

LETTER OF APPEAL

February 21, 2025

Catherine Nunes, resident
and Preservation Action League Los Altos PALLA
171 Main Street, #142
Los Altos, CA 94022

RECEIVED

FEB 21 2025

City of Los Altos

RE: Administrative Appeal to the City Council of the Application of the Categorical Exemption and Filing of NOE ENV 25458 for the Library Courtyard Project for Design Review and Historical Alteration Permit.

Los Altos City Clerk:

I, resident Catherine Nunes, and the unincorporated association, Preservation Action League of Los Altos (PALLA) are formally appealing the City's administrative application of the categorical exemption and filing of the Notice of Exemption ENV 25458, filed on February 7, 2025 with Santa Clara County, for the Library Courtyard Project at a Joint Meeting of the Planning Commission and the Historical Commission on Thursday, February 6, 2025, to the City Council.

The reasons for this appeal include, but are not limited to the following:

The categorical exemption applied to the Library Courtyard Project is inadequate and incomplete. The project does not qualify for a CEQA categorical exemption due to historic and cumulative impacts and the project improperly proposes mitigation measures, disallowed in categorical exemption situations. The characterization of the setting of the environmental analysis is inaccurate and misleading, as well as fails to properly identify and address all impacts to a historic resource, the Civic Center (Heritage) Orchard, in the preparation, design, development and future operation of the project.

Sincerely,



Catherine Nunes

Law Office of Rachel Mansfield-Howlett
Rhowlettlaw@gmail.com
707-291-6585

February 5, 2025

City of Los Altos
Planning Commission
Historical Commission

Sent via email: PCPublicComment@losaltosca.gov
HCPublicComment@losaltosca.gov

Re: Request for Historic Alteration Permit, Design Review, and Categorical Exemption for the Library Courtyard Project at 13 South Antonio Road

Dear Senior Planner Sean Gallegos and members of the Los Altos Planning Commission and Historical Commission:

I'm writing to you on behalf of Catherine Nunes and the unincorporated association, Preservation Action League of Los Altos (PALLA) regarding the Library Courtyard project's request for a Historic Alteration permit, Design Review approval and a Categorical Exemption that will be considered at the upcoming joint Planning Commission and Historical Commission hearing.

The proposed Library Courtyard project involves constructing a new courtyard north of the Los Altos Public Library, a portion of which overlaps the defined Historic Orchard boundaries and also proposes the permanent removal of seven planting sites from the Historic Orchard but summarily concludes that the loss "does not affect the orchard's historic significance or integrity." (Page 6, Agenda Report for the Feb. 6, 2025, joint Planning Commission/Historical Commission hearing.) The removal of seven planting sites cannot be dismissed so easily for the following reasons.

Prior to consideration of the issuance of a Historic Alteration Permit, the adequacy of the updated DPR for an established historic resource must first be

determined by the Historic Commission and the City Council prior to the consideration of any further development or alteration of the historic site that relies on the updated DPR.

The new historic study prepared by Treanor confirms the importance of the historic Orchard and states that the resource also retains its historic integrity, therefore, any alteration to the historic resource via changes made to the DPR or the Library Courtyard Project, must be independently scrutinized by the Historic Commission and the Council and be accompanied by CEQA review.

A “project” under CEQA is any activity by a public agency that may cause either a direct or indirect change to the environment. (Pub. Res. Code 21065.) Here, any proposed change to the DPR that may result in a change to the boundaries of the historic site or the development that is permitted on the historic site is subject to CEQA.

Regarding approval of the proposed Categorical Exemption for the Library Courtyard project, CEQA disallows adoption of mitigation measures along with a categorical exemption. Here, the City is proposing the adoption of numerous conditions of approval that act as mitigation measures regarding, bird nesting, tree preservation, and numerous others. (Agenda Report pgs. 4-8.) An agency may not evade CEQA by adopting mitigation measures simply to qualify a project for a categorical exemption. (*Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1102 (*Salmon Protection*)). In *Salmon Protection*, a county acknowledged a residential construction project may have potential adverse impacts on adjacent stream habitat. It then adopted numerous conditions expressly to mitigate the impacts and thereby qualify the project for a categorical exemption. (*Id.* at p. 1104.) The court of appeal pointed out that mitigation measures, under CEQA, are only proper at later stages of the process, which the county evaded by prematurely adopting mitigation measures. (*Id.* at pp. 1107-1108; see also *Azusa, supra*, 52 Cal.App.4th at pp. 1200-1202.)

Categorical exemptions also do not apply when the cumulative impact of successive projects of the same type in the same place over time may be significant. (CEQA Guidelines §15300.2(b).) Here, the City has been approving projects that entail the removal of apricot trees and permanent removal of

planting sites in the historic Orchard without environmental review. All projects that propose the removal of historic Orchard land and trees must be considered in a cumulative impacts analysis. This includes review of the updated DPR and the Library Courtyard project.

The Agenda Report mischaracterizes the seven planting sites proposed for permanent removal within the Historic Orchard as bare ground and fails to reflect the nature of the site as agricultural or historic. The site's agricultural use is well documented and cannot be characterized as bare ground. The Orchard and planting sites contribute to the context of the Gilbert Smith House and the Los Altos History House Museum as shown below.

The City's 2023 Maintenance agreement with the Los Altos Historical Museum for the operation of the Los Altos Heritage Orchard describes the site as:

WHEREAS, in 1981, the Los Atos City Council designated the Civic Center Apricot Orchard as a Historical Landmark (Resolution No. 81-23). The landmark boundaries of the Civic Center Apricot Orchard were clarified in 1991 (Resolution No. 91-31), with a map (Exhibit A) describing the orchard as bounded by San Antonio (west), the Youth Center (east), the Library (south) and the Parking lot (north). The same orchard boundaries are listed in the State of California Primary Records for the Civic Center Orchard (HRI #15) and J. Gilbert Smith House (HRI #80). Currently, the online Los Atos Historic Resources Inventory (accessed 3/11/2023) lists two landmarks: (a) Civic Center Apricot Orchard (1 N. San Antonio Rd) and (2) J. Gilbert Smith House (51 S. San Antonio Rd).

Moreover, the Maintenance agreement establishes that the Orchard contributes to the context of J. Gilbert Smith House/Los Altos History House Museum. It further states that "by means of public/private funding supporting contractual agreements, LAHM proposes to provide oversight services to the CITY with the goal of *maintaining, restoring and renovating the Heritage Orchard in a manner that provides an appealing working landscape facilitating a sense of place and civic pride in connecting the downtown, the Civic Center and the Community Center.*" The proposed removal of the planting sites cannot be characterized as bare ground and their removal triggers CEQA.

The City must prepare an EIR for the Library Courtyard project prior to adopting mitigation measures. An EIR must also be prepared because the project may result in cumulatively significant impacts regarding the permanent removal of historic Orchard land, together with other past, present, and future projects, via the removal of Orchard trees or planting sites that have the capacity to be restored or renovated.

Thank you,

Rachel Mansfield-Howlett
Representing Catherine Nunes and PALLA



City of Los Altos
 1 North San Antonio Road
 Los Altos, CA 94022

APPEAL APPLICATION

Type of Appeal:

- Appeal of Administrative Decision
 Appeal of Zoning Administrator Decision
 Appeal of Planning Commission Decision


Project Information:

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

Decision/Meeting Date: February 21, 2025
 Planning Division File #: ENV 25458, HR24-0003 and DR24-0002
 Property Address: 13 South San Antonio Road

Appellant Contact Information:

Name: Catherine Nunes
 Mailing Address: c/o PALLA 171 Main Street, #142, Los Altos CA 94022
 Email Address: thetrackergal@gmail.com
 Phone Number: (650)867-4436

Appellant Signature:  Date: 2/21/25

Submittal Requirements:

The following shall accompany the appeal application:

1. **Letter of Appeal:** Written letter stating the grounds for the appeal.
2. **Application Fee:** Current appeal fee as listed on the City's current adopted fee schedule.

Appeal Instructions:

1. Submit a completed appeal application form, letter of appeal, and application fee to the City Clerk. The appeal shall not be deemed submitted until all submittal requirements have been received by the City.
2. The appeal may be filed with the City Clerk at City Hall during normal business hours, which are Monday through Friday from 8 am to 5 pm.
3. The appeal must be filed within the appeal time frame specified in the Los Altos Municipal Code for the type of permit or action. Appeals shall not be accepted after the applicable appeal period has lapsed.
4. Any decision rendered under regulations contained within Title 14 of the Los Altos Municipal Code may be appealed by the applicant, or property owner or resident of property within a (300) foot radius of the subject property.
5. The date of the appeal hearing will be determined after submittal of the appeal and the appellant will be notified of the public hearing date.

ATTACHMENTS (2): (1) LETTER OF APPEAL
 (2) LAW OFFICER RACHEL MANSFIELD-HOWLETT-OBJECTION LETTER. SIX (6) PAGES TOTAL.