
Late Hits Prevention & Resolution Policy

DEPARTMENT: DEVELOPMENT SERVICES

EFFECTIVE DATE: AUGUST 1, 2018

Statement of Intent and Expectations

In order to provide a reasonable level of certainty to customers processing land development projects in the City, it is important to identify project issues and requirements early in the review and to consistently apply codes and policies in addressing those issues throughout the permitting and inspection process.

In partnership with the Development Services Department (DSD) applicants are responsible for ensuring that projects are designed to meet the regulations contained within the San Marcos General Plan, San Marcos Municipal Code (SMMC), California Building Code, Uniform Fire Code and other applicable policies and regulations, and that submittal applications will be complete as prescribed in the Application Guide, and as necessary to allow for thorough and complete review by City staff. Licensed professionals involved in project design are expected to be well versed with practical expertise in San Marcos codes and regulations, and permit processing requirements.

During the review process, it is the DSD's goal and expectation that all staff will provide complete comments and explanations every time we communicate with our customers. Staff will strive to identify all apparent project issues and requirements at the outset of the project and communicate those issues and requirements at the conclusion of the first review cycle. City departments are committed to minimizing "late hits" to the extent possible and to avoid applying additional requirements late in the review process whenever it is within our control.

All DSD staff are responsible for ensuring that each project review is conducted in a complete and timely manner. In order to service our customers most appropriately and efficiently, the initial review cycle is intended to be comprehensive and include any and all plan check comments for the project as it is currently proposed. Subsequent plan checks are intended to address corrections made pursuant to the initial review or to address plan changes initiated by the applicant, or as directed or advised by City staff. Subsequent plan checks are not intended to provide an opportunity to perform further in depth review that should have been performed in the initial submittal or to second guess the original plan review. The ultimate goal of this "No Late Hits" policy is to eliminate instances where comments that should have been addressed in the initial review are added in subsequent plan reviews.

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Late Hit Policy

This policy is intended to define a late hit and establish a process for applicants to follow once a legitimate late hit is identified. This policy shall apply to all DSD staffing in their capacity as reviewers of privately initiated land development projects.

Late Hit Definition

When a project issue or requirement is missed during the initial project review and caught during subsequent analysis, it is commonly referred to as a late hit. This typically results in additional costs and schedule delays. There are some late hits that are under the control of the City. For example:

- Reinterpretation of a land use policy that results in project design changes;
- Failure to timely identify project design requirements such as variable setbacks or off-setting planes;
- Failure to appropriately apply current land use regulations such as General Plan Implementation, Overlay Zones, or storm water requirements;
- Failure to timely identify project impacts to environmentally sensitive lands;
- Failure to identify infrastructure improvements;
- Failure to identify public infrastructure maintenance requirements.

However, there are other situations where the City cannot control changes that are applied to projects late in the review process. For example:

- New federal, state or local regulations that trigger additional requirements regardless of the status or timing of the project review;
- New or clarified information is provided in response to a staff comment that creates new issues;
- Applicant initiated project changes that result in new/different impacts; or
- Need for a project design change (staff or directed) to meet requirements or plan intent resulting in additional changes that affect the project design or impacts.

Generally, a late hit is defined as: *when a City reviewer fails to timely raise an issue related to project omission, inadequacy, or mitigation requirement, and as a result, additional review or project changes are required which cause a project delay.* As described above, some situations would not be deemed late hits. These include, but are not limited to:

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- The initial/previous submittal was rejected due to being incomplete or inadequate and therefore did not undergo full staff review;
- There is change to the project or additional project description detail has been submitted by the applicant since the initial/ previous submittal of the project/ document;
- New information was provided in response to a staff comment/ document request or other unsolicited changes were made by the applicant since the initial/ previous submittal;
- New information is available that could not have been known with the exercise of reasonable diligence by City staff in the initial/ previous reviews;
- Changes in applicable legal requirements (i.e., ordinances, standards, regulations, state law, etc.) that have occurred since the initial/ previous submittal, and do not include pipeline provisions;
- The applicant/ consultant provided erroneous or incorrect information or omitted information that was not provided until later in the review process;
- Legal deficiencies typically identified during environmental document review, or;
- Changes/ additional information requested by the decision-making authority.

Process for when a Late Hit is Identified

If during the processing or construction of a project, staff identifies an omission, inadequacy, or mitigation requirement that qualifies as a late hit pursuant to this policy, they must immediately advise their manager. Both the staff and manager must bring the matter to the attention of the Director of DSD for a discussion and resolution.

Staff will strive to resolve the late hit issue to the satisfaction of the applicant with the least amount of impact in cost and time; however, all projects must continue to comply with appropriate Municipal Code and health and safety standards. These issues will be elevated to the Project Issue Resolution Panel and resolved in an expedited fashion (see Project Issue Resolution policy). Staff will take into consideration DSD's role in the late hit when making a determination. Ultimately, the purpose of this policy is to raise awareness of when a late hit is identified so that executive management can consider the situation and make a determination of the best course of action for the applicant, City, and general public.