

MEMORANDUM

DATE: July 8, 2013
TO: Trees and Views Committee
FROM: Lilly Schinsing, Administrative Analyst 
SUBJECT: Policy for Site Visits

Discussion

As part of the responsibilities of the Trees and Views Committee in evaluating View Claims, the Trees and Views Regulations (Section 11.12.040.B.3) state, "[t]he Trees and Views Committee shall reasonably attempt, as a group, to inspect the premises of both the claimant and the tree owner(s) prior to the arbitration meeting."

Like the Trees and Views Committee, the Planning Commission members frequently conduct site visits to project sites. The Planning Commission adopted a site visit policy in order to: (1) provide guidelines that meet the requirements of the Brown Act for public meetings by ensuring the content of discussions during site visits is transparent for all parties; and (2) identify the different types of site visits and provide appropriate procedures for each type of visit.

Staff suggests the Trees and Views Committee faces similar concerns regarding Brown Act requirements and procedures for different types of site visits. Staff has prepared the attached draft policy tailored to the Trees and Views Committee responsibilities and procedures.

Recommendation

Staff recommends the Trees and Views Committee take the following actions:

- Review and revise, as appropriate, the attached policy for site visits.
- Approve the attached resolution which approves the policy for site visits

Exhibit: Resolution regarding Policy for Site Visits [Draft]

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**SAUSALITO TREES AND VIEWS COMMITTEE
RESOLUTION NO. 2013-XX**

POLICY FOR SITE VISITS

WHEREAS, site visits by Tree and Views Committee members to project sites are important since site visits foster informed decision-making by facilitating a better understanding of projects and their associated impacts; and

WHEREAS, many site visits are made by Committee members individually, during which time applicants and/or neighbors may be present. In these situations, as well as publicly-noticed site visits by the Tree and Views Committee, opportunities may exist for private discussions about the merits of projects as well as lobbying for or against the projects; and

WHEREAS, site visits pose challenges due to the potential for inappropriate *ex parte* conversations, which do not exist during formal hearings held by the Tree and Views Committee at City Hall; and

WHEREAS, a policy which addresses these situations and supports responsible and transparent public decision-making is desirable.

NOW, THEREFORE, THE TREES AND VIEWS COMMITTEE HEREBY RESOLVES AS FOLLOWS:

The attached policy for site visits is approved to provide guidelines that meet the requirements of the Brown Act for public meetings; to identify the different types of site visits; and to provide appropriate procedures for each type of visit.

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Trees and Views Committee on the ____ day of _____, 2013, by the following vote:

AYES:	Committee Member:
NOES:	Committee Member:
ABSENT:	Committee Member:
ABSTAIN:	Committee Member:

Lilly Schinsing
Administrative Analyst

Attachment: Policy for Site Visits

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EXHIBIT

SAUSALITO TREES AND VIEWS COMMITTEE
POLICY FOR SITE VISITS
APPROVED _____ 20____
TREES AND VIEWS COMMITTEE RESOLUTION NO. 2013-XX

Site visits by Trees and Views Committee members to project sites are important. Site visits foster informed decision-making by facilitating a better understanding of the tree settings and any associated view issues. However, due to the potential for inappropriate *ex parte*¹ conversations, site visits pose challenges which do not exist during formal hearings held by the Trees and Views Committee at City Hall. Many site visits are made by Committee members individually, during which time applicants and/or neighbors may be present. Site visits at which a quorum of the Committee are present are conducted as publicly-noticed "special meetings," at which Committee members, applicants, neighbors, City staff, and the public all have an opportunity to be present. In each of these situations, opportunities may exist for private discussions about the merits of the project as well as lobbying for or against the project. This policy addresses these situations and works to support responsible and transparent decision-making.

Policy Objectives. This policy has two objectives: (1) to provide site visit guidelines that meet the requirements of the Brown Act for public meetings by ensuring the content of discussion is transparent for all parties; and (2) to identify the different types of site visits and provide appropriate procedures for each type of visit.

Transparency. The content of discussion that may properly occur between Committee members and others during site visits is limited to questions about and presentation of factual information related to the tree(s), the view(s), the proposed action and its relationship to the physical characteristics of the site. Discussion of the merits of the project is inappropriate during site visits.

Types of Site Visits

Individual Site Visits are site visits by individual Committee members. Committee members may visit at their convenience. As a courtesy, individual Committee members may contact the property owner (or resident) and let them know in advance of the visit. If the property owner (or resident) is present during the visit, the conversation must be limited to the tree(s), the view(s), the proposed action and its relationship to the physical characteristics of the site.

Group Site Visits are site visits conducted by a quorum of the Committee and must be conducted as publicly-noticed "special meetings" which are open to the public. Group site visits include view claim inspections conducted by the Committee pursuant to Section 11.12.040.B.3 of the *Municipal Code* "to inspect the premises of both the claimant and the tree owner(s) prior to the arbitration meeting." Special meetings are formal Trees and Views Committee meetings which are limited in scope. In addition to the site tour itself, these meetings include the taking of minutes, public comments, a brief project summary by staff, and an opportunity for the applicant and members of the public to address the Committee concerning any item on the agenda.

In the course of the site tour, questions from the public for purposes of clarification of factual aspects of the project may be accepted at the discretion of staff and/or the Committee. Comments/questions from Committee members are restricted to inquiries about the tree(s), the view(s), the proposed action and its relationship to the physical characteristics of the site. Questions/comments should be communicated through staff by all present. Staff may refer

¹ From or on one side only, with the other side absent or unrepresented. *American Heritage Dictionary.*

questions to the applicant as appropriate. Committee members should refrain from making comments relating to the merits of the project at all times during a Special Meeting site visit. Handouts are permitted, so long as there are sufficient copies for all present.

Opportunities for *ex parte* communication can occur in situations in which applicants, public, staff, and Committee members walk about a site in small, unsupervised groups. Therefore, Committee members should move about the site as a group and avoid private conversations among themselves, with the public, and with the applicant. Within the context of Special Meetings, the Commission should refrain from breaking into smaller groups.

Small Group Site Visits are visits arranged by staff and made by Committee members in groups of less than a quorum of the whole Committee. This is the least preferred type of visit and is discouraged, as the individual groups may be informed about different aspects of the project and site and the process could be perceived as not providing the fully transparent process to which the Committee aspires. When Small Group visits are necessary, strict adherence to these guidelines must be maintained to avoid the appearance of impropriety. To avoid the perception of serial meetings, in the event Small Group visits do occur, members of one group shall not discuss the visit with members of another group. Small Group visits are to be conducted by City staff. The applicant and neighbors may or may not be present. Participation by the applicant and neighbors is limited to responding to questions the tree(s), the view(s), the proposed action and its relationship to the physical characteristics of the site.

Organizing Site Visits

Committee Member Responsibilities. If individual Trees and Views Committee members intend to conduct an Individual Site Visit, the Committee members may contact staff for: (1) applicant contact information; (2) directions to the site, including access point information if the address is not clearly marked; (3) information about entering the property, including locked gates, pets, etc.; and (4) advice as to whether providing the applicant with advance notice of a visit is necessary.

Staff Responsibilities. Staff is responsible for promptly providing individual Committee members with the information listed above. In addition, staff must inform the applicant that individual Committee members may be entering their property. For Group Site Visits and Small Group Site Visits, staff will work with the applicant to provide sufficient parking, provide PA equipment as appropriate, and organize the tour route in advance of the visit. For Special Meetings, staff will oversee the distribution of the public notice. For Group Site Visits and Small Group Site Visits, staff will conduct the tour.

Copies of this policy must be made available to all project applicants. Whenever a staff planner perceives that there is a reasonable possibility of a Group Site Visit or Small Group Site Visit, the planner shall provide applicant with a copy of this policy at the earliest opportunity.

Applicant Responsibilities. As part of submitting a completed project application, applicants are required to acknowledge in writing that they have reviewed and understand this Site Visits Policy.

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