

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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August 15, 2024

Kelvin Parker, Community Development Director  
City of Thousand Oaks  
2100 Thousand Oaks Boulevard  
Thousand Oaks, CA 91362

Dear Kelvin Parker:

**RE: Thousand Oaks Measure E – Letter of Inquiry**

The California Department of Housing and Community Development (HCD) understands that the City of Thousand Oaks (City) received an application for a general plan amendment for a potential housing development project on approximately 75 acres of land at the terminus of Academy Drive and Wendy Drive (APN#s: 667-0-051-575, 585 and 595). Although a project application has not been submitted at this time, the project applicant seeks to propose approximately 750 units, including 100-150 lower-income units. The project would also seek a density bonus.

The City currently has a growth control measure in place, Measure E, that includes a citywide maximum unit cap. The ordinance requires that any amendment to the Land Use Element of the General Plan that would result in a net increase in residential capacity beyond that currently allowed under the General Plan Land Use Element is subject to voter approval.<sup>1</sup> HCD understands that the proposed project would result in an increase beyond the maximum unit cap and require voter approval.

HCD met with the City on June 11, 2024, to discuss both the history of Measure E and the proposed project. The purpose of this letter is to inquire about Measure E's compliance with the Housing Crisis Act (HCA).<sup>2</sup>

**Measure E Background**

HCD understands that Measure E, Ordinance No. 1280-NS, was first adopted on November 5, 1996, and is set to expire on November 5, 2026. Measure E is codified in the Thousand Oaks Municipal Code under Section 9-2.203 (Increases on Residential Densities or Commercial Acreage). At the time of adoption, a maximum citywide residential unit capacity of 81,124 units was established. Section 9-2.203 provides the

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<sup>1</sup> "3. Measure E," City of Thousand Oaks, 2021-2029 Housing Element, pg. 46,  
<https://www.hcd.ca.gov/housing-elements/docs/thousand-oaks-6th-adopted020722.pdf>.

<sup>2</sup> Gov. Code, § 66300.

following requirements for requests to increase density beyond the unit cap that also require approval by a majority of the City's voters:

- (a) Any amendment either to the General Plan's designated acreage for "commercial" land uses or in the residential land use density ranges, which produces a net increase in excess of the land areas so designated, or in excess of the dwelling unit per net acre density ranges shown on the Land Use Element of the City's General Plan as of November 5, 1996, is a policy decision that the voters of the City of Thousand Oaks should make.
- (b) Voter approval of certain general plan amendments. No proposed amendment to the Land Use Element of the City's General Plan of the following types shall be effective until it has been considered and approved for the ballot by the City Council, and then submitted to and approved by a majority of the City's voters voting at a general or special election:
  - (1) Any amendment which reclassifies land from the "parks, golf course, and open space" designation to any other designation; or
  - (2) Any amendment which cumulatively provides a net increase in the maximum number of residential dwelling units which could be permitted under the proposed land use designation; or
  - (3) Any amendment which cumulatively provides a net increase in the land designated "commercial."

### **Land Use Map Updates**

HCD understands that when Measure E was first adopted in 1996, the unit cap (i.e., the overall number of residential units that could be built) was established through the residential land use densities under the General Plan Land Use Map. During the 2018 land use map update, the residential densities for several residential single-family neighborhoods were reduced by approximately 1,008 units, thereby creating 1,008 units of residential capacity to be used elsewhere in the city. HCD understands this capacity was primarily used to add residential capacity to a new mixed-used land use designation.

On December 5, 2023, the current version of the land use map was adopted as part of the City's General Plan update.<sup>3</sup> HCD understands that all units as part of the baseline 81,124-unit cap have been allocated through the current land use map. Accordingly, any project that is proposed on a site that is not already allocated for residential land uses or would result in a net increase to the allowed residential densities and would therefore require voter approval. Additionally, the proposed project is not located on one of the sites that was allocated for residential uses and therefore a general plan amendment would require voter approval.<sup>4</sup>

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<sup>3</sup> The 2021 land use map was adopted on December 5, 2023, through Resolution 2023-065.

<sup>4</sup> Sec. 9-2.203(b)(2), Ordinance No. 1280-NS – Measure E, City of Thousand Oaks.

## **Thousand Oaks 6<sup>th</sup> Cycle Housing Element**

The City's 6<sup>th</sup> Cycle Housing Element (2021-2029 Planning Period) addresses Measure E under the heading of housing and governmental constraints. There do not appear to be any specific Housing Element programs related to Measure E. The Housing Element states that Measure E is not a constraint to housing development at this time. It states "Since Measure E was approved, there have been no amendments to the Land Use Element that have required a vote of the electorate. Currently, there are approximately 48,169 units in the City and the maximum number of units allowed per the City's General Plan of November 5, 1996 is 81,124. Therefore, to date, Measure E has not been a significant impediment to the development of housing. Although the cost, delay, and uncertainty of holding such elections could eventually pose a constraint on housing development, Measure E is not a constraint at this point."<sup>5</sup>

## **Housing Crisis Act and Housing Unit Caps**

The HCA prohibits affected cities and counties from establishing or implementing any policies that act as a cap on the number of housing units that can be approved or built for any period of time, unless the policy meets the exceptions under Government Code section 66300, subdivision (b)(1)(E), which states:

Notwithstanding any other law except as provided in subdivision (h), with respect to land where housing is an allowable use, an affected county or an affected city shall not enact a development policy, standard, or condition that would have any of the following effects..."

The City of Thousand Oaks is an affected city.<sup>6</sup> The statute includes a list of prohibited actions as it relates to development policies, standards, or conditions that an affected city or affected county cannot enact. This includes the following as it relates to residential caps:

- (D) Except as provided in subparagraph (E), establishing, or implementing any provision that:
  - (ii) Acts as a cap on the number of housing units that can be approved or constructed either annually or for some other time period.<sup>7</sup>

The statute includes an exception to this provision under Government Code section 66300, subdivision (b)(1)(E), which states:

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<sup>5</sup> Measure E, Housing Constraints, Thousand Oaks 2021-2029 Housing Element, pgs. 46-47.

<sup>6</sup> Gov. Code, § 66300, subd. (a)(1). HCD 2023 Affected Cities List: <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/affected-cities.pdf>.

<sup>7</sup> Gov. Code, § 66300, subd. (b)(D)(ii).

Notwithstanding subparagraph (D), an affected county or affected city may enforce a limit on the number of approvals or permits or a cap on the number of housing units that can be approved or constructed if the provision of law imposing the limit was approved by voters prior to January 1, 2005, and the affected county or affected city is located in a predominantly agricultural county. For the purposes of this subparagraph, “predominantly agricultural county” means a county that meets both of the following, as determined by the most recent California Farmland Conversion Report produced by the Department of Conservation:

- (i) Has more than 550,000 acres of agricultural land.
- (ii) At least one-half of the county area is agricultural land.

### **Measure E and Compliance with the Housing Crisis Act**

Given that Measure E established a maximum of 81,124 units and requires voter approval to exceed this number, it appears that this policy acts as a unit cap. HCD understands Measure E is set to expire in 2026 and it does not appear an extension is proposed at this time. However, although Measure E was first established in 1996, the HCA explicitly prohibits both the establishment or ongoing implementation of policies that act as a residential cap. Based on Government Code section 66300, subdivision (b)(1)(D)(ii), policies that predate 2019, when the Housing Crisis Act was passed into law, violate this provision if a city or county continues to implement the unit cap. As outlined above, statute includes only one exception to this if the limit was imposed prior to January 1, 2005, and the affected county or affected city is in predominantly agricultural county as defined in Government Code section 66300, subdivision (b)(1)(E).

Accordingly, HCD requests information to confirm this policy complies with the HCA. Specifically, HCD requests an analysis or report that includes the following:

- Findings that address whether the City considers Measure E to meet the definition of a unit cap or act as a cap, per the HCA.
- Findings and supporting data that address how Measure E potentially meets (or confirmation that it doesn't meet) the agricultural county exception for unit caps in the HCA per Government Code section 66300, subdivision (b)(1)(E).
- Associated staff reports, condition assessments, or other relevant data.

### **Conclusion**

HCD looks forward to assisting the City in its compliance with state housing laws and reminds the City that HCD has enforcement authority over the HCA among other state housing laws. (Gov. Code, § 65585, subd. (j).) Accordingly, HCD may review local government actions and inactions to determine consistency with these laws. If HCD finds that a city's actions do not comply with state law, HCD may notify the California Office of the Attorney General that the local government is in violation of state law. (*Id.*)

Kelvin Parker, Community Development Director  
Page 5

If you have questions or need additional information, please contact Deepeeka Dhaliwal, of our staff, at [Deepeeka.Dhaliwal@hcd.ca.gov](mailto:Deepeeka.Dhaliwal@hcd.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a long horizontal flourish extending to the right.

David Zisser  
Assistant Deputy Director  
Local Government Relations and Accountability

cc: Patrick Hehir, Assistant City Attorney  
Ian Holt, Senior Planner  
Tim Giles, Human Resources Director