



**MARIN COUNTY  
COMMUNITY DEVELOPMENT AGENCY**

ALEX HINDS, DIRECTOR

**STAFF REPORT TO THE MARIN COUNTY PLANNING COMMISSION  
SMITH APPEAL OF THE DEPUTY ZONING ADMINISTRATOR'S APPROVAL OF  
THE PARISH MARTIN GROUP/ARMSTRONG GARDEN CENTERS  
USE PERMIT AND DESIGN REVIEW**

Items:	7 A&B	Applications:	UP 04-6 and DR 04-1
Appellant:	Catherine Smith		
Applicants:	Ted Stelzner, TJS Architects Armstrong Garden Centers, Inc.	Owner:	Parish Martin Group
Property Address:	217 Shoreline Highway, Mill Valley	Assessor's Parcels:	052-051-27, and 052-061-17, and -19
Hearing Date:	October 11, 2004	Planner:	Neal Osborne

<b>RECOMMENDATIONS:</b>	<b>Grant a Negative Declaration of Environmental Impact and Deny the Appeal</b>
<b>APPEAL PERIOD:</b>	<b>10 Calendar Days to the Marin County Board of Supervisors</b>
<b>LAST DATE FOR ACTION:</b>	<b>90 days from the grant of Negative Declaration</b>

**SUMMARY RECOMMENDATION:**

Staff recommends the Planning Commission grant the Negative Declaration of Environmental Impact, deny the Smith Appeal, and uphold the Deputy Zoning Administrator's conditional approval of the Parish Martin Group/Armstrong Garden Centers Use Permit and Design Review (refer to Attachment 16).

**BASES OF THE APPEAL:**

Catherine Smith, appellant, recently purchased her residence at 268 Cardinal Road adjacent to the project site. Although the project notices were distributed to surrounding property owners, Ms. Smith asserts that the seller did not disclose the facts about the proposed project located on the commercial property adjacent to her backyard. Ms. Smith learned about the project when story poles were constructed a few days in advance of the Deputy Zoning Administrator's hearing on August 26, 2004. The bases of her appeal are that the building, trellis structures, and landscaping with trees would create a wall-like appearance substantially changing the present open appearance of the site. The height of the building would be much taller than the existing buildings on the subject property and would be out of character with the single-story residences on Cardinal Road that border the southwest side of the site. Ms. Smith objects to the tall structures and trees near her property because they would block views of the hills, reduce light, and impose on the open ambiance of her backyard space. The appeal relates only to the merits review of the building height and does not appeal the environmental review of the building height as stated in the Negative Declaration of Environmental Impact (refer to Attachment 7).



**PROJECT DESCRIPTION:**

The project is a proposal to construct a commercial retail garden supply store. The facility includes a 6,400 square foot one-story building, 6,073 square feet of trellis shade structures adjacent to the building, gazebos, exterior lights for safety in the parking lot, and outdoor display gardens. The display gardens would have a concrete patio with wood plant display tables, and concrete walkways through gravel planting beds all surrounded by an 8-foot tall decorative wrought iron fence with 10-foot tall accent planters every 24 feet, painted dark green. The main sales building would have a maximum height of approximately 26 feet 9 inches above finished grade and 29 feet above existing grade. The building would be 50 feet from the top of creek bank in conformance with the County’s Stream Conservation Area policies, and 28 feet 4 inches from the southeast property line along the creek. The building would be 156 feet from Shoreline Highway and 44 feet 9 inches from the southwest property line that borders residential properties on Cardinal Road. A landscaped buffer is proposed between the project area and the edge of Coyote Creek. The drainage ditch along the southwest property line would be enhanced to provide positive flow to the creek with 1.5:1 slope and 2:1 slope cut banks landscaped with native riparian plants (Alkali Heath and Common Pickleweed) and 24-inch box trees (Pacific Wax Myrtle) every 10 feet. The project also includes planting of three 36-inch box Coast Live Oak trees and numerous native drought-tolerant trees, shrubs, and groundcovers around the site. A portion of the existing Sculpture Garden and 1,820 square foot greenhouse would be removed to accommodate expansion of the parking lot with an 11-foot setback from the southwest property line. The trellis shade structures adjacent to the building would have maximum heights of approximately 14 feet (refer to Attachments 5 and 6).

**GENERAL INFORMATION:**

Countywide Plan

Land Use Designation: RS –Residential Commercial

Community Plan: Tamalpais Area Community Plan (TACP), Tam Junction Design Guidelines

Zoning: RMPC-6, Residential/Commercial Multiple-family Planned District, 6 units per acre maximum density)

Lot size: 2.1-acres

Adjacent Land Uses: Tam Junction Shopping Center and various commercial enterprises, single-family residences, Marin County Flood Control Pump Station, Coyote Creek flood control levee, State Route One

Vegetation: An open grassland area with five palm trees

Topography and Slope: Relatively level with slope to Coyote Creek

Environmental Hazards: Proximity to the San Andreas and Hayward Fault Zones, flooding

**ENVIRONMENTAL REVIEW:**

An Initial Study has been prepared pursuant to the requirements of the California Environmental Quality Act and the Environmental Coordinator of the County of Marin recommended the grant of a Negative Declaration of Environmental Impact. The draft Negative Declaration was circulated for public review from July 9, 2004 to August 9, 2004, and in the August 26, 2004 public hearing, the Deputy Zoning Administrator reviewed all the comments received and adopted the Negative Declaration (refer to Attachments 8, 12, 13, and 16).

**PUBLIC NOTICE:**

The Community Development Agency has provided public notice identifying the appellant and the applicant, describing the appeal, the project, and its location, and indicating the date and location of the public hearing in accord with California Government Code requirements. This notice has been mailed to all property owners within 300 feet of the subject property. In response to the public notice, as of October 1, 2004, no comment

letters regarding the Smith Appeal have been received in the Community Development Agency, Planning Division office.

## **BACKGROUND**

The property is part of the Tam Junction Shopping Center and is adjacent to the existing Video Droid and Walgreen's stores. The existing property is developed with the Shoreline Coffee Shop, Schwartz and Associates Landscape Architects' office, and the Sculpture Garden. The land consists of artificial fill soil on the southwest side of Shoreline Highway (State Route One) that is adjacent to Coyote Creek, a Marin County Flood Control District Pump Station, levee, and a flood control access road. The property is predominately level with an elevation of approximately 5 feet National Geodetic Vertical Datum (NGVD). The elevation of the top of the levee is approximately 7 feet. The property contains a small drainage ditch along the southwest property line that collects runoff from the backyards of the residences located on Cardinal Road and apparently over time has been over excavated, and consequently does not have continuous flow through the higher culvert that drains under the levee to Coyote Creek. The drainage ditch contains stagnant standing water that does provide small fish habitat, assumed to be fish introduced to control the mosquito population. Currently the proposed development site is developed with a sculpture garden and greenhouse, and is located adjacent to the Schwartz and Associates office, the Shoreline Coffee Shop, Video Droid and Walgreen's commercial buildings, developed residential properties, Coyote Creek, and a Marin County Flood Control pump station building and levee access road.

## **ANALYSIS OF APPEAL**

Staff and the Tamalpais Design Review Board (TDRB) have reviewed the design of the proposed project. After the applicant modified the design to reduce the height and provide fewer signs and different exterior finishes, the TDRB recommended approval of the project after finding it consistent with the Tam Junction Design Guidelines of the Tamalpais Area Community Plan (TACP) (refer to Attachment 14). As proposed, the building would have a maximum height of 26 feet, 9 inches above grade, with a finished floor elevation of 9.67 feet NGVD, consistent with County Floodplain minimum floor elevation requirements.

The building will be located approximately 150 feet from Shoreline Highway to the north, and will be located 44 feet from the rear (southwest) property line and approximately 60 feet from the nearest residence. A substantial amount of screening landscaping is proposed between the project site and the residential neighborhood to the southwest. The building features a barn style roof, with a stepped clerestory center section. The overall height of the building will exceed 20 feet only in the center clerestory section, which consists of approximately 20 percent of the total roof area. The roof material will be standing seam metal painted a non-reflective green color. Building colors were modified at the request of the TDRB, and as currently proposed siding would be a taupe light grey. Other trim and color details include wooden eave brackets painted light brown, and other wood trim painted "Swiss Coffee White". One sign would be located on the transom portion of the raised clerestory area above the entrance. "Armstrong Garden Center" lettering would be externally illuminated via shielded up-floodlights located on the trellis below the sign.

Based on these design elements, staff believes that the proposed project would not result in substantial adverse visual impacts on the community (refer to Attachments 5 and 6 for plan details). The height of the new commercial building would not create substantial visual impacts on neighboring properties. The proposed commercial building would have a maximum height of 26.75 feet above finished grade that would be less height than the Walgreen's and Bell Market buildings at the Tam Junction shopping center that have roof elements with maximum heights of 30 feet above finished grade. The approved building height is also 3.25 feet below the 30-foot maximum building height standard in Section 2.3.1 of the Tam Junction Design Guidelines contained in Appendix I of the TACP. The project would result in a new building that is more visible than the existing vacant property, but would be designed with 2:12 roof pitch for most of the building and a 4:12 roof pitch for the raised central portion the provides clerestory windows for day-lighting the interior sales room. The building would be substantially screened from off-site locations by proposed vegetation. As required by the Deputy Zoning Administrator, 24-inch box Pacific Wax Myrtle trees would be planted ten feet on centers along

the southwest side of the outside sales area fence to provide a privacy screen for the neighboring properties on Cardinal Road.

The height and size of the building is comparable to other buildings in the Tam Junction Shopping Center. The four comparable buildings at 227, 237, and 247 Shoreline Highway, and 207 Flamingo Road have heights and floor areas as shown in the following table. The applicant submitted a response to the appeal that includes building height surveys completed by Chuck McCallum, PE, Project Civil Engineer, on September 30, 2004 (refer to Attachment 15).

**Table 1. Comparison of Height and Floor Area of Four Buildings at the Tam Junction Shopping Center**

Name	Address	Assessor's Parcel	Maximum Height above grade (feet)	Gross Floor Area (square feet)
Walgreen's	227 Shoreline Highway	052-051-31	30 tower; 24.5 parapet	4,624
Bertolli	237 Shoreline Highway	052-051-18	24 parapet	10,275
Jasmine Place	247 Shoreline Highway	052-051-23	30 parapet	15,650
Bell Market	207 Flamingo Road	052-051-34	30 tower	26,800

The Armstrong Garden Center building would have a 44.75-foot southwest side property line setback providing ample separation between the rear yard areas of the residences on Cardinal Road. The visual appearance of the building would be screened by trellis structures, plants for sale, and landscaping outside the sales area, thereby softening and complimenting the architectural form. Furthermore, the southwest corner of the commercial building would have adequate separation from the neighboring residences with an 88-foot separation from the Smith residence at 268 Cardinal Road. The 26.75-foot ridge would be 118 feet from the Smith residence without substantial visual impacts.

The project would be consistent with the Tam Junction Design Guidelines in Appendix I of the Tamalpais Area Community Plan (TACP). The project would be consistent with TACP goals to maintain the semi-rural character as defined by its small town commercial setting and the quality of the natural environment. The project would be consistent with the following TACP policies:

- Commercial Land Use Policies C-2 and C-8
  - The project would be a resident-serving use in the primary commercial development area of the community along Shoreline Highway and Coyote Creek in the Tam Junction Shopping Center.
- Open Space Policies OS-1 and OS-2
  - The project design includes proper management of the Coyote Creek habitat area and locating development without erosion or flooding impacts, in the most accessible, least environmentally sensitive, area of the development site.

The project would be consistent with the following Tam Junction Design Guidelines:

- Land Use Planning and Zoning Guideline 2.1
  - The project would be comparable to a "Nursery", one of the preferred businesses listed, consistent with the village core concept that establishes a combination of compatible uses that reflect the community's goals.
- Circulation and Parking Guideline 2.2

- The project would utilize the existing network of roads and driveways, and would construct a traffic signal at the Flamingo Road and Shoreline Highway intersection to improve traffic flow.

➤ Site Planning Guideline 2.3

- The project would be set back 156 feet from Shoreline Highway with substantial landscaping around the parking areas, buildings, and sales areas.
- The project would be consistent with the two-story, 30-foot, height limit measured from natural grade, and with the 35% to 40% FAR.
- The project design reflects the village core concept with consideration given to protection of the privacy of the adjacent residential area with ample separation and landscaping buffers.
- The project architecture includes traditional architectural elements, such as wood siding, a gabled roof, and a clerestory roof element to articulate the form. The project architecture has a somewhat “barn-like” appearance that reflects the transition between urban and rural that is an essential element of the village core concept.

**Conclusion**

The height and visual appearance of the project would not be substantially different than other existing commercial buildings at the Tam Junction Shopping Center. The design of the project would be comparable to the height, scale, bulk, and mass of surrounding properties and would be compatible with the neighborhood. In fact, the proposed use appears to enjoy widespread community support and would be consistent with the TACP, Tam Junction Design Guidelines. The proposed structures would blend into the surrounding environment without unusual visual and privacy effects associated with commercial development and would be compatible with the Tam Junction Shopping Center. As indicated in Table 2 below, the garden center would comply with the RMPC-6 development standards for floor area, height, and location on the lot. The Design Review findings for this project, as modified by conditions of approval, can be made affirmatively for a reasonable development project that would provide a garden center in the Tam Junction Shopping Center. One issue that recently came to staff’s attention is the potential use of an outdoor public address system for garden center staff communications and for playing pleasant shopping music. Staff believes this is unnecessary and potentially disruptive to neighbors, and supports adding a condition of approval eliminating any public address system or setting standards for its volume and time of use, if so directed by the Planning Commission.

**Table 2. Residential Multiple-Family Planned Commercial District (RMPC-6) Development Standards**

Zoning District	Maximum Height Main Building (feet)	Maximum Height Accessory Building (feet)	Development Standards
RMPC-6	30	15	Determined by Master Plan and/or Design Review

**RECOMMENDATION**

Staff recommends that the Planning Commission review the administrative record, conduct a public hearing, adopt the attached Resolution granting a Negative Declaration of Environmental Impact, and adopt the Resolution denying the Smith Appeal and approving the Parish Martin Group/Armstrong Garden Centers Use Permit and Design Review based on the findings and subject to the conditions contained therein.

Attachments:

1. Resolution recommending the grant of a Negative Declaration for the Parish Martin Group/Armstrong Garden Centers Use Permit and Design Review
2. Resolution recommending denial of the Smith Appeal and approval of the Parish Martin Group/Armstrong Garden Centers Use Permit and Design Review
3. Location Map
4. Assessor's Parcel Maps
5. Landscape and Site Plans
6. Proposed Elevations
7. Catherine Smith Petition for Appeal, 9/7/04
8. United States Army Corps of Engineers letter, 9/1/04
9. Ben Berto e-mail, 8/31/04
10. Neal Osborne e-mail response to Joe Martini, 8/25/04
11. Joe Martini e-mail, 8/18/04
12. Department of Public Works memorandum, 8/9/04
13. Sycamore Environmental Consultants, Inc., Revised Biological Resources and Jurisdictional Delineation Map, 8/4/04
14. Tam Design Review Board Minutes, 2/4/04
15. Armstrong Garden Centers response to Petition for Appeal, 10/1/04

**The following attachments were provided to the Planning Commission only.** They are available for public review at the Community Development Agency, Planning Division during regular business hours: Monday through Friday, 8:00 A.M to 4:00 P.M.

16. Deputy Zoning Administrator Staff Report, Minutes, and Resolutions, 8/26/04



MARIN COUNTY PLANNING COMMISSION

RESOLUTION \_\_\_\_\_

A RESOLUTION GRANTING A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FOR THE PARISH MARTIN GROUP/ARMSTRONG GARDEN CENTERS USE PERMIT AND DESIGN REVIEW

217 SHORELINE HIGHWAY, MILL VALLEY

ASSESSOR'S PARCELS 052-051-27 AND 052-061-17, and -19

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**SECTION 1: FINDINGS**

- I. WHEREAS Ted Stelzner of TJS Architects submitted the Parish Martin Group/Armstrong Garden Centers Use Permit and Design Review application proposing to construct a commercial retail sales garden supply store. The facility includes a 6,400 square foot one-story building, 6,073 square feet of trellis shade structures adjacent to the building, gazebos, exterior lights for safety in the parking lot, and outdoor display gardens. The display gardens would have a concrete patio with wood plant display tables, and concrete walkways through gravel planting beds all surrounded by an 8-foot tall decorative wrought iron fence with 10-foot tall accent planters every 24 feet, painted dark green. The main sales building would have a maximum height of approximately 26 feet 9 inches above finished grade and 29 feet above existing grade. The building would be 50 feet from the top of creek bank and 28 feet 4 inches from the southeast property line along the creek. The building would be 156 feet from Shoreline Highway and 44 feet 9 inches from the southwest property line that borders residential properties on Cardinal Road. A landscaped buffer is proposed between the project area and the edge of Coyote Creek. The drainage ditch along the southwest property line would be enhanced to provide positive flow to the creek with 1.5:1 slope and 2:1 slope cut banks landscaped with native riparian plants (Alkali Heath and Common Pickleweed) and sixteen 24-inch box trees (Wax Myrtle). The project also includes planting of three 36-inch box Coast Live Oak trees and numerous native drought-tolerant trees, shrubs, and groundcovers around the site. A portion of the existing Sculpture Garden and 1,820 square foot greenhouse would be removed to accommodate expansion of the parking lot for an 11-foot setback from the southwest property line. The trellis shade structures adjacent to the building would have maximum heights of approximately 14 feet. The subject properties are located at 217 Shoreline Highway, Mill Valley, and are further identified as Assessor's Parcels 052-051-27, 052-061-17, and -19.
  
- II. WHEREAS the Marin County Community Development Agency prepared an Initial Study for the project that determined that although there was a potential for a significant impact, modifications to the project description sufficiently mitigate that impact to less than significance, and that there is no evidence that the project may have a significant effect on the environment.
  
- III. WHEREAS the Marin County Environmental Coordinator has determined that, based on the Initial Study, a Negative Declaration of Environmental Impact is required for the project pursuant to the California Environmental Quality Act (CEQA).
  
- IV. WHEREAS on July 7, 2004, an Initial Study and proposed Negative Declaration of Environmental Impact were completed and distributed to agencies and interested parties to commence a 30-day public review period for review and comment on the Negative Declaration, and a Notice of the public review period and Marin County Planning Commission hearing date to consider granting final approval of the Negative Declaration was published in a general circulation newspaper pursuant to CEQA.
  
- V. WHEREAS, after the close of the 30-day public review period on August 9, 2004, the Marin County Planning Commission reviewed and considered the information contained in the Negative Declaration, Initial Study, and comments and responses thereto.



**SECTION 2: ACTION**

NOW, THEREFORE, LET IT BE RESOLVED that the Marin County Planning Commission hereby makes the following findings:

1. Notice of the initial public review period and hearing on the Negative Declaration was given as required by law and said hearing was conducted pursuant to Sections 15073 and 15074 of the State CEQA Guidelines and the County CEQA process.
2. All individuals, groups and agencies desiring to comment on the Negative Declaration were given the opportunity to address the Marin County Planning Commission.
3. The Negative Declaration of Environmental Impact for the project consists of the Negative Declaration, Initial Study, responses to comments, and all supporting information incorporated by reference therein.
4. The Negative Declaration of Environmental Impact was completed in compliance with the intent and requirements of CEQA, the State CEQA Guidelines, and the County's CEQA process.

LET IT BE FURTHER RESOLVED that the Marin County Planning Commission hereby grants the Negative Declaration of Environmental Impact for the Parish Martin Group/Armstrong Garden Centers Use Permit and Design Review application as an adequate and complete environmental document for purposes of approving the project and declares that the Negative Declaration has been completed and considered in conjunction with the comments thereto, in compliance with CEQA, the State CEQA Guidelines, and the County's CEQA process.

**SECTION 3: DECISION**

GRANTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 11th day of October 2004, by the following vote to wit:

AYES:

NOES:

ABSENT:

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ALLAN BERLAND, CHAIRMAN  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Jessica Wood  
Planning Commission Recording Secretary

MARIN COUNTY PLANNING COMMISSION

RESOLUTION

A RESOLUTION DENYING THE SMITH APPEAL AND UPHOLDING THE DEPUTY ZONING ADMINISTRATOR'S APPROVAL OF THE PARISH MARTIN GROUP/ARMSTRONG GARDEN CENTERS USE PERMIT AND DESIGN REVIEW

217 SHORELINE HIGHWAY, MILL VALLEY

ASSESSOR'S PARCELS 052-051-27 AND 052-061-17, and -19

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- II. WHEREAS, the Marin County Planning Commission held a duly noticed public hearing on October 11, 2004, to consider the Smith Appeal and the merits of the project, and hear testimony in favor of, and in opposition to, the project.
- III. WHEREAS the Marin County Planning Commission reviewed and considered testimony in favor of, and against, a proposed Negative Declaration and finds, subject to the conditions of project approval contained herein, that this project will not result in any potential significant environmental impacts, and qualifies for a Negative Declaration of Environmental Impact in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the County's CEQA process.
- IV. WHEREAS, the Marin County Planning Commission finds that the proposed project is consistent with the Marin Countywide Plan because it would:

- A. Allow a commercial garden center, consistent with the Land Use designation of RS – Residential Commercial, and as a conditionally permitted use under the Zoning classification of RMPC-6, Residential/Commercial Multiple-family Planned District.
  - B. Comply with Marin County standards for flood control, geotechnical engineering, seismic safety, traffic circulation, and parking, and include improvements to protect lives and property from hazards.
  - C. Be adequately served by the existing road network with the signalization improvement, and be provided with adequate facilities for water, sewer, and other utilities serving the project.
  - D. Not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, or their services.
  - E. Have adequate protections for natural resources adjacent to the site consistent with MCSTTP pollution protection standards.
- V. WHEREAS, the Marin County Planning Commission finds that the proposed project is consistent with the goals, policies, and programs of the Tamalpais Area Community Plan because:
- A. The garden center use would be complementary to the existing commercial developments in the Tam Junction shopping center.
  - B. The project would not exceed the building height maximum of 30 feet, or the Floor Area Ratio (FAR) maximum of 0.40.
  - C. The Flamingo Road and Shoreline Highway intersection would be signalized in conjunction with this project, improving the intersection's current level-of-service (LOS) LOS E (LOS F at cumulative buildout) to LOS C, consistent with requirements to avoid additional impacts to existing intersections with degraded LOS.
- VI. WHEREAS the Marin County Planning Commission waives the Master Plan requirement for this project because the project is consistent with the mandatory findings to waive a Master Plan (Sections 22.44.040.A and B of the Marin County Code), as specified below.
- A. The retail commercial project is a minor project on a small portion of the greater Parish-Martin Group Tam Junction shopping center properties that are currently developed with a variety of commercial establishments.
  - B. The retail commercial project would have with 12,473 square feet of building and covered trellis areas that complies with the 15,000 square foot threshold in Table 4-2.
  - C. The project would be consistent with the Countywide Plan and the Tamalpais Area Community Plan as for the reasons stated in Sections IV and V above.
  - D. The project is being reviewed with Use Permit and Design Review procedures to fully address any potential impacts regarding drainage, erosion, grading, landscaping, and traffic.
  - E. No Transfer of Development Rights or non-clustered residential units are involved with the project.
  - F. The project would be located outside any pristine resource areas where important natural resources and hazards exist.
  - G. Public safety personnel and equipment can serve the project with driveway access to Shoreline Highway and Flamingo Road.

- H. The project would develop the only vacant parcels of the Parish-Martin Group's Tam Junction shopping center holdings, and would substantially exhaust the potential for residual development in the Tam Junction Shopping Center based on Countywide Plan and zoning district densities and floor area ratios.
- I. The project would be located on the property to avoid areas impacted by noise, hazardous materials, and flooding.
- J. The project would provide development that includes improvements for unconstrained on-site circulation and parking areas.
- K. The project would preserve significant views of the Coyote Creek shoreline as seen from off-site public and private viewing points with adequate setbacks from the creek and with the implementation of appropriate architectural forms, style, color, materials, and substantial ornamental landscaping.

VII. WHEREAS the Marin County Planning Commission finds that, in accordance with the conditions of approval, the Mandatory Findings for a Use Permit per Section 22.48.040 of the Marin County Code can be made for the following reasons:

- A. The commercial garden center is allowed as a conditional use within the governing RMPC-6, Residential/Commercial Multiple-family Planned zoning district.
- B. The proposed use is consistent with the Countywide Plan and the Tamalpais Area Community Plan for reasons discussed in Sections IV and V above.
- C. The proposed project qualifies for a Negative Declaration of Environmental Impact in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the County's CEQA process.
- D. The operating characteristics of the garden center are compatible with existing and future land uses in the vicinity because the garden center is located in a commercial district and is compatible with existing commercial and residential land uses in the vicinity
- E. The granting of the Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located because the garden center would be only modestly visible from off-site locations, will not require any native tree removal on the subject property, and will operate during normal working hours.

VIII. WHEREAS the Marin County Planning Commission finds that the proposed project, as modified by conditions of approval, is consistent with the mandatory findings to approve a Design Review (Section 22.42.060 of the Marin County Code), as specified below.

- A. The proposed driveway and vehicular circulation, parking, commercial building, and commercial grounds would adequately perform or satisfy their functional requirements without being unsightly or creating substantial disharmony with their locale and surroundings because they conform to the development standards of the RMPC-6 zoning district. The proposed driveway and vehicular circulation, parking, commercial building, and commercial grounds would be compatible with the commercial and residential character of the neighborhood because they are designed and located to minimize adverse visual impacts, be adequately screened from adjacent residential properties, minimize the total impermeable surface area of development, and would be compatible with the prevailing scale and character of commercial development in the neighborhood. The proposed drainage system would safely filter and convey surface runoff from the development site to an approved infiltration and storm drainage system. Finally, the proposed exterior building materials and colors for the building residences would be subdued, including wood siding painted grey, matt finish standing seam metal roof, and earth tone colored wooden trim.

- B. It will not impair, or interfere with, the development, use, or enjoyment of other property in the vicinity, or the orderly and pleasing development of the neighborhood as a whole, including public lands and rights-of-way. The project would result in the construction of a commercial building that maintains substantial property line setbacks, and substantially landscapes the remainder of the site.
  - C. It will not indirectly, or in a cumulative fashion, impair, inhibit, or limit further investment or improvements in the vicinity, on the same or other properties, including public lands and rights-of-way.
  - D. It will be properly and adequately landscaped with maximum retention of trees and other natural materials because trees on the property to be disturbed during construction are non-native and will be replaced at greater than a 12:1 ratio with predominately native plants. The project will conserve non-renewable energy and natural resources to the extent feasible.
  - E. The project will be in compliance with the design and location characteristics in Chapter 22.16 (Planned District Development Standards).
  - F. It will minimize or eliminate adverse physical or visual effects that might otherwise result from unplanned or inappropriate development, design, or juxtaposition, including the size and height of the structure, drainage, views, light, and privacy to adjoining residences.
  - G. The project design will include features to conserve energy and natural resources while maintaining the character of the community.
  - H. The design, location, size, and operating characteristics of the proposed use are consistent with the countywide Plan and the applicable zoning regulations as a retail garden center, are compatible with the existing and future land uses in the vicinity, and will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.
  - I. The design and location of the 95 square foot Armstrong Garden Center sign on the front of the 80-foot wide building facing Shoreline Highway would be 23 feet above grade illuminated with shielded floodlights. The findings for Sign Review in Section 22.28.070 of Marin County Code can be made for the additional height greater than 20 feet and for the 40 square foot limit for a tenant in a shopping center, because the sign would be in proper scale with the structure and use to overcome a visibility disadvantage more than 150 feet from Shoreline Highway. The sign would be compatible with other signs in the vicinity such as the Walgreen's sign.
- IX. WHEREAS the Marin County Planning Commission finds that the proposed project, as modified by conditions of approval, is consistent with the Affordable Housing Regulations and Inclusionary Requirements for Commercial Development (Section 22.22.095 of the Marin County Code).
- X. WHEREAS the Marin County Planning Commission finds that the bases for the Smith Appeal cannot be sustained and that the Deputy Zoning Administrator acted appropriately in approving the Parish-Martin/Armstrong Garden Centers Use Permit and Design Review based on the following factors:

Catherine Smith Bases of Appeal: *“The height of the building is inconsistent with the other buildings on the property which border the residences on Cardinal Road.”*

Response to Appeal:

The height of the new commercial building would not create substantial visual impacts on neighboring properties. The proposed commercial building would have a maximum height of 26.75 feet above finished grade that would be less height than the Walgreen's and Bell Market buildings at the Tam Junction shopping center that have roof elements with maximum heights of 30 feet above finished grade. The new building would result in a building that is more visible than the existing vacant property, but would be designed with 2:12 roof pitch for most of the building and a 4:12 roof pitch for the raised central portion the provides clerestory windows for day-lighting the interior sales room. The building would be substantially screened from off-site locations by proposed vegetation. As required by

the Deputy Zoning Administrator, 24-inch box Pacific Wax Myrtle trees would be planted ten feet on centers along the southwest side of the outside sales area fence to provide a privacy screen for the neighboring properties on Cardinal Road. The commercial building would have a 44.75-foot southwest side property line setback providing ample separation between the rear yard areas of the residences on Cardinal Road. The visual appearance of the building would be screened by trellis structures, plants for sale, and landscaping outside the sales area. In perspective, at the distance proposed, the building would appear lower from the adjacent properties than the greenhouse structure to be removed. Furthermore, the southwest corner of the commercial building would have adequate separation from the neighboring residences with an 88-foot separation from the Smith residence at 268 Cardinal Road. The 26.75-foot ridge would be 118 feet from the Smith residence without substantial visual impacts.

## **SECTION 2: CONDITIONS OF PROJECT APPROVAL**

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby denies the Smith Appeal and upholds the Deputy Zoning Administrator's approval of the Parish Martin Group/Armstrong Garden Centers Use Permit and Design Review subject to the following conditions:

### Marin County Community Development Agency-Planning Division

1. Pursuant to Marin County Code Chapters 20.48 and 22.42 the Deputy Zoning Administrator approves the Parish Martin Group/Armstrong Garden Centers Use Permit and Design Review to construct a commercial retail sales garden supply store. The facility includes a 6,400 square foot one-story building, 6,073 square feet of trellis shade structures adjacent to the building, gazebos, exterior lights for safety in the parking lot, and outdoor display gardens. The display gardens would have a concrete patio with wood plant display tables, and concrete walkways through gravel planting beds all surrounded by an 8-foot tall decorative wrought iron fence with 10-foot tall accent planters every 24 feet, painted dark green. The main sales building would have a maximum height of approximately 26 feet 9 inches above finished grade and 29 feet above existing grade. The building would be 50 feet from the top of creek bank and 28 feet 4 inches from the southeast property line along the creek. The building would be 156 feet from Shoreline Highway and 44 feet 9 inches from the southwest property line that borders residential properties on Cardinal Road. A landscaped buffer is proposed between the project area and the edge of Coyote Creek. The drainage ditch along the southwest property line would be enhanced to provide positive flow to the creek with 1.5:1 slope and 2:1 slope cut banks landscaped with native riparian plants (Alkali Heath and Common Pickleweed) and sixteen 24-inch box trees (Wax Myrtle). The project also includes planting of three 36-inch box Coast Live Oak trees and numerous native drought-tolerant trees, shrubs, and groundcovers around the site. A portion of the existing Sculpture Garden and 1,820 square foot greenhouse would be removed to accommodate expansion of the parking lot for an 11-foot setback from the southwest property line. The trellis shade structures adjacent to the building would have maximum heights of approximately 14 feet. The subject properties are identified as 217 Shoreline Highway, Mill Valley and Assessor's Parcels 052-051-27, 052-061-17, and -19.
2. EXCEPT AS MODIFIED HEREIN, subsequent development, use of, and permits for the subject properties shall be in substantial conformance with plans on file with the Marin County Community Development Agency, Planning Division identified as Exhibit A, "Armstrong Garden Centers," consisting of sheets prepared by TJS Architects, Inc., Kier & Wright Civil Engineers & Surveyors, Inc., and Robertson Engineering, Inc., and dated received February 26, 2004, and with Exhibit B, "Materials and Colors, and Exterior Lighting cut sheets".
3. The Parish Martin Group/Armstrong Garden Centers Use Permit approval permits the use of the subject properties as shown on Exhibit A for a retail garden supply business with permitted hours of operation from 8:00 A.M. to 7:00 P.M. daily. Deliveries shall be permitted between the hours of 9:00 A.M. to 4:00 P.M. daily and the delivery trucks shall comply with the Circulation Site Plan on Sheet A2-2 in Exhibit A. The permitted number of employees shall be six full-time and four part-time employees, with a maximum of seven employees on-site at any one time. The lights for the signs shall be turned off at 11:00 P.M. daily. Minor modifications to the hours of operation and the number of employees may be requested by the applicant subject to the Director's approval in consultation with Department of Public Works Traffic Division staff.



4. BEFORE ISSUANCE OF GRADING PERMIT OR BUILDING PERMITS, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Grading Permit and all Building Permit plans to print these Use Permit and Design Review conditions of approval as notes.
5. BEFORE ISSUANCE OF GRADING PERMIT OR BUILDING PERMITS, the applicant shall comply with the Affordable Housing Regulations in Chapter 22.22 of the Marin County Code as a commercial project with 12,473 square feet of retail space. Compliance with this regulation can be attained by one of the following two methods at the discretion of the applicant:
  - a. Provide one low-to-moderate income-level dwelling unit on site; or,
  - b. Pay the \$67,354 in-lieu participation fee.
6. BEFORE ISSUANCE OF GRADING PERMIT OR BUILDING PERMITS, the applicant shall revise the Landscape Plan and submit a copy to the Director for review and approval that indicates the addition of eight 24-inch box Pacific Wax Myrtle trees planted 10-foot on centers from the southern end of the parking lot to the area opposite the gazebo.
7. BEFORE ISSUANCE OF A GRADING PERMIT OR BUILDING PERMITS, the applicant shall mark of call-out the approved building setbacks on the Building Permit plans indicating the minimum distance from the Coyote Creek top of bank in compliance with the 50-foot Stream Conservation Area setback.
8. BEFORE ISSUANCE OF GRADING PERMIT OR BUILDING PERMITS, the applicant shall submit written evidence to the County from the U.S. Army Corps of Engineers of either a Section 404 Permit or a waiver of the permit requirement.
9. BEFORE ISSUANCE OF GRADING PERMIT OR A BUILDING PERMIT, the applicant shall submit written evidence to the County responding to the CalTrans requirements for abatement of illegal left turns at their driveway approach onto Shoreline Highway with consideration given to previous CalTrans approvals for the Walgreen's store.
10. BEFORE ISSUANCE OF GRADING PERMIT OR A BUILDING PERMIT, the applicant shall submit photographs to the Director for review and approval that indicate that temporary construction fencing has been installed along the Coyote Creek property line. The Community Development Agency will verify by periodic, routine, field inspections that the fencing is being maintained during construction.
11. BEFORE ISSUANCE OF GRADING PERMIT OR A BUILDING PERMIT, the applicant shall revise the landscaping plan to eliminate any exotic, invasive plant species. All proposed oak trees shall, to the greatest extent feasible, be propagated from acorns from native Marin County trees.
12. BEFORE ISSUANCE OF GRADING PERMITS OR BUILDING PERMIT, the applicant shall submit an erosion and sediment control plan that includes best management practices and addresses erosion control provisions during construction, as well as long-term permanent erosion control measure throughout the property. For example, the design of the drainage system shall meet standard civil engineering specifications in Marin County Code Sections 24.04.520 through 24.04.550, and Sections 24.04.620 through 24.04.627. These sections include Best Management Practices in accordance with the "Baseline Urban Runoff Control Plan for the Cities and County of Marin" and the "Manual of Standards for Erosion and Sediment Control Measures" of the Association of Bay Area Governments. Grading shall not occur in the rainy season from October 15 through April 15, unless an erosion and sediment control plan which implements best management practices is specifically approved before the onset of the rainy season by the Department of Public Works. The extent of limited grading authorized during the period between October 15 and April 15 shall be approved by the Department of Public Works. This plan shall be submitted to the Department of Public Works, Land Use and Water Resources Division for their review and approval (Mitigation Measures 1[a]-2 and 3[a]-1).
13. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit cut sheets to the Director for review and approval that indicate the design and lighting specifications for all exterior light fixtures. Exterior

lighting shall be permitted for safety purposes only. The light fixtures shall utilize low wattage bulbs that emit the minimum amount of lumens necessary for safety, and must be directed downward and hooded to prevent glare to neighboring properties. All lighting except the minimum deemed by the Planning Director to be necessary for security purposes, shall be turned off after 11:00 P.M.

14. BEFORE FOUNDATION INSPECTION, the applicant shall have a licensed land surveyor, or civil engineer with proper certification; conduct a survey of the building setback from the Coyote Creek top of bank to verify compliance with the 50-foot Stream Conservation Area. The survey shall be submitted to the Director for review and approval.
15. Prior to site disturbing activities the applicant shall designate a construction coordinator whose name and telephone number is posted at the construction site and who will respond to complaints and questions from area residents.
16. The applicant shall submit to the County Department of Public Works a construction equipment staging and routing plan prior to commencing construction.
17. The up-spotlights proposed for exterior illumination of the business signage shall be shielded from direct off-site illumination. The intensity of illumination may be adjusted at the discretion of the Planning Director. The lighting shall be equipped with an automatic timer and shall be turned off after 11:00 P.M.
18. Hours of site preparation and actual construction shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday, and 9:00 a.m. to 4:00 p.m. on Saturday. No site preparation or other construction activities shall be permitted on Sundays or federal holidays. The approved hours of construction must be noted on any subsequent development plans. At the applicant's request, the Director may administratively authorize minor modifications to these hours of construction.
19. During site preparation and actual construction, the applicant shall ensure that construction crews undertake a program of dust control, including but not limited to: routinely watering graded surfaces as needed to prevent dust blowing, covering and/or watering trucks carrying soil, and frequently cleaning of any soil carried by construction vehicle tires from the construction site.
20. All soils disturbed by development of the project shall be relandscaped per the landscape plan. At a minimum, all disturbed soils shall be reseeded with native grasses or wildflowers to control erosion.
21. The applicant shall be responsible for ensuring that all construction vehicles, equipment, and materials are stored on site and off the street so that pedestrians and vehicles can pass safely at all times.
22. The applicant shall be responsible for ensuring that the number of construction vehicles shall be limited to the minimum number necessary to complete the project.
23. All new utility connections and extensions serving new development shall be installed underground.
24. If archaeological resources are discovered during grading, trenching, or other construction activities, all work at the site shall stop immediately, and the project sponsor shall inform the Marin County Environmental Coordinator of the discovery. A registered archaeologist, chosen by the County and paid for by the project sponsor, shall assess the site and shall submit a written report to the Marin County Community Development Agency Director advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Director. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Director (Mitigation Measure 14[a]-1).
25. Any changes or additions to the project shall be submitted to the Community Development Agency, Planning Division for review and approval before the contemplated modifications may be initiated.

Department of Public Works-Land Use and Water Resources

26. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY, the applicant shall install a traffic signal at the intersection of Flamingo Road and Shoreline Highway (State Route One [SR-1]). Pursuant to Marin County Code Section 15.07.060, installation of the traffic signal shall be in-lieu of paying the applicant's Transportation Facilities Fees separately. The County shall enter into a reimbursement agreement with the applicant to recover those costs above the applicant's calculated Transportation Facilities Fee amount.
27. Upon completion of construction and prior to final inspection, a FEMA elevation certificate, prepared by a registered civil engineer, licensed architect, or licensed land surveyor, shall be submitted to the Department of Public Works.
28. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide the documents verifying the Reciprocal Easement agreement has been updated to include the garden center. Also documents shall be provided to verify the recordation of the following easements:
  - a. A parking easement to enable the Garden Center to utilize the existing parking spaces adjacent to the Video Droid store.
  - b. An access easement to use the open access area between Shoreline Hwy and the Video Retail Store to the proposed parking lot.
  - c. A Flood Control Access Easement dedicated to Marin County Flood Control District to maintain the pump station and Coyote Creek (The easement has been proposed but not finalized, contact Tracy Clay @499-6036 for status and questions).
29. BEFORE ISSUANCE OF A GRADING PERMIT OR A BUILDING PERMIT, the applicant shall submit or provide the following:
  - a. Plans for all handicap parking, loading areas and path of travel(s) shall meet State of California Title 24 accessibility standards.
  - b. A registered Civil engineer or Architect shall design the site/driveway retaining walls, drainage, and grading plans. Plans must have the engineer's signature and stamp.
  - c. In areas expected to subside, all new structures shall have foundations designed to accommodate raising and/or leveling of the structure.
  - d. If required for improvements or work within the Shoreline Highway right-of-way, submit a copy of the CalTrans encroachment permit prior to issuance of a Grading or Building Permit.
  - e. The plans must be reviewed and approved by a Registered Soils Engineer or a Registered Civil Engineer with soils expertise. Proof of the same may be by the engineer's stamp and signature on the plans or by letter.
  - f. Figures showing intersection and driveway counts shall be submitted as a supplement to the "Armstrong Garden Center, Traffic and Parking Study" dated May 2003.
  - g. Landscaping adjacent to pump station, future Flood Control Easement, and along levee shall not exceed 15 feet in height when mature. Paperbark trees shall not be planted along the drainage ditch. Use more typical native vegetation, such as: coyote bush, toyon, coffeeberry, wax myrtle, and salt water tolerant plants. Manzanita and ceanothus are good choices for ground cover. The applicant is hereby put on notice that portions of the landscaping, that is partially located in the County of Marin property, may be damaged by maintenance activities, and that the County is not responsible for replacing or repairing any damage to the landscaping that has been planted on County property.

- h. Include backdrain in keystone walls to allow gravel infiltration to drain.
  - i. Post Construction Surface Runoff Control measures shall be recorded against the deed (see Sheet C3).
30. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a Stormwater Pollution Prevention Plan that identifies best management practices and addresses erosion control provisions during construction, as well as long-term permanent erosion control mechanisms throughout the property. This plan shall be submitted to the Department of Public Works, Land Use and Water Resources Division for their review and approval.

Southern Marin Fire Protection District

- 31. Provide a U.L. listed key box as required by the Southern Marin Fire Protection District.
- 32. A fire sprinkler system is required in all new construction. Said system shall be verified as having been installed according to plans prior to Final Inspection.
- 33. The address shall be posted in accordance with requirements of the Uniform Fire Code.
- 34. Smoke detectors shall be installed in accordance with the Uniform Building Code.
- 35. A remotely located, second means of egress shall be provided for each floor above the first.
- 36. Non-combustible roofing is required in all new construction.
- 37. Provide for compliance with Public Resource Code 4291 relating to brush and weed clearance.
- 38. Provide an approved fire detection system in accordance with standards as established by the National Fire Protection Association; Said system must be connected to the headquarters of the Southern Marin Fire Protection district through an approved U.L. central monitoring station.
- 39. Final occupancy approval shall not be granted/released until authorization to the Community Development Agency has been received from the Fire District.

Marin Municipal Water District

- 40. Upon approval of the variance request, this property will be eligible for water service upon request and fulfillment of the requirements listed below.
  - a. Complete High Pressure Water Service Application.
  - b. Submit copies of the Building Permits.
  - c. Pay appropriate fees and charges.
  - d. Complete the structures' foundations within 120 days of the date of the Water Service Application.
  - e. Comply with the District's rules and regulations in effect at the time service is requested.
  - f. All landscape and irrigation plans must be designed in accordance with the District Landscape Ordinance 385. Before issuing a new irrigation water service, the applicant must receive District approval regarding the project's working drawings for planting and irrigation systems.

**SECTION 3: VESTING, PERMIT DURATION, AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Parish Martin Group/Armstrong Garden Centers Use Permit and Design Review by obtaining a Building Permit and substantially completing all of the approved work, before October 11, 2006, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above, and said extension is approved.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Parish Martin Group/Armstrong Garden Centers Use Permit shall be valid for twenty years and shall expire on October 11, 2024 unless the Use Permit is renewed. A Use Permit renewal application shall be submitted at least three months before the expiration date, or before July 1, 2024.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Board of Supervisors. A Petition for Appeal and a \$700.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, before 4:00 p.m. on October 21, 2004.

**SECTION 4: DECISION**

ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 11th day of October 2004, by the following vote to wit:

AYES:

NOES:

ABSENT:

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ALLAN BERLAND, CHAIRMAN  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Jessica Wood  
Planning Commission Recording Secretary