



**PAC\*SJ**

**PRESERVATION ACTION  
COUNCIL OF SAN JOSE**

**PRESERVATION ACTION  
COUNCIL OF SAN JOSE**

42A South First Street  
San Jose, CA 95113

Phone: 408-998-8105

[www.preservation.org](http://www.preservation.org)

November 4, 2025

San Jose Historic Landmarks Commission

**Re: Agenda Item 3a: Proposed amendments to the Historic Preservation Ordinance  
(Municipal Code 13.48)**

Dear Chairperson Royer and Esteemed Commissioners,

PAC\*SJ appreciates the Landmarks Commission comments on the initially proposed draft amendments to San Jose's Historic Preservation Ordinance (Municipal Code 13.48) at their October 1, 2025 meeting. As noted in our October 1, 2025 comments (attached for reference), we shared the Commissioners' unanimous concerns that an all-purpose, ill-defined overriding exemption for projects causing detriment would create procedural confusion, unpredictability, and the inconsistent application of development standards and regulations. We likewise appreciate that Staff has accommodated the Commission's request to consider additional revisions prior to the proposal advancing to the Planning Commission and City Council, and has circulated with advance notice two possible options for addressing some of the issues raised by the Commissioners, PAC\*SJ, and other stakeholders, including defined findings required for the City Council to approve work that is detrimental to a landmark or property in a historic district.

The City's stated intention in amending the Ordinance is to better align it with CEQA's "overriding considerations" provisions. This is an understandable motive and not inherently problematic on its face. But PAC\*SJ is compelled to point out two major differences in purpose between CEQA and the Ordinance that must be acknowledged in this discussion. First, CEQA applies to all properties designated or found eligible for historic designation at the federal, state, or local level – a vastly larger number of properties than those protected by the Historic Preservation Ordinance, which only protects City Landmarks and City Landmark Districts that have been so designated by City Council Resolution for the expressed purpose of promoting their preservation. Second, CEQA requires agencies to disclose environmental impacts, and while it establishes a process for considering preservation alternatives, it does not itself prescribe a preservation outcome. In contrast, the very purpose of the Ordinance is to prescribe preservation outcomes unless very specific findings can be met. It is, and was always intended to be, distinct from CEQA regulations, which are themselves now increasingly vulnerable to categorical exemptions advanced by the State of California. We do not believe that it is a reasonable assumption moving forward that all projects potentially impacting a City Landmark would necessarily undergo CEQA review; it is therefore reasonable and appropriate to require "CEQA-like" alternatives analysis and mitigation requirements within any Ordinance-based mechanism for overriding considerations at the City level.

**PAC\*SJ BOARD**

President &  
Advocacy Chair  
**Mike Sodergren**

VP Fundraising  
**Patt Curia**

Secretary  
**Lynne Stephenson**

Treasurer  
**John Frolli**

*Continuity* Editor  
**Gayle Frank**

**Scott Brown**

**Carl Foisy**

**Clare Gordon  
Bettencourt**

**Jen Hembree**

**André Luthard**

**Gratia Rankin**

**Nancy Reynolds**

**Sally Zarnowitz**

**PAC\*SJ STAFF**

Executive Director  
**Ben Leech**

Outreach Associate  
**Matthew Massey**



PRESERVATION ACTION  
COUNCIL OF SAN JOSE

42A South First Street  
San Jose, CA 95113

Phone: 408-998-8105

[www.preservation.org](http://www.preservation.org)

As found in the [Table of Historic Preservation Permit Findings from Other California Cities](#) provided in the October 1, 2025 HLC staff report, no other municipality in California has a broad “overriding considerations” exemption absent specific findings; the refined findings proposed in both Option 1 and Option 2 of the November 5th Staff Report would be similar to those in the ordinances of other cities, including Pasadena, Sacramento, and San Diego. These proposed refinements appropriately include the finding for private development that a detrimental project shall advance General Plan goals and policies that “cannot otherwise be achieved,” and requires findings that private projects “[deviate] from the standards to the minimum extent necessary to achieve the project’s legitimate purpose.” This approach is more consistent with *Landmarks and Districts General Plan Policy LUC-13.2* which calls for a landmark or property in a historic district to be rehabilitated in place unless “... the City concurs that no other option is feasible.” Considering both options, we believe that Option 2 includes the defined findings and separate criteria for public and private projects requested by the Commission, with more workable ordinance language.

Absent these specific and reasonable findings requirements, PAC\*sj remains deeply concerned that the addition of an overly-broad override exemption would profoundly weaken the Historic Preservation Ordinance, marginalize the expertise of the Historic Landmarks Commission, and overturn the intent of past and present City Councils when it designated the 200+ City Landmarks and City Landmark Districts currently protected from unnecessary demolition by our Historic Preservation Ordinance.

For all of these above-stated reasons, PAC\*sj urges the Historic Landmarks Commission to recommend that City Council approve the proposed amendments to Municipal Code 13.48 as provided in Option 2 outlined in the November 5, 2025 staff report.

Sincerely,

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

cc: Michael Mulcahy ([district6@sanjoseca.gov](mailto:district6@sanjoseca.gov))  
Anthony Tordillos ([district3@sanjoseca.gov](mailto:district3@sanjoseca.gov))  
Dana Peak ([dana.peak@sanjoseca.gov](mailto:dana.peak@sanjoseca.gov))



**PAC\* SJ**

**PRESERVATION ACTION  
COUNCIL OF SAN JOSE**

**PRESERVATION ACTION  
COUNCIL OF SAN JOSE**

42A South First Street  
San Jose, CA 95113

Phone: 408-998-8105

[www.preservation.org](http://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?

**PAC\* SJ BOARD**

President &  
Advocacy Chair  
**Mike Sodergren**

VP Fundraising  
**Patt Curia**

Secretary  
**Lynne Stephenson**

Treasurer  
**John Frolli**

*Continuity* Editor  
**Gayle Frank**

**Scott Brown**

**Carl Foisy**

**Clare Gordon  
Bettencourt**

**Jen Hembree**

**André Luthard**

**Gratia Rankin**

**Nancy Reynolds**

**Sally Zarnowitz**

**PAC\* SJ STAFF**

Executive Director  
**Ben Leech**

Outreach Associate  
**Matthew Massey**



PRESERVATION ACTION  
COUNCIL OF SAN JOSE

42A South First Street  
San Jose, CA 95113

Phone: 408-998-8105

[www.preservation.org](http://www.preservation.org)

- 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