

MARIN COUNTY PLANNING COMMISSION HEARING MINUTES

October 11, 2004

Marin County Civic Center, Room #328 - San Rafael, California

Commissioners Present: Allan Berland, Chairman
Steve Thompson, Vice Chairman
Hank Barner
Don Dickenson
Randy Greenberg
Wade Holland
Jo Julin

Commissioners Absent: None

Staff Present: Alex Hinds, Director, Community Development Agency
Brian Crawford, Deputy Director of Planning Services
Tom Lai, Principal Planner
Megan Basinger, Planner
Neal Osborne, Planner
Eric Steger, Department of Public Works, Senior Engineer
Jessica Woods, Recording Secretary

Minutes Approved on: **October 25, 2004**

Convened at 1:00 p.m.
Adjourned at 6:00 p.m.

1. ROUTINE TRANSACTIONS

- a. Incorporate Staff Reports into Minutes

M/s, Holland/Julin, and passed unanimously, to incorporate the staff reports into the Minutes. Motion passed 7/0.

- b. Continuances – Aaron Braun requested a continuance of Item 6 to a date uncertain, which the Commission would discuss after 1:30 p.m.

- c. Approval of Minutes - September 27, 2004.

M/s, Holland/Julin, and passed unanimously, to approve the Minutes of September 27, 2004 as amended. Motion passed 7/0.

2. COMMUNICATIONS

The Commission acknowledged several pieces of correspondence for their review.

3. DIRECTOR'S ORAL REPORT

- a. Update on Board of Supervisors Actions

4. OPEN TIME FOR PUBLIC EXPRESSION (LIMITED TO THREE MINUTES PER SPEAKER)

William Cullen, representing, Tam Design Review Board, provided the Commission with material in regard to how the Planning staff determines the building height for their consideration. He further hoped the survey provided and their arguments would encourage the Commission and staff to revise the interpretation of what is considered “grade.”

Brian Crawford, Deputy Director, provided the Commission with examples of height measurements as well as building stepbacks in order for the Commission to understand how staff has interpreted the definition of grade. Staff also provided the Commission with a Tam Plan Height Measurement diagram for their consideration as well. Staff noted that they must revisit the definition of grade in the Development Code because the current definition would suggest that building height should be measured from the exterior grade of the building, but staff has been measuring the building height from natural or finished grade. Staff further noted that amendments would be brought forward for the Commission’s review and staff hopes to bring the revisions of the Development Code back for the Commission’s review before the end of the year.

5. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS

Update on Planning Commission Actions

October 25th

- Salwen Coastal Permit
- Sorokko Environmental Assessment
- Point Reyes Affordable Homes (EAH) Master Plan, Coastal Permit, LCP Amendment
- Daniels Design Review

November 15th

- Moritz Coastal Permit, Use Permit, Design Review
- Gobar Design Review
- Church of Nativity/Cingular Use Permit/Design Review Appeal
- Antonioli Lot Line Adjustment/Precise Development Plan

November 29th

- Development Code Technical Amendments
- Oakview Master Plan
- Proaps and Tong Design Review Clearances
- Canon Variance

December 6th - Possible meeting date

December 13th

- Single-Family Residential Design Guidelines
- Las Crumbres Master Plan/Tentative Map Land Division

Appeal of the Community Development Agency's conditional approval of the Moran Design Review proposing additions to a single-family residence in Kent Woodlands. The applicants have revised their proposal to address concerns that were identified at the July 26, 2004 Planning Commission hearing. The revised proposal includes the following: 1) replace the existing, 545 square foot attached garage/workshop/greenhouse with a bedroom suite that will not expand the existing footprint, 2) construct an approximately 174 square foot addition to the eastern side of the residence, and 3) construct a 792 square foot detached garage. The detached garage has been shifted 4 feet to the north, further from the top bank of the un-named ephemeral stream along the southwesterly rear property line. As modified, the residence will be increased in size from 2,218 square feet to 3,032 square feet, will attain a height of 18.5 feet above grade, and will maintain the following setbacks from the nearest corresponding property lines: 36 feet from the eastern side property line, 33 feet from the northern front property line, and 33 feet from the top bank of the stream. The 792 square foot, detached garage will attain a height of 19 feet above grade and will maintain the following setbacks to the nearest corresponding property lines: 37.5 feet from the northern front property line, 30 feet from the western side property line, and 25 feet from the top bank of the stream. The subject property is located at **21 N. Ridgewood Road, Kentfield**, and is further identified as **Assessor's Parcel 074-241-01**.

(This item was continued from the hearing of July 26, 2004.)

Megan Basinger, Planner, summarized the staff report and recommended that the Commission review the administrative record; conduct a public hearing; and move to adopt the attached resolution: 1) denying the Braun Appeal; and 2) granting conditional approval of the modified project.

Planner Basinger reiterated that staff received a letter from Aaron Braun requesting that the hearing be continued to a date uncertain. Staff recommends that the continued hearing be conducted today due to the fact that both parties, the appellant and the applicant, agreed to the date of the continuance at the July 26, 2004 hearing. Chairman Berland pointed out that Mr. Braun is in attendance, so the request for a continuance is moot.

Commissioner Holland objected to the word "*recommended*" on page 4 of the Resolution under Finding "E." Also, page 5 of the Resolution should read, "*Although the project would result in the construction of 506-square-foot of a 792-square-foot, detached structure within the 50 foot SCA for the un-named ephemeral stream.*"

The hearing was opened to the public.

Aaron Braun, appellant, noted that he received information last week and is still unclear as to why there has been such a delay in distributing materials. He explained that in the last 10 weeks neither the Moran's nor the KWPOA have contacted him to discuss what modifications had been made. He added that his original basis for the appeal is that there is construction within the SCA and given the existing condition of the landscape on the Moran's property that even with the enhanced landscaping proposed it is very difficult to figure out the true impact without a photo simulation. He further believed the decision rests in the Commission's hands and what is being proposed is a dramatic change.

Rick Moran, applicant, stated that Mr. and Mrs. Becker and the owners located at 314 Woodland reviewed the plans and are satisfied with the revisions. Also, the residents at 23 Acorn find the plans acceptable as well. He further pointed out that there were six comments that the Commission discussed at the last meeting, which had been addressed as described by staff. He then provided a color board for the Commission's review, which shows that the colors used would blend in with the natural environment.

Barry Evergettis, representing KWPOA, believed the improvements are very modest; they meet all the requirements; and they protect the privacy and seclusion of the neighborhood as well. They are very happy with the project and hoped the Commission would deny the appeal and approve the Moran Design Review project.

Pete Pedersen, landscape architect representing the Beckers, noted that he reviewed the landscape plan and the plan has satisfied their concerns, but preservation of the existing oak tree continues to be a concern.

Commissioner Barner asked Mr. Pedersen whether it is better to plant smaller trees or plant larger trees. Mr. Pedersen responded that larger generally is better to a point; the degree of shock varies for species. He noted that an Italian Alder is relatively an aggressive, fast growing, short-lived tree, whereas an oak tree is not a fast growing tree. He believed it depends on how it is executed during construction. He further stated that the intent is to screen properties from one another.

Commissioner Holland expressed concern for erosion problems on the Becker's side of the stream in the event of heavy rains this season. Mr. Pedersen responded that there is no exposed dirt and that the problem has been satisfied.

The public hearing was closed.

In response to Commissioner Barner's concern about 19 feet in regard to the garage height, Planner Basinger responded that a 15-foot height limit for an accessory structure is still applicable, but if not detrimental to other properties, staff could recommend the additional height. Staff explained that if it is a concern, the Commission could lower the height limit. Staff also pointed out that page 4 of the Resolution under Finding "E" indicated that it would not be detrimental to the neighboring properties as well as page 3 of the Resolution under Finding "A" indicated that the additional height would not result in incompatibility or disharmony. Commissioner Holland stated that his interpretation of 22.16 in the Development Code is that the appropriate finding would be that the additional height did not increase visibility. Planner Basinger concurred.

In response to Commissioner Barner's suggestion about adding language to the Resolution in regard to protection of existing trees, Planner Basinger agreed to add the standard condition of approval to the Resolution.

Commissioner Dickenson stated that the Deputy Zoning Administrator approved this house and this matter only was before the Commission because of Mr. Braun's appeal, and asked staff if the Commission had to grant the appeal in part, but then approve the house subject to the revised design. Deputy Director Crawford responded that it is a modified project from the one the Deputy Zoning Administrator initially approved, so staff did not believe the Commission had to deny in part and approve in part, but deny the appeal and approve the modified design review application as an action. Commissioner Dickenson expressed concern in that regard and recommended that staff investigate the matter in more detail.

Commissioner Dickenson indicated that he is very pleased with the revisions made as a result of this appeal and he would be prepared to support staff's recommendation, with an additional condition in regard to the oak tree to read, *"foundation, excavation and any pruning of the oak tree located between the house and new garage shall be done under the supervision of a certified arborist."*

Commissioner Holland concurred with Commissioner Dickenson's comments.

Commissioner Barner supported staff's recommendation and agreed to include Commission Dickenson's suggested language in regard to protecting the oak tree.

Chairman Berland supported staff's recommendation and appreciated the modifications made by the Morans. He also agreed with Commissioner Dickenson's suggested language for protecting the oak tree.

Chairman Berland asked for a motion.

M/s, Dickenson/Greenberg, that the Planning Commission deny the Braun appeal and grant conditional approval of the revised Moran Design Review subject to the findings and conditions in the staff report as well as an additional condition to state, “*construction plans shall be reviewed and foundation, excavation and any pruning of the oak tree located between the house and new garage would be done under the supervision of a certified arborist in regard to reviewing construction drawings, supervision of the work, excavation and any required pruning of the tree.*”

Deputy Director Crawford noted that staff had no objections to modifying the title of the Resolution to state, “*that it is a Resolution denying in part and upholding in part the Braun Appeal and granting conditional approval.*” Commission Dickenson believed that is more appropriate.

Commissioner Barner desired additional language in regard to fencing surrounding the tree during construction in order to protect the tree. Deputy Director Crawford agreed to craft a condition to read, “*that the construction drawings must be reviewed and then develop a list of protective measures incorporated into the design and the construction part of the project,*” which would spell out to the contractor and all parties involved what needs to be done and those could be part of the construction document with a follow-up report that they have been properly implemented. Commissioner Dickenson agreed to incorporate that suggestion into his motion.

Chairman Berland recommended adding a standard condition to page 8 of the Resolution under Finding “G” that the certification by the design engineer be under penalty of perjury. Commissioner Dickenson did not believe it is necessary, but would not object. Commissioner Greenberg agreed with the amendments.

The motion passed 7/0.

Chairman Berland announced at 2:49 p.m. that the Commission would take a short recess and then reconvene with the next agenda item.

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC 04-010

A RESOLUTION DENYING THE BRAUN APPEAL AND GRANTING
CONDITIONAL APPROVAL OF THE MORAN DESIGN REVIEW
21 N. RIDGEWOOD ROAD, KENTFIELD
ASSESSOR'S PARCEL 074-241-01

SECTION I: FINDINGS

- I. WHEREAS Richard and Karen Moran have requested Design Review approval to replace an existing attached garage and workshop/greenhouse on a single-family residential lot into a new 1,071 square foot master bedroom suite and construct a new detached, 822 square foot three-car garage and storage room. As modified by the CDA's administrative approval, the addition will result in an approximately 3,289 square foot residence with an 822 square foot detached garage and storage area that attains an approximate height of 19 feet above grade and maintains the following setbacks from the nearest corresponding property lines: 34 feet from the northern front property line, 27 feet from the eastern side property line, 36 feet from the western side property line, and 27 feet from the top of bank of the un-named ephemeral stream. The proposed garage will attain a height of 20 feet above grade and will maintain the following setbacks to the nearest corresponding property lines: 57 feet from the northern front property line, 36 from the western side property line, and 23 feet from the top of bank of the un-named ephemeral stream. The subject property is located at 21 N. Ridgewood Road, Kentfield and is further identified as Assessor's Parcel 074-241-01.

- II. WHEREAS on April 22, 2004, the Community Development Agency issued a conditional approval of the Moran Design Review granting authorization for the replacement of the existing garage with a master bedroom suite and the construction of a new, detached, 822 square foot accessory structure that includes garage and storage space and required the applicant to retain a qualified biologist to prepare a restoration and enhancement plan for the stream and to work with the Department of Public Works to improve the drainage culvert on N. Ridgewood Road to reduce and redirect water run-off.

- III. WHEREAS, a timely appeal of the Community Development Agency's approval of the Moran Design Review has been filed by Aaron Braun asserting the following issues: 1) the new construction and landscaping will result in visual impacts to the property located at 314 Woodland Road; 2) the project's encroachment into the Stream Conservation Area would create detrimental effects to the stream; and 3) the exterior color of the stucco and trim is inappropriate for the site.

- IV. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on July 26, 2004 and October 11, 2004, to consider the merits of the project and appeal, and hear testimony in favor of, and in opposition to, the project.

- V. WHEREAS Richard and Karen Moran submitted a modified proposal to address concerns that were identified at the July 26, 2004 Planning Commission hearing. The revised proposal includes the following: 1) replace the existing, 545 square foot attached garage/workshop/greenhouse with a bedroom suite that will not expand the existing footprint, 2) construct an approximately 174 square foot addition to the eastern side of the residence, and 3) construct a 792 square foot detached garage. The detached garage has been shifted 4 feet to the north, further from the top bank of the un-named ephemeral stream along the southwesterly rear property line. As modified, the residence will be increased in size from 2,218 square feet to 3,032 square

feet, will have a maximum height of 18.5 feet above grade, and will maintain the following setbacks: 36 feet from the eastern side property line, 33 feet from the northern front property line, and 33 feet from the top bank of the stream. The 792 square foot, detached garage will have a maximum height of 19 feet above grade and will maintain the following setbacks: 37.5 feet from the northern front property line, 30 feet from the western side property line, and 25 feet from the top bank of the stream.

- VI. WHEREAS the Marin County Planning Commission finds that this project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15301, Class 1 of the CEQA Guidelines because it entails conversion of the existing garage into living space and the construction of an accessory structure on a developed property that will not result in potentially significant impacts on the environment.
- VII. WHEREAS the Marin County Planning Commission finds that the proposed and modified project is consistent with the Marin Countywide Plan for the following reasons:
- A. The project would be consistent with the SF3 (Single-family Residential, one unit per one to five acres maximum density) land use designation;
 - B. The project would comply with Marin County standards for flood control, geotechnical engineering, and seismic safety, and include improvements to protect lives and property from hazard;
 - C. The project would comply with governing development standards related to roadway construction, parking, grading, drainage, flood control and utility improvements as verified by the Department of Public Works;
 - D. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services; and
 - E. The project would minimize soil disturbance and maximize retention of natural vegetation.
- VIII. WHEREAS the Marin County Planning Commission finds that the proposed and modified project is consistent with the following Countywide Plan and Kent Woodlands Land Use and Policy Report policies.
- A. The proposal is consistent with the stream conservation policies because moving the accessory structure out of the 50-foot SCA would place it on the steeply sloped northeastern portion of the property, where the slope ranges from 20% to over 50%, which could require extensive grading and retaining wall construction, and could potentially result in increased visibility of the structure from N. Ridgewood Road.
 - B. The size of the proposed residence is consistent with the existing character of the community. KWLUPR Policy CD 1.5 states that the size, height, and setbacks of all new or expanded residential development shall be carefully regulated to maintain the existing character of the community and to preserve the sun, light, air, and privacy of adjacent residences.
 - C. KWLUPR Policy CD 1.6 states that new development should be carefully sited and designed to avoid highly visible ridgeline areas and minimize interference with existing views on surrounding properties, oriented towards major visual resources.

IX. WHEREAS the Marin County Planning Commission finds that the proposed and modified project, is consistent with all of the mandatory findings to approve the Moran Design Review application (Section 22.42.060 of the Marin County Code) as specified below.

A. The proposed development will properly and adequately perform or satisfy its functional requirements without being unsightly or creating incompatibility/disharmony with its locale and surrounding neighborhood;

The improved residence will be sited 36 feet from the eastern side property line, 33 feet from the northern front property line, and 33 feet from the top of bank of the stream. The detached garage will maintain the following setbacks to the nearest corresponding property lines: 37.5 feet from the northern front property line, 30 feet from the western side property line, and 25 feet from the top bank of the stream. As proposed, the structure will conform with property development standards applicable to the RSP zoning district including principally-permitted structures, uses, and building height conditions. Although the accessory structure will exceed the 15 foot height limit, the additional height will not result in incompatibility or disharmony because it will be compatible with the site and other properties in the vicinity with respect to setbacks from property lines, bulk and massing of the structure and screening. It will also incorporate characteristics of architectural design, and exterior color, as required by the conditions of approval, and building materials that are compatible with the surrounding area.

B. The proposed development will not impair, or substantially interfere with the development, use, or enjoyment of other property in the vicinity, including, but not limited to, light, air, privacy and views, or the orderly development of the neighborhood as a whole, including public lands and rights-of-way;

The conversion of the existing garage into living space and the construction of a new accessory structure that will be used as a garage will not interfere with development in the vicinity because these improvements are compatible with land uses and structures that are located on nearby properties.

C. The proposed development will not directly, or cumulatively, impair, inhibit, or limit further investment or improvements in the vicinity, on the same or other properties, including public lands and rights-of-way;

The discussion contained in Finding IX A and B are supportive of this finding.

D. The proposed development will be properly and adequately landscaped with maximum retention or trees and other natural features and will conserve non-renewable energy and natural resources;

The improved residence and new accessory structure have been designed to be compatible with the site and to blend in with existing development on the hillside. To achieve this, the accessory structure has been sited in a location that is within 50 feet of the SCA for the un-named ephemeral stream. To address the concerns that were raised at the July 26, 2004 hearing, the applicant revised the plans for the residence and the detached garage to remove additions to the residence from the SCA, reduce the size of the garage by 30 square feet, and shift the detached garage 4 feet further from the top of stream bank. The landscape plan places vegetation, which includes 24-inch box sized trees, along the banks of the stream in order to improve its currently denuded state. A condition of approval also requires the applicant to work with the Department of Public Works to improve the drainage culvert on N. Ridgewood Road to reduce and redirect the run-off that currently flows into the un-named ephemeral stream.

E. The proposed development will comply with applicable design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards);

The residence has been designed to be compatible with the site in regards to siting, height, and building materials. While the accessory structure's height of 19 feet above grade does exceed the height limit of 15 feet, the additional height will not be detrimental to neighboring properties. As discussed in Finding IX A and B above, the proposal would not prevent the development, use, or enjoyment of other properties in the vicinity because no detriment with respect to light, air, privacy, height, and land use factors would result.

F. The proposed development will minimize or eliminate adverse physical or visual effects, which might otherwise result from unplanned or inappropriate development, design, or placement. Adverse effects include those produced by the design and location characteristics of the following:

1. The area, heights, mass, materials, and scale of the structures;

The improvements have been sited in a location that best meets the setback requirements for the stream conservation area and that allows the residence and detached accessory structure to maintain a low profile on the hillside by maintaining a maximum height of 18 feet above grade and 19.5 feet above grade respectively. The proposed materials of stained shingle siding and painted stucco for the retaining wall located on the northern elevation of the garage will have a natural appearance that will allow the residence and accessory structure to blend into the hillside.

2. Drainage systems and appurtenant structures;

The proposed drainage system have been reviewed and accepted by the Department of Public Works (DPW). A condition of approval requires the applicant to work with DPW to evaluate the existing culvert on N. Ridgewood Road and upgrade it if necessary. The potential upgrade will improve drainage flows and water quality in the un-named ephemeral stream.

3. Cut and fill or the reforming of the natural terrain, and appurtenant structures (e.g., retaining walls and bulkheads);

As proposed, the improvements have been sited on a natural plateau that will require minimal amounts of cut and fill on the property, which will be balanced at 17 cubic yards.

4. Areas, paths, and rights-of-way for the containment, movement or general circulation of animals, conveyances, persons, vehicles, and watercraft; and

The proposal will not interfere with existing pathways or rights-of-way for persons, animals, vehicles, or watercraft.

5. Will not result in the elimination of significant sun and light exposure, views, vistas, and privacy to adjacent properties.

The siting of the residence and accessory structure will not eliminate the sun and/or light exposure on adjacent properties, or result in the elimination of views, vistas, or privacy because it maintains a low-profile on the site and will finished in colors and materials that are compatible with the surrounding natural and built environment.

G. The project design includes features which foster energy and natural resource conservation while maintaining the character of the community.

The proposal does not include components that would necessitate the fostering of natural resource conservation. The project would be required to comply with Title 24 standards for energy efficiency, as well as the Marin County Construction and Demolition Ordinance, which requires that 50% of materials be either reused or recycled.

H. The design, location, size, and operating characteristics of the proposed use are consistent with the Countywide Plan and applicable zoning district regulations, 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.

The proposal to improve the existing single-family residence and construct a new accessory structure is consistent with the Marin Countywide Plan designation of SF3, single-family residential, one unit per one to five acres and with the governing RSP-1.0 zoning district. The structures have been designed to be compatible with the natural environment and will not be detrimental to the surrounding properties because of the siting of the detached accessory structure on the existing building pad and the use of colors and materials that blend into the environment.

X. WHEREAS the Marin County Planning Commission finds that the bases for the Braun appeal cannot be sustained and that the Community Development Agency acted appropriately in issuing the Moran Design Review due to the following factors:

There is a visual impact on the residence located at 314 Woodland Road, Kentfield (formerly the Braun property) due to the new construction and landscaping.

Response to Appeal:

The location of the residential addition and new accessory structure would not create a visual impact on the residence at 314 Woodland Road because the residence will be adequately screened from downhill locations by existing and proposed landscaping. The modified design lowers the height of the improved residence from 19 feet above grade to 18.5 feet above grade, lowers the height of the detached garage from 20 feet above grade to 19 feet above grade, reduces the amount of additional floor area by 257 square feet, and shifts the detached garage 4 feet farther from the SCA and toward the front property line. The reductions to the residence, combined with the detailed landscape plan, that includes 24 inch box sized trees, shrubs and groundcovers along the banks of the un-named ephemeral stream, will eliminate any visual impacts that the residence may have on the residence located at 314 Woodland Road. Finally, the project would maintain a building setback of approximately 130 feet to the residence at 314 Woodland Road.

The construction within the Stream Conservation Area of the un-named ephemeral stream would be detrimental to the stream

Response to Appeal:

Although the project would result in the construction of a 506 square foot portion of a 792 square foot, detached accessory structure within the 50 foot SCA for the un-named ephemeral stream, review of the constraints on the property determined that the proposed placement of the structure with a reduced size would meet the intent of the SCA policies, which state that development may be located within the SCA if a location outside of the SCA would have a greater impact on water quality. The modified design removes approximately 768 square feet of development from the SCA and shifts the detached garage 4 feet further

from the top of the stream bank. The detailed landscape plan that has been submitted incorporates vegetation that will enhance the stream, which is presently denuded of vegetation. While the appellant has raised concerns relative to the addition's impact to the stream, he has not provided substantial evidence that supports the basis that the construction would be detrimental to the stream.

The colors of the residence are not appropriate for the setting.

Response to Appeal:

The approved colors and materials for the residence consist of a "fieldstone" stain for the shingled body of the residence and a "cream" colored stucco for the retaining wall on the northern elevation of the accessory structure, which staff determined would blend into the surrounding natural and built environment. At the July 26, 2004 hearing, the cream-colored stucco and white trim were discussed relevant to their visual impacts. A modification to the approved colors and materials will require a dark trim and stucco color. The conditions of approval will require the applicant to submit a color sample of the trim and stucco prior to issuance of a building permit.

SECTION II: PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby denies the Braun appeal and grants conditional approval of the Moran Design Review subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. Pursuant to Marin County Code Chapter 22.42, the Moran Design Review is approved to convert the existing, 545 square foot garage into a bedroom suite, to construct a 174 square foot addition to the eastern side of the residence, and to construct a new detached, 792 square foot three-car garage. The addition to the residence will result in an approximately 3,032 square foot residence and a 792 square foot detached garage. The residence is approved to attain an approximate height of 18.5 feet above grade and to maintain the following setbacks from the nearest corresponding property lines: 36 feet from the eastern side property line, 33 feet from the northern front property line, and 20 feet from the top of stream bank. The detached garage is approved to attain a height of 19 feet above grade and maintain the following setbacks from the nearest corresponding property lines: 37.5 feet from the northern front property line, 30 feet from the western side property line, and 25 feet from the top of stream bank. The subject property is located at 21 N. Ridgewood Road, Kentfield and is further identified as Assessor's Parcel 074-241-01.
2. Plans submitted for a building permit shall substantially conform to plans on file in the Community Development Agency-Planning Division and identified as "Exhibit A," entitled "Moran Residence" consisting of: 1) four sheets prepared by Babcock Design Studios, dated September 13, 2004; and 2) one sheet prepared by Quadriga Landscape Architects and Planning, Inc. dated September 20, 2004.
3. Exterior building colors and materials shall be in substantial conformance with the following colors and materials: (1) fiber-cement slate roofing; and (2) "fieldstone" stained shingle exterior; as depicted on "Exhibit B." All flashing, metal work, and trim shall be painted or coated with an appropriately subdued, nonreflective color. Deviations from the approved colors and materials shall be submitted for review and approval by the Community Development Director.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall fulfill the following requirements:

- a. The applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Design Review Conditions of Approval as noted.
 - b. The applicant shall revise the plans to depict the location and type of all exterior lighting for review and approval of the Community Development Director. Exterior lighting shall be permitted for safety purposes only, must consist of low-wattage fixtures, and must be directed downward and hooded. Cut sheets or details of all exterior lighting fixtures shall be included in the building permit plans.
 - c. The applicant shall coordinate with the Department of Public Works – Land Use and Water Resources to evaluate the existing culvert located on N. Ridgewood Road. Should the culvert need to be upgraded, the applicant shall submit the plan to the Department of Public Works guidance for review and approval.
 - d. The applicant shall submit revised trim and stucco colors of a dark, earth tone. The shingle siding shall comply with the applicable fire rating standards as determined by the Kentfield Fire Protection District.
 - e. The applicant shall submit a letter report from a certified arborist or landscape architect reflecting the results of review of the construction drawings for potential impacts to the existing oak tree located between the residence and new garage, as well as recommended measures intended to protect the tree during construction activities and achieve the normal life-span of the tree following completion of the project.
5. Construction activity is only permitted between the hours of 7:30 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. and 4:00 p.m. on Saturday. No construction activity shall be permitted Sunday or Holidays. At the applicant's request, the Director may administratively authorize minor modifications to these hours of construction.
 6. During construction, the applicant shall take all appropriate measures, including watering of disturbed areas and covering the beds of trucks hauling fill to or spoils from the site, to prevent dust from grading and fill activity from depositing on surrounding properties.
 7. It shall be the responsibility of the applicant to store all construction materials and equipment at the site (or secured at an approved off-site location) in such a manner as to permit safe passage for vehicular traffic at all times. Every effort shall be made by the holder of the building permit to strictly limit the number of vehicles used to transport workers and materials to the site to the minimum number necessary.
 8. BEFORE FINAL INSPECITON, the applicant shall install the landscaping required by the stream restoration and enhancement plan. The applicant shall call for a Community Development Agency staff inspection of the landscaping and irrigation at least five working days before the anticipated completion of the project. The applicant shall also submit a follow-up letter report from the project arborist or landscape architect sufficiently describing the extent to which the recommended tree protection and preservation measures have been successfully implemented. Any remediation measures recommended by the project arborist or landscape architect shall also be included in the follow-up report. Failure to pass inspection will result in withholding of the occupancy certificate and imposition of hourly fees for subsequent reinspections. Any remediation measures required by the Community Development Agency for the long-term preservation of the tree shall be implemented prior to final inspection and occupancy.
 9. PRIOR TO FINAL INSPECITON, the applicant shall enter into a Maintenance Agreement with the County for a three-year period to ensure that the vegetation installed along the banks of the un-named ephemeral stream can be sustained in a healthy condition during the life of the project.
 10. Any changes or additions to the project shall be submitted to the Community Development Agency for review and approval before the contemplated modifications may be initiated.

DEPARTMENT OF PUBLIC WORKS – LAND USE AND WATER RESOURCES

11. PRIOR TO ISSUANCE OF A BUILDING PERMIT, the applicant shall fulfill the following requirements:
- a. Provide a soils report prepared by a registered Geotechnical Engineer.
 - b. The plans shall be reviewed and approved by a registered Geotechnical Engineer.
 - c. A registered Civil Engineer shall design the site/driveway retaining walls, drainage, and grading plans. Plans must have the engineer's signature and stamp.
 - d. A separate Building Permit is required for site/driveway retaining walls with a height more than 4 feet (or three feet when backfill area is sloped or has a surcharge).
 - e. Submit an Erosion and Siltation Control Plan if grading or site disturbance is to occur between October 15th and April 15th.
 - f. Provide a drainage plan for the project.
 - g. Note on the plans that the Design Engineer shall certify to the County in writing (include signature and stamp) that all grading, drainage work, and retaining wall excavation and construction was done in accordance with plans and field directions. The Design Engineer shall sign this written certification under penalty of perjury. Describe all field changes. Also note on the plans that prior to final inspection, the driveway, parking, frontage, and site improvements shall be inspected by a Department of Public Works engineer.

Marin Municipal Water District

12. All landscape and irrigation plans must be designed in accordance with the most current District landscape requirements (Ordinance #385). Prior to providing water service for new landscape areas, or improved or modified landscaped areas, the District must review and approved the project's working drawings for planting and irrigation systems.

Ross Valley Sanitary District

13. If not already installed, the District requires that the side sewer be equipped with an appropriate backwater prevention device (e.g. Contra Costa valve, as warranted by the individual site conditions).
14. After the project is approved, the owner or contractor should contact the District to arrange for a District Inspector to approve the existing installation (or approve the plans for the proposed installation) of the backwater prevention device(s) and to make a record for the District's files.

SECTION III: VESTING OF RIGHTS

The applicant must vest this Design Review approval by securing a Building Permit for all of the approved work and substantially completing all approved work by October 11, 2006, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date above and the Director

approves it. Design Review extensions to a total of not more than four (4) years may be granted for cause pursuant to Marin County Code Section 22.56.050.

SECTION IV: APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Board of Supervisors. A Petition for Appeal and a \$675.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than **4:00 p.m.** on **October 21, 2004.**

SECTION V: VOTE

PASSED AND 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: Berland, Thompson, Barner, Dickenson, Greenberg, Holland, Julin

NOES:

ABSENT:

ALLAN BERLAND, CHAIRMAN
MARIN COUNTY PLANNING COMMISSION

Attest:

Jessica Woods
Recording Secretary

- 7A. DRAFT NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT: PARISH-MARTIN GROUP/ARMSTRONG GARDEN CENTER
- 7B. USE PERMIT AND DESIGN REVIEW APPEAL: PARISH-MARTIN GROUP/ARMSTRONG GARDEN CENTER (CATHERINE SMITH) NEO

Appeal of the Deputy Zoning Administrator's conditional approval of the Parish-Martin Group/Armstrong Garden Center application proposing 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 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 Pacific Wax Myrtle trees 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. The basis of the appeal is: "The height of the building is inconsistent with the other buildings on the property which border the residences on Cardinal Road." The subject property is located at **217 Shoreline Highway, Mill Valley (Tamalpais Junction)**, and is further identified as **Assessor's Parcels 052-051-27, 052-061-17 and -19**.

Neal Osborne, Planner, summarized the staff report and recommended that the Commission review the administrative record; conduct a public hearing; and adopt the attached resolution granting a 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 with conditions.

In response to Commissioner Dickenson's question about what is permitted and proposed in regard to the FAR, Planner Osborne responded that the Tam Plan has a 40% FAR standard and the project is 12% FAR, so it is considerably less than what would be permitted.

Commissioner Dickenson commented on Condition 26 regarding the requirement to install a traffic signal at Flamingo and Shoreline and asked staff the cost of the traffic signal and how much of that initial cost would be reimbursed by other development in the area. Eric Steger, Public Works, responded that he did not have that information, but noted that there are already some funds in the account for the signal project.

In response to Commissioner Julin's question regarding the ditch, Public Works Director Steger responded that the existing ditch would remain open.

In response to Commissioner Julin's question about whether the fill is clean, Planner Osborne responded that there is an assortment of fill used as outlined in the engineer's report provided to the Commission for their review.

In response to Commissioner Julin's question about what percentage of the 2.1-acre lot would be covered by impervious surfaces, Public Works Director Steger responded that the parking area would be paved and the areas between the raised planter boxes are all concrete as well.

In response to Commissioner Holland's concern for the ditch, Planner Osborne responded that the entire ditch would be reconstructed, which would be an open ditch, re-landscaped with native plants.

In response to Commissioner Holland's question about why staff would regulate the number of employees, Planner Osborne responded that it is a traffic mitigation issue.

In response to Commissioner Holland's question about the row of eight wax myrtle trees in regard to Attachment 2 of the Resolution on page 5, Planner Osborne responded that the row of eight wax myrtle trees was an additional condition of approval to provide screening. Tom Lai, Principal Planner, pointed out that the eight additional wax myrtle trees would be located between the parking lot and the area near the gazebo.

The hearing was opened to the public.

Catherine Smith, appellant, provided the Commission with material outlining her concerns that included a summary of requests as follows:

1. Reduce the height of the building to 20 feet or move the building to border Shoreline Highway.
2. Story poles should be adjusted to reflect the true size of the project (building and exterior trellis) and public comments considered again at the next Planning Commission meeting.
3. Landscaping between the building and residences should be changed to be a hedge, which is maintained by Armstrong at a height of 6-8 feet.
4. No PA system should be allowed in the outside sales areas.
5. Staff should not be allowed to work in the outdoor sales areas except during business hours of 1 hour before opening and 1 hour after closing.
6. Exterior lighting must be turned off by 9:00 p.m. at night.

Joseph Amaral, director of real estate/applicant, explained that over the years they have met with several Committees, Gateway Coalition, Tam Valley Community Center, neighbors and Board to design this building. He explained that they reduced the height, moved the building away from the neighbors and provided screening in order to address the neighbors' concerns and they desired a resolution in regard to this matter. He then discussed the traffic signal and noted that their cost of the traffic signal is \$86,000 and they affect one corner, which is one half of one percent and they are not only providing their fair share of the funds into the traffic signal, but managing and building the traffic signal saving the County thousands of dollars.

In response to Commissioner Julin's question regarding the content of the existing fill, Mr. Amaral responded that the existing material of the site is fill with some contaminated, but they would re-excavate the site and create a positive flow for the entire drainage ditch. He also pointed out that they provided a soils report to staff, which is included in the record for their review. He further noted that they have 39 stores in Southern California as well as one store in Novato and one store in Dublin.

Ted Stelzner, TJS Architects, representing Armstrong Garden Centers, discussed drainage and noted that the U.S. Army Corps of Engineers determined that portions of the drainage ditch are jurisdictional wetlands, but at the same time the Planning Department and the Engineering Department required that they provide a positive flow, so there is no longer any standing water. During construction, their biologist would be on site during grading operations to ensure that only the minimum amount of work to achieve positive flow is accomplished and the landscape plan shows native and riparian vegetation being planted in the areas that are disturbed. Also, the water flowing into the ditch is from the residences and the rest of the site from the ditch to Shoreline Highway slopes toward Shoreline Highway, so none of the water from their site would flow into that ditch. He then discussed impervious surfaces and noted that about 50% of the ground is concrete and the other 50% of the ground is gravel beds and about every other one of those gravel beds has a storm drain system. He also pointed out that the stormwater runoff that did not percolate into the ground through the gravel beds and would flow into the storm drain systems that have filters. He added that the parking lot slopes in a manner where water collects, so an impervious pavement was provided in that area. In addition, under the impervious pavement they provided French drains as well. He stated that MMWD agreed to bring the water lines from one of two different locations, which he pointed out on the architectural drawing for the Commission's consideration. He discussed the PA system and explained that Armstrong uses the PA system for background music, and if so desired by the Commission that could be removed. He also commented on the wax myrtle trees and stated that as a condition of approval they were asked to add eight additional trees from the location of the gazebo to the building, so now there would be 32 trees that reach a maximum height of 25 feet. In speaking with the adjacent neighbors some desired the trees to be trimmed 6-8 feet and some desired a solid sheet

metal barrier to block the view until the trees mature. He further noted that they have tried to mitigate Ms. Smith's concerns as well as other neighbors, which are provided in the staff report for the Commission's review.

In response to Commissioner Greenberg's question about what area would be excavated and to what depth, Mr. Stelzner responded that there is bay mud and on top of the bay mud it's been filled with 7 to 12 feet of fill dirt, so that would be cleaned away. He indicated that the building is a lightweight building built on a slab that is surrounded by concrete, so it would be a uniformed settlement. Due to the requirements of the Flood Control District, the finish floor must be raised by two feet, so there would be import rather than excavation.

Commissioner Greenberg clarified that the grade would be increased by 2 feet, 8 inches. Mr. Stelzner responded in the affirmative, which is reflected in the story poles.

In response to Commissioner Greenberg's question about how close the trellis is to the nearest residence, Mr. Stelzner responded that it is 12 feet to the nearest residence. Commissioner Greenberg pointed out that the house is three feet lower with a visual impact of 15 feet.

In response to Commissioner Dickenson's question as to whether the roof slope over the clere story could be 2:12, Mr. Stelzner responded that he reviewed that alternative, but it was not attractive and would reduce the area available for signage and that is not desired.

Commissioner Barner believed there is still an issue with landscaping because the wax myrtle trees may cause problems and not visually screen the area as intended. He pointed out that he visited the Novato nursery and they have a combination of shrubs and trees that screen the area very well. Mr. Stelzner responded that Armstrong would be willing to combine shrubs and trees and believed there is flexibility in the landscaping, but the only concern is with the U.S. Army Corps of Engineers.

Commissioner Julin clarified that the elevation for the main building would be 9 feet, 8 inches and the roof drainage for the building would not flow over the surface. Mr. Stelzner responded in the affirmative.

Commissioner Julin asked if his client is comfortable with the nighttime lighting being turned off at 9:00 p.m. Mr. Stelzner responded in the affirmative. He also noted that certain lights must remain in regard to security purposes.

In response to Commissioner Barner's question about the hours of operation, Mr. Stelzner responded that it would depend on the time of year and it is designed to open after the morning traffic and close before the evening traffic. Commissioner Barner asked if the operation could function between 9:00 a.m. to 6:00 p.m. Mr. Stelzner responded that 50% of the business is done during the weekend and during the hours of 10:00 a.m. to 2:00 p.m.

In response to Chairman Berland's concern about the open ditch in regard to safety concerns, Mr. Stelzner responded that there would be a fence to keep individuals out.

William Cullen, representing Tam Design Review Board, believed this is a gateway to West Marin and they treated this application as such and was well received by their Board as being the most acceptable project for this site. He added that a great portion of the building would be screened and Armstrong has been very cooperative by working with the TDRB and addressing their concerns. Also, the entire Board was pleased after viewing the story poles and noted their support for this project. He further noted that they rejected a two and twelve roof due to an unattractive appearance and urged the Commission to uphold the Deputy Zoning Administrator's decision.

Margaret Zegart, Mill Valley resident, provided the Commission with material outlining her comments and suggestions for their review. She also desired a darker green color in order to better blend in with the surroundings.

Joe Martini, Mill Valley resident, agreed with the points made by his neighbors from 266 and 268 Cardinal Road. Also, he objected to the proposed height of the building and to the proposed location of any high structure surrounding the proposed Armstrong building. He then provided photographs from 264 Cardinal Road and 268 Cardinal Road for the Commission's review. He further requested that the Commission require written assurance on the following:

1. The historical bike and pedestrian access from the back gates on Cardinal Road along the drainage ditch to Coyote Creek and connecting with the Mill Valley-Sausalito multi-use path will not be affected by this project; and
2. There will be no use of pesticides or herbicides on any outdoor plants on the site, including both permanent project vegetation and plants for sale.

Ed Madison, Mill Valley resident, provided the Commission with a Polaroid picture of the subject area for their review that showed that the site had been filled tremendously over the years and requested that the fill be removed in order to get back to the original grade of the lot.

Martin Unversaw, Mill Valley resident, member Gateway Coalition, provided photographs to the Commission depicting the early story poles on the site. He stated that the project was approved before story poles were erected and there are several concerns in that regard. He believed some unique concessions and design consideration should be made to this lot. He added that he did not object to this project, but desired Armstrong to be more tailored to the lot. He noted that the real traffic problem is by Video Droid rather than where the signal is proposed. He further desired the story poles to reflect the height and he hoped that they would reconsider the roof pitch.

The public hearing was closed.

Commissioner Thompson announced that he owns a small interest in a business adjacent to this project, which, in his view, would not affect his judgment on the matter before the Commission.

Commissioner Holland believed this project was reviewed at an extraordinary level and he was very impressed with the Deputy Zoning Administrator's hearing and it is hard to imagine that a project with somewhat limited scope received such incredible review and modification. He further added that he is prepared to reject the appeal and uphold the Deputy Zoning Administrator's decision.

Commissioner Julin cannot support staff's recommendation and agreed completely with the appellant in regard to the height and privacy issues. She stated that the argument has been made about the height of this building being relative to Walgreen's and Bertoli's Market and, in her view, the Armstrong building did not have a relationship with those structures, but would have a relationship to the single-family homes behind it, Coyote Creek and the character of the community. She felt the character of the community could be retained with a lower building and she further desired the relationship of the neighborhood to be preserved.

Commissioner Dickenson agreed with Commissioner Holland's comments. He believed this is an appropriate use of this site that has gone through a tremendous amount of refinements. He felt the design could be tweaked somewhat, but did not feel the design is unreasonable from any standpoint. He noted that it is a nursery and it would be surrounded by plant material. He did not believe there is any reason to require a redesign of the project and recommended denying the appeal and upholding the decision of the Deputy Zoning Administrator.

Commissioner Thompson felt the use is an appropriate use for this area and believed this project would have a gentle impact on the community. He agreed with Mr. Cullen that this is a building with real character. Also, he agreed that the green color of the roof must be discussed in more detail. He also had no objection with the hours of operation, but hoped the lighting would be turned off at a reasonable time.

Commissioner Greenberg agreed that this is a good use for this site, but expressed concern for the height of the building. She believed this is an opportunity to design a rural barn like structure. She pointed out that this is a critical corner next to immediate rural aspects of the community and the roof color must be dulled out enormously. She recommended a different building, lowered in height that would appear natural looking. Also, this building is clearly identified with the neighborhood and the impression of height is greater and significant as well as very negative to the neighborhood. She agreed to a sound system in the interior, but not exterior music. She also agreed with the idea of having no pesticides and herbicides being used and recommended adding that as a condition of approval. Also, the hours for light should be minimized and the hours of operation should be reviewed. She expressed concern for the height of the wax myrtle trees because they grow to 25 feet and a condition of approval should be added to maintain the trees to an agreed upon height. She desired samples of the material used for the sign as well as samples of the roof color. She further felt it would

behoove the Planning Commission to design projects according to the General Plan in terms of Tam Junction being the gateway to West Marin.

Commissioner Barner agreed that this is one of the best uses of the site, but expressed concern for the staff report because it did not identify this building as a transitional building in regard to the neighboring homes. He felt they must make provisions to provide transition. He believed they must review mitigations in order to address the concerns of the neighborhood. He recommended continuing this matter to closely identify the real problems in order to establish mitigations. He encouraged the Commission to visit the Center in Novato in order to better understand the project. He further agreed that the hours of operation must be discussed in more detail.

Chairman Berland agreed that Tam Junction is a very important place in Marin County and it is the gateway to West Marin. He believed this project fits the character of the valley very well and believed the applicant has done his best to satisfy the concerns of the neighbors. He agreed that the green color should blend in more with the existing surroundings. He noted that he fully supports this project that has been very well designed and he believed it would be an asset to the entire area. He further agreed to deny the appeal and uphold the Deputy Zoning Administrator's decision.

Chairman Berland asked for a motion.

M/s, Dickenson/Holland, that the Planning Commission grant a Negative Declaration of Environmental Impact for the Parish Martin Group/Armstrong Garden Centers Use Permit and Design Review as described in the staff report. The motion passed 5:2 (Commissioner Barner and Commissioner Julin opposed).

M/s, Dickenson/Holland, that the Planning Commission deny the Smith Appeal and uphold the Deputy Zoning Administrator's approval of the Parish Martin Group/Armstrong Garden Centers Use Permit and Design Review subject to the findings and conditions in the Resolution. In addition, specifying that the roof color be a darker, forest green color to be approved by staff; that the lighting be limited; all except security lighting be turned off at 9:00 p.m.; that there be no music outside the building; and a maximum of 10 full and/or part-time employees.

Commissioner Greenberg recommended a condition of approval stating that no pesticides or herbicides would be used.

Mr. Stelzner responded that the plants sold did not receive pesticides or herbicides, but the plants that grow on the grounds would receive fertilizers and pesticides, but not more than any other residential neighborhood.

Alex Hinds, Agency Director, suggested requiring the applicant to utilize IPM practices emphasizing organic fertilizations and pest control. Commissioner Dickenson and Commissioner Holland agreed with staff's suggestion.

Commissioner Barner recommended adding a condition that evasive species would not be sold. Chairman Berland did not believe it would be fair to get into such detail. Mr. Stelzner agreed to review the matter. Agency Director Hinds recommended adding a finding that the applicant agreed to work with the Native Plant Society, staff and others concerned with the spread of evasive species and prepare a policy and report back on their policies for discouraging the spread of evasive species. Commissioner Dickenson disagreed with the suggestion to add that as a condition.

Commissioner Greenberg expressed concern for delivery hours and recommended regulating the hours for delivery. Planner Osborne responded that deliveries are limited from 9:00 a.m. to 4:00 p.m. as indicated in the staff report.

Commissioner Julin opposed the motion because she cannot make Finding VIII in regard to Items "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, "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) and "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).

Commissioner Barner corrected page 3 of the Resolution under Finding VIII under Item "A" by deleting the word "residences" to the last sentence to read, "*Finally, the proposed exterior building materials and colors for the building would be subdued.*" The Commission and staff agreed.

The motion passed 4:3 (Commissioner Barner, Commissioner Greenberg and Commissioner Julin opposed).

Chairman Berland adjourned the Planning Commission meeting at 6:00 p.m.

MARIN COUNTY PLANNING COMMISSION

RESOLUTION PC 04-011

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

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.

IV. 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: Berland, Thompson, Dickenson, Holland

NOES: Barner, Greenberg, Julin

ABSENT:

ALLAN BERLAND, CHAIRMAN
MARIN COUNTY PLANNING COMMISSION

Attest:

Jessica Woods
Recording Secretary

MARIN COUNTY PLANNING COMMISSION

RESOLUTION PC 04-012

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

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 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 build out) 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 would be subdued, including wood siding painted gray, matte 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 ten full-time or part-time employees, with a maximum of seven employees on-site at any one time. The lights for the signs shall be turned off no later than 9:00 P.M. daily. No music shall be played outside the building. 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:
 - a. Submit for approval by the Community Development Agency a revised color sample for the roof of the building for review and administrative approval; and
 - b. 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 at 9:00 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 no later than 9:00 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 back drain 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: Berland, Thompson, Dickenson, Holland

NOES: Barner, Greenberg, Julin

ABSENT:

ALLAN BERLAND, CHAIRMAN
MARIN COUNTY PLANNING COMMISSION

Attest:

Jessica Woods
Recording Secretary