



## **PLANNING COMMISSION AGENDA**

### **Regular Hearing & General Plan Hearing**

**Wednesday, March 24, 2021**

**Commencing at 6:30 p.m.**

Teleconferenced Meeting

**The Planning Commission is meeting via teleconference from remote locations in accordance with state and local orders and measures taken as a result of the Covid-19 pandemic.**

**Members of the public may view and listen to the meeting by following the instructions listed on page 2. Additional instructions are provided on page 2 to those members of the Public who would like to comment on agenda items.**

**Mariel Caballero, Chair**

**Rolando Bonilla, Vice Chair**

**George Casey    Jorge A. Garcia**

**Justin Lardinois    Pierluigi Oliverio**

**Deborah Torrens**

**Rosalynn Hughey, Director**

**Planning, Building & Code Enforcement**

## Note

### Electronic device instructions:

For participants who would like to join electronically from a PC, Mac, iPad, iPhone, or Android device, please click this URL: <https://sanjoseca.zoom.us/j/95819440936>. Please ensure your device has audio input and output capabilities. During the session, if you would like to comment, please use the 'raise hand' feature in Zoom conference call or click \*9 to raise hand to speak.

1. Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
2. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
3. When the Chair calls for the item on which you wish to speak, click on "raise hand." Speakers will be notified shortly before they are called to speak.
4. When called, please limit your remarks to the time limit allotted.

### Telephone device instructions:

For participants who would like to join telephonically please dial +1-213-338-8477, +1-408-638-0968, 888-475-4499 or 877-853-5257 and when prompted, enter meeting Web Id: 958 1944 0936. Before or during the Commission meeting, email [PlanningSupportStaff@sanjoseca.gov](mailto:PlanningSupportStaff@sanjoseca.gov) or call 408-535-3505 and provide your name, phone number and what item(s) you would like to speak on. You may also click \*9 to raise a hand to speak.

### Public Comments prior to meeting:

If you would like to submit your comments prior to the meeting, please e-mail [planningsupportstaff@sanjoseca.gov](mailto:planningsupportstaff@sanjoseca.gov) or dial 408-535-3505. Comments submitted prior to the meeting will be considered as if you were present in the meeting.

### NOTE

To request an accommodation for City-sponsored meetings or events or an alternative format for printed materials, please call Support Staff at 408-535-3505 or 408-294-9337 (TTY) as soon as possible, but at least three business days before any meeting or event.

### SUMMARY OF HEARING PROCEDURES

The procedure for this hearing is as follows:

- After the staff report, applicants, and appellants may make a 5-minute presentation.
- The meeting technician will connect persons who desire to speak to the commission to the meeting so they can be heard.
- Each speaker will have two minutes. Speakers using a translator will have four 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 re-zonings, pre-zonings, 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 re-zonings and pre-zonings. The Planning Commission's action on Conditional Use Permits is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and all staff reports for this meeting may be accessed at: <https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/commissions-and-hearings/planning-commission/agendas-minutes-2020>

# **AGENDA**

## **ORDER OF BUSINESS**

### **WELCOME**

Welcome to the Planning Commission Meeting. This meeting is being held via Zoom Conference Call due to the COVID-19 crisis. Members of the public may participate by following the instructions listed on the Agenda. You may also view and listen to the meeting on live stream Cable TV, Granicus, and YouTube.

If you would like to provide public comment, you have two methods to identify to provide public comment in writing transmitted to the City prior to or at the meeting when the item is being considered or verbally by following the instructions to participate herein. All members of the public will remain on mute until the individual identifies they would like to speak and they are unmuted.

For members of the public who desire to address the Commission on an item, please connect to the meeting either by Zoom or by telephone using the instructions on p. 2 of this agenda

### **ROLL CALL**

### **SUMMARY OF HEARING PROCEDURES**

#### **1. CALL TO ORDER & ORDERS OF THE DAY**

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## **2. PUBLIC COMMENT**

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Public comments to the Planning Commission on non-agendized items. Please contact the Commission in the manner specified on p. 2 of this agenda to comment on any item that is not specified on the agenda. Please use the 'raise hand' feature in Zoom or click \*9 to raise a hand to speak or contact 408-535-3505 to request to speak. 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.

## **3. DEFERRALS AND REMOVALS FROM CALENDAR**

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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 or removal.

Staff will provide an update on the items for which deferral and removal is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring or removing these or any other items, you should request to speak in the manner specified on p. 2 of this agenda.

**No Items**

## 4. CONSENT CALENDAR

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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 please use the 'raise hand' feature in Zoom or click \*9 to raise a hand to speak or contact 408-535-3505 to request to speak.

**No Items**

## 5. PUBLIC HEARING

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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. **H19-033:** Site Development Permit to allow the construction of an 18-story commercial building with approximately 12,771 square feet of commercial retail and approximately 482,026 square feet of commercial office, an alternative parking arrangement, and a Downtown Design Guideline exception on an approximately 1.49-gross acre site located on the Northeast corner of South Market Street and East San Carlos Street (282 South Market Street) (SI 58 LLC., Owner). Council District 3. **CEQA:** Block 8 Mixed Use Office Supplemental Environmental Impact Report to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942).

**PROJECT MANAGER, STEFANIE FARMER**

**Staff Recommendation:**

**That Planning Commission recommends that the City Council take all of the following actions:**

1. Adopt a Resolution certifying the Supplemental Environmental Impact Report (SCH2003042127) to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942), and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA).
2. Adopt a Resolution approving, subject to conditions, a Site Development Permit, subject to conditions, to allow the construction of an 18-story commercial building with approximately 12,771 square feet of commercial retail and approximately 482,026 square feet of commercial office, an alternative parking arrangement, and a Downtown Design Guideline exception on an approximately 1.49-gross acre site
3. Direct Staff to file a Notice of Determination pursuant to Section 15094 of the State CEQA Guidelines.

## 6. OPEN THE GENERAL PLAN HEARING (CYCLE 1 2021)

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## 7. GENERAL PLAN CONSENT CALENDAR

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No Items

## 8. GENERAL PLAN PUBLIC HEARING

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- a. [GP20-008 & C21-001](#): City-initiated General Plan Amendment (GP20-008) for the adoption of the Berryessa BART Urban Village Plan (BBUV), including changes to General Plan land use designations for properties within the boundaries of the Urban Village as shown on the Urban Village land use plan; and City-initiated Conforming Rezoning (C21-001) of properties within the East District area of the BBUV boundary. Council District 4. **CEQA**: Addendum (File No. ER20-187) to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No.77617) and Addenda thereto.

**PROJECT MANAGER**, CHARLA GOMEZ

**Staff Recommendation:**

**That Planning Commission recommends that the City Council take all of the following actions:**

1. Consider the Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Supplemental Environmental Impact Report to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution 77617) and Addenda thereto in accordance with CEQA;

2. Adopt a resolution approving the following:
  - a. General Plan Amendment (GP20-008) to the Envision San José 2040 General Plan to amend the “Planned Job Capacity and Housing Growth Areas by Horizon” table in Appendix 5 and make changes to the Land Use/Transportation Diagram for properties within the boundaries of the Urban Village planning area as shown on the Berryessa BART Urban Village Land Use Diagram;
  - b. Adoption of the Berryessa BART Urban Village Plan as the guiding policy document for new development and identified public improvements within the urban village area; and
3. Approve an ordinance rezoning certain real property of approximately 28.9 gross acres (C21-001) located in the East District area of the Berryessa BART Urban Village Plan area generally bounded by Berryessa Road to the north; Penitencia Creek, Salamoni Court and Berryessa Station Way to the east; Mabury Road to the south; and Santa Clara Valley Transportation Authority right-of-way to the west from the A(PD) Planned Development zoning district and IP Industrial Park zoning district to the PQP Public/Quasi-Public zoning district (APNs 254-17-008 and 254-17-110), from the A(PD) Planned Development zoning district to the CP Commercial Pedestrian zoning district (APN 254-17-111), from the IP Industrial Park zoning district to the PQP Public/Quasi-Public zoning district (APN: 254-17-083), and from the IP Industrial Park zoning district to the CP Commercial Pedestrian zoning district (APNs 254-17-112 and 254-17-113)



- b. **PDC17-051:** Planned Development Zoning to allow up to 3,400,000 square feet of commercial development and up to 3,400 residential units, to develop a mixed-use, Transit-Oriented Development project on approximately 61.5 acres located on the South side of Berryessa Road, approximately 1,100 feet Westerly of North King Road (1590 Berryessa Road) (Berryessa FM Development LLC., Owner). Council District 4. **CEQA:** The San Jose Flea Market Southside Rezoning Final Environmental Impact Report.

***PROJECT MANAGER, CHARLA GOMEZ***

**Staff Recommendation:**

**That Planning Commission recommends that the City Council take all of the following actions:**

1. Adopt a resolution certifying the San Jose Flea Market Southside Rezoning Environmental Impact Report and make certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a Statement of Overriding Considerations and a related Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act;
2. Approve an Ordinance rezoning (File No. PDC17-051) an approximately 61.5-gross acre site located at 1590 Berryessa Road (Assessor Parcel Numbers 254-17-052, 053, 007, 084, 095) from the A(PD) Planned Development Zoning District to CP(PD) Planned Development Zoning District to allow up to 3,450 residential units and up to 3.4 million square feet for commercial uses;
3. Approve an ordinance repealing Section 14.30.035 of Chapter 14.30 of Title 14 of the San José Municipal Code to apply the US-101/Oakland/Mabury Traffic Impact Fee to the current project; and
4. Adopt a resolution amending the US-101/Oakland/Mabury Transportation Development Policy to provide a credit to the current project's Traffic Impact Fee obligation.

## **9. CLOSE THE GENERAL PLAN PUBLIC HEARING**

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## **10. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES**

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**No Items**

## **11. GOOD AND WELFARE**

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- a. Report from City Council
- b. Review and Approve Action Minutes from [3/10/21](#).
- c. Subcommittee Formation, Reports, and Outstanding Business
- d. Commission Calendar and Study Sessions
- e. The Public Record

## **12. ADJOURNMENT**

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## **2021 PLANNING COMMISSION MEETING SCHEDULE**

<b><u>Date</u></b>	<b><u>Time</u></b>	<b><u>Type of Meeting</u></b>	<b><u>Location</u></b>
January 13- <u>Cancelled</u>			
January 27	6:30 p.m.	Regular & General Plan	Teleconferenced Meeting
February 10	6:30 p.m.	Regular	Teleconferenced Meeting
February 24	6:30 p.m.	Regular	Teleconferenced Meeting
March 10	6:30 p.m.	Regular	Teleconferenced Meeting
March 24	6:30 p.m.	Regular & General Plan	Teleconferenced Meeting
April 14	6:30 p.m.	Regular	Council Chambers
April 28	6:30 p.m.	Regular	Council Chambers
May 12	6:30 p.m.	Regular	Council Chambers
May 26	6:30 p.m.	Regular	Council Chambers
June 9	6:30 p.m.	Regular	Council Chambers
June 23	6:30 p.m.	Regular	Council Chambers
July 14	6:30 p.m.	Regular	Council Chambers
July 28	6:30 p.m.	Regular	Council Chambers
August 11	6:30 p.m.	Regular	Council Chambers
August 25	6:30 p.m.	Regular	Council Chambers
September 8	6:30 p.m.	Regular	Council Chambers
September 22	6:30 p.m.	Regular	Council Chambers
October 13	6:30 p.m.	Regular	Council Chambers
October 27	6:30 p.m.	Regular	Council Chambers
November 10	6:30 p.m.	Regular	Council Chambers
November 17	6:30 p.m.	Regular	Council Chambers
December 1	6:30 p.m.	Regular	Council Chambers
December 8	6:30 p.m.	Regular	Council Chambers

## ABOUT THE PLANNING COMMISSION

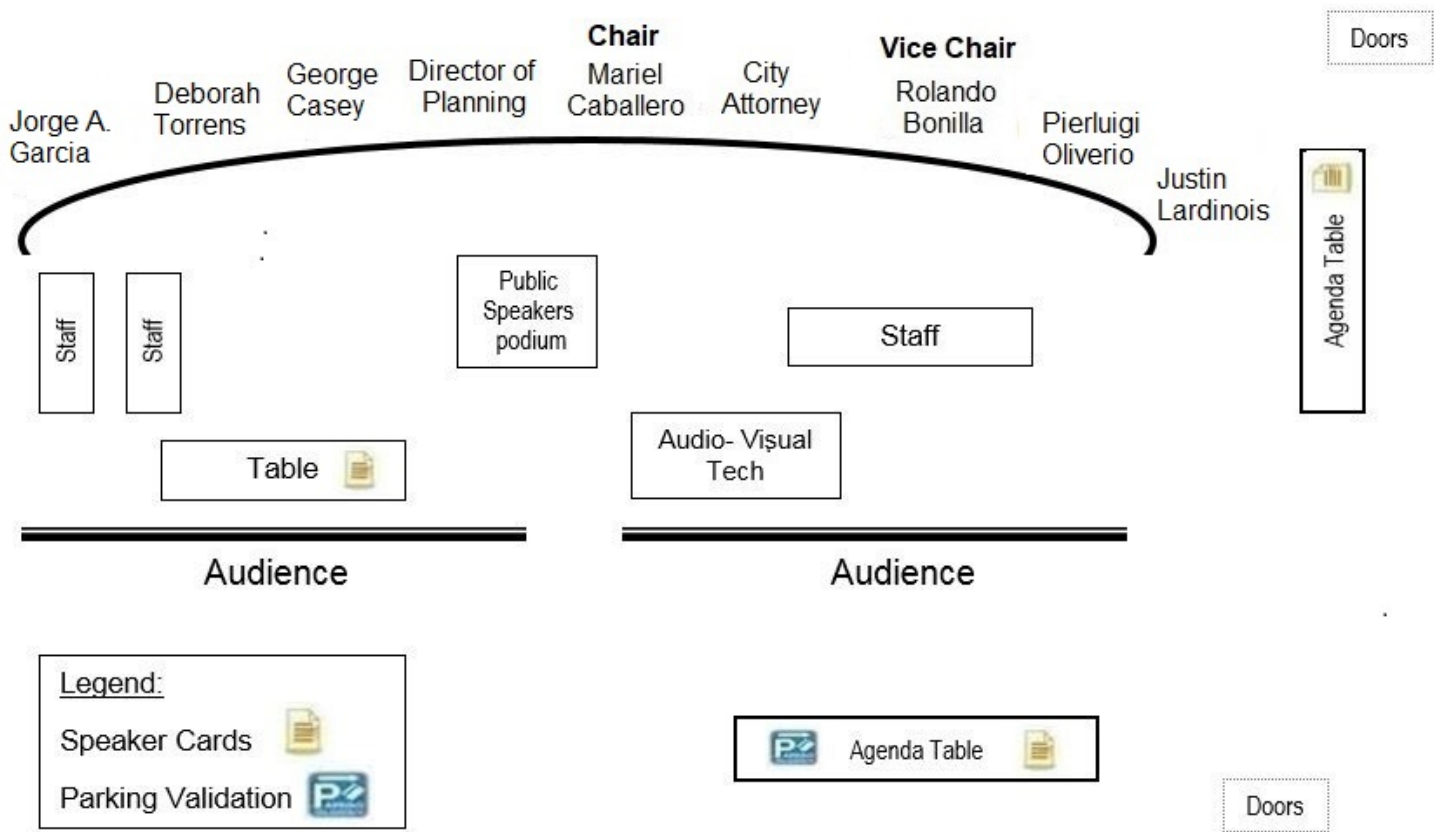
The Planning Commission is a seven-member body, appointed by the City Council, which performs two types of actions:

- One type is “Quasi-Legislative” in nature in which the Planning Commission makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, Zoning Code provisions, or regulations related to the land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs.
- The second type of action is “Quasi-Judicial” in nature in which the Planning Commission applies previously adopted legislation to particular applications and acts as a decision-making or appellate body. Examples of these types of actions include Commission decisions on Conditional Use Permits, appeals of the Planning Director’s decisions on certain land use permits, and the certification of Environmental Impact Reports.

A notation of “Administrative Hearing” for an agenda item indicates that the item is a Quasi-Judicial action of the Commission in order to assist the public in understanding the role of the Planning Commission on a particular item.

To effectively manage the Planning Commission Agenda, and to be sensitive to concerns regarding the length of public hearing, the Planning Commission may determine to proceed with remaining agendized items past 11:00 p.m., or to continue this hearing to a later date, or to defer remaining items to the next regularly scheduled Planning Commission meeting date. The decision on how to proceed will be heard by the Planning Commission no later than 11:00 p.m.

### Seating Chart within the City Council Chambers:



The San José Planning Commission generally meets every 2<sup>nd</sup> and 4<sup>th</sup> Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at <https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/commissions-and-hearings/planning-commission>

**The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public. The City Code of Ethics may be viewed on-line at** <https://www.sanjoseca.gov/home/showdocument?id=11915>

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 view by clicking the link associated specifically to documents on this agenda, at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov) for the final document. City Hall is currently closed due to the COVID-19 shelter-in-place and records are not available for in-person inspection.

Planning Commission hearings are video recorded and broadcasted live. To view the live broadcast or past hearing recordings go to the Internet website: [https://sanjose.granicus.com/ViewPublisher.php?view\\_id=51](https://sanjose.granicus.com/ViewPublisher.php?view_id=51)

If you have any agenda questions, please contact Support Staff at (408) 535-3505 or email [PlanningSupportStaff@sanjoseca.gov](mailto:PlanningSupportStaff@sanjoseca.gov). Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

### **FREQUENTLY USED ABBREVIATIONS**

<b>CEQA</b>	California Environmental Quality Act
<b>CP</b>	Conditional Use Permit
<b>DA</b>	Development Agreement
<b>PD</b>	Planned Development Permit
<b>PDC</b>	Planned Development Zoning

## **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.