



Memorandum

TO: HONORABLE MAYOR AND
MEMBERS OF THE CITY
COUNCIL

FROM: Councilmember Kamei

SUBJECT: Item 10.2 PP25-005 -
Amendment to the Title 13
(Historic Preservation) of the
San José Municipal Code

DATE: December 2, 2025

Approved:

A handwritten signature in cursive script that reads "Rosemary Kamei".

RECOMMENDATION

1. Adopt a resolution adopting the Addendum to the Downtown Strategy 2040 Final Environmental Impact Report and the Envision San José 2040 General Plan Final Environmental Impact Report.
2. Approve an ordinance amending the Chapter Section 13.48.020 by adding definitions for “detrimental,” “historic integrity,” and “substantial alteration” and clarifying definitions for “historic district” and “landmark”; and to amend Section 13.48.240 by revising (B) and (C) to clarify the application of historic preservation permit findings and by adding (D) to allow the City Council to make certain overriding findings when work is detrimental to a landmark or property in an historic district where there is compelling public interest.

BACKGROUND

The proposed amendments to Chapter 13.48 of the San Jose Municipal Code clarify key definitions, including “detrimental,” “historic integrity,” and “substantial alteration,” and allow the City Council discretion over projects that may negatively affect designated landmarks or properties within historic districts. Staff’s recommendations improve the ordinance by providing an approval path beyond the current hardship standard, which is often difficult to apply to public projects without clear economic or structural constraints. These amendments generally align the Historic Preservation Ordinance (HPO) with CEQA’s statement of overriding considerations, enabling consideration of broader social, legal, technical, and economic benefits.

However, the proposed override language does not explicitly define the standard for when detrimental projects may be approved, creating a risk of overly broad application. Establishing a “compelling public interest” requirement ensures that such approvals are reserved for projects that deliver significant, measurable public benefits and are achieving specific public purposes.

Other cities provide useful (though more restrictive) models for structuring compelling-interest findings while retaining discretion for the decision-maker:

- Pasadena: Requires the Historical Commission to make certain findings to approve demolition of a designated historic resource, including a compelling public interest to justify demolition.¹
- Sacramento: Permits demolition or relocation only when necessary to protect or promote health, safety, or welfare of the citizens of the city.²
- San Diego: Limits override authority to public capital improvement projects.³
- Philadelphia: Conditions demolition on the Historical Commission determining necessity in the public interest or infeasibility for continued use.⁴

ANALYSIS

The addition of a compelling public interest finding to Chapter 13.48 of the San José Municipal Code ensures that any Council decision allowing detrimental impacts to a landmark or historic district property is made transparently, with clear justification presented in a public setting. This amendment does not raise the substantive threshold for project approval; it simply requires the Council to articulate on the record why an exception is warranted.

¹ Pasadena Municipal Code §17.62.090 requires the Historical Commission to make one of several specific findings to approve demolition of a designated or eligible historic resource, including: evidence of severe structural damage, a determination that no economically reasonable or practical measures could allow adaptive reuse, or a compelling public interest. The approach we are proposing differs in that it would allow the City Council to consider a project’s public benefit or public interest without requiring the extensive evidentiary and professional-review requirements mandated in Pasadena, and would not be limited to demolition of historic resources. *See also* 2021-09-07_HPC_Workshop_Attachment-6.pdf.

² Sacramento Municipal Code §17.808.180 allows demolition or relocation of landmarks or contributing resources only when specific findings are met, including that the action is necessary to protect public health, safety, or welfare, or that the benefits of the project outweigh impacts on preservation goals. *See also* https://codelibrary.amlegal.com/codes/sacramentoca/latest/sacramento_ca/0-0-0-406707.808.180.

³ San Diego Municipal Code §143.0260 limits override authority for projects affecting historic resources to public capital improvement projects, excluding most private residential, commercial, or industrial developments, as well as other public projects not part of the capital improvement program. *See* <https://docs.sandiego.gov/municode/MuniCodeChapter14/Ch14Art03Division02.pdf>.

⁴ The Philadelphia Code Sec. 14-1005 (6) (d) conditions the issuance of a building permit for demolition of a historic building, structure, site, or object—or any contributing property within a historic district—on a determination by the Historical Commission that the demolition is necessary in the public interest or that the property cannot be reasonably used for any purpose for which it may be adapted. *See* https://codelibrary.amlegal.com/codes/philadelphia/latest/philadelphia_pa/0-0-0-294426.

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Requiring public findings strengthens accountability by explaining how a project advances adopted City policies, fulfills legal obligations, or delivers meaningful public benefits such as community-serving infrastructure or amenities. This framework preserves full Council discretion: decision-makers retain flexibility to determine what constitutes sufficient public benefit, how impacts have been mitigated, and why approval is appropriate.

The public-interest finding also responds directly to the Court of Appeal's decision in *Sainte Claire Historic Preservation Foundation v. City of San Jose*, 2024 Cal. App. Unpub. LEXIS 1546, 2024 WL 1062649, which affirmed the City's authority to balance benefits and impacts but highlighted the need for clear guidance within the Historic Preservation Ordinance itself. Adding explicit findings language reinforces that clarity, offering a structured, transparent, and defensible mechanism for Council action while maintaining the integrity of historic resources and the advisory role of the Historic Landmarks Commission.