



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 04/13/2022

ITEM NO: 2

DATE: April 8, 2022
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider an Appeal of the Historic Preservation Committee Decision to Deny the Removal of a Presumptive Historic Property (Pre-1941) from the Historic Resources Inventory on Property Zoned R-1:8. **Located at 33 Walnut Avenue.** APN 510-41-007. Property Owner/Applicant/Appellant: Jeffrey Siegel. Project Planner: Erin Walters.

RECOMMENDATION:

Deny the appeal of the Historic Preservation Committee decision to deny the removal of a presumptive historic property (pre-1941) from the Historic Resources Inventory on property zoned R-1:8, located at 33 Walnut Avenue.

PROJECT DATA:

General Plan Designation: Low Density Residential
Zoning Designation: R-1:8
Applicable Plans & Standards: General Plan, Residential Design Guidelines
Parcel Size: 8,000 square feet
Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Low Density Residential	R-1:8
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: ERIN WALTERS
Associate Planner

Reviewed by: Planning Manager and Community Development Director

CEQA:

The request to remove the property from the Historic Resources Inventory is not considered a project under the California Environmental Quality Act.

FINDINGS:

- As required to remove a pre-1941 property from the Historic Resources Inventory.

ACTION:

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

BACKGROUND:

The subject property is located 185 feet from the northwest corner of Walnut Avenue and Hernandez Avenue (Exhibit 1). The subject property has frontage on both Walnut Avenue and Wissahickon Avenue. The property contains a presumptive historic (pre-1941) single-family residence and a detached garage with a second story accessory dwelling unit (ADU) above. The house, detached garage, and ADU are currently under construction/renovation.

On January 26, 2022, the property owner/applicant submitted materials requesting that the Historic Preservation Committee (Committee) formally remove the subject residence from the Historic Resources Inventory (HRI) due to its lack of historic significance and loss of integrity resulting from modifications and additions to the residence (Exhibit 5, Attachment 7).

On February 23, 2022, the Committee considered the applicant's request, including the applicant's letter of justification, research materials and site photographs of the subject property (Exhibit 5). The Committee denied the request to remove the subject presumptive historic property (pre-1941) from the HRI (Exhibits 3, 4, and 5).

On February 27, 2022, the property owner/applicant appealed the decision of the Committee to the Planning Commission (Exhibit 6). The property owner/applicant/appellant indicated that the Committee failed to consider and apply the decision criteria set forth in the Los Gatos Town Code and defined by the United States Department of the Interior.

Pursuant to Section 29.20.258 of the Town Code, the decision of the Committee 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, "a person or entity who owns property or resides within 1,000 feet of a property for which a decision has been rendered and

BACKGROUND (continued):

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 in the matter.

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located 185 feet from the northwest corner of Walnut Avenue and Hernandez Avenue (Exhibit 1). The surrounding properties are low density residential.

B. Project Summary

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

DISCUSSION:

A. Removal from the Historic Resources Inventory

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.”

Pursuant to the Residential Design Guidelines, Chapter 4, Historic Resources, the Town recognizes any primary structure that was constructed prior to 1941, unless the Town has determined that the structure has no historic significance or architectural merit as a local historic resource.

The property owner is requesting approval to remove the subject presumptive historic property (pre-1941) from the HRI. The applicant provided a Letter of Justification, research materials, and site photographs of the subject property (Exhibit 5, Attachment 3, 4 and 7).

The findings required for the removal of a pre-1941 primary structure from the HRI recognize that the qualities of a building do not align with the listed criteria for preservation

DISCUSSION (continued):

included in the purpose of historic preservation in the Town, specifically subsection 1 below.

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.

When considering a request for a determination that a pre-1941 primary structure has no historic significance or architectural merit the Committee considers the following findings:

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.

A. Historic Preservation Committee

On February 23, 2022, the Committee received the staff report (Exhibit 5), opened the meeting, and considered testimony from the applicant and public (Exhibit 3). After asking questions of the applicant, the Committee closed the public hearing and discussed the

DISCUSSION (continued):

project. The Committee voted unanimously to deny the request to remove the subject presumptive historic property (pre-1941) from the HRI.

B. Appeal to Planning Commission

The decision of the Committee was appealed on February 27, 2022, prior to the 5:00 p.m. deadline, by the property owner, Jeffrey Siegel (Exhibit 6).

The appeal states that the appeal should be granted because the Committee failed to consider and apply the decision criteria set forth in the Los Gatos Town Code and defined by the United States Department of the Interior (Exhibit 6). The two primary points made in the appeal are listed below with staff analysis in *italic font*.

1. Appellant: The Committee failed to consider and apply the decision criteria set forth in the Los Gatos Town Code.

At the February 27, 2022 Committee meeting, the Committee considered the following findings related to the request for a determination that the pre-1941 primary structure had no historic significance or architectural merit. In evaluating a request for a determination of historic significance or architectural merit, the Committee considered the following:

1. *The structure is not associated with events that have made a significant contribution to the Town;*
 - *The Committee was silent on this finding.*
2. *No Significant persons are associated with the site;*
 - *The Committee was silent on this finding.*
3. *There are no distinctive characteristics of type, period or method of construction or representation of work of a master;*
 - *The Committee was silent on this finding.*
4. *The structure does not yield information to Town history; or*
 - *The Committee was silent on this finding.*
5. *The integrity has been compromised such that the structure no longer has the potential to convey significance.*
 - *The Committee found that there have been changes made to the structure by both previous property owners and the current property owner. In 2018, both the current property owner/applicant/appellant and the Committee treated*

DISCUSSION (continued):

the subject property as a historic (pre-1941) property (Exhibit 5, Attachments 3 and 4). The Committee found that nothing substantive had changed since the 2018 Committee review and approval of exterior modifications to the historic (pre-1941) structure. The Committee found that the property owner/applicant's request to remove the property from the HRI was the result of property owner removing more than 25 percent of the siding on the front elevation in September of 2021. Based on the testimony provided by the property owner/applicant and the evidence provided in Exhibit 5, the Committee found that historic integrity of the subject structure has not been compromised. (Exhibit 3)

The Committee considered and applied the decision criteria set forth in the Town Code.

2. Appellant: The Committee failed to consider and apply the decision criteria set forth by the U.S. Department of Interior.

To be listed in the National Register of Historic Places by the U.S. Department of Interior, a property must be shown to be significant under the National Register criteria and have integrity. The National Register provides seven different aspects of integrity to consider when evaluating the historic integrity of a property which include: location, design, setting, materials, workmanship, feeling, and association.

The U.S. Department of Interior outlines the following steps for assessing integrity:

- *Define the essential physical features that must be present for a property to represent its significance.*
- *Determine whether the essential physical features are visible enough to convey their significance.*
- *Determine, based on the significance and essential physical features, which aspects of integrity are particularly vital to property being nominated if they are present.*

The U.S. Department of Interior recognizes properties change over time. It is not necessary for a property to retain all its historic physical features or characteristics. The property must retain the essential physical features that enable it to convey its historic identity.

Pursuant to Town Code, the Town utilizes local criteria to evaluate requests in determining whether or not pre-1941 primary structures have historic significance or architectural merit, as described above. The local ordinance considers aspects of the U.S. Department of Interior standards when evaluating the historic integrity of a

DISCUSSION (continued):

property and also considers the local Committee's findings in determining if the building has enough historic significance or architectural merit to remain on the HRI.

Additional information provided by the property owner/applicant/appellant is included as Exhibit 7.

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 request to remove the property from the Historic Resources Inventory is not considered a project under the California Environmental Quality Act.

CONCLUSION:

A. Summary

The property owner is requesting that the Planning Commission reconsider the Committee's decision to deny the removal of the presumptive historic property (pre-1941) from the Historic Resource Inventory.

B. Recommendation

For reasons stated in this report, it is recommended that the Planning Commission deny the appeal and uphold the decision of the Historic Preservation Committee 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 Historic Resource Inventory, making one or more of the findings provided in Exhibit 2; or
3. Remand the appeal to the Historic Preservation Committee with specific direction.

PAGE 8 OF 8

SUBJECT: 33 Walnut Avenue/Appeal of a HPC Decision

DATE: April 8, 2022

EXHIBITS:

1. Location Map
2. Required Findings and Considerations
3. Historic Preservation Committee Meeting Minutes for February 23, 2022
4. Historic Preservation Committee Action Letter, February 23, 2022
5. Historic Preservation Committee Staff Report and Attachments, February 23, 2022
6. Appeal of the Historic Preservation Committee, received February 27, 2022
7. Additional Information Provided by the Appellant, received April 6, 2022