

MEET

RESOLUTION NUMBER R- 305187

DATE OF FINAL PASSAGE JUL 28 2009

A RESOLUTION APPROVING PLANNED DEVELOPMENT  
PERMIT NO. 572630/SITE DEVELOPMENT PERMIT NO.  
658951 - ALVARADO APARTMENTS - PROJECT NO. 157028.

WHEREAS, Plymouth Health Investments, LLC, a Delaware limited liability company, Owner, and DMC-San Diego 2, L.P., a Delaware limited partnership, Applicant, filed an application with the City of San Diego for a planned development permit/site development permit for the demolition of existing structures, subdivision of land and development of an apartment project with 659 dwelling units of which seventy-six dwelling units shall be affordable housing units in compliance with the Inclusionary Housing Ordinance, known as the Alvarado Apartments project, located on one parcel at 6599 Alvarado Road, and legally described as Lot 5 of Alvarado Plaza Unit 3, according to Map No. 6072, filed March 20, 1968, in the Office of the County Recorder, in the College Area Community Plan area, in the CC-1-3 and RS-1-1 zones which are proposed to be rezoned to the RM-4-10 zone; and

WHEREAS, on June 18, 2009, the Planning Commission of the City of San Diego considered Planned Development Permit No. 572630/Site Development Permit No. 658951, and pursuant to Resolution No. 4524-PC voted to recommend approval of the permit; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on July 28, 2009, 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 Planned Development Permit No.572630/Site Development Permit No. 658951:

**A. PLANNED DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE  
[SDMC] SECTION 126.0604**

**1. The proposed development will not adversely affect the applicable land use plan.** The proposed project site is located within the College Area Community Plan area. The proposed project is a 659 apartment unit, multi-family residential development with 2,290 square-feet of retail space, a 1-acre neighborhood pocket park and two parking structures on a 9.99-acre site. With the adoption of an amendment to the College Area Community Plan and General Plan, the proposed project will provide residential development at densities consistent with the policies and guidelines of the College Area Community Plan and General Plan. The project will also help satisfy a variety of goals of the applicable land use plans. The College Area Community Plan encourages multi-family residential projects near San Diego State University to allow an increase in student housing opportunities. The project will increase the supply of housing in the community within walking distance of transit, shopping, and employment opportunities. Development of the property would not conflict with goals of the community plan relative to topography as the project site has been previously developed. Being determined the project is consistent with the General Plan and the College Area Community plan, the proposed development will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed project is a 659 apartment unit multi-family residential development with 2,290 square-feet of retail space, a 1-acre neighborhood pocket park and two parking structures on a 9.99-acre site. The proposed development will provide public benefits which would not have occurred otherwise. The proposed development will construct necessary sewer and water facilities to serve the residents of the development; will enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance; will comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. The development will also provide for the health, safety, and welfare of the residents by constructing all buildings in accordance with current construction standards and codes. All structures constructed will be reviewed by professional staff for compliance with all relevant and applicable building, electrical, mechanical

and fire codes to assure the structures will meet or exceed the current regulations. As such the proposed development will not be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the regulations of the Land Development Code.** The proposed project is a 659 apartment unit, multi-family residential development with 2,290 square-feet of retail space, a 1-acre neighborhood pocket park and two parking structures on a 9.99-acre site. The proposed development complies with the regulations of the RM-4-10 zone and site-specific development regulations for the property, as allowed with the approval of a Planned Development Permit. Deviations, as allowed by the approval of a Planned Development Permit, are required to approve the proposed project. The project will include six deviations:

- a. Allow a deviation from Land Development Code [LDC] section 131.0454 to reduce by 25 percent the total number of exterior storage spaces provided.
- b. Allow a deviation from LDC section 131.0445(c) to increase the maximum lot coverage from 50 percent to 53 percent.
- c. Allow a deviation from LDC section 142.0406 and Table 142-04D to provide carports with photovoltaic panels on the roof of the parking garage rather than eighteen trees in containers.
- d. Allow a deviation from LDC section 142.1001 to reduce the minimum size for four of five loading zones from 12 feet wide by 35 feet long to 8 feet wide by 22 feet long where only four loading zones are required.
- e. Allow a deviation from LDC section 131.0461(c) to allow the architectural encroachments within the required front yard to observe a 0 foot setback from the front property line where a foot setback is required for architectural encroachments.
- f. Allow a deviation from LDC section 142.0525(a) to allow a combination of standard parking spaces with "tandem" spaces to meet the required number of parking spaces provided in each parking structure.

The six deviations approved with the project will result in a better project than through the strict application of the zoning requirements. The proposed development complies with all other relevant regulations of the Land Development Code. Specific conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into Planned Development Permit No. 572630. Development of the property will meet all other requirements of these regulations. Concept plans for the project identify all other development criteria in effect for the site. All relevant regulations shall be complied with at all times for the life of the project. In these ways the proposed development will comply with the applicable and relevant regulations of the Land Development Code, as allowed through the approval of a Planned Development Permit.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The project will provide several significant features, amenities and improvements in the community. The project will provide 659 rental housing units to the housing stock of the City of San Diego at a time in the history of the city when there is a housing shortage and in a community with a very low vacancy rate. The city currently has a very limited supply of land designated and zoned for High Residential density residential development at 45-75 dwelling units per net residential acre multi-family housing. Increasing the housing supply will be particularly beneficial in the College Area because of the large and expanding employment base and student population in the area. This proposal will help to alleviate the shortage of multi-family and student housing opportunities. This project will also provide affordable housing opportunities within the project on site. Housing near the many employment sites in the College Area community will aid in reducing automobile congestion, particularly during peak travel hours. The project will also create public areas within the property to promote pedestrian activity. Pedestrian walkways have been provided around the entire perimeter of the project and will create opportunities for the public display of art. The on-site retail component of the project will provide 2,290 square-feet of commercial retail space to provide goods and services to the resident population. This will serve the resident population and reduce the need to leave the site for small purchases and other sundry items. Finally, the developer will be providing much needed FBA funding for the completion of identified public improvements. Furthermore, of the 659 units, seventy-six dwelling units will be affordable to persons earning no more than 65 percent of the area median income. The project will provide a 1-acre park on the property for use by residents and the general public in a community which is currently deficit of park acreage. In addition to the one-acre park onsite, the developer will improve 1.13-acres at Tubman Elementary School as a joint use facility for the community and fund five years of maintenance for the 1.13-acres. The project will provide photovoltaic electrical generation on-site, water efficient landscaping and building fixtures and will be LEED certified for energy efficiency. Thus the development of the project will materially benefit the city by providing both housing units during a shortage of supply, by providing affordable housing and a LEED certified development. The resulting benefits of the project will be positive for the community and City of San Diego.

**5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.** The project includes six deviations, all of which will result in a more desirable project than without the deviations. The deviations are as follows:

- a. A deviation from LDC section 131.0454 to reduce by 25 percent the total number of exterior storage spaces provided.
- b. Allow a deviation from LDC section 131.0445(c) to increase the maximum lot coverage from 50 percent to 53 percent.
- c. Allow a deviation from LDC section 142.0406 and Table 142-04D to provide carports with photovoltaic panels on the roof of the parking garage rather than eighteen trees in containers on the roof of the parking garage.

d. Allow a deviation from LDC section 142.1001 to reduce the minimum size for four of five loading zones from twelve-feet wide by 35 feet long to 8 feet wide by 22 feet long where only four loading zones are required.

e. Allow a deviation from LDC section 131.0461(c) to allow the architectural encroachments within the required front yard to observe a 0 foot setback from the front property line where a 3-foot setback is required for architectural encroachments; and

f. Allow a deviation from LDC section 142.0525(a) to allow a combination of standard parking spaces with "tandem" spaces to meet the required number of parking spaces provided in each parking structure.

Reducing the total number of exterior storage spaces provided will not materially affect the operation and benefits associated with the development of the site as proposed. The site and architectural plans allocate a total of 494 storage spaces to accommodate 659 apartment units, or approximately 75 percent of the total units in the proposed project. Two hundred forty-seven spaces will be provided in Building One and 247 storage spaces will be provided in Building Two. Student populations have historically needed less storage space than more permanent populations. The developer will provide large interior closet space for each bedroom and this will reduce the demand and need for exterior storage space.

Increasing the maximum lot coverage from 50 percent to 53 percent will increase the efficient utilization of limited multi-family parcels by increasing the total number of dwelling units and affordable dwelling units.

Allowing the construction of carports for all the parking stalls located on the top deck of each parking structure rather than providing trees in raised containers to meet the tree distribution requirements for parking lots required in the City-wide Landscape Regulations will exceed the goals of planting trees on the roof deck of the garage for shade. The purpose of providing trees within parking lots is to create shading of the pavement to reduce the heat island effect of large expanses of pavement. Carports will provide a superior quality and quantity of shading on the parking structure deck when compared to living trees in that the shade created by carports will be immediate upon completion of the project. Trees installed in containers on the top deck of the parking structure will never attain a height and breadth capable of providing an equivalent amount of shade as will be permanently provided by the carports.

Reducing the size for four of five loading zones where only four are required will not negatively affect the successful operation of the property. The owner will furnish approximately 75 percent of all the apartment units. The furnishing of these units will reduce the need associated with providing loading areas for moving/delivery trucks and other vehicles used to move possessions and furniture onto the site and to the units.

Reducing the minimum size for four of five loading zones from 12 feet wide by 35 feet long to 8 feet wide by 22 feet long will allow greater efficiency in the development of the property. Reducing the size for two of three loading zones will be consistent with the owner's program of furnishing seventy-five percent of all dwelling units. Fewer moving/delivery trucks

and other vehicles used to move possessions and furniture onto the site and to the units will be necessary to effectively serve the population of the project.

Allowing architectural encroachments within the required front yard to observe a 0 foot setback from the front property line where a 3 foot setback is required for an architectural encroachment will add to the esthetic appeal of the architecture and create a more attractive and successful project as the project relates to the pedestrian experience from the sidewalk and upon entering the project site.

Allowing 165 tandem parking spaces in the parking structure is supported by the alternative transit opportunities provided by and in close proximity to the Project. The project location is directly across the street from Alvarado Trolley Station. According to a two year study conducted by Caltrans, residents living in multi-family projects within close proximity to transit stations are five times more likely to use the transit. Additionally, with the close proximity of San Diego State and Alvarado Hospital, both major employers in the College Area, the trolley and other non-traditional methods will be the preferred means to travel to and from school and work. The project will also incorporate a Transportation Demand Management or TDM plan. As part of the TDM plan there will be an incentive program to encourage transit use. As part of this program the applicant would offer a one month transit pass per each dwelling unit for the first ten years Alvarado Apartments is occupied when that apartment is leased for one year. The project is also providing spaces in the garages for zip cars. Each zip car removes approximately 15-20 personally owned vehicles from the road. A zip car is a car garaged on the site and owned by a private business which is available for short term rental to occupants of the complex. Each zip car removes approximately fifteen to twenty personally owned vehicles from the circulation system.

The deviation is supported by several offsetting benefits. The deviation would also allow a reduction in the scale of the garage and create more project open space on-site for residents. By reducing the scale of the parking structure the project will create an additional 2,000 square-foot of project open space in the courtyards, reduces the amount of excavation necessary to construct the parking structure, reduces truck trips hauling earthwork from the site, and raises the bottom level of the structures above the water table by an additional 5 to 6 feet. The increase of project open space equates to ten percent more project open space. The additional open space will have a tremendous benefit for resident recreation, wellness and the functionality of the project.

As a result of the approved deviations and other design features of the project, the proposed project conforms to the overall policies, regulations and purpose and intent of the Planned Development regulations. The design will result in a more desirable project for the City and the community than would be realized through the strict application of the development regulations at this location.

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

**1. Findings for all Site Development Permits – SDMC Section 126.0504:**

**a. The proposed development will not adversely affect the applicable land use plan.** The proposed project site is located within the College Area Community Plan area. The proposed project is a 659 apartment unit, multi-family residential development with 2,290 square-feet of retail space, a 1-acre neighborhood pocket park and two parking structures on a 9.99-acre site. With the adoption of an amendment to the College Area Community Plan and General Plan, the proposed project will provide residential development at densities consistent with the policies and guidelines of the College Area Community Plan and General Plan. Being determined the project is consistent with the General Plan and the College Area Community plan, the proposed development will not adversely affect the applicable land use plan. See Planned Development Permit Finding No. 1 above for more information.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed project is a 659 apartment unit, multi-family residential development with 2,290 square-feet of retail space, a 1-acre neighborhood pocket park and two parking structures on a 9.99-acre site. The proposed development complies with the regulations of the RM-4-10 zone and site-specific development regulations for the property. The proposed development will provide public benefits which would not have occurred otherwise. The development will also provide for the health, safety, and welfare of the residents by constructing all buildings in accordance with current construction standards and codes. All structures constructed will be reviewed by professional staff for compliance with all relevant and applicable building, electrical, mechanical and fire codes to assure the structures will meet or exceed the current regulations. See Planned Development Permit Finding No. 2 above for more information.

**c. The proposed development will comply with the applicable regulations of the Land Development Code.** The proposed project is a 659 apartment unit, multi-family residential development with 2,290 square-feet of retail space, a 1-acre neighborhood pocket park and two parking structures on a 9.99-acre site. The proposed development complies with the regulations of the RM-4-10 zone and site-specific development regulations for the property with deviations as described in Planned Development Permit Finding No. 3. Development of the property will meet all other requirements of these regulations. Concept plans for the project identify all other development criteria in effect for the site. All relevant regulations shall be complied with at all times for the life of the project. In these ways the proposed development will comply with the applicable and relevant regulations of the Land Development Code. See Planned Development Permit Finding No. 3 above for more information.

**2. Supplemental Findings – Environmentally Sensitive Lands SDMC Section 126.0504(b)**

a. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. The proposed project is a 659 apartment unit, multi-family residential development with 2,290 square-feet of retail space, a 1-acre neighborhood pocket park and two parking structures on a 9.99-acre site. The proposed development complies with the regulations of the RM-4-10 zone and site-specific development regulations for the property. A portion of the Project site is located within the MHPA. Approximately 1.5 acres, located near the southern perimeter of the Project site, consisting of Alvarado Canyon Creek and a steep slope containing southern mixed chaparral, is within the MHPA. No development will occur on the portion of the Project site within the MHPA, preventing any direct impacts. The elements of the MSCP Subarea Plan's Land Use Adjacency Guidelines have been incorporated into the Project. The Project has been conditioned to mitigate indirect impacts to the MHPA with respect to lighting, noise, invasives, drainage, trash and toxic materials, and encroachment. The special flood hazard area at the rear of the property will be protected and will not be impacted by the project. All technical reports required for the project evaluation have been prepared by licensed professionals and meet the criteria for such reports established by the City of San Diego. These reports indicate the site is suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

**b. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.** The proposed project is a 659 apartment unit, multi-family residential development with 2,290 square-feet of retail space, a 1-acre neighborhood pocket park and two parking structures on a 9.99-acre site. The proposed development complies with the regulations of the RM-4-10 zone and site-specific development regulations for the property. The existing site is developed with a medical office complex and is relatively level. The natural landform was altered decades in the past and the proposed project will not further alter the remaining natural land forms on the site. The special flood hazard area at the rear of the property will be protected and will not be impacted by the project. The recommendations of final geologic reports, slope erosion and water quality protections will protect the site and surrounding areas from any undue risk from geologic and erosional forces, flood hazards, or fire hazards.

**c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** The proposed project is a 659 apartment unit, multi-family residential development with 2,290 square-feet of retail space, one-acre neighborhood pocket park and two parking structures on a 9.99-acre site. The proposed development complies with the regulations of the RM-4-10 zone and site-specific development regulations for the property. A portion of the Project site is located within the MHPA. Approximately 1.5 acres, located near the southern perimeter of the Project site, consisting of Alvarado Canyon Creek and a steep slope containing southern mixed chaparral, is within the MHPA. No development will occur on the portion of the Project site within the MHPA, preventing any direct impacts. The elements of the MSCP Subarea Plan's Land Use Adjacency Guidelines have been incorporated into the Project. The Project has been conditioned to mitigate indirect impacts to the MHPA with respect to lighting, noise, invasives, drainage, trash and toxic materials, and encroachment. The special flood hazard area at the rear of the property will be protected and will not be impacted by the project. All technical reports required for the project



evaluation have been prepared by licensed professionals and meet the criteria for such reports established by the City of San Diego. These reports indicate the site is suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan. A portion of the Project site is located within the MHPA. Approximately 1.5 acres, located near the southern perimeter of the Project site, consisting of Alvarado Canyon Creek and a steep slope containing southern mixed chaparral, is within the MHPA. No development will occur on the portion of the Project site within the MHPA, preventing any direct impacts. The elements of the MSCP Subarea Plan's Land Use Adjacency Guidelines have been incorporated into the Project. The Project has been conditioned to mitigate indirect impacts to the MHPA with respect to lighting, noise, invasives, drainage, trash and toxic materials, and encroachment. Therefore, the proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program Subarea Plan.

e. **The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The proposed project is a 659 apartment unit, multi-family residential development with 2,290 square-feet of retail space, a 1-acre neighborhood pocket park and two parking structures on a 9.99-acre site. The proposed development complies with the regulations of the RM-4-10 zone and site-specific development regulations for the property. The proposed project will enter into a Maintenance Agreement for the ongoing permanent BMP maintenance and will comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. The site will not discharge uncontrolled storm water runoff to the San Diego River and by extension will not negatively impact public beaches or local sand supply. As result of the conditions of approval addressing water quality and storm water runoff, the project will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

f. **The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.** The proposed project is a 659 apartment unit, multi-family residential development with 2,290 square-feet of retail space, a 1-acre neighborhood pocket park and two parking structures on a 9.99-acre site. The proposed development complies with the regulations of the RM-4-10 zone and site-specific development regulations for the property. The environmental review process identified several subject areas which may reasonably be impacted by the project as a result of project implementation. However, as a result of this review process conditions of approval will require a Mitigation, Monitoring, and Reporting Program [MMRP], as specified in Mitigated Negative Declaration No. 157028, satisfactory to the Development Services Department and the City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be complied with, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Transportation/Circulation  
Land Use/Multiple Species Conservation Program  
Biological Resources  
Historical Resources  
Paleontological Resources  
Air Quality  
Utilities

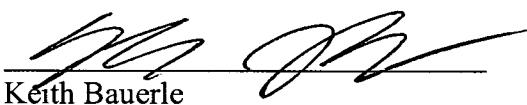
Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts which may result by the proposed development.

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

BE IT FURTHER RESOLVED, that Planned Development Permit No. 572630/Site Development Permit No. 658951 is granted to Plymouth Health Investments, LLC, a Delaware limited liability company, Owner, and DMC-San Diego 2, L.P., a Delaware limited partnership, Applicant, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

  
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Keith Bauerle  
Deputy City Attorney

KB:hm  
06/26/09  
10/14/09 COR.COPY  
10/21/09 REV.2  
Or.Dept:DSD  
R-2009-1315  
MMS#9645

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

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

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 425739

PLANNED DEVELOPMENT PERMIT NO. 572630 and  
SITE DEVELOPMENT PERMIT NO. 658951  
**ALVARADO APARTMENTS - PROJECT NO. 157028 [MMRP]**  
CITY COUNCIL

This Planned Development Permit No. 572630 and Site Development Permit No. 658951 is granted by the Council of the City of San Diego to Plymouth Health Investment, LLC, a Delaware Limited Liability Company, Owner, and DMC-San Diego 2, LP., a Delaware Limited Partnership, Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0601 through 126.0605 and sections 126.0501 through 126.00505. The 9.99 acre site is located at 6599 Alvarado Road in the CC-1-3 and RS-1-1 Zones which is proposed to be rezoned to the RM-4-10 Zone in the College Area community plan area. The project site is legally described as Lot 5 of Alvarado Plaza Unit 3, according to Map No. 6072, filed March 20, 1968, in the Office of the County Recorder.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for the demolition of existing structures, subdivision of land and development of an apartment project with 659 dwelling units, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated JUL 28 2009, on file in the Development Services Department.

The project shall include:

- a. The demolition of existing structures, subdivision of land and development of an apartment project with 659 dwelling units of which 76 dwelling units shall be affordable housing units in compliance with the Inclusionary Housing Ordinance;
- b. Six deviations are approved with the project and are described as follows:
  1. Reduction by twenty-five percent the total number of exterior storage spaces provided;
  2. Increase the maximum lot coverage from fifty percent to fifty-three percent;
  3. Provide carports with photovoltaic panels on the roof of the parking garage rather than eighteen trees in containers;
  4. Reduce the minimum size for four of five loading zones from twelve feet wide by thirty-five feet long to eight feet wide by twenty-two feet long where only four are required;
  5. Allow architectural encroachments within the required front yard to observe a zero foot setback from the

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front property line where a three foot setback is required for architectural encroachments; and 6. Allow 68 tandem parking spaces towards the total required for Building 1 and 99 tandem parking spaces towards the total required for Building 2.

- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking;
- e. Accessory improvements determined by the Development Services Department 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. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect 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 Owner/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 Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/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 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 Owner/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 Owner/Permittee 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. Construction 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. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

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**HOUSING COMMISSION REQUIREMENTS:**

11. Prior to issuance of the first residential building permit, the Owner/Permittee shall enter into an Affordable Housing Agreement with the San Diego Housing Commission. The Owner/Permittee shall comply with the affordable housing requirements of the City's Inclusionary Housing Ordinance (SDMC §142.1301) by providing ten percent of the units as affordable rental units at sixty-five percent area median income.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

12. 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

13. The mitigation measures specified in the Mitigation Monitoring and Reporting Program, and outlined in Mitigated Negative Declaration No. 157028, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in Mitigated Negative Declaration No. 157028, satisfactory to the Development Services Department and the City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be complied with, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Transportation/Circulation
- Land Use/Multiple Species Conservation Program
- Biological Resources
- Historical Resources
- Paleontological Resources
- Air Quality
- Utilities

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

**ENGINEERING REQUIREMENTS:**

16. This permit shall comply with the conditions of the Tentative Parcel Map No. 593503.

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## **GEOLOGY REQUIREMENTS:**

17. Prior to the issuance of any construction permits, the Owner/Permittee shall provide additional geotechnical information for the review and approval of the City Geologist, satisfactory to the City Geologist and Development Services Department.

## **LANDSCAPE REQUIREMENTS:**

18. Prior to issuance of any construction permits for grading, the Owner/Permittee shall submit landscape construction documents for the re-vegetation and hydro-seeding of all disturbed land in accordance with the Land Development Manual Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit and Exhibit "A."

19. Prior to issuance of any construction permits for buildings, the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual, Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A."

20. Prior to issuance of construction permits for public right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall take indicate an area equal to forty square feet 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.

21. Prior to issuance of construction permits for grading; the Owner/Permittee shall ensure all proposed landscaping, especially landscaping adjacent to native habitat and/or MHPA, shall not include exotic plant species considered to be invasive to native habitats. Plant species found within the California Invasive Plant Council's (Cal-IPC) Invasive Plant Inventory and the prohibited plant species list found in "Table 1" of the Landscape Standards shall not be permitted.

22. Prior to issuance of construction permits for grading; the Owner/Permittee shall ensure all existing, invasive plant species, including all vegetative parts and root systems, shall be completely removed from the development area of the premises when the combination of species type, location, and surrounding environmental conditions provides a means for the species to invade other areas of native plant material that are on or off of the premises consistent with the requirements of Land Development Code Section 142.0403(b)(2).

23. Prior to issuance of construction permits for public right-of-way improvements, the Owner/Permittee shall submit a letter signed by the Urban Forester of the City of San Diego's Street Tree Division approving the use of Liquidambar styraciflua as the proposed street tree along Alvarado Road.

24. 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. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

25. The Owner/Permittee shall maintain all landscape in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

26. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual; 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.

27. If any required landscape, including but not limited to existing or new plantings, hardscape, landscape features, indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee is responsible to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within thirty days of damage or prior to a Certificate of Occupancy.

28. The developer shall install 550 lineal feet of 12-foot fence to the rear of the project adjacent to the channel there to keep individuals off the slope and that would also offer some noise abatement.

**PLANNING/DESIGN REQUIREMENTS:**

29. No fewer than approximately 748 parking spaces (683 required), including 132 tandem spaces, shall be maintained at Building 1 and no fewer than approximately 748 parking spaces (712 required), including 132 tandem spaces, shall be permanently maintained at Building 2 within the approximate locations shown on the Exhibit "A". This includes a total of 9 disabled accessible spaces per building per CBC Chapter 11A, Section 1118A. Additionally, each building shall provide a minimum of 33 motorcycle and 156 bicycle spaces on site. Additionally, a minimum of 5 Off-street Loading spaces (4 required) shall be provided on site.

30. 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 Owner/Permittee.

31. All signs associated with this development shall be consistent with sign criteria established by the City-wide sign regulations.

32. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

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**WASTEWATER REQUIREMENTS:**

33. The Owner/Permittee shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be private or re- designed.
34. The Owner/Permittee shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map will require modification based on the accepted sewer study.
35. The Owner/Permittee shall design and construct all proposed private sewer facilities serving more than one lot to the most current edition of the City of San Diego's sewer design guide. Improvement drawings are required for private sewer facilities serving more than one lot.
36. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.
37. No structures or landscaping that would inhibit vehicular access shall be installed in or over any sewer access easement.
38. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.
39. No improvements or landscaping shall be installed in or over any easement prior to the applicant acquiring an Encroachment Maintenance and Removal Agreement.
40. No other utilities, including gas, electric, telephone and fiber optic cable, shall be located within ten feet of any public sewer main when these utilities are installed parallel to the sewer main.
41. All on-site sewer facilities are private.
42. Sewer lateral connections shall be made in accordance with Table 2-6 Of the City of San Diego sewer design guide. The Owner/Permittee shall install cleanouts instead of the proposed manholes for the on-site private system. Private mains with welded joints and clean-outs shall be designed to meet the standards of the California Plumbing Code and will require a Plumbing Permit.

**WATER REQUIREMENTS:**

43. 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) as needed, and the removal of any existing unused services, adjacent to the project site, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

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44. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) on each water service, domestic, fire and irrigation, within the development, in a manner satisfactory to the Director of Public Utilities and the City Engineer.
45. Prior to the issuance of any certificates of occupancy, the public water facilities, necessary to serve this development, shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.
46. 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 associated easements, as shown on approved Exhibit "A," shall be modified at final engineering in accordance with accepted studies and standards.
47. No structures or landscaping that would inhibit access shall be installed in or over any water access easement.
48. The Owner/Permittee shall grant adequate water, and/or access easements, including vehicular access to each fire hydrant.
49. All proposed public water facilities, including services and meters, must be designed and constructed in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto.
50. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by executing a legally enforceable separate agreement with the Water Department, to retrofit the irrigation infrastructure at one or more public facilities to accept recycled water instead of potable water. This retrofit shall result in potable water savings of at least 73,966 gpd (82.8 AFY).
51. The Owner/Permittee shall design and construct all proposed buildings to utilize enhanced water conservation features such as Energy Star, WaterSense or equivalent water conservation appliances and enhanced water conservation fixtures, in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations.
52. The Owner/Permittee shall design and construct all proposed buildings to reduce water utilization by a minimum of 7.5% for the residential units and 5% for the commercial units, as described in the Water Supply Assessment, to the approval of the Director of Development Services. This will include the installation of Energy Star, WaterSense or equivalent water conservation appliances and enhanced water conservation fixtures.
53. Prior to the issuance of a Certificate of Occupancy, the Owner/Permittee shall demonstrate the installation of Energy Star, WaterSense or equivalent water conservation appliances and

enhanced water conservation fixtures to reduce the water demand by a minimum of 7.5% for the residential units and 5% for the commercial units, as described in the Water Supply Assessment, to the approval of the Director of Development Services.

54. The Owner/Permittee shall design and construct all buildings with water meters for every residential unit. This "submetering" of the buildings will enable separate water meter data to be collected for each residential unit.

**PARK & RECREATION REQUIREMENTS:**

55. Prior to the issuance of a building permit for Building Two, the Owner/Permittee shall make a contribution of \$1,800,000, to be placed in an interest-bearing account, for the following: design and construction of Tubman Charter School joint-use facilities, including 1.13 acres of drought tolerant natural turf in an amount of \$280,000 and not to exceed \$400,000; possible installation of lighting at Hardy Elementary School in an amount not to exceed \$220,000; and \$1,180,000 to be used to fund additional park improvements in the College area.

56. The Owner/Permittee shall build and maintain in perpetuity an on-site Heart Park that will include a community room, bathrooms, parking spaces and tot lots. The park and facilities shall be available to the general public and the park shall close to the public at dusk.

**TRANSPORTATION REQUIREMENTS**

57. The Owner/Permittee shall provide an incentive program to encourage transit use for the project. For the first ten (10) years that Alvarado Apartments is open, a onetime, one month transit pass will be offered for each apartment for which a new lease is signed for nine months or more. The benefit is provided only at the option and at the specific request of the resident, to the satisfaction of the Director of the Development Services Department.

58. The Owner/Permittee shall meet with City Staff to determine if improvements at the Alvarado and 70<sup>th</sup> Street intersection can be subject to a reimbursement agreement.

59. The Owner/Permittee shall circulate petitions in the Reservoir area to measure the interest in the community for having restricted parking hours.

60. The Owner/Permittee shall install 2 Sentry signs flashing speed for vehicles on Reservoir Drive.

61. The Owner/Permittee shall provide an extra 30 rental bicycles for the residents to ride and return to the site.

**PLANNING COMMISSION REQUIREMENTS:**

62. The Owner/Permittee shall register with the United States Green Building Council, 'USGBC' and will obtain LEED Silver certification, with a copy of such certification to be provided when received, to the satisfaction of the Development Services Department.

63. Prior to the issuance of a building permit for each building, the Owner/Permittee shall provide plans, for review and approval, showing twelve electrical hook-ups for charging electrical vehicles in each parking garage, to the satisfaction of the Development Services Department.

64. Prior to the issuance of a building permit for each building, the Owner/Permittee shall provide, for review and approval, construction plans which indicate on-site electrical generation shall provide fifty percent of all on-site common area electrical demand, to the satisfaction of the Development Services Department.

65. Modify the Mitigation Monitoring and Reporting Program Transportation/Circulation condition number eight so that transit passes shall be offered to tenants with lease terms of nine months or more for first ten years of building operations.

**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 §66020.
- This development may be subject to impact fees at the time of construction permit issuance

APPROVED by the Council of the City of San Diego on JUL 28 2009, 2009, Resolution No. R- 305187.

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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.

PLYMOUTH HEALTH INVESTMENT, LLC,  
a Delaware Limited Liability Company  
Owner/Permittee

By \_\_\_\_\_

DMC-SAN DIEGO 2, L.P.,  
a Delaware Limited Partnership  
Owner/Permittee

By \_\_\_\_\_

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

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