



City Council Agenda Report

Meeting Date: September 10, 2024

Prepared By: Nick Zornes

Approved By: Gabriel Engeland

Subject: Appeal the Approval of Tree Removal Permit (24-0062) for twenty-five (25) Apricot Trees located behind the Los Altos Police Department at 1 N. San Antonio Road.

COUNCIL PRIORITY AREA

- Business Communities
- Circulation Safety and Efficiency
- Environmental Sustainability
- Housing
- Neighborhood Safety Infrastructure
- General Government

RECOMMENDATION

Deny the appeal and uphold the decision of the Development Services Department to allow the removal of twenty-five (25) apricot trees in the secured rear yard of the Los Altos Police Department at 1 N. San Antonio Road.

FISCAL IMPACT

Not Applicable.

ENVIRONMENTAL REVIEW

This Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

PREVIOUS COUNCIL CONSIDERATION

Not Applicable.

BACKGROUND

On June 25, 2024, the Los Altos History Museum requested a Tree Removal Permit for twenty-five (25) apricot trees in the secured rear yard area of the Los Altos Police Department located at 1 N. San Antonio Road. The Permit was granted as requested with no modifications. As a part of the request a 2:1 ratio for replacement of trees was required by the Development Services Director.

On June 28, 2024, Mary Lion filed an Appeal of Administrative Decision, which was completed and accompanied by additional documentation (Attachment 5) by Catherine Nunes, Mary Cunneen

Lion, and Alice Mansell. The basis of appeal was outlined with five (5) main points which are documented in Attachment 5 of this Agenda Item.

APPLICANTS APPEAL – REASON FOR APPEAL

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, tree 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”.

ANALYSIS

The Los Altos Municipal Code Chapter 11.08, Tree Protection Regulations, establishes standards for proper tree removal and replacement, preservation and protection during construction.

Pursuant to the Los Altos Municipal Code (LAMC) Section 11.08.100 – Determination on permit:

- A. Criteria. Each application for a tree removal permit shall be reviewed and determined based on the following tree removal criteria:
 1. The tree is dead, in poor health (as defined in the most recent edition of the Guide for Plant Appraisal), or has a risk rating of moderate, high, or extreme which cannot be mitigated through sound arboricultural practices to a low-risk rating.
 2. The tree species is identified as an invasive or undesirable species (as defined by list on file with the development services department).
 3. The tree is interfering or will interfere with a utility, public transportation, waterway, or other public infrastructure system.
 4. The tree is causing damage to an enclosed structure which cannot be mitigated in another way.
 5. Preservation of the tree will impede the use of real property and no reasonable or feasible alternative (as determined by the development services director) exists to preserve the tree in the current location.
- B. Additional recommendations. The approval authority may refer the application to another department, commission or person for a report and recommendation. The approval authority may also require the applicant to furnish a written report from an independent certified arborist acceptable to the approval authority; such report shall be obtained at the expense of the applicant.
- C. Action. Based on the criteria outlined in subsection A of this section, the approval authority shall either approve, conditionally approve, or deny the application. Conditions of approval may require any of the following:
 1. One or more replacement trees be planted as outlined in section 11.08.120 Tree Replacement Criteria;
 2. Payment of an in-lieu fee in compliance with section 11.08.120;

3. A combination of replacement trees and in-lieu fees that in total provide for the number of replacement trees as outlined in section 11.08.110.

The Tree Removal Permit was granted Pursuant to Section 11.08.100(A)(1) and (3) as all twenty-five (25) trees are infected with Brown Rot, and twenty-four (24) trees are rated to be in poor health or structure based on the most recent edition of the Guide for Plant Appraisal.

DISCUSSION

The Appeal of Administrative Determination, Reason for Appeal asserts several issues that will be addressed in the following:

1. Permit applicant, History Museum without legal authority to pull permits on this property.

- The request was made initially by the History Museum in January 2024 when it was discovered that the trees in the secured area of the Los Altos Police Department are covered by fungal diseases which can be airborne spores and bacteria and risk the overall health of the nearby apricot trees that were planted in the historic orchard. Attachment 4.
- Since the trees were outside the Historic Landmark boundary and also outside of the scope of the Los Altos History Museum's contract with the City, it was directed by the City Manager to submit a Tree Removal Permit and follow the standard process as all applicants within the City.
- Pursuant to LAMC 11.08.030, Chapter 11.08 shall apply to every owner of real property within the city and *to every person responsible for removing a tree* regardless of whether such person is engaged in a tree removal business.
The Association of the Los Altos Historical Museum, DBA Los Altos History Museum is an active California nonprofit public benefit corporation and is a legal entity with the authority to apply for a City permit.

2. Permit failure to provide adequate justification for removal of trees and loss of tree sites in this location.

- The request to remove trees is adequate Pursuant to Section 11.08.100 of the LAMC because it met the tree removal criteria as follows:
- All twenty-five (25) trees are infected with Brown Rot, and twenty-four (24) trees are rated to be in poor health or structure based on the most recent edition of the Guide for Plant Appraisal. (Attachment 2 and 3)
 - On January 22, 2007, Brown Rot and various other plant diseases were identified to be present in the Civic Center Orchard. (Attachment 7)
 - Based on this historic information it was determined that diseases have been present within the orchard for several years which make it increasingly more challenging to combat.

3. Failure of permit and approval process to recognize the historical standing of the property, tree and tree sites.

- Pursuant to Resolution No. 91-31, which was adopted on October 8, 1991 (Attachment 10) the Historical Landmark boundary was modified to what exists

today which expressly excludes the secured area behind the Los Altos Police Department.

- The assertion that the permit and approval process did not recognize the historical standing of the property is incorrect and inapplicable since the tree permit was granted for an area outside of the Historic Landmark boundary.
- The appellants interpretation of the Historic Orchard boundaries is incorrect. The Historic Landmark boundaries are clearly depicted in Exhibit A of Resolution No. 91-31.

4. Permit review process and decision not compliant with the City’s planning, environmental and preservation process.

- The appellants are incorrect in their assertion that the process and decision are not compliant with the City’s planning, environmental and preservation processes.
- The permit review and determination were rendered in accordance with LAMC Chapter 11.08. (Attachment 6) Specifically, the tree removal permit was reviewed and approved pursuant to the criteria contained in LAMC 11.08.100.
- Pursuant to LAMC Section 11.08.080(B)(1) – Approval Authority, the approval authority for tree removal shall be the Development Services Director.
 - Because the Tree Removal Permit request is for twenty-five (25) trees to be removed outside of the Historical Landmark boundary, the removal authority is designated to the Development Services Director.

5. Permit and entitlement approval for removal of both trees and tree sites by the City constitutes “demolition by neglect”.

- No evidence of “demolition by neglect” has been provided as a part of this appeal. (Attachment 5)

CONCLUSION

Based on the above-mentioned responses to the appellants’ Reason for Appeal and lack of substantial evidence, it is recommended that the City Council Deny the appeal and uphold the decision of the Development Services Department to allow the removal of twenty-five (25) apricot trees in the secured rear yard of the Police Station at 1 N. San Antonio Road.

ATTACHMENTS

- 1. Tree Removal Application**
- 2. Arborist Letter**
- 3. Plant Appraisal (Pursuant to Section 11.08.100(A)(1))**
- 4. History Museum – January 2024 Removal Request**
- 5. Appeal of Administrative Decision – Received June 28, 2024**
- 6. Los Altos Municipal Code Chapter 11.08 – Tree Protection Regulations**
- 7. January 22, 2007, Memo – Civic Center Orchard Condition**
- 8. Resolution No. 81-23 – Designating a Historical Landmark**
- 9. Ordinance No. 90-225 – Historic Preservation Ordinance**
- 10. Resolution No. 91.31 – Modifying an Apricot Orchard as a Historical Landmark**