

**TOWN OF MORAGA
DESIGN REVIEW BOARD MEETING
MINUTES**

February 27, 2012

I. CALL TO ORDER AND ROLL CALL

A regular meeting of the Design Review Board (DRB) was called to order by Chairman Sayles at 7:00 P.M. in the Moraga Library Meeting Room, 1500 St. Mary's Road, Moraga, California.

Present: Boardmembers Escano-Thompson*, Kline, Kuckuk, Zhu,
Chairman Sayles
* Boardmember Escano-Thompson arrived after Roll Call

Absent: None

Staff: Shawna Brekke-Read, Planning Director
Richard Chamberlain, Senior Planner
Kelly Suronen, Assistant Planner

B. Conflict of Interest

There was no reported conflict of interest.

II. PUBLIC COMMENTS

There were no comments from the public.

III. ADOPTION OF THE CONSENT AGENDA

A. Approval of Minutes for January 23, 2012

B. Approval of Draft Action Memo for DRB 12-11 - Scott Pertel (Applicant / Owner), 312 Rheem Boulevard: Adopt findings and approve application to construct a new fence, pedestrian gate, and vehicular gate exceeding three feet in the front yard setback and on a scenic corridor. APN 255-110-005

On motion by Boardmember Kline, seconded by Vice Chair Kuckuk and carried unanimously to remove the minutes of the January 23, 2012 meeting, to be considered under Agenda Item VI, Design Review.

On motion by Boardmember Kline, seconded by Vice Chair Kuckuk to adopt Consent Agenda Item B, with a revision to Attachment A, Draft Action Memo, Page 1, Section II. Summary, which had shown that the DRB had continued the project to a meeting scheduled for February 13, 2012, to be revised to read February 27, 2012.

IV. PLANNING COMMISSION LIAISON REPORT - Commissioner Wykle

Planning Commissioner Wykle reported that the Planning Commission had met on February 21 and had discussed numerous planning issues; the appeal process, permitted uses, variances, and a discussion on the Lamorinda Wine Association. Prior to that meeting the Planning Commission had discussed the project at 425 Moraga Road.

At this time the DRB returned to the Adoption of the Consent Agenda, Item B, and allowed a speaker from the audience to address the DRB.

Scott Pertel, 312 Rheem Boulevard, commented that he had been directed to install a metal fence and after conversations with planning staff he had referred back to the discussions during the original meetings in September or October 2011 when the DRB had directed the design be changed with the fence to be lowered in height while also providing some permeability. He commented that he had built a section of the fence based on that direction rather than preparing a drawing. He asked the DRB to reconsider the item at this time.

Planning Director Brekke-Read explained that the DRB had already adopted Consent Agenda Item B and approved the project. The DRB would have to rescind that action if it chose to reconsider the item. If that was done the Commission may move the item to later on the agenda for discussion since it had been noticed to the public.

On motion by Boardmember Kline, seconded by Vice Chair Kuckuk and carried unanimously to rescind the DRB action approving Consent Agenda Item B, as amended, and moved it for consideration under Agenda Item VI, Design Review, as Item C.

V. ADOPTION OF MEETING AGENDA

There was no action on this item.

VI. DESIGN REVIEW

- A. DRB 15-11 - Patrick Whelan (Applicant), Nick Ghassem (Owner), 425 Moraga Road: Application to remodel and expand the existing service station to accommodate an expanded convenience store and new automotive drive-through carwash. Zone: LC (Limited Commercial), APN 256-070-001**

Assistant Planner Suronen reported that the application is for the remodel of an existing service station building to accommodate the recently expanded convenience store, oil change bay, and automatic car wash.

Ms. Suronen advised that staff recommended the use of more natural colors and materials for the buildings and to complement the scenic views of the Moraga Road Scenic Corridor. A proposed water fountain was contrary to the design of the scenic corridor although staff recommended that the DRB discuss the design, material, height, and location of the proposed water fountain feature. The DRB was also required to approve all lighting and signage on the site as reflected in the Draft Action Memorandum with the applicant directed to return with such plans. The Planning Commission had also considered the project and had imposed conditions of approval. Pursuant to the Moraga Municipal Code (MMC), the DRB had full discretion on the design review and site improvements to allow the DRB to provide direction on the project.

Patrick Whelan, Applicant, San Francisco, advised that he was the agent for the property owner Nick Ghassem, who had purchased the gas station with the understanding that he already had the necessary approvals from the Town. The property owner had later learned he had to go through the Conditional Use Permit approval process and had been successful in obtaining approval. The intent was to open the gas station and not make many changes since the exterior of the building was in good shape. The intent had always been to do whatever it took to reopen the station and add a car wash that had originally been approved by the Town. The car wash component had been approved again and the smallest car wash had been chosen to fit into the bay without having to expand the building. The entrance to the car wash was extended two to three feet to keep it under the existing eave line, maintaining a shadow line at the eave line and maintaining the same materials on the building, with small additions to the building in concrete block. The building would be painted the existing white color and the first bay would be closed in where the convenience store would be expanded adding a small window. The middle bay would be for oil changes only and the repair bays on either side would be removed.

Mr. Whelan commented that the Planning Commission had expressed concern with some of the landscaping that had been proposed which may attract deer. As a result, the plant material had been modified to comply with the Town's plant palette to coincide with existing landscaping on the site from the prior approval in 1999.

Ahmad Mohazid, Architect, added that the materials and colors on the bulk of the building had already been painted white and a neutral color because his client was still negotiating with different brands for the gas station.

Boardmember Kline asked for clarification that the gas station would not be an independent gas station.

Nick Ghassem, Clayton, explained that he was working with Chevron, Valero, and 76 on potential contracts but since the gas station had been closed for almost two years the brands wanted a contract with 100,000 gallons in gas sales and a 10-year contract. Since he was uncertain of the volume in sales for the gas station, he would like the option to allow a gas station and car wash and would try his best to obtain a brand vendor.

As to alternatives to the façade, Mr. Mohazid explained that his client was attempting to use affordable and viable materials and for that reason would like to retain the existing material palette. The only changes would be to the glass and the extension of the façade. The improvements were not intended to drastically change the face of the existing building and the intent was to repaint and reface the station. Photographs of other stuccos and colors were presented for consideration although the desire was that the use of the existing neutral color palette be retained.

Vice Chair Kuckuk asked whether an existing propane tank would remain at the site and whether a Vapor Recovery System (VRS) would be included. She noted that the canister had not been conditioned nor shown in the plans.

Mr. Ghassem affirmed that the propane tank would remain at the gas station. A VRS would be provided through a canister system on the side of the gas station that he described as a canister hook up into an existing pipeline on the south side of the site but which would not be as visible along the right hand property line.

Boardmember Zhu asked about the water fountain feature he suggested would be more appropriate for the Town Hall offices, as an example, than a service station.

Mr. Ghassem commented that he had another service station located in the City of Walnut Creek which was clean and well maintained. He characterized the proposed water fountain as clean and fun.

Mr. Mohazid stated he had heard of no alternative to the water fountain other than staff's suggestion that it was not within the design guidelines for the scenic corridor. He suggested that the water fountain would beautify the corner of the property. He had discussed a water fountain feature with his client who really liked that feature and would like that element of the design approved.

Mr. Whelan presented an example of a pre-cast black stone material for the water fountain feature.

Boardmember Zhu did not see the need for a water fountain feature other than the enhancement of the scenic corridor which he agreed should be encouraged.

Mr. Ghassem suggested that the water fountain would make the Town prettier and commented that something was needed on the corner. If allowed, he suggested it would be acceptable in the community and he pointed out that it would entail additional costs to him for PG&E and water.

Vice Chair Kuckuk spoke to Page 8 of the site plans where the existing asphalt paving at the rear near the entrance to the car wash was in very poor condition. She asked if that area would be repaired.

Mr. Whelan commented that through the building permit process that area may have to be modified given the requirement for a drainage plan although the material in that area would likely remain pavement.

Vice Chair Kuckuk also spoke to the second page of the landscaping plan where it was shown that 134 yellow daylilies had been proposed to be planted, a figure she found to be excessive.

Mr. Whelan advised that the figure was accurate and the plants would be small in size with the existing trees to remain in the front. The landscaping in the front was in poor condition and the intent was to replant. He could speak with the Landscape Architect regarding the number of yellow daylilies that had been proposed. He also noted that the proposed water fountain would be located between three existing trees on the site.

Boardmember Escano-Thompson asked staff whether or not a second egress was needed given the retail space.

Mr. Whelan commented that the egress requirements would depend on the number of occupants. If there were 50 occupants or greater, two exits were required. The building was not that large in size to require a second egress and would not accommodate 50 occupants.

In response to Vice Chair Kuckuk as to the location of the vacuum on the southern property line, Mr. Whelan explained that it had been located on the southern side of the site for the convenience of those exiting the car wash. The car wash included dryers and the model to be used would allow vehicles to drive in where the washer and dryer elements would move around the vehicles. As part of the Planning Commission approval, a noise study had been required for the car wash which was in process to identify the noise levels of the equipment. He added that poly-carbonate doors had been proposed for the car wash and the sound level would meet the Town's decibel level requirements at the property line. A sound wall had also been proposed. He commented that while the vacuum would be visible on the southern property line, if moved to the north side it would change the traffic circulation from the car wash.

Mr. Mohazid suggested that if the DRB directed, the vacuum could be moved to the north side if that was needed to approve the project. He identified the location of the employee parking spaces to be located adjacent to the trash enclosure although that parking would likely be moved closer to the building. He acknowledged that had been discussed by the Planning Commission which wanted to ensure adequate parking for customers with employees to be directed to park at the rear of the site.

PUBLIC COMMENTS OPENED

Mark Langberg, Moraga, a resident of Moraga Place which was situated above the gas station, commented on past issues with noise from the Rheem Shopping Center impacting the residents from street cleaning services to the use of leaf blowers at inappropriate times although through the effort of Town staff and the Town Council those issues were no longer a concern. He expressed concern with the potential noise impacts from the car wash and the hours of operation for that equipment, read into the record a portion of Section 7.12.080 of the MMC regarding Noise Control, and asked the DRB to consider the MMC as a factor to ensure that noise impacts did not occur during the evenings and weekends.

John Sherbert, Moraga, pointed out that there had been many fountains in Moraga in the past most of which had been emptied due to the drought. He suggested that this would be a drought year and he would not want to see the fountain in the scenic corridor be unused and become a trash nuisance.

PUBLIC COMMENTS CLOSED

Mr. Mohazid advised that the hours of operation for the car wash had been proposed from 7:00 A.M. to 6:00 P.M. seven days a week, with gas station hours from 6:00 A.M. to 10:00 P.M. He emphasized that the Planning Commission had spent a great of time reviewing the sections of the MMC regarding Noise Control which had led to the use of insulation and doors on the front and back of the car wash and which would be closed when in operation. That discussion had also led to the requirement of an ambient study prior to the approval of a building permit.

Ms. Brekke-Read identified Attachment C, the Planning Commission resolution that had approved the Conditional Use Permit, specifically Condition 39 as shown on Page 10, which had listed the noise conditions similar to the conditions approved in 1999, and which required 65 dba during the daytime and 55 dba during the evening. She acknowledged that the applicant had made some revisions to the car wash including the doors and insulation and it appeared that the dba would be 63 at the property line. The vacuum air station was also required to maintain the same sound attenuation and Page 11 of the resolution included the hours of operation for the gas station, convenience store, and car wash.

Boardmember Kline commented that he had viewed gas stations in Moraga and had found that the independent stations tended to be less well maintained. He was pleased that the property owner wanted to maintain a clean site. He had also found that none of the gas stations in Moraga had a concrete block façade, leading him to be reluctant to allow the concrete block façade in this case. He suggested it should look like real rock and he encouraged the applicant to use better materials than the concrete block material.

Vice Chair Kuckuk stated that she was a strong proponent for the relocation of the vacuum to the other side of the station to address the inherent noise issues and suggested that sound walls built to muffle the sound would only be another visual obstruction which could be avoided if the equipment was relocated. The site also had one extra parking space. As to the water fountain, she was not a fan; it was not consistent with the semi-rural guidelines, this was a possible drought year, and the fountain may not be allowed to operate and may appear more like a sculpture without water out of place in the scenic corridor. She could live with the concrete block but not the two painted surfaces and the painted rock needed to be replaced with a similar surface. She would find it to be more acceptable if the concrete block was painted a more neutral color that was not as bright as white on the hillside. She also noted that the VRS would have a visual impact on the scenic corridor and if a canister was included it needed to be reviewed by the DRB. The eave line was also a concern and she asked of the requirement for the depth of eaves. She found the shadow line on the eave to be better than protruding out to the gutter.

Chairman Sayles was generally supportive of the project in that anything that was done would be an improvement since many gas stations in Moraga were unsightly. He noted that the photograph of the one bay projecting forward showed a relief in a flat façade which was a good thing but which would change the cast of the shadow enhancing the stepping. The mass, the color, and roof were consistent with the AAAAA-Rent-A-Space facility located adjacent and he liked the fountain even during a drought year since it could be filled with dirt and planted and would be located in a landscape bed and could be a sculptural element. He agreed that the vacuum should be relocated given the potential noise impacts and if so, it would not require a sound wall. He was not convinced that the relocation of the vacuum and air station would change the traffic pattern out of the car wash. He supported the project which was a vast improvement over what currently existed at the site.

Vice Chair Kuckuk noted that the painted rock around the propane tank was also unsightly and needed to be addressed.

Boardmember Kline spoke to gas stations located in National Parks which were painted to blend in with the surrounding environment. He urged the applicant to strive for the same kind of compatibility. As to the water fountain, he was not opposed to its use other than it would waste water.

Rather than spending the money on a fountain, Boardmember Kline suggested that the money could be better used to address the façade.

Boardmember Kline spoke to Page 3 of 4 of the Draft Action Memorandum, Part 2: Conditions of Approval, Condition 10, and recommended that the first sentence be revised to read:

Prior to issuance of building permit, all mechanical and electrical equipment (roof-mounted, side-mounted, or detached from structures, including the vacuum air station and the propane tank) shall be screened and concealed to be compatible with the project's design and appearance and to comply with Planning Commission Resolution No. 1-12 PC conditions regarding noise (not to exceed 65 dba at the property line during the daytime and 55 dba at the property line during the nighttime hours).

Boardmember Kline recommended the addition of language to Condition 12, as follows:

Should the pine trees along Rheem Boulevard die or be removed, they shall be replaced with an equal number or more of evergreen trees with a mature height that is equal to or greater than the pine trees.

In response to the DRB, Mr. Mohazid acknowledged the comments on the façade and noted that they would be willing to accept a condition that would require the rock on the stucco to be clad in an earth tone color, painting the building a tan color, and painting the trim that was now white to a lighter gray color. A stucco trim had not been proposed to the block walls. He emphasized that a requirement to re-stucco the entire building would be very expensive.

Chairman Sayles reiterated that he was not opposed to the use of CMU, a building block material with an architectural quality that was still used often. Whether stucco or CMU, he suggested it would look good. He had no issues with its use, had used it himself, and it was consistent with what currently existed.

Boardmember Zhu also had no issues allowing the project to move forward. He found the project to be a great one and he personally found the fountain to be unique and he could support its installation.

Boardmember Escano-Thompson did not have any issues with the fountain which was modern looking, would be situated amongst landscaping, and would not stick out. She supported the water fountain.

Vice Chair Kuckuk reiterated her opinion that the water fountain looked like a sculpture, was located in a flower bed, and while it would not be the tallest element, was not permanent and could easily be removed, but did not add to the project. When pressed, she stated that she could live with it.

Boardmember Kline did not approve of adding a water element in a drought prone area.

By consensus, the DRB determined that the water fountain could remain in the plans for the project.

Vice Chair Kuckuk asked that the issue with the pavement area at the entrance to the car wash be addressed.

Chairman Sayles noted that asphalt was normally sealed and patched with the poor areas repaired and there could be a condition that the asphalt be serviced to a standard maintenance treatment including a seal coat and re-striping. The DRB supported the addition of such a condition.

Ms. Brekke-Read summarized the DRB comments and direction with revision to Attachment B, Draft Action Memo, as follows:

- Part 1: Design Review Finding 1: eliminate the last sentence referencing Condition 6 regarding the fountain, with the majority of the DRB supporting a finding that the fountain was a design element that was not inconsistent with the Town guidelines;
- Finding 2: eliminate the last sentence to be replaced with the language "The majority of the DRB supported a finding that the fountain was a design element the DRB found was not inconsistent with the Town guidelines;"
- Part 2: Conditions of Approval, Condition 1: change the date the DRB approved the plans to read "February 27, 2012;"
- Condition 10, the first sentence be revised to read:

Prior to issuance of building permit, all mechanical and electrical equipment (roof-mounted, side-mounted, or detached from structures, including the vacuum air station and the propane tank) shall be screened and concealed to be compatible with the project's design and appearance and to comply with Planning Commission Resolution No. 1-12 PC conditions regarding noise (not to exceed 65 dba at the property line during the daytime and 55 dba at the property line during the nighttime hours).

- Condition 6, to be deleted;

- Add Condition 11 to read:

Vacuum air station shall be located anywhere on the site where it delivers the least off-site noise.

- Conditions 12 through 17 to be re-numbered to read Conditions 13 through 18;

- Add a new Condition 12 to read:

Prior to issuance of a Certificate of Occupancy project site shall be given maintenance which will include patching, sealing, and re-striping.

- Add a new Condition 13 to read:

Should the pine trees along Rheem Boulevard die or be removed, they shall be replaced with an equal number or greater number of evergreen trees with a mature height that is equal to or greater than the pine trees.

On motion by Vice Chair Kuckuk, seconded by Boardmember Escano-Thompson and carried unanimously to adopt the Draft Action Memo dated February 27, 2012 approving DRB 15-11 for Whelan at 425 Moraga Road, subject to the findings and conditions as shown and as modified.

Chairman Sayles advised of the ten-day appeal process of a decision of the DRB in writing to the Town Clerk.

- B. DRB 01-12 - Saint Mary's College of California (Applicant and Owner), 1928 St. Mary's Road: Request for approval of a 1,224 square foot roof over the service yard area south of Oliver Hall (dining hall) on the Saint Mary's College campus. On June 9, 2008, the Design Review Board approved major renovation work for Oliver Hall and condition number 5 required a roof over the dumpsters behind the building. The metal roof structure is 15 feet high and is adjacent to the existing building on the south, west, and north sides. Zone: Institutional. APN 258-150-005.**

Senior Planner Chamberlain presented the application from Saint Mary's College of California at 1928 St. Mary's Road and explained that on June 9, 2008, the DRB had approved major renovation work for Oliver Hall and condition number 5 required a roof over the dumpsters behind the building. The metal roof structure is 15 feet high and is adjacent to the existing building on the south, west, and north sides. The roof was also mandated by the requirements of the Clean Water Act.

Mr. Chamberlain explained that the color of the metal roof had not been specified in the plans and staff recommended a color approximating the color of the tile roofs, such as burned orange or terra cotta. Staff had also received correspondence from the Fire Marshal of the Moraga-Orinda Fire District (MOFD) that the fire suppression sprinkler system was required under the roof which had been communicated to the applicant.

Mr. Chamberlain recommended that the DRB approve the Draft Action Memo for DRB 01-12, as shown.

An unidentified representative of Saint Mary's College stated that the staff report had been accurate and thorough. He had nothing further to add to the presentation unless the DRB had any questions. He clarified that a color scheme had been provided to staff. A nine-foot gray panel on the east elevation would block the HVAC units and would be painted a terra cotta color and the roof structure would be painted terra cotta as well. He commented that the project architect had intended that the roof disappear. Given the number of roofs, the intent was to make the area look like one roof. The structure was 24 feet deep and over 300 feet from the road and would not be clearly visible.

Boardmember Kline pointed out that the structure would not be visible and that the terra cotta color would not be an issue.

Boardmember Zhu commented that the drawing, as submitted, showed the ribs of the metal panel mimicking the scale of the tile and the panel.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Chairman Sayles emphasized that the roof was not visible. The location was tucked into an alleyway, back and away from the road. He had no concerns with the dark color of the application. If there was a pattern that more closely mimicked the ribs created by the tile panels, that would be an improvement and the eye would skip over it as is if did not exist.

On motion by Boardmember Kline, seconded by Boardmember Escano-Thompson, and carried unanimously to adopt the Draft Action Memo dated February 27, 2012 approving DRB 01-12 for Saint Mary's College of California at 1928 St. Mary's Road, subject to the findings and conditions as shown.

Mr. Chamberlain advised of the ten-day appeal process of a decision of the DRB in writing to the Town Clerk.

The following item was removed for discussion from the Consent Agenda.

- C. Approval of Draft Action Memo for DRB 12-11 - Scott Pertel (Applicant / Owner), 312 Rheem Boulevard: adopt findings and approve application to construct a new fence, pedestrian gate, and vehicular gate exceeding three feet in the front yard setback and on a scenic corridor. APN 255-110-005**

PUBLIC COMMENTS OPENED

Mr. Pertel explained that he had gone through e-mails and discussions that had been held since he had last met with the DRB. His initial structure had been six-foot high, behind bushes, board-on-board with no permeability. He offered a new and fourth rendition with the fence now placed back from the property line a bit, down to five feet in height with the top foot of the fence vertical latticing as opposed to the board-on-board with the addition of three-inch gaps in between each board. Rather than attempt to personally prepare drawings, he had his contractor build a four-foot section of the fence and offered two images; one from the street and another from the house side. He suggested that the new rendition met the level of permeability, would offer safety for his two children, and would be in line with other fences he had viewed throughout the Town.

Chairman Sayles asked staff to clarify the notification process given that there was now a new rendition based on the fact that the item had been agendized on the Consent Agenda and noticed to the public as a metal fence.

Ms. Brekke-Read affirmed that the new iteration would be have to be re-noticed and in some ways becomes a new application.

Boardmember Kline commented that the issue was not an iron fence in that the material had never been stated in the plans.

Boardmember Zhu also recalled that the fence material had never been clarified in the past.

Mr. Chamberlain commented that he had attended the previous meeting of the DRB when there had been a great deal of discussion on the placement of the fence and the gate. Absent a plot plan showing exactly where the fence would be located, the project would have to be continued on that basis as well.

Boardmember Escano-Thompson understood that the prior presentation had involved a five-foot, six-inch high fence.

Mr. Pertel affirmed that the prior proposal was for a five-foot, six-inch fence and what had now been proposed was five feet with one foot of vertical lattice work. The very top of the fence did not extend more than five feet.

The prior proposal also included overlap and given the direction from the DRB, Mr. Pertel explained that he had pulled the boards apart to provide permeability. He also affirmed that the location of the fence was off of the property line by about a foot, and was where he wanted it to be located.

Boardmember Kline commented that when the DRB had last considered the proposal, the property has been surveyed with the property line found to be farther back than everyone had thought.

Mr. Pertel reiterated that he had gone back to the original dialogue with the DRB with more landscaping work and permeability and the concept of a fence at the property line was supported. He had conducted a survey of the property line which had brought the fence back from the original proposed section about four feet and the fence had continued to be moved back. It was now sitting right around the property line. The previous proposal had also included a full site plan which had not changed.

Chairman Sayles emphasized that the fence must be shown on the property line, and the dimensions and elevations shown to its location. He questioned what was now happening with the pedestrian and vehicle gates.

Mr. Pertel commented that the pedestrian gate had been lowered to match the height of the five-foot fence, with a see-through top matching the electronic gate. Nothing would be higher than five feet with permeability provided and with the same structural design of the electronic gate other than having been lowered a full foot.

John Sherbert, Moraga, advised that he was speaking as a citizen and not as a staff member of the Town of Moraga. As a neighbor of the residence, he expressed concern with a solid barrier appearing to be a fortress within the scenic corridor, which issue had been discussed many years ago for a residence on Heron Drive that had led to some of the Town's fence regulations. He noted that the fence would stand out and while he understood the safety issues, the solid appearance would be visually intrusive.

PUBLIC COMMENTS CLOSED

Boardmember Kline stated that he had been prepared to approve the prior concept and he liked the latest rendition even better.

Boardmember Zhu acknowledged that the application had been considered on many occasions; he had paid close attention when driving past the home and viewing the adjacent neighbors. He enjoyed the current openness but found the current fence iteration to be too solid, lacking that openness. He also recognized the safety concerns but remained concerned with the lack of openness in the design.

Boardmember Escano-Thompson appreciated the attempt to redesign the fence to accommodate DRB members' comments, which she found to be a marked improvement from the prior submittal with the permeability addressed through the current solution.

Vice Chair Kuckuk noted that the permeability issue had been direction given by the DRB during its November 14, 2011 meeting and was not part of the scenic corridor guidelines. She also understood and sympathized with the property owner's needs for the fence although she pointed out that the first staff report had found that none of the findings could be made absent considerable design amendments to the plan, leading to this design process and possibly leading to a disservice to the property owner. While she liked the most current iteration of plans, it was a decline given that it was not consistent with the existing scenic corridor guidelines, with a walled fortress effect. As a result, she could not approve the application. Also there were dissimilar gate and fence issues as identified in the first staff report.

Chairman Sayles liked the contrast between the gates and the fence as now proposed. He also liked the level of permeability that had been achieved with the current iteration. He acknowledged the concerns with respect to the scenic corridor guidelines although he stated that the design was something he could support.

Vice Chair Kuckuk reiterated that she could not support the proposal. She pointed out that this was her last meeting with the DRB and as such she would not be present to vote on the item. This was also the last meeting for Boardmember Kline.

Chairman Sayles commented that based on that information and based on a straw poll of the DRB members present, only two Boardmembers were in support of the current iteration although when the DRB next met there would be two new members and he was uncertain how they would vote on the application.

Ms. Brekke-Read identified the options before the DRB; the approval of the application as shown in the Draft Action Memorandum for Consent Agenda Item B or the denial of that application. In either case, the applicant may file an appeal of a decision of the DRB. The DRB may also consider a continuance of the application, a process that had been ongoing for months.

Mr. Pertel emphasized the intent to maintain the value of his personal property and he had taken great lengths to achieve that. He wanted a fence to protect his children from running into the street.

Ms. Brekke-Read read into the record the conditions of approval as shown in Attachment A, Design Review Board Action Memorandum, as agendized and acknowledged that the date shown in the document should be corrected to read "February 27, 2012."

On the discussion, Mr. Pertel advised that he would comply with the staff recommendations as shown in the Design Review Board Action Memorandum, as agendized.

On motion by Boardmember Kline, seconded by Vice Chair Kuckuk and carried unanimously to adopt the Draft Action Memo dated February 27, 2012 approving DRB 12-11 for Pertel at 312 Rheem Boulevard, subject to the findings and conditions as shown.

Chairman Sayles advised of the ten-day appeal process of a decision of the DRB in writing to the Town Clerk.

D. Approval of Minutes for January 23, 2012

Boardmember Kline requested an amendment to the last sentence of the last paragraph on Pages 5 and 6 to reflect that the DRB subcommittee members were to consist of Boardmembers Escano-Thompson and Zhu.

Boardmember Escano-Thompson requested an amendment to the fourth sentence of the second paragraph on Page 3, as follows:

The lattice on the top of the fence would consist of 12-inch vertical slats, 3 inches apart to match the vehicular fence.

On motion by Boardmember Kline, seconded by Vice Chair Kuckuk and carried unanimously to approve the minutes of the January 23, 2012 meeting, as amended.

VII. REPORTS

Vice Chair Kuckuk reported on conversations with planning staff related to contact with applicants which would now be disclosed prior to consideration of applications. As a result, the meeting agendas for the DRB and the Planning Commission would include an agenda item for Contact with Applicants, to be considered after the Conflict of Interest agenda item. She also reported that she had been termed out after serving three consecutive terms on the DRB although she had been appointed to the Planning Commission and would commence her service in March.

Boardmember Kline reported that this was also his last meeting and that he too had been appointed to serve on the Planning Commission.

Ms. Brekke-Read added that staff had advertised for two vacancies on the DRB. The Town Council had appointed Jerry Kirkpatrick to serve one of the vacancies and staff continued to seek an appointment for the remaining vacancy. In addition, David Killam had been appointed to a one-year term on the Planning Commission.

VIII. ADJOURNMENT

The meeting adjourned at approximately 9:09 P.M. to a regular meeting of the DRB on Monday, March 26, 2012 at 7:00 P.M. in the Moraga Library Meeting Room located at 1500 St. Mary's Road, Moraga, CA 94556.

A Certified Correct Minutes Copy

Secretary of the Planning Commission