



Community Development Department **STAFF REPORT**

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TO: Planning Commission

FROM: Kelvin Parker, Community Development Director

DATE: September 23, 2024

SUBJECT: **Municipal Code Amendment (MCA) 2024-70004**

LOCATION: Citywide

REQUEST:

To amend Chapters of 3, 4 and 10 of Title 9 of the Thousand Oaks Municipal Code to implement the 2021-2029 Housing Element Programs 4 and 6 for Voluntary Lot Mergers, SB-35 Streamlined Process and Incentives for Affordable Housing with Lot Consolidation.

RECOMMENDATION:

Adopt a Resolution based on the findings contained therein, recommending that City Council:

1. Find that pursuant to Sections 15183 and 15168(c)(2)(5) of the California Environmental Quality Act (CEQA) no further environmental document is required because the proposed actions are consistent with the City's goals, policies and anticipated programs contained in the adopted General Plan and Housing Element under a certified Program EIR; and
2. Adopt an Ordinance approving MCA 2024-70004 amendments to Chapters of 3, 4 and 10 of Title 9 of the Thousand Oaks Municipal Code.

PLANNING COMMISSION REVIEW:

Under the City of Thousand Oaks Municipal Code (TOMC) and state law, Planning Commission is required to review, conduct a public hearing on, consider, and make recommendations to the City Council regarding the Proposed Ordinance. The City Council, at a subsequent public hearing, will consider Planning Commission's

recommendations and decide whether to adopt, not adopt, or adopt with modifications to the Proposed Ordinance.

BACKGROUND:

6th Cycle 2021-2029 Housing Element

The Housing Element is one of the mandated elements of the General Plan and serves as the primary guide to meet existing and projected housing needs of Thousand Oaks' residents from June 30, 2021, through October 15, 2029. State law requires all jurisdictions to update and obtain certification for their Housing Elements every eight years following the State Department of Housing and Community Development (HCD) Regional Housing Needs Assessment (RHNA) allocation process. On December 5, 2023, the City Council adopted the General Plan 2045 and the 2021-2029 Housing Element and on May 29, 2024, HCD found that the adopted Housing Element is in substantial compliance with the State Housing Element Law.

The Housing Element contains 18 programs and actions the City is required to implement in order to maintain certification, with implementation being confirmed through the annual reporting process to HCD. To date, Programs 1 and 5 have been completed (in part), Program 2 has been completed, and Programs 3 and 8 are in progress.

The Housing Element programs being addressed as part of the proposed Municipal Code Amendment include the following:

Goal 1: Provide a wide range of housing opportunities for persons of all income levels.

Program 4: Lot Consolidation

Consolidation of small lots allows a developer to utilize the land more efficiently, achieve economies of scale, and offer opportunities for improved site design and amenities. The City will encourage the consolidation of small lots to facilitate the development of mixed-use and multi-family developments, particularly for affordable housing through the following actions:

- ***Eliminate the administrative hearing process and noticing requirements for lot consolidation and develop appropriate lot consolidation incentives that provide flexibility in site planning to facilitate mixed-use and multi-family development.***

Lot Consolidation

During the review of the Housing Element, HCD noted that the Thousand Oaks Municipal Code currently requires a discretionary process for merging or consolidating lots. To encourage development on adjoining parcels and facilitate redevelopment for affordable housing, enabling this process to occur without a public hearing facilitates streamlined qualified housing projects on multiple parcels to proceed as intended by State law. This facilitates the consolidation of small parcels identified within the Housing Element site inventory for the purposes of meeting the City's RHNA.

Program 6: Streamlined Review

Pursuant to State law, the City will facilitate residential development by the following action:

- *Establish a streamlined, ministerial review process for qualifying multi-family residential projects (SB 35).*

SB-35 Streamline Approval Process

SB-35 allows qualifying development projects with certain minimum affordable housing guarantees to move more quickly through the local government review process and restricts the ability of local governments to reject these proposals. This is a voluntary program that a project sponsor may elect to pursue, provided that certain eligibility criteria are met. The bill was signed into law in 2017 and became effective on January 1, 2018. The bill created a streamlined approval process for infill developments in localities that have failed to meet their regional housing needs allocation (RHNA). The bill amends Government Code Section 65913.4 to require local entities to streamline the approval of certain housing projects by providing a ministerial approval process, removing the requirement for CEQA analysis, and removing the requirement for discretionary entitlements granted by the Planning Commission.

This report provides discussion/analysis for:

- 1) Text amendments to Chapter 3 Subdivisions to add Section 9-3.1218 Voluntary Lot Mergers, to allow lot consolidation through a ministerial process.
- 2) Text amendments to Chapter 10 to add Article 8 Incentives for Lot Consolidation for Affordable Housing.

- 3) Text amendments to Chapter 4 to amend Section 9-4.2816 Administrative Permits for ministerial review of qualifying affordable housing projects as required by SB-35.

The draft resolution recommending approval of the Municipal Code Amendment to the City Council is contained in Attachment #1.

DISCUSSION/ANALYSIS

Proposed Voluntary Lot Mergers

The proposed amendment to the TOMC would establish a ministerial process for lot consolidation, referred to as a Voluntary Lot Merger, which is allowed pursuant to the Subdivision Map Act ("Map Act") Government Code section 66499.20.3. The Map Act gives the local jurisdiction the authority to regulate and control the development and subdivision of parcels of land. Currently, the TOMC Sections 9-3.1210 through 9-3.1216 only provide for a city-initiated merging of nonconforming contiguous lots, which requires noticing and potential hearing when challenged by property owners under Subdivision Map Act ("Map Act") Government Code section 66451.11. Under this process, only the City has the authority to initiate the merging of contiguous parcels if they are nonconforming/substandard and meet the specific standards outline in the Map Act.

Section 66499.20.3 of the Map Act gives the City the authority, by ordinance, to create a reasonable process to allow the merging of two or more parcels that do not all into the category of a Lot Line Adjustment, a Tentative Map, a Reversion to Acreage, or a Parcel Merger, as defined in the Map Act.

Section 9-3.1218 is proposed to be added to Chapter 3 Subdivision, Article 12 Reversions and Mergers. Voluntary Lot Mergers consist of two or more contiguous parcels or lots combined as one property regardless of whether the lots are conforming. The proposed code provision provides standards of approval related to compliance with the Subdivision Map Act, minimum zoning, required access, no impacts to improvement agreements or existing easements, and the application process.

Review of Voluntary Lot Mergers would follow a similar ministerial review process that Community Development Department currently does with Certificates of Compliance, where lots are determined to be created legally under the Map Act. Voluntary Lot Mergers proposed with a development entitlement application would be processed concurrently as part of the overall project.

The proposed Voluntary Parcel Merger would streamline the review process since a public hearing and detailed studies/documentation would not be required. Additionally, the proposed changes will be cost-effective for the property owners and facilitate land assemblage for development.

Housing Element Program 4 also includes other implementation actions that do not require a Municipal Code Amendment, including new administrative procedures and making information related to lot mergers available to affordable housing developers and property owners. This also consists of providing technical assistance to interested developers and property owners regarding lot consolidation potential on procedure and promoting the program through brochures and information on the city website.

Eligible Projects for Incentives

Residential development projects that consist of lot consolidation and meet either of the following location and affordability criteria would be eligible for incentives:

1. Housing Inventory Sites (HIS) that construct at a minimum, the number of residential units at the level of affordability identified in the Housing Element Appendix C: Sites Inventory; or
2. Mixed-Use (MU), Mixed-Use Overlay Zone (MUOZ) or Multiple-Family (R-3) zoned sites not identified in the HIS associated with a rental development proposal consisting of a minimum of 20 percent of the units affordable to lower-income households or an ownership development proposal consisting of a minimum of 20 percent of the units affordable to moderate-income households.

Proposed Incentives

To accomplish the amendment for incentives, Article 8 Incentives for Lot Consolidation is proposed to be added to Chapter 10 Affordable Housing of Title 9. The proposed incentives for affordable housing projects include processing, location flexibility, and relief from certain development standards and objective standards as detailed below.

- *Processing:* A pre-application will be processed with no fees imposed.

- *Location:* Housing Element Inventory Sites and other multifamily or mixed-use sites may be consolidated either separately or in combination when properties are adjoining and proposed to be merged.
- *Development Standards:* Proposed incentives related to development standards include: 1) reducing and waiving certain Mixed-Use (MU) standards that would facilitate housing while maintaining the built form intended by the zoning district; and 2) allowing R-3 zoned properties the ability to utilize the MU standards or otherwise modified by this ordinance.
- *Objective Standards:* Proposed incentives related to objective standards include: 1) a reduction of minimum courtyard area; and 2) waive the 50% limitation of units within a stacked dwelling building type project.

Properties zoned MU, Mixed Use Overlay (MUOZ), and R-3 would permit projects that qualify for a residential project using the incentives due to the minimum residential density range of 20 units per acre that could support affordable housing.

Notable incentives proposed for existing R-3 parcels are an additional height allowance and relaxed parking requirements to match the standards of the Mixed-Use Zone and described below in Table 1 and Table 2. Currently, the R-3 zone allows a maximum height of 35 feet for multifamily development projects with an allowance to go up to 45 feet for projects with 20 percent in the lower income categories. The proposed incentive would allow for up to a maximum height of 50 feet, consistent with Neighborhood High land use designation. The use of MU standards would also retain height maximums with setbacks as the buildings approach 50 feet in height. An additional incentive would include a reduced side yard setback when applying the maximum height step backs side yard adjacent to a residential zone. Lastly, projects on R-3 zoned parcels would be able to use the MU zone parking ratio requirements, which do not require any covered parking.

Certain Mixed-Use zoning standards are proposed to be waived for qualifying affordable housing projects to allow for greater flexibility and make the projects more financially feasible. The standards waived are typically associated with mixed-use development projects versus residential projects, where standards exist for ground floor commercial uses, such a minimum floor plate height of 14 feet associated with a shopfront, minimum retail depth of 60 feet and public exterior space of 3 percent of the building footprint associated with publicly accessible commercial uses.

Table 1 below is a summary comparison of certain development standards for the MU/MOUZ zoning and the associated proposed incentives.

Table: 1 Incentives for Qualifying Projects

DEVELOPMENT STANDARD	MU / MUOZ	INCENTIVE
Height - Maximum	50 feet Within 50 feet of residential zone or exclusively residential use: <ul style="list-style-type: none"> • 30-feet from property line - 25 feet maximum • 30 feet to 50 feet from property line - 45 feet maximum • Over 50 feet from property line - 50 feet maximum 	50 feet Within 50 feet of rear yard abutting a residential zone: <ul style="list-style-type: none"> • 30-feet from property line - 25 feet maximum • 30 feet to 50 feet from property line - 45 feet maximum • Over 50 feet from property line - 50 feet maximum Within 50 feet of side yard abutting a residential zone: <ul style="list-style-type: none"> • 20-feet from property line - 25 feet maximum • 20 feet to 40 feet from property line - 45 feet maximum • Over 40 feet from property line - 50 feet maximum
Side Setback – Minimum	20 feet from a residential zone	Reduce to: 8 feet (single-story) 10 feet (two-story walls)
Third Floor Setback – Minimum	10 foot average from first floor street front building façade	Waive
Minimum Ground Floor Windows (% Ground Floor Façade)	45% for ground floor residential	Reduce to: 35% for ground floor residential
Ground Floor Plate Height – Minimum	14 feet	Waive
Public Exterior Space – Minimum (Mixed-Use Projects)	3% of area of building footprint	Waive

Table 2 below shows the parking ratio requirements for MU and R-3, which demonstrates that covered spaces are not required under the MU zoning.

Table 2: Parking Incentives for Qualifying R-3 Zoned Projects

PARKING REQUIREMENTS – MINIMUM			
	MU	R-3	INCENTIVE
Residential:			
Studio	1.0 spaces / unit	1.0 covered spaces / unit	1.0 spaces / unit
1 Bedroom	1.0 spaces / unit	1.0 covered spaces / unit	1.0 spaces / unit
2 Bedroom	1.5 spaces / unit	1.5 spaces (1 covered) / unit	1.5 spaces / unit
3+ Bedroom	2.0 spaces / unit	2.0 spaces (1 covered)/ unit	2.0 spaces / unit
Guest Parking	0.5 spaces / unit	0.5 spaces / unit	0.5 spaces / unit

Certain Objective Design Standards are proposed to be reduced to provide flexibility and are further detailed in Table 3 below:

- Open space requirements for Courtyard, Stacked Dwelling and Mixed-use Block building types. This includes the reduction of Minimum Courtyard area from 15% to 10% of lot area, reduction of the minimum courtyard dimensions reduced by 10 feet in length and width and reducing the courtyards a minimum proportion to no less than 1:2 between any horizontal dimension and adjacent building height.
- Waive the requirement that a maximum of fifty percent (50%) of the total units within a project can be in a stacked dwelling building type. This limitation would pose a design constraint on smaller developments that would propose this commonly used building type.

The recommended incentives to the Objective Design Standards are based upon Planning Commission and City Council approval of recent projects where modifications were requested for courtyard area requirements. Notable projects include the 1730 Loz Feliz Apartments and the 2150 Hillcrest Road Specific Plan.

Table 3: Objective Design Standards Incentives

Building Types: Courtyard, Stacked Dwelling and Mixed- use Block	Standard	Incentive
Minimum Courtyard area	15% of lot area	10% of lot area
Minimum Courtyard Dimension	Minimum courtyard dimensions must be forty feet (40') when the long axis of the courtyard is within forty-five (45) degrees of an east/west orientation and thirty feet (30') when the courtyard is within forty-five (45) degrees of a north/south orientation.	Minimum courtyard dimensions must be thirty feet (30') when the long axis of the courtyard is within forty-five (45) degrees of an east/west orientation and twenty feet (20') when the courtyard is within forty-five (45) degrees of a north/south orientation.
Minimum Courtyard Dimension	Courtyard dimensions must have no less than a one to one (1:1) proportion between any horizontal dimension and adjacent building height.	Courtyard dimensions must have no less than a one to one (1:2) proportion between any horizontal dimension and adjacent building height.
Stacked Dwelling Type	A maximum of fifty percent (50%) of the total units within a project can be in a stacked dwelling building type.	A maximum of one hundred percent (100%) of the total units within a project can be in a stacked dwelling building type.

Proposed Streamlined Review

The proposed amendment will facilitate residential development by establishing a streamlined, ministerial process for qualifying multi-family development projects pursuant to SB-35. Under Government Code Section 65913.4, qualifying housing projects with at least 50 percent of base units deed restricted as affordable to lower income households must follow the streamlined requirements and process under Government Code Section 65913.4. Ministerial projects would be subject to all objective zoning standards, municipal code requirements, standard operational

conditions and only require the issuance of building permits and payment of associated permit and impact fees. Attachment #2 provides the overview of the approval process and the eligibility for affordable housing streamlined approval.

The proposed amendment would add the following language to TOMC Section 9-4.2816 Exempt Housing Projects:

Housing projects with at least 50 percent of base units deed restricted as affordable to lower income households that meets the requirements and process as further detailed in California Government Code Section 65913.4.

Following adoption of the ordinance, an application specific to this process will be created and information and materials will be made available to assist applicants.

ENVIRONMENTAL REVIEW

The proposed amendments are activities that were anticipated for the implementation of the adopted goals, programs and policies contained in the City's recently adopted General Plan. The amendments are consistent with the development density adopted in the General Plan and supporting elements and pursuant to CEQA Guidelines Sections 15183 and 15168 (c)(2) and (c)(5), no further environmental review or documents are required. The activities of amending project review procedures, development standards for affordable housing, and adopting ordinances to implement such programs will facilitate development as intended by the General Plan and the Housing Element and were analyzed under the certified Program EIR. These specific actions are called out as program implementation of the 2012-2029 Housing Element. Any conceivable impact of the proposed amendments would also be speculative in the absence of specific development proposals.

CONCLUSION

The proposed Municipal Code Amendment implements the measures set forth in the Council adopted 2021-2029 Housing Element by establishing ministerial approval for lot mergers, incentives for qualified housing projects with lot consolidation and a streamlined review process for SB-35 projects. These measures will further facilitate the processing of qualifying residential development projects and incentivize affordable housing to meet the Regional Housing Needs Assessment for the City of Thousand Oaks. This Municipal Code Amendment is necessary to maintain certification of the 2021-2029 Housing Element by HCD.

Staff recommends that the Planning Commission approve the draft resolution recommending that the City Council approve MCA 2024-70004 as set forth in the attached ordinance (Attachment #3).

Prepared by: Iain Holt, Senior Planner

Attachments:

- Attachment #1 – Resolution Recommending Approval to City Council
- Attachment #2 – SB35 Streamlined Approval Process
- Attachment #3 – Municipal Code Ordinance

ATTACHMENT #s 1 and 3
(To the 9/23/2024 PC Packet)

To avoid duplication, the final, signed Planning Resolution and its Exhibit A (draft Ordinance) are included for Planning Commission Attachment #s 1 and 3.

CITY OF THOUSAND OAKS
PLANNING COMMISSION
RESOLUTION NO. 13-2024 PC

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF THOUSAND OAKS
RECOMMENDING APPROVAL OF A MUNICIPAL
CODE AMENDMENT TO ESTABLISH A
MINISTERIAL FOR VOLUNTARY LOT MERGERS,
INCENTIVES QUALIFYING AFFORDABLE
HOUSING PROJECTS WITH LOT MERGERS AND
MINISTERIAL APPROVAL FOR SB-35 PROJECTS
AS REQUIRED BY THE 2021-2029 HOUSING
ELEMENT

Application: MCA 2024-70004
Applicant: City of Thousand Oaks
Location: Citywide

SECTION 1

The Planning Commission of the City of Thousand Oaks, California DOES
RESOLVE AS FOLLOWS:

WHEREAS, on December 5, 2023, the City of Thousand Oaks City Council adopted the Thousand Oaks 2045 General Plan and revised 6th Cycle Housing Element (2021-2029), which includes Goals and Policies to adopt standards in order to facilitate opportunities for affordable housing development;

WHEREAS, the City of Thousand Oaks City Council readopted the 6th Cycle Housing Element (2021-2029) with Resolution No. 2024-067 based on revised findings as required by HCD;

WHEREAS, the City's adopted Housing Element requires program implementation during the 6th cycle in order to maintain certification and implement measures that streamline and incentivize affordable housing projects to meet the City's Regional Housing Need Assessment (RHNA) allocation for the City;

WHEREAS, in 2017, the California Legislature approved, and the Governor signed into law Senate Bill 35, which amended Government Code section 65913.4 streamlining housing approvals during a housing shortage;

WHEREAS, the City's Housing Element Programs 4 and 6 require ministerial review of lot mergers, incentives for affordable housing projects that utilize lot mergers, and ministerial review for qualifying affordable residential projects to be consistent with State Housing Element Law as required by SB-35;

WHEREAS, Find that pursuant to Sections 15183 Projects Consistent with a Community Plan, General Plan or Zoning and 15168(c)(2)(5) Program EIR of the California Environmental Quality Act (CEQA) no further environmental document is required because the proposed actions are consistent with the City's goals, policies and anticipated programs contained in the adopted General Plan and Housing Element covered under a certified Program Environmental Impact Report (EIR) [SCH #2022060087]. The proposed amendments do not involve peculiar impacts that were not previously analyzed or discussed as significant effects in prior EIR on the general plan and zoning with which the project is consistent, there are no previously identified significant effects that are substantially more severe than analyzed in the prior EIR or cannot be substantially mitigated by the imposition of uniformly applied development policies or standards applied on a citywide basis. Any conceivable impact of the proposed amendments would be speculative absent of a specific development project;

WHEREAS, the Planning Commission, upon giving the required notice, did, on the 23rd day of September 2024, conduct a duly-advertised public hearing as prescribed by law to consider said Amendments; and

WHEREAS, at the September 23, 2024, Planning Commission public hearing, oral and written evidence, including a staff report, were presented and received, and arguments were heard from all interested parties appearing in the matter.

WHEREAS, at the September 23, 2024 meeting, the Planning Commission voted 5-0 on a motion to recommend approval of the Municipal Code Amendment including the amendments provided by staff in the Supplemental Packet, and by the Planning Commission to remove the following incentives: (1) waiver of the third-floor setback minimum from the first-floor street front building façade, and (2) reduction of the minimum courtyard area from 15% to 10% of lot area.

NOW, THEREFORE, BE IT RESOLVED that said MCA-2024-70004 are recommended to City Council for approval.

SECTION 2

WHEREAS, the findings of the Planning Commission for recommending approval of said Municipal Code Amendment application MCA 2024-70004 are as follows:

1. *"The project is consistent with the Thousand Oaks General Plan and any applicable specific plan or redevelopment plan" per TOMC Sec. 9-4.2803(c)(1).*

The proposed Municipal Code Amendment (MCA) is consistent with the following Goal and Policies of the General Plan 2045 and Goals and Programs of the 2021-2029 Housing Element because City is implementing the Housing Element Programs 4 and 6. The MCA streamlines the process for merging of lots and incentivizes housing projects through modified development standards, and ministerial review for qualifying affordable residential projects pursuant to SB-35. The MCA contributes towards the development of appropriate tools to help contribute towards the production of affordable housing to meet the needs of the community and the City's Regional Housing Needs Assessment allocation.

General Plan 2045

Goal LU-1: *Create a land use pattern of development that preserves existing neighborhoods while providing opportunities for targeted infill projects in strategic locations to enhance the quality of life, preserve the natural environment, and ensure the long-term fiscal viability of Thousand Oaks.*

- **Policy 1.1 Overall City structure.** *Establish a clearly defined urban pattern of development and open space by:*
 - ...
 - *Incentivizing and streamlining infill multi-family development.*
 - *Incentivizing and streamlining infill residential at mixed-use designations, including adding residential development on existing parking lots and underutilized portions of the site.*
 - ...

Goal LU-4: Support the creation of safe, affordable, and sanitary housing for all ages, income levels, and abilities.

- **Policy 4.5 Affordable housing stock.** Increase the number and diversity of affordable housing units in the City and encourage housing of varying income levels and unit sizes/ floor plans.

Goal LU-8: Support high-quality and visually interesting design and construction of all buildings throughout the City.

- **Policy 8.6 Lot consolidation.** Encourage assembly of small parcels along commercial and mixed-use corridors to achieve a cohesive pedestrian-oriented development and building design. Allow modifications to development standards to encourage lot consolidation.

2021-2029 Housing Element

Goal 1: Provide a wide range of housing opportunities for persons of all income levels.

Program 4: Lot Consolidation

Objectives and Timeframe

- By June 2024, eliminate the administrative hearing process and noticing requirements for lot consolidation and develop appropriate lot consolidation incentives that provide flexibility in site planning to facilitate mixed-use and multi-family development.

Program 6: Streamlined Review

Objectives and Timeframe

- By December 2023, establish an SB 35 review process.

Therefore, the proposed MCA is consistent with City's adopted General Plan 2045 and 2021-2029 Housing Element and meets this finding.

2. "The project complies with all applicable laws, regulations and policies, including the Thousand Oaks Municipal Code" per TOMC Sec. 9-4.2803(c)(2).

The proposed MCA complies with all applicable laws, regulations, and policies. The project consists of regulatory amendments creating a

streamlined process for merging of lots and incentivizing housing projects through modified development standards, and ministerial review for qualifying affordable residential projects pursuant to SB-35 as appropriate tools to help contribute towards the production of affordable housing to meet the needs of the community and the City's Regional Housing Needs Assessment allocation.

Therefore, the proposed MCA is consistent with all applicable laws, regulations, and policies and meets this finding.

3. *"The project will not be detrimental to the public health, safety or general welfare" per TOMC Sec. 9-4.2803(c)(3).*

The proposed MCA introduces a ministerial process for lot mergers, incentives for qualifying affordable housing projects that merge parcels and ministerial process for affordable housing projects subject to SB 35. There is no associated physical development proposed as part of this MCA. Any new construction that would be subject to the adoption of this Ordinance and other regulations of the Zoning Ordinance is required to undergo its own separate review, as part of the City's Development Permit process.

Therefore, the proposed project will not be detrimental to the public health, safety or general welfare and meets this finding.

4. *"The project has been reviewed in conformance with the provisions of the California Environmental Quality Act" per TOMC Sec. 9-4.2803(4).*

The proposed project has been reviewed in conformance with the provisions of the California Environmental Quality Act (CEQA) Find that pursuant to Sections 15183 Projects Consistent with a Community Plan, General Plan or Zoning and 15168(c)(2)(5) Program EIR of the California Environmental Quality Act (CEQA) no further environmental document is required because the proposed actions are consistent with the City's goals, policies and anticipated programs contained in the adopted General Plan and Housing Element covered under a certified Program Environmental Impact Report (EIR) [SCH #2022060087]. The proposed amendments do not involve peculiar impacts that were not previously analyzed or discussed as significant effects in prior EIR on the general plan and zoning with which the project is consistent, there are no previously identified significant effects that are substantially more severe than analyzed in the prior EIR or cannot be substantially mitigated by the imposition of uniformly applied

development policies or standards applied on a citywide basis. Any conceivable impact of the proposed amendments would be speculative absent of a specific development project. These specific actions are called out as program implementation of the 2021-2029 Housing Element.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that City Council approve the Municipal Code Amendment (MCA) 2024-70004 set forth and attached hereto and made a part hereof.

I HEREBY CERTIFY that the foregoing resolution reflects action taken by the Planning Commission of the City of Thousand Oaks at a regular meeting held on the 23rd day of September 2024, by the following vote:

AYES: Commissioners Farris, Tyler Ketelhut, Link, McMahon, and Chair Lanson

NOES: None

ABSENT: None

ABSTAIN: None



Don Lanson, Chair
Planning Commission

Fabiola Zelaya-Melicher, Secretary
Planning Commission

EXHIBIT A

DRAFT ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THOUSAND OAKS AMENDING THE THOUSAND OAKS MUNICIPAL CODE BY ADDING SECTION 9-3.1218, TO TITLE 9, CHAPTER 3, ARTICLE 12, AMENDING SECTION 9-4.2816 OF TITLE 9, CHAPTER 4, ARTICLE 28, AS WELL AS ADDING TITLE 9, CHAPTER 10, ARTICLE 8 TO ESTABLISH A MINISTERIAL PROCESS FOR VOLUNTARY LOT MERGERS, INCENTIVES FOR QUALIFYING AFFORDABLE HOUSING PROJECTS, AND MINISTERIAL APPROVAL FOR SB-35 PROJECTS AS REQUIRED BY THE 2021-2029 HOUSING ELEMENT **(MCA-2024-70004)**

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

Part 1

Title 9, Chapter 3, Article 12, Reversions and Mergers of the Thousand Oaks Municipal Code, is hereby amended to add Section 9-3.1218 Voluntary Lot Mergers as follows:

- (a) Intent and Purpose: Concurrent Processing with Discretionary Projects. The purpose of this Article is to establish ministerial procedures for processing voluntary merger applications to merge contiguous lots under common ownership into a single lot as authorized by Government Code Section 66499.20.3. The approval of voluntary merger applications and subsequent review and approval of the certificate of merger and deeds are ministerial acts not subject to CEQA. In instances where a voluntary merger is requested in conjunction with a project involving an application for a development permit or other discretionary City land use approval involving some or all of the property subject to the voluntary merger, the voluntary merger application shall be processed concurrently with the application for the discretionary land use approval, including for purposes of evaluating the project's potential environmental effects. Notwithstanding the foregoing, the City's approval of a voluntary merger is, in and of itself, a ministerial act.

(b) **Application.** Applications for the approval of a Voluntary Merger shall be filed with the Community Development Department. No application shall be accepted for filing and processing if there is an open investigation pertaining to a documented violation of the TOMC on the subject lot(s) unless:

- (1) The acceptance of the application is necessary to abate the existing violation and otherwise conforms to the requirements of this Chapter;
- (2) Contains in a full, true, and correct manner, the required information prescribed by the forms supplied by the Community Development Department; and
- (3) Is accompanied by the appropriate fees.

(c) **Filing and Processing Requirements.**

- (1) The application for a Voluntary Merger shall be processed by the Community Development Department if all information and documents requested in the application, including each item listed below in Section 9-3.1218(c)(1)(i) through (c)(1)(vii), are submitted and concurrently reviewed to the satisfaction of the Community Development Department until deemed complete.
 - (i) A deposit of the required fees pursuant to the City's Fee Schedule to process and record a certificate of voluntary merger.
 - (ii) A current preliminary title report showing all parties with a legal or equitable interest in the lots and all easements, covenants, and other encumbrances and interests in the affected lots at the time of the filing of the application for the voluntary merger.
 - (iii) All parties having any record title interest in the lots subject to the voluntary merger application have consented in writing to the voluntary merger subject to the exceptions set forth in Government Code Section 66436.
 - (iv) If any of the existing lots are developed, a site plan prepared by the project surveyor that depicts the location of any buildings or structures with a notation of setback distances from the resulting adjusted lot lines.
 - (v) Documentation, as required by the Community Development Department, to establish that each of the lots that are subject to the voluntary merger are legal lots. The applicant is encouraged to consult with the Community Development Department prior to submitting a voluntary merger application that involves illegally created lots to confirm compliance with Section 9-3.1218(g)(1), (2), and (11).

- (vi) Legal description and map, prepared by a person authorized to practice land surveying or land surveyor, of the new boundaries of the merged lot as adjusted by the voluntary merger. The map shall also include: (i) the boundaries of each of the existing lots at the time of application; and (ii) a north arrow and the bearings and distances for the merged lot lines. A record of survey may be voluntarily submitted as a substitute for a map.
 - (vii) Draft certificate of voluntary merger (see Section 9-3.1218(k) below) and deed(s) reflecting the adjusted property boundaries.
- (2) Unless otherwise specified in this Article, the voluntary merger application shall be processed ministerially without a public notice or hearing.
- (d) Community Development Department and City Engineer Review
 - (1) The Community Development Department and City Engineer shall review the voluntary merger application. If additional information is needed, the applicant shall provide the documents and information requested by the Community Development Department and City Engineer in order to deem the application complete. If the application is determined to be incomplete, the applicant shall be notified in writing of the reasons therefor and informed of the information needed to make the application complete.
 - (2) The City Engineer or designee shall determine whether the documents required to effectuate the Voluntary Merger are technically correct, including the legal description and map. When the City Engineer or designee is satisfied that the documents to be recorded to complete the voluntary merger are technically correct, the City Engineer shall transmit the documents to the Community Development Department for recordation with the Office of the County Recorder upon final approval of the application by the advisory agency pursuant to Section 9-3.1218(j) of this Chapter.
- (e) Termination of Incomplete Application. An incomplete voluntary merger application may be terminated in the same manner for terminating an incomplete land use permit application as set forth in Section 9-4.2817(a)(1), and (a)(2) "Applications incomplete for processing."
- (f) Designated advisory agency. The Community Development Director or designee is the designated advisory agency for ministerial voluntary merger applications under this Article.
- (g) Standards for Approval. The Community Development Director, in consultation with the City Engineer, shall approve or conditionally approve a voluntary lot merger without public notice or hearing if, on the basis of the complete application that demonstrates the following:

- (1) Each of the lots to be merged are legal lots. However, a legal lot that was illegally subdivided thus creating two or more illegal lots may be merged back into its original configuration as the legal lot existed prior to the illegal subdivision so long as the other criteria of approval set forth in this section are met;
- (2) If one or more involved parcels is subject to a conditional certificate of compliance, the conditions of development must be fully satisfied by the merger. Notwithstanding the foregoing, if a condition of development that would not be satisfied relates to minimum parcel size, the merger shall be approved with the condition that the deed or deeds recorded to effectuate the merger contain an express statement that the resulting parcel remains subject to the conditional certificate of compliance, whose recording information shall be noted on the deed or deeds;
- (3) The lots to be merged are contiguous to each other;
- (4) The lots to be merged are under the same ownership;
- (5) If there are any liens or deeds of trust, they shall encumber the entire merged lot. There cannot be any liens or deeds of trust encumbering only a portion of the merged lot;
- (6) The voluntary merger will not adversely affect existing easements of record on any of the lots or any conditions of approval, dedications, offers to dedicate, or security arising from a previously recorded map that created any of the lots subject to the voluntary merger application;
- (7) The lot merger shall not impair existing easements, or it shall include the relocation of existing easements, utilities, or infrastructure serving adjacent lots, parcels, or public lands and streets;
- (8) The lot merger shall not impair existing access or create a need for access to adjacent lots or parcels;
- (9) The lot merger will not alter the exterior boundary of the lots to be merged.
- (10) The City Engineer or designee has approved the legal description as accurately representing the exterior boundaries of the resulting merged lot;

(11) The voluntary merger will not render any existing conforming structures or existing conforming uses on any of the involved lots to become a nonconforming structure or use. Existing legal nonconforming structures or uses on any of the lots subject to the application are not grounds to deny the voluntary merger; and

(12) The deed or deeds submitted to the Community Development to effectuate the merger shall contain an express statement of the grantor(s), pursuant to section 1093 of the Civil Code, that the intent of the grantor(s) and the purpose of the deed(s) is to merge all of the property described in the deed(s) into a single lot.

(h) Conditional Approval:

(1) The only conditions the Advisory Agency may impose on the approval of a voluntary merger are those required:

(i) Conform the merged lot to all objective standards and requirements of the General Plan, Zoning Ordinances and City of Thousand Oaks Improvement Standards and Specifications; and

(ii) Facilitate the relocation of existing utilities, infrastructure, or easements.

(2) If the voluntary merger application is conditionally approved, the advisory agency shall send a letter of conditional approval notifying the applicant of the conditions to be fulfilled prior to recordation of the voluntary merger. If the conditions are not fulfilled within one year of the date of the letter, the voluntary merger shall expire and become null and void unless the applicant obtains a written extension from the Advisory Agency pursuant to Section 9-9-3.1218(i), "Extension of Conditional Approval" of this Chapter.

(3) A conditionally approved voluntary merger shall be deemed ready for recordation when the advisory agency determines that the conditions have been fulfilled and is in receipt of the following:

(i) An up-to-date preliminary title report;

(ii) The voluntary merger documents approved by the City Engineer (e.g., legal description and a map); and

(iii) All deeds prepared for recordation as approved by the Community Development Director pursuant to Section 9-3.1218(c)(1)(vii) of this Chapter.

- (4) Upon receipt of the documents required by Section 9-3.1218(h)(3) above, the Advisory Agency shall cause each of the Community Development Director -approved voluntary merger documents and deeds to be recorded in the Office of the County Recorder.
- (i) Extension of Conditional Approval. Prior to the expiration of the conditional approval of the voluntary merger application pursuant to Section 9-3.1218(h)(2) above, the Advisory Agency may grant one extension of up to six (6) months if the applicant demonstrates good cause.
- (j) Certificate of Voluntary Merger. The recordation of a Certificate of Voluntary Merger and the deed(s) shall effectuate the voluntary merger of the separate lots into a single lot for the purposes of the Subdivision Map Act and this Chapter, and the lots shall thereafter be treated in all respects as a single lot. The Certificate of Voluntary Merger shall constitute a Certificate of Compliance for the merged lot.
- (k) Certificate of Voluntary Merger Requirements. A Certificate of Voluntary Merger shall include all the following:
- (1) All parties having any record title interest in the merged lot shall execute the Certificate of Voluntary Merger before a Notary Public and submit it to the Community Development Department, excepting all those interests that are excepted pursuant to the provisions of Government Code Section 66436. The Community Development Director shall also execute the Certificate of Voluntary Merger, but the signature need not be notarized.
 - (2) The Certificate of Voluntary Merger shall include an express written statement that the consolidation of the legal descriptions of the lots is intended by the owner(s) to merge those lots into a single lot as set forth in the legal description of the merged lot.
 - (3) Either: (a) The deed or deeds that comprise the ownership interests of each lot subject to the voluntary merger shall be attached to the certificate of voluntary merger, or (b) the recorder number of each deed to each lot subject to the Voluntary Merger shall be referenced in the Certificate of Voluntary Merger.
 - (4) The legal description of the merged lot approved by the City Engineer shall be attached to the Certificate of Voluntary Merger.

Part 2

Title 9, Chapter 4, Article 28, Section 9-4.2816 is amended to add new Section 9-4.2816 (b) and relabel 9-4.2816 (b) to 9-4.2816 (c) as follows:

9-4.2816: Exempt Housing Projects

The following housing projects are exempt from all discretionary land use entitlement review process required by Article 21. Uses Allowed by Zone and are only required to obtain building permits, grading permits, landscape plan checks and other ministerial associated permits, after a zoning clearance has been issued by the Community Development Department:

- (b) ...Housing projects with at least 50 percent of base units deed restricted as affordable to lower income households that meets the requirements and process as further detailed in Government Code Section 65913.4.
- (c) These housing projects exempt from discretionary land use entitled review process are subject to ministerial review to confirm exempt status including compliance with the applicable standards of the zoning regulations and appropriate operational conditions. Ministerial actions are not appealable.

Part 3

Title 9, Chapter 10 Affordable Housing is hereby amended to add Article 8. Incentives for Lot Consolidation as follows:

Article 8 Incentives for Affordable Housing with Lot Consolidation

Sec. 9-10.801 Purpose and intent

The purpose of this article is to encourage the redevelopment of smaller sites through allowing incentives for qualifying housing projects that include the merging or consolidation of parcels.

Sec. 9-10.802 Eligibility for Incentives

- (a) Qualifying Projects: Housing developments that consist of lot consolidation pursuant to Section 9-3.1218 Voluntary Lot Mergers and meet either of the following location and affordability criteria:
 - (1) Housing Inventory Sites (HIS) that construct at a minimum, the number of residential units at the level of affordability identified in the Housing Element Appendix C: Sites Inventory.

- (2) Mixed-Use (MU), Mixed-Use Overlay Zone (MUOZ) or Multiple-Family (R-3) zoned sites not identified in the Housing Element Sites Inventory associated with a rental development proposal consisting of 20 percent of the units affordable to lower income households and ownership development proposal consisting of 20 percent of the units affordable to moderate income households.

Sec. 9-10.803 Incentives

- (a) Fee Based: A pre-application will be processed with no fees imposed by the Planning Division.
- (b) Locations: Housing Element Inventory Sites and other multifamily or mixed-use sites may be consolidated either separately or in combination when properties are adjoining and proposed to be merged.
- (c) Development Standards
 - (1) Qualifying projects located in the R-3 zone may use the Mixed-Use Zone Development Standards per Section 9-4.1052 and as allowed in this section (2) through (4).
 - (2) Waive the following Mixed-Use Zone Development Standards
 - (i) Ground Floor Plate height: Minimum 14 feet
 - (ii) Minimum average depth of retail of 60 feet
 - (iii) Public Exterior Space – Minimum 3% of area of building footprint
 - (3) Change the following Mixed Use development standards to the following:
 - (i) Side yard setback: 10 feet minimum from a residential zone
 - (ii) Building Height maximum along a side property line within 40 feet of side yard abutting a residential zone:
 - (1) 20-feet from property line - 25 feet maximum
 - (2) 20 feet to 40 feet from property line - 45 feet maximum
 - (3) Over 40 feet from property line - 50 feet maximum
 - (iii) Minimum Ground Floor Windows: 35% for ground floor residential
 - (4) Reduce or waive Objective Design Standards for Courtyard, Stacked Dwelling and Mixed-use Block building types:
 - (i) Minimum courtyard dimensions must be thirty feet (30') when the long axis of the courtyard is within forty-five (45) degrees of an east/west orientation and twenty feet (20') when the courtyard is within forty-five (45) degrees of a north/south orientation.
 - (ii) Courtyard dimensions must have no less than a one to one (1:2) proportion between any horizontal dimension and adjacent building height.
 - (iii) A maximum of one hundred percent (100%) of the total units within a project can be in a stacked dwelling building type.
- (d) Eligible for regulatory incentives consistent with Government Code Section 65915(d)(2) regardless of whether the qualifying project includes a Density Bonus.

Sec. 9-10.804 Affordability Requirements

Rental units must be deed restricted as affordable housing units for no fewer than 55 years and ownership units must deed restricted as affordable housing units for no fewer than 45 years, subject to Article 6. Compliance Procedures.

Part 4 (Uncodified) Severability

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 being 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 any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Part 5 (Uncodified) Effective Date

This Ordinance shall take effect on the thirty-first (31st) day following its final passage and adoption.

PASSED AND ADOPTED this XXth day of October, 2024, by the following vote:

Ayes:

Noes:

Absent:

Al Adam, Mayor
City of Thousand Oaks, California

ATTEST/CERTIFY:

Laura B. Maguire, City Clerk

Date Attested: _____

APPROVED AS TO FORM
Office of the City Attorney

Tracy M. Noonan, City Attorney

APPROVED AS TO ADMINISTRATION:

Andrew P. Powers, City Manager

Introduced: XXXX XX, 202X
Published: XXXX XX, 202X
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.

SB35 Affordable Housing: Streamlined Approval Process

WHAT IS SB35 AFFORDABLE HOUSING STREAMLINED APPROVAL?

SB-35 allows qualifying development projects with certain minimum affordable housing guarantees to move more quickly through the local government review process and restricts the ability of local governments to reject these proposals. This is a voluntary program that a project sponsor may elect to pursue, provided that certain eligibility criteria are met. The bill was signed into law in 2017 and became effective on January 1, 2018.

The bill created a streamlined approval process for infill developments in localities that have failed to meet their regional housing needs allocation (RHNA). The bill amends Government Code Section 65913.4 to require local entities to streamline the approval of certain housing projects by providing a ministerial approval process, removing the requirement for CEQA analysis, and removing the requirement for discretionary entitlements granted by the Planning Commission.

IS MY PROJECT ELIGIBLE FOR SB35 AFFORDABLE HOUSING STREAMLINED APPROVAL?

In order to be eligible for streamlining, the project must meet all of the following criteria:

- **Affordability:** At least 50% of the proposed residential units must be dedicated as affordable to households at 80% AMI for either rental or ownership projects. In order to assure that the affordable units remain so dedicated, they must comply with the City of Thousand Oaks Inclusionary Housing Program with regard to monitoring, enforcement, and procedures for eligibility.
- **Number of Units:** The development must contain at least two or more net new residential units.
- **Zoning and Residential Uses:** The development must be located on a legal parcel or parcels that are zoned for residential uses. At least 2/3 of the floor area of the proposed development must be dedicated to residential uses.
- **Location:** The development must be located on a property that is not within a coastal zone, prime farmland, wetlands, a high fire hazard severity zone, hazardous waste site, a delineated earthquake fault zone, a flood plain, a floodway, a community conservation plan area, a habitat for protected species, or under a conservation easement.
- **Demolition of Residential Units:** The project does not demolish any housing units that have been occupied by tenants in the last 10 years; are subject to any form of rent or price control, or are subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low incomes.
- **Historic Buildings:** The project does not demolish a historic structure that has been placed on a national, state, or local historic register.
- **Consistent with Objective Standards:** The project must meet all objective standards of the Zoning Code at the time of SB-35 application submittal. Such objective standards are those that require no personal or subjective (discretionary) judgment, such as objective dimensional requirements, and as otherwise set forth below.
- **Prevailing Wages:** If the development is not in its entirety a public work, as defined in Government Code Section 65913.4 (a)(8)(A), all construction workers employed in the execution of the development must be paid at least the general prevailing rate of per diem wages for the type of work and geographic area.

- **Skilled and Trained Workforce provisions:** A skilled and trained workforce, as defined in Government Code Section 65913.4 (a)(8)(B)iii, must complete the development if the project consists of 50 or more units.
- **Subdivisions:** The development did not or does not involve a subdivision of a parcel that is subject to the California Subdivision Map Act, unless the development either (i) receives a low-income housing tax credit and is subject to the requirement that prevailing wages be paid, or (ii) is subject to the requirements to pay prevailing wages and to use a skilled and trained workforce.
- **Notification to California Native American tribes:** After providing notice of the intent to develop the site to California Native American tribes that are traditionally and culturally affiliated with the geographic area of the proposed development site, a determination by the City that: the development site is not a tribal or cultural resource on a national, state, tribal or local historic register list; that the parties to a scoping consultation have documented an enforceable agreement on methods, measures, and conditions for tribal cultural resource treatment; or that the parties to the scoping consultation do not disagree as to whether a potential tribal cultural resource will be affected by the proposed development.

WHAT IS THE PROCESS FOR STREAMLINED APPROVAL?

Prior to accepting an application for SB-35 approval, the City must notify relevant California Native American tribes about the proposed development. A notice of intent to submit an SB-35 application shall include a Project Application, SB-35 Application Supplemental, State Density Bonus application supplemental (if required), a Preliminary Application pursuant to SB-330, and architectural plans. If there is no response to the notification of intent or there is an agreement reached in a scoping consultation and the project application is deemed complete and eligible for SB-35 review, the project is eligible for SB-35 (ministerial) approval. If there is no agreement reached, a project is not eligible for SB-35 approval. Provided that the notification and scoping session result in either an agreement or no response, SB-35 timelines shall commence provide a building permit is submitted.

Projects that elect to take advantage of streamlining stipulated in SB-35 must submit a building permit application and an SB-35 Streamlined Development application demonstrating the project's eligibility.

CEQA review is not required for SB-35 eligible projects because they are subject to a ministerial approval process. The building permit will not be subject to any applicable neighborhood notice requirements in the Zoning Code, and the Department will not accept Discretionary Review applications for these projects because they are subject to a ministerial approval process.

SB-35 includes timelines for streamlined review. Planning staff must determine if a project is eligible for streamlining within 60 days of application submittal for projects of 150 or fewer units, and 90 days for projects containing more than 150 units.

If the Department provides written comments to an Applicant detailing how a project is not SB-35 eligible as proposed, or requests additional information to make such a determination, then the 60 or 90 day timeline will restart upon submittal of a revised development application in response to that written notice.

Any design review or public oversight must be completed in 90 days for 150 or fewer units and 180 days for projects with more than 150 units, measured from the date of the SB-35 application submittal. The Development Services Director may decide, on a case by case basis, to schedule a design review hearing for an SB-35 project at the Planning Commission.

State Density Bonus Projects under CA Govt. Code Section 65915

Projects that use the State Density Bonus Program and meet all other eligibility requirements above qualify for streamlining under SB-35. Any waivers, concessions, or incentives, conferred through the State Density Bonus Law are considered code-complying, and therefore are consistent with the objective standards of the Zoning Code. In addition, qualifying 100% affordable projects may qualify for the State Density Bonus set forth in CA Govt. Code Section 65915.

cdd:660-21\H:COMMON\Planning Commission\Agenda Packet\2024\2024-09-23\HE Program 8 Lot Consol SB35\07A Housing Element Implementation MCA-2024-70004 Attach 2 SB35 Streamlined Approval Process\pz (FILE ID: MCA 2024-70004)

To: Planning Commission

From: Kelvin Parker, Community Development Director

Date: September 23, 2024

Subject: Regarding Item 07A – Municipal Code Amendment (MCA) 2024-70004

The following contains proposed revisions to the Draft Ordinance for the Municipal Code Amendment (Attachment #3). Remissions are shown as strikethroughs and additions are shown as underlined follows:

Attachment #3 – Municipal Code Amendment:

- Pages 2, 3 and 5, change format of Code Section references consistent with other code references. For example: Section 9-3.1218-~~e.1.i.(c)(1)(i)~~ through ~~e.1.vii.(c)(1)(vii)~~ on page 2.
- Page 3, amend Section 9-3.1218(c)(2) reads: “Unless otherwise specified in this Article, the voluntary merger application shall be processed ministerially without a public notice or hearing.” (page 3)
- Page 7, add to Section 9-4.2816 an ellipsis at the start of the new subsection (b) and change the reference from “Government Code 65913.4” to “Government Code Section 65913.4”

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[MCA-2024-70004]