

TO: Andrew P. Powers, City Manager

FROM: Kelvin Parker, Community Development Director

DATE: February 22, 2022

SUBJECT: Objective Design Standards (MCA 2020-70250)

RECOMMENDATION:

1. Find that this Municipal Code Amendment is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines; and
2. Read ordinance in title only, further reading be waived, and if no objection introduce ordinance to adopt amendments to Chapter 4 of Title 9 of the Thousand Oaks Municipal Code related to Objective Design Standards for Residential Development.

FINANCIAL IMPACT:

No Additional Funding Requested. Minimal staff time required to prepare the report is included in the Adopted FY 2021-22 General Fund Budget.

BACKGROUND:

Effective January 2018, SB 35 provides a streamlined, ministerial approval process for multi-unit and mixed-use housing in cities and counties subject to certain conditions and consistent with objective zoning and design review standards (Government Code §65913.4). SB 35 grants developers a streamlined, ministerial approval process for multifamily residential developments provided the developer satisfies certain criteria, including the provision of 50% affordable housing and the payment of prevailing wages, among other requirements.

In January 2020, SB 330 became effective and under the recent passing of SB 8 the streamlining provisions will remain in effect until January 1, 2030. This bill makes certain changes to the Housing Accountability Act (HAA) and the Permit Streamlining Act (PSA), as well as creates restrictions on a jurisdiction's ability to deny housing development projects based on subjective, discretionary standards and that are otherwise consistent with the applicable zoning ordinance and general

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plan land use designations. The law defined the terms such as objective standards and complete application and set forth vesting rights for projects that use a new pre-application process.

On June 9, 2020, the City Council approved Resolution No. 2020-030, which initiated Municipal Code Amendment MCA 2020-70250 to Update City Regulations Regarding Residential Development Standards and Other Updates to Comply with State Law (Attachment #1).

Overview

Objective Design Standards were drafted in response to state housing legislation requiring streamlined approval for qualifying residential projects and application of objective design standards as part of the planning review process (Attachment #2). The benefit of adopting such standards allows the City to retain local control of some fundamental design principles as part of the planning review of residential projects. Many of the policies and guidelines that have proved beneficial during the review process through negotiation with applicants, have increased project review periods and have resulted in subjective decisions. Under current state law, rendering decisions based on subjective criteria opens up jurisdictions to legal challenge and a combination of financial penalties and loss of Housing Element certification. In summary, the City's current subjective standards can no longer be used to evaluate qualifying discretionary development projects which leaves limited local control over project design.

The objective design standards presented with this report address the state requirements and provide applicant's and the City staff with a prescriptive and clear means of designing and evaluating residential development requests. Establishing clear, objective standards benefits both the City and the applicant with certainty and greater efficiency through the planning process.

These objective standards provide a foundation to achieve good project design consistent with past practice without the need for negotiation and do not change most of the underlying regulations for the underlying zoning districts in terms of setbacks, coverage, projections into yards, and minimum lot size. Building height remains unchanged with the exception to clarification for building height maximum in the R-3 (Multiple Family Residential) and R-P-D (Residential Planned Development) zones. Upon adoption of the General Plan Update, a comprehensive update to the zoning regulations will take place to align the zoning with the land use and other policies of the General Plan and opportunity for evaluation of additional objective standards.

Planning Commission Review

On October 25, 2021, the Planning Commission voted on a motion to recommend approval that did not pass with a tie vote of two to two. No subsequent amended motions were considered by the Planning Commission. A tie vote results in no recommendation referred to the City Council. As the decision was an impasse, no findings were made by the Planning Commission and staff's recommendation for approval forwards to the City Council as contained within the conclusion of this staff report.

At the Planning Commission meeting, there were no topics related to the content of the objective standards deliberated collectively amongst the Planning Commissioners. One commissioner commented on staff's analysis of how the code reads in terms of maximum height for the R-3 and R-P-D zones and suggested on limiting maximum height to 25 feet for multi-family. This height limit suggestion was not discussed nor contained within the motion voted on by the Planning Commission. Public comments at the meeting included comments regarding wording with the street connectivity section and with the upper story massing criteria for qualifying affordable housing projects.

DISCUSSION/ANALYSIS:

This discussion provides a broad overview of the components of the Objective Standards and other accompanying Municipal Code Amendments. Focused and detailed discussion on Municipal Code Amendment features is contained in the staff report to the Planning Commission (Attachment #3).

Objective Standards are regulations that do not involve any judgment but rely on a quantifiable measure to determine compliance. State legislation emphasizes that the review of housing proposals must have clear and measurable rules for determining compliance with local regulations. The City, like other cities, has relied upon numerous policies and guidelines to review development proposals and use these as means for negotiating better design through the development review process. The practice of applying subjective policies leaves the City vulnerable to legal challenges on housing projects.

Project Summary

The proposed Objective Design Standards for Residential Development contain the following main topic areas to better ensure that fundamentals for site and building design are met through application of zoning regulations. The full description of staff's evaluation and components of the Municipal Code Amendment are contained with the Planning Commission staff report (Attachment #3). The full ordinance and Municipal Code language is contained in Attachment #1 and the following provides a synopsis of the standards' main points.

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1. **Applicability:** All residential and mixed-use development, which includes the new construction of two or more units and any qualifying residential project where a streamlined approval process is requested by the project proponent pursuant to State Law.

2. **Process:** Projects subject to these Objective Standards require a Residential Planned Development Permit, unless allowed as a ministerial approval by state law. Modifications to the Objective Standards would require a separate modification permit approval subject to specific findings included in the Objective Standards of the Municipal Code. Modification review would occur either by the Community Development Director or the Planning Commission depending on the type of standard being requested for modification. If a project does not comply with the Objective Standards and requests a modification, then design guidelines may be used as part of the project evaluation.

3. Objective Design Standards Categories

a. *Street and Pedestrian Connectivity and Automobile Access:* Includes standards for projects to have internal and external street connectivity, limit the use of cul-de-sacs and dead-end streets, prohibit gates/barriers and access to parking.

b. *Site Development Standards:* Sites must be divided into multiple building areas scaled to comply with the proposed building types.

c. *Building Orientation and Unit Entries:* Main entry, unit access configuration, entry area and cover, and balconies.

d. *Parking Location and Configuration:* These standards include parking location behind building frontage, subterranean parking configuration, limited use of parking structures, and limits visibility of parking areas from the street.

e. *Building Types and Design:* Proposed building types include the “Missing Middle Housing”, which are a range of multi-unit buildings that are similar in scale and form with detached single-family homes. These building types include Duplex/Triplex/Quadplex, Villa, Bungalow Courts, Townhouse, Side Court, Courtyard housing. The intent of the “Missing Middle Housing” provides transition from existing single-family neighborhoods to urban centers through more walkable neighborhoods.

Proposed building types include nine different types of residential structures that range from Front Yard House to Mixed-Use Block. These building types are described along with a simple graphic schematically depicting each one in Attachment #3 to the Planning Commission Staff Report (Attachment #3).

f. *Frontage Types*: Variety of types that promote street-oriented entrances, including porch, stoop, terrace, shopfront, forecourt, gallery and arcade.

g. *Building Massing and Articulation*: Maximum building length and façade articulation.

h. *Façade Transparency and Limitation on Blank Walls*.

i. *Windows Details*: Divided lites/mullions, materials, shutters.

j. *Private and Common Open Space for Multifamily Developments*.

k. *Accessory Structures, Site and Building Elements*: These include location of accessory structures, screening of rooftop equipment, fence materials, Municipal Code Sec. 9-4.2501(a)(2) Building Height and Sec. 9-4.2505 Side yards (a)(2) describe the height requirements for R-3 and RPD zones, which do not include set maximum height standards. Staff recommends providing a quantifiable maximum height measurement that both allows heights that are commensurate with the heights of anticipated multifamily development and consistent with existing development.

Staff is recommending the following maximum height requirement with some additional clarifying language (underlined) since the Planning Commission:

"In the R-P-D Zone, except as described herein, no single-family dwelling shall exceed 25 feet in height. In the R-3 and R-P-D Zones, the maximum height for multi-family dwellings must not exceed 35 feet. Projects including 20 percent or more affordable housing units in the very low and low-income categories are allowed to exceed 35 feet up to 45 feet as long as the taller portion does not cover more than 40 percent of the building footprint."

Furthermore, staff is recommending an amendment related to the definition of building heights. As currently defined, the definition relies on the grade to the highest point of a roof or deck line, or an average height measured to an architectural feature (e.g., highest gable or a pitch of hip roof). Implementation of this definition often results in an interpretation and possible non-uniform application of the standard. In order to provide greater clarity, a more consistent method of measuring height is proposed. Staff is introducing a height requirement not based on the finished grade around the building footprint, but a height envelope that matches the topography of the existing or finished grade under certain criteria. Proposed language reads as follows:

“Height: A vertical dimension measured from existing grade or the finished grade, whichever is less, up to a warped plane equal to the height limit of the underlying zone. All portions of the building must be located at or below the building height limit, unless otherwise specified within the code as a building height exception. The “warped plane” is an imaginary plane projected parallel to the topography of the site at the height limit of the applicable zoning district.

This method better matches the building height envelope with the topography of the site and the surrounding properties.

Changes Since Planning Commission Hearing

Since the Planning Commission meeting, staff reviewed the comments heard and in response recommends the following amended language to clarify the proposed ordinance.

Under public comment, it was mentioned that the term “aligned” seems to imply that streets would need connection in a rectilinear fashion. Since most of the existing street pattern in Thousand Oaks is curvilinear, using the term “connected” would achieve the same goal of interconnection between existing streets and a residential project. The following is the section with the strike through and new language underlined.

Under Section 9-4-2205 Objective Design Standards 1) **Street and Pedestrian Connectivity and Automobile Access**

b) External Connectivity: Public streets, alleys, and pedestrian pathways within a proposed subdivision or development site must be ~~aligned~~ connected with existing and planned streets in adjacent neighborhoods to create a continuous street pattern.

Community Outreach

Notification for this public hearing, and the Planning Commission hearing, was conducted in compliance with the Thousand Oaks Municipal Code.

Conclusion:

Staff recommends approval of the Municipal Code Amendment MCA-2020-70250 based on following findings:

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 is consistent with the following Goal

and Policy of the General Plan because the City is using an appropriate tool of objective design standards to help ensure residential and mixed-use development meet fundamental design principles and expectations for the City:

Goal

- *To develop appropriate additional tools enabling commercial, industrial, and residential development to flourish in an efficient and compatible manner.*

Policies – Housing

- *Housing: Strive to provide a balanced range of adequate housing for Thousand Oaks Planning Area residents in a variety of locations for all individuals regardless of age, income, ethnic background, marital status, physical or developmental disability.*

Therefore, the proposed MCA is consistent with the City's adopted General Plan.

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 is compliant with all applicable laws, regulations, and policies as the project consists of regulatory amendments to create objective residential design standards and clarify associated standards and to comply with State law requirements.

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

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 consists of amending the current zoning regulations to create new Objective Design Standards for Residential Development, building height definition, and maximum height standards for the Multiple-Family (R-3) and Residential Planned Development (R-P-D) residential zones. There is no associated physical development proposed as part of this Municipal Code amendment. Any new construction or major alteration/addition that would result from the adoption of this 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.

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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 amendments are exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3). The activity of amending development standards is covered by the commonsense exception that CEQA applies only to projects that have the potential for causing a significant effect on the environment. The amendments proposed will preserve and enhance aesthetic development and each of the proposed amendments is necessary to conform the Thousand Oaks Municipal Code to State law, and any conceivable impact of the proposed amendments would be speculative in the absence of specific development proposals.

Any new construction or major alteration/addition that would result from the adoption of this Ordinance is required to undergo its own separate environmental review as part of the City’s Development Permit process.

COUNCIL GOAL COMPLIANCE:

Meets the following City Council goal(s):

C. Operate City government in a fiscally and managerially responsible and prudent manner to ensure that the City of Thousand Oaks remains one of California's most desirable places to live, work, visit, recreate, and raise a family.

J. Implement high quality revitalization projects within Thousand Oaks Boulevard and Newbury Road Areas; Develop a pedestrian-oriented, viable, and self-sustaining "Downtown;" and, continue to support production of long-term affordable housing.

PREPARED BY: Iain Holt, Sr. Planner

Attachments:

Attachment #1 – City Council Resolution No. 2020-030 initiating Municipal Code Amendments

Attachment #2 – Draft Ordinance Amending Municipal Code for Objective Standards

Attachment #3 – PC Staff Report (with Attachment #'s 1 & 3)

cdd:660-21/Staff Report-Planning Cmsn/pz (FILE ID: MCA 2020-70250)