

Background on the Willow Glen Trestle
by Larry Ames, Feb. 11, 2020

History of the Los Gatos Creek and Three Creeks Trails:

- Around 1975, County Supervisor Rod Diridon first set up a committee, the Los Gatos Creek Streamside Park Committee, under the aegis of the County Parks Dept., to coordinate the trail's design and implementation in cities of San José, Campbell, and Los Gatos, along with County Parks, the Santa Clara Valley Water District, and CalTrans.¹ (Then-Supervisor Zoe Lofgren formally appointed me to the Committee in 1984.)
- In 1984, the Committee went on an on-site inspection of the creek to consider possible trail alignments, and became aware of the possibility of incorporating the Willow Glen Trestle² into the trail network at that time.
- [As an aside: In late 1992, the Committee became aware of a state grant program for local organizations to undertake "Urban Stream Restoration Projects", and we in the community applied for, and won, a grant for the Los Gatos Creek. When city politics appeared to preclude our acceptance of the grant, the County stepped in and became the official co-sponsor of our quite successful project.³]
- In 2000, San José developed a parks strategic plan, "The GreenPrint",⁴ which included the soon-to-be-abandoned "Willow Glen Spur" as a future trail⁵ which we now call "The Three Creeks Trail", which can connect to the Los Gatos Creek Trail by means of the Willow Glen Trestle. In September, 2004, the County granted San José several million dollars⁶ to help the city purchase the railroad right-of-way (ROW), including the trestle.
- In December, 2011, the City of San José finally managed to purchase the ROW from the owner, Union Pacific, and recorded the deed at the County Register as Document 21471588⁷. As the County, as well as the Open Space Authority, contributed towards the purchase of the property, they have rights that are recorded in a *Conservation Easement*, document 21471589⁸. The easement is also referenced on the parcel maps⁹. The Conservation Easement cites California Civil Code Section 815.1 which says, in part, that the owner (the City) is "to retain land predominantly in its ... historical ... condition...", and then continues to explicitly state: "**No new structures or improvements shall be erected on the Property without written approval of the Grantees, as provided through the [Open Space] Authority's General Manager and County Executive...**" The Willow Glen Trestle Conservancy has sent a letter¹⁰ addressed to the City Mayor, County Executive, and Open Space Authority General Manager to remind everyone about this easement.

¹ You're invited to view an 80-minute oral history with Rod Diridon talking about the history of the Los Gatos Creek Trail: http://www.wgbackfence.net/RodDiridon_extended.mp4

² http://www.wgtrestle.org/WGT_1984.jpg

³ <http://wgbackfence.net/LGCUSRP.pdf>

⁴ <http://www.sanjoseca.gov/greenprint>

⁵ <http://www.sanjoseca.gov/DocumentCenter/Home/View/80>

⁶ http://wgtrestle.org/blanca_2007.jpg

⁷ <http://wgtrestle.org/Deed.htm>

⁸ <http://www.wgtrestle.org/ConservationEasement.pdf>

⁹ <http://wgtrestle.org/264-11.pdf> and <http://wgtrestle.org/264-52.pdf>

¹⁰ http://wgtrestle.org/WGT_ConservationEasement.pdf

The Willow Glen Trestle *is* historic:

- Train service first began in San José in 1864, with the opening of tracks to San Francisco. Soon thereafter, tracks also connected north to Oakland, south to LA, and to the East. Southern Pacific provided all rail service to San José.
- When the WG Trestle was completed in 1922, it allowed the rival Western Pacific Railroad to reach the main San José Depot on The Alameda, thereby entering the San José market and breaking Southern Pacific's monopoly. This greatly benefited the local agricultural interests here in "the Valley of Heart's Delight" by providing improved and less costly service. The WG Trestle enabled the commercial development of western San José. It also shaped the development of Willow Glen, as its proponent, T.S.Montgomery, promised the local residents to keep their town residential and free of industry,¹¹ and it helped shape San José itself by helping the city leverage Southern Pacific out of downtown and into its present alignment.¹²
- The WG Trestle mainly carried freight, including to/from the canneries, and it helped carry a significant fraction of the world's Fruit Cocktail from the Del Monte plant on Auzerais.
- Freight service ended around the year 2000, and the community then pressed the city to acquire the ROW for the Three Creeks Trail and a connection to the Los Gatos Creek Trail. The City's 2004 plans¹³ show how the trestle was to be preserved and adapted for trail use, and their 2012 Engineering Study¹⁴ goes into great technical detail on how to do so.
- Unfortunately, around 2012/2013, some person or persons in the city decided, possibly for financial reasons,¹⁵ that they'd rather demolish the trestle and replace it with a prefab steel bridge. The Engineering study was rejiggered¹⁶ to give the desired result, and the Council was "rail-roaded" (sorry about the pun) into approving¹⁷ the demolition plans quickly before the deadline for a major grant. "Staff recommends a new steel structure as opposed to retrofit of the existing wooden structure because it reduces ongoing operations and maintenance costs", even though "the cost of removing the old trestle and installing a new steel bridge structure [is estimated] to be \$2,467,672", while restoring the trestle is only \$960k and the estimated inspection and maintenance costs are about \$6k annually.¹⁸ Also, the city said "The historical character of the trestle structure is difficult to appreciate when on the structure," and so they recommended demolishing it, replacing it with the prefab, and honoring the past with a nice plaque. The City has already purchased and is currently storing the prefab bridge, which we have publicly commented could be used most beneficially in any of several other locations.

¹¹ see chart 21 in http://www.wgtrestle.org/WGT_PasadenaTalk.pdf

¹² chart 25, *ibid.*

¹³ http://www.wgtrestle.org/LosGatosCrk4_InitialStudy_201303221544577834.pdf

¹⁴ <http://www.sanjoseca.gov/DocumentCenter/View/11898>

¹⁵ <http://sanjoseca.gov/DocumentCenter/View/13317>. For example, "City Council authorized the City Manager to seek \$450,000 in grant funding from the Santa Clara Valley Water District (District) for improving the trestle", and the funding is combined with others and "[p]rovides the resources necessary to proceed with trestle demolition, design, and construction of a replacement bridge structure."

¹⁶ http://www.wgbackfence.net/trade_rebuttal.doc

¹⁷ agenda item 5.1, <http://www.sanjoseca.gov/DocumentCenter/View/13322>

¹⁸ see p. 3 of 13317 op.cit and page 35 of 11898 op.cit: Inspection: \$4,000 every other year; Maintenance: \$20,000 every five years.

Why has the City fought the trestle’s historic status?

- In order to be able to get by with a simple MND (Mitigated Negative Declaration) rather than a more comprehensive EIR (Environmental Impact Report), the City had to claim that the trestle was not historic in order for its demolition to not be an unmitigatable loss. In 2014, “the Friends of the Willow Glen Trestle” filed suit to have the City do an EIR and to determine whether the trestle actually was historic. While we won¹⁹ the first round in Superior Court, the City won on appeal when the Appellate Court ruled²⁰ that the City “should” do an EIR but wasn’t *required* to do one, and sent it back to the Superior Court which found²¹ that City was free to not do so. But, during the time of all these court hearings, we researched the trestle’s historic background and eventually even hired our own historian²².
- We brought the Willow Glen Trestle before the San José Historic Landmarks Commission (HLC) in Nov, 2013²³, but the Commission was not allowed²⁴ to make a finding.
- In May, 2015, the HLC was finally allowed to vote on the trestle, and they found that it was historic.²⁵ However, the HLC is only “advisory”, and the City voted to reject the nomination.²⁶
- We hired a historian and prepared an application²⁷ to the California State Historical Resources Commission (SHRC) for listing, and in April 2016, after a thorough hour-long discussion, the SHRC unanimously approved the WGT’s nomination and recommended it for listing on the National Register.²⁸ The City wrote to the Keeper of the National Listing to object to the nomination, and the nomination was “returned”.²⁹
- We reapplied³⁰ to the SHRC in May, 2017, this time applying for listing on the State Register, and the SHRC unanimously voted to list the WGT on the State Register.³¹
- The City formally challenged the State listing, requesting a “Redetermination” hearing.³² On Oct. 27, 2017, the SHRC held a third hearing on the WGT, this one lasting nearly 90 minutes³³, and then voted unanimously to deny the request for a redetermination and to reaffirm the trestle’s historic status.³⁴
- In January 2018, the City filed suit in San Francisco Superior Court³⁵, asking the courts to overturn the SHRC’s listing. In April 2019, the Court heard the case and agreed that the SHRC

¹⁹ http://www.wgtrestle.org/WILLOWGLENOrder07_28_14.pdf

²⁰ <http://www.wgtrestle.org/H041563WillowGlenTrestleSlipOpinion.pdf>

²¹ http://www.wgtrestle.org/Ruling_scscourt.org_20171006_172855.pdf

²² http://ohp.parks.ca.gov/pages/1067/files/ca_santa%20clara%20county_willow%20glen%20trestle.pdf

²³ http://wgtrestle.org/SJ_Historic_Landmarks_Cmsn.pdf

²⁴ http://www.wgtrestle.org/11-06-13_Synopsis_201311080958097616.pdf

²⁵ <http://sanjoseca.gov/DocumentCenter/View/43713>

²⁶ <http://sanjoseca.gov/DocumentCenter/View/43714>

²⁷ http://ohp.parks.ca.gov/pages/1067/files/ca_santa%20clara%20county_willow%20glen%20trestle.pdf

²⁸ http://www.wgtrestle.org/PR_4-19-16.pdf

²⁹ <http://www.wgtrestle.org/WillowGlenTrestle.rtn.pdf>

³⁰ charts: http://www.wgtrestle.org/WGT_PasadenaTalk.pdf;

transcript: http://www.wgtrestle.org/transcript_5-10-17.pdf;

video: <http://cal-span.org/unipage/index.php?site=cal-span&owner=CSHRC&date=2017-05-10>

³¹ http://www.wgtrestle.org/Calif_Register_Findings.jpg

³² <http://wgtrestle.org/Redetermination.pdf>

³³ video: <http://cal-span.org/unipage/?site=cal-span&owner=CSHRC&date=2017-10-27>

³⁴ http://www.wgtrestle.org/redetermination_denied.jpg

³⁵ http://www.wgtrestle.org/City_sues_SHRC.pdf

had not *properly* presented its findings, but then basically issued a “fix-it ticket”³⁶ and told the SHRC to correct matters at their next meeting. So, on May 8, 2019, the SHRC considered the Willow Glen Trestle for a *fourth* time³⁷ and unanimously voted to approve the properly presented findings³⁸. The court accepted the results and ruled³⁹ against the City’s challenge to the trestle’s historic status. The City did not appeal this ruling and now it is too late, so the Willow Glen Trestle is formally and properly listed on the State Register of Historical Resources.

Given that the trestle is formally listed as historic, is the City allowed to tear it down? That is still in question. [Please note: I am not a lawyer, so the following summaries may not be exact.]

- October 2017, Superior Court ruled that the City could demolish the trestle, since they had approved the project in 2014, before the trestle was formally listed as historic in 2017. However, it was just at the beginning of the official rainy season and so no in-channel construction work was allowed.
- Dec. 31, 2017: the City’s in-stream work permits from the Calif. Dept. of Fish and Wildlife (DFW) expired. They had already been renewed once and could not be renewed a second time.
- Around April 2018, the City applies for a new in-stream permit from DFW, and we argue with DFW that, since this is a “new” application, the 2017 historic listing needs to be considered; the City argues that DFW is only allowed to consider “fish” and “wildlife”. After much agonizing, on Oct. 9, 2018, DFW finally granted the City the needed permits, and the City jumped to begin demolition prior to the Oct. 15th cutoff date. We filed suit and won a Temporary Restraining Order (TRO)⁴⁰.
- Our suit is that, given the trestle’s 2017 historic status, DFW should not in 2018 have granted the permit and the City, being the responsible agency, should not have sought the permit knowing that the trestle is state-listed. By June 28, 2019, it had been agreed that DFW indeed only can consider “fish” and “wildlife”, and, regarding whether the City could seek the permits, the Superior Court ruled⁴¹ that, since they’d originally started the application in 2014, they were allowed to continue.
- We have challenged the Superior Court’s decision in Appellate Court, and won a supersedeas restraining order⁴². The order protects the trestle itself, but the City was allowed to make preparations, and so this past summer, contractors removed trees, created a temporary roadway, dammed the creek and diverted the water into a pipe.⁴³ When the courts did not reach a decision in time for the City to start the project before the rainy season, the contractors had to go back and undo their preparations, and now have removed the pipe and dam, restored the creek to its natural channel, and hydro-seeded the temporary roadway.

³⁶ http://www.wgtrestle.org/remand_4-2-19.pdf

³⁷ <https://cal-span.org/unipage/?site=cal-span&owner=CSHRC&date=2019-05-08&site=cal-span&owner=CSHRC&date=2019-05-08>

³⁸ http://www.wgtrestle.org/WGT_Findings_May-2019.pdf

³⁹ http://www.wgtrestle.org/SF_Ruling.pdf

⁴⁰ <http://www.wgtrestle.org/TRO.pdf>

⁴¹ http://www.wgtrestle.org/Order_6-28-19.pdf

⁴² <http://www.wgtrestle.org/TrestleGrantedSupersedeas.pdf>

⁴³ sample photos: http://wgtrestle.org/trestle_files/image008.jpg, http://wgtrestle.org/trestle_files/image010.jpg, http://wgtrestle.org/trestle_files/image002.jpg, and p. 4 in http://www.wgtrestle.org/HGP_Appendix_C3.pdf

- The Appellate Court wasn't likely to hear the case for some time, and so, to expedite matters, the Court offered a Mediation, which both we and the City accepted. The mediation occurred Nov. 7th. While we all signed non-disclosure agreements, I believe I can summarize the results as inconclusive but with an intriguing possibility. The Mediator, Dolores Dalton, separately asked us and the City about our wishes, and I said I'd like the City to evaluate a couple compromise solutions⁴⁴, or, alternatively, I'd like perhaps the County or perhaps a Conservancy take over responsibility for the trestle. The City said that they didn't want to keep the trestle -- they fear that it will be too costly to maintain -- but they wouldn't fight our efforts to find some other agent.
- Following up on the Mediation, and in light of the Conservation Easement on the property, we worked with the office of County Supervisor Dave Cortese on a motion for the County to look into ways of possibly helping.⁴⁵ While the meeting on Jan. 28, 2020 did not go all that well⁴⁶ and the motion was withdrawn without a vote, we have been in contact⁴⁷ afterwards with some of the Supervisors and/or their offices to discuss what happened and to consider paths forward.

We want to save this piece of our local history.

We are not seeking "to play politics"; what we want is to see the best solution consistent with California Environmental Law and consistent with the Conservation Easement.

We feel our wishes are consistent with City policy:⁴⁸ "As we continue to create a memorable parks and recreation system, we must pay attention to design details that embrace San José's history and culture. Our facilities must reflect the individual neighborhood context in their design."

And:⁴⁹ "The San José trail network has over 50 pedestrian bridges. They range from stone bridges in Alum Rock Park constructed in the 19th century to newly installed steel truss bridges. The City of San José strongly supports iconic or placemaking bridges at high-traffic and highly-visible locations, as they can encourage greater usage, and support tourism and community identity."

I continue to be inspired by the closing remarks of SHRC Commissioner Alberto Bertoli:⁵⁰

"[The Willow Glen Trestle] has a visual quality. It is not something that would be built today, ... technology has evolved and it would be entirely different. However, it has an aesthetical uniqueness to the area, ...[and] having trails going thru is actually quite appealing: instead of going thru concrete or steel that has very little thing to do with the touch of the human person, this is something that represents something of the time when it was done – it represents that particular period, [that particular area] there."

More information is available online at www.WGTrestle.org.

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⁴⁴ see p. 6 and 7 in http://www.wgtrestle.org/HGP_Appendix_C3.pdf

⁴⁵ http://wgtrestle.org/BoS_Agenda_Jan-28-2020.pdf

⁴⁶ http://www.wgtrestle.org/WGT_BoS_1-28-20.pdf

⁴⁷ http://www.wgtrestle.org/LLA-SE_PhoneCon_1-31-20.pdf

⁴⁸ San José's Parks, Recreation & Neighborhood Services (PRNS)'s new strategic plan (<http://sanjoseca.gov/DocumentCenter/View/86625>)

⁴⁹ from the July 2018 "San José Trail Network Planning & Design Toolkit" (<http://www.sanjoseca.gov/DocumentCenter/View/78756/>), p. 58

⁵⁰ <http://cal-span.org/unipage/?site=cal-span&owner=CSHRC&date=2017-10-27>