

Melissa Thurman

From: roger heyder <mrheyderus@yahoo.com>
Sent: Monday, June 3, 2024 8:35 AM
To: Public Comment; City Council
Subject: Council meeting 6/11 - public comment on item not on the agenda
Attachments: trees 1.JPG; trees 3.JPG; orchard tree.jpeg

Please place this comment and the associated pictures in the public record for the 6/11/24 City Council meeting.

The book "Trees of Los Altos" has a clear, highly detailed map designating the boundaries of the Civic Center Historic Orchard. This book was published in 2004 in participation with the Los Altos Environmental Committee, the Historical Commission, Los Altos History Museum, City of Los Altos, and Los Altos Community Foundation. (see pictures below).

Los Altos needs to immediately and formally recognize these Historic Orchard boundaries, and strictly adhere to them. As of the receipt of this email, the city is fully aware of where the Historic Orchard boundaries are.

Clearly the current Youth Center project takes legally protected orchard land between the Youth Center and Library. Legally protected trees on that space have been uprooted (see attached picture). The Youth Center project should be stopped immediately, and the project restructured to adhere to the legal boundaries of the Historic Orchard. That is what should have happened in the first place. Otherwise, the city will knowingly proceed on an illegal project.

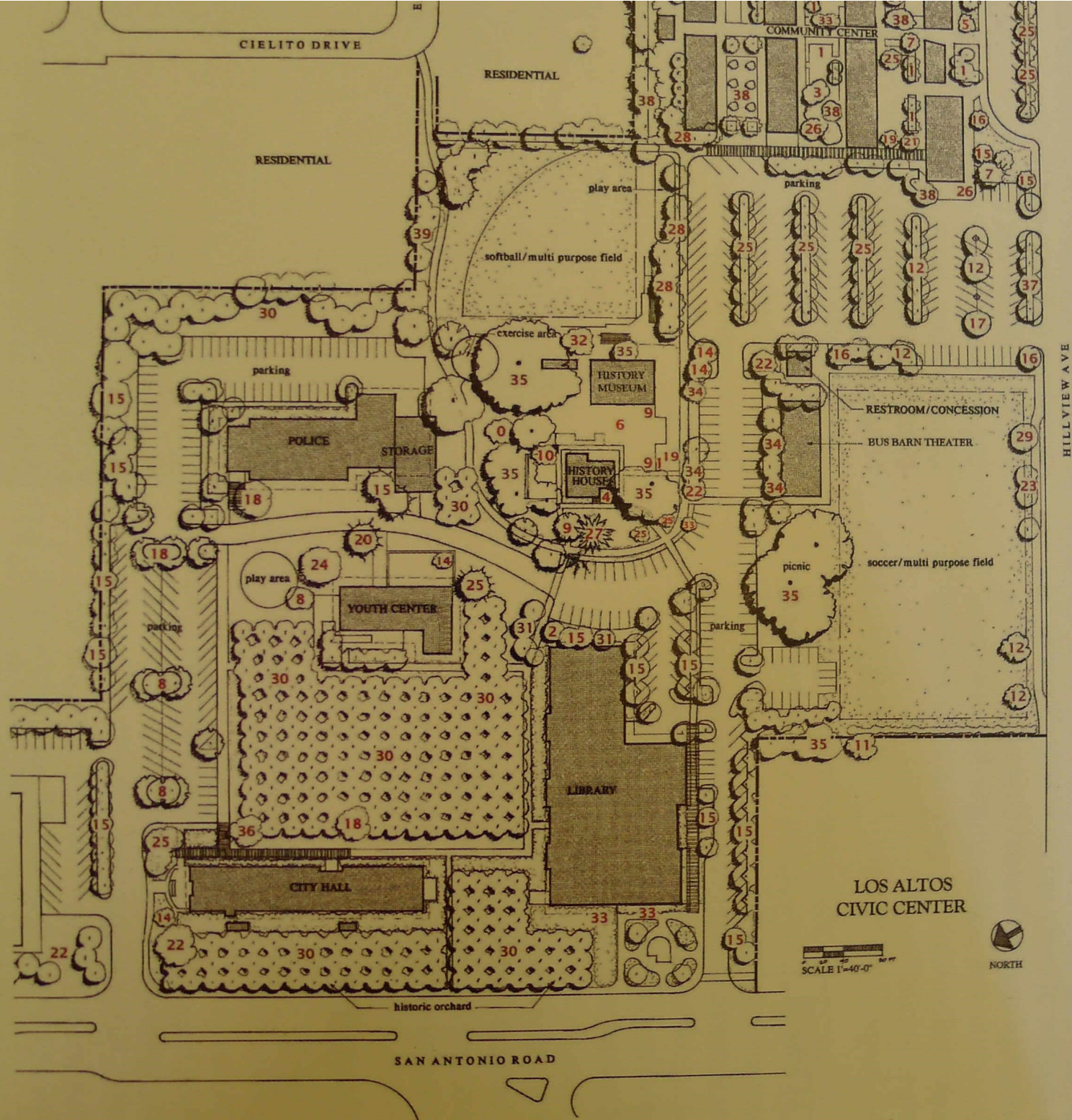
The Library Cement Patio project would also take legally protected orchard land. Los Altos should immediately and formally reject the Library Cement Patio project due to encroachment on protected Orchard land.

The History Museum must be replaced as caretaker of the Historic Orchard. The President of the History Museum endorsed the Library cement patio, which would have used protected Historic Orchard land, and the History Museum has no experience maintaining an orchard. The History Museum seems to have basically no qualifications or good intent to manage and preserve the orchard.

There are also fundamental issues with the operation of the Planning Commission, the City Manager, the City Attorney, as well as City Council itself. All of these people and organizations knew about the legally protected Historic Orchard, and yet somehow the Youth Center project was approved.

The treatment of the Historic Orchard has been a broad based failure on the part of the city with regards to maintaining and preserving the orchard. Los Altos is not meeting its legal obligations with regards to the orchard, and that needs to change immediately.

thanks -- Roger Heyder





MANY THANKS TO

Los Altos Environmental Committee

Ken Lim, Chair, Ann Coombs, Hank Cooper,
Jenny Fire-Halvorsen, Judy Fulton, Penny Lave,
Linda DeMichiel, Jocelyn Orr, Julie Saffren

Photography

Ann Coombs (unless otherwise credited)

Consultants

Mary Kaye, Landscape Designer
Daphne Smith, Horticulturalist
Brian McCarthy, City of Los Altos
Paul Nyberg, Publisher

Copy Editor

Elizabeth Robinson

Help locating trees

Susan Moss
Los Altos Garden Club members
Patricia Evans, Landscape Designer
Don McDonald, Historical Commission

Graphics for map

Royston, Hanamoto, Alley & Abey, Landscape Architects
Allyn Feldman, Los Altos History Museum

Grants for printing and distribution

Bob and Marion Grimm
City of Los Altos
Los Altos Community Foundation
Kris Casto



Melissa Thurman

From: John Lamping <lamping@gmail.com>
Sent: Saturday, June 8, 2024 5:00 PM
To: Public Comment
Subject: [External Sender]Item #16, Development Impact Fee and In-Lieu Fee, June 11, 2024

City of Los Altos

City Council

By email: PublicComment@losaltosca.gov

Re: Hold a Public hearing and Introduce an Ordinance for Development Impact Fee and In-Lieu Fee Regulations and Resolution setting the Development Impact Fee and In-Lieu Fees for FY2024/2025, Item #16, June 11, 2024

At its May 28, 2024 meeting, the council adopted the [Report on Development Impact Fee \(DIF\) Study](#). But that study is severely flawed. Adopting an ordinance that bases fees on it may open up Los Altos to regulatory and legal trouble.

In this comment, I will only address the Public Art Development Fee, section 6 of the study, starting on page 20. While it is not the most consequential fee, the errors in its analysis appear particularly egregious.

The first sentence of the analysis starts, "The Public Art Development fee functions as an in-lieu fee". That is not what [section 3.52.030 of the municipal code](#) says. Paragraph B requires construction in the R3-4.5, R3-5, R-3-3, R3-1.8, and R3-1 districts to pay a 1% fee, with no alternative of building art, instead. That option is only available for construction in the districts listed in paragraph C. While there probably aren't many projects in the R3 districts, the fee, as written in the code, is not an in-lieu fee.

Further, the analysis states that it assumes, both in its fee calculation and its nexus criteria, that the art development fee only applies to non-residential projects. That ignores not just the R3 districts, but also the many districts listed in paragraph C that allow for residential construction, such as the recent residential construction in CD/R3 on First Street. Either the claimed total project value of \$92 million is wrong, or the study is wrong when it says that it only examines non-residential projects.

That is far from the worst problem with the in-lieu fee calculation. Its numbers also don't agree with the [city's audited financial statements for FY23](#). Those statements show, on page 130, the public art fund with a final balance of \$433,631, not the \$889,900 the study indicates. Does the study's number reflect receipts since the end of FY23? If so, it doesn't make sense to use a fund balance well beyond FY23 when the study is using only projects in FY23 as the basis of its calculation. In a bigger discrepancy, the financial statements show that the revenue into the fund in FY23 was only \$14,390. But if the study's claim is right that there was new construction in FY23 valued at \$92 million, and those projects paid the current 1% fee, that would have generated over \$900,000 in revenue. The numbers aren't close.

Even if the numbers were somehow correct, the study's computation with them doesn't make sense for its stated goal of calculating what a proportional amount of art fee revenue would be each year, and of what fee level would produce that revenue. The calculation takes the balance accumulated in the public art fund over the course of many years, and divides it by one year of development value,

to claim that the city should generate that much from its arts fee every year. But the historical annual expenditures from the public art fund have been nothing close to its balance, so the balance is not a good indication of future annual spending. And the fund's revenue from year to year has fluctuated wildly with the swings in value of new construction projects, so using just one year's construction as a baseline is almost guaranteed not to be representative.

The city has put a lot of money and effort into creating this study. It would have been nice if that had resulted in something that was good enough to meet the city's legal obligation to produce a study that justifies the city's fees. But this study is far too flawed for that. Pretending that it is good enough will not meet the obligation of adopting a valid study. Saying that it could be fixed to be good enough does not meet that obligation either. This study needs to actually be fixed, and the fixed version adopted, before the city relies on it.

In the past, cities have been able to get away with just going through the motions of many state requirements. But that does not seem to work any more, as shown by the heightened scrutiny of housing elements. Relying on this study, in its current form, is an invitation for regulatory and legal trouble.

Sincerely,

John Lamping (resident)



June 10, 2024

Re: June 11, 2024, Meeting, Agenda Item #16 (Development Impact Fees)

Dear Mayor Weinberg and Members of the City Council:

The League of Women Voters (LWV) supports policies that encourage the development of housing, particularly affordable housing.

The League is concerned when fees are so high that they have a negative effect on construction of multi-family housing, including affordable housing. The proposed park in-lieu fees in the 50-unit scenario (provided by staff for the May 28th Council meeting) will be over \$69,000 per unit compared to the current fee of \$48,800 per unit. The park in-lieu fees can create a significant disincentive to building multi-family housing because of their great cost. We also question the methodology used by the consultant on page 12 of the Nexus Study to determine the average square-foot size of multi-family units. In addition, the proposed transportation impact fee will more than double the current fee.

With respect to the public arts development impact fee, the staff report notes that AB 602 requires impact fees to be charged on a square footage basis. However, the fee proposed is based on project valuation.

Please send any questions about this email to Sue Russell, Co-Chair of the Housing Committee, at housing@lwvlamv.org.

Sincerely,

A handwritten signature in blue ink that reads "Katie Zoglin".

Katie Zoglin, President
Los Altos-Mountain View Area LWV

C: Gabe Engeland, City Manager
Melissa Thurman, City Clerk
Nick Zornes, Development Services Director
Jon Maginot, Assistant City Manager
PublicComment@losaltosca.gov