



**REPORT NO. PC-17-017**

**DATE ISSUED:** February 7, 2017

**ATTENTION:** **Planning Commission, Agenda of February 23, 2017**

**SUBJECT:** 320 WEST CEDAR – Centre City Development Permit/Centre City Planned Development Permit/Site Development Permit No. 2016-39 – Process Four

**OWNER/  
APPLICANT:** JMan at the K Lofts, LLC

**SUMMARY**

**Issue:** Should the Planning Commission (“Commission”) approve Centre City Development Permit/Centre City Planned Development Permit/Site Development Permit (CCDP/CCPDP/SDP) No. 2016-39 for 320 West Cedar, a 8-story (approximately 93-foot tall) residential development (“Project”) located at the northwest corner of West Cedar and Union streets in the Little Italy Neighborhood of the Downtown Community Plan area (“Downtown”)?

**Staff Recommendation:** Approve CCDP/CCPDP/SDP No. 2016-39 for the Project.

**Community Planning Group Recommendation:** On January 18, 2017, the Downtown Community Planning Council voted 17-1 to recommend approval of the Project.

**Civic San Diego Board Recommendation:** On January 25, 2017, the Civic San Diego (“CivicSD”) Board voted 7-1 to grant Design Review approval and recommend that the Commission approve CCDP/CCPDP/SDP No. 2016-39.

**Historical Resources Board Recommendation:** On January 26, 2017, the City of San Diego (“City”) Historical Resources Board (HRB) voted 5-4 to recommend that the Commission adopt the findings and mitigation measures associated with the Project’s Site Development Permit for the demolition of the designated historical resource (HRB #282 – Oscar H. Millard Rental) located at 1610 Union Street.

**Other Recommendations:** The Little Italy Association and the Little Italy Residents’ Association have submitted letters in support of the Project.

**Environmental Review:** Development within the Downtown Community Planning area is covered under the following documents, all referred to as the “Downtown FEIR”: Final Environmental Impact Report (FEIR) for the San Diego Downtown Community Plan,

Centre City Planned District Ordinance, and 10<sup>th</sup> Amendment to the Centre City Redevelopment Plan, certified by the former Redevelopment Agency (“Former Agency”) and the City Council on March 14, 2006 (Resolutions R-04001 and R-301265, respectively); subsequent addenda to the FEIR certified by the Former Agency on August 3, 2007 (Former Agency Resolution R-04193), April 21, 2010 (Former Agency Resolution R-04510), and August 3, 2010 (Former Agency Resolution R-04544), and certified by the City Council on February 12, 2014 (City Council Resolution R-308724) and July 14, 2014 (City Council Resolution R-309115); and, the Final Supplemental Environmental Impact Report for the Downtown San Diego Mobility Plan certified by the City Council on June 21, 2016 (Resolution R-310561). The Downtown FEIR was adopted prior to the requirement for documents prepared under the California Environmental Quality Act (CEQA) to consider a project’s impacts related to greenhouse gas emissions. The effect of greenhouse gas emissions on climate change, and the subsequent adoption of guidelines for analyzing and evaluating the significance of data, is not considered “new information” under State CEQA Guidelines Section 15162 triggering further environmental review because such information was available and known before approval of the Downtown FEIR. Nonetheless, development within the Downtown Community Planning area is also covered under the following documents, all referred to as the “CAP FEIR”: FEIR for the City of San Diego Climate Action Plan (CAP), certified by the City Council on December 15, 2015 (City Council Resolution R-310176), and the Addendum to the CAP, certified by the City Council on July 12, 2016 (City Council Resolution R-310596). The Downtown FEIR and CAP FEIR are both “Program EIRs” prepared in compliance with CEQA Guidelines Section 15168. Consistent with best practices suggested by Section 15168, a Downtown 15168 Consistency Evaluation (“Evaluation”) has been completed for the project. The Evaluation concluded that the environmental impacts of the project were adequately addressed in the Downtown FEIR and CAP FEIR; that the project is within the scope of the development program described in the Downtown FEIR and CAP FEIR and is adequately described within both documents for the purposes of CEQA; and, that none of the conditions listed in Section 15162 exist. Therefore, no further environmental documentation is required under CEQA.

The Downtown FEIR is available at this link:  
[www.civicsd.com/planning/environmental-documents.html](http://www.civicsd.com/planning/environmental-documents.html)

The CAP FEIR is available at this link:  
[www.sandiego.gov/sites/default/files/legacy//planning/programs/ceqa/2015/151123capfinalpeir.pdf](http://www.sandiego.gov/sites/default/files/legacy//planning/programs/ceqa/2015/151123capfinalpeir.pdf)

**Fiscal Impact Statement:** None.

**Code Enforcement Impact:** None.

**Housing Impact Statement:** The Project will demolish two buildings currently vacant. The Project consists of 43 units with five units restricted at or below 50% Area Median Income (AMI). The Project complies with the City Inclusionary Housing Ordinance (“Inclusionary Ordinance”).

**BACKGROUND**

JMan at the K Lofts, LLC (“Applicant”) is requesting approval for CCDP/CCPDP/SDP No. 2016-39 for the construction of a project consisting of an 8-story, 93-foot tall residential building comprised of 43 dwelling units (DU) at the northwest corner of West Cedar and Union streets in the Little Italy neighborhood. The Project is utilizing two incentives under the City’s Affordable Housing Density Bonus (AHDB) provisions for the waiver of two development standards for: 1) encroachment into the Cedar Street View Corridor and 2) encroachment into the Little Italy Sun Access Overlay. The Project contains five apartment units restricted for tenants with very-low income levels (50% of area median income, or AMI). The Project proposes the demolition of a locally designated historic resource and deviations to several development standards.

**Neighborhood Context**

Little Italy’s rich history is defined by its relationship to the waterfront and its commercial district centered on India Street. Redevelopment has yielded a mix of housing types from Single Room Occupancy developments to luxury units south of Hawthorn Street, while commercial services, artists and new restaurants have made use of older buildings in the northern portions of the neighborhood.

Several environmental, locational, and cultural influences converge in Little Italy. The Mediterranean atmosphere is reinforced by views of the Bay while airport overflight restrictions and solar access requirements provide lower-scale buildings and sunlight. The County Administration Center’s waterfront park is an asset for the neighborhood, Downtown and the region. Hawthorn and Grape streets are primary freeway access couplets in this neighborhood that access the San Diego International Airport and Downtown.

**DEVELOPMENT TEAM**

<b>ROLE</b>	<b>FIRM / CONTACT</b>	<b>OWNERSHIP</b>
Applicant	JMan at the K Lofts, LLC/Matthew Segal	Jonathan Segal
Property Owner	JMan at the K Lofts, LLC/Matthew Segal	Jonathan Segal
Architect	Jonathan Segal	Jonathan Segal

**Permits Required**

- CCDP for new construction over 1,000 square feet (SF).
- CCPDP for the following deviations from the CCPDO:
  1. Street wall height minimum; and
  2. Parking Standards.
- SDP for the substantial alteration (demolition) of a designated historical resource.

Per San Diego Municipal Code (SDMC) Section 112.0103, when an Applicant applies for more than one permit for a single development, the applications shall be consolidated for processing and shall be reviewed by a single decision maker. The decision maker shall act on the consolidated application at the highest level of authority for that development, and the findings required for approval of each permit shall be considered individually. The decision-maker for this Project will be the Planning Commission under a Process Four review. This decision is appealable to the City Council.

### **DISCUSSION**

The Project is residential development consisting of 43 total dwelling units. Forty-two of these units (between 358-417 SF) are within an 8-story (93-feet tall) apartment building. Five of these units are to be affordable for individuals below 50% of the AMI. Adjacent to the apartment building at the corner is a three-bedroom residential unit above ground-floor retail space. A total of 2,500 SF of ground-floor retail space is provided in the Project.

Because 11% of the Project's units are restricted for tenants with very-low incomes, the Project is eligible for a reduced parking requirement (0.5 space/bedroom) under the AHDB provisions. Additionally, the Centre City Planned District Ordinance (CCPDO) reduces the parking requirements for lots at or under 5,000 SF by 50%. Therefore the Project is required to provide a minimum of 11 parking spaces comply with the parking requirement for the site. Please see the Project Data Sheet (Attachment A) for further details.

The majority of the Project consists of a natural grey cast-in-place concrete with accents of wood, metal and off-white stucco. Covered balconies cantilever four feet into the right of way (ROW) on the south elevation creating a recessed ground floor housing the commercial lease space. The fifth bay of balconies (west column) is pulled back just over 8 feet from the property line to the edge of the balconies. This recess serves to allow vertical access to the transformer that is now located on the western corner of the site. Additionally, the recess of the fifth column lessens the intrusion into the LISA and adds interest to the western, interior wall.

A driveway accessing the single level of underground parking is on the north interior property line along Union Street. The three-bedroom unit at the corner of the site is characterized by a transparent ground floor retail space with facades above consisting of glass and white concrete with a smooth finish. The Cedar Street façade features an asymmetrical arrangement of openings while the Union Street side features a wide, vertical, mid-building opening. Landscaping is located on the roof of this larger unit. There is also a tree on the second floor overlooking Cedar Street that will add further interest to the corner.

The project site has a Minimum FAR of 3.5 and a Base Maximum FAR of 6.0. The proposed Project's FAR of 6.9 is achieved through the provision of affordable housing as discussed below.

### **Downtown Community Plan Analysis**

The Downtown Community Plan (DCP) envisions downtown as a multi-use regional center, with strong employment and residential components; targeting a residential buildout population or

approximately 90,000 people with a market for a broad array of supporting stores and services with opportunities to live close to jobs and transit. The DCP implements the City of Villages strategies of the City's General Plan by directing growth in limited areas served by transit as an efficient use of urban land that reduces the need to develop outlying areas while creating opportunities for realistic alternatives to automobile travel.

The preservation, rehabilitation, restoration, reconstruction, and retention of designated historical resources, and their incorporation into new development projects, whether in whole or in part, is strongly encouraged in the DCP. If full retention is not feasible, the CCPDO strongly encourages the retention and reuse of notable architectural fragments or features especially when particular elements are identified as significant in respective neighborhood guidelines. However, the DCP recognizes that some loss of properties listed on the San Diego Register of Historic Resources (SDRHR) may inevitably occur to accommodate growth and population goals.

Furthermore, the DCP states, "redevelopment efforts in Little Italy will underscore the neighborhood's historic and contemporary quality, with strategic intensification to accomplish population goals and increase neighborhood vitality." Maintaining Little Italy's sunny, open atmosphere as well as the traditional and eclectic urban texture is accomplished through building height restrictions, volumetric controls, and the encouragement of multiple buildings per block.

#### **Applicable DCP Goals and Policies**

- 3.3-G-1 Provide a range of housing opportunities suitable for urban environments and accommodating a diverse population.
- 3.3-G-2 Ensure supplies of housing for downtown employees commensurate with their means to reduce automobile trips and achieve related air quality benefits.
- 3.3-P-3 Achieve a mix of housing types and forms, consistent with FAR and urban design policies.
- 3.4-G-1 Continue to promote the production of affordable housing in all of downtown's neighborhoods and districts.
- 3.4-G-3 Increase the supply of rental housing affordable to low income persons.
- 9.1-G-1 Protect historic resources to communicate Downtown's heritage.
- 9.1-G-2 Encourage the rehabilitation and reuse of designated historic properties.
- 9.2-G-1 Integrate designated historic resources into the Downtown fabric while achieving policies for significant development and population intensification.
- 9.2-P-3 Promote the adaptive re-use of intact buildings (designated or not) and/or significant elements, as a cultural and sustainability goal.

#### **Affordable Housing Density Bonus Law**

Pursuant to implementing the State of California Density Bonus Law provisions, the SDMC provides for the following when a project includes affordable housing:

1. Floor Area Ratio (FAR) Bonus
2. Reduced Parking Requirements
3. Development Incentives

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The Applicant is proposing to restrict five (11%) of the residential units to persons qualifying as very-low income residents, or those earning less than or equal to 50% of the AMI (this equates as income limit up to \$29,750 and rent up to \$743/month). Based on the provision of affordable housing, the Project is entitled to the following:

1. A 35% FAR Bonus.
2. A reduction in parking requirements from the 1.0 parking space/unit plus guest parking to a rate of 0.5 parking spaces/bedroom (maximum of 1.0 space/unit).
3. Two incentives from development standards.

The purpose of the AHDB regulations is to incentivize developers to provide affordable housing and reduce the burden of providing costly parking in areas served by transit. Per SDMC Section 143.0740, the applicant is requesting that two incentives be used for two deviations requested by the Project. The Section states that an incentive can mean a deviation to a development regulation. The Section further states that:

*“Upon an applicant’s request, development that meets the applicable requirements of Sections 143.0720 and 143.0725 shall be entitled to incentives pursuant to Section 143.0740 unless the City makes a written finding of denial based on substantial evidence, of any of the following:*

- (A) The incentive is not required in order to provide for affordable housing costs, as defined in California Health and Safety Code Sections 50052.5 and 50053;*
- (B) The incentive would have a specific adverse impact upon public health and safety as defined in Government Code section 65589.5, the physical environment, including environmentally sensitive lands, or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low income and moderate income households;*
- (C) The incentive would be contrary to state or federal law. Requested incentives shall be analyzed in compliance with the California Environmental Quality Act as set forth in Chapter 12, Article 8, and no incentive shall be granted without such compliance.”*

Thus, if the findings for applicable sections A-C above cannot be made, the incentives must be granted. Staff did not find any substantial evidence that the incentives would (1) not be required to provide for affordable costs; (2) adversely affect public health or safety; and (3) would be contrary to State of Federal law. The two incentives are requested for the following deviations:

1. CCPDO 156.0310(d)(1)(F) View Corridor Setbacks and Stepbacks. The Applicant is requesting that the building be allowed to encroach into the view corridor along Cedar Street to accommodate increased density and thereby provide five very-low income dwelling units.
2. CCPDO 156.0310(c)(1)(A) The Applicant is requesting that the building be allowed to encroach outside of the LISA building envelope limits along Cedar Street to accommodate increased density and thereby provide five very-low income dwelling units.

The requested incentive for encroachment into the View Corridor setback is similar to that of the incentive for the LISA deviation; both allow the Project to achieve a greater density. The proposed LISA encroachment is on the north side of Cedar Street and would therefore not cast a shadow onto the sidewalk. Further, the extent of the encroachment results in a more functional, and dense, design for the apartment building. The greater density allows the Project to be more cost-efficient and, per the intent of the AHDB provisions, the resulting cost-efficiencies incentivize the inclusion of the five affordable housing units. Therefore, Staff does not have concerns regarding the use of these incentives for the above deviations.

### **SDP – Proposed Demolition of Historical Resource – Oscar H. Millard Rental**

The historic resource in question, the Oscar H. Millard Rental (Millard Rental), is currently vacant and consists of a two-story wood-framed building that recently contained a spa business. The Millard Rental was built in 1894 as a multi-family residential building facing Union Street (1610 Union Street). In 1952, a two-story garage/office building was constructed on the west side of the parcel facing West Cedar Street. In 1990, the original portion of the Millard Rental was designated as a local historical resource (HRB #282) with the garage/office building not included under the designation.

The Project proposes a substantial alteration (demolition) of a locally designated historic resource. Under the SDMC, a substantial alteration requires the approval of an SDP, a Process 4 decision by the Planning Commission after a recommendation by the HRB. Specific findings are required for an SDP (Attachment B - Applicant's SDP Findings) including findings that require analysis of less environmentally damaging alternatives that could further minimize the potential adverse effects on the designated historical resource.

**DCP Chapter 9** – This chapter establishes the strategy for the preservation of historical resources as part of Downtown's continued development. The Millard Rental is a locally listed property as classified per the third tier below. The Millard Rental has not been found to be eligible for either the NRHP or CRHR. The three-tiered system is as follows:

1. National Register of Historic Places (NRHP) – representing the highest level of designation, and marking resources contributing to the nation's history – bestows the greatest protection.
2. California Register of Historic Resources (CRHR) also establishes substantial protections in recognition of contributions to state heritage.
3. The third tier, the San Diego Register of Historical Resources (SDRHR), includes properties deemed to have contributed significantly to regional history and culture.

The DCP's strategy for conserving downtown historic resources relies on the established process through the National, California and Local Register designations of individual properties and districts. Each designation is associated with preservation goals and development restrictions. Specifically, Table 9-1: *Historical Designations and Preservation Goals*, of the DCP calls for the following preservation goal for buildings listed in the SDRHR:

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*SDRHR Listed – Whenever possible, retain resource on-site. Partial retention, relocation or demolition of a resource shall only be permitted through applicable City procedures. Resources contributing to a San Diego Register District have the same protection status as individually-listed resources.*

**Downtown FEIR** - The Downtown FEIR identified the potential demolition of SDRHR buildings as a significant cumulative impact (Impact HIST-A.1). However, the City Council adopted Findings and a Statement of Overriding Considerations determining that such impacts may be unavoidable in order to realize the substantial economic and social benefits of implementing the DCP's development goals. The FEIR's Mitigation Monitoring Reporting Program (MMRP) lists MM HIST-A.1 that stipulates that all applications for construction and development permits where historical resources are present shall be evaluated pursuant to the Historical Resources Regulations of the San Diego Municipal Code including the proposed demolition of local resources.

**San Diego Municipal Code (SDMC)** - The Project's proposed demolition of the locally designated historical resource, the Millard Rental, is by definition a substantial alteration per SDMC Section 143.0251 - Development Regulations for Designated Historical Resources. Substantial alterations to an historical resource require an SDP granted through a Process Four. In order to approve an SDP, the Planning Commission must make the following six findings (three general and three supplemental):

General Findings – SDMC § 126.0504 (a):

1. *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; and,*
3. *The proposed development will comply with the applicable provisions of the LDC.*

Supplemental Findings – Historical Resources Deviation for Substantial Alteration of a Designated Historical Resource – SDMC § 126.0504(i):

1. *There are no feasible measures, including a less environmentally damaging alternative that can further minimize the potential adverse effects to the designated historical resource or historical district.*
2. *This deviation is the minimum necessary to afford relief and accommodate the development and all feasible measures to mitigate for the loss of any portion of the historical resource have been provided by the applicant.*
3. *The denial of the proposed development would result in economic hardship to the owner. For the purpose of this finding, "economic hardship" means there is no reasonable beneficial use of a property and it is not feasible to derive a reasonable economic return from the property.*

**Alternatives Analysis** - Per the Historic Resources Regulations and Supplemental Finding #1 the analysis of "less environmentally damaging alternatives that can further minimize the potential adverse effects to the designated historical resource" is required. After consultation with both CivicSD and Historic Staff, the Applicant submitted draft SDP findings that evaluated the following, less damaging project alternatives (Attachment B) that were also evaluated for their



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respective Margin on Revenue (MOR) in relation to that of the Base Project, described herein:

- Base Project – demolish existing structures and build the proposed Project discussed herein.
- Project Alternative 1 - rehabilitate both structures on the site.
- Project Alternative 2 - rehabilitate only the designated historical structure on the site and demolish the non-historic commercial addition to build two additional DU at 600 SF each.
- Project Alternative 3 - relocate and rehabilitate the existing historical structure and then build the Base Project as described herein.

Economic Alternative Analysis - SDP Supplemental Findings #2 and #3 ask if “all feasible measures to mitigate for the loss of any portion of the historical resource have been provided by the applicant,” and if “denial of the proposed development would result in economic hardship.” For purposes of this finding, “economic hardship” means there is no reasonable beneficial use of a property and it is not feasible to derive a reasonable economic return from the property.

Initially, the Project proposed 36 DU and no parking spaces. The Applicant had been requesting to use an incentive under the AHDB to waive the parking requirements. To address the economic hardship finding, the Applicant retained the London Group to evaluate the economic feasibility of the three alternatives listed above against the Base Project (“London Report” dated 9/22/16 – Attachment C). The London Report found that “only the Base Project is economically feasible,” and that it resulted in a profit of \$1.6 million. The Report concluded that Alternatives #1 and #2 would result in a financial loss to the Applicant and that Alternative #3 (profit of \$216, 905) would result in a very low MOR that was not sufficient to qualify for financing and that renders this Alternative economically infeasible. Margin on Revenue, a form of return on investment, was the financial metric used to determine the Project’s ability to achieve sufficient returns to qualify for financing which ultimately determines the Project’s economic feasibility.

Peer Review of Economic Alternative Analysis – CivicSD Staff retained KMA to complete a peer review of the Applicant’s economic analysis of the Project alternatives (Attachment D). The KMA review found that the Base Project and all three development alternatives were economically infeasible and that “the resulting developer profit levels for all the alternatives studied were found to be insufficient to warrant development of the Project.” The basis for KMA’s slightly different finding from that of the London Report is due to their use of more conservative assumptions regarding development costs and the current value of the project.

Per Table 1 below, the London Report and the KMA Review found that all three Alternatives for the initial Project resulted in “economic hardship” to the owner as the returns were actual losses or too low to qualify for financing. Therefore, the strict application of the provisions of the historical resources regulations would deprive the developer and property owner reasonable use of the land.

<b>Table 1 – KMA’s Estimate of Developer Profits</b>				
	<b>Base Project</b>	<b>Alternative 1</b>	<b>Alternative 2</b>	<b>Alternative 3</b>
<b>London Report Projections</b>				
Total Profit	\$1.6 million	(\$1.7) million	(\$1.4) million	\$217,000
% of Value	12.3%	- 109.3%	- 44.2%	1.6%
<b>KMA Projections</b>				
Total Profit	\$589,000	(\$1.0) million	(\$1.5) million	(\$356,000)
% of Value	5.2%	- 71.8%	- 82.9%	- 3.0%

The Applicant revised the Project to address concerns regarding the lack of on-site parking that arose during the design review process. The revision included the addition of an underground garage containing the required number of parking spaces (11) and seven DU bringing the total from 36 DU to 43 DU. The Applicant had the London Group re-analyze the revised Base Project against the same Alternatives which did not change in scope or cost (“London Report” dated 12/7/16 – Attachment C). Again, the Base Project, with underground parking now included, was found to be the only financially feasible option, given that it also includes seven additional units. The Base Project’s profit increased to \$2.3 million from the \$1.6 million that is shown in the below Table 1. Additionally, the revised Project results in a better return for Alternative 3 (\$980K v. \$216K); however, one that is still not sufficient to generate financeable returns.

Historic Resources Board (HRB) – Before consideration of an SDP by the Commission, a recommendation is made by the HRB. The Project was presented to the HRB on January 26, 2017. Historic Staff’s findings can be found in the HRB Staff Report (Attachment I). The HRB voted 5-4 to approve the Historic Staff’s recommendation that the Commission adopt the mitigation measures and findings associated with the SDP.

CivicSD Staff’s responses to the six required SDP findings (as well as for the CCDP/CCPDP), are included in the attached resolution (Attachment K). The responses conclude that the findings for the SDP can be made because the alternatives result in non-financeable returns and therefore denial of the proposed development would result in economic hardship.

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**Conclusion:**

Staff recommends that the Commission grants CCDP/CCPDP/SDP No. 2016-39 for the Project.

Respectfully submitted,

Concurred by:



Christian Svensk  
Senior Planner



Reese A. Jarrett  
President



Brad Richter  
Vice President, Planning

**Attachments:**

- A. Project Data Sheet
- B. SDP Findings (provided by Applicant)
- C. London Reports dated: 09/22/16 & 12/7/16 (provided by Applicant)
- D. KMA Peer Review dated 11/3/16
- E. Public Correspondence in favor of Project
- F. Public Correspondence opposed to Project
- G. Downtown FEIR Consistency Evaluation & MMRP
- H. Ownership Disclosure Statements
- I. Historical Resources Board Staff Report dated 11/12/17
- J. Draft Permit CCDP/CCPDP/SDP No. 2016-39
- K. Draft Planning Commission Resolution for CCDP/CCPDP/SDP No. 2016-39  
Basic Concept/Schematic Drawings dated December 5, 2016

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