

RESOLUTION NUMBER R-290775

ADOPTED ON SEPTEMBER 29, 1998

WHEREAS, Michael Turk, an individual and on behalf of the homeowners of the Brisas Del Mar residential development, appealed the decision of the Planning Commission in approving Coastal Development Permit/Hillside Review [CDP/HR] Permit No. 96-7719 submitted by P and G Company, Owner/Permittee, for the construction of the Armstrong Garden Center, located at 2840 Via de la Valle (legally described as Lot 5, Map No. 8646, and Lot 2, Map No. 6737), in the Via de la Villa Community Plan area, in the CA Zone; and

WHEREAS, the matter was set for public hearing on September 29, 1998, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to CDP/HR Permit No. 96-7719:

COASTAL DEVELOPMENT PERMIT FINDINGS:

A. The proposed development will not encroach upon any existing physical accessway legally utilized by the public or any proposed public accessway identified in an adopted LCP Land Use Plan; nor will it obstruct views to and along the ocean and other scenic coastal areas from public vantage points.

The Armstrong Garden Center project is situated inland more than one mile from the ocean within an existing approved commercial center, and is not located on or adjacent to any existing public accessway, nor is it adjacent to any view corridors identified in the adopted Local Coastal Program Land Use Plan. Therefore, the proposed project will not encroach upon any physical accessway utilized by the public, and will not obstruct views to and along the ocean or any other scenic coastal areas from public vantage points.

B. The proposed development will not adversely affect marine resources, environmentally sensitive areas, or archaeological or paleontological resources.

The proposed development will not adversely affect marine resources or archeological or paleontological resources. A biological reconnaissance of the site determined that the proposed project would impact 0.1 acres of coastal sage scrub, of which 0.07 acres is located in an open space easement. No individually sensitive species were reported for the area to be impacted. Biological mitigation required as a condition of this project will reduce adverse impacts to biological resources to below a level of significance. Encroachment into the sensitive slope areas adjacent to the project will be mitigated through the payment of fees into the City's Resource Protection Habitat Acquisition Fund. A cultural resource reconnaissance of the site found no cultural resources on site or adjacent to the site.

C. The proposed development will comply with the requirements related to biologically sensitive lands and significant prehistoric and historic resources as set forth in the Resource Protection Ordinance (San Diego Municipal Code section 101.0462), unless by the terms of the Resource Protection Ordinance, it is exempted therefrom.

Pursuant to the terms of the Resource Protection Ordinance, this project, located in the Coastal Zone, is exempt from San Diego Municipal Code section 101.0462.

D. The proposed development will not adversely affect recreational or visitor-serving facilities or coastal scenic resources.

The Armstrong Garden Center project is located within a previously graded and existing commercial center complex, and contains no recreational or visitor serving facilities or coastal scenic resources. Therefore, the proposed development will not adversely affect recreational, visitor-serving facilities or coastal scenic resources.

E. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources.

The project is not located on or near environmentally sensitive recreation areas, scenic resources, or adjacent parks. Potential impacts to the open space slope areas have been fully addressed by the site design features, project conditions, and appropriate mitigation measures.

F. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards.

The Armstrong Garden Center project will be developed on a previously graded pad approved as part of the original commercial center complex. Portions of the existing hillside which were previously cut will be further graded and fortified with a crib wall to stabilize the slope and reduce the potential for hillside erosion. A geologic reconnaissance report was prepared for this project which concluded that proper engineering design of the new structure would ensure that the potential for geologic impacts from regional hazards would be less than

significant. The proposed project does not propose additional significant grading. City requirements and the project design require erosion control measures and compliance with State Water Resources Control Board requirements for discharge of storm water and waste discharge.

G. The proposed development will be visually compatible with the character of surrounding areas, and where feasible, will restore and enhance visual quality in visually degraded areas.

The proposed development will be visually compatible with the character of surrounding areas and will enhance the visual quality in visually degraded areas. The architectural style of the proposed new garden center will act as a transition from the more freeway-oriented design of the shopping center to the west and the more rural character of the valley to the east. The planted crib wall will significantly improve the visual quality of the site, where existing barren manufactured slopes currently exist. In addition, the proposed project includes building height limitations (27.7-feet), setbacks, landscaping, massing, and architectural design features which are similar in character to surrounding developments.

H. The proposed development will conform with the General Plan, the Local Coastal Program, and any other applicable adopted plans and programs.

The Armstrong Garden Center project, which is a commercial use located within an existing commercial center, is located in an area designated in the Progress Guide and General Plan and the North City Local Coastal Program for Community and Regional Commercial Centers. Therefore the proposed development is consistent with these land use plans. In addition, the Armstrong Garden Center project is consistent with the permitted land uses and development regulations of the underlying CA (Area Shopping Center) zone.

HILLSIDE REVIEW PERMIT FINDINGS:

A. The site is physically suitable for the design and siting of the proposed development. The proposed development will result in minimum disturbance of sensitive areas.

The site is physically suitable for the design and siting of the proposed buildings. Most of the project site is flat, has been previously graded, and has been used as parking for the existing commercial center. Grading of the existing hillside will occur mostly within areas previously cut and graded. Encroachment into the sensitive slope areas adjacent to the project will be mitigated through the payment of fees into the City's Resource Protection Habitat Acquisition Fund. In addition, a landscaped crib wall will be constructed to screen the existing barren manufactured slope, prevent silting of lower slopes, and eliminate potential slide damage.

B. The grading and excavation proposed in connection with the development will not result in soil erosion, silting of lower slopes, slide damage, flooding, severe scarring or any other geological instability which would affect health, safety and general welfare as

approved by the City Engineer. Disturbed slopes are planted with native and self sufficient vegetation.

The Armstrong Garden Center project will be developed on a previously graded pad approved as part of the original commercial center complex. Portions of the existing hillside which were previously disturbed and include manufactured slopes will be further graded and fortified with a crib wall. Erosion of the existing open cut slope would be eliminated by the construction of the new crib wall, preventing silting of lower slopes and potential slide damage. Plantings within the cells of the new crib wall and enhanced landscaping adjacent to it will replace the existing scarred cut and add to the geological stability of the slope, as well as improving the overall visual appearance of the cut slope. A geologic reconnaissance report was prepared for this project which concluded that proper engineering design of the new structure would ensure that the potential for geologic impacts from regional hazards would be less than significant. The proposed project does not propose additional significant grading. City requirements and the project design require erosion control measures and compliance with State Water Resources Control Board requirements for discharge of storm water and waste discharge.

C. The proposed development retains the visual quality of the site, the aesthetic qualities of the area and the neighborhood characteristics by utilizing proper structural scale and character, varied architectural treatments, and appropriate plant material.

The Armstrong Garden Center project will retain and enhance the visual quality of the site by replacement of a mostly denuded and barren manufactured slope with a crib wall with landscaping and a contoured relationship to the natural slope. Plant materials for the crib wall and related slope are from the approved list for this type of habitat. The proposed one-story 27.7-foot high building is in scale with the existing development on the site (one and two story wood structures) and will screen the highest portion of the proposed crib wall from public streets. The roof ridge line is also below the view plate of residential development to the north. The architectural design of the proposed garden center building acts as a transition between the freeway-business oriented shopping center to the west and the more rural/agricultural uses to the south and east of the site.

D. The proposed development is in conformance with the Open Space Element of the General Plan, the Open Space and Sensitive Land Element of the Community Plan, any other adopted applicable plan, and the zone. The applicant has discussed the feasibility of open space dedications or easements with appropriate City staff.

The Armstrong Garden Center project is consistent with adjacent originally approved developments in the area that provided open space easements on hillside areas. All development proposed as part of the Armstrong Garden Center will be located outside these open space easement areas. In addition, the project will not encroach into any open space areas designated in the Progress Guide and General Plan.

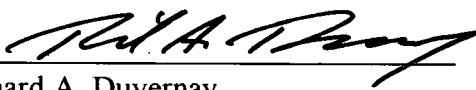
E. The proposed development is in conformance with the qualitative development guidelines and criteria as set forth in Document No. RR-262129, "Hillside Design and Development Guidelines."

The Armstrong Garden Center project meets the intent of the qualitative development guidelines and criteria of the Hillside Design and Development Guidelines. Existing manufactured slopes will be graded and fortified with a landscaped crib wall. This crib wall will protect the slope against erosion and potential slope failure. The natural character of the hillside will be maintained and enhanced by the new crib wall and enhanced vegetation. A brow ditch at the top of the crib wall will improve the drainage system by channeling water away from neighboring properties and into the existing storm drain. Natural landscaping on the open space easement slope will be preserved and/or replaced with like material. In addition, encroachment into the sensitive slope areas adjacent to the project will be completely mitigated through the payment of fees into the City's Resource Protection Habitat Acquisition Fund. In addition, the scale, height and bulk of the proposed garden center structure is compatible with other buildings on the site and with the two story residential structures nearby.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the appeal of Michael Turk is overruled; the decision of the Planning Commission is sustained, and Coastal Development Permit/Hillside Review Permit No. 96-7719 is hereby granted to P and G Company, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By 
Richard A. Duvernay
Deputy City Attorney

RAD:lc
11/02/98
Or.Dept:Clerk
R-99-524
Form=permitr.frm

**RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES**

**AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**COASTAL DEVELOPMENT PERMIT/HILLSIDE REVIEW PERMIT
NUMBER 96-7719
ARMSTRONG GARDEN CENTER
CITY COUNCIL**

This Permit is granted by the Council of The City of San Diego to the P and G Company, Owner/Permittee, pursuant to the Municipal Code of the City of San Diego. The 3.25 acre site is located at 2840 Via de la Valle in the CA (Area Shopping Center) zone of the Via de la Valle Community Plan. The project site is legally described as Lot 5, Map No. 8646, and Lot 2, Map No. 6737.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to develop an Armstrong Garden Center described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated September 29, 1998, on file in the Office of Development Services. The facility shall include:

- a. A 4,800 square-foot single-story garden center building; and
- b. A 20,000 square-foot nursery sales yard with associated trellis; and
- c. Landscaping (planting, irrigation and landscape related improvements) and crib wall; and
- d. Off-street parking facilities; and
- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Permittee signs and returns the Permit to Development Services; and
- b.
- c. The Permit is recorded in the office of the San Diego County Recorder.

3. Unless this permit has been revoked by The City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.

4. This permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.

6. Issuance of this permit by The City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.)

7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated September 29, 1998, on file in the Office of Development Services. No changes, modifications or alterations shall be made unless appropriate applications or amendments of this permit shall have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this Permit shall be void. However, in such

an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new Permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the Permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed Permit and the condition(s) contained therein.

ENGINEERING REQUIREMENTS:

10. Prior to the issuance of any building permits, the applicant shall assure by permit and bond, the installation of a sidewalk underdrain, per regional standard drawing D-25, on Via De La Valle, satisfactory to the City Engineer.
11. Prior to the issuance of any building permits, the applicant shall obtain a grading permit from the City Engineer (referred to as an "engineering permit") for the grading proposed for this project. All grading shall conform to requirements in accordance with the San Diego Municipal Code in a manner satisfactory to the City Engineer.
12. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the construction of a reinforced concrete lug, for the insertion of the 6-inch PVC drain into the 54-inch storm drain, and a private cleanout for the onsite 6-inch drainage system to be located within 30 feet of the connection to the 54-inch storm drain but outside of the drainage easement.
13. Prior to the issuance of any building permits, the applicant shall obtain an encroachment removal agreement, from the City Engineer, for landscaping and irrigation, in City right-of-way as well as the reinforced concrete lug in the drainage easement.
14. The drainage system proposed with this development is subject to approval by the City Engineer. All onsite drainage systems shall be private.
15. Prior to building occupancy, the applicant shall conform to those sections of the Municipal Code regarding "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority. The drainage system proposed for this project, as shown on the approved plans, is subject to approval by the City Engineer.

ENVIRONMENTAL REQUIREMENTS:

16. Prior to issuance of grading permits, impacts to approximately 0.10 acres of coastal sage scrub shall be mitigated to the satisfaction of the City Manager, through payment of fees. Mitigation monies will be deposited into the City of San Diego's Resource Protection Habitat Acquisition Fund (Fund No. 10571), as established by City Council Resolution No. R-275129, adopted on February 12, 1990. The process for determining the amount of mitigation monies deposited is as follows: Staff members from the Development Services Department will provide an estimate of the average cost of habitat land in the focused MPHA Habitat Acquisition Area closest to the project site, the Del Mar Mesa. The estimate is based on previous appraisals and comparable

land costs within the focused acquisition area. The applicant will be required to contribute the estimated average per acre land cost multiplied by the required mitigation acreage plus an additional 10 percent to cover administrative costs. Based on today's approximate land value of \$27,500 per acre, the project applicant would be required to contribute \$3,025 [(\$27,500 x 0.10 acres) + 10% administration fee]. The actual payment amount would be determined 60 days prior to the issuance of the grading permit based upon the general land values at the time.

17. Prior to the issuance of grading permits, the above mitigation monitoring and reporting program will require an additional deposit of \$450 to ensure the deposit of \$3,025.

PLANNING/DESIGN REQUIREMENTS:

18. No fewer than 118 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated September 29, 1998, on file in the Office of Development Services. Parking spaces shall comply at all times with the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

19. Sound systems, loud speakers and public address systems shall be prohibited from locating outside of the garden center building.

20. Storage of any kind shall be prohibited along the north and east sides of the garden center building.

21. Regulations of the underlying zone(s) shall apply unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

22. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

23. A topographical survey conforming to the provisions of the Municipal Code may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

24. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

25. All signage associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit "A," dated September 29, 1998, on file in the Office of Development Services); or
- b. Citywide sign regulations.

26. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located, and shall be shielded to prevent light from falling on adjacent residential development.

27. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked "Exhibit A," on file in the Office of Development Services.

28. A 15-foot encroachment into the open space easement shall be allowed only for the purposes of constructing the crib wall. All areas disturbed by construction of the crib wall shall be completely restored.

LANDSCAPE REQUIREMENTS:

29. Prior to issuance of any grading or building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated September 29, 1998, on file in the Office of Development Services. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

30. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

31. All required landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The Permittee, or subsequent owner, shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the *Landscape Technical Manual*.

32. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that

plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

APPROVED by the Council of The City of San Diego on September 29, 1998, by Resolution No. R-290775.

11/2/98

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AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder:

P AND G COMPANY
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

11/2/98

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