



PLANNING COMMISSION AGENDA

Wednesday, November 7, 2007

*5:00 p.m. to 6:30 p.m. STUDY SESSION
North San José Policy – Transportation Planning
Tower Room # 332*

6:30 p.m. Regular Meeting

Council Chambers

First Floor, City Hall Wing

200 East Santa Clara Street
San José, California

Ash Kalra, Chair

Randi Kinman, Vice-Chair

**Xavier Campos Lisa Jensen
Matt Kamkar Christopher Platten
Jim Zito**

**Joseph Horwedel, Director
Planning, Building and Code Enforcement**

NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 535-7800 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

NOTICE TO THE PUBLIC

Good evening, my name is **Ash Kalra** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of **Wednesday, November 7, 2007**. Please remember to turn off your cell phones and pagers. Parking ticket validation machines for the garage under City Hall are located at the rear of the Chambers.

If you want to address the Commission, **fill out a speaker card (located on the table by the door, on the parking validation table at the back, and at the bottom of the stairs near the Audio-Visual Technician. Deposit the completed card in the basket near the Planning Technician. Please include the agenda item number (not the file number) for reference. Example: 4a, not PD06-023.**

The procedure for this hearing is as follows:

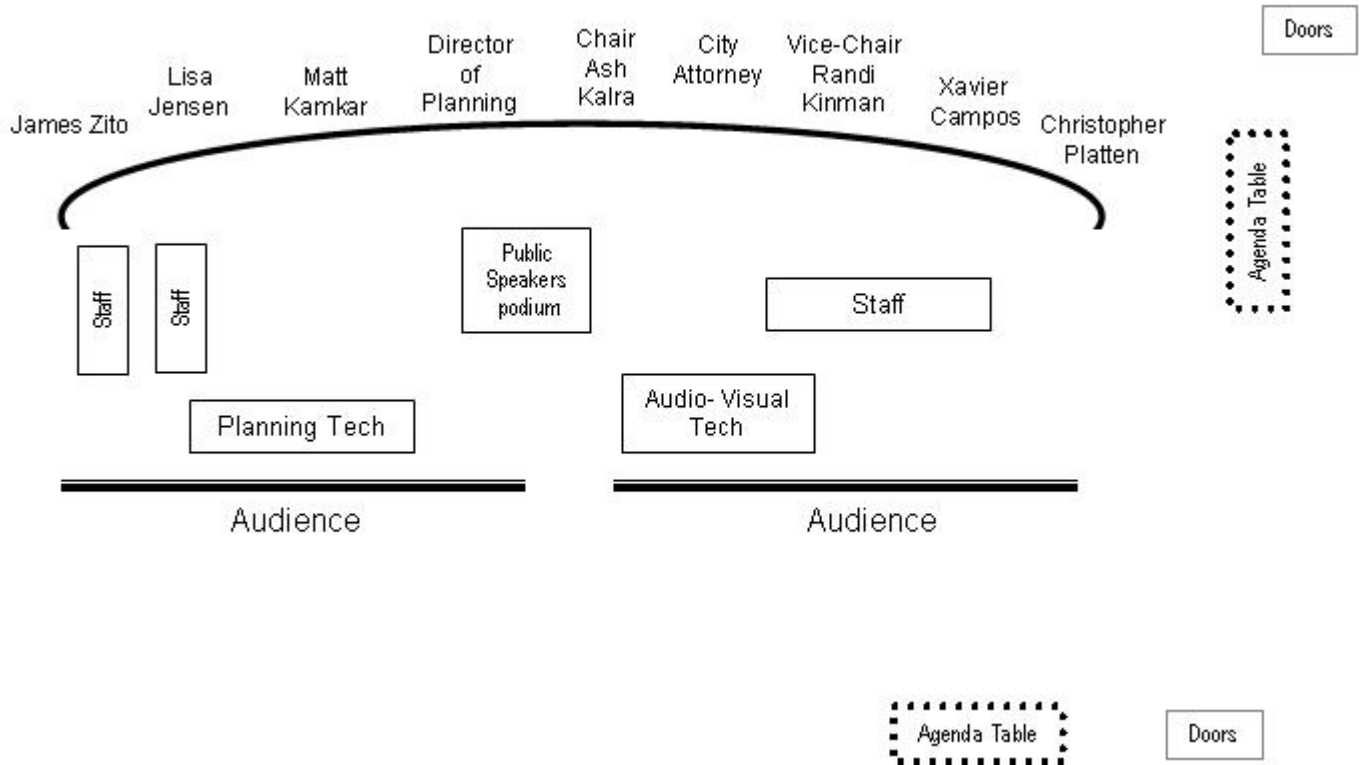
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.

The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

Note: If you have any agenda questions, please contact Carmen Stanley at carmen.stanley@sanjoseca.gov

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San José Planning Commission generally meets every 2nd and 4th Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at www.sanjoseca.gov/planning/hearings/planning_com.asp.

Audio for the Planning Commission hearings are recorded and broadcast live. To listen to live audio broadcast or to listen to past hearing recordings go to the Internet website: http://sanjose.granicus.com/ViewPublisher.php?view_id=17#planningCommission.

If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA

ORDER OF BUSINESS

1. ROLL CALL

2. **Commendation of Commissioner Xavier Campos for work as Chair of the Planning Commission from July 12, 2006 to August 22, 2007.**

3. DEFERRALS

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time.

- a. Consideration of Planning Commission Agenda management and length of public hearing concerns and determination on whether to proceed with remaining agenda items past 11:00 p.m., continue this hearing to a later date certain, or defer remaining items to the next regularly scheduled Planning Commission meeting date. To be heard by the Planning Commission no later than 11:00 p.m.
- b. **CP07-063**. Conditional Use Permit to construct child daycare center containing 5,305 square feet and removal of three ordinance size trees on a 0.47 gross acre site in the R-1-8 Single-Family Residence Zoning District, located on the southwest corner of Blossom Hill Road and Hoffman Court (1250 BLOSSOM HILL RD)(Guerra Joseph S Trustee & Et Al, Owner; Rockwell Homes, Inc. Joshua Lobue, developer). Council District 10. SNI: Hoffman/Via Monte. CEQA: Exempt. *Project Manager, M.Stahlhut*

Staff Recommendation:

Defer to 12-05-07

4. CONSENT CALENDAR

NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.

- a. [CP07-045](#). Conditional Use Permit request to allow a private elementary school in an existing 16,704 square foot building on a 2.39 gross acre site in the R-1-8 Single-Family Residence, R-1-1 Single-Family Residence Zoning District, located on the north side of Blossom Hill Road, approximately 400 feet easterly of Entrada Cedros (479 Blossom Hill Road) (Oak Grove Baptist Church, owner). Council District: 10. SNI: None. CEQA: Exempt. *Project Manager, S.Mallick* ([Plans](#))
- Staff Recommendation:**
- Approve a Conditional Use Permit to allow a private elementary school in an existing 16,704 square foot building as recommended by staff.
- b. [CP07-059](#). Conditional Use Permit to allow an existing drinking and entertainment establishment and late night use until 2:00 a.m. daily on a 0.42 gross acre site in the DC Downtown Primary Commercial Zoning District, located at southeast corner of East Santa Clara Street and South 2nd Street (Toons Bar and Nightclub, 52 East Santa Clara Street) (Office Associates, owner). Council District: 3. SNI: None. CEQA: Use of San José Downtown Strategy Plan 2000 EIR. *Project Manager, L.McMorrow*
- Staff Recommendation:**
- Consider the Environmental Impact Report in accordance with CEQA. Approve a Conditional Use Permit to allow an existing drinking and entertainment establishment as recommended by staff.
- c. [CP07-067](#). Conditional Use Permit request to allow a day care center for up to 48 children at an existing commercial building and allow site improvements on a 0.9 gross acre site in the CP - Pedestrian Commercial Zoning District, located on the east side of South De Anza Boulevard, approximately 300 feet southerly of Bollinger Road (972 S De Anza Blvd) (Toshio Kitade, owner; My Dream Academy Ikko Fushiki, developer). Council District 1. SNI: None. CEQA: Exempt. *Project Manager, S.Mallick* ([Plans](#))
- Staff Recommendation:**
- Approve a Conditional Use Permit to allow a day care center for up to 48 children at an existing commercial building and allow site improvements as recommended by staff
- d. [PDC07-022](#). Planned Development Zoning from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to six single-family attached residences on a 0.45 gross acre site located on the south side of Hillsdale Avenue approximately 600 feet east of Pearl Avenue (866 Hillsdale Avenue). (Hamid Abtahi & Tom Ronning, owner). Council District 6. SNI: None. CEQA: Exempt. Deferred from 10/24/07. *Project Manager, M.Stahlhut* ([Plans](#))
- Staff Recommendation:**
- Recommend Approval of a Planned Development Rezoning A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to six single-family attached residences as recommended by staff.
- e. [CP07-054](#). Conditional Use Permit to operate an existing drinking and eating establishment and late night use until 2:00 a.m. in the DC Downtown Primary Commercial Zoning District, located at east side of South First Street approximately 200 feet south of East Santa Clara Street (30 S 1ST ST)(Lin & Lin LLC, owner). Council District 3. SNI: None. CEQA: Use of San José Downtown Strategy 2000 EIR. *Project Manager, L.McMorrow*
- Staff Recommendation:**
- Consider the Environmental Impact Report in accordance with CEQA. Approve a Conditional Use Permit to operate an existing drinking and eating establishment and late night use as recommended by staff

- f. [CP07-055](#). Conditional Use Permit Renewal to allow continued use of an auto-dismantling and storage facility on a 0.72 gross acre site in the HI Heavy Industrial Zoning District, located on the westside of Smith Avenue approximately 300 feet southerly of Phelan Avenue (1731 SMITH AV)(Ahmad And Mahin Moradi, owner). Council District 7. SNI: None. CEQA: Re-use of a Negative Declaration. *Project Manager, C.Burton* ([Plans](#))

Staff Recommendation:

Consider the Negative Declaration in accordance with CEQA. Approve a Conditional Use Permit to allow continued use of an auto-dismantling and storage facility on a 0.72 gross acre site as recommended by staff.

- g. [PDC07-040](#). Planned Development Rezoning to allow the subdivision of one lot into two lots and to allow the construction of one new single-family detached residence with existing residence to remain on 0.25 gross acres, located on the southeast corner of Ewer Drive and Ross Avenue (4232 Ross Ave)(Arthur Bando, owner). Council District: 9. SNI: None. CEQA: Exempt. *Project Manager, A.Baty* ([Plans](#))

Staff Recommendation:

Recommend Approval of a Planned Development Rezoning to allow the subdivision of one lot into two lots and to allow construction of one new single-family detached residence as recommended by staff.

- h. [C06-106](#). DIRECTOR INITIATED Prezoning from County of Santa Clara to R-1-5 Single-Family Residence Zoning District on an approximately 6.93 gross acre County island consisting of 25 parcels on both sides of Rosemar Avenue, between Juliet Park Drive and Fleming Avenue and the north side of Fleming Avenue between Rosemar Avenue and Merchant Court (Multiple Owners). Council District: 5. SNI: None. CEQA: GP EIR Resolution No. 65459. (Related Annexation Story No. 58). *Project Manager, Justin Fried*

Staff Recommendation:

Recommend Approval of a Prezoning from County of Santa Clara to R-1-5 Single-Family Residence Zoning District on an approximately 6.93 gross acre County island as recommended by staff.

- i. [C06-128](#). DIRECTOR INITIATED Prezoning from County of Santa Clara to R-1-2 Single-Family Residence Zoning District on an approximately 2.50 gross acre County island consisting of 6 parcels on the northeast corner of Ruby Avenue and Holderman Drive (Multiple Owners). Council District: 8. SNI: None. CEQA: GP EIR Resolution No. 65459). (Related Annexation Evergreen No. 201). *Project Manager, Justin Fried*

Staff Recommendation:

Recommend Approval of a Prezoning from County of Santa Clara to R-1-2 Single-Family Residence Zoning District on an approximately 2.50 gross acre County island as recommended by staff.

The following items are considered individually.

5. PUBLIC HEARINGS

NOTICE TO THE PUBLIC

Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

- a. [CP07-076](#). Conditional Use Permit to allow a communications service exchange in an existing industrial building and allow the installation of six diesel on a 9.3 gross acre site in the IP Industrial Park Zoning District, located on the north side of Fortune Drive, approximately 500 feet westerly of Lundy Avenue (2001 Fortune Dr) (Fortunefirst, LLC, owner). Council District 4. SNI: None. CEQA: Exempt. *Project Manager, C.Burton*
Staff Recommendation: [\(Plans\)](#)
Approve a Conditional Use Permit to allow a communications service exchange in an existing industrial building and allow the installation of six diesel generators on a 9.3 gross acre site as recommended by staff.
- b. [CP07-039](#). Conditional Use Permit to allow a Materials Recovery Facility and the addition of 9596 sq. ft. of covered storage on a 3.56 gross acre site in the HI Heavy Industrial, and LI Light Industrial Zoning Districts, located on the northeast corner of Timothy Drive and Yard Court (1005 Timothy Drive)(Duong Family Inv Llc, Owner). Council District 4. SNI: None. CEQA: Addendum to a Mitigated Negative Declaration. *Project Manager, C.Burton*
Staff Recommendation: [\(Plans\)](#)
Consider the Mitigated Negative Declaration in accordance with CEQA.
Approve a Conditional Use Permit to allow a Materials Recovery Facility and addition of 9596 square feet of covered storage as recommended by staff.

6. PETITIONS AND COMMUNICATIONS

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
- 1) Responding to statements made or questions posed by members of the public; or
 - 2) Requesting staff to report back on a matter at a subsequent meeting; or
 - 3) Directing staff to place the item on a future agenda.

7. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES

8. GOOD AND WELFARE

- a. Report from City Council
- b. Commissioners' report from Committees:
 - 1) Norman Y. Mineta San José International Airport Noise Advisory Committee (Campos).
 - 2) Coyote Valley Specific Plan (Platten).
 - 3) Parks Funding Subcommittee (Zito).
 - 4) Envision San José 2040 General Plan Update Process (Kamkar).
- c. Review of synopsis for 10/24/07.
- d. Consider Study Session dates and/or topics.
- e. Review Draft Agenda for Annual Retreat scheduled, Friday, November 16, 2007.

9. ADJOURNMENT

2007 PLANNING COMMISSION MEETING SCHEDULE

Date	Time	Type of Meeting	Location
January 31	6:30 p.m.	Regular Meeting	Council Chambers
February 12	6:30 p.m.	Regular Meeting	Council Chambers
February 28	6:30 p.m.	Regular Meeting	Council Chambers
March 14	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Coyote Valley Specific Plan EIR</i>	
March 14	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
March 28	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Meeting Procedures and Commission Role</i>	
March 28	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
April 11	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Early Public Outreach for General Plan Update</i>	
April 11	6:30 p.m.	Regular Meeting	Council Chambers
April 25	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Level of Service Policy</i>	
April 25	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 2	5:00 p.m.	<i>Study Session</i>	T-1654
		<i>Review Capital Improvement Program</i>	
May 2	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 16	6:00 p.m.	<i>Study Session</i>	T-332
		<i>Sunshine Reform Task Force Recommendations</i>	
May 16	6:30 p.m.	Regular Meeting	Council Chambers
May 30	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Economic Development/Retail Strategy</i>	
May 30	6:30 p.m.	Regular Meeting	Council Chambers
Mon., June 11	6:30 p.m.	Regular Meeting	W-118 / 119 / 120
June 27	5:00 p.m.	<i>Joint Study Session w/Parks Commission</i>	W-120
		<i>Riparian Corridor issues</i>	
June 27	6:30 p.m.	Regular Meeting	Council Chambers
July 18	6:30 p.m.	Regular Meeting	Council Chambers
August 8	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Street Vacations and Easements</i>	
August 8	6:30 p.m.	Regular Meeting	Council Chambers
August 22	6:30 p.m.	Regular Meeting	Council Chambers
September 12	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Process for Referring Development Projects to the SNI NACS</i>	
September 12	6:30 p.m.	Regular Meeting	Council Chambers
September 26	6:30 p.m.	Regular Meeting	Council Chambers
October 10	6:30 p.m.	Regular Meeting	Council Chambers
October 24	5:00 p.m.	<i>Study Session</i>	T-332
		<i>North San José Policy – Transportation Planning</i>	
October 24	6:30 p.m.	Regular Meeting	Council Chambers
November 7	6:30 p.m.	Regular Meeting	Council Chambers
November 14	6:30 p.m.	Regular Meeting / General Plan	Council Chambers
November 16 (FRIDAY)		<i>Annual Retreat</i>	T-1572
November 28	6:30 p.m.	Regular Meeting / General Plan	Council Chambers
December 5	6:30 p.m.	Regular Meeting	Council Chambers

2008 PLANNING COMMISSION MEETING SCHEDULE

Date	Time	Type of Meeting	Location
January 16	6:30 p.m.	Regular Meeting	Council Chambers
January 30	6:30 p.m.	Regular Meeting	Council Chambers
February 13	6:30 p.m.	Regular Meeting	Council Chambers
February 27	6:30 p.m.	Regular Meeting	Council Chambers
March 12	6:30 p.m.	Regular Meeting	Council Chambers
March 26	6:30 p.m.	Regular Meeting	Council Chambers
April 9	6:30 p.m.	Regular Meeting	Council Chambers
April 23	6:30 p.m.	Regular Meeting	Council Chambers
May 7	6:30 p.m.	Regular Meeting	Council Chambers
May 14	6:30 p.m.	Regular Meeting	Council Chambers
May 28	6:30 p.m.	Regular Meeting	Council Chambers
June 11	6:30 p.m.	Regular Meeting	Council Chambers
June 25	6:30 p.m.	Regular Meeting	Council Chambers
July 16	6:30 p.m.	Regular Meeting	Council Chambers
August 6	6:30 p.m.	Regular Meeting	Council Chambers
August 20	6:30 p.m.	Regular Meeting	Council Chambers
September 10	6:30 p.m.	Regular Meeting	Council Chambers
September 24	6:30 p.m.	Regular Meeting	Council Chambers
October 8	6:30 p.m.	Regular Meeting	Council Chambers
October 22	6:30 p.m.	Regular Meeting	Council Chambers
November 5	6:30 p.m.	Regular Meeting	Council Chambers
November 19	6:30 p.m.	Regular Meeting	Council Chambers
December 3	6:30 p.m.	Regular Meeting	Council Chambers
December 10	6:30 p.m.	Regular Meeting	Council Chambers

CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:
- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
 - b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
 - c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
 - d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
 - e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
 - f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
 - g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.