



2/6/25 submission for Planning Commission/Historical Commission Hearing Item #3

From Rachel Mansfield-Howlett <rhowlettlaw@gmail.com>

Date Wed 2/5/2025 3:06 PM

To Public Comment - PC <PCpubliccomment@losaltosca.gov>; Public Comment <publiccomment@losaltosca.gov>; Public Comment - HC <HCpubliccomment@losaltosca.gov>; City Council <council@losaltosca.gov>

 1 attachment (143 KB)

Letter PC HC 2-5-25 signed.pdf;

Dear Planning Commission and Historical Commission:

Please include the attached comments for the 2/6/25 Planning Commission/Historical Commission Item #3 submitted on behalf of Catherine Nunes and PALLA regarding the Library Courtyard project.

Please confirm receipt.

Thank you,
Rachel

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City of Los Altos
Planning Commission
Historical Commission

Sent via email:
PublicComment@losaltosca.gov;
HCPublicComment@losaltosca.gov;
PCPublicComment@losaltosca.gov;
Council@losaltosca.gov

February 5, 2025

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. The project 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.

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February 5, 2025 Letter to Los Altos Planning Commission and Historic Commission re Library Courtyard Project

As a preliminary matter, 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 that may result in direct or cumulatively significant historic impacts 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 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.)

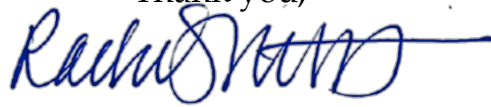
Categorical Exemptions also do not apply when the cumulative impact of successive projects of the same type in the same place over time may be significant. (CEQA Guidelines §15300.2(b).) Here, the City has been approving projects and other activities that entail the removal of apricot trees and permanent removal of planting sites in the historic Orchard without environmental review. All projects that propose the removal of historic Orchard land and Apricot 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 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

On behalf of Catherine Nunes and PALLA