

**CITY OF PIEDMONT
CITY COUNCIL AGENDA REPORT**

DATE: March 7, 2005
FROM: Kate Black, City Planner
SUBJECT: **Site Visit Policy**

RECOMMENDATION:

- A. Adopt the attached Planning Commission recommended Site Visit Policy (Exhibit A, page 6); and
- B. Adopt the Planning Commission's findings for approval by reference:
 - 1. The adoption of this policy will provide guidance to Planning Commissioners and staff concerning site visits to applicants' and neighbors' properties;
 - 2. The adoption of this policy will provide guidance to applicants and neighbors concerning site visits to applicants' and neighbors' properties;
 - 3. The policy provides better information on the limited time-frame in which site visits must be made, and provides direction to Commissioners, staff members, applicants and neighbors to best achieve appropriate, efficient, consistent site visits given the limitations.

INTRODUCTION:

At the July 19, 2004 joint meeting of the City Council and Planning Commission, the City Council directed staff and the Planning Commission to prepare a policy governing site visits. The Council requested the policy in order to establish consistent, reasonable site visit procedures to be used by Commissioners and staff, as well as applicants and neighbors.

The Council specifically requested that the policy address the minimum number of Commissioners required to make site visits, the types of projects that should require site visits, and a set of guidelines for objecting neighbors to follow.

On October 11, 2004, November 8, 2004, and January 10, 2005, the Planning Commission reviewed and made refinements to a draft policy. As indicated by the attached Planning Commission meeting minutes (Exhibits B, C and D), the Commission wanted to make sure the policy provided clear direction to Commissioners and staff, but still provided flexibility depending on the type and location of projects.

SUMMARY OF POLICY:

Attached (Exhibit A, page 6) is the proposed policy which was unanimously recommended for approval by the Planning Commission. The policy is broken down by procedures for Commissioners and staff, and procedures for applicants and objecting neighbors as summarized below.

Specific Procedures for Commission and Staff for Applicants' and Objecting Neighbors' Properties

The Policy states that for every application, a full understanding of the application specifics, subject site, and surrounding context are critical to the design review process. The Commission felt strongly that it is important for Commissioners and staff to go to every property subject to an application in order to properly understand the plans and potential impacts on neighboring properties. The policy states that it is usually not necessary to enter the interior of an applicant's residence; generally an exterior evaluation is adequate.

The Commission acknowledged that in the past, when staff and Commission members visited a property but neglected to leave a business card, the applicant or objecting neighbor often thought that their concerns were not properly evaluated because they were unaware that a site visit actually had been made. Thus, a provision was added to the policy that requires Commissioners and staff to leave their business cards when they have entered onto a property, to ensure that the applicant or objecting neighbor who isn't home, knows a site visit was made (this is not required for applications that staff and Commissioners can view from the street, such as a replacement garage door or new front yard fence, which rarely generate controversy).

The specific highlights of the policy include the following:

1. The definition of a "site visit" does not mean that a Commissioner must *physically* enter onto every applicant's or objecting neighbor's property. There are certain types of applications, such as a front yard fences, that can be evaluated from the street. However, the policy does require Commissioners and staff to enter onto a property if it is necessary to understand the application and surrounding context, such as an application involving a side or rear modification or addition.

2. Staff Design Review Applications: The policy states that staff may not take action on a Staff Design Review application until a site visit to the subject property has been made.
3. Planning Commission Applications The policy requires any Commissioner who has not made a site visit to an applicant's property to recuse him/herself from the discussion and action on the application. The Commission felt that this addressed the Council's concern about establishing a minimum number of Commissioners required for site visits to subject properties.
4. The policy requires staff to visit the interior of any objecting neighbor's house if they specifically request it. The policy requires Commissioners to make a site visit to an objecting neighbor's property (when requested) to view the story poles and assess the potential impacts, but it is not necessarily a requirement to go inside the residence. The policy states that Commissioners must use their discretion in determining whether or not there is a possible impact requiring an interior site visit. It states that in general, neighboring residences that are not near the proposed construction, or where it is clear that there is little impact do not usually need an interior site visit. However, properties that are adjacent to the proposed construction, or are near an application that proposes a large addition or new second story, should have an interior site visit.

Specific Procedures for Applicants and Objecting Neighbors

Site visits for Staff Design Review applications are relatively easy. Most site visits are to the exterior of a property, and for the few applications requesting an interior site visit, scheduling a convenient time is facilitated by the fact that staff are available Monday through Friday, 8:30 – 5:00, throughout the 10 day public comment period (and beyond if necessary).

However, the policy makes it clear that the Planning Commissioners only have a few days to make site visits for 10-15 applications per month between the date neighbors are required to submit their written concerns and the hearing date (Friday through Monday). This short time frame is further complicated by busy work and family schedules. Therefore, it is important that applicants and objecting neighbors make their properties conveniently available during those few days.

Additionally, the policy makes it clear that applicants and objecting neighbors cannot use the site visits to lobby Commissioners or staff outside of the public process.

The following specific criteria are established for applicants and objecting neighbors:

1. Applicants and objecting neighbors (who requested a site visit) should provide specific instructions concerning access to the property (i.e. which gate to use), and

define any specific issues or areas they would like the Commission or staff to evaluate.

2. Objecting neighbors who request Planning Commission site visits to their properties shall do so in writing as early as possible, but at least by noon on the Thursday prior to the Monday Planning Commission meeting. They must take appropriate measures to ensure access to the exteriors of their properties for the 5 days prior to the meeting (i.e. unlocking gates, keeping dogs indoors when they are not home, etc.).
3. Objecting neighbors who request an interior site visit, shall do so only when it is clear that the proposed development will have an adverse impact on the interior of their residence. Applicants and neighbors who request a visit to the interiors of their residences must make themselves available during the last five days prior to the Planning Commission meeting to provide interior access, or must designate someone (neighbor, etc.) who can provide access on their behalf.
4. Neighbors who do not make their properties conveniently available for site visits cannot later claim lack of site visits as a basis for appeal.

PLANNING COMMISSION DELIBERATIONS:

During the Planning Commission's discussions of the policy, Commissioners expressed a strong opinion that they should recuse themselves if they are not able to make a site visit to a subject property. They also agreed that it is appropriate to visit the exterior of an objecting neighbor's property when requested, to properly view the story poles and understand the context. However, they expressed reservations about requiring all Commissioners to go into the interiors of all objecting neighbor's houses, noting that some Commissioners are well trained to evaluate impacts from the exterior, and do not need to go inside a residence to understand the impacts of a development. Moreover, they noted that in past applications, neighbors who were 4 or 5 houses away from a project had requested interior site visits, even when there was no direct impact. They preferred the language to state that Commissioners are encouraged to go inside an objecting neighbor's house, and most of the Commissioners indicated that they would be willing to do so, except for the occasional instance when it is clear that there is no possible impact on the interior of the house (i.e. when an objecting neighbor is several houses away from a proposed development). Rather, they preferred that the policy identify the types of projects that are likely to have greater impacts, and leave the decision to the discretion of the individual Commissioner.

After several modifications were made to the policy language, the Planning Commission recommended unanimous approval of the policy, and recommended adoption of the following findings:

1. The adoption of this policy will provide guidance to Planning Commissioners and staff concerning site visits to applicants' and neighbors' properties;
2. The adoption of this policy will provide guidance to applicants and neighbors concerning site visits to applicants' and neighbors' properties;
3. The policy provides better information on the limited time-frame in which site visits must be made, and provides direction to Commissioners, staff members, applicants and neighbors to best achieve appropriate, efficient, consistent site visits given the limitations.

Date Report Prepared: February 9, 2005

EXHIBITS:

Exhibit A, page 6	Recommended Site Visit Policy
Exhibit B, page 8	January 10, 2005 Planning Commission Meeting Minutes
Exhibit C, page 9	November 8, 2004 Planning Commission Meeting Minutes
Exhibit D, page 10	October 11, 2004 Planning Commission Meeting Minutes
Exhibit E, page 11	July 19, 2004 Joint City Council and Planning Commission Meeting Minutes

CITY OF PIEDMONT
POLICIES AND PROCEDURES

SUBJECT: Site Visits
SECTION: Planning

PURPOSE: The purpose of this policy is to provide guidance to Planning Commissioners, staff and residents concerning appropriate site visit procedures for applications subject to Staff Design Review or Planning Commission Review.

POLICY: It is the policy of the City Council to establish the following procedures concerning site visits related to Planning Commission and Staff Design Review applications.

PROCEDURES FOR PLANNING COMMISSION AND STAFF: For every application subject to Planning Commission and Staff Design Review, all Commissioners and staff are expected to make a site visit to the subject property. Commissioners and staff shall leave their business cards whenever they enter onto a subject or neighboring property, and nobody is home.

Subject Properties:

1. For purposes of this policy, the term “site visit” does not necessarily mean entering onto a property. In some instances, it is possible to assess the impacts of a project without stepping on the subject or neighboring property (for example, a fence design review application proposed for the front property line). However, the Commissioner or staff member shall enter onto the property if it is necessary to understand the application and surrounding context (for example, a proposed rear deck that cannot be easily seen and understood from the street).
2. Understanding the property and context is critical to the design review decision-making process. Staff members may not take action on a Staff Design Review application until a site visit to a subject property has been made.
3. If any Planning Commissioner member is unable to make a site visit to the subject property prior to the Planning Commission hearing, he or she shall recuse himself or herself from the discussion and action on the application.
4. In almost all cases, it is not necessary to see the inside of the subject residence. From the exterior, Commissioners and staff shall assess the relationship of the proposed construction and its possible impacts to the existing site, the adjacent properties and surrounding neighborhood. At their discretion, Commissioners and staff may request permission from property owners of adjacent properties to make a site visit in order to assess potential impacts from the neighboring property.

Neighboring Properties: When a neighbor of a property subject to Planning Commission or Staff Design Review requests a site visit in accordance with the procedures below, Commissioners and staff shall make a site visit, as defined above, to the neighboring property to view the story poles and understand the context.

1. If specifically requested in writing, Staff shall visit the interior of the requesting neighbor’s house. Planning Commissioners are encouraged, *but not required*, to visit the interior of the requesting neighbor’s house. The Commissioners shall use their discretion in determining the necessity of viewing a project from the interior of a residence. In general, neighboring residences that are not near the proposed construction, or where it is clear that there is little

impact do not usually need an interior site visit. However, properties that are adjacent to the proposed construction, or are near an application that proposes a large addition or new second story, may benefit from an interior site visit.

2. In order to avoid Brown Act violations, no more than two Commissioners may visit any property at the same time.

PROCEDURES FOR APPLICANTS AND NEIGHBORS: Planning Commissioners often have 10-15 applications per month, involving site visits to each subject property. In general, they must fit numerous site visits into very busy work and family schedules during the weekdays and weekend days just prior to the meeting, including site visit requests from neighboring properties.

Applicants:

1. Since Commissioners and staff rarely need to see the inside of an applicant's property, applicants only need to make the exterior of their property available. However, applicants shall take appropriate measures to ensure access to the exterior portion of their property subject to review, such as unlocking gates and keeping dogs indoors. Applicants shall not use the site visit as an opportunity to privately lobby staff or Commission members outside of the public process.

Neighbors:

1. Neighboring residents who request Staff site visits to their properties, shall do so by returning the Staff Design Review Application Comment form mailed with the notice of the application, by the deadline provided on the form.
2. Neighboring residents who request Planning Commission site visits shall do so in writing as early as possible, but by at least *noon*, the Thursday prior to the Monday Planning Commission meeting.
3. Neighboring residents who request site visits shall provide written instructions (i.e. which gate to use, and what they want the Commission and staff to look at) and shall take appropriate measures to ensure access to the exterior of their properties (i.e. keeping dogs indoors, etc.).
4. Neighboring residents who request Commissioners or staff members to view the proposed development from the interiors of their residence, shall do so only when it is clear that the proposed development will have an adverse impact on the interior of their residence. For applications subject to Planning Commission review, they must make themselves available to provide access to the interior of their residence during the last five days prior to the meeting, or designate someone (neighbor, etc.) who can provide access on their behalf.
5. Neighbors shall not use the site visit as an opportunity to privately lobby staff or Commission members outside of the public process.
6. Objecting neighbors who do not make their property conveniently available for site visits shall not later claim lack of site visits as a basis for appeal.

EXHIBIT B

PIEDMONT PLANING COMMISSION

Regular Meeting Minutes for Monday, January 10, 2005

A Regular Session of the Piedmont Planning Commission was held January 10, 2005, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on December 27, 2004.

ROLL CALL

Present: Commissioners Arleta Chang, Marty Greenman, Tamra Hege, Fred Karren, and Suzanne Summer.

Absent: Alternate Commissioner Jonathan Levine (excused)

Staff: City Planner Kate Black, Assistant Planner Linda Ajello, Planning Consultant Elizabeth Watty, Planning Technician Kevin Jackson and Recording Secretary Chris Harbert

City Council Liaison: Councilmember Dean Barbieri

**Proposed Policy
Amendment**

The City Planner requested Commission review and approval of revisions to a proposed site visit policy approved by the Commission on November 8, 2004. The Planner stated that in revising the policy per Commission direction of November 8, staff determined that the proposed policy should more clearly define which type of applications would be subject to the policy and should explicitly state that the policy applies both to the Planning Commission and staff site visits. In addition, the policy was reformatted to be simpler for members of the public to use. Therefore, she requested Commission review and approval of these additional revisions. The Commission concurred with the changes.

Resolution 2-PL-04

RESOLVED, that the Planning Commission recommends City Council approval of the proposed *Site Visit Policy* as amended herein, finding that the adoption of this policy will: (1) provide guidance to Planning Commissioners, City Councilmembers and staff concerning site visits to applicants' and neighbors' properties; (2) provide guidance to applicants and neighbors concerning site visits to applicants' and neighbors' properties; and (3) provide better information on the limited time-frame in which site visits must be made, and provide direction to Councilmembers, Commissioners, Applicants and Neighbors to best achieve the site visits given the limitations.

Moved by Summer, Seconded by Greenman

Ayes: Chang, Greenman, Hege, Karren, Summer

Noes: None

Absent: None

ADJOURNMENT

There being no further business, Chairman Hege adjourned the meeting at 12 midnight.

PIEDMONT PLANING COMMISSION

Regular Meeting Minutes for Monday, November 8, 2004

A Regular Session of the Piedmont Planning Commission was held November 8, 2004, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on October 25, 2004.

CALL TO ORDER

Chairman Hege called the meeting to order at 5:00 p.m. She announced that Agenda Items #4 (Design Review, 60 Crest Road) and #5 (Design Review, 58 Sotelo Avenue) have been withdrawn from tonight's consideration at the request of the applicants.

ROLL CALL

Present: Commissioners Marty Greenman, Tamra Hege, Fred Karren, Suzanne Summer and Alternate Commissioner Jonathan Levine
Absent: Commissioner Arleta Chang (excused)

Staff: City Planner Kate Black, Assistant Planner Linda Ajello, Planning Consultant Robin Stark, Planning Technician Kevin Jackson and Recording Secretary Chris Harbert

City Council Liaison: Councilmember Dean Barbieri

Proposed Policy Amendment

Per Commission request, the City Planner submitted a revised version of a proposed *site visit* policy discussed at the October meeting. The Commission supported the revised policy, requesting that it be further modified to: (1) indicate that it is not always necessary for Commissioners to leave their cars or business cards at properties involving front yard changes when site visits are made – e.g. it is not necessary to leave business cards if Commissioners do not physically enter a property; and (2) require that neighbors requesting a site visit include in their written requests instructions as to how Commissioners can best access their properties and which view they wish Commissioners to examine.

Resolution 20-PL-04

RESOLVED, that the Planning Commission recommends City Council approval of the proposed *Site Visit Policy* as amended herein, finding that the adoption of this policy will: (1) provide guidance to Planning Commissioners, City Councilmembers and staff concerning site visits to applicants' and neighbors' properties; (2) provide guidance to applicants and neighbors concerning site visits to applicants' and neighbors' properties; and (3) provide better information on the limited time-frame in which site visits must be made, and provide direction to Councilmembers, Commissioners, Applicants and Neighbors to best achieve the site visits given the limitations.

Moved by Summer, Seconded by Karren

Ayes: Greenman, Hege, Karren, Summer, Levine

Noes: None

Absent: Chang

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, October 11, 2004

A Regular Session of the Piedmont Planning Commission was held October 11, 2004, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on September 27, 2004.

CALL TO ORDER

Chairman Hege called the meeting to order at 5:00 p.m.

ROLL CALL

Present: Commissioners Arleta Chang, Marty Greenman, Tamra Hege, Fred Karren, Suzanne Summer and Alternate Commissioner Jonathan Levine

Staff: City Planner Kate Black, Assistant Planner Linda Ajello, Planning Consultant Elizabeth Watty, Planning Technician Kevin Jackson and Recording Secretary Chris Harbert

Proposed Policy Amendment

In response to a July 19 joint meeting with the City Council, the City Planner submitted for Commission review a proposed policy governing Commission site visits. The Commission discussed the proposed policy at length. The Commission requested that the policy be revised to: (1) require that written requests for site visits from objecting neighbors be submitted to the City no later than *noon* on the Thursday prior to the Monday meeting; (2) indicate that Commissioners shall leave their business cards at homes when a site visit has been made and no one was home; (3) indicate that is standard Commission practice that Commissioners who were unable to visit an applicant's property, will recuse themselves from discussion and action on the application; (4) clarify that the definition of a "site visit" does not necessarily mean that a Commissioner *physically* entered an applicant's or objecting neighbor's property – it is often possible to evaluate potential construction impacts from the street, sidewalk, car or other locale;

In addition, the Commission noted its position that (1) the Commission should not be required to view a proposal from the *interior* of an objecting neighbor's home; (2) that sun studies and photographs can be very misleading and biased and therefore are frequently of little value in evaluating project impacts; and (3) objecting neighbors who do not make their property conveniently available for Commission site visits should not be able to later claim as a basis for appeal that the Commission failed to visit their property.

The City Planner agreed to redraft the policy per Commission input. She noted that the City Council has tentatively scheduled Monday, November 29 as the date for a joint meeting to discuss second story additions.

PIEDMONT CITY COUNCIL

Special and Regular Meeting Minutes for Monday, July 19, 2004

A Special and Regular Session of the Piedmont City Council was held July 19, 2004, in the EOC Room at 403 Highland Avenue and City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on July 15, 2004.

CALL TO ORDER

Mayor Bruck called the special session with the Piedmont Planning Commission to order at 6:05 p.m. for the purposes of discussing design review criteria for second story additions, consideration of a construction and demolition debris ordinance and an update of the City's e-waste program.

ROLL CALL

City Council: Mayor Michael Bruck, Vice Mayor Nancy McEnroe and Councilmembers Dean Barbieri, Abe Friedman and Jeff Wieler

Planning Commission: Chairman Tam Hege and Commissioners Arleta Chang, Marty Greenman, Fred Karren, Suzanne Summer and Alternate Commissioner Jonathan Levine

Staff: City Administrator Geoff Grote, City Attorney George Peyton, Public Works Director Larry Rosenberg, City Planner Kate Black, Assistant Planner Linda Ajello, Planning Consultant Robin Stark, Planning Technician Kevin Jackson, Building Official Chester Nakahara, City Clerk Ann Swift and Recording Secretary Chris Harbert

SPECIAL SESSION

The Council considered the following items during the special session:

Second Story Additions

The Council voiced its concern that the recent number of appeals and Council overrides of Planning Commission decisions regarding construction of second story additions indicate a lack of consensus between the two bodies as to what constitutes an unacceptable degree of adverse impact pursuant to the City's design review guidelines and building code. The Council and Commission discussed the major types of issues and impacts associated with most second story proposals and the basis used for reaching project approval or denial decisions. During discussion, the Council reiterated its position that its appeal hearings are de novo in nature and that Commission site visits of neighboring properties which have indicated view, privacy and sunlight concerns/objections are essential. The Council requested planning staff and the Commission to consider preparing for Council review and approval:

- proposed changes to the code and Residential Design Review Guidelines to clarify language relating to loss of *light, view or air* to be more specific/descriptive, e.g., direct sunlight, ventilation, sky view, shadowing, etc.
- The Council discussed, but no consensus was reached, as to the desirability of having a City policy governing Commission site visits. Policy issues raised during the

discussion included: (1) the minimum number of Commissioners necessary per application to fulfill this obligation; (2) the types of projects which require Commissioners to view potential impacts from the interior rooms of objecting neighbor homes; (3) a set of guidelines for objecting neighbors to follow in requesting site visits, e.g., site visits requested in writing, specific issues of concern delineated, from what places on their property they wish the Commission to view potential impacts, prohibitions against lobbying or engaging Commissioners in lengthy conversations during site visits, etc.

The Commission requested from the Council clarification as to what types of “views” warrant full protection and from which types of rooms/property areas should views be considered of utmost importance.

Public Forum

Jim Soper urged the Council to conduct de novo appeal hearings.

Bob Firth urged that Commission site visits be mandatory upon request of objecting neighbors.

Garrett Keating noted that the City Code requires the Council to give considerable weight to Planning Commission decisions when deliberating planning appeals.

There were two other speakers. One noted that Section 17.16.1 of the City Code allows the Commission to consider off-street parking issues when substantial additional square footage is being proposed, even if this additional footage does not include a room eligible for use as a bedroom. Another speaker agreed with Mr. Soper that Council appeal hearings should be de novo in nature.