sunset on December 31, 2018. New Policy TC-Xc would replace it as a Board of Supervisors adopted General Plan Policy, but without any sunset date. (Est. Time: 15 Min)

### **DISCUSSION / BACKGROUND**

Request to consider General Plan Amendment GPA18-0001 submitted by El Dorado County to adopt Policy TC-Xc to the Transportation and Circulation Element of the General Plan that would duplicate current Policy TC-Xa 3. Policy TC-Xa 3 is a 2008 voter-adopted Measure Y Policy that requires new development to fully pay for road capacity improvements and is scheduled to sunset on December 31, 2018. New Policy TC-Xc would replace it as a Board of Supervisors adopted General Plan Policy, but without any sunset date.

Measure Y was adopted by the voters in November 1998 and added five policies to the Transportation and Circulation Element of the General Plan. Measure Y was to be in effect for 10 years then given to the voters to consider re-adoption for another 10 years.

A revised Measure Y was adopted by the voters in 2008. The Measure Y Policies were labeled: TC-Xa 1, TC-Xa 2, and TC-Xa 3. They had a sunset date of December 31, 2018. A more detailed background is in Attachment D "Measure Y Background and History."

Measure E, adopted by the voters in June 2016, amended the Measure Y Policies, but was subject to a legal challenge in *Alliance for Responsible Planning v. El Dorado County Board of Supervisors, et al.* (El Dorado County Superior Court Case No. PC20160346). The Court decided on September 1, 2017 that some portions of Measure E were unconstitutional. The Board adopted Resolution 159-2017 (Attachment C) on October 24, 2017 to comply with the Court's decision and peremptory writ of mandate in that case.

Resolution 159-2017 amendments to the General Plan eliminated the sunset date of December 31, 2018 for all Measure Y Policies except for Policy TC-Xa 3. Pursuant to the Court's peremptory writ of mandate, the Measure E amendments to Policy TC-Xa 3 were removed and the language of TC-Xa 3 was restored to the language in effect immediately prior to the July 29, 2016 effective date of Measure E, which included the sunset date of December 31, 2018.

Policy TC-Xa 3 currently 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."

On January 9, 2018, the Board considered options to address the December 31, 2018 sunset date for Policy TC-Xa 3. The staff report (Attachment E) recommended that the Board adopt Policy TC-Xa 3 in order to ensure stability in the County Capital Improvement and Traffic Impact Mitigation fee programs and retain flexibility to adjust to future needs of the County. The Board directed staff to “adopt Policy TC-Xa 3 into the General Plan (Option 2)” and to conduct public outreach.

The Planning Commission recommends that the Board adopt new Policy TC-Xc that is the same as current Policy TC-Xa 3 with the exception that the sunset date of December 31, 2018 is removed, as follows:

“Policy TC-Xc: 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.”

The reason for adopting new Policy TC-Xc to replace Policy TC-Xa 3 is to clarify the future administration and implementation. Due to the complexity of the three voter initiatives and the Court’s decision in *Alliance for Responsible Planning v. El Dorado County Board of Supervisors, et al.*, it is important to distinguish the new Policy TC-Xc from the old Policy TC-Xa 3 by giving it a new Policy number that is located near, but distinctly separate from, the group of Measures Y and E Policies adopted by the voters.

Within the General Plan there is currently no language for Policy TC-Xc. The Policy is listed as “intentionally blank” because it was removed after the 2008 Measure Y adoption by the voters and the approval of a set of companion Policies by the Board of Supervisors to implement and clarify Measure Y (Resolutions 193-2008 and 194-2008). Policy TC-Xc was developed with the 2004 General Plan to address the potential of the voters not approving revised Measure Y Policies in 2008. Since the Measure Y Policies were readopted in 2008, Policy TC-Xc was removed by Resolution 194-2008. For further information on the 2008 Measure Y and companion Policies, see Legistar 08-0976.

The environmental analysis for adopting Policy TC-Xc (extending Policy TC-Xa 3) was addressed in the Environmental Impact Report (SCH 2012052074) for the Targeted General Plan Amendment and Zoning Ordinance Update certified on December 15, 2015 (Resolution 195-2015).

The extension of Policy TC-Xa 3 was identified within Mitigation Measure TRA-1: “The Board of Supervisors shall review and consider an extension to Policy TC-Xa of the Transportation and Circulation Element of the General Plan prior to its expiration on December 31, 2018.” (Attachment F).

At the time Policy TC-Xa contained three policies subject to a sunset date, but, as explained above, only TC-Xa 3 still contains the sunset date of December 31, 2018. The other two Policies were extended as a result of the Board’s adoption of Resolution 159-2007 to comply with the Court’s peremptory writ of mandate and decision in the Measure E litigation.

The TGPA/ZOU Environmental Impact Report recommended that the TC-Xa Policies be extended to

reduce traffic impacts over the long term to less-than-significant. Short term (temporary) traffic impacts associated with the TGPA/ZOU before improvements are installed were found to be significant and unavoidable.

By the adoption of Policy TC-Xc (extending Policy TC-Xa 3), the County will have completed the implementation of TGPA/ZOU Mitigation Measure TRA-1. There were no impacts identified in the TGPA/ZOU for Mitigation Measure TRA-1 that were not addressed in the Environmental Impact Report because it was simply the extension of Policies that were currently in effect and used in the analysis of Environmental Impacts associated with the TGPA/ZOU. Therefore, the adoption of Policy TC-Xc has been addressed in a certified Environmental Impact Report and no further CEQA analysis is required.

Additional outreach was conducted with sponsors of Measure E, including Sue Taylor. Ms. Taylor has expressed concern that the County has been implementing the wrong TC-X policies and contends that the County should continue to apply the provisions of Measure E that the Court held were unconstitutional in *Alliance for Responsible Planning v. El Dorado County Board of Supervisors, et al.* According to Ms. Taylor, the Court's decision and peremptory writ of mandate were automatically stayed when the Proponents of Measure E (Save Our County and Sue Taylor) appealed the Court's decision. Staff disagrees with Ms. Taylor's position and notes that neither Save Our County nor Sue Taylor advanced this position in the litigation or objected to the County's return of the peremptory writ of mandate, which demonstrated the County's compliance with the writ.

On August 23, 2018, the Planning Commission held a public hearing on the adoption of Policy TC-Xc (extending Policy TC-Xa 3). Two members of the public spoke: Kris Payne advocated to "move the item along" and Laurel Brent-Bumb reiterated the letter in support of adopting the Policy received from a local group, Agriculture, Business & Communities of El Dorado. Ms. Taylor submitted a letter expressing the same concerns addressed above.

The Planning Commission voted 5-0 to recommend that the Board approve the adoption of Policy TC-Xc (extending Policy TC-Xa 3).

**ALTERNATIVES:**

No action will result in the expiration of Measure Y Policy TC-Xa 3 on December 31, 2018 and subsequently uncertainty related to the County Capital Improvement Program (CIP), Traffic Impact Mitigation (TIM) fee program, and future traffic analysis studies.

**CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) Clerk to obtain the Chair's signature on the original copy of the Resolution.
- 2) Clerk to forward one (1) fully executed copy of the Resolution to the Community Development Services, Planning and Building Department, attention of Char Tim, Clerk of the Planning Commission.

**CONTACT**

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Community Development Services, Planning and Building Department