

**PROCEDURES OF THE
CITY OF MOORPARK AND MOORPARK REDEVELOPMENT AGENCY
TO IMPLEMENT THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)
ADOPTED JULY 21, 2004
BY MOORPARK CITY COUNCIL RESOLUTION NO. 2004-2224
ADOPTED SEPTEMBER 15, 2004
BY MOORPARK REDEVELOPMENT AGENCY RESOLUTION NO. 2004-142**

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SECTION 1: PURPOSE, AUTHORITY, AND SHORT TITLE

These procedures are adopted to implement the California Environmental Quality Act (CEQA) – Division 13 of the Public Resources Code (Section 21000 et seq.), and the Guidelines for Implementation of the California Environmental Quality Act (State CEQA Guidelines) – Title 14, Chapter 3 of the California Code of Regulations (Section 15000 et seq.), as amended. They may be referred to as the “City CEQA Procedures”. These City CEQA Procedures are intended to satisfy the requirements of Section 21082 of the Public Resources Code and Section 15022 of the California Code of Regulations for both the City of Moorpark and the Moorpark Redevelopment Agency. Any reference to “City” in these guidelines shall be inclusive of both the City of Moorpark and Moorpark Redevelopment Agency unless expressly stated otherwise.

SECTION 2: RELATIONSHIP TO STATE CEQA GUIDELINES

The State CEQA Guidelines, as amended from time to time, are hereby incorporated by reference as authorized under Section 15022(d) of the State CEQA Guidelines. If any

section of the City CEQA Procedures is found in conflict with any provision of the State CEQA Guidelines, the State CEQA Guidelines shall control.

SECTION 3: RESPONSIBILITY

The Community Development Director or staff member designated by the Community Development Director shall be responsible for the application and interpretation of these City CEQA Procedures and the following functions pursuant to the State CEQA Guidelines for all public and private projects when the City of Moorpark or Moorpark Redevelopment Agency act as the lead agency:

- a) Determination of applicability of CEQA;
- b) Review of projects for exemption from CEQA;
- c) Review of project applications for completeness;
- d) Preparation of Initial Studies and determinations of whether Negative Declarations, Mitigated Negative Declarations, or Environmental Impact Reports (EIRs) shall be prepared;
- e) Preparation and processing of Negative Declarations, Mitigated Negative Declarations and related documents;
- f) Preparation and processing of EIRs and related documents, including responses to public comments and draft findings; and
- g) Preparation and filing of applicable notices including Notices of Exemption, Notices of Preparation, Notices of Completion, and Notices of Determination.
- h) Preparation and updating of all forms and applications needed to carry out these responsibilities.

SECTION 4: PRELIMINARY REVIEW

a) Determination of Applicability of CEQA to an Activity

Each activity that is initiated by the City, is funded in whole or part by the City, or requires authorization or entitlement from the City is subject to an initial project review to determine whether the activity is exempt from CEQA or requires an Initial Study. Eligible exemptions are identified in CEQA and in the State CEQA Guidelines and include ministerial projects, emergency projects, other statutory exemptions, categorical exemptions, and general rule exemptions per State CEQA Guidelines Section 15061(b)(3). The determination of CEQA applicability under the initial project review shall be made by the Community Development Director. Additional information from the applicant may be required to make this determination.

b) Ministerial Activities

Activities over which the City has only ministerial authority and that are exempt from CEQA under Section 21080(b)(1) of CEQA and Section 15268 of the State CEQA Guidelines include but are not limited to:

1. Issuance of a Building Permit where no Discretionary Permit (as listed in Chapter 17.44 of the Moorpark Municipal Code) is required.
2. Issuance of a Zoning Clearance where no Discretionary Permit (as listed in Chapter 17.44 of the Moorpark Municipal Code) is required.
3. Issuance of a Business License or Business Registration Permit.
4. Issuance of a Home Occupation Permit.
5. Approval of a Final Subdivision Map per Section 66458 of the Government Code.
6. Approval of a Lot-Line Adjustment per Section 66412(d) of the Government Code.
7. Issuance of a Certificate of Compliance per Section 66499.35(a) of the Government Code.

c) Categorically Exempt Projects

The List of Categorical Exemptions in Article 19 of the State CEQA Guidelines shall serve as the City of Moorpark's list of specific categorically exempt activities. Categorical exemptions shall only be considered where a project has not been determined to be exempt from CEQA as a ministerial project, an emergency project, or an otherwise statutorily exempt project.

Special circumstances may exist as noted in Section 21084 of CEQA and Section 15300.2 of the State CEQA Guidelines that make such projects ineligible for a categorical exemption. The Community Development Director shall determine if a project normally eligible for a categorical exemption is not eligible based on exceptions set forth in Section 21084 of CEQA and Section 15300.2 of the State CEQA Guidelines, including the possibility that the activity may have a significant effect on the environment. The determination of the possibility of a significant effect shall be based on the same criteria used in an Initial Study, although an Initial Study checklist does not need to be completed for this determination.

d) Notice of Exemption

i. Preparation and Filing of Notice: Except as provided in Section 21152.1(a) of CEQA, the preparation and filing of a Notice of Exemption is not mandatory under CEQA and the State CEQA Guidelines. The decision to prepare and file a Notice of Exemption for a City project shall be determined by the Community Development Director in consultation with the Director of the responsible department. Notices of Exemption for private projects shall be prepared and filed by the Community Development Director only upon request by the project applicant and payment of fees to offset any staff costs, consultant costs, or filing fees. Notices of Exemption shall be prepared and filed in the form and manner required by Section 15062 of the State CEQA Guidelines, after approval or determination to proceed with the project.

ii. Request for Notices: A copy of the Notice of Exemption shall be mailed (or e-mailed if requested) to any person who has filed a written request for such notice with the City

Clerk or Director of Community Development. Requests to receive Notices of Exemption shall be renewed annually and are subject to a fee which is reasonably related to the costs of providing this service. Public agencies shall not be required to pay a fee to receive a copy of a Notice of Exemption.

SECTION 5: INITIAL STUDY

a) Application

If a project has been determined to be subject to the preparation of an Initial Study, the project applicant shall submit all information necessary for its preparation in a form as determined by the Community Development Director. Within thirty (30) days of receipt of the application by the City, a determination on completeness shall be made and the applicant shall be notified of all information required to complete the application.

b) Fees

i. Application Fee: The project applicant shall submit a fee as established by City Council Resolution for the preparation of the Initial Study at the time of the filing of the application.

ii. Consulting Services: Consulting services may be necessary to assist City staff in whole or in part in the preparation of an Initial Study. In such cases for private projects, within thirty (30) days of receipt of the application, the Community Development Director shall notify the project applicant of the required deposit to cover the cost of consulting services along with City administrative fees.

iii. Application Incomplete if Fees Not Paid: The application shall not be considered complete unless all fees, including fees for Initial Study preparation, consulting services, and the processing of any other applications that have been filed for the project, have been paid in full.

c) Determining Significance of Project's Environmental Effects

i. Use of Initial Study Form: The Community Development Director shall determine, through the preparation of an Initial Study, if a project may cause a significant effect on the environment, and whether a Negative Declaration, Mitigated Negative Declaration, or EIR shall be prepared. The Initial Study shall be prepared on a form approved by the Community Development Director consistent with CEQA and the State CEQA Guidelines. If determined that an EIR will clearly be required for a project, the preparation of an Initial Study may be waived by the Community Development Director.

ii. Thresholds of Significance: Thresholds for determining the significance of the environmental effect of a project shall be based on Sections 15064, 15064.5 and 15065 of the State CEQA Guidelines, the City's General Plan, applicable specific plans, the Municipal Code, the Redevelopment Plan, and any additional information as deemed necessary by the Community Development Director.

iii. Consultation: Prior to completion of an Initial Study, informal consultation shall be initiated with known responsible and trustee agencies to obtain the recommendation of those agencies as to whether an EIR, Negative Declaration, or Mitigated Negative Declaration should be prepared.

iv. Project Modification: During or immediately after the preparation of the Initial Study, the applicant may be consulted to determine the willingness to modify the project to reduce or avoid potential significant effects. The unwillingness to modify a project to reduce or avoid potential significant effects may require the preparation of an EIR unless other mitigation could be identified.

v. Additional Studies: In order to avoid an unnecessary EIR or to focus the analysis of an EIR, additional information or data may be requested from the applicant in order to complete the Initial Study. Should the applicant not agree to provide such information, an Environmental Impact Report may be required unless mitigation or project modification could address the concerns for which the specific information is requested.

vi. Appeal of Decision: The decision on whether a Negative Declaration, Mitigated Negative Declaration, or EIR shall be prepared may be appealed by any person, including a member of the Planning Commission or City Council, following the procedures and time limits specified in Chapter 17.44 of the Moorpark Municipal Code.

SECTION 6: NEGATIVE DECLARATIONS AND MITIGATED NEGATIVE DECLARATIONS

a) Decision to Prepare a Negative Declaration or Mitigated Negative Declaration

The Community Development Director shall cause a proposed Negative Declaration or Mitigated Negative Declaration to be prepared for a project when the findings in Section 15070 of the State CEQA Guidelines can be met by the project.

b) Public Review

Upon preparation of a proposed Negative Declaration or Mitigated Negative Declaration, a Notice of Intent to Adopt the Negative Declaration or Mitigated Negative Declaration shall be prepared, published in a newspaper of general circulation, and distributed for public review in accordance with the requirements of Sections 15072 and 15073 of the State CEQA Guidelines. The time period for public review shall be determined by the Community Development Director consistent with these requirements. The notice may be provided in conjunction with any other required notice for the project, provided that all requirements of the State CEQA Guidelines are met.

c) Consideration and Adoption of Negative Declarations and Mitigated Negative Declarations

i. Advisory Body: The Community Development Director shall present the proposed Negative Declaration or Mitigated Negative Declaration to any advisory body of the decision-making body for consideration before making its recommendation. The advisory body shall make a recommendation on the adoption of the proposed Negative Declaration or Mitigated Negative Declaration at the time of making a recommendation on the project. For the purposes of the section, "advisory bodies" shall include the Planning Commission and the Parks and Recreation Commission when acting in an official advisory capacity to the City Council as set forth in the Moorpark Municipal Code and/or State law and shall not include City Council standing committees or ad-hoc committees.

ii. Decision-Making Body: The proposed Negative Declaration or Mitigated Negative Declaration shall be presented to the decision-making body of the City prior to consideration of the project. The Negative Declaration or Mitigated Negative Declaration may be adopted prior to or concurrent with the approval of the project for which it was prepared in accordance with the requirements of Section 15074 of the State CEQA Guidelines. If the Negative Declaration or Mitigated Negative Declaration is adopted by a non-elected decision-making body, that adoption may be appealed to the City Council by any person, including a member of the Planning Commission or City Council, following the procedures and time limits specified in Chapter 17.44 of the Moorpark Municipal Code.

d) Notice of Determination

i. Preparation and Filing: After a decision has been made to carry out or approve a project for which a Negative Declaration or Mitigated Negative Declaration has been adopted, the Community Development Director shall cause a Notice of Determination to be prepared and filed in accordance with Section 21152 of CEQA and Section 15075 of the State CEQA Guidelines. Any fees associated with the filing of the Notice of Determination or required under Section 711.4 of the Fish and Game Code shall be paid by the project applicant upon project approval prior to the filing of the Notice.

ii. Request for Notices: The Notice of Determination shall be mailed (or e-mailed if requested) to any person who has filed a written request for such notice with the City Clerk or Community Development Director. Requests to receive Notices of Determination shall be renewed annually and are subject to a fee which is reasonably related to the costs of providing this service. Public agencies shall not be required to pay a fee to receive a Notice of Determination.

SECTION 7: ENVIRONMENTAL IMPACT REPORTS

a) Use of Consultant to Prepare EIRs for Private Projects

i. Requirement for Private Projects: Due to the need for specialized expertise and resources, a consultant specializing in the preparation of EIRs shall be retained by the City under contract to prepare an EIR when required for a private project. A consultant may be used to assist in all stages of EIR preparation including the preparation of the Initial Study, Notice of Preparation, Draft EIR, Notice of Completion, Mitigation Monitoring and Reporting Program, Responses to Comments, Findings, Statement of Overriding Considerations, and Notice of Determination, as well as the presentation of information at meetings and hearings, as determined necessary by the Community Development Director. This requirement may be waived on projects for which an agreement exists between the applicant and the City that specifically provides for a different EIR preparation process.

ii. Selection of Consultant: The Community Development Director shall identify and seek proposals from at least three (3) consultants that a) meet the qualifications and restrictions specified in the City's standard professional services agreement, b) have demonstrated experience in the preparation of EIRs for similar projects, and c) have the necessary staff and other resources available to prepare an EIR that meets CEQA

requirements within established time limits. The request for proposals shall only be sent to qualified consultants that have indicated that a proposal will be prepared and submitted. A consultant that does not submit a proposal after committing to submit a proposal may be disqualified from receiving future requests for proposals. After receiving proposals, a review committee established by the Community Development Director shall select the consultant to prepare the EIR based on criteria set forth in the request for proposals. Interviews of the prospective consultants may be held if determined necessary by the Community Development Director.

iii. Applicant Payment of Fees and Agreement with City: After selecting a consultant and agreed upon a scope of work, the applicant shall be notified of the cost to prepare the EIR, including both consultant costs and City administrative costs. Before any work on the EIR may be authorized by the City, the applicant shall deposit with the City an amount of money that will cover all costs specified above, and enter into an agreement with the City on terms for the completion of the EIR.

iv. Execution of Professional Services Agreement: Prior to executing a professional services agreement for the preparation of an EIR, the consultant selected by the City shall file a statement with the City Clerk to confirm no conflicts of interest per contract requirements, demonstrate possession of liability insurance and statutory workers compensation coverage acceptable to the City, and secure a City business registration.

v. Contact between Applicant and Consultant: Only information or data submitted by the applicant that is authorized by the Community Development Director may be used by the consultant in the preparation of the EIR. Such information or data must be independently verified by the consultant. Communication between the applicant and consultant may only occur if preauthorized by the Community Development Director, and may be conditioned to only take place with the Community Development Director present. E-mails, video conferencing or other electronic communication involving both the applicant and consultant shall be coordinated through the Community Development Director.

vi. Request for Additional Information: During the course of preparation of the Draft EIR, the Community Development Director may require the project applicant to supply any additional information needed for its preparation.

vii. Review of Preliminary Draft Materials: The Community Development Director shall review and approve all reports, notices and any other information related to the EIR prepared by the consultant prior to release for public review.

b) Notice of Preparation

i. Preparation and Filing: After determining that an EIR is required and receiving full payment of fees for its preparation from the project applicant, the Community Development Director shall cause a Notice of Preparation of an EIR to be prepared, filed, and distributed in accordance with Section 21080.4 of CEQA and Section 15082 of the State CEQA Guidelines. The Community Development Director may extend the notification beyond that required by the State CEQA Guidelines as needed based on the

public interest or potential impact area of the project. The Notice of Preparation and any comments received during the comment period as set forth in the notice shall be included in the Draft EIR as an appendix.

ii. Request for Notices: The Notice of Preparation shall be mailed (or e-mailed if requested) to any person who has filed a written request for such notice with the City Clerk or Community Development Director. Requests to receive Notices of Preparation shall be renewed annually and are subject to a fee which is reasonably related to the costs of providing this service. Public agencies shall not be required to pay a fee to receive a Notice of Preparation.

ii. Scoping Meeting: If not otherwise required by CEQA or the State CEQA Guidelines, a scoping meeting may be held during the Notice of Preparation comment period if determined necessary by the Community Development Director to assist in the identification of EIR issues and alternatives.

c) Draft EIR

i. Notice of Completion: As soon as the Draft EIR is completed, the Community Development Director shall cause a Notice of Completion to be prepared and filed with the State Office of Planning and Research as set forth in the State CEQA Guidelines. The time period for review of the Draft EIR shall be determined by the Community Development Director consistent with the requirements of the State CEQA Guidelines.

ii. Consultation: The Community Development Director shall identify, consult with, and request comments from all agencies and individuals as required under Section 15086 of the State CEQA Guidelines.

iii. Public Review: At the time the Notice of Completion is prepared and filed, the Community Development Director shall also cause a notice of the availability of the draft EIR to be published in a newspaper of general circulation and provided by mail to property owners owning property within one-thousand feet (1,000') of the project site boundaries along with other individuals and organizations that have requested notification. The notice shall comply with all requirements of Section 15087 of the State CEQA Guidelines and may be provided in conjunction with any other required notice for the project, provided that all requirements of the State CEQA Guidelines are met. Copies of the Draft EIR and notice of availability shall be made available for public review at City Hall, the Moorpark Library, and electronically on the City's web site. Electronic copies of the Draft EIR shall be made available for purchase at City Hall, and paper copies shall be made available for purchase through an arrangement with a local copying service.

iv. Public Hearing: A public hearing to solicit oral comments on the Draft EIR shall be conducted by the Planning Commission for projects where the City is the lead agency, or by the Moorpark Redevelopment Agency where the Moorpark Redevelopment Agency is the lead agency. The time, date, and location of the public hearing shall be noticed with the notice of availability of the Draft EIR. The public hearing shall be scheduled to take place late enough in the Draft EIR comment period to allow sufficient

time for meaningful public review of the Draft EIR as determined by the Community Development Director. After all individuals and agencies present at the hearing have had an opportunity to provide oral comments, the public hearing on the Draft EIR shall be closed and the Planning Commission shall refer all oral comments to the Community Development Director to be combined with all written comments received during the Draft EIR comment period for the preparation of responses.

d) Responses to Comments

i. Transmittal of Comments to Consulting Firm: After the review period for the draft EIR closes, all comments submitted in writing (on paper or through e-mail) and minutes summarizing oral comments made at the public hearing shall be transmitted to the consultant for preparation of preliminary draft responses.

ii. Preparation of Revised Draft EIR: After reviewing preliminary draft responses to the comments received, the Community Development Director shall determine if there are sufficient changes to the Draft EIR to warrant the preparation of a Revised Draft EIR that incorporates all the changes. At this time, the Community Development Director shall also determine if any significant new information will be added to the EIR warranting recirculation of all or a portion of the EIR pursuant to Section 15088.5 of the State CEQA Guidelines.

iii. Transmittal of Draft Responses to Commentators: At least fourteen (14) days prior to consideration of certification of the Final EIR, the Community Development Director shall cause to be sent to each agency and individual that has commented on the EIR and has provided a legible mailing address in the comment letter the draft responses to that agency or individual's comments.

e) Preparation of the Final EIR

The Community Development Director shall determine whether the Draft EIR shall be reprinted with revisions incorporated based on responses to comments received. The Final EIR shall include the Draft EIR or a revision of the Draft, comments received in writing and a synopsis of comments made at the public hearing on the Draft EIR, a list of agencies and individuals who made comments, the Responses to Comments, and any additional information determined necessary by the Community Development Director.

f) Certification of the Final EIR:

A draft of the Final EIR shall be presented by the Community Development Director to any advisory body for the project for a recommendation to the decision-making body on certification of the Final EIR. The decision-making body of the City shall certify the final EIR prior to approval of the project for which the EIR was prepared. If the Final EIR is certified by a non-elected decision-making body, that certification may be appealed to the City Council by any person, including a member of the Planning Commission or City Council, following the procedures and time limits specified in Chapter 17.44 of the Moorpark Municipal Code.

g) Findings for Approval of Project:

i) Preparation of Draft Findings: When staff or an advisory body is recommending approval of a project, or as directed by the decision-making body, the Community Development Director shall cause to be prepared draft written Findings consistent with the requirements in Section 15091 of the State CEQA Guidelines for any project for which the EIR identifies one or more significant environmental effects.

ii) Consideration of Findings and Project: The decision-making body shall not approve a project unless written findings are made for each of the significant effects, accompanied by a brief explanation of the rationale for each finding. After considering the Final EIR and in conjunction with making findings, the decision-making body may decide whether or how to carry out the project. The project for which the EIR was prepared shall not be approved unless either:

1. the project as approved will not have a significant effect on the environment; or
2. the City has eliminated or substantially lessened all significant effects on the environment where feasible as shown in the Findings and any remaining significant effects on the environment have been determined to be unavoidable under Section 15091 of the State CEQA Guidelines and acceptable due to overriding concerns as described in Section 15093 of the State CEQA Guidelines.

iii) Mitigation Reporting or Monitoring Program: When making the findings, the decision-making body shall adopt a reporting or monitoring program for the changes to the project, which it has adopted or made a condition of project approval in order to substantially lessen or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. In preparing the reporting or monitoring program, the City may use the information contained in the draft monitoring or reporting programs that it receives from trustee agencies.

iv) Statement of Overriding Considerations: If the benefits of a proposed project outweigh the unavoidable adverse effects, such effects may be considered "acceptable." If the City approves a project that allows the occurrence of significant effects, it shall adopt a Statement of Overriding Considerations that states specific reasons to support its action based on the final EIR and/or other information in the record.

h) Notice of Determination:

i. Preparation and Filing: After a decision has been made to carry out or approve a project for which a Final EIR has been certified, the Community Development Director shall cause a Notice of Determination to be prepared and filed in accordance with Section 15094 of the State CEQA Guidelines. Any fees associated with the filing of the Notice of Determination or required under Section 711.4 of the Fish and Game Code shall be paid by the project applicant upon project approval prior to the filing of the Notice.

ii. Request for Notices: The Notice of Determination shall be mailed (or e-mailed of requested) to any person who has filed a written request for such notice with the City Clerk or Community Development Director. Requests to receive Notices of Determination shall be renewed annually and are subject to a fee which is reasonably related to the costs of providing this service. Public agencies shall not be required to pay a fee to receive a Notice of Determination.

i) Disposition of Final EIR

The Community Development Director shall be responsible for the distribution and filing of the Final EIR consistent with Section 15095 of the State CEQA Guidelines.

SECTION 8: TIME LIMITS

For projects subject to CEQA involving the issuance of a lease, permit, license, certificate, or other entitlement, where the City of Moorpark is the lead agency, the following time limits apply, consistent with Section 21151.5 of CEQA. These time limits are measured from the date the application is deemed complete. A reasonable extension of time is permitted in the event compelling circumstances justify additional time and the project applicant consents thereto.

- a) One (1) year for completing and certifying Environmental Impact Reports.
- b) One hundred eighty (180) days for completing and adopting Negative Declarations.

SECTION 9: REVIEW OF OTHER AGENCY DOCUMENTS

The Community Development Director shall be the point of contact for the review of CEQA documents prepared for other agencies and shall be responsible for coordinating City review of other agency documents. When the City acts a Responsible Agency for a project, the Community Development Director is responsible for complying with the requirements for a Responsible Agency under Section 15096 of the State CEQA Guidelines.