



PLANNING COMMISSION AGENDA

Wednesday, September 10, 2008

6:30 p.m. Regular Meeting

Council Chambers
First Floor, City Hall Wing

200 East Santa Clara Street
San José, California

Jim Zito, Chair
Matt Kamkar, Vice-Chair

Xavier Campos
Lisa Jensen
Christopher Platten

Thang Do
Ash Kalra

Joseph Horwedel, Director
Planning, Building and Code Enforcement

NOTE

To request an accommodation for City-sponsored meetings or events or an alternative format for printed materials, please call Carmen Stanley at 408-535-7856 or 408-294-9337 (TTY) as soon as possible, but at least three business days before any meeting or event. 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 **Jim Zito** 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, September 10, 2008***. Please remember to turn off your cell phones. Parking ticket validation machine for the garage under City Hall is 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: 4.a., not PD06-023.**

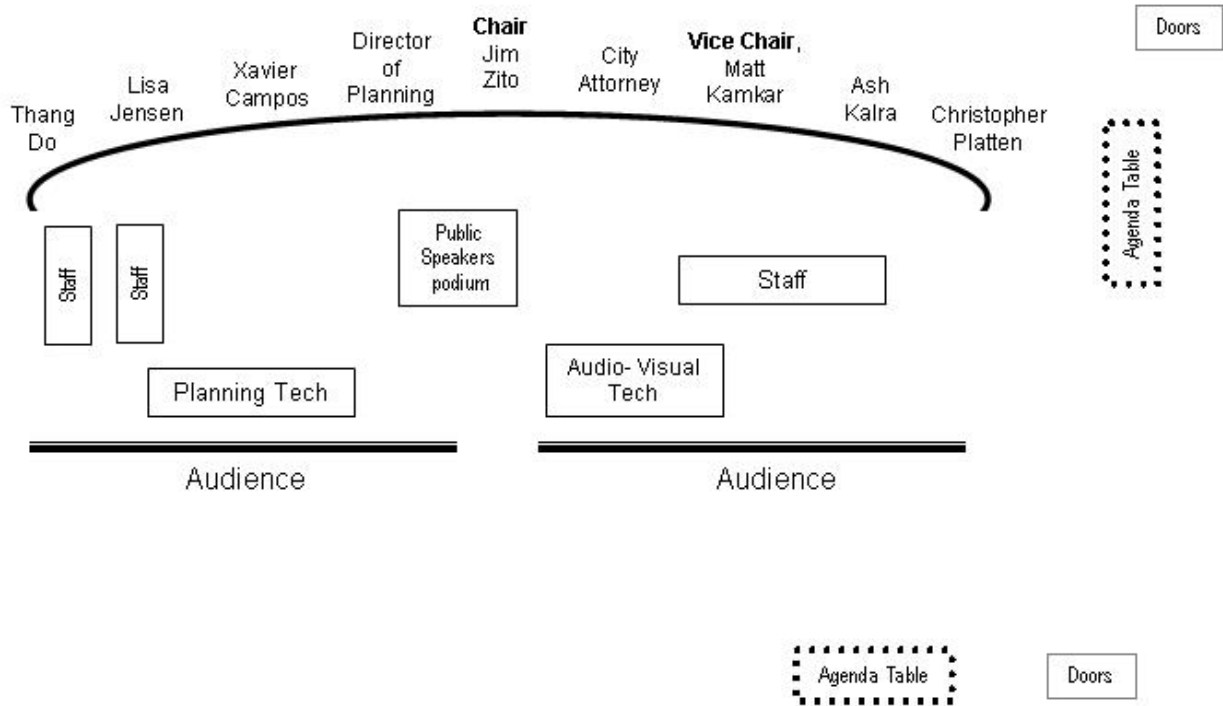
The procedure for this hearing is as follows:

- 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. Response to Commissioner 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 only advisory 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 rezoning 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.

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 http://www.sanjoseca.gov/planning/hearings/planning_com.asp

All public records relating to an open session item on this agenda, which are not exempt from disclosure, pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Planning, Building and Code Enforcement at San José City Hall, 200 E. Santa Clara Street, 3rd Floor Tower, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

Audio for the Planning Commission hearings are recorded and broadcasted 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

If you have any questions, please direct them to the Planning staff at (408) 535-7800. If you have any agenda questions, please contact Carmen Stanley at (408) 535-7856 or email carmen.stanley@sanjoseca.gov. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA
ORDER OF BUSINESS

ROLL CALL

1. 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.

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.

- a. **CP07-094.** Conditional Use Permit request to allow an entertainment establishment and operation until 2:00 am at an existing legal non-conforming restaurant/bar (Mexico Lindo) on a 0.3 gross acre site in the LI Light Industrial Zoning District, located on the northwest corner of Monterey Road and Bellevue Avenue (1593 MONTEREY RD)(Valencia Everardo And Olivia, Owner). Council District 7. SNI: Washington. CEQA: Exempt. *PROJECT MANAGER, S.MALLICK*

Staff Recommendation: Defer to 09/24/2008

2. 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. [CP08-036](#). Conditional Use Permit to allow the renewal and continued use of an existing wireless communications monopole with associated ancillary equipment cabinets on a 5.96 gross acre site in the A(PD) Planned Development Zoning District, located on the north side of Dobbin Drive approximately 1,000 feet easterly of King Road (1855 DOBBIN DR)(R & C Brown Associates L.P., Owner; Verizon Wireless, Developer). Council District 3. SNI: None. CEQA: Exempt. *PROJECT MANAGER, S.SAHA*

Staff Recommendation: Approve a Conditional Use Permit to allow the renewal and continued use of an existing a wireless communications monopole with associated ancillary equipment cabinets on a 5.96 gross acre site in the A(PD) Planned Development Zoning District, as recommended by staff.

- b. [CP08-008 / ABC08-003](#). Conditional Use Permit and Determination of Public Convenience or Necessity to allow the off-sale of alcoholic beverages at the mini-mart (from 10 a.m. to 11 p.m.) and associated site improvements on a 0.49 gross acre site in the CG General Commercial Zoning District, located on the northwest corner of Airport Parkway and North First Street (2101 N 1ST ST)(Tosco Corporation, Owner; David Joines, Developer). Council District 4. SNI: None. CEQA: Exempt. *PROJECT MANAGER, S.SAHA*

Staff Recommendation: Approve a Conditional Use Permit and Determination of Public Necessity or Convenience to allow the off-sale of alcoholic beverages at the mini-mart (from 10 a.m. to 11 p.m.) and associated site improvements on a 0.49 gross acre site in the CG General Commercial Zoning District, as recommended by staff.

- c. [CP08-048 / ABC08-004](#). Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcoholic beverages at an existing food store/deli within a shopping center on a 3.26 acres site in the CG General Commercial Zoning District, located at 5025 Almaden Expressway. (EP & G Properties, Owner). Council District 9. SNI: None. CEQA: Exempt. *PROJECT MANAGER, E.SCHREINER* [**Supplemental Memo**](#)

Staff Recommendation: Approve a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcoholic beverages at an existing food store/deli within a shopping center on a 3.26 acres site in the CG General Commercial Zoning District, as recommended by staff.

- d. [CP07-024](#). Conditional Use Permit to allow a 920 square foot addition to an existing building for classroom uses at a church on a 1.17 gross acre site in the R-1-8 Single-Family Residence Zoning District located on the west side of Miller Avenue approximately 200 feet south of Rainbow Drive (1315 MILLER AV)(The Miller Avenue Church Of Christ, Owner). Council District 1. SNI: None. CEQA: Exempt. *PROJECT MANAGER, E.SCHREINER*

Staff Recommendation: Approve a Conditional Use Permit to allow a 920 square foot addition to an existing building for classroom uses at a church on a 1.17 gross acre site in the R-1-8 Single-Family Residence Zoning District, as recommended by staff.

- e. [CP08-051](#). Conditional Use Permit to allow the demolition of two existing buildings (11,857 square feet total) and the construction of a new three-story classroom building (17,487 square feet), and an outdoor play area at an existing church facility on a 3.38 gross-acre site in the CP Pedestrian Commercial Zoning District, located on the west side of Saratoga Avenue, 500 feet southerly of Campbell Avenue (1735 Saratoga Avenue)(Westgate Community Bible Church, Owner). Council District 1. SNI: None. CEQA: Exempt. *PROJECT MANAGER, B.ROTH*

Staff Recommendation: Approve a Conditional Use Permit to allow the demolition of two existing buildings (11,857 square feet total) and the construction of a new three-story classroom building (17,487 square feet), and an outdoor play area at an existing church facility on a 3.38 gross-acre site in the CP Pedestrian Commercial Zoning District, as recommended by staff.

- f. [CP08-063](#). Conditional Use Permit to allow continued operation of a public drinking and entertainment establishment with late night use until 2:00 a.m. daily in the DC Downtown Primary Commercial Zoning District, located on the northeast corner of Almaden Avenue and San Fernando Street (98 S. Almaden Ave)(Jan Chargin Trustee & et al, Owner). Council District 3. SNI: None. CEQA: Exempt. *PROJECT MANAGER, L.MCMORROW*

Staff Recommendation: Approve a Conditional Use Permit to allow continued operation of a public drinking and entertainment establishment with late night use until 2:00 a.m. daily in the DC Downtown Primary Commercial Zoning District, as recommended by staff.

- g. [PDC07-021](#). Planned Development Rezoning from R-1-8 Residential District to A(PD) Planned Development District to demolish the existing single-family residence and to construct three new single-family detached residences on a 0.37 gross acre site, located on the west side of Piedmont Road approximately 220 feet north of Suncrest Avenue (1199 Piedmont Rd.)(Linh Van Nguyen, Owner). Council District: 4. SNI: None. CEQA: Exempt. *PROJECT MANAGER, A.BATY*

Staff Recommendation: Recommend Approval of a Planned Development Rezoning from R-1-8 Residential District to A(PD) Planned Development District to demolish the existing single-family residence and to construct three new single-family detached residences on a 0.37 gross acre site, as recommended by staff.

The following items are considered individually.

3. PUBLIC HEARING

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. [ACCEPTANCE OF THE STRONG NEIGHBORHOODS INITIATIVE EDENVALE/GREAT OAKS NEIGHBORHOOD IMPROVEMENT PLAN AMENDMENT](#). Review and Recommendation to the City Council. Council District 2. SNI: Edenvale/Great Oaks. CEQA: Strong Neighborhoods Initiative Program EIR, Resolution No. 71045. *PROJECT MANAGER, J.BORRELLI*

Staff Recommendation: Consider the Environmental Impact Report in accordance with CEQA. Recommend that the City Council: (1) Accept the Strong Neighborhoods Initiative (SNI) *Edenvale/Great Oaks Neighborhood Improvement Plan Amendment* as the renewed community vision for the future of the Edenvale/Great Oaks SNI Planning Area; and (2) Encourage Edenvale/Great Oaks area residents, property owners and community members to continue to dedicate their time, energy, and resources towards the Plan and this Amendment while continuing with their community-building activities.

- b. [PDC07-096](#). Planned Development Rezoning/Rezoning from County and CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to 218 attached single-family residences and 22,600 square feet for commercial uses on a 3.59 gross acres site, located on the south side of West San Carlos Street between Meridian Avenue and Page Street (Dubrovnik Properties, LLC & Nicholas Gera, Owner). Council District 6. SNI: Burbank/Del Monte. CEQA: Mitigated Negative Declaration. *Deferred from 08/20/08*. *PROJECT MANAGER, E.SCHREINER* [Supplemental Memo / Traffic Impact Supplemental Memo](#)

Staff Recommendation: Consider the Mitigated Negative Declaration in accordance with CEQA. Recommend approval of a Rezoning/Rezoning from County and CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to 218 attached single-family residences and 22,600 square feet for commercial uses on a 3.59 gross acres site, as recommended by staff.

- c. **Private Sector Green Building Policy.** The proposed private sector green building policy for new construction includes two rating systems: United States Green Building Council's Leadership in Energy and Environmental Design and Build It Green's GreenPoint Rated system. The policy requires a green building checklist for all new construction. In addition, the policy mandates specific certification and point levels in 3 categories: commercial and industrial (25,000 square feet and more), residential high-rise, and other residential (10 units and more). This Policy will provide a verifiable benchmark by which to measure progress toward the Green Vision goal of 50 million square feet of green buildings built or retrofitted within the next 15 years as well as further Green Vision goals related to energy efficiency, water efficiency, renewable energy, and waste reduction. Council District: Citywide. SNI: N/A. CEQA: Exempt. *PROJECT MANAGER, M.STAHLHUT*

Staff Recommendation: Recommend that the City Council: 1) Adopt the proposed *Private Sector Green Building Policy*; and 2) Direct staff to draft an ordinance establishing mandatory green building standards for private sector development for Council adoption.

- d. **PDC08-016.** Planned Development Rezoning from the R-2 Residence District to the A(PD) Planned Development District to allow the demolition of a two-family dwelling and three multi-family dwellings and the construction of up to four single-family detached residences on a 0.25 gross acre site, located on the southwest corner of Berryessa Road and N. 15th Street (674 Berryessa Road)(Somot Properties, LLC, Owner). Council District: 3. SNI: 13th Street. CEQA: Mitigated Negative Declaration. *PROJECT MANAGER, A.BATY*

Staff Recommendation: Consider the Mitigated Negative Declaration in accordance with CEQA. Recommend approval of a Planned Development Rezoning from the R-2 Residence District to the A(PD) Planned Development District to allow the demolition of a two-family dwelling and three multi-family dwellings and the construction of up to four single-family detached residences on a 0.25 gross acre site, as recommended by staff.

- e. **PDC07-012.** Planned Development Rezoning from the R-1-2 Residence Zoning District to the A(PD) Planned Development Zoning District to allow eight single-family attached residential units on a 0.52 gross acre site, located on the east side of Entrada Cedros approximately 200 feet south of Giuffrida Avenue (5550 ENTRADA CEDROS)(James C. & Mary K. Henning Trustee, Rachel D. Maxwell, Trustee & Et Al, Owner). Council District 10. SNI: None. CEQA: Mitigated Negative Declaration. *PROJECT MANAGER, L.MCMORROW*

Staff Recommendation: Consider the Mitigated Negative Declaration in accordance with CEQA. Recommend approval of a Planned Development Rezoning from the R-1-2 Residence Zoning District to the A(PD) Planned Development Zoning District to allow eight single-family attached residential units on a 0.52 gross acre site, as recommended by staff.

- f. **PROPOSED TITLE 20 CHANGE TO STREAMLINE THE HEARING PROCESS.**

Staff Recommendation: Planning staff recommends that the Planning Commission recommend that City Council initiate an ordinance to modify Title 20 of the Municipal Code (the Zoning Code) to provide for a more streamlined hearing process before the City Planning Commission under specified circumstances.

4. PETITIONS AND COMMUNICATIONS

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:

- Responding to statements made or questions posed by members of the public; or
- Requesting staff to report back on a matter at a subsequent meeting; or
- Directing staff to place the item on a future agenda.

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

6. 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) Envision San José 2040 General Plan Update Process (Kamkar)
- c. Review and Approve synopsis for 08/20/08
- d. Consider Study Session dates and/or topics
- e. [Consider the recommendation of the staff from Parks, Recreation and Neighborhood Development that the Planning Commission transmit to the City Council a letter of support to:](#)
 - 1) Endorse the adjustment of the Parkland In-Lieu Fees to reflect 100% of the land values in the 2007 Residential Land Value Study, and
 - 2) Endorse the implementation date of February 1, 2009 for 2007 Revised Parkland In-Lieu Fees to go into effect.

ADJOURNMENT

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	W118 & W119
February 13	5:00 p.m.	Study Session	Room T-332
		<i>Review & Comment: Planning Department Website</i>	
February 13	6:30 p.m.	Regular Meeting	Council Chambers
February 27	5:00 p.m.	Study Session	Room T-332
		<i>CEQA: Reviewing Environmental Impact Reports</i>	
February 27	6:30 p.m.	Regular Meeting	Council Chambers
March 12	5:00 p.m.	Study Session	Room T-332
		<i>North San José</i>	
March 12	6:30 p.m.	Regular Meeting	Council Chambers
March 26	5:00 p.m.	Study Session	Room T-332
		<i>Green Vision/Develop City Policy</i>	
March 26	6:30 p.m.	Regular Meeting/General Plan	Council Chambers
April 9	5:00 p.m.	Study Session	Room T-332
		<i>Riparian Corridor Policy</i>	
April 9	6:30 p.m.	Regular Meeting/General Plan	Council Chambers
April 21 (Monday)	5:00 p.m.	Study Session	Room T-332
		<i>Inclusionary Housing & Housing Element</i>	
April 21 (Monday)	6:30 p.m.	Regular Meeting/General Plan	Council Chambers
May 7	5:00 p.m.	Study Session	Room T-1654
		<i>Capital Improvement Program</i>	
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	5:00 p.m.	Study Session	Room T-332
		<i>Planning Commission By-Laws</i>	
June 11	6:30 p.m.	Regular Meeting	Council Chambers
June 25	5:00 p.m.	CANCELLED Study Session	CANCELLED
		<i>Riparian Corridor Policy</i>	
June 25	6:30 p.m.	Regular Meeting	Council Chambers
July 16	6:30 p.m.	Regular Meeting	W-118, W-119, W-120
August 6	5:00 p.m.	Study Session	Room T-332
		<i>Riparian Corridor Policy</i>	
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	5:00 p.m.	Study Session	Council Chambers
		<i>Joint Study Session with Parks Commission</i>	
September 24	6:30 p.m.	Regular Meeting	Council Chambers
September 25	8:30 a.m.	Annual Retreat	Room T-1654
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/General Plan	Council Chambers
November 19	6:30 p.m.	Regular Meeting/General Plan	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.