

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THOUSAND OAKS APPROVING A DEVELOPMENT AGREEMENT WITH CHERRY TREE DEVELOPMENT, LLC, RELATING TO THE DEVELOPMENT OF PROPERTY LOCATED AT 500 EAST THOUSAND OAKS BOULEVARD (APN: 525-0-012-230, 669-0-201-030, 669-0-201-040, 669-0-201-050, and 669-0-201-105), THOUSAND OAKS, CALIFORNIA **(Development Agreement (DAGR) 2023-70001)**

The City Council of the City of Thousand Oaks does hereby ordain as follows:

Part I

Based upon the information contained in the Staff Report, exhibits, and public testimony given at a public hearing on May 21, 2024, the City Council approved this Development Agreement with the following findings:

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Sections 65864 *et seq.* (the “Development Agreement Statute”) which authorizes cities to enter into agreements for the development of real property with any person having a legal or equitable interest in such property in order to establish certain development rights in such property; and

WHEREAS, in accordance with the Development Agreement Statute, the City of Thousand Oaks (the “City”) has adopted regulations (the “Development Agreement Regulations”) to implement procedures for the processing and approval of development agreements in accordance with the Development Agreement Statute, which is contained in Section 9-11.01 *et seq.* of the Thousand Oaks Municipal Code (TOMC); and

WHEREAS, Cherry Tree Development, LLC (“Developer”) desires to carry out the development of a mixed-use commercial and residential project (“Project”) located at 500 East Thousand Oaks Boulevard (APNs: 525-0-012-230, 669-0-201-030, 669-0-201-040, 669-0-201-050, and 669-0-201-105), other City rules and

regulations, and the Development Agreement and vested entitlements referenced therein;

WHEREAS, this Development Agreement (DAGR 2023-70001) will assure the City and the Developer that the Project will proceed as proposed and that the Project can proceed without disruption caused by a change in City planning and development policies and requirements, which assurance will thereby reduce the actual or perceived risk of planning, financing, and proceeding with construction of the Project and promote the achievement of the private and public objectives of the Project;

WHEREAS, the Planning Commission held a duly noticed public hearing on April 22, 2024, on the Project, during which the Planning Commission received comments from the Developer, City staff, and members of the general public and made a recommendation to the City Council on the Project entitlements, inclusive of the requested Objective Design Standards Modifications and State Density Bonus Concessions and Waivers, and legislative actions.

WHEREAS, the City Council of the City of Thousand Oaks held a duly noticed public hearing on the Project on May 21, 2024, during which the City Council received comments from the Developer, City staff, and members of the general public and approved related entitlements and legislative actions, including CEQA 2023-70004, SUP 2023-70011, PTP 2023-70067 and DAGR 2023-70001.

Part 2

NOW THEREFORE, the City Council of the City of Thousand Oaks does hereby ordain as follows:

SECTION 1. This Ordinance incorporates, and by this reference makes a part hereof, the Development Agreement (including all exhibits to the Agreement), attached hereto as Exhibit A, subject to the provisions of Section 5 hereof.

SECTION 2. This Ordinance is adopted under the authority of Government Code Section 65864 *et seq.* and pursuant to the City's "Development Agreement Regulations."

SECTION 3. In accordance with the Development Agreement Regulations, the City Council hereby finds and determines, as follows:

- (a) The Agreement will not adversely affect the orderly development of property or the preservation of property values;
- (b) The Development Agreement implements the Thousand Oaks Specific Plan (SP-20), which is consistent with the goals and policies of the General Plan. The City Council finds that the Development Agreement is therefore also consistent with the City's General Plan.
- (c) The Development Agreement establishes certain development rights, obligations, and conditions for the implementation of the Project located at 500 East Thousand Oaks Boulevard (APNs: 525-0-012-230, 669-0-201-030, 669-0-201-040, 669-0-201-050, and 669-0-201-105).
- (d) The Development Agreement conforms to public convenience, general welfare, and best land use practice;
- (e) The Development Agreement will not be detrimental to the public health, safety, and general welfare of persons residing in the immediate area, nor be detrimental or injurious to the general welfare of the residents of the City as a whole;
- (f) The Development Agreement will support the orderly development of the Property and the preservation of property values;
- (g) The project qualifies as a "mixed-use" project consisting of approximately 8,500 square feet of commercial space and 328 units of multi-family residential development, which is a development concept allowed and supported by SP-20 intended to produce a mix of interactive uses, which will create an active and interesting atmosphere in both the site and within nearby properties. Complementary uses are to be located close to each other to promote interaction between uses to advance the development concept of the Thousand Oaks Boulevard Specific Plan (SP-20).
- (h) The project is consistent with the Mixed-Use (>20 to 30 du/acre) land use designation of the Thousand Oaks General Plan.
- (i) The architectural design of the project complies with the Objective Design Standards (ODS) of the TOMC, development standards of SP-20, and the intent of the City's Architectural Design Review

Guidelines, Precise Plan of Design Guidelines, Commercial Design Guidelines, and Freeway Corridor Guidelines.

- (j) Addendum to Environmental Impact Report (EIR No. 327) 2023-70004 was prepared for the subject project in accordance with the California Environmental Quality Act (CEQA). A comprehensive evaluation of the potential environmental impacts for this project was performed. This evaluation determined that the project will not result in new significant impacts nor substantially increase the severity of previously disclosed impacts beyond those already identified in EIR No. 327. Thus, a subsequent EIR or supplemental EIR need not be prepared. Appropriate measures are identified in the Addendum to ensure mitigation is in place, so no significant adverse environmental impact results from the project. To that end, the EIR No. 327 mitigation monitoring plan is required to ensure the indicated mitigation measures are applied to reduce and avoid potential effects of the project.

SECTION 4. The foregoing findings and determinations are based on the following:

- (a) The Recitals set forth in this Ordinance, which is deemed true and correct;
- (b) Resolution No. _____ for the Project entitlements, adopted by the City Council on May 21, 2024, and which Resolutions and exhibits are incorporated herein by reference as if set forth in full;
- (c) All City Staff reports (and all other public reports and documents) prepared for the Planning Commission and City Council, relating to the Development Agreement and other actions relating to the Project;
- (d) All documentary and oral evidence received at public hearings or submitted to the City during the comment period relating to the Development Agreement, and other actions relating to the Project; and
- (e) All other matters of common knowledge to the Planning Commission and City Council, including, but not limited to the City's fiscal and financial status; City policies and regulations; reports, projections and correspondence related to development within and surrounding the City, State laws and regulations and publications.

SECTION 5. The City Council hereby approves the Development Agreement, attached hereto as Exhibit A, subject further to such minor, conforming, and clarifying changes consistent with the terms thereof as may be approved by the City Manager, in consultation with the City Attorney to the execution thereof, including completion of references and status of planning approvals, and completion and conformity of all exhibits thereto, and conformity to the General Plan, as amended, as approved by the City Council.

SECTION 6. The approval contained in Section 5 hereof is subject to and conditioned upon Resolution No. _____, adopted by the City Council approving Special Use Permit (SUP) 2023-70011 and Protected Tree Permit (PTP) 2023-70067.

SECTION 7. The City Manager is hereby authorized and directed to perform all acts authorized to be performed by the City Manager in the administration of the Development Agreement pursuant to the terms of the Development Agreement.

SECTION 8. This Ordinance shall be posted in accordance with the provisions of the TOMC and shall become effective thirty (30) days from and after the date of its passage.

SECTION 9. The City Clerk shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

Part 3
(Uncodified)
Severability

SECTION 10. If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this title; it is hereby expressly declared that this title, and each section, subsection, sentence, clause, and phrase hereof, would have been prepared, proposed, adopted, approved and ratified irrespective of the fact that anyone or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Part 4
(Uncodified)
Effective Date

SECTION 11 This ordinance shall become effective on and after the thirty-first (31st) day following its adoption, provided, however, that if the actions referred to in Section 6 hereof are not effective on such date, then the effective date of this Ordinance shall be the date on which all of said actions become effective, as certified by the City Clerk.

PASSED AND ADOPTED this XXth day of XXXXX, 202X, by the following vote:

Ayes:
Noes:
Absent:

Al Adam, Mayor
City of Thousand Oaks City Council

ATTEST/CERTIFY:

Laura B. Maguire, City Clerk

Date Attested: _____

APPROVED AS TO FORM:
Office of the City Attorney

Tracy Noonan,
City Attorney

APPROVED AS TO ADMINISTRATION:

Andrew P. Powers, City Manager

Introduced: XXXX XX, 202X
Published: XXXX XX, 202XX
Ordinance No.: XXXX-NS

The presence of electronic signature certifies that the foregoing is a true and correct copy as approved by the City of Thousand Oaks City Council on the date cited above.