



PAC*SJ

**PRESERVATION ACTION
COUNCIL OF SAN JOSE**

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42A South First Street
San Jose, CA 95113

Phone: 408-998-8105

www.preservation.org

October 1, 2025

San Jose Historic Landmarks Commission

Dear Chairperson Royer and Esteemed Commissioners

PAC*SJ has reviewed the amendments to San Jose's Historic Preservation Ordinance (Municipal Code 13.48) currently being proposed by the Department of Planning, Building, and Code Enforcement in response to *Sainte Claire Historic Preservation Foundation v. City of San José*, a March 12, 2024 decision from the Court of Appeal for the Sixth Appellate District. While we concur with the minor clarifying amendments proposed to Section 13.48.020 (Definitions), **PAC*SJ strongly objects to the major amendment proposed in 13.48.240** (Action by Director, Planning Commission, or City Council). If adopted, this amendment would profoundly weaken the entirety of San Jose's Historic Preservation Ordinance and the 200+ Council-designated City Landmarks and City Landmark Districts the HP Ordinance is explicitly intended to protect and preserve, would create procedural confusion and unpredictability, and would invite the perception of favoritism and unequal application of the law. In allowing for an all-purpose, ill-defined exemption for projects arguing for "overriding economic, legal, social, technological, or other benefit," San Jose's amended HP Ordinance would be an outlier among peer preservation ordinances statewide, virtually none of which provides any similar exemption mechanism without clear corresponding parameters to guide decisionmakers. Furthermore, this new exemption clause would require no analysis of preservation alternatives and no mechanism for appropriate mitigation, and would render the current hardship exemption virtually meaningless.

Here are just a few of the many questions this proposed an ordinance amendment leaves unanswered:

- What exactly constitutes an "overriding economic benefit," and does that definition include increased profits for private projects?
- What exactly constitutes an "overriding legal benefit"? Or an "overriding social benefit"? Or an "overriding other benefit"??
- Would demolishing a City Landmark for a surface parking lot, a private hotel, or a new data center/server farm constitute an overriding benefit?

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Outreach Associate
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- At what point in the application process would an applicant invoke the “overriding benefit” claim? Would HLC and the Planning Commission be asked to review such claims, or only City Council?

We acknowledge that, in many cases, questions of feasibility, preservation alternatives, and overriding considerations have historically been adjudicated in a parallel CEQA review process. But as new CEQA exemptions become ever more common, we cannot assume such review processes will always remain parallel, or that all potential projects impacting designated City Landmarks and City Landmark Districts will even require CEQA review in the future.

Finally, PAC objects to the lack of transparency and lack of community outreach in drafting these proposed ordinance amendments, which were only released to the public last week (9/24/2025) with the issuance of this HLC meeting agenda. To our knowledge, with the troubling exception of PBCE’s “Developers & Construction Roundtable” informational meeting on 9/25/2025, no other potentially impacted neighborhood associations, Landmark property owners, or other stakeholders have been notified of these proposed changes.

For all of these above-stated reasons, PAC*sj urges the Historic Landmarks Commission to recommend that City Council deny these proposed amendments to Municipal Code 13.48 as currently written.

Sincerely,

Ben T. Leech
Executive Director
Preservation Action Council of San José