



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 05/08/2024

ITEM NO: 3

DATE: May 3, 2024
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider an Appeal of the Community Development Director Decision to Deny a Request to Remove a Presumptive Historic Property (Pre-1941) from the Historic Resources Inventory on Property Zoned R-1:8. **Located at 32 Euclid Avenue.** APN 529-30-064. Exempt Pursuant to CEQA Section 15061 (b)(3). Request for Review Application PHST-24-001. Property Owner/Applicant/Appellant: David Wilson. Project Planner: Sean Mullin

RECOMMENDATION:

Deny the appeal of the Community Development Director decision to deny the removal of a presumptive historic property (pre-1941) from the Historic Resources Inventory (HRI) on property zoned R-1:8, located at 32 Euclid Avenue.

PROJECT DATA:

General Plan Designation: Low Density Residential
Zoning Designation: R-1:8; Single Family Residential
Applicable Plans & Standards: General Plan, Town Code, Residential Design Guidelines
Parcel Size: 6,100 square feet
Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Caltrans ROW	N/A	N/A
South	Residential	Low Density Residential	R-1:8
East	Residential	Low Density Residential	R-1:8
West	Residential	Low Density Residential	R-1:8

PREPARED BY: Sean Mullin, AICP
Senior Planner

Reviewed by: Planning Manager, Community Development Director, and Town Attorney

CEQA:

The project is not subject to the California Environmental Quality Act pursuant to the adopted Guidelines for the Implementation of CEQA, Section 15061(b)(3): A project is exempt from CEQA when the activity is covered by the commonsense exemption that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question will have a significant effect on the environment, the activity is not subject to CEQA.

FINDINGS:

- As required to remove a pre-1941 property from the HRI.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The subject property is located on the north side of Euclid Avenue, approximately 395 feet north of the intersection with Jones Road (Exhibit 1). The property is currently developed with a single-family residence that was converted from a barn that served a larger property prior to subdivision. The Santa Clara County Assessor's Database lists a construction date of 1900 for the residence. Staff notes that the construction date of 1900 is sometimes used by the County Assessor as a placeholder when the exact construction date is not known. The property is not within a historic district or LHP overlay, is not included in the 1990 Anne Bloomfield Survey, and is not located within the coverage area of the Sanborn Fire Insurance Maps.

On November 15, 2023, the Historic Preservation Committee (HPC) considered a request to remove the subject property from the HRI due to a lack of historic significance and loss of integrity resulting from previous modifications and additions (Exhibits 3 and 4). The HPC received the staff report, held a public hearing, and discussed the request. The HPC was unable to make the findings for removal without additional information and voted three-to-one to deny the request without prejudice (Exhibit 5). The audio from this meeting is available on the Town's website at www.losgatosca.gov/AgendaCenter/Historic-Preservation-Committee-8.

On January 16, 2024, the Town Council provided direction to staff to prepare amendments to the Town Code and the HPC's Enabling Resolution to provide that the HPC is advisory in nature consistent with the intent of the Historic Preservation Ordinance. On March 19, 2024, the Council introduced a draft Ordinance and adopted an Enabling Resolution providing that the HPC is advisory in nature. Included with the modifications is that the HPC makes a recommendation to the Community Development Director on requests for removal from the

BACKGROUND (continued):

HRI. The Community Development Director's decision is subject to appeal to the Planning Commission.

On March 27, 2024, the HPC considered a new request from the applicant to remove the subject property from the HRI (Exhibits 6 and 7). The applicant provided a new request letter and an Architectural Historical Evaluation prepared by ECORP Consulting, Inc. (Exhibit 6, Attachments 3 and 4). The ECORP report concludes that the residence at 32 Euclid Avenue is not eligible for listing on the National Register of Historic Places or the California Register of Historical Resources. The report also concludes that the residence does not meet the Town's criteria for historic resources, except criterion 3 for being constructed prior to 1941. The report determines that the property should be removed from the HRI due to a lack of historical or architectural value (Exhibit 6, Attachment 4, Section 6.0). The HPC received the staff report, held a public hearing, and discussed the request. The HPC was unable to make the findings for removal and voted two-to-one to recommend denial without prejudice to the Community Development Director. The audio from this meeting is available on the Town's website at <https://losgatos-ca.municodemeetings.com/bc-hpc/page/historic-preservation-committee-0>. On March 28, 2024, the Community Development Director denied the request for removal without prejudice (Exhibit 8).

On April 4, 2024, the property owner appealed the decision of the Community Development Director to the Planning Commission (Exhibit 9).

The Town Code provides that decisions of the Community Development Director may be appealed to the Planning Commission by any interested party as defined by Section 29.10.020 within 10 days of the decision. For residential projects an interested person is defined as, "any person or persons or entity or entities who own property or reside within one thousand (1,000) feet of a property for which a decision has been rendered, and can demonstrate that their property will be injured by the decision." The appellant meets the requirements.

Pursuant to Town Code Section 29.20.265, the appeal shall be set for the first regular meeting of the Planning Commission in which the business of Planning Commission will permit, more than five (5) days after the date of filing the appeal. The Planning Commission may hear the matter anew and render a new decision on the matter.

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located on the north side of Euclid Avenue, approximately 395 feet north of the intersection with Jones Road (Exhibit 1). Three of the surrounding properties are zoned R-1:8 and developed with single-family residences. The property to the north is

PROJECT LOCATION (continued):

the Caltrans right-of-way and includes Highway 17 and the Los Gatos Creek.

B. Project Summary

The property owner is appealing the Community Development Director's decision to deny a request to remove the subject presumptive historic property (pre-1941) from the HRI.

DISCUSSION:

A. HPC Authority and Applicability

Town Code Section 29.10.020 defines "Historic Structure" as "any primary structure constructed prior to 1941, unless the deciding body has determined that the structure has no historic significance and should not be included in the Town Historic Resources Inventory." The Santa Clara County Assessor's Database lists a construction date of 1900 for the residence; therefore, the subject property is included on the HRI.

Pursuant to Town Code Section 29.80.215, the purpose of the Town's Historic Preservation Ordinance states:

It is hereby found that structures, sites, and areas of special character or special historical, architectural, or aesthetic interest or value have been and continue to be unnecessarily destroyed or impaired, despite the feasibility of preserving them. It is further found that the public health, safety, and welfare require prevention of needless destruction and impairment, and promotion of the economic utilization and discouragement of the decay and desuetude of such structures, sites, and areas.

The purpose of historic preservation is to promote the health, safety, and general welfare of the public through:

1. The protection, enhancement, perpetuation, and use of structures, sites, and areas that are reminders of past eras, events, and persons important in local, State, or National history, or which provide significant examples of architectural styles of the past or are landmarks in the history of architecture, or which are unique and irreplaceable assets to the Town and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived.
2. The development and maintenance of appropriate settings and environment for such structures.

DISCUSSION (continued):

3. The enhancement of property values, the stabilization of neighborhood and areas of the Town, the increase of economic and financial benefits to the Town and its inhabitants, and the promotion of tourist trade and interest.
4. The enrichment of human life in its educational and cultural dimensions by serving aesthetic as well as material needs and fostering knowledge of the living heritage of the past.

Residential Design Guidelines Section 4.6 speaks specifically to pre-1941 structures and provides that pre-1941 structures have the potential to be historically significant, but not all will necessarily be classified as historic. Applications for removal, remodeling, or additions to structures constructed prior to 1941 will be reviewed by staff to determine their historic merit and contribution to the surrounding neighborhood. An initial evaluation will be made utilizing the 1991 Historical Resources Survey Project for Los Gatos. Staff may, at the discretion of the Community Development Director, refer a project application to the HPC for its input and recommendations.

When considering a request for a determination that a pre-1941 primary structure has no historic significance or architectural merit, the HPC considers the following findings in their recommendation to the Community Development Director:

1. The structure is not associated with events that have made a significant contribution to the Town;
2. No Significant persons are associated with the site;
3. There are no distinctive characteristics of type, period, or method of construction or representation of work of a master;
4. The structure does not yield information to Town history; or
5. The integrity has been compromised such that the structure no longer has the potential to convey significance.

B. Historic Preservation Committee

On March 27, 2024, the HPC received the staff report, held a public hearing, and discussed the request (Exhibits 6 and 7). Following discussion, the HPC voted two-to-one to forward a recommendation of denial without prejudice to the Community Development Director. On March 28, 2024, the Community Development Director denied the request for removal without prejudice (Exhibit 8).

C. Appeal to Planning Commission

The decision of the Community Development Director was appealed on April 4, 2024, by the property owner, David Wilson (Exhibit 9). The letter included with the appeal raises several

DISCUSSION (continued):

concerns of how the HPC members concluded that a recommendation of denial should be forwarded to the Community Development Director. The letter discusses that the HPC demonstrated bias while operating outside their roles, broke from the structure of the meeting, had made up their minds prior to the hearing, inaccurately disputed information included in the Architectural Historical Evaluation report, and contradicted the powers and duties of the Committee. The main points made in the appeal letter are provided below followed by staff analysis in *italic font*.

1. The HPC demonstrated bias while operating outside their role.

Staff has no comment on the claim of bias raised by the appellant. The audio from the March 27, 2024 meeting is available on the Town's website at <https://losgatos-ca.municodemeetings.com/bc-hpc/page/historic-preservation-committee-0>.

Town Code Section 29.10.020 defines "Historic Structure" and includes, "Any primary structure constructed prior to 1941, unless the deciding body has determined that the structure has no historic significance and should not be included in the Town Historic Resources Inventory." The Santa Clara County Assessor's Database lists a construction date of 1900 for the residence; therefore, the subject property is included on the HRI.

The Town's Historic Preservation Ordinance states that the purpose of historic preservation is to promote the health, safety, and general welfare of the public through the protection, enhancement, perpetuation, and use of structures, sites, and areas that:

- *Are reminders of past eras, events, and persons important in local, State, or National history;*
- *Which provide significant examples of architectural styles of the past or are landmarks in the history of architecture;*
- *Which are unique and irreplaceable assets to the Town and its neighborhoods; or*
- *Which provide for this and future generations examples of the physical surroundings in which past generations lived.*

Residential Design Guidelines Section 4.6 speaks specifically to pre-1941 structures, providing that these structures have the potential to be historically significant, but not all will necessarily be classified as historic. Applications for removal of structures constructed prior to 1941 will be reviewed by staff to determine their historic merit and contribution to the surrounding neighborhood. Staff may refer a project application to the HPC for its input and recommendations.

DISCUSSION (continued):

The primary structure at 32 Euclid Avenue was constructed prior to 1941 and is included on the HRI. Preservation of pre-1941 structures that are significant under the eyes of the Town Code is consistent with the purpose of the Historic Preservation Ordinance. Requests to remove pre-1941 structures from the HRI are referred to the HPC by the Community Development Department for a recommendation consistent with the Residential Design Guidelines. Therefore, staff concludes that the HPC was operating well within their role in the review of the request to remove 32 Euclid Avenue from the HRI.

2. The HPC broke from the structure of the meeting in their consideration of the application.

HPC meetings have traditionally been less formal than Planning Commission or Town Council Meetings. Because design review is often conducted during the meetings, some items benefit from a less formal structure that allows for a dialogue between the HPC and applicants. Staff provides an agenda that follows a similar structure to that of the Planning Commission agendas, but it is the discretion of the Chair of the HPC to guide the meeting, with staff available to provide support.

On March 27, 2024, the HPC Chair received a report from staff and allowed for questions of staff. The public hearing was opened to provide the applicant with an opportunity to present their request. The HPC Chair then asked for questions of the applicant from committee members, who then proceeded to make comments and ask questions. At times, staff provided clarification that this time was allocated for questions of the applicant. Since there were no members of the public attending the meeting, the applicant was then afforded time to make a closing statement. The HPC then provided some final comments during discussion, made a motion with a second, and voted on the item.

While the typical structure of a public hearing was not strictly followed by the HPC, the applicant was provided ample time to make a presentation and closing statement. The Chair recognized that there were no members of the public in attendance to provide input and the HPC were provided time for questions of the applicant and to provide comments. At no time was any participant not afforded an opportunity to make comments or provide input that is provided for under strict adherence to the meeting procedures.

DISCUSSION (continued):

3. The HPC had made up their minds prior to the hearing.

Staff has no comment on this point raised by the appellant. The audio from the March 27, 2024 meeting is available on the Town's website at <https://losqatos-ca.municodemeetings.com/bc-hpc/page/historic-preservation-committee-0>.

4. The HPC inaccurately disputed information included in the Architectural Historical Evaluation report.

The applicant's Architectural Historical Evaluation report provides an evaluation of the criteria and findings required to determine whether a structure is historically significant (Exhibit 6, Attachment 4). One criterion discussed in the report is whether anyone associated with the property was a person of significance at the federal, state, or local level. The report discusses multiple residents that lived at 32 Euclid Avenue, including Adeline and Roy Johnson. The report concludes that the property lacks association with significant persons at all levels.

During the meeting on November 15, 2023, a member of the public made comments that associated the property with Marie and Roy Johnson. The member of the public also questioned whether Roy Johnson was a descendant of the Los Gatos Johnson family, although they disclosed that they had no evidence to link the two Johnsons and this was only a guess. During consideration of the application on March 27, 2024, an HPC member referenced these comments and indicated that the book "Los Gatos Observed" has numerous references to Peter Johnson, who was an early council member and landowner and the person the member of the public referenced at the previous meeting. The HPC member noted that Peter Johnson was not included in the report and that Roy Johnson was from Bakersfield and was not the same Johnson.

One of the findings provided in the motion for denial was that the property was associated with a person that is notable to the Town.

The appellant's letter provides that the finding used for denial of the request, that the property is associated with a notable Los Gatos resident, is incorrect. The HPC member that associated the property with Peter Johnson provided no evidence to support this assertion. In fact, the member of the public that spoke at the November meeting stated that tying Roy Johnson to the Los Gatos Johnson Family (i.e., Peter Johnson) was just a guess. Following the March 27, 2024 meeting, the appellant's historic consultant, Andy Bursan, provided an email that is attached to the appeal letter, noting that their research did include Peter Johnson and found that he was an important community

DISCUSSION (continued):

member to Los Gatos, but he had no connection to the property or the barn (Exhibit 9). The email also provides a 1971 article connecting Mr. and Mrs. Roy Johnson to the property, noting that they were from Bakersfield.

Additional staff research included reviewing the book "Los Gatos Observed" for references to the Euclid property, Roy Johnson, and Peter Johnson (Exhibit 10). Staff found no reference to either the Euclid Property or Roy Johnson. Peter Johnson is discussed in numerous sections of the book, but there is no connection made between him and the Euclid property.

Staff concludes that, based on the information available, the subject property is associated with Roy Johnson and that no evidence has been presented tying the property to Peter Johnson.

5. The HPC contradicted the powers and duties of the Committee.

See response to item 1 above. Staff concludes that the HPC was operating well within their role in the review of the request to remove 32 Euclid Avenue from the HRI.

In addition to the appeal letter, the appellant submitted an exhibit showing that a 1970s or 1980s addition made to the front of the residence at 32 Euclid Avenue resulted in a technical demolition (Exhibit 11). Section 29.10.020 defines *demolition (historic structure)* as removal or enclosure of the exterior wall covering on more than 25 percent of the walls facing a public street or 50 percent of all exterior walls. When a project on a historic resource exceeds these limitations, the result is a technical demolition. The appellant's exhibit includes photos of the residence prior to the addition to the front façade. The exhibit shows that the total area of the front façade is 387 square feet and that the shed roof addition enclosed 175 square feet of the front façade. This addition enclosed the original exterior wall of the structure which resulted in a demolition calculation of 45 percent of the street facing elevation, exceeding the 25 percent limit of the Town Code and resulting in a technical demolition. This information was not available to the HPC at the November or March meetings.

In general, when cases are presented to staff showing that technical demolition previously occurred in support of a request to remove a property from the HRI, staff forwards the request to the HPC for consideration along with the technical demolition information. The Planning Commission can include this additional information in their consideration of the appeal.

PUBLIC COMMENTS:

Written notice was sent to property owners and tenants within 300 feet of the subject property. At the time of this report's preparation, the Town has not received any public comment.

ENVIRONMENTAL REVIEW:

The project is not subject to the California Environmental Quality Act pursuant to the adopted Guidelines for the Implementation of CEQA, Section 15061(b)(3): A project is exempt from CEQA when the activity is covered by the commonsense exemption that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question will have a significant effect on the environment, the activity is not subject to CEQA.

CONCLUSION:

A. Summary

The property owner is appealing the Community Development Director's decision to deny a request to remove the subject presumptive historic property (pre-1941) from the HRI.

B. Recommendation

For reasons stated in this report, it is recommended that the Planning Commission deny the appeal and uphold the decision of the Community Development Director to deny the removal of the presumptive historic property (pre-1941) from the HRI.

C. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction;
2. Grant the appeal and remove the subject property from the HRI, making the findings provided in Exhibit 2; or
3. Remand the appeal to the HPC with specific direction.

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SUBJECT: 32 Euclid Avenue/Appeal of PHST-24-001

DATE: May 3, 2024

EXHIBITS:

1. Location Map
2. Required Findings
3. Historic Preservation Committee Staff Report and Attachments, November 15, 2023
4. Historic Preservation Committee Meeting Minutes for November 15, 2023
5. Historic Preservation Committee Action Letter, November 15, 2023
6. Historic Preservation Committee Staff Report and Attachments, March 27, 2024
7. Historic Preservation Committee Meeting Minutes for March 27, 2024
8. Historic Preservation Committee Action Letter, March 27, 2024
9. Appeal of the Community Development Director, received April 4, 2024
10. Excerpts for "Los Gatos Observed," by Alastair Dallas, 1999
11. Technical Demolition Exhibit by Appellant

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