



PLANNING COMMISSION AGENDA

Wednesday, February 25, 2009

Joint Study Session with Parks Commission
Room T-332
Commencing at 5:00 p.m.

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

Hope Cahan **Xavier Campos**
Thang Do **Lisa Jensen**
Christopher Platten

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, February 25, 2009**. 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.**

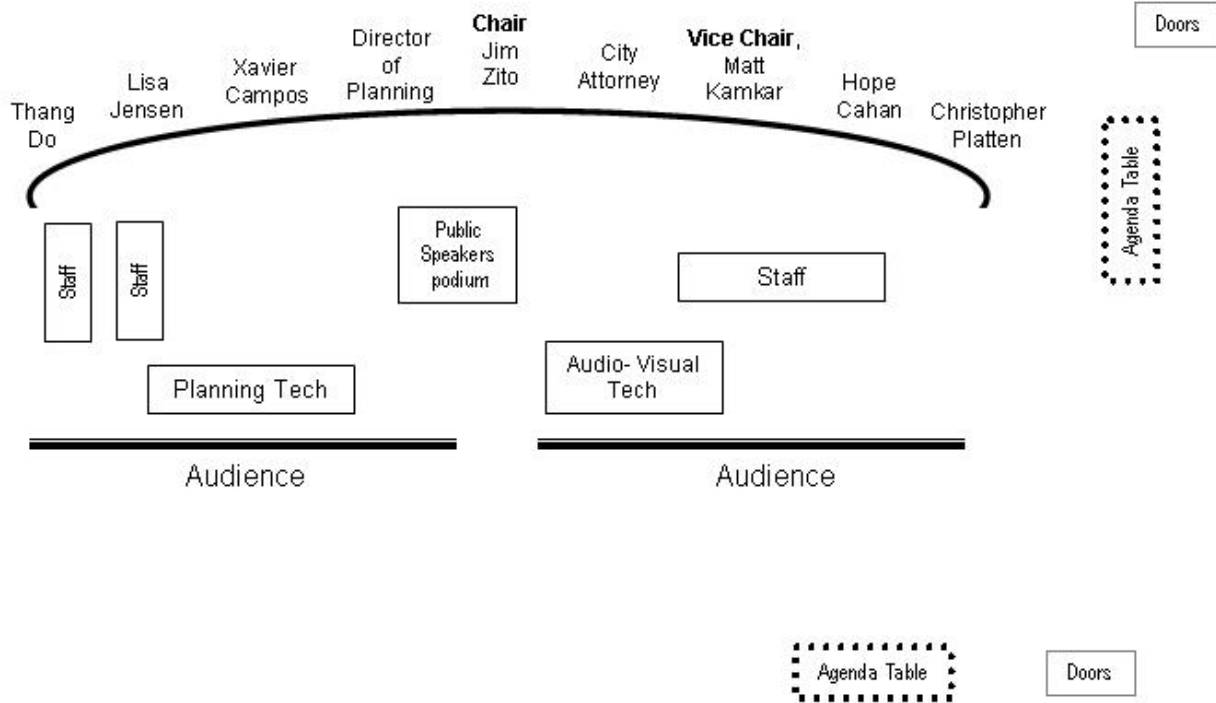
The procedure for this hearing is as follows:

- 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.

To effectively manage the Planning Commission Agenda, and to be sensitive to concerns regarding the length of public hearing, the Planning Commission may determine either:

- To proceed with remaining agendized items past 11:00 p.m.;
- To continue this hearing to a later date;
- Or to defer remaining items to the next regularly scheduled Planning Commission meeting date.

Decision on how to proceed will be heard by the Planning Commission no later than 11:00 p.m.

- a. **CP09-002**. Conditional Use Permit to allow continued operation of an existing eating and drinking establishment with late night use until 2:00 a.m. on a 0.11 gross acre site in the DC Downtown Primary Commercial Zoning District, located on the west side of N. First Street approximately 50 feet north of Devine Street (Trials Pub at 263 N 1ST ST) (Thomas Robert D, Owner) Council District 3. SNI: None. CEQA: Exempt.
PROJECT MANAGER, L.McMORROW

Staff Recommendation: Withdrawn 2/12/09 per applicant's request

- b. **PDC06-007**. Planned Development Rezoning from Unincorporated County to A(PD) Planned Development Zoning District to allow up to 6 single-family detached residences on a 1.25 gross acre site, located at the west terminus of Fleming Avenue and Nob Hill Drive (Constructive Investments, Owner). Council District 5. SNI: None. CEQA: Mitigated Negative Declaration. *PROJECT MANAGER, B.ROTH*

Staff Recommendation: Defer to 3/11/09 per staff request.

The matter of Deferrals is now closed

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. [CP06-073](#). Conditional Use Permit to allow an entertainment use, karaoke, and minor modifications to the front of the building on a 1.32 gross acre site in the CN Commercial Neighborhood Zoning District, located on the south side of Alum Rock Avenue, approximately 830 feet easterly of N. Capitol Avenue (2880 Alum Rock Avenue)(Cornelius P. and Sandra M. Callahan, owners). Council District 5. SNI: East Valley/680. CEQA: Exempt. Deferred from 2/11/09. *PROJECT MANAGER, B.ROTH*

Staff Recommendation: Approve a Conditional Use Permit to allow an entertainment use, karaoke, and minor modifications to the front of the building on a 1.32 gross acre site in the CN Commercial Neighborhood Zoning District, as recommended by staff.

- b. [CP07-093](#). Conditional Use Permit to allow a religious assembly use a 0.42 gross acre site in the R-M-Multiple Residence Zoning District, located on the east side of N. First Street, approximately 550 feet north of Nortech Parkway (5004 N 1ST ST)(Balaji Matha Inc, Owner). Council District 4. SNI: None. CEQA: Exempt. *PROJECT MANAGER, S.SAHA*

Staff Recommendation: Approve a Conditional Use Permit to allow a religious assembly use a 0.42 gross acre site in the R-M-Multiple Residence Zoning District, as recommended by staff.

- c. [CP08-006](#). Conditional Use Permit request to allow a 12,000 square foot expansion of an existing 4,515 square foot building for religious assembly uses and reconstruction of a parking lot on a 2.36 gross acres site in the R-1-8 Single-Family Residence Zoning District, located on the east side of South Capitol Avenue, approximately 250 feet south of Mervyn's Way (Templo Juan 3:16, Inc., Owner; John Lalaian, Developer). Council District 5. SNI: East Valley/680 Communities. CEQA: Exempt. *PROJECT MANAGER, E.SCHREINER*

Staff Recommendation: Approve a Conditional Use Permit to allow a 12,000 square foot expansion of an existing 4,515 square foot building for religious assembly uses and reconstruction of a parking lot on a 2.36 gross acres site in the R-1-8 Single-Family Residence Zoning District, as recommended by staff.

- d. [CP08-087](#). Conditional Use Permit to allow a take-out eating establishment within a portion of an existing gasoline service station/car wash on a 0.87 gross acre site in the HI Heavy Industrial Zoning District, located on the southwest corner of Montague Expressway and O'Toole Avenue (790 MONTAGUE EX)(Jarrett John P And Mary Trustee, Owner). Council District 4. SNI: None. CEQA: Exempt. *PROJECT MANAGER, E.SCHREINER*

Staff Recommendation: Approve a Conditional Use Permit to allow a take-out eating establishment within a portion of an existing gasoline service station/car wash on a 0.87 gross acre site in the HI Heavy Industrial Zoning District, as recommended by staff.

- e. [CP09-009](#). Conditional Use Permit to allow dental office uses in an existing office building on a 3.5 gross acre site in the IP Industrial Park Zoning District, located on the north side of Piercy Road approximately 500 feet westerly of Hellyer Avenue (301 PIERCY RD)(US Bank As Trustee Of Lehman Brothers, Owner). Council District 2. SNI: None. CEQA: Exempt. *PROJECT MANAGER, J.DAVIDSON*

Staff Recommendation: Approve a Conditional Use Permit to allow dental office uses in an existing office building on a 3.5 gross acre site in the IP Industrial Park Zoning District, as recommended by staff.

- f. [CPA03-060-01](#). Conditional Use Permit RENEWAL to allow a contractor's yard and a 200 square foot foreman's building on a 0.16 gross acre site in the LI Light Industrial Zoning District, located on the east side of South 24th Street approximately 250 feet northerly of William Street (374 S 24TH ST)(Carlos Uribe and Mariela Ramos, owners). Council District 3. SNI: Five Wounds/Brookwood Terrace. CEQA: Exempt. *PROJECT MANAGER, J.DAVIDSON*

Staff Recommendation: Approve a Conditional Use Permit RENEWAL to allow a contractor's yard and a 200 square foot foreman's building on a 0.16 gross acre site in the LI Light Industrial Zoning District, as recommended by staff.

- g. [CPA03-042-01](#). Wireless - Conditional Use Permit Amendment to allow the continued operation of a 60-foot tall wireless communications monopole with ancillary equipment cabinets on a 6.55 gross acre site in the CP Pedestrian Commercial Zoning District, located at the northeast corner of Almaden Expressway and Via Valiente (6950 ALMADEN EX)(Delora Sanfilippo J. W. Trustee, Owner). Council District 10. SNI: None. CEQA: Exempt. *PROJECT MANAGER, S.SAHA*

Staff Recommendation: Approve a Conditional Use Permit Amendment to allow the continued operation of a 60-foot tall wireless communications monopole with ancillary equipment cabinets on a 6.55 gross acre site in the CP Pedestrian Commercial Zoning District, as recommended by staff.

- h. [CP08-094](#). Conditional Use Permit to allow continued operation of an existing pawnshop as a use incidental to a jewelry store on 0.4 gross acre site in the DC Downtown Primary Commercial Zoning District, located at 14A & 14B South 1st Street (southeast corner of South 1st Street and Santa Clara Street)(14 S 1ST ST)(Schneider John And Janis, Owner). Council District 3. SNI: None. CEQA: Exempt. *PROJECT MANAGER, E.SAMONSKY*

Staff Recommendation: Approve a Conditional Use Permit to allow continued operation of an existing pawnshop as a use incidental to a jewelry store on 0.4 gross acre site in the DC Downtown Primary Commercial Zoning District, as recommended by staff.

- i. [PDC07-094](#). Planned Development Rezoning from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow three single-family detached residences on a 0.2 gross acre site, located on the east side of S. 10th Street approximately 90 feet north of Margaret Street (684 S 10TH ST)(Rodriguez, Maritza, Owner). Council District 3. SNI: University. CEQA: Exempt. *PROJECT MANAGER, E.SAMONSKY*

Staff Recommendation: Recommend approval of a Planned Development Rezoning from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow three single-family detached residences on a 0.2 gross acre site, as recommended by staff.

- j. **C09-001.** Conventional Rezoning from R-2 Two Family Residence Zoning District and R-M Multiple Residence Zoning District to LI Light Industrial Zoning District to allow industrial use on a 1.01 gross acre site, located on the northeast corner of Coleman Avenue and Taylor Street (702 Coleman Ave)(Taylor Coleman Props LLC, Owner). Council District 3. SNI: None. CEQA: Reuse of the San Jose 2020 General Plan Final EIR. *PROJECT MANAGER, E.SAMONSKY*

Staff Recommendation: Consider the re-use an EIR in accordance with CEQA. Recommend approval of a Conventional Rezoning from R-2 Two Family Residence Zoning District and R-M Multiple Residence Zoning District to LI Light Industrial Zoning District to allow industrial use on a 1.01 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. **ORDINANCE AMENDMENT “PROCEDURES”.** Proposal to amend the Zoning Code of the City of San Jose – Amending part 2 of chapter 18.08 of Title 18 of the San Jose Municipal Code, entitled “Procedures” to add a new section allowing the withdrawal of, or deeming withdrawn, applications to amend the General Plan under certain specified circumstances, to add a new section to limit reapplications for amendments that have been denied by City Council, and to make other nonsubstantive technical clarifications to said part 2 of Chapter 18.08 of Title 18, Amending Section 20.100.390 of Chapter 20.100 and section 20.120.070 of chapter 20.120, all of Title 20 of the San Jose Municipal Code, to allow certain development permit or approval applications or circumstances of inactivity, and amending section 20.100.170 of chapter 20.100.170 of chapter 20.100 of Title 20 of the San Jose Municipal Code to clarify that applicants of development permits or approvals may withdraw applications. CEQA: Exempt, PP09-014. *PROJECT MANAGER, A.BATY*

Staff Recommendation: It is recommended that the Planning Commission recommend that the City Council approve the proposed ordinance to amend the Title 20 regulations regarding inactive development applications on file with the City of San Jose Planning Division to include a provision for applications having no activity by the applicant for at least 12 months to be “deemed withdrawn” by the Director of Planning, and to clarify similar procedures in Titles 18 and 20 for withdrawal of development applications and General Plan amendments.

- b. [PDC06-018](#). Planned Development Rezoning from CN Commercial Neighborhood Zoning District to A(PD) Planned Development Zoning to allow up to 4 single-family detached residences on a 0.48 gross acre site, located on the north side of Michigan Avenue, approximately 350 feet easterly of North 1st Street (APN 015-05-082) Council District 4. SNI: None. CEQA: Mitigated Negative Declaration. *PROJECT MANAGER, L.BUTLER*

Staff Recommendation: Consider the Mitigated Negative Declaration in accordance with CEQA. Recommend approval of a Planned Development Rezoning from CN Commercial Neighborhood Zoning District to A(PD) Planned Development Zoning to allow up to 4 single-family detached residences on a 0.48 gross acre site, as recommended by staff.

- c. [PDC08-005](#). Planned Development Rezoning from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District for a renovation and addition to (also relocation on-site for) an existing single-family residence, listed as a Structure of Merit on the Historic Resources Inventory, and construction of three (3) single-family attached residential units on a 0.19 gross acre site, located on the west side of North 11th Street approximately 300 feet north of East Santa Clara Street (55 N 11TH ST)(Boguess Brian C, Owner). Council District 3. SNI: 13th Street. CEQA: Exempt. *PROJECT MANAGER, L.BUTLER*

Staff Recommendation: Recommend approval of a Planned Development Rezoning from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District for a renovation and addition to (also relocation on-site for) an existing single-family residence, listed as a Structure of Merit on the Historic Resources Inventory, and construction of three (3) single-family attached residential units on a 0.19 gross acre site, as recommended by staff.

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 [Synopsis from 2/11/09](#)
- d. Consider Study Session dates and/or topics.
Schedule a date for Transportation Planning Study Session in the spring

ADJOURNMENT

2009 PLANNING COMMISSION MEETING SCHEDULE

<u>Date</u>	<u>Time</u>	<u>Type of Meeting</u>	<u>Location</u>
January 14	6:30 p.m.	Regular	Council Chambers
January 28	5:30 p.m.	<i>Study Session</i> <i>Economic Downtown</i>	<i>Room T-332</i>
January 28	6:30 p.m.	Regular	Council Chambers
February 11	6:30 p.m.	Regular	Council Chambers
February 25	5:30 p.m.	<i>Joint Study Session</i> <i>with Parks Commission</i>	<i>Room T-332</i>
February 25	6:30 p.m.	Regular	Council Chambers
March 11	6:30 p.m.	Regular	Council Chambers
March 25	6:30 p.m.	Regular	Council Chambers
April 8	6:30 p.m.	Regular	Council Chambers
April 22	6:30 p.m.	Regular	Council Chambers
May 6	5:30 p.m.	<i>Study Session: CIP</i>	<i>Room T-332</i>
May 6	6:30 p.m.	Regular	Council Chambers
May 13	6:30 p.m.	Regular	Council Chambers
May 27	6:30 p.m.	Regular	Council Chambers
June 10	6:30 p.m.	Regular	Council Chambers
June 24	6:30 p.m.	Regular	Council Chambers
July 8	6:30 p.m.	Regular	Council Chambers
July 22	6:30 p.m.	Regular	Council Chambers
August 12	6:30 p.m.	Regular	Council Chambers
August 26	6:30 p.m.	Regular	Council Chambers
September 9	6:30 p.m.	Regular	Council Chambers
September 23	6:30 p.m.	Regular	Council Chambers
October 14	6:30 p.m.	Regular	Council Chambers
October 28	6:30 p.m.	Regular	Council Chambers
November 4	6:30 p.m.	Regular	Council Chambers
November 18	6:30 p.m.	Regular	Council Chambers
December 2	6:30 p.m.	Regular	Council Chambers
December 9	6:30 p.m.	Regular	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.