

LETTER 257: BARRY WASSERMAN, MEASURE Y COMMITTEE

Response to Comment 257-1 (GP): The commenter's support of the Roadway Constrained Six-Lane "Plus" Alternative with modifications is noted and will be considered by the Planning Commission and the Board of Supervisors in deliberating the General Plan. Please also refer to responses to the commenter's remaining comments, below.

Response to Comment 257-2 (GP): The commenter refers to the Roadway Constrained Six-Lane "Plus" Alternative as having a weakness because it anticipates more growth than the roadway plan can accommodate. The EIR includes mitigation for this alternative that would further reduce the development potential of this alternative through measures such as making building permits discretionary. Even under these conditions, the Alternative is expected to allow more development than could be accommodated by a six-lane U.S. Highway 50. Refer to Master Responses 13 and 15 for additional information.

Response to Comment 257-3 (GP): The EIR identifies impacts associated with the uncertainty of funding and constructing roadway improvements contained in the circulation diagrams of each General Plan alternative (refer to Impacts 5.4-1 and 5.4-3). Despite the differences in the alternatives, the EIR recommends mitigation options that would allow each alternative to meet the legal requirements for adoption. Please refer to Master Responses 13 and 15 for additional information.

Response to Comment 257-4 (GP): Please refer to Master Responses 13 and 15.

Response to Comment 257-5 (GP): The commenter's views regarding the effects of Measure Y are noted. Please refer to Master Responses 13, 14, and 15.

Response to Comment 257-6 (GP): The commenter's preference is noted and will be considered by the Planning Commission and the Board of Supervisors in deliberating the General Plan. The Board of Supervisors can adopt one of the four equal-weight General Plan alternatives "as is" or with a variety of modifications as recommended in the EIR mitigation measures. They can also consider additional modifications as suggested in DEIR comments or even adopt an entirely different alternative. Depending on which approach they take, additional environmental review may be necessary.

Response to Comment 257-7 (GP): Please refer to Response to Comment 257-6.

Response to Comment 257-8 (GP): Please refer to Response to Comment 257-6.

Response to Comment 257-9 (GP): Please refer to Response to Comment 257-6. Please also refer to Response to Comment 256-11.

Response to Comment 257-10 (GP): Without new discretionary approvals of land use development projects, the County could accommodate enough land use development to

cause major roadways to operate worse than the County's LOS thresholds by 2025 as established by the policies of each General Plan alternative. Therefore, Policy LU-1b and other growth restrictive policies of the General Plan alternatives are tied directly to roadway capacity.

Response to Comment 257-11 (GP): For the Sacramento region, inclusion of a project in the Metropolitan Transportation Plan (MTP) comes as a result of a local agency decision to approve the project and advance it to a stage of implementation that requires inclusion in the MTP. The proposed policy would change this process and instead require El Dorado County to plan for land use changes based on whether the roadway improvements necessary to accommodate the land use change are in the MTP. The Board of Supervisors has the authority to require this type of policy change; however, the County has already approved more development potential than is currently supported by the improvements contained in the MTP. Adopting a General Plan alternative with this recommended policy may create an inconsistency between the Land Use and Circulation Elements because of this problem. Correlation between the Land Use and Circulation Elements should be achieved before additional policy restrictions are added. Please refer also to Master Responses 13 and 14.

Response to Comment 257-12 (GP): The basis for the Roadway Constrained Six-Lane "Plus" Alternative is to restrict development potential based on the desire to maintain U.S. Highway 50 at six lanes. The recommended policy change by the commenter is in direct conflict with this basic concept. The commenter's view will be considered by the Planning Commission and the Board of Supervisors in deliberating the General Plan.

Response to Comment 257-13 (GP): Please refer to Master Responses 13 and 14.

Response to Comment 257-14 (GP): The Measure Y policies are contained in each General Plan alternative. Please refer to Response to Comment 256-38 for specific policy numbering. Also refer to Master Response 15.

Response to Comment 257-15 (GP): The wording of Policy TC-1d is intended to provide direction as to the scenario under which the traffic impact analysis should be conducted in relation to this policy. No modification to the policy is required.

Response to Comment 257-16 (GP): Please refer to Master Response 15.

Response to Comment 257-17 (GP): The recommended policy change is not required to achieve the stated intent. Policies TC-1d and TC-1i would not be applied independently and without regard to each other.

Response to Comment 257-18 (GP): Please refer to Response to Comment 257-14.

Response to Comment 257-19 (GP): Please refer to Response to Comment 257-14.

Response to Comment 257-20 (GP): Please refer to Response to Comment 257-14.

Response to Comment 257-21 (GP): Please refer to Response to Comment 257-14.

Response to Comment 257-22 (GP): The County will apply the policies of the General Plan alternatives to the fullest extent possible. Mitigation Measure 5.1-3(a) is one option for expanding the applicability of the General Plan concurrency policies.

Response to Comment 257-23 (GP): The recommended policy change is not required to achieve the stated intent. Policies TC-1d, TC-1e, and TC-1i would not be applied independently and without regard to each other.

Response to Comment 257-24 (GP): Policy TC-1i would apply to all development projects that are not exempt from its application. Specifying the types of projects that it would apply to is not necessary.

Response to Comment 257-25 (GP): Please refer to Response to Comment 257-22.

Response to Comment 257-26 (GP): Please refer to Master Responses 13 and 15.

Response to Comment 257-27 (GP): Please refer to Master Responses 13 and 15.

Response to Comment 257-28 (GP): Please refer to Master Responses 13 and 15.

Response to Comment 257-29 (GP): The commenter agrees with the inclusion of Policy TC-1o. No response is required.

Response to Comment 257-30 (GP): The vacant land survey is a gross summary of land that could be used to accommodate the County's regional housing needs allocation, based on current zoning and before application of identified constraints to the development of housing. A vacant lands inventory using the proposed General Plan alternative land use proposals was not prepared because any of those proposals could be changed by the decisionmakers and State housing law directs jurisdictions to base their inventories on zoning. Based on the results of Economic and Planning Systems, Inc.'s (EPS's) land use forecasts for the General Plan alternatives, it is anticipated that the County could supply the necessary raw vacant land under the Roadway Constrained Six-Lane "Plus", Environmentally Constrained, and 1996 General Plan Alternatives through 2008. The EPS numbers could not be definitively used in the Housing Element because they project to 2025; the Housing Element is intended to apply only through 2008. Once the Zoning Ordinance is updated for consistency with the adopted General Plan, it is anticipated that the County may need to revise the Housing Element, including the vacant lands inventory.

Response to Comment 257-31 (GP): It is not possible to predict enforcement actions that may be taken by the State Department of Housing and Community Development (HCD) or other parties should the Housing Element be found to be inadequate. Note that if the Housing Element is certified by HCD, there is a rebuttable presumption that the element is adequate (Government Code Section 65589.3). The Government Code specifies general remedies to be applied where a General Plan or element of a General Plan is found to be inadequate. Those remedies typically involve suspension of the invalid plan and an order to develop a plan that satisfies the requirements of the law. (See e.g., Government Code Section 65754.) It is not clear whether a judicial remedy would apply to projects that are the subject of development agreements approved pursuant to the 1996 General Plan. The Government Code provides that a court may not enjoin a specific housing development if: (1) the Board of Supervisors has approved the project and found it consistent with the General Plan; (2) the Board of Supervisors has approved a CEQA document for the project that has not been challenged; (3) the owner has irrevocably committed more than one million dollars to public infrastructure in reliance on the Board's approval; and (4) the project can be developed without having an impact on the County's ability to adopt an adequate Housing Element (Government Code Section 65754.5).

It should be noted that the recent legal challenges against the City of Folsom's Housing Element were not advanced by HCD. In this case, the subject lawsuit was brought by Legal Services of Northern California, a private organization.

Response to Comment 257-32 (GP): The commenter thanks the County for the opportunity to comment. No response is required.