



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** May 3, 2006

**COUNCIL DISTRICT:** Citywide

**SUBJECT: APPROVAL OF A RESOLUTION TO UPDATE THE CITY COUNCIL  
POLICY: PRESERVATION OF HISTORIC LANDMARKS**

## **RECOMMENDATION**

The Historic Landmarks Commission recommends that the City Council approve a resolution to update the City Council Policy: Preservation of Historic Landmarks.

## **EXECUTIVE SUMMARY**

The Historic Landmarks Commission has worked with Planning Staff over the last year to propose revisions to the City Council Policy: Preservation of Historic Landmarks, (Policy) originally adopted December 8, 1998. The intent of the revisions is to strengthen and clarify language to give high priority to the preservation of candidate or designated Landmark structures, sites, and districts. Planning Staff is bringing the proposal to update the Policy forward to the City Council in May as part of National Preservation Month.

## **OUTCOME**

Approval of the resolution would strengthen the existing City Council Policy: Historic Preservation of Historic Landmarks by including language to give priority to the preservation of all candidate or designated Landmark structures, sites, and districts. This policy change would also facilitate the consideration of City, State and Federal financial incentives for preservation and/or adaptive reuse.

## **BACKGROUND**

National Historic Preservation Month is hosted by the National Trust for Historic Preservation. This year's theme is "Sustain America-Vision, Economics, and Preservation." The San Jose City Council will proclaim May 2006 Preservation Month in San Jose, and call upon the people of San Jose to join their fellow citizens across the United States in recognizing and participating in this special observance.

Part 26 of Chapter 2.08 of the Municipal Code addresses the functions, powers, and duties of the Historic Landmarks Commission, stating that the Commission shall advise and make

May 3, 2006

**Subject: Updated Council Policy: Preservation of Historic Landmarks**

Page 2

recommendations to the City Council and the City Manager, on the designation, acquisition and preservation of historic landmarks (Section 2.08.2630).

The Commission has been working for almost one year on an effort to propose revisions to the Policy. At the June 1, 2005 HLC hearing, Commissioners discussed revised language (see attached), noting three intentions for the changes: 1) to strengthen the emphasis on preservation in the existing policy, 2) to include Landmark districts and single family houses in the types of resources to be protected, and 3) to include findings beyond the financial feasibility of a particular development, looking to a broader view of economic incentives available to developers interested in preservation. Preservation community representatives have been present for the public meeting discussions, however, have not provided public comment. At the January 2006 HLC Retreat, the Commission recommended approval of the Update of the City Council Policy on the 2006 Historic Preservation Work Plan (HLC Oversight and Staffing, Item A.VI.).

## **ANALYSIS**

Preservation of specific structures or special areas is a part of the San Jose 2020 General Plan Urban Conservation/Preservation Major Strategy. At a strategic level, preservation activities contribute visual evidence to a sense of community that grows out of the historical roots of San Jose's past. Historic and architectural structures add inestimable character and interest to the City's image. Historic, Archeological and Cultural Resources Goals and Policies of the General Plan call for preservation as a key consideration in the development review process. The General Plan includes a "Discretionary Alternate Use Policy" which provides flexibility for sites with historic resources and is intended to encourage and facilitate preservation of the City's historic buildings.

The City Council Policy on the Preservation of Historic Landmarks defines a purpose statement and applicability, and lists five requirements for conformance: 1) Early Public Notification of proposals to alter or demolish a landmark structure, 2) Public Input and City Council Review, 3) Preparation of Complete information regarding Opportunities for Preservation of Historic Landmarks, 4) Findings Justifying Alteration or Demolition of Historic Landmarks, and 5) Financial Resources for Preservation.

### ***Purpose Statement and Applicability***

The Historic Landmarks Commission began its recommendations by noting that the existing policy purpose statement to "strongly encourage" preservation, should be revised to clarify that "It is the policy of the City of San Jose that candidate or designated landmark structures, sites, and districts be preserved wherever possible." The recommendation would also include updating the title of the Policy to "City Council Policy on the Preservation of Historic Landmarks and Districts." In addition, the Commission noted that the Policy should affect candidate or designated "Landmark Structures," as well as new construction within existing City, State, and National Historic Landmark Districts. Stating that San Jose has many significant residential Historic Landmark Districts, the Commission recommended removing language exempting application of the Policy to single family residential structures in order to protect Contributing Structures to residential Historic Landmark Districts.

May 3, 2006

Subject: Updated Council Policy: Preservation of Historic Landmarks

Page 3

### ***Requirements***

Clear language stating that the Policy should apply to all candidate or designated Landmark Structures, Sites, or Districts is proposed to be inserted throughout the Requirements. Policy language would now consistently include applicability to proposals that have the potential to impact the integrity of Historic Landmark Districts, in addition to Landmark structures and sites.

Any final decision to alter or demolish candidate or designated Landmark structures, or impact the integrity of Landmark districts, would be required to be accompanied by findings that document that it is not reasonably feasible, not just for the developer involved but for any interested party, to retain and reuse the structure, site, or district integrity. The Policy would include specific language that: "The financial profile and/or preferences of a particular developer should not, by themselves, be considered a sufficient rationale for making irreversible decisions regarding the survival of the City's historic resources."

Lastly, the requirement to identify funding resources for rehabilitation is proposed to specify "City, State, and Federal" funding resources. These sources would include, but not be limited to, the Mills Act Historical Property Contract, CRMP Building Tax exemption, and Federal Historic Preservation Tax Incentives Programs.

### **PUBLIC OUTREACH**

The Historic Landmarks Commission discussed the proposed language changes at the April 2005 and January 2006 public HLC retreats, and the May 4, 2005 and June 1, 2005 regular public HLC meetings. As standard practice, Historic Landmarks Commission and City Council memorandums, as well as the hearing dates and agendas, are posted at City Hall and on the City and Planning Division website. Representatives of the Preservation Community have been in attendance at these public meetings.

### **COORDINATION**

This memo has been coordinated with the City Attorney's Office.

### **CEQA**

Not a Project.



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Historic Landmarks Commission

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# City of San José, California

## CITY COUNCIL POLICY

TITLE	PAGE
PRESERVATION OF HISTORIC LANDMARKS	1 of 2

**APPROVED BY**  
Council Action - Adopted December 8, 1998

### **PURPOSE/INTENT STATEMENT**

Historically and architecturally significant buildings structures, sites, and districts provide an irreplaceable link to the City's past, ~~and~~ enrich the present and future with their rich tradition and diversity, and add inestimable character and interest to the City's image. Preservation of structures, sites, and districts is a part of the San Jose General Plan Urban Conservation/Preservation Major Strategy. At a strategic level, preservation activities contribute visual evidence to a sense of community identity that grows out of the historical roots of San Jose's past.

It is the policy of the City of San Jose ~~to strongly encourage preservation and adaptive reuse of that candidate or designated landmark structures, sites, or districts be preserved wherever possible.~~ Proposals to alter such structures, sites, or districts must include a thorough and comprehensive evaluation of the historic and architectural significance of the structure, site, or district and the economic and structural feasibility of preservation and/or adaptive reuse. Every effort should be made to incorporate existing candidate or designated landmark structures into the future plans for their site and the surrounding area and to preserve the integrity of landmark districts.

### **APPLICABILITY**

This policy affects any designated City Landmark structure, Contributing Structure in a City Landmark Historic District, ~~a structure listed on designated on the State of California Register of Historic Places,~~ the National Register of Historic Places and/or the California Register of Historical Resources, a Contributing Structure in a National Register Historic District, or a structure that qualifies for any of the above (candidate), based on the applicable City, State, or National qualification criteria. (hereafter "landmark structure"). ~~This policy does not apply to single family residential~~

~~structures.~~ This policy also affects new construction within designated City, State, and National Landmark districts for purposes of district integrity.

### **REQUIREMENTS**

- 1. Early Public Notification of proposals to alter or demolish a candidate or designated landmark structure, or to impact the integrity of a historic district.** In order to allow greater public input into decisions affecting historic landmarks, early public notification should be initiated in response to either of the following: 1) receipt by ~~either the City or Redevelopment Agency~~ of a development application for a project proposing to alter the original character of a candidate or designated landmark structure, or to potentially impact the integrity of a landmark district, or 2) prior to action by the City Council or Redevelopment Agency Board of Directors to commit public funding or other assistance to such a project or for acquisition of property containing a candidate or designated landmark structure or potentially impacting the integrity of a landmark district. Such notification shall be provided to the City Council, Historic Landmarks Commission and representatives of the historic preservation community.
- 2. Public Input and City Council Review.** As soon after the public notification as possible, public meetings on the proposed project shall be scheduled, as follows. In the case of a private development project with no City or Redevelopment Agency funding involved, the Historic Landmarks Commission shall hold a public meeting on the proposed project, to receive public comment and provide recommendations regarding information to be included in the analysis of the proposed project. In the case of a project incorporating City or Redevelopment Agency funding or other

assistance, or acquisition of property containing a candidate or designated landmark structure or a structure or site located within a landmark district, the City Council shall agendaize discussion of the project to receive public comment and provide early direction to the appropriate staff that either: 1) the project should continue forward through the appropriate review process, or 2) the Council does not support the proposed project and further staff work shall be discontinued.

3. **Preparation of Complete information regarding Opportunities for Preservation of the Landmark Structure, and/or the Integrity of the Landmark District.** The analysis of a proposed project which will alter the original character of a candidate or designated landmark structure or potentially impact the integrity of a landmark district shall include complete historic, ~~and~~ architectural, and cultural documentation of the significance of the candidate or designated landmark structure, site, district, or compatibility of new construction within a landmark district building, a comprehensive evaluation of the economic and structural feasibility of preservation and/or adaptive reuse of the structure, and an analysis of potential funding sources for preservation. This information shall be carefully reviewed and then be given strong consideration in the decision-making process for a project proposing to alter a candidate or designated landmark structure or the integrity of a district. Every

effort should be made to preserve and incorporate existing landmark structures into the future plans for a site and the surrounding area, and to preserve the integrity of landmark districts.

4. **Findings Justifying Alteration or Demolition of a Landmark Structure, or Impact to the Integrity of a Landmark District.** Final decisions to alter or demolish a candidate or designated landmark structure or to impact the integrity of a landmark district, must be accompanied by findings which either 1) document that it is not reasonably feasible for any interested party to retain the building candidate or designated landmark structure or the integrity of the district, -or 2) which record the overriding considerations which warrant the loss of the candidate or designated landmark structure or district integrity. The financial profile and/or preferences of a particular developer should not, by themselves, be considered a sufficient rationale for making irreversible decisions regarding the survival of the City's historic resources.
5. **Financial Resources for Preservation.** The City and Redevelopment Agency should identify City, State, and Federal funding resources to support and encourage the preservation and adaptive reuse of candidate or designated landmark structures, sites, or districts.