



Friends of Los Altos, Inc. (FOLA)

A non-profit, non-partisan, volunteer-run organization

Los Altos Apricot Orchard – Facts, Folklore and Inconvenient Truths

Even if you are a carnivore you need to read this article

We'll get right to the point. The History Museum (and many believe the City as well) want to cut down 25 apricot trees behind the Police Station claiming they are diseased and will hurt the portion of the historic orchard currently under a 3-year maintenance agreement between the Museum and the City of Los Altos. There is no plan to replant new apricot trees or maintain this area as part of the City's historic resource, but rather replace the removed trees on a two-for-one basis elsewhere in the City with something other than apricot trees. Advocates for saving the trees (and the remaining orchard) are crying foul, asserting the trees and the orchard land is protected as part of the City inventoried historic orchard, and the Museum has no standing to even request a permit for the trees be cut down or permanently removed.

They also point to other instances—including the renovations to the Youth Center and the proposed library patio where apricot trees have also been cut down and unirrigated tree sites paved over without the publicly-noticed environmental and historical review. The advocates for the orchard claim these reviews are mandated by the City's own rules, and State CEQA (California Environmental Quality Act) requirements to study impacts—direct, indirect and cumulative—on a designated historic resource before a City decision and approval to make changes or alterations.

There are also questions as to who actually drafted the tree permit and the City's role in completing and adding on to the permit before approving it, as the posted permit included removal rationale including interference with utility lines and future development. *The mystery deepens.*

We reviewed every document we could lay our hands on (totaling more than 150 pages), from the City, Historic Commission, County, regional history accounts, and the History Museum archives. We have vainly tried to reconcile inconsistent numbers on acreage and even been incredulous that official maps conflict. Some even show a building (History House) in the wrong place on the Civic Center land. We have reached out to City officials to get their input. In one instance, we reached out to the Museum staff member who submitted the original tree removal permit. He refused to answer any questions when we called him.

When you delve into this matter it reads like the cross between a “Hardy Boys” whodunnit, and a badly done “Laurel and Hardy” skit. And for those of you who are not familiar with either reference, we suggest you google them. *Now keep reading to get all the info and our take on this matter.*

And, by the way, even if you hate apricots, you should care about this situation as it reflects on

the transparency of the City government, the quality of staff reports and documentation over the past 75 years, and the care with which the City is protecting its historic resources and landmarks. Our conclusions are not pretty and paint a picture of the City as, at best, poorly documenting and delineating the boundaries of its historic landmarks and often unintentionally perpetuating misinformation and folklore about the orchard. This has resulted in public confusion about where the protected orchard really is and what the rules are for making changes to the orchard itself.

The permit has been appealed by a group of residents and is scheduled to be heard at the City Council meeting on September 10th.

What is the big deal about apricots and why should I care?

Apricots, and particularly the Blenheim apricots we're talking about here, put Los Altos on the map at the turn of the 20th century. It was a very prolific cash crop and helped the City develop from the late 19th century up until WWI and beyond. The City had an extensive network of orchards, predominately small family farms ranging from under an acre to over 30 acres. Much of the fruit was picked in the summer, dried and shipped to points east while the fresh were consumed locally. Both benefitted from the Southern Pacific Railroad built by founding resident and railroad president Paul Shoup. All of this before the age of refrigerated boxcars. If you say you don't like the hard, tasteless apricots typically found in supermarkets, it just means you have never tasted a Blenheim. They are magical. The Los Altos Heritage Orchard is one of the few remaining working orchards in the region and helps remind us of the agricultural roots "in the Valley of Heart's Delight." Enough for History 101.

The Los Altos Civic Center land was formerly the orchard of the Gilbert Smith family. He sold the first two parcels of land (8.97 acres by most accounts, a slightly different acreage, 8.84 according to other documents) to the City to provide a venue for the City Hall and other public facilities. J. Gilbert Smith maintained operations and fruit rights for the property although the terms of the agreement and reported subsequent changes to that agreement were not available for our review.

In addition to the land sale, Smith provisioned for a gift of his home and surrounding land including orchards and tree sites (totaling 1.36 acres, inconsistent with the maps in which total the acreage at 1.49 acres) to be given to the City upon the deaths of Smith and his wife Margaret. The donated land is currently the site of the History Museum, History House (which was formerly Smith's home), land which is now the Police Station plus the 25 apricot trees in question, and a few miscellaneous outbuildings used by the City, Friends of the Library, and others.

As the specific agreements and restrictions on the sale are not in the trove of documents we reviewed, we cannot determine if there was a stipulation that no orchard trees be removed and the land to remain public access land in perpetuity. While many people in the City (and some official City documents so state), we are not aware of any source documents that include such requirements.

Upon Margaret Smith's passing, the City contacted the County to remove two properties from the tax roll. However, in looking at those parcels, the parcel numbers appear to be incorrect (they reference page 43 when in fact the Smith's house was on page 42 of the Assessors' maps). If we are to believe those two parcels both belonged to the Smiths, one is where the History

House, History Museum and Police Station are located. The other parcel appears to be the current location of the Fire Station on Almond. The Almond Avenue Fire Station one acre parcel was not been mentioned in any of the documents we reviewed, other than a notice to the County to cease collecting taxes on the property after Margaret Smith's death. *Maybe someone will figure that mystery out eventually.*

Gilbert and Margaret lived in the house and had rights to the fruit on the orchard during their lifetime and the City could not remove apricot trees unless they either were replanted or if the land was needed for City Council chambers. Over the years the City kept the orchard, passing various resolutions to preserve it and finally making it a City landmark in 1978. The City used staff arborists, public maintenance and outside orchardists to maintain the trees over the years and recently contracted with the History Museum, providing \$75,000 per year to coordinate the maintenance of a City-determined portion of the historic resource, identified as the City Historic Orchard. The scope and boundaries of this subset of trees at the Civic Center has now left some areas unirrigated, unplanted and actively under construction as a result of adjacent Civic Center projects.

A committee chartered by the History Museum, led by Jane Packard, has been working with a group of volunteers to replant the orchard, add drip irrigation, pursue organic ways to control pests such as ground and tree squirrels, and damp down a variety of fungi and insects that attack the trees, including bacterial canker and brown rot.

So much for History 102. Now on to graduate level lectures and some of the questions many residents have about the orchard.

What properties and trees are protected on the Civic Center site?

There are two different landmarked properties on the Civic Center site. The Gilbert Smith house and surrounding land is one site and the apricot orchard (Heritage Orchard) is the second site. The Gilbert Smith house is protected as a City landmark and the landscape surrounding the building should be protected as part of the house's context and integrity as an historic working orchard homestead. The apricot orchard, which surrounds City Hall and whose boundaries and size are being questioned, is separately designated as a City landmark. Together, these properties are a part of, or the entirety of the historical resources which are listed on the City's Historical Resource Inventory and appear in County and State listings.

These two properties are intertwined in history and provide context for the original orchard. The State record, completed by Los Altos and submitted to the State (known as a DPR form HR#15) does not specify the exact boundaries of the property, however it does denote orchard lands in the "northeast sector" of the Civic Center property as part of the historic resource. Are these the trees by the Police Station? We aren't entirely sure. The trees proposed to be removed (as well as several trees on the other side of the Police Station which are at risk of removal due to proposed parking for the renovated LAYC building which is being turned into City offices) are immediately adjacent to the Smith house. Are they protected? Again, we're not sure, and best we can tell no one knows for sure. But this clearly needs to be researched and clarified.

The City has passed numerous ordinances and regulations to protect the historic nature of the Civic Center site over several years, starting in 1978. And finally in 1981 and again in 1991 protection was codified (at least part of the orchard) a City landmark The City has a historical

preservation ordinance with a specific process to oversee any proposed changes or alterations, which should prevent any unwarranted incursions. But once again what should be simple and straightforward has not been.

As one example, the City never did a formal survey to mark the boundaries of the orchard. The City has official City documents which show the orchard, but these documents fail to show the Youth Center thereby making it difficult to understand what is protected and what is not. For the last 15 years the City has produced official documents stating the acreage size of the historic orchard lands to be 2.86 acres, but those appealing the tree removal permit claim the City, in March of this year, stated that it was now less than 2 acres. Where did the 30% of the acreage go? Is the difference in size because one number is a gross figure (inclusive of trees, sidewalks and a building on the property) while the other is a net number (including only land available for trees)? We aren't sure.

The City in one of its maintenance manuals, in a report prepared by a member of the Historical Commission for that body's review, and in a map which was given to residents who were appealing the decision to cut down the Police Station trees, showed the Historic Orchard included those by the Police Station. Other maps and documents do not show the Police Station apricot trees as part of the Historic Orchard.

Exactly where is the historic Heritage Orchard and how big is it?

We don't know the answer to either of those questions, but neither does the City with certainty. This in itself is remarkable.

In order to see if we could untangle the mystery of the orchard, we have looked at numerous official City and as well as other, unofficial documents provided by the History Museum and regional preservation groups. Some of these documents obtained through City and County public request, do include the Police Station trees as part of the Historic Orchard. The documents that include the Police Station trees are a map supplied by the several official City forms which document the orchard from 1995, 2011, and a Park Department orchard maintenance manual from 2006.

There does exist a City map of the City Center outlining the placement of all of the orchard areas across the site. Even an Historical Commission report from June 24, 2019, described and showed a map of the Historic Orchard as including the trees by the Police Station. What is confusing is there are also a number of maps and documents which do not include the Police Station trees as part of the Historic Orchard.

And while there are numerous documents which describe the size and number of trees in the orchard, there has never been a survey to determine the exact boundaries of the orchard, or what made up the 2.83 acres consistently appearing in City official documents for the last 15 years. Sort of like living in a house and having no idea where your property ends and that of your neighbor's begins.

So why the confusion? We don't know the answer entirely. When the orchard was designated as a historic resource and put in the City's inventory, and then codified as a City historic landmark through a series of council resolutions in 1978 and 1981, the historic resource continued to encompass all orchard areas designated as the area surrounding City Hall. We believe it included the Police Station trees and those surrounding the Gilbert Smith homestead. In 1990 there was

further clarification of the Heritage (Civic Center) Orchard regarding preservation and the process for reviewing and approving any and all changes. In 1991 the City Council modified the extent of the orchard, reducing the area to just the property around City Hall (we think) but no official survey appears to have been done to exactly define the boundaries. According to an email exchange between History Museum staff and the California Office of Historic Preservation, early nomination forms for landmarks did not typically include boundaries. Documents show the orchard as somewhere around 2.8 acres-some claim it is 2.83, some 2.84. but when the orchard “final” boundaries were shown on the 1991 map, it did not show the LACY building, even though that building is directly in the middle of the orchard. On the other hand, both the Library and City Hall are shown on that map.

So, are we to assume that the 2.8 acres is a gross or a net number? Is the land on which LACY was built (in the early 1960’s by-the-way) really part of those 2.8 acres or not? We aren’t sure anyone knows that answer since there never has been a definitive site survey.

In a conversation with City officials, they pointed out that the actual purchase agreements, deeds and City Council actions over the past decades are what actually address this matter. Much of the confusion is a result of misinformation which has been perpetuated since the land was purchased in the 1950’s. Based upon our review of the documents we believe this is a reasonable explanation.

Did Gilbert Smith require the City to save the apricot trees as part of the contract of sale?

We don’t think so from the documents reviewed to date. But keep in mind we don’t have copies of the actual agreements that were signed by the parties. The City was required to keep the trees (unless some had to be removed for a new City Council chambers) and allow Gilbert to pick the apricots while he and/or his wife were still alive. The fruit rights were purportedly, according to a number of people, renegotiated after the death of Gilbert Smith; to date we have not seen those records. And while the City indicated an interest in saving the orchard longer term, it does not appear to be a condition of sale.

Interestingly enough, if the City decided not to use part of the original donated property for City purposes, the land would revert back to Gilbert Smith and his wife Margaret or their heirs. While the orchard was placed on the Santa Clara County inventory of historical landmarks in 1962 stating the apricot trees were to be replaced in perpetuity, this provision was not called out in 1978, when the City formally made a portion of the orchard areas around the City Center buildings a City landmark so that the trees and tree sites as well their preservation was assured.

Who applied for the tree removal permit and who approved it?

Based on our conversation with some of the people involved with the orchard, the History Museum applied for the tree removal permit after raising concerns about the impact of the untended Police Station trees on the section of the orchard they are responsible for maintaining. According to someone who spoke with the former Head of Operations at the Museum, he stated that the City Manager had filled out the form and gave it to that individual to sign as the applicant. Then, according to City Staff, the City Manager approved the submitted document. While the application only discussed the diseased trees, the issued permit raised other concerns like future development and interference with utility lines that appear to be City-related, not

orchard-related. Orchard advocates believe this is indicative of the City's interest in removing the trees to facilitate the eventual replacement of the police station.

Among those interested in saving the orchard trees and who question the City's decision to remove trees without following the required review process, the issue of why the trees are being removed has created distrust of the City. When we reached out to the History Museum, we were informed that the person who filled out the application is no longer working there. We subsequently reached out to that person for comment, however he refused to answer our questions.

Are the trees by the police station diseased and should they be cut down? Do they need to be replaced with apricot trees?

According to the arborist report, generated by the person who is working with the Museum staff on maintaining the orchard, a number of the trees are in poor health; some due to age, others due to brown rot. Since the City has a prohibition on chemical spraying that is not organic, the only remedy for the brown rot is removal of limbs and regular maintenance including pruning, watering and picking up mummy fruit. Based upon the arborist's report, of the 25 diseased trees, upwards of 8 may be savable by pruning the diseased limbs. If those trees are part of the Gilbert Smith History House or contribute to the integrity of that landmark, the trees that are taken out may have to be replaced by new apricot trees.

Who has responsibility for caring for the orchard trees? Have they been well cared for? Why have so many died and been replaced?

The trees were tended by Gilbert Smith and after his death his widow Maragret. Upon her death, responsibility for caring for the orchard trees fell upon the City. Initially the trees were taken care of by City Staff including the City Arborist. At some point the City started using contract orchardists to maintain the trees; the contractor was compensated by being able to sell the fruit. The City controlled all planting, replanting, tree placement, watering and required a schedule of fertilizer, spraying, pest removal and weeding from the contractor. After the death of the most recent contractor, the City contracted this maintenance to the History Museum in 2023 who hired an orchardist service. The City pays the museum \$75,000 for the annual servicing of the trees and the Museum generates additional funds by selling the apricots. Many of the original trees died through a combination of inconsistent watering and care, compounded by vermin and disease which was not adequately addressed due to the City's unwillingness to use certain chemical and pest management solutions.

A 2008 City document (Apricot Orchard Management and Guidelines) indicated that of the 444 trees on 2.84 acres 182 trees were in fair/poor health. In 2005, 135 new trees were planted and an additional 40 were planted in 2006. And during the drought of 2012, another 228 trees were planted to replace those that had died. The high mortality of the trees was a result of various diseases, including ring nematodes, bacterial canker, and brown rot. Some of the mortality was a direct result of using too much water and impact sprinklers, others were left without any supplemental irrigation as the City recently confirmed the water was turned off completely for a number of years. While the report does not mention it, oak root fungus has been identified as a problem in the orchard. It too is worsened by watering that keeps the trunk of the trees and the

soil wet. As many residents who own Blenheim apricots know, typically the trees, once reaching maturity, only need occasional watering—but they do need deep water on a consistent basis to remain productive.

The History Museum has, in the past year replaced 288 trees and installed a drip irrigation system, which if correctly configured should reduce some of the past problems caused by the method and frequency of irrigation. The Museum maintenance team and City is continuing the organic practices used in the most recent past, so some of the tree diseases are not being addressed as effectively as they could be by the chemical sprays used in commercial orchards.

While the emphasis on organic orchard maintenance has its proponents, a commitment to become a certified organic grower requires resources and qualified expertise. For example, there is often more spraying, impacting open patios and Civic Center buildings, in order to allow for lower concentrations of spray applied more frequently with weather. And ultimately, many commercial apricot growers claim the only effective way to ensure healthy trees and sustained crops is to use traditional chemical sprays.

Does the Museum/City have the right to cut down the apricot trees?

The City, as the owner of the property can cut down trees if they are diseased and they follow the rules. However, removal of trees and the decision as to whether they need to be replaced may require a Historical Commission review if the trees are within the Historical Orchard or considered a historic resource for the orchard or History House. A competent attorney and a qualified expert on landscape historic preservation would likely need to review all the documents and facts to provide our City Council and the Historical Commissions with information and analysis.

Does the City or Museum applicant have the responsibility to replant new apricot trees?

Again, the answer is maybe. Right now, the City has stated that the trees will not be replaced on site in order to allow for future projects. The permit application states the removed trees will be replaced 2 for 1 elsewhere in the City with other types of trees. If the trees are not somehow protected, then the City's position is likely legal. However, if the trees are protected then they likely need to be replaced by new apricot trees in the same location.

What should happen next?

Based upon our examination of a very poorly documented City historical resource and landmark, its boundaries and character defining elements, and exactly what is protected, nothing should get cut down until some basic work is done.

First, the City needs to determine, through a survey, the components and boundaries of the Heritage Orchard. It then needs to determine what other parts of the Civic Center site are protected, either by City or County designation, and in conjunction with the Gilbert Smith House. Remember, while the City designated the orchard as historic, so did the County and it has been recorded by the State, although the City has failed to keep those records updated. A competent historic preservation professional needs to do a review of all the documents and

independently determine what portions of the remaining orchard are to be preserved in accordance with the ordinances which the City has passed over the past 50 years.

The orchard is an irreplaceable part of the history of our town and it cannot and should not be diminished through a thousand cuts. Once the Historic Resource Evaluation is completed, all projects that may impact this historic resource need to get the proper environmental review, design review and include the Historic Commission for its recommendation prior to going to the City Council for approval.

But first everyone needs to have a much better understanding of what a historical resource actually is (and is not) and what is actually protected. To do anything less just adds to the confusion and ensuing mistrust, and is not in the best interest of the community.

And that is the way we see it.

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