



CITY OF LOS ALTOS APPEAL FORM
 1 North San Antonio Road, Los Altos, CA 94022; (650) 947-2700

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JUN 28 2024

City of Los Altos

NOTE TO APPLICANT:

Please attach any supplemental documents to this form as part of your appeal.

Type of Appeal:

<input checked="" type="checkbox"/> Appeal of Administrative Determination	Fees – Please Refer to Master Fee Schedule: https://www.losaltosca.gov/communitydevelopment/page/forms-and-handouts-0
<input type="checkbox"/> Appeal of Development Review Commission Decision	
<input type="checkbox"/> Appeal of Planning Commission Decision	

Appellant Contact Information:

Name: Catherine Nunes Telephone Number: 650-949-3228

Mailing Address: 64 Hillview Ave, Los Altos CA 94022

Email Address nunescath@gmail.com

Signature: _____

Project Information (about the project for which the appeal is being submitted):

Planning Commission/DRC Meeting Date: _____

Administrative Determination Date: June 25, 2024

Planning Division File #: _____

Property Address: 1 San Antonio Road, rear yard of Police Station, northeast sector Civic Center Property (Heritage Orchard)

Assessor's Parcel Number: _____ (Can be found on staff report)

Reason for Appeal / Explanation of Error or Abuse of Discretion.

Please describe the alleged error or abuse, or how the decision is not supported by substantial evidence in the record. Please identify if this appeal will be under Chapter 1.12 of the Municipal Code (Appeal Ordinance) or an appeal under Section 14.76.100 of the Municipal Code (Design Review Appeal). Attach additional pages if necessary.

ADDITIONAL DETAIL AND LETTER ATTACHED

1. Permit applicant, History Museum without legal authority to pull permits on this property.
2. Permit failure to provide adequate justification for removal of trees and loss of tree sites in this location.
3. Failure of permit and approval process to recognize the historical standing of the property, trees and tree sites.
4. Permit review process and decision not compliant with the City's planning, environmental and preservation process
5. Permit and entitlement approval for removal of both trees and tree sites by the City constitutes "demolition by neglect"

The Los Altos Planning Department Counter is open Monday – Friday (closed alternate Fridays)
From 7:30 p.m. – 5:00 p.m.
Telephone: (650) 947-2700
If you need assistance from the City Clerk's office, please call 650-947-2610.

JUN 28 2024

City of Los Altos

To: City Clerk, City of Los Altos, California
Date: June 27, 2024

Subject :
Request for Appeal and Withdrawal of Apricot Tree Removal Permits on Civic Center Land, and the Subsequent Violations Adherence with Historic Preservation Code and Impacts on the Heritage Orchard.

This appeal is for the denial and withdrawal of the Tree Removal Permit approved 6/25/2024 and posted 6/26/2024 for the **“Removal of (25) Apricot Trees in the Rear Yard of the Police Department at 1 San Antonio Rd.”** This explanation for the appeal is an attachment to the City of Los Altos appeal form and fees have been paid.

1. History Museum Without Legal Authority to Request a Permit

The posted tree removal permit has been submitted by Ken Buscho, Los Altos History Museum which does not have the governing authority to seek such a permit.

The History Museum was contracted for maintenance services per the July 2023 agreement with the City of Los Altos. The City did not delegate its government authority to the Museum. The Museum is NOT an authorized City government instrumentality or have discretionary powers for any major plans, permits or permanent removal any part of this historic resource (or its trees) under this contract agreement. (Exhibit 1)

The City and City Council remain the authority, and the City must follow proper procedures in order to remove, alter, change or take such actions with proper review, including the application of permits to remove these trees.

2. Permit failure to provide adequate justification for removal of trees

The tree summary and site evaluation conducted by the orchardist at the History Museum are inadequate for the permit removal application or permit approval of tree removal based on their condition.

According to the orchardist documentation, most of the 25 trees included in this tree removal permit are stressed and in need of immediate water and care (maintenance), this is not cause for removal. Twelve (12) of the trees were rated as healthy or in satisfactory health (1,2,3 on a scale of 5), and there is no justification for the transference of airborne brown rot spores noted by orchardist.

Plus as clarified by the orchardist letter (no report) the typical treatment is for pruning out brown rot, NOT removal. The arborist would have to conduct testing and take action to adequately mitigate this disease, which is not resourced at this time. The basis for this tree removal permit constitutes a summary letter and spreadsheet, not a certified arborist report. Many trees are in stress due to lack of water and care, but are not in immediate need of removal.

The portion of the written tree removal permit adding justifications including “trees falling, proximity to existing and “proposed” structures, and interference with utility lines” are not supported in the documentation and are invalid reasons for the immediate removal of these protected trees. These appear to be unsupported City matters, as notes of future

development projects of the purview of the Museum applicant, and falling trees and utilities the orchardist review, and as such are wrongful and unsupported additions to this permit.

3. Failure of permit to recognize historical standing and property including land, trees and tree sites of the Heritage Orchard.

The Heritage (Civic Center) Orchard– is a historic resource inclusive of fruit trees, tree sites and their lands and landmarks on the Civic Center property. It is protected under the rules, regulations and stewardship of the City’s historical preservation policies and laws.

Furthermore, any changes or alterations to the Heritage Orchard require, as does any City and State registered historic resource, proper review by the Historical Commission with proper survey that may include a Historical Resource Evaluation (HRE) by a qualified preservation professional before proceeding.

With regard to heritage trees, it warrants a tree evaluation by a certified arborist with appropriate mitigation and handling for protected trees. To our knowledge, none of this has been done.

Any valid removal of these protected apricot orchard trees, should be replaced with apricot trees in the same tree sites and location. This is NOT the planting of future City trees anywhere in the City–this is not consistent with proper mitigation or care standards of preservation in a historic resource.

4. Failure in the City’s permit approval to properly study and review the application under preservation and protection ordinances and environmental law.

Per City and State registered official documents, the Heritage Orchard is a registered historic resource consisting of a landmark, tree sites, and fruit (trees) across the Civic Center site, and it is stipulated trees can NOT be removed, unless replaced on the tree sites.

The protected tree stipulation and site location on the Civic Center inclusive of the Police Station is evidenced in the historic resource description in the 2011 State or California Department of Parks Record HR#15 and in the County recordings as the recorded description. Note Lands/trees/sites included in the “northeast sector of the complex” is the location of the orchard elements surrounding the Police Station. (Exhibit 2)

“Portions of the Smith orchard lands within the Civic Center remain along N. San Antonio Road, north of the Los Altos Library, and in the northeast sector of the complex. A number of trees dating to the period of Smith’s residence appear to remain. As the City replaces dead or diseased trees as needed, a number of younger trees are also apparent within the orchard tracts. ... Another stipulation was that the remaining apricot trees not be removed; the city maintains and replaces the trees as needed today.”

To make a finer point, this description from City official documentation in the 2006 Heritage Orchard Management Plan the description of Heritage Orchard location, acreage and tree sites. It states: (Exhibit 3)

Description of Orchard: The heritage orchard is located at 1 North San Antonio Road in the Civic Center grounds. It surrounds the City Hall building, and parts of the Library, Youth Center and Police Department.

Acreage: 2.84 acres

Number of tree sites: 444

There are no subsequent formal City actions, plans or written documentation that supersedes this historical resource disposition. Discretionary, arbitrary or interpretative judgements by the City of these documents, or the boundaries or scope of the historic resource, do not constitute to the preservation ordinances and Certified Local Government requirements and do not have any standing..

6. Permit and Approval Constitutes “Demolition by Neglect”

Finally, removal of these trees and their tree sites, despite their condition due to neglect, is “demolition by neglect” which is also unlawful under the states, and subject to disqualification as abiding by CEQA and failure to abide by Standards of the Department of Interior.

Any tree removal, movement of tree sites or development within or adjacent to Heritage Orchard without proper consideration, ordinance adherence and preservation steps is illegal and is subject the City and the History Museum to liability and potentially legal actions for damages to a historic resource.

Respectively, we ask that this permit be denied and withdrawn.

Signed residents and orchard volunteers,

Catherine Nunes, Mary Cunneen Lion, Alice Mansell

ATTACHMENT B

State of California The Resources Agency DEPARTMENT OF PARKS AND RECREATION PRIMARY RECORD	Primary # _____
	HRI # _____
	Trinomial _____
	NRHP Status Code _____
Other Listings _____	Reviewer _____
Review Code _____	Date _____

Page 1 of 2 *Resource Name or #: (Assigned by recorder) 1 N. San Antonio Road

P1. Other Identifier: HRI #:15; Civic Center Orchard

*P2. Location: Not for Publication Unrestricted

*a. County Santa Clara and (P2c, P2e, and P2b or P2d. Attach a Location Map as necessary.)

*b. USGS 7.5' Quad _____ Date _____ T _____; R _____; _____ of _____ of Sec _____; _____ B.M.

c. Address 1 N. San Antonio Road City Los Altos Zip 94022

d. UTM: (Give more than one for large and/or linear resources) Zone _____, _____ mE/ _____ mN

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate)
170 42 029

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

The Civic Center Orchard represents a portion of the apricot orchard planted by Mr. and Mrs. J. Gilbert Smith, early Los Altos settlers, and is related to the nearby Smith farm house. The residence, which currently serves the community as the History House, sits near the southeast corner of the Civic Center complex. Portions of the Smith orchard lands within the Civic Center remain along N. San Antonio Road, north of the Los Altos Library, and in the northeast sector of the complex. A number of trees dating to the period of Smith's residence appear to remain. As the City replaces dead or diseased trees as needed, a number of younger trees are also apparent within the orchard tracts.

*P3b. Resource Attributes: (List attributes and codes) HP39. Other Orchard

*P4. Resources Present: Building Structure Object Site District Element of District Other (Isolates, etc.)

P5b. Description of Photo:

Looking SE

July 2011

*P6. Date Constructed/Age and

Source: Historic Prehistoric

Both

Planted 1902

Los Altos History Museum

*P7. Owner and Address:

City of Los Altos

1 N. San Antonio Road Los Altos,

CA 94022

*P8. Recorded by:

Circa: Historic Property Development

582 Market Street, Suite 1800

San Francisco, CA 94104

*P9. Date Recorded: _____

July 2011

*P10. Survey Type:

Intensive



*P11. Report Citation:

Los Altos Historic Resources Inventory Update Report (Circa: Historic Property Development, March 2012).

*Attachments: NONE Location Map Continuation Sheet Building, Structure, and Object Record

Archaeological Record District Record Linear Feature Record Milling Station Record Rock Art Record

Artifact Record Photograph Record Other (List): _____

BUILDING, STRUCTURE, AND OBJECT RECORD

*NRHP Status Code CA Reg: 5S1

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*Resource Name or # (Assigned by recorder) 1 N. San Antonio Road

B1. Historic Name: _____

B2. Common Name: Civic Center Orchard

B3. Original Use: Agricultural

B4. Present Use: Mixed

*B5. Architectural Style: n/a

*B6. Construction History: (Construction date, alterations, and date of alterations)

Established c.1900.

*B7. Moved? No Yes Unknown Date: _____ Original Location: _____

*B8. Related Features:

J. Gilbert Smith House

B9a. Architect: n/a

b. Builder: n/a

*B10. Significance: Theme Early Development/Agriculture

Area Los Altos

Period of Significance c.1900-1961 (50 year mark)

Property Type Orchard

Applicable Criteria NR/CR/Local

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity.)

In approximately 1901, J. Gilbert Smith purchased 10 acres of farmland to grow apricots and establish a home site. Living in a tent on his land during construction, Smith completed the house in 1905. He later married Margaret Hill Smith and the couple developed a sizeable apricot orchard on the property. The Smiths sold their property to the city of Los Altos in 1954, two years after incorporation, for the construction of the City's Civic Center complex. A stipulation of the sale was that the couple would be allowed to reside in the house and surrounding acre until their passing, at which point the house would become the city's history museum. Upon Mrs. Smith's death in 1973, the property reverted to the city. Another stipulation was that the remaining apricot trees not be removed; the city maintains and replaces the trees as needed today. The house and orchard are now City of Los Altos Historical Landmarks and the house itself is a California Point of Historical Interest. On September 8, 1991 the City Council unanimously passed and adopted a resolution adding the Civic Center's apricot orchard along San Antonio Road to the West, the Library to the South, the Youth Center to the East, the Civic Center parking lot to the North, as a Historical Landmark.

Evaluation: The Civic Center orchard is one of the last active apricot orchards remaining in Los Altos and was first planted by early Los Altos resident, J. Gilbert Smith. Despite the orchard's decrease in size and adjacent new construction, the site retains a fair degree of integrity. Therefore, it is listed on the Los Altos Historic Resources Inventory as a Historic Resource and is assigned the California Register Status Code 5S1: "Individual property that is listed or designated locally."

B11. Additional Resource Attributes: (List attributes and codes) _____

*B12. References:

Los Altos Historical Commission: Los Altos HRI (9.28.1997); McAlester, Virginia and Lee. A Field Guide to American Houses. New York: Alfred A. Knopf, 2002; DPR series forms by G. Laffey (1997); Sanborn Maps; Los Altos HRI (February 2011).

B13. Remarks:

Vicinity map provided by the City of Los Altos and amended by Circa: Historic Property Development.

*B14. Evaluator: Circa: Historic Property Development

*Date of Evaluation: July 2011

(This space reserved for official comments.)





MAINTENANCE DIVISION

APRICOT ORCHARD MANAGEMENT & GUIDELINES



Description of Orchard: The heritage orchard is located at 1 North San Antonio Road in the Civic Center grounds. It surrounds the City Hall building, and parts of the Library, Youth Center and Police Department.

Acreage: 2.84 acres

Number of tree sites: 444

Type of apricot tree: Blenheim apricot on Nemagard and Lovell rootstock

Current condition: Fair/Poor

Number of trees older than 5 years: 182

Number of trees less than 5 years: 262

Number of trees that died and were replanted in 2005: 135

Number of trees that died and need to be replanted in 2006: 40

Diseases and pests affecting orchard:

1. Ring nematodes in the soil reduce the vigor of the trees by restricting the flow of nutrients in the trees, leading to tree decline and death of the trees. – Severe problem.
2. Associated with the nematodes is a bacterial canker, when the nematodes are reduced the incidence of bacterial canker will be reduced. – Severe problem.
3. Brown rot on the fruit reduces the value of the fruit. Stresses the trees as it invades the young shoots, reducing the vigor and ultimately killing the shoots and parts of the support wood, as seen by gumming of the wood. Severe problem.
4. Eutypa limb die back from soil bacteria entering trimming wounds after late season trimming. Moderate problem.
5. Seasonal aphids suck the juices treated with cultural practices or ladybugs. – Mild problem.

Current watering practices:

1. The current use of above ground aluminum agricultural irrigation pipes combined with impact heads results in excessive water use with water runoff and silt flow into storm drains. This method also provides inconsistent watering resulting in drought stressed trees in the summer. It provides excessive water to the cover crop promoting the incidence of ring nematodes and bacterial canker.