

Letter to Los Gatos Planning Commission on Evaluating Historic Significance
(Please read in its entirety before the five-minute presentation by the property owner)

The property at 33 Walnut Avenue came before the Historic Preservation Committee on 2/18/2022 with the requested action that the property be removed from the historic inventory based on extensive research that conclusively demonstrates a complete loss of historic integrity resulting from multiple waves of major alterations over fifty years and several property owners. That research contained an in-depth presentation of the facts and analysis, as required by historic preservationists at the California state and U.S. national levels. In reaching their conclusion, these historic preservationist professionals thoughtfully applied the decision criteria, as defined by the U.S. Department of the Interior, and adopted by the California Office of Historic Preservation. These same criteria are noted in the materials provided to the HPC by Los Gatos Director of Planning Joel Paulson.

In fact, the town officially refers to 33 Walnut as a 'presumably' historic property simply because of its age. Until the historic preservation criteria are carefully applied, no real conclusions of historic significance can be drawn.

In other words, as historic preservationists know, age by itself is not a determinant of historic significance. It's a low water mark. That's why formal criteria are used to make a fact-based determination of historic significance. Being on the Los Gatos historic inventory, simply means the house was built before 1941, nothing more. It doesn't reflect the historic merits of the property, hence the process we're now undertaking, to decide whether or not there is sufficient merit, for the property to be considered a key contributor to the town's history. How do we do that? By applying the following criteria:

Those FIVE criteria, as adopted in the Los Gatos town code, includes:

1. The structure is not associated with events that have made a significant contribution to the Town; ITS NOT.
2. No Significant persons are associated with the site; NONE ARE.
3. There are no distinctive characteristics of type, period or method of construction or representation of work of a master; NONE REMAINS.
4. The structure does not yield information to Town history; IT DOES NOT. Or
5. The integrity has been compromised such that the structure no longer has the potential to convey significance. NO HISTORIC INTEGRITY REMAINS AFTER MULTIPLE, MASSIVE ALTERATIONS MADE OVER A SIXTY YEARS PERIOD.

This is the criteria that the Planning Commission is being directed today to consider in rendering its ruling on whether 33 Walnut is, in its present condition, a property of real historic

significance to the town of Los Gatos. Or whether, like other residences recently removed, such as 253 W. Main Street (Wasserman property) and 62 Ellenwood (Swenson property), that “the structure is not historically or architecturally significant, with the required findings, including that the integrity has been compromised through alterations over time.”

In fact, the in-depth analysis IN THE REPORT provided by the homeowner to the Planning Commission reveals that 33 Walnut has been far more altered than either of these two recently removed properties. This truth explains why historic preservationists at the state and national levels have concluded that 33 Walnut today lacks historic integrity nor qualifies for inclusion on their historic registries. Had the HPC carefully applied the five criteria to the facts contained in the homeowner provided report, a similar conclusion would certainly have been reached. Traditionally, the HPC has expended thirty-sixty minutes of in-depth review and discussion together with the homeowner before reaching a fact-based conclusion. This in-depth discussion with the homeowner never occurred nor was there explicitly any discussion of the criteria and material facts.

So, from a process standpoint, how did we get to this point, in front of you today?

At the 2/18/2022 HPC meeting there was a kick-off presentation by a neighbor, Susan Burnett, residing within 400 feet of 33 Walnut, who presented an emotional appeal, lamenting about the unfortunate removal of homes from the historic inventory, arguing against removal of this property for sentimental reasons. To her, removal from the inventory equates to bulldozing the property, which in our case couldn't be further from the truth. So strong is her convictions about preserving ALL old homes in the neighborhood, regardless of their historical relevance, that she has presented proposals to prior town councils for incorporating the entire Glenridge neighborhood as a sixth historic district, which it is not today.

At that HPC meeting, town staff also presented that the owner had removed the front siding of the house which they stated ran counter to the town's historic rules. According to staff, the rules limit removal of front-facing siding to 25%. What staff failed to mention, was the siding removal was necessary in order to undertake the town-approved structural front wall reinforcements, dictated by structural engineering, in order to support the permitted renovation work. Nor was it mentioned that under appeal of that town staff decision, that two of the four non-recused town council members voted in agreement with the homeowner that the rule language was ambiguous and contradictory. Had the fifth council member, council member Hudes, not recused himself, the council would have overwhelmingly voted in favor of the homeowner given such ambiguity.

The pandemic-induced five-minute presentation rule short changes the very conversation needed to arrive at a thoughtful, well considered decision following a careful review of all the facts. Consequently, the HPC's rejection decision was in part, based on presumptions not facts, such as what one HPC member noted as “if the property was eligible for removal from the historic inventory, why didn't the HPC a year earlier make that decision?” The inference is that surely the prior HPC review would have ruled in favor of removal if it was deemed worthy.

Alternately, they could (but didn't) have asked "Why did the prior HPC approve demolition of the most notable character-defining feature, the wraparound front porch, and replacement with a different porch design, if they thought the property of truly historic significance?"

Again, the facts:

First fact – there was never a removal request made of the prior HPC meeting.

Second fact - that observation is itself irrelevant, ignoring the direction of Planning Director Joel Paulson calling for applying the historic preservation criteria as noted in the town code.

Had that time-limited discussion been replaced with what had been a long-held tradition and practice of HPC in-depth reviews, the following facts would have surfaced for discussion:

- 1) **Wildfire Safety was the Impetus for the removal request:** The reason for the homeowner requesting the removal of the property from the historic inventory originated over concern about wildfires given the fact that the historic preservation code disallows the replacement of old siding, even in high fire-risk situations in the wildland urban interface. The historic preservation code has not been updated to reflect the changing climate conditions nor acknowledges the existence of the WUI and the threat of wildfires to historic homes. The neighboring property at 25 Walnut has landscape plantings considered to be of the highest fire danger (Cyprus trees, known to firefighters as Roman Candles) that sit all along the southern boundary of the property, a mere 23 inches away from the main house. These trees are being outlawed in Marin under the strong recommendation of Marin County Fire Authorities where wildfire safety is taken most seriously. The dangerously close proximity to the neighboring highly flammable trees creates an extreme danger situation to human life and property, and sadly there is no Los Gatos town code to prevent that from happening. By removing the property from the historic inventory, it would allow for replacing of old, highly flammable siding with fire-hardened materials mandated for new construction use in the WUI. This never came up during the HPC meeting because no questions were asked by the HPC members of this condition though it was documented in the homeowners report.
- 2) **Historic Preservationists at the top state and national historic agencies have concluded 33 Walnut has undeniably lost its historic integrity:** The California state Office of Historic Preservation in Sacramento, and the U.S. Department of the Interior in Washington DC, in their assessment, reviewed the facts presented here (in far more detail) and concluded that 33 Walnut would not meet their qualifications for adding the property to the state or national historic registers. The reasons given were 1) no historic persons or events are associated with the property, 2) not located in a historic district, but most importantly, 3) "there is little historic integrity remaining following the magnitude of the numerous alterations made to the property over time. The integrity-killing alterations of front porch demolition, plus the changes in scale, mass, materials, and modified style makes this a clear-cut conclusion", they stated.

The in-depth reasoning for arriving at this conclusion was documented in a homeowner prepared report to the HPC but no consideration or discussion of these facts occurred during the abbreviated HPC review. That is wholly inconsistent with the HPC review meetings of the past decades, a major departure from long established precedent.

3) **Consistency with Prior HPC Rulings point to removal from the historic inventory:**

Removal of the property from the historic inventory would be consistent with prior rulings by the HPC. For example, the property at 253 W. Main Street (Mike Wasserman's property) was removed from the historic inventory on February, 2020 (before pandemic meeting rules) because as noted by that HPC group, "the structure is not historically or architecturally significant, with the required findings, including that the integrity has been compromised through alterations over time." To be clear, that property was far less altered than 33 Walnut, and it resides in a historic district which sets the bar for removal much higher than the non-historic neighborhood of Glenridge.

Another example is 62 Ellenwood, also removed in 2020 (pre-pandemic), where the historic structure was fully intact with only minor modification. In sharp contrast to these now removed properties - little remains of the original, one story, one-bedroom, small summer cottage at 33 Walnut plus the most character-defining feature of all, the wraparound front porch that was deteriorated beyond repair has since been replaced with a different design, size, height, and shape, different materials, and different building methods as required by structural engineering due to seismic and safety factors built into modern building code. The once-small, charming summer cottage was long-ago transformed into a sprawling multi-story, five-bedroom, four-bathroom residence that is 300% larger with entirely different proportions. According to state and national historic preservationists, "loss of historic integrity is 100%". No wonder they rejected the request of adding this property to their historic registries.

4) **The Low Bar of being on the Historic Inventory:** It's important to understand, that many properties were included on the historic inventory, when first created in the 1960's, not because they necessarily deserved to be on it, but because of their 'origin birth date' being pre-1941. That is indeed a very low bar by historic preservation standards. Applying the criteria set forth by the State of California, and later adopted in the Los Gatos town code, sets a far higher bar that seeks to get to the **real question – is the property of historic significance to the history of the town or state or country**, by virtue of associated events or people, or exceptional examples of a specific architecture? When properties come before the HPC, and the facts are given serious consideration in light of these questions, only then can a justifiable conclusion be rendered after proper analysis. *In other words, removing properties from the historic inventory is NOT a loss to the town if the property doesn't have historic significance.*

5) **A Historic Preservation litmus test:** Is whether a person who was familiar with the property before it was modified would recognize it in its present state. While we cannot

ask that question of the original owners, now deceased, the question was posed to Phyllis Seaborn, who lived on Walnut Avenue back in 1961, and whose house next door still stands in its near-original condition. She recalls clearly the inhabitants (the Rutherford family) and the residence, before it underwent its biggest changes with the Rutherford's adding a second story in 1985 with the following homeowner, the Oveyssi family adding square footage to the first floor and expanding the second story. That expansion changed everything - adding mass and altering the roofline visible from all four sides. And finally, the demolition of the disintegrated front porch by the current homeowner. In Phyllis's words, "33 Walnut looks nothing like it did when I first saw it back in 1961. I certainly don't see a small summer cottage anymore." These observations validate the professional verdict from historic preservationists, and aren't surprising given the scale of alterations made over a long period of time.

The Question before the Planning Commission today:

In summary, the question before the Planning Commission today is **'what facts, analysis and justification would lead you to conclude that there IS significant historic integrity remaining'** when historic preservationists working for the California State Office of Historic Preservation (Jay Correia) and the U.S. Department of the Interior (Anne Grimmer) both concluded otherwise?

When nothing of the character-defining historic features remain, what justification would the Planning Commission present to override historic preservationist expertise by the very authorities responsible at the state and national levels for historic preservation?

This is the question before you today. If you do see, after reviewing all the facts, that 33 Walnut possesses significant historic importance to the town of Los Gatos, for the official town record, please state your justification for deeming it of such significance that you would override the determination by historic preservationist trained professionals.

Criteria-based Assessment for 33 Walnut

Assessment by Historic Preservationists, long-time neighbors, and Architects conclude no historic integrity

What Historic Preservationists Say..

- Anne Grimmer, Historic Preservationist, author of US Dept of the Interior Guidelines for Historic Preservation, Washington DC:
 - *“A careful review of 33 Walnut in Los Gatos yields no historic integrity upon which to consider adding it to the national registry.”*
- Jay Correia, Historic Preservationist, California Office of Historic Preservation, Sacramento:
 - *“There is little historic integrity remaining following the magnitude of the alterations made to 33 Walnut. The integrity-killing front porch demolition, plus the changes in scale, mass, materials, and modified style makes this a clear-cut decision.”*

What long-time neighbor's recollection says..

- Phyllis Seaborn, next-door Neighbor since 1961:
 - *“33 Walnut looks nothing like it did when I first saw it back in 1961. I don't recognize this residence as ever being that small summer cottage.”*

PRESUMPTIVE means Pre-1941

- A very low bar, not a historic determination, on the inventory list only by default
- Age by itself is not a determinant of historic significance
- Establishing historic significance requires
 - **Identifying historic elements and associating it with historic people and events determines its historic value!**
- So what are the historic elements for 33 Walnut? Where is there any historic integrity remaining of a small summer cottage?

Massive Alterations to 33 Walnut

- Undertaken by four homeowners over six decades
- Major alterations made by the Rutherford's and Oveyssi's changing materials, size, shape, massing, proportions, materials, style
- Last alteration replaced disintegrated front porch, approved by HPC, with newly-built porch with differing height, depth, shape, size
 - If 33 Walnut deemed historically significant, this would not have been approved
- No summer cottage – 100% loss of historic integrity
 - Not roofing, flooring, sub-flooring, foundation, windows, doors, size, shape, siding, rear or front porches, or style
 - No character-defining features remain

33 Walnut Today

– 2 story, 5 bedroom, mixed styles



5 Criteria for Establishing Historic Value

1. The structure is not associated with events that have made a significant contribution to the Town; ITS NOT.
2. No Significant persons are associated with the site; NONE ARE.
3. There are no distinctive characteristics of type, period or method of construction or representation of work of a master; NONE REMAINS.
4. The structure does not yield information to Town history; IT DOES NOT. Or
5. The integrity has been compromised such that the structure no longer has the potential to convey significance.
 - NO HISTORIC INTEGRITY REMAINS AFTER MASSIVE ALTERATIONS MADE OVER A 60 YEAR PERIOD. VERIFIED BY PRESERVATIONISTS.

Consistency with prior HPC decisions

- Removed in 2020 from Historic Inventory

253 W. Main St. (Wasserman Residence)



62 Ellenwood (Swenson Residence)



“the structure is not historically or architecturally significant, with the required findings, including that the integrity has been compromised through alterations over time.”

Key Questions for Planning Commission

- What criteria-based data is there that would justify your deeming 33 Walnut a property of ‘great historic significance’ to our town?
- Why would you override the professional assessment of historic preservationists at the California Office of Historic Preservation and the U.S. Dept of the Interior?
- Or ignore the recollection of neighbors familiar with the property long ago who see no resemblance to the long-gone summer cottage?

“the structure is not historically or architecturally significant, with the required findings, including that the integrity has been compromised through alterations over time.”