

MEMORANDUM

DATE: September 7, 2010
TO: Trees and Views Committee
FROM: Jeremy Graves, Community Development Director
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 POLICY FOR SITE VISITS

DRAFT

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 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.

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

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

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

19 20 **Organizing Site Visits**

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

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

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

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

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