

# DESIGN REVIEW BOARD STAFF REPORT

## 312 RHEEM BOULEVARD

**MEETING DATE:** November 14, 2011

**REPORT WRITTEN:** November 9, 2011

**ITEM NUMBER:** VI. B. – DESIGN REVIEW

**FILE NUMBER:** DRB-12-11 – Scott Pertel (Applicant / Owner) 312 Rheem Boulevard:  
Design review of a new 6-foot high board on board style wood fence with pedestrian gate along the front of the property located at 312 Rheem Boulevard. A 6-foot high Astoria style black metal vehicular gate is proposed along the front of the driveway. Design Review Board approval is required because the proposed features would be higher than 3-feet in the Rheem Boulevard scenic corridor. (APN: 255-110-005).

**ZONING:** 2-DUA (Two Dwelling Units per Acre)

**CEQA STATUS:** Categorically Exempt per Guidelines Section 15303(e) Class 3 “New Construction or Conversion of Small Structures.” Examples include: accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

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### PUBLIC NOTICE AND MAILING LIST:

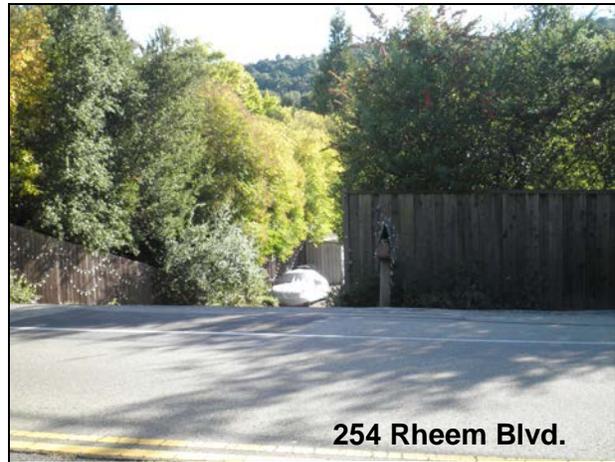
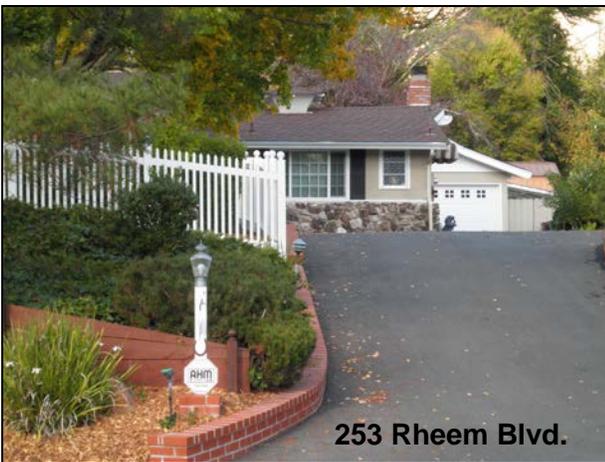
As required by Moraga Municipal Code (MMC) Section 8.72.130(A)(1), written notices of the project were mailed to all property owners within 300-feet of the subject property on November 3, 2011. The public notice, vicinity map, mailing list, and correspondence are attached in **EXHIBIT A**.

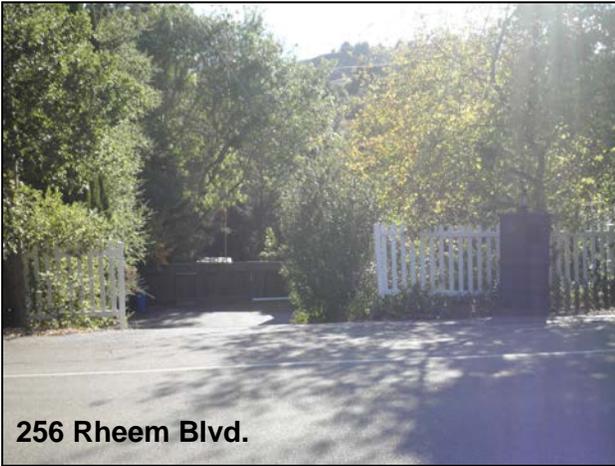




**NEIGHBORHOOD/SETTING:**

There are several residences on the western part of the Rheem Boulevard scenic corridor that have fences higher than 3 feet in the front yard. These homes include 253 Rheem Boulevard which has a white picket fence, 254 Rheem Boulevard which has a solid wood fence, and 256 Rheem Boulevard which has a white picket fence (see pictures below and on the following page). There are also a number of residences that have black wrought iron vehicular gates. These homes include 224 Rheem Boulevard, 226 Rheem Boulevard, 261 Rheem Boulevard, 263 Rheem Boulevard and 280 Rheem Boulevard. As shown in the pictures, all of the existing vehicular gates are see-through which allows visibility and a sense of openness, and the fences and gates are set back considerably on the lots.





256 Rheem Blvd.



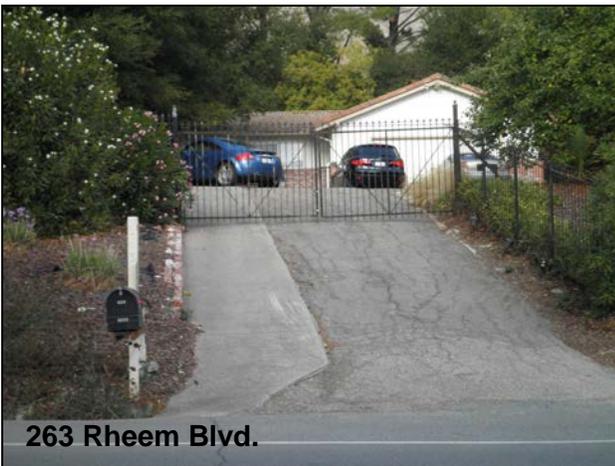
224 Rheem Blvd.



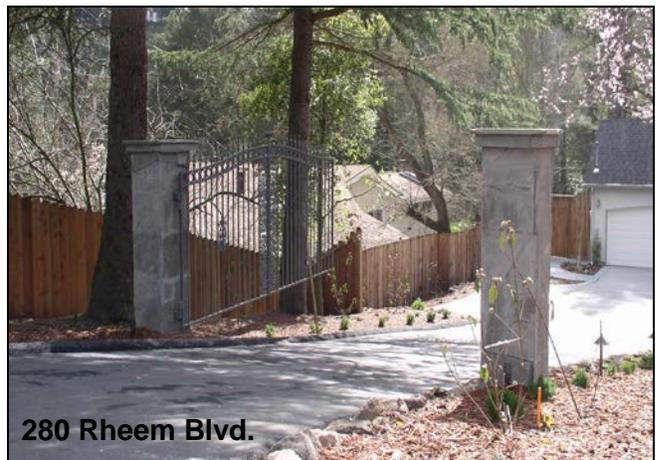
226 Rheem Blvd.



261 Rheem Blvd.



263 Rheem Blvd.



280 Rheem Blvd.

**PROJECT DESCRIPTION:**

The applicant's project statement is attached in **EXHIBIT B**. The applicant proposes the fence and vehicular gate to serve mainly as a safety measure so that the applicant's children could play in the front yard without wandering into the street. Additionally, the fence would provide privacy from an arterial street. Plans for the project are attached in **EXHIBIT C**.

Rheem Boulevard has a 60-foot public right-of-way; therefore, the front property line for the home at 312 is located 30 feet from the middle of the street and 12 feet from the edge of pavement. According to the site plan, the shorter section of the proposed 6-foot tall fence on

the right side of the driveway would be set back three (3) feet behind the front property line. The longer section of the proposed 6-foot tall fence on the left side of the driveway would vary in distance from one (1) foot to seven (7) feet from the front property line. This longer section of fence would be located behind existing landscaping which includes 7 trees and 22 shrubs (the landscaping can be seen in the picture below). The proposed board on board style fence would be 6 feet in height and constructed from western red cedar wood with pressure treated fir posts. The 1" x 8" fence boards would overlap each other by 1 inch. The fence would have 1" x 1" trim on the top and bottom and include a pedestrian gate for access to the pathway leading up to the front door.



A 6-foot high vehicular gate is proposed across the driveway connecting the proposed fencing on both sides. The gate would be set back nine (9) feet from the front property line. The Astoria style gate would be made of steel tube and painted black (on the following page the picture on the far right is an example of a brown Astoria drive gate). The vehicular gate would be automated with underground operators that would allow the gate doors to open outward toward the street. The owners intend to control the gate with radio control push-button transmitters activated from inside their vehicles. A digital keypad would be installed on one of the posts so that the gate could also be opened by entering a code. The gate would automatically close after a vehicle or person exits or enters the premise. Examples of the proposed features are shown on the following page:



A photo mock up of the proposed fence and vehicular gate is shown below:



**ZONING REGULATIONS:**

MMC Section 8.68.040-A states that fences higher than 3 feet within the front yard or exterior side yard require approval by the Zoning Administrator. However, MMC Section 8.132.040-A3 requires the Design Review Board (DRB) to review and approve over walls, fences or towers 3 feet or more in height that are located in a scenic corridor. Therefore, the proposed 6 foot fence and vehicular gate at 312 Rheem Boulevard are subject to review by the DRB.

## **REQUIRED FINDINGS FOR APPROVAL:**

Planning Commission Resolution 16-01 (Resolution Specifying the Criteria for Design Review for Single-Family Residential Improvements at Each Level of Review as Required by Moraga Municipal Code Section 8.72.050) directs the Design Review Board to address design aspects of a proposal in a single family district as applicable. These design aspects are discussed in **EXHIBIT D**.

In addition, Planning Commission Resolution 16-01 lists four standards that must be used to review an application in a single-family residential district, as follows:

- 1. The proposed improvements conform with good design as set forth in the Town of Moraga Design Guidelines, and in general contributes to the character and image of the town as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality.***

The applicant proposes a fence and gate with simple lines. However, the proposal is not consistent with this standard in three ways. First, the proposed fence and vehicular gate would not contribute to the corridor's scenic views. A 6-foot high fence with a connecting 6-foot high gate would instead create a walled effect along Rheem Boulevard, particularly because a section of the fence would be located within one (1) foot of the public right-of-way and within 13 feet of the edge of pavement. Second, the proposed fence and vehicular gate would be comprised of two different materials, two different designs and two different colors. Third, the placement of the fence and gate would block near scenic views. The existing trees and shrubs may soften the proposed fence, but the vehicular gate's location and design would create a gated appearance along a designated scenic corridor.

Condition #1 restricts the fence and vehicular gate height to five (5) feet in height; Condition #2 requires the fence to be set back a minimum of setback of ten (10) feet from the front property line. Condition #3 requires the vehicular gate's design and materials to match the fence's design; Condition #4 requires the vehicular gate to be set back a minimum of fifteen (15) feet from the front property line. These conditions would effectively minimize the "walled" effect of the proposed project and allow existing vegetation to provide additional screening for the fence. The varied setback would further diminish the walled effect and preserve the Rheem Boulevard scenic corridor's appearance. The vehicular gate will not be screened from view; therefore, the greater setback would diminish the gate's appearance. Together with the height reduction and greater setback, the project could meet this standard.

- 2. The proposed improvements will not have a substantial adverse effect on neighboring properties or the community due to poor planning; neglect of proper design standards; or the existence of building and structures unsuitable to and incompatible with the character of the neighborhood and the character of the community.***

The proposed fence and vehicular gate are not consistent with this standard because the frontage of 312 Rheem Boulevard would be defined by fencing rather than vegetation or the property's natural setting. The proposed black steel tube vehicular gate is not compatible with the proposed brown wood fence. A wood vehicular gate would better complement the fence would be consistent with the semi-rural character of the Town.

Conditions #3 and #4 require the vehicular gate's design to match the fence's design with a minimum setback of 15 feet from the front property line. This condition would make the vehicular gate compatible with the fence and would allow the project to meet this standard.

**3. *The proposed improvements will not lower property values; discourage the maintenance and improvement of surrounding properties; or preclude the most appropriate development of other properties in the vicinity.***

The proposed fence and vehicular gate provide privacy and increase the property value for the homeowners. However, the proposal is not consistent with this standard because it could set a precedent; additional 6-foot tall fences in the area would compromise the Rheem Boulevard scenic corridor. This would erode the character of the neighborhood and would not be consistent with the General Plan or the design guidelines. Reducing the fence's height to 5 feet and increasing the setback (see Findings 1 and 2 above) would allow the project to meet this standard.

**4. *The proposed improvements will not impair public health, safety or welfare.***

The proposed fence and vehicular gate would not block signage or create sight obstructions for traffic along Rheem Boulevard. The project would restrict access to and from the property and discourage would be intruders. However, the proposal would obscure visibility to the front entrance of the home which would diminish the ability of neighbors and passing patrol cars to maintain surveillance of the property. A lower fence or, alternatively, a fence that was open (see through) in design would allow more visibility of the home and would be more amenable to the scenic corridor. Reducing the fence's height to 5 feet and increasing the setback (see Findings 1 and 2 above) would allow the project to meet this standard.

To approve an application for design review, a finding must be made in support of each of the four standards identified above. To disapprove an application for design review, a finding must be made as to why one or more of the standards above have not been satisfied. The financial circumstances of the property or the applicant shall not be considered.

**PERMIT STREAMLINING ACT:**

The application for the project was submitted on September 27, 2011. The Permit Streamlining Act requires a decision on the project within **60 days** after a project has been found to be exempt from CEQA or a negative declaration is adopted for the project. The staff report was written on September 30, 2011 at which time the project was determined to be exempt from CEQA. Therefore, the application must either be approved or disapproved by November 29, 2011 unless both the Town and the applicant agree to a one time 90-day extension.

**RECOMMENDATION:**

Staff has prepared a draft action memorandum for approval of the proposed project with findings, modifications, and conditions of approval (see **EXHIBIT E**).

Report prepared by Kelly Suronen, Assistant Planner

Report reviewed by Shawna Brekke-Read, Planning Director

**EXHIBIT A** – Notice Area Map, Public Notice, Mailing List, and Correspondence

- EXHIBIT B** – Applicant’s Statement
- EXHIBIT C** – Applicant’s Plans
- EXHIBIT D** – Design Aspects to be Considered
- EXHIBIT E** – Draft Action Memorandum

# EXHIBIT A

**NOTICE, VICINITY MAP,  
MAILING LIST &  
CORRESPONDENCE**





# Design Review Board

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## Notice of Public Meeting

### 312 Rheem Boulevard

**Design Review for DRB-12-11** to build a new 6-foot high board on board style wood fence with a pedestrian gate along the front of the property. A 6-foot high Astoria style black metal vehicular gate is proposed along the front of the driveway. Design Review Board approval is required because the proposed features would be higher than 3 feet in the Rheem Boulevard scenic corridor. (APN: 255-110-005).

The Design Review Board of the Town of Moraga will hold a public meeting on the above matter, pursuant to Moraga Municipal Code Section 8.08.020, on **Monday, November 14, 2011** at the Moraga Library Community Meeting Room, 1500 St. Mary's Road (wheelchair accessible.) The meeting starts at 7:00 p.m.

**APPLICANT/PROPERTY OWNER:** Scott Pertel, 312 Rheem Boulevard, Moraga, CA 94556

**ZONING DISTRICT:** Two dwelling units per acre residential zone (2-DUA)

**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt under Section 15303(e) of the California Environmental Quality Act (CEQA) Guidelines (Class 3, "New Construction or conversion of small structures.)

**ATTACHMENTS:** Vicinity map (all project plans are available for public review; see "Further Information" below.)

#### **PUBLIC COMMENT**

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Comments may be made verbally at the public meeting and in writing before the meeting. Written comments to the Board are encouraged and should be directed to:

Planning Department  
329 Rheem Boulevard  
Moraga, CA 94556

Fax: (925) 376-5203  
E-mail: [planning@moraga.ca.us](mailto:planning@moraga.ca.us)

To assure distribution to the Boardmembers prior to the meeting, it is suggested that **correspondence be submitted by 12:00 noon, seven (7) days before the meeting.** Fifteen (15) copies must be submitted of any correspondence with more than ten (10) pages or any item submitted less than seven (7) days before the meeting.

### COMMUNICATION ACCESS

To request a meeting agenda in large print, or on CD, call (925) 888-7040 (voice). Notice of at least five (5) business days will ensure availability. Agendas are also available on the Internet at: [www.moraga.ca.us](http://www.moraga.ca.us).

### FURTHER INFORMATION

Questions about the project should be directed to the project planner, Kelly Suronen, at (925) 888-7041 or [ksuronen@moraga.ca.us](mailto:ksuronen@moraga.ca.us). All project plans may be viewed at the Planning Department, 329 Rheem Boulevard, during normal office hours.



DRB 12-11  
Mailed Public Notice

312 Rheem Blvd.  
Mailing List

Design Review  
Board Public Meeting

APN	Name	Address	City & Zip
255611014	Jeffrey J Bartak	PO BOX 6277	Moraga , CA 94570 6277
255611015	Verna J Osborn Trust	1937 ASCOT DR	Moraga, CA 94556 1412
255611016	Gloria S Fischer Trust	405 WOVENWOOD	Orinda, CA 94563 2705
255611017	Victor D & Frances L Smith Trust	1933 ASCOT DR	Moraga, CA 94556 1412
255611019	April McMahon	1929 ASCOT DR	Moraga, CA 94556 1412
255611021	John A & Susan C Sharpe	1925 ASCOT DR	Moraga, CA 94556 1412
255611020	Patricia C Oliver Trust	1927 ASCOT DR	Moraga, CA 94556 1412
255611022	Jessica Hartung	1923 ASCOT DR	Moraga, CA 94556 1412
255611018	Patricia A Martin	1931 ASCOT DR	Moraga, CA 94556 1412
255611037	Lonestar Management	3050 CITRUS CIR, Apt.#200	Walnut Creek, CA 94598
255110008	Eugene L & Gloria Whitt Trust	324 RHEEM BLVD	Moraga, CA 94556 1516
255110007	Tommy & Patricia M Dawson Trust	320 RHEEM BLVD	Moraga, CA 94556 1516
255110006	Brian J & Britt-marie V Morris	316 RHEEM BLVD	Moraga, CA 94556 1516
255110001	Terry T Witharm	296 SCOFIELD DR	Moraga, CA 94556 1562
255110005	Scott Pertel	312 RHEEM BLVD	Moraga, CA 94556 1516
255110004	Thomas E Wright	308 RHEEM BLVD	Moraga, CA 94556 1516
255042003	Amelia Chellew Trust	323 RHEEM BLVD	Moraga, CA 94556 1541
255042004	Mark Olesko	319 RHEEM BLVD	Moraga, CA 94556 1541
255110003	Askar & Parvin Banapour	304 RHEEM BLVD	Moraga, CA 94556 1516
255120021	Mohammadali Jaber Ansari	1 KENNETH DR	Moraga, CA 94556 1600
255110002	Hooshang Pakzadan	300 RHEEM BLVD	Moraga, CA 94556 1516
255042006	Robert A Haas	311 RHEEM BLVD	Moraga, CA 94556 1541
255042005	Maurice P Schwartz Trust	315 RHEEM BLVD	Moraga, CA 94556 1541
255041011	William D & Ruth E Eddy	307 RHEEM BLVD	Moraga, CA 94556 1515
255042010	Jianhua Mao	24 LA SALLE DR	Moraga, CA 94556 1510
255042009	Jimmy H Lee	20 LA SALLE DR	Moraga, CA 94556 1510
255041012	Deacon & Mary V Anderson Trust	303 RHEEM BLVD	Moraga, CA 94556 1515
255042008	Charles I & Avis Bensusen Trust	16 LA SALLE DR	Moraga, CA 94556 1510
255042007	Richard & Eleanor Hersey Trust	15 LA SOMBRA CT	Orinda, CA 94563 4030
255041013	Jian Ping Zhang Trust	299 RHEEM BLVD	Moraga, CA 94556 1540
255041019	Patrick E Brunelle Trust	1 LA SALLE DR	Moraga, CA 94556 1509

RECEIVED

NOV 7 2011



Mr & Mrs Victor Smith  
1933 Ascot Dr  
Moraga CA 94556-1412

MORAGA PLANNING DEPT.

Nov. 6, 2011

PLANNING DEPT.  
329 RHEEM BOULEVARD  
MORAGA, CA 94556

REGARDING THE PROPOSED 6-FOOT  
HIGH FENCE ALONG THE FRONT OF  
312 RHEEM BLVD.:

AFTER VISITING + STUDYING THE PROPERTY  
WE DECIDED

1. IT WOULD BE A 'WALL' THAT WOULD  
BE UGLY IN APPEARANCE.
2. NOT IN ACCORDANCE WITH OTHERS  
IN THE AREA.

WE SUGGEST THE OWNER USE PLANTS  
FOR SCREENING, NOISE ABATEMENT.

RESPECTFULLY,

Victor D Smith  
Maureen A. Smith

# EXHIBIT B

## **APPLICANT'S PLANS**

To Planning Department and Design Review Board:

My wife and I have just purchased 312 Rheem Boulevard. As a Moraga native, she is thrilled to back. One of our largest concerns about living along Rheem is our daughter's safety. With our second child due in October, we are hopeful to allow our daughter to play in the front yard without the concern of her wandering into the street. In order to provide that safety, we have gone through extensive effort to have a fence approved by the Planning Department and Design Review Board. Below is a description of the fence and gate.

We intend to construct a six foot (6') board-on-board style fence within our property lines. The fence will be constructed using Western Red Cedar wood, with the fence posts constructed of pressure treated fir. The fence boards will be 1 x 8 inch wide. The boards will overlap each other by 1 inch. The boards shall be secured in place by 1 x 1 inch trim on both sides, top and bottom. The fence will be constructed by JB Fence Company.

The fence will be setback from the middle of Rheem Boulevard a minimum of 31 feet and up to 37 feet. We have positioned the fence behind existing landscaping to soften the appearance of the fence. This landscaping includes twenty-two (22) shrubs lining the street and six (6) trees, two of which are oak trees. We will be angling to fence on the east side to include an old oak tree as well as two othes in order to soften the appearance of the fence as cars drive west on Rheem from "downtown." We also have brought the fence back on the west side of the fence to include an oak tree, along with two others, to soften the appearance of the fence as cars drive east into "downtown." There is also an old pine tree on the far west side of the fence which will shield the fence from passer-bys.

The electronic gate will be built and installed by Electronic Innovations. The gate will be built to ASTM F2200 standards. The gates will be made of steel tube, and built to match the "Astoria" style gate. This will consist of a 2" x 3" steel tube frame, with a simple arch top, and a 3/4" x 1-1/2" steel tube pickets spaced a 4-5/8" on center. The gates, posts and operated boxes will be prefabricated in the Electronic Innovations shop, and then they will be primed and painted black.

We have set the gate back twenty-one (21) feet from the edge of Rheem Boulevard to allow for any size car, SUV or truck to wait for the gate to swing open. This will allow for no interruption of traffic along Rheem.

The gates will be automated utilizing underground swing gate operators. This type of operator is installed at the base of the hinge post and serves as the bottom pivot point for the gate. This type of operator was also chosen for aesthetic reasons. Being underground, the operators will take away none of the natural beauty of the gates themselves. The cable for the operators will be installed in a saw cut thru one of the existing seams in the concrete driveway.

The gate operator controller will be mounted at the residence, just to the left of the power panel. The necessary low voltage cable will then be routed from this location to the Primary gate operator along the driveway in underground conduit.

Residents (my wife and I) will enter the property with radio control push-button transmitters activated from their vehicles.

Visitors will enter a code into a digital keypad to open the gate for entry. The keypad will be installed on the gate post. All programming is done at the keypad location.

After any vehicle enters or exits, the gates will automatically close. There will be two (2) loops sawcut into the pavement, one (1) inside and one (1) outside the gate, which will prevent the gate from automatically closing on a vehicle.

In closing, we are so pleased to be moving into Moraga. We intend to be long term residents in Moraga, raising our family here. Safety is paramount to my wife and I, and we feel that this fence will allow us peace of mind, while our children play in the front yard.

Kind Regards,

Scott Pertel  
312 Rheem Blvd, Moraga  
415-606-8627 – cell  
415-625-2191 – work

# EXHIBIT C

## **APPLICANT'S STATEMENT**

# EXHIBIT D

## **DESIGN ASPECTS TO BE CONSIDERED**

## **DESIGN ASPECTS TO BE CONSIDERED:**

In accordance with Planning Commission Resolution 16-01, the following aspects of each application shall be considered to the extent that they are applicable to the proposal.

1. **Maximum height, lot coverage and setbacks.** The building setbacks for the 2-DUA zoning district only apply to buildings and structures but not to fences. Lot coverage does not apply to the project because no new buildings are proposed. Fences higher than 3 feet within the front or exterior side yards require approval from the Zoning Administrator (MMC 8.68.040-A). Fences higher than 3 feet in a scenic corridor require approval from the Design Review Board (MMC Section 8.132.040-A.3).
2. **Overall mass and bulk of structures.** This is not applicable because the proposed fence and vehicular gate do not contribute to the overall floor area for the property.
3. **Special features of the project, such as fences and walls.** The proposed 6 foot high fence would be built within the front yard setback along the frontage of the property. The fence would vary in distance from the front property line from 1 foot to 7 feet. The proposed 6-foot high vehicular gate would be located across the driveway and connected to the fence on either side. It would be set 9 feet from the front property line.
4. **Effective concealment and sound attenuation of exposed mechanical and electrical equipment.** The proposed fence does not include any mechanical or mechanical equipment. The proposed vehicular gate includes the installation of underground mechanical and electrical equipment. The gate could generate noise when it opens and closes.
5. **Colors and materials on the exterior face of the building or structures, striving for a limited number of colors and materials for each project.** The proposed fence and pedestrian gate would be constructed of western red cedar wood and the proposed Astoria style drive gate would be made of steel tube and painted black. The two different colors and materials would present a mixed design combination. The proposed vehicular gate could be constructed of western red cedar wood to match the gate (condition of approval #4).
6. **Avoidance of repetition of identical entities whenever possible.** The proposed fence and vehicular gate would not duplicate other frontages along the Rheem Boulevard scenic corridor.
7. **Harmonious relationship with existing and proposed adjoining developments, avoiding both excessive variety and monotonous repetition, but allowing similarity of style, if warranted.** The proposed fence would blend better with the scenic views, natural landscape and abundant foliage along Rheem Boulevard if it was lowered a foot in height and more open in appearance (condition of approval #1 and #4). The proposed black steel tube drive gate does not complement the proposed wood fence and the existing ranch style house. A wood vehicular gate to match the fence would harmonize better with the surrounding environment (condition of approval #4).
8. **Pleasing landscaping which incorporates existing landscaping and terrain as a complement to the structure, using plants which thrive in the Moraga climate and which are large enough in size to be effective.** The existing landscaping includes 7 trees (including 2 oaks) and 22 shrubs which border the subject property and line the street.
9. **Compliance with Chapter 8.132 (Scenic Corridors).** See the guidelines listed below with Staff comments.

1. *The design and location of each building and landscaping shall create a compatible visual relationship with surrounding development and with the natural terrain and vegetation. Road widths and road configurations should be considered as part of the design element.*

Comment: The natural vegetation in the area would be untouched and would help soften the fence line if the fence is set back 10 feet from the property line (condition of approval #2). The proposed fence and vehicular gate would introduce new elements along the Rheem Boulevard scenic corridor.

2. *Buildings and landscaping shall be so located that each does not create a walled effect along the scenic corridor. Setbacks and building heights may be made more restrictive than otherwise permitted by the applicable zoning regulations. In general, the greater the mass or bulk, the greater the setback should be. The positioning of buildings shall be varied in order to create a complimentary relationship between mass and void.*

Comment: The proposed fence would be located in the front yard behind the front property line and within 13 feet of the edge of pavement. The fence line would not be parallel with the street since the distance between the fence and the front property line would vary. However, the fence and vehicular gate's height, material, and location would create a walled effect. Condition of approval #1, #2, and #4 would reduce the height of the fence and gate and increase the setback to minimize mass and bulk and avoid a walled effect.

3. *Existing topography, vegetation and scenic features of the site shall be retained and incorporated into the proposed development wherever possible. Manmade structures, as a visual element in the scenic corridor, should be secondary in importance to natural growth.*

Comment: The existing trees would be retained and the topography would be unchanged. However, as stated previously, the proposed fence and vehicular gate as proposed could become primary visual elements on the Rheem scenic corridor. Condition of approval #1, #2, and #4 would reduce the height of the fence and gate and increase the setback in order to help mitigate the impact of the project and help retain the natural setting.

4. *Each structure or feature reviewable under this chapter shall be limited to scale and siting to reduce visual dominance or obstruction of existing landforms, vegetation, water bodies and adjoining structures.*

Comment: The proposed project would not obstruct any views of existing landforms, vegetation or landscaping. The height and design of the fence would obstruct the visibility of the front of the home.

5. *Each structure shall be constructed, painted and maintained and all planted material shall be planted and maintained to complement and enhance scenic views and the natural landscape.*

Comment: The proposed fence, vehicular gate and landscaping could be conditioned to be maintained by the property owner.

6. *Unnatural and conflicting aesthetic elements shall be eliminated to the extent feasible consistent with safety requirements (for example, retain street lighting, but place wiring underground). Where it is not possible to locate such a feature out of view, it must be located in an area so as to minimize visibility from a scenic corridor or screened from view by planting, fence wall or berm. Where the screen consists of a fence, wall or berm, it may not be higher than six feet. Screening shall consist of primarily natural materials*

*rather than solid fencing. Preference shall be given to vegetation in conjunction with a low earth berm.*

Comment: As designed, the proposed fence and vehicular gate are not consistent with this standard. Condition of approval #1 requires a 5 foot fence and 5 foot vehicular gate and condition of approval #3 requires a design more open in appearance. Condition of approval #3 also requires the vehicular gate to match the fence in material and color. Alternatively, the vehicular gate could be eliminated altogether.

7. *Lighting shall be compatible in type, style and intensity to the surrounding elements and not cause undue or aggravating disruption, glare or brightness.*

Comment: No exterior lighting is proposed for the project.

8. *Grading or earth-moving shall be planned and executed in such manner that final contours appear consistent with a natural appearing terrain. Finished contours shall be planted with plant materials native to the area so that minimum care is required and the material is visually compatible with the existing ground cover.*

Comment: No grading is involved for this project.

9. *The number of access points to and from the scenic corridor shall be minimized consistent with safety and circulation needs.*

Comment: No additional vehicular access would be provided. The proposed fence features a pedestrian gate which would provide the homeowners and visitors access to the front yard.

10. *Parking on the scenic corridor roadways should be minimized.*

Comment: The proposed project would not add any additional parking along the scenic corridor.

11. *Each specimen tree and each grove of trees may be approved for removal only if the tree or grove of trees is unsafe or diseased or to provide the smallest cleared area necessary to locate an approved road or structure on the site under guidelines of the tree preservation ordinance. Selective clearing of vegetation may be permitted upon review and approval by the design review board.*

Comment: No existing trees or plantings would be removed for the proposed project.

12. *In applying these guidelines, consideration shall be given to protecting the privacy and security requirements of individual property owners who seek approval for improvements under this chapter.*

Comment: The proposed fence would help enhance the privacy and security of the property owner.

- 10. Impact on neighboring properties.** The proposed fence and vehicular gate would impact views from the scenic corridor and create a walled effect for neighbors on the scenic corridor.

- 11. Impact on public safety.** The proposed fence and vehicular gate would not be located in the public right-of-way and would not pose any sight obstruction to vehicles on the road.

- 12. Harmony with the general plan, design review guidelines and floor area ratio guidelines.**

The floor area ratio guidelines do not apply to the proposed project because there are no buildings or building additions. Applicable Design Guideline SC 16 states that the design of the project shall be consistent with MMC Section 8.132 (Scenic Corridors). See design aspect #9 above.

# EXHIBIT E

## **DRAFT ACTION MEMORANDUM**



# Town of Moraga

PLANNING DEPARTMENT  
329 RHEEM BOULEVARD  
MORAGA, CA 94556  
(925) 888-7040

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## DESIGN REVIEW BOARD ACTION MEMORANDUM

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On November 14, 2011, the Town of Moraga Design Review Board considered the application described below:

**DRB-12-11 – Scott Pertel (Applicant / Owner) 312 Rheem Boulevard:**

Design review of a new 6-foot tall board on board style wood fence with pedestrian gate along the front of the property located at 312 Rheem Boulevard. A 6-foot high Astoria style electronic gate is proposed along the front of the driveway. (APN 255-110-005).

**DESIGN REVIEW BOARD ACTION:**

The Design Review Board hereby grants approval of the project at 312 Rheem Boulevard in accordance with the findings, modifications, and conditions of approval listed below.

**PART 1: DESIGN REVIEW FINDINGS:**

The following four findings are required in accordance with Planning Commission Resolution 16-01 in order for the Design Review Board to approve an application within a single-family residential district:

- 1. The proposed improvements conform with good design as set forth in the Town of Moraga Design Guidelines, and in general contributes to the character and image of the town as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality. Conditions #1 and #2 require the fence to be lowered to 5 feet in height with a minimum setback of 10 feet from the front property line. Condition #3 and #4 require the vehicular gate's design to match the fence's design with a minimum setback of 15 feet from the front property line. These conditions effectively minimize the "walled" effect of the project and allow existing vegetation to provide additional screening for the fence. The varied setback further diminishes the walled effect and preserves the Rheem Boulevard scenic corridor's appearance. The vehicular gate is not screened from view; therefore, the greater setback diminishes the gate's appearance. Together with the height reduction and greater setback, the project meets this standard.***
- 2. The proposed improvements will not have a substantial adverse effect on neighboring properties or the community due to poor planning; neglect of proper design standards; or the existence of building and structures unsuitable to and incompatible with the character of the neighborhood and the character of***

*the community. A vehicular gate that is uniform in materials, colors and design of the fence is more harmonious in appearance and consistent with the semi-rural character of the Town. Condition #3 and #4 require the vehicular gate's design to match the fence's design with a minimum setback of 15 feet from the front property line. This condition makes the vehicular gate compatible with the fence and allows the project to meet this standard.*

- 3. The proposed improvements will not lower property values; discourage the maintenance and improvement of surrounding properties; or preclude the most appropriate development of other properties in the vicinity.** *The fence and vehicular gate provide privacy and increase the property value for the homeowners. Reducing the height of the fence and vehicular gate and increasing the distance from the road allows the project to meet this standard.*
- 4. The proposed improvements will not impair public health, safety or welfare.** *The fence and vehicular gate do not block signage or create sight obstructions for traffic along Rheem Boulevard. The project restricts access to and from the property and discourages intruders. A 5-foot fence with a greater setback from the road and a see-through design allows more visibility of the home and is more amenable to the scenic corridor thus allowing the project to meet this standard.*

## **PART 2: CONDITIONS OF APPROVAL:**

1. The fence and vehicular gate shall not exceed 5 feet in height.
2. The fence shall be set back a minimum of ten (10) feet from the front property line.
3. The fence and vehicular gate shall be constructed of a material and design that are uniform in color, material and design and shall be open in appearance, subject to Planning Department approval.
4. The vehicular gate shall be set back a minimum of fifteen (15) feet from the front property line.
5. The applicant shall apply for and pay all necessary fees for building permits, plan checks, and inspections.
6. Construction hours are from 8 A.M. to 5 P.M. seven days a week.
7. The work site shall be cleared of all construction materials, debris, tools, etc. upon completion of the project.
8. The fence and vehicular gate shall be maintained.
9. If construction is not commenced within one year from the date of final action, the permit becomes null and void. However, this discretionary action may be renewed by the Planning Director for a maximum period of one year provided the applicant places such a request in writing to the Planning Director showing good cause prior to the expiration of the discretionary action.

Design Review Board action is appealable to the Planning Commission within ten (10) calendar days after the date of the decision. If you have any questions regarding the action of the Board, please contact the Moraga Planning Department at (925) 888-7040.

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