

RESOLUTION NUMBER R-299699

ADOPTED ON SEPTEMBER 29, 2004

WHEREAS, DMH 1<sup>st</sup> & Robinson, Owner/Permittee, filed an application with the City of San Diego for Site Development Permit No. 49312 to modify a designated historic structure and to construct a 25-unit, 4-story residential condominium project above a partially subterranean parking garage known as the as the First and Robinson Project, located at 3815-3821 First Avenue north of Robinson Avenue, and legally described as Lots 10, 11, 12, 14 and north 15 feet and south 10 feet of Lot 13 in Block 1 of Nutts Addition, Map No. 628, in the Uptown Community Plan area, and the MR-800B zone of the Mid-City Communities Planned District; and

WHEREAS, on August 19, 2004, the Planning Commission of the City of San Diego considered Site Development Permit No. 49312, and pursuant to Resolution No.3561-PC voted to recommend City Council approval of the Permit; and

WHEREAS, the matter was set for public hearing on September 28, 2004, 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 it adopts the following findings with respect to Site Development No. 49312:

**A. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE SECTION [SDMC] 126.0504**

**1. The proposed development will not adversely affect the applicable land use plan;** The project proposes to retain and relocate the front third of a locally-designated historic structure and to construct a 25-unit residential condominium development on a 0.388-acre site located in the MR-800B Zone of the Mid-City Communities Planned District and the Uptown

Community Plan area. The proposed residential development is consistent with the land use designation of the Community Plan. The proposed residential density of 25 dwelling units is within the Uptown Community Plan's density range of 44-73 dwelling units per acre planned for this site. The development would meet the Urban Design, Historical Conservation and Land Use objectives of the Community Plan by retaining one of the three existing houses into the project proposal; providing access to the subterranean parking garage from the alley; and providing shade-producing street trees as well as enhanced landscaping. The project has been designed to integrate with the Craftsman style of the historic house, in accord with the style of the surrounding neighborhood. The project is consistent with the goals of the community plan related to compatible design, preservation of historic structures, parking area access, and landscaping and therefore would not adversely affect the Uptown Community Plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare; and** The proposed relocation of the locally designated historic structure and the development of a 25-unit condominium project would not be detrimental to the public health, safety, and welfare. Mitigated Negative Declaration No. 20155 has been prepared for the project and implementation of the Mitigation, Monitoring, and Reporting Program would reduce potential environmental impacts in the area of Historical Resources (Architectural), Historic Resources (Archaeological) and Paleontology to below a level of significance. The project complies with the development regulations of the MR-800B zone, except for the deviations to floor area ratio and setbacks requested as part of the application and permitted through an approved Site Development Permit in accordance with the Mid-City Communities Planned District Ordinance. The project will be required to obtain Building Permits to show that all construction will comply with the applicable Building and Fire Code requirements. The project has been designed to integrate with the Craftsman style of the historic house, in accord with the style of the surrounding neighborhood. The project is consistent with the goals of the community plan related to compatible design, preservation of historic structures, parking area access, and landscaping. The project therefore would not be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the applicable regulations of the Land Development Code.** The proposed 25-unit condominium project complies with all applicable development regulations of the MR-800B Zone of the Mid-City Communities Planned District, except for deviations to floor area ratio (FAR) and the interior side, front, and rear yard setbacks requested by the applicant. Factors that have contributed to the need for these requested deviations include the retention of the historic house, a 2.5-foot alley dedication, and the classification of the basement/garage level as a "story" pursuant to the Land Development Code. The 2.5-foot alley dedication shifts the project further towards First Avenue, and reduces the rear yard area as well as lot area. The project proposes incremental setbacks with variable encroachments in the front, rear, and interior side yards. The proposed 4-foot encroachment into the interior side yard setback where 6 feet is required in the basement/garage level would allow for sufficient turnaround area in the parking garage. With respect to the incremental setbacks required for each story above the second story, the project proposes minor encroachments into the rear and interior side yard setbacks as a result of the definition of a "story" and starting the first story at the basement/garage level. A basement or garage is considered a story where the vertical distance between the proposed grade and the finish-floor elevation immediately above is greater than 6 feet. In essence, the project provides the required setbacks, however, based on the

definition for a story, it is off a story beginning with the story above the second level. Staff believes that the project as designed satisfies the intent of the requirement by providing sufficient setback from adjacent properties and breaking up bulk and scale. Notwithstanding the deviations outlined above, which are allowed through a Site Development Permit per the Mid-City Communities Planned District Ordinance, the proposed development will fully comply with the applicable development regulations.

**B. MID-CITY COMMUNITIES DEVELOPMENT PERMIT SDMC SECTION 103.1504(H)(4)**

**1. The proposed use and project design meet the purpose and intent of the Mid-City Communities Plan District Ordinance and will not adversely affect the Uptown Community Plan.** The proposed project is consistent with the goals and recommendations for residential development within the Uptown Community Plan. The proposed structure would incorporate the objectives of the Urban Design Element with the use of off-setting planes and building articulation. The proposed use of the site is consistent with the purpose and intent of the Mid-City Communities Planned District. The proposed residential development is consistent with the land use designation of the Community Plan. The proposed residential density of 25 dwelling units is within the Uptown Community Plan's density range of 44-73 dwelling units per acre planned for this site. The development would meet the Urban Design, Historical Conservation and Land Use objectives of the Community Plan by retaining one of the three existing houses into the project proposal; providing access to the subterranean parking garage from the alley; and providing shade-producing street trees as well as enhanced landscaping. The project has been designed to integrate with the Craftsman style of the historic house, in accord with the style of the surrounding neighborhood. The project is consistent with the goals of the community plan related to compatible design, preservation of historic structures, parking area access, and landscaping. The project would provide new landscape materials including street trees along the First Avenue. Therefore, the proposed use and project design meet the purpose and intent of the Mid-City Communities Planned District Ordinance and will not adversely affect the Uptown Community Plan.

**2. The proposed development will be compatible with existing and planned land use on adjoining properties and will not constitute a disruptive element to the neighborhood and community. In addition, the proposed development will achieve architectural harmony with the surrounding neighborhood and community to the extent possible; and;** The proposed scale and design of the project is compatible with the existing neighborhood and consistent with the development pattern occurring within the Uptown community. The use of the site as a higher density residential land use would be consistent with the Uptown Community Plan. The project has been designed to integrate with the Craftsman style of the historic house, in accord with the style of the surrounding neighborhood and would not constitute a disruptive element to the neighborhood and community. Therefore, the proposed development will achieve architectural harmony with the surrounding neighborhood and community to the extent possible.

**3. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other properties in the vicinity; and** The proposed relocation of the locally designated historic structure and the development of a 25-unit

condominium project would not be detrimental to the public health, safety, and welfare. Mitigated Negative Declaration No. 20155 has been prepared for the project and implementation of the Mitigation, Monitoring, and Reporting Program would reduce potential environmental impacts in the area of Historical Resources (Architectural), Historic Resources (Archaeological) and Paleontology to below a level of significance. The project complies with the development regulations of the MR-800B zone, except for the deviations to floor area ratio and setbacks requested as part of the application and permitted with an approved Site Development Permit in accordance with the Mid-City Communities Planned District Ordinance. The project will be required to obtain Building Permits to show that all construction will comply with the applicable Building and Fire Code requirements. The project has been designed to integrate with the Craftsman style of the historic house, in accord with the style of the surrounding neighborhood. The project is consistent with the goals of the community plan related to compatible design, preservation of historic structures, parking area access, and landscaping. The project therefore would not be detrimental to the public health, safety, and welfare, and will not adversely affect other properties in the area.

**4. Adequate Public Facilities (Park deficient neighborhoods).** The development is not located in a park deficient neighborhood; therefore, this finding does not apply to this project.

**5. Adequate Lighting.** The project will provide adequate lighting. A new street light is proposed to be placed in front of the project on the east side of First Avenue.

**6. The proposed use will comply with the relevant regulations in the San Diego Municipal Code;** The proposed 25-unit condominium project complies with all applicable development regulations of the MR-800B Zone of the Mid-City Communities Planned District, except for deviations to floor area ratio (FAR) and the interior side, front, and rear yard setbacks requested by the applicant. Factors that have contributed to the need for these requested deviations include the retention of the historic house, a 2.5-foot alley dedication, and the classification of the basement/garage level as a “story” pursuant to the Land Development Code. The 2.5-foot alley dedication shifts the project further towards First Avenue, and reduces the rear yard area. The project proposes incremental setbacks with variable encroachments in the front, rear, and interior side yards. The proposed 4-foot encroachment into the interior side yard setback where 6 feet is required in the basement/garage level would allow for sufficient turnaround area in the parking garage. With respect to the incremental setbacks required for each story above the second story, the project proposes minor encroachments into the rear and interior side yard setbacks as a result of the definition of a “story” and starting the first story at the basement/garage level. A basement or garage is considered a story where the vertical distance between the proposed grade and the finish-floor elevation immediately above is greater than 6 feet. In essence, the project provides the required setbacks, however, based on the definition for a story, it is off a story beginning with the story above the second level. Staff believes that the project as designed satisfies the intent of the requirement by providing sufficient setback from adjacent properties and breaking up bulk and scale. Notwithstanding the deviations outlined above, which are allowed through a Site Development Permit per the Mid-City Communities Planned District Ordinance, the proposed development will fully comply with the applicable development regulations.

**C. HISTORICAL RESOURCES DEVIATION FOR RELOCATION OF A DESIGNATED HISTORICAL RESOURCE SDMC SECTION 126.0504 H**

**1. There are no feasible measures, including maintaining the resource on site, that can further minimize the potential adverse effects on historical resources.** The Historical Resources Board designated the structure at 3821 as a historic resource on May 22, 2003, while at the same time not designating the other two structures on the project site. The two non-designated structures at 3815 First Avenue and 3817-19 First Avenue will be demolished, but the designated resource at 3821 First Avenue will be incorporated into the project. The applicant is proposing to temporarily raise on cribs, store off-site, or dismantle and re-assemble, the character defining, cross-gabled front portion of the designated house during construction of the underground parking garage. Once the garage and foundation are completed, the house would then be placed on the foundation in a location that is very near its original location, about 9.5 feet further west towards First Avenue. The historical house will also have a second story addition behind the existing roof ridge, not exceeding the existing building height. The applicant is proposing to preserve the historical significant component of the 3821 First Avenue structure (excluding the rear addition), and to provide walkways or courtyards as open space around the house to separate it from the new construction. The 9.5-foot distance between the existing location and proposed is to accommodate a 2.5-foot wide alley dedication while providing space between the historical resource and the new construction.

**2. The proposed relocation will not destroy the historical, cultural, or architectural values of the historical resource, and the relocation is part of a definitive series of actions that will assure the preservation of the designated historical resource.** The proposed project will comply with the National Register Criteria for moved properties in that the relocated structure will have “an orientation, setting and general environment that are similar to and compatible with its historical location and significance” and the relocation site is of a “character to recall the basic qualities of the historic environment and setting”. The project proposes to relocate the front third of the designated structure, which is the historically significant portion of the structure, and exclude the 1970s addition. The proposed relocation of the house retains the same compass orientation, places the house in a very similar setting shifted 9.5 feet forward toward First Avenue, and provides spaces between the house and the surrounding new structures.

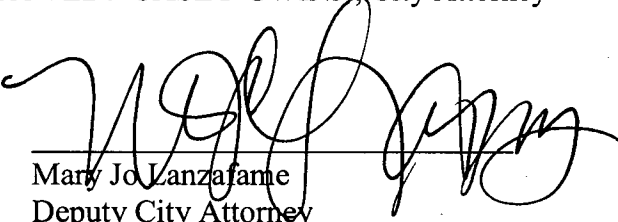
**3. There are special circumstances or conditions apart from the existence of historical resources, applying to the land that are peculiar to the land and are not of the applicant's making, whereby the strict application of the provisions of the historical resources regulations would deprive the property owner of reasonable use of the land.** The underlying MR-800B Zone and the land use designation in the Uptown Community Plan allow for multi-family residential development on the site. The majority of the forward shift is intended to create space between the historical resource and the new construction on the site, as well as the 2.5-foot wide alley dedication required by the City for potential future alley widening. The removal of the rear addition to the resource and slight relocation of the resource forward on the lot would provide for a separation between the resource and the new construction while still achieving the necessary project density.

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 recommendation of the Planning Commission is sustained, and Site Development Permit No. 40312 is granted to DMH 1<sup>ST</sup> & Robinson, LLC, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: CASEY GWINN, City Attorney

By

  
Mary Jo Lanzafame  
Deputy City Attorney

MJL:cfq  
11/01/04  
Or.Dept:DSD  
R-2005-430  
mms#683

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES DEPARTMENT  
PERMIT INTAKE, MAIL STATION 501

**WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

**SITE DEVELOPMENT PERMIT NO. 49312 (MMRP)**  
FIRST & ROBINSON – PROJECT NO. 20155  
CITY COUNCIL

This Site Development Permit No. 49312 is granted by the City Council of the City of San Diego to DMH 1<sup>st</sup> & Robinson, a Limited Liability Company, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0504. The 0.388 site is located at 3815-3821 First Avenue north of Robinson Avenue in the MR-800B zone of the Mid-City Communities Planned District and the Transit Area Overlay zone within the Uptown Community Plan area. The project site is legally described as Lots 10, 11, 12, 14 and north 15 feet and south 10 feet of Lot 13 in Block 1 of Nutts Addition, Map No. 628.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to modify a designated historic structure and construct a 25-unit condominium project, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated September 29, 2004, on file in the Development Services Department.

The project or facility shall include:

- a. Demolition of two existing structures and the rear portion of the structure at 3821 First Avenue;
- b. Retention and relocation of the front third of the designated historic structure at 3821 First Avenue with a second story addition;
- c. Development of a 25-unit, approximately 25,573 square-foot, 4-story condominium project, located in four separate buildings, above a partially subterranean parking garage providing 43 parking spaces;

- d. Deviations to the MR-800B Zone to allow deviations to the required 1.25 overall project FAR, and the 0.75 FAR permitted in the front 40% of the lot as shown on the approved Exhibit A.
- e. Deviations to the MR-800B Zone to allow deviations from the front yard, rear yard, and interior side yard setbacks and the required incremental setbacks as shown on the approved Exhibit A.
- f. Landscaping (planting, irrigation and landscape related improvements);
- g. Off-street parking facilities; and
- h. 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 SDMC in effect for this site.

**STANDARD REQUIREMENTS:**

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC 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 the Development Services Department; and
  - b. 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 agency.

6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 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 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." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit 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 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 the special rights which the holder of the Permit is entitled as a result of obtaining this 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 proposed 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.

10. Where applicable any, the applicant shall be responsible for installing sidewalk improvements at all bus stops within the project area to comply with the Americans with Disability Act (ADA) requirements and local standards in the City of San Diego Street Design Manual.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

11. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

12. As conditions of Site Development Permit No. 49312 and Map Waiver No. 49311, the mitigation measures specified in the MMRP, and outlined in the Mitigated

Negative Declaration No. 20155 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in the Mitigated Negative Declaration No. 20155 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Historical Resources (architectural)
- Historical Resources (archaeological)
- Paleontology

14. Prior to the issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Department Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

**HISTORICAL SITE REQUIREMENTS:**

15. Prior to issuance of building permits, the applicant shall provide the Development Services Department documentation of the house at 3815 First Avenue for approval. This documentation shall be updated as appropriate following deconstruction. Documentation shall consist of the following items: scaled drawings of the site plan, floor plan, elevations and latitudinal and longitudinal sections; plans that identify original exterior wall covering materials as well as non-original elements/materials to the extent possible through deconstruction; and 4" X 6" 35 mm black and white captioned photographs, as well as the negatives, of the exterior and any key interior features including areas that were enclosed or modified, with a photographic log keyed to a site plan.

16. Prior to issuance of building permits, the applicant shall submit to the Historical Resources Board staff for approval the project's construction drawing elevation which show the proposed exterior colors. The color palette shall respect the historical house and also allow the project to appear as a grouping of individual buildings, to the satisfaction of the City Manager.

17. Prior to issuance of building permits, the applicant shall work with the Historical Resources Board staff and Design Assistance Subcommittee to revise the design of the second story addition to the historical house, to the satisfaction of the City Manager.

**AFFORDABLE HOUSING REQUIREMENTS:**

18. Prior to the issuance of any building permits, the developer shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

**ENGINEERING REQUIREMENTS:**

19. This permit shall comply with the conditions of Map Waiver No. 49311 and Easement Abandonment No. 122086.

**TRANSPORTATION REQUIREMENTS:**

20. This project shall dedicate and widen 2.5 feet in the alley to provide a minimum of 10 feet property line to center line distance along the project frontage, satisfactory to the City Engineer.

21. This project shall relocate the existing two power poles located in the alley on the project side to approximately the north end and south end of the project and within the 2.5 foot alley widening, and underground the existing overhead power between these poles as shown on Exhibit "A", satisfactory to the City Engineer.

22. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 769830, filed January 30, 1997) and the amendment to Council Policy 200-18 approved by City Council on January 10, 2000.

**LANDSCAPE REQUIREMENTS:**

23. 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." No change, modification, or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted. Construction plans shall take into account a 40 sq-ft area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)5.

24. Prior to issuance of any engineering permits for grading, construction documents for the revegetation and hydroseeding of all disturbed land shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Office of the seeding of all disturbed land (all slopes and pads), shall be submitted to the satisfaction of the City Manager (including the City's Environmental Analysis Section) and City Engineer. All plans shall be in

substantial conformance to Exhibit "A," and all other applicable conditions of related permits.

25. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Engineer for approval. Improvement plans shall take into account a 40 sq-ft area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

26. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Concept Plan, on file in the Office of the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area."

27. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/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.

28. 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.

29. The Permittee or subsequent owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

30. If any required landscape (including, but not limited to, existing or new plantings, hardscape, landscape features) indicated on the approved plans is damaged or removed during demolition, it shall be repaired or replaced in kind and equivalent size per the approved plans within thirty 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 or an increased number) to the satisfaction of the City Manager.

**PLANNING/DESIGN REQUIREMENTS:**

31. No fewer than 43 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking

spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

32. As a component of this project, deviations to overall FAR of 1.25, 0.75 FAR allowed in the front 40% of the lot, front yard setback, side yard setback, and rear yard setback, as detailed on Plan Sheet No. 5 of approved Exhibit "A," dated September 29, 2004, are granted. Notwithstanding these specific deviations, there shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a 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.

33. 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.

34. A topographical survey conforming to the provisions of the SDMC 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.

35. 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.

36. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall on the same premises as light sources are located.

37. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

38. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

39. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers, and latticework.

40. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) 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."

**WASTEWATER REQUIREMENTS:**

41. Prior to the issuance of any engineering or building permits, the developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each unit will have its own sewer lateral or provide CC&R's for the operation and maintenance of on-site private sewer mains that serve more than one ownership.

42. The developer shall design and construct any proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

43. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check or shall be permitted under the Self Certification Program.

**WATER REQUIREMENTS:**

44. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s), including domestic, fire and irrigation, and the removal of all existing unused water services adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

45. Prior to the issuance of any building permits, the Owner/Permittee shall apply for plumbing permit(s) for the installation of private back flow prevention device(s) on all water services to the development, including all domestic, fire and irrigation services, in a manner satisfactory to the Water Department Director and the City Engineer. All backflow prevention devices shall be located above grade and outside of any private structures.

46. Prior to the issuance of any building permits, the Owner/Permittee shall provide acceptable water easements for all public water facilities located outside of fully improved public rights-of-way, in a manner satisfactory to the Water Department Director and the City Engineer.

47. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director and the City Engineer. Fire hydrants shall be located a minimum of five feet from any structures above, at, or below grade.

48. Prior to the issuance of any certificates of occupancy, the public water facilities, including domestic, fire and irrigation services and meters necessary to serve this

development, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

49. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current editions of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities and easements, as shown on approved Exhibit "A," shall be modified at final engineering to comply with standards.

**INFORMATION ONLY:**

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego on September 29, 2004 by Resolution No. R-299699.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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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.

DMH 1<sup>ST</sup> & ROBINSON, LLC  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

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