



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** March 5, 2021

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**SUBJECT: PP21-001. AMEND CHAPTER 13.48 AND SECTION 20.100.140 OF CHAPTER 20.100 TO ALLOW FOR CONCURRENT REVIEW OF HISTORIC PRESERVATION (HP) PERMITS AND HISTORIC PRESERVATION AMENDMENTS AND TO MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES WITHIN THOSE CHAPTERS AND SECTIONS OF THE SAN JOSÉ MUNICIPAL CODE.**

## **RECOMMENDATION**

The Planning Commission voted 5-0-2 to recommend that the City Council take the following actions:

1. Amend Section 20.100.040 (B) and (C) (Concurrent Review) in Chapter 20.100 to add the Historic Preservation Permit to the list of projects that may be reviewed and acted on in a unified process; and
2. Amend Section 13.48.210 (D), 13.13.24.240 (A)(B)(C), 13.24.250 (A), 13.24.260 (A)(B), 13.24.270 (A); 13.24.290 (A) (B) (C); and 13.24.310 to include the Planning Commission or City Council, as applicable, to act on Historic Preservation Permits engaged in the concurrent review process.

## **OUTCOME**

If the City Council approves the actions listed above as recommended by the Planning Commission, Historic Preservation Permits can be heard concurrently by the Planning Commission or City Council in a streamlined process with other development permits listed in Title 20 (Section 20.100.040).

## **BACKGROUND**

On February 24 , 2021, the Planning Commission held a Public Hearing to consider the proposed changes to the Municipal Code and Historic Preservation Ordinance.

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*Staff Presentation*

Staff provided a brief presentation on the proposed amendments, including an overview of the existing process and associated challenges, and the proposed process and the benefits of streamlining.

*Public Hearing*

One member of the public spoke on the proposed amendments. Mike Sodergren from PACSJ spoke against the proposed amendment and indicated that it will be detrimental to historic preservation. Staff clarified that the proposed changes would not affect the Historic Landmark Commission's role in reviewing and making recommendations on Historic Preservation Permits and Historic Preservation Permit Amendments, and that the Commission recommendation would still be received and reviewed by the decision-making body.

*Commission Discussion*

Commissioners Torrens, Garcia and Lardinois stated support for the proposed amendments and indicated that the changes would make local government more efficient.

Chair Caballero then closed the public hearing. Commissioner Lardinois made a motion to recommend that the City Council to 1) Amend Section 20.100.040 (B) and (C) (Concurrent Review) in Chapter 20.100 to add the Historic Preservation Permit to the list of projects that may be reviewed and acted on in a unified process; and 2) Amend Section 13.48.210 (D), 13.13.24.240 (A)(B)(C), 13.24.250 (A), 13.24.260 (A)(B), 13.24.270 (A); 13.24.290 (A) (B) (C); and 13.24.310 to include the Planning Commission or City Council, as applicable, to act on Historic Preservation Permits engaged in the concurrent review process. The motion was seconded by Commissioner Torrens. The motion passed 5-0-2 (Commissioners Bonilla and Oliverio absent).

**ANALYSIS**

Analysis of the recommended amendments to Chapter 13.48 and Title 20 of the City's Municipal Code are contained in the attached staff report.

**EVALUATION AND FOLLOW-UP**

Should the City Council approve the recommended actions, Historic Preservation Permits can be heard concurrently by the Planning Commission or City Council in a streamlined process with other development permits listed in Title 20 (Section 20.100.040).

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### **PUBLIC OUTREACH**

Staff followed Council Policy 6-30: Public Outreach Policy, prepared notices for the public hearings posted on the City's website, published in the San Jose Post-Record, and emailed to a list of interested groups and individuals. Staff created a dedicated webpage for the code revision to provide both a technical and simplified explanation of the proposed changes and its effects. Staff have been available to answer questions from the public.

### **COORDINATION**

Preparation of this memorandum has been coordinated with the City Attorney's Office.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals

### **CEQA**

Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment.

/s/

ROSALYNN HUGHEY, Secretary  
Planning Commission

For questions, please contact Planning Official, Robert Manford, at (408) 535-7900.

Attachments: Planning Commission Staff Report



# *Memorandum*

**TO:** PLANNING COMMISSION                   **FROM:** Rosalynn Hughey  
**SUBJECT:** MUNICIPAL CODE REVISIONS           **DATE:** February 24, 2021

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**SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSE TO:**

**AMEND CHAPTER 13.48 AND SECTION 20.100.140 OF CHAPTER 20.100 TO ALLOW FOR CONCURRENT REVIEW OF HISTORIC PRESERVATION (HP) PERMITS AND HISTORIC PRESERVATION AMENDMENTS AND TO MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES WITHIN THOSE CHAPTERS AND SECTIONS OF THE SAN JOSÉ MUNICIPAL CODE.**

## **RECOMMENDATION**

Staff recommends that the Planning Commission recommend that the City Council adopt an ordinance to:

1. Amend Section 20.100.040 (B) and (C) (Concurrent Review) in Chapter 20.100 to add the Historic Preservation Permit to the list of projects that may be reviewed and acted on in a unified process;
2. Amend Section 13.48.210 (D), 13.48.230, (A) (B,4)(D), 13.48.240 (A)(B)(C), 13.48.250 (A)(B), 13.48.260 (A)(B), 13.48.270 (A)(B)(C); 13.48.290 (A) (B) (C); and 13.24.310 to include the Planning Commission or City Council, as applicable, to act on Historic Preservation Permits engaged in the concurrent review process.

## **OUTCOME**

Approval of this ordinance will:

- Allow Historic Preservation Permits to be heard concurrently by the Planning Commission or City Council in a streamlined process with other development permits listed in Title 20 (Section 20.100.040).

## **BACKGROUND**

Currently, Historic Preservation Permits and Historic Preservation Permit Amendments require a standalone hearing and approval by the Director even after the City Council or other decision-making body has certified or adopted the environmental findings and all other project approvals. Historic Preservation Permits and amendments cannot presently be coupled with the streamlined process for other development eligible for concurrent processing. Concurrent review invests final decision-making authority with the highest decision-making body for required project approvals.

The changes would not affect the Historic Landmark Commission's role in reviewing and making recommendations on Historic Preservation Permits and HP Permit Amendments. Commission recommendations would still be received and reviewed by the decision-making body for projects that are processed under concurrent review.

Section 12.100.040 (Concurrent Review) allows for certain types of development permits for the same site to be reviewed and acted on in a unified process, meaning one body has final authority to render a decision on a project with several types of development permits and environmental review after all necessary recommendations from advisory bodies and analysis has been conducted. There are currently six types of permits that may be reviewed and acted on in a unified process with any another approval required by Title 20, such as a development permit or property rezoning. These are listed as follows: 1) Determination of public convenience or necessity 2) Tree removal permits 3) Major Encroachment permits 4) Development Agreements 5) Subdivision approvals and 6) Street and Easement Vacations.

The purpose of this code revision is to add the Historic Preservation Permit and Historic Preservation Amendments to this list of other approvals eligible for 12.100.040 (Concurrent Review) to facilitate and streamline the development review process for projects that include a Historic Preservation Permit.

## **ANALYSIS**

### ***Concurrent Review (12.100.040):***

By including Historic Preservation Permits alongside other development permits eligible for concurrent review staff, is effectively streamlining and consolidating decision making authority for Historic Preservation Permits with the highest decision-making body and requiring the most rigorous public hearing procedures based on the scope of the project. There are no changes to the procedures or types of projects that will require review and recommendations from the Historic Landmarks Commission and Design Review Commission. These bodies would still hear preliminary applications, Early Referrals, as well as nominations for City Landmarks and Districts, and commenting on Environmental Impact Reports (EIR) among their various duties.

***Historic Preservation (13.48):***

The changes to sections of 13.48 are minor changes aimed at removing and altering language throughout the section that stipulate that the Director of Planning is the final decision-making authority for Historic Preservation Permits. These changes are necessary to implement the change to Title 20.100.040 “Concurrent Review.” By placing the Historic Preservation Permit on the list of eligible projects, the regulatory process as described in specific locations throughout 13.48 must be altered for consistency. Further, specific wording in the ordinance has been revised with the appropriate terminology for purposes of gender neutrality.

**PUBLIC OUTREACH/INTEREST**

Staff followed Council Policy 6-30: Public Outreach Policy, preparing notices for the public hearings posted on the City’s website, published in the San Jose Post-Record, and emailed to a list of interested groups and individuals. Staff created a dedicated website for the code revision to provide both a technical and simplified explanation of the proposed changes to the code and its effects. Staff has also posted on Facebook, Twitter, @Building SJ, and City platforms. Finally, the proposed revision will be shared with City Council offices for inclusion in their newsletter.

**COORDINATION**

The preparation of the proposed ordinance and this staff report were coordinated with the City Attorney’s Office and will include input received during the ongoing public hearing process which will continue through the Planning Commission and City Council. Staff will be recording and responding to comments from interested residents and stakeholders throughout the discretionary process.

**CEQA**

The recommended action is not a project. File No. PP21-00, City Organizational and Administrative Activities resulting in no changes to the physical environment.

/s/

ROSALYNN HUGHEY, DIRECTOR  
Planning, Building and Code Enforcement

Attachments:

- 1) Draft revision language for Title 20, Chapter 20.100, Section 20.100.040 (B) and (C), additions have been made red underlined, and excised language has been ~~struck through~~
- 2) Draft revision language for Title 13, Chapter 13.48, additions have been underlined, and excised language has been ~~struck through~~

## **PP21-001 List of Attachments**

1. Draft revision language for Title 20, Chapter 20.100, Section 20.100.040 (B) and (C), additions have been made red underlined, and excised language has been struck through
2. Draft revision language for Title 13, Chapter 13.48, additions have been underlined, and excised language has been struck through