

RESOLUTION NUMBER R- 311200

DATE OF FINAL PASSAGE JUN 20 2017

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO DENYING THE APPEAL AND APPROVING THE  
CENTRE CITY DEVELOPMENT PERMIT, CENTRE CITY  
PLANNED DEVELOPMENT PERMIT, AND SITE  
DEVELOPMENT PERMIT NO. 2016-39 FOR THE 320 WEST  
CEDAR PROJECT

WHEREAS, J Man at the K Lofts, LLC, a California limited liability corporation, Owner and Permittee, filed an application with Civic San Diego for a Centre City Development Permit, Centre City Planned Development Permit, and Site Development Permit (CCDP/CCPDP/SDP) to allow (1) the construction of an 8-story residential development comprised of 43 residential units and 12 parking spaces in one level of below-grade parking, (2) the substantial alteration of a designated historical resource, referred to as the 320 West Cedar Project (Project); and

WHEREAS, the Project site is located on a 5,000 square foot lot located at the northwest corner of West Cedar and Union streets in the Little Italy neighborhood within the Downtown Community Plan area; and

WHEREAS, the property is legally described as Lot 7 in Block 33 of Middletown, in the City of San Diego, County of San Diego, State of California, according to partition map thereof made by J.E. Jackson on file in the Office of the County Clerk of San Diego County; and

WHEREAS, on January 18, 2017, the Downtown Community Planning Council voted to recommend approval of CCDP/CCPDP/SDP No. 2016-39; and

WHEREAS, on January 25, 2017, the Civic San Diego Board of Directors voted to recommend approval of CCDP/CCPDP/SDP No. 2016-39; and

WHEREAS, on January 26, 2017, the City of San Diego Historic Resources Board voted to recommend approval of CCDP/CCPDP/SDP No. 2016-39; and

WHEREAS, on February 23, 2017, the Planning Commission of the City of San Diego considered CCDP/CCPDP/SDP No. 2016-39 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, the Planning Commission approved CCDP/CCPDP/SDP No. 2016-39; and

WHEREAS, the approval was appealed to the City Council; and

WHEREAS, on June 20, 2017, the City Council of the City of San Diego considered CCDP/CCPDP/SDP No. 2016-39 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, under San Diego 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 City Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that it denies the appeal and adopts the following findings to CCDP/CCPDP/SDP No. 2016-39:

**CENTRE CITY DEVELOPMENT PERMIT – San Diego Municipal Code (SDMC) section 156.0304(e)(1)(D)**

- 1. The proposed development is consistent with the DCP, CCPDO, Land Development Code (LDC), and all other adopted plans and policies of the City of San Diego pertaining to the Centre City Planned District.**

The proposed development is consistent with the DCP, CCPDO, LDC, and all other adopted plans and policies of the City of San Diego pertaining to the CCDP as the development advances the goals and objectives of the DCP and CCPDO by:

- Increasing the Downtown residential population;
- Providing a range of housing opportunities suitable for urban environments and accommodating a diverse population;
- Achieving a mix of housing types and forms consistent with FAR and urban design policies;

- Facilitating Little Italy's continued evolution as a cohesive, mixed use waterfront neighborhood; and,
- Providing affordable housing.

The Project proposes a well-designed residential development, with affordable housing, and is consistent with the orderly growth and scale of the neighborhood. The residential development will help to infill, as well as activate, this area of Little Italy. The project is therefore consistent with the DCP.

The Project is also consistent with the CCPDO and LDC. For example, the required parking ratio for an all market-rate Project is one space per unit, which would result in 43 required spaces. However, under the Affordable Housing Density Bonus (AHDB) reduction that ratio is 0.5 space per bedroom and the requirement is reduced to 22.5 spaces. (SDMC section 143.0740 – Table 143-07D). The parking requirement is further reduced by 50% pursuant to the CCPDO provisions for lots 5,000 square feet or smaller. (SDMC section 156.0313(d). The total number of parking spots required is then 11.

The CCPDO and LDC allow for deviations to a Project through the Planned Development Permit process. The Project requests a deviation from the CCPDO requirement to provide street wall height of 40 feet within five feet of the street frontage. (SDMC section 156.0310(d)(1)(D). The street wall is recessed nine feet in at the western edge of the Project's Cedar Street frontage to accommodate an at-grade transformer and utility area. The Project also requests a deviation for the CCPDO parking standards for driveway slopes, gate setback, and driveway width. (SDMC section CCPDO 156.0313). Due to the small size of the lot the Project proposes driveway slopes that are steeper than allowed under the CCPDO but consistent with City-wide standards, that the garage gate be located at the property line rather than ten-feet back and that the driveway width be reduced from 12-feet to 10-feet in width.

Because the project provides 11% affordable housing, the Affordable Housing Density Bonus (AHDB) also allows two incentives, which are waivers of development regulations. (SDMC section 143.0740(f)(4) and Table 143.07D.) The project is exercising one incentive to receive a waiver of the view corridor setback requirements of the CCPDO, which require a 15-foot setback for the upper three levels of the building. (SDMC section 156.0310(d)(1)(F)). The project instead proposes to provide a 0-foot setback for the upper three levels of the building. The project is exercising a second incentive to receive a waiver of the building envelope requirements of the CCPDO, which require an 85-foot tall building with a maximum width of 40 feet. (SDMC section 156.0310(c)(1)(A).) The project instead proposes to build a 93-foot tall building with a maximum width of 52 feet.

**CENTRE CITY PLANNED DEVELOPMENT PERMIT – San Diego Municipal Code (SDMC) section 156.0304(f)(2)**

**1. The proposed development will not adversely affect the applicable land use plan.**

The Project provides a well-designed residential development that is consistent with the orderly growth and scale of the neighborhood as called for in the applicable land use plan, the DCP. The requested deviations for minimum streetwall height and parking design standards result from the small size of this corner lot and allow for greater density and the accommodation of five very-low income units as well as a more sophisticated design.

The DCP's goals for the sub-area of the Little Italy neighborhood in which the Project is located, state "residential development will be intensified in the southern portion of the neighborhood, near the Civic/Core employment district." Moreover, DCP Policy 3.4-P-1 states "utilize land-use, regulatory and financial tools to facilitate the development of housing affordable to all income levels including development intensity bonuses for builders creating affordable units." Per this policy, the resulting Project provides on-site affordable units and also serves as a desirable gateway into the Little Italy neighborhood with an accentuated corner design and an activated ground floor. The Project will not adversely affect the DCP; rather, it helps to achieve its goals.

**2. The proposed development will not be detrimental to the public health, safety and welfare.**

The granting of the deviations and approval of the Project will not negatively impact the public health, safety, and general welfare. In order to obtain a Certificate of Occupancy the proposed development must pass inspection for compliance with the issued building permit. The building permit implements the California Building Code (CBC), which regulates the construction of buildings for safety (e.g. fire, seismic, geo-technical conditions, etc.), sustainability and reliability. Therefore, through the building permit process, the proposed development will be deemed code-compliant and, to the extent possible under the CBC, not detrimental to the public health, safety, and welfare. Beyond this process's purview, there were no other Project characteristics that staff could identify that would make the development detrimental to public health, safety and welfare.

**3. The proposed development will comply to the maximum extent feasible with the regulations of the CCPDO; except for any proposed deviations which are appropriate for this location and will result in a more desirable project than would be achieved if designed in conformance with the strict regulations of the CCPDO.**

The proposed development will comply with all of the requirements of the LDC and CCPDO through the deviation approval process. Within the DCP, project deviations are commonly allowed through a Centre City Planned Development Permit (CCPDP) which accounts for project-specific circumstances in order to understand if deviations are reasonable and justifiable. The requested deviations provide design flexibility for the efficient development of the site given its small size and corner location; because of the deviations, the project can

provide the increased density and affordable housing desired by the DCP. They result in a more desirable project than would be achieved if designed in conformance with the strict regulations of the CCPDO. For this small-site project, every square foot was necessary to achieve an increased number of units as well as the required on-site, underground parking. The increased unit count allows for the inclusion of five very-low income units.

The Project will comply to the maximum extent feasible with all applicable regulations. The proposed deviations have been consistently recommended for approval throughout the review process as they will have a negligible impact on the surrounding neighborhood. For instance, as discussed below, the driveway slope deviation will allow the Project to accommodate the space necessary to provide the required number of parking spaces underground. The driveway width and slope deviations have no adverse effects on public safety and allow for the accommodation of the full number of required parking spaces within the confined site. The two requested deviations are:

#1. Minimum Street Wall Height - CCPDO Section 156.0310(d)(1)(D) - The CCPDO requires a minimum 40-foot high streetwall within five feet of all street frontages in this area. The street wall is recessed nine feet in at the western edge of the Project's Cedar Street frontage to accommodate an at-grade transformer and utility area. The requested streetwall deviation provides desired interest to the western elevation's blank wall and modulation to the Project as a whole. Additionally, it allows the transformer to be at-grade, thereby creating more room to accommodate the on-site parking below grade.

#2. Parking Standards: Driveway Slopes, Security Gate Setback, Driveway Width – CCPDO 156.0313(m):

Driveway Width: The CCPDO requires a minimum 20-foot wide driveway if it serves over ten parking spaces, but allows a minimum 12-foot wide driveway for garages that serve up to ten parking spaces. The Project proposes a 12-foot wide driveway to serve eleven parking spaces. Due to the small size of this corner lot, achieving the necessary driveway width was not achievable. In this instance, a 12-foot wide driveway is reasonable given the small amount of parking and low driveway usage. The SDMC requires 14-foot width for developments over 6 DU.

Driveway Slopes: The CCPDO limits the slope of driveways at the back of the sidewalk to enhance the visibility of drivers exiting a building garage. The CCPDO limits the first ten feet of a driveway to a maximum 5% slope. The Project proposes a 10% transition to the steeper 20% driveway slope needed to reach the underground parking level on the small lot. Given the site-specific size constraints this deviation is reasonable and the driveway slopes do meet City-wide regulations.

Gate Setback: Typically the CCPDO requires a ten-foot setback for gates into parking garages to minimize potential conflicts between vehicles and pedestrians. The Project proposes to locate the garage door at the property line. A roll-up door will be required to prevent any incursion into the sidewalk. Given the small number of parking spaces and the fact that this is not a heavily traveled street, this deviation is appropriate for such a

small Project and will not pose the problems associated with a more heavily traveled garage.

**4. The development is consistent with the Downtown Design Guidelines (DDG) and exhibits superior architectural design.**

With the approval of the requested deviations, the resulting development will be consistent with the DDG and as well as the surrounding area. For instance, the Project features unique and appropriate massing that is compatible in scale with the long-term development plans for the neighborhood as called for in the DDGs. It also features a highly transparent retail space at the corner that will activate and enhance this prominent entrance to Little Italy.

Additionally, the Project included a landscaped roof featuring multiple trees as well as a tree on the second floor overlooking Cedar Street that reinforces its designation as a Green Street (DDG Policy 3.7). The Project's superior infill design integrates space-efficient ingenuity with a distinct contemporary aesthetic that will be compatible with the surrounding neighborhood as called for by the Little Italy DDG goals.

**SITE DEVELOPMENT PERMIT**

**General Findings – San Diego Municipal Code (SDMC) section 126.0504(a):**

**1. The proposed development will not adversely affect the applicable land use plan.**

Historic Preservation is addressed in Chapter 9 of the DCP and states that locally designated resources are to be retained on-site whenever possible and that “demolition of a resource shall only be permitted through applicable City procedures,” that are outlined in SDMC Section 143.02 “Historical Resources Regulations.” The DCP states, “some loss of properties listed on the San Diego Register may inevitably occur to accommodate growth and population goals.” As discussed throughout these findings, the proposed development will serve as an attractive gateway into the Little Italy neighborhood; provide desired density as well as much needed affordable housing on site. The development helps to achieve the DCP’s goals of density and affordable housing, and given the DCP’s stated understanding of the compromise inherent in achieving these goals, it will not adversely affect the DCP.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.**

In order to obtain a Certificate of Occupancy the proposed development must pass inspection for compliance with the issued building permit. The building permit implements the California Building Code (CBC), which regulates the construction of buildings for safety (e.g. fire, seismic, geo-technical conditions, etc.), sustainability and reliability. Therefore, through the building permit process, the proposed development will be determined to be code-compliant and therefore not detrimental to the public health, safety, and welfare. There is no building or project characteristic outside of the purview of this process that staff could think of that would make it detrimental to public health, safety and welfare.

**3. The proposed development will comply with the applicable provisions of the LDC.**

As discussed above, with the two permitted deviations, the Project will comply with the applicable CCPDO Development Regulations pertaining to lot size, minimum building setbacks, building heights, building bulk, building base, ground floor heights, and residential development regulations. It will also comply with the CCPDO's Urban Design Regulations pertaining to building orientation, façade articulation, street level design, pedestrian entrances, transparency, blank walls, glass and glazing, rooftops, encroachments into public rights-of-way, building identification, and regulations pertaining to historical resources requiring an SDP.

The Project will also comply with the provisions for demolition of a designated historical resource. The LDC provides that it is unlawful to demolish a designated historical resource unless the proposed development cannot to the maximum extent feasible comply with the regulations, and a deviation is granted pursuant to a Site Development Permit (SDP) with supplemental findings for substantial alteration of a designated historic resource. (SDMC §§ 143.0251(a); 143.0260; 125.0504(i); 143.0210(e)(2)(C).) Demolition is therefore explicitly allowed under the LDC through the Site Development Permit (SDP) process, for which this Project has applied. The supplemental findings are addressed below.

**Supplemental Findings – Historical Resources Deviation for Substantial Alteration of a Designated Historical Resource – San Diego Municipal Code (SDMC) section 126.0504(i):**

**1. There are no feasible measures, including a less environmentally damaging alternative that can further minimize the potential adverse effects on the designated historical resource or historical district.**

Developer provided a financial analysis, presented by The London Group, to demonstrate that it is infeasible for the project to further minimize potential adverse effects on the designated historical resource. In an analysis performed by The London Group, three alternative scenarios were evaluated for their respective Margin on Revenue (“MOR”) a form of return on investment return versus that of the Base Project:

- Alternative 1: rehabilitate both structures. (MOR: - 109%)
- Alternative 2: rehabilitate only the designated structure. (MOR: - 73%)
- Alternative 3: relocate and rehabilitate resource to an appropriate site and build the Base Project. (MOR: + 6%)

The London Group's Economic Alternatives Analysis concluded that none of the above alternatives are economically feasible. The retention and/or relocation of the historical resource is a high-cost endeavor that weighs heavily on the Project's overall financial return. The Analysis states “it is our experience that a redevelopment project requires the Margin on Revenue to exceed 10% for a project to be economically feasible and to qualify for project financing.” CivicSD retained Keyser Marston and Associates (KMA), an independent real estate analysis firm, to review the London Group's Analysis and KMA concurred with their findings. Per the above, no alternative achieves that hurdle rate and therefore there are no

feasible measures that can minimize the adverse effects of demolishing the locally designated historic resource.

- 2. The 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.**

Per the response to Supplemental Finding #1, the Applicant provided an Economic Alternatives Analysis conducted by the London Group that concluded that there are no economically feasible options to accommodate the development without demolishing the historic resource. All the MORs of the analyzed alternatives fall short of the hurdle rate deemed acceptable to qualify for financing. CivicSD retained Keyser Marston and Associates (KMA), an independent real estate analysis firm, to vet the London Group's Analysis and KMA concurred with their findings. Therefore, this deviation from the Historical Resource Regulations is the minimum necessary to afford relief and accommodate the development of the site.

Lastly, the Downtown FEIR Mitigation, Monitoring and Reporting Program contains Mitigation Measure HIST A.1-3 that is specifically tailored for the demolition of locally designated historic resources and which will be implemented as a condition of this Site Development Permit.

- 3. The denial of the proposed development would result in economic hardship to the owner. For purposes of the 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.**

Denial of the Project would result in economic hardship for the owner as it would not be feasible to derive a reasonable economic return from the property, in light of the fact that the alternatives studied resulted in financial losses or returns that were too low to qualify for financing. The London Group's analysis concluded that Alternatives #1 and #2 would result in a financial loss to the Applicant and that Alternative #3 would result in a low MOR that renders Alternative #3 economically infeasible. KMA completed a third party analysis of the London Group's findings and methodology. KMA concurred with their conclusions regarding the alternatives, finding that the costs to rehabilitate and/or relocate the resource rendered the Project financially infeasible. Therefore, under the strict application of the provisions of the historical resources regulations, the property owner is unable to derive a reasonable economic return from the property.

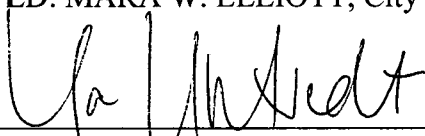
BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted by the City Council, CCDP/CCPDP/SDP No. 2016-39 is hereby granted to J Man at the K Lofts, LLC,



Owner/Permittee, in the form, exhibits, terms and conditions as set forth in CCDP/CCPDP/SDP No. 2016-39, a copy of which is attached hereto as Exhibit A and made a part hereof.

APPROVED: MARA W. ELLIOTT, City Attorney

By

  
\_\_\_\_\_  
Inga B. Lintvedt  
Deputy City Attorney

IBL:mcm  
June 29, 2017  
Or.Dept: Civic San Diego  
Doc. No.: 1528795

ATTACHMENT(S): Exhibit A, CCDP/CCPDP/SDP No. 2016-39

Passed by the Council of The City of San Diego on JUN 20 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 20 2017.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

(Seal)

By *Sty Bracy*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 311200

# EXHIBIT A

**RECORDING REQUESTED BY:**

Civic San Diego  
Planning Department  
401 B Street, Suite 400  
San Diego, CA 92101

**AND WHEN RECORDED MAIL TO:**

Civic San Diego  
Planning Department  
401 B Street, Suite 400  
San Diego, CA 92101

*THIS SPACE FOR RECORDER'S USE ONLY*

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*NOTE: COUNTY RECORDER, PLEASE RECORD AS  
RESTRICTION ON USE OR DEVELOPMENT OF  
REAL PROPERTY AFFECTING THE TITLE TO OR  
POSSESSION THEREOF*

**CENTRE CITY DEVELOPMENT PERMIT  
CENTRE CITY PLANNED DEVELOPMENT PERMIT  
SITE DEVELOPMENT PERMIT  
NO. 2016-39**

**320 WEST CEDAR  
ASSESSOR PARCEL NUMBER  
533-353-10**

**CENTRE CITY DEVELOPMENT PERMIT  
CENTRE CITY PLANNED DEVELOPMENT PERMIT  
SITE DEVELOPMENT PERMIT  
NO. 2016-39**

**320 WEST CEDAR  
ASSESSOR PARCEL NUMBER  
533-353-10**

This Centre City Development Permit / Centre City Planned Development Permit / Site Development Permit (CCDP/CCPDP/SDP) Permit No. 2016-39 is granted by the City of San Diego City Council (“City Council”) to JMan at the K Lofts, LLC, Owner/Permittee, to allow: 1) the substantial alteration (i.e. demolition) of Historical Resources Board (HRB) Site No. 282, the Oscar H. Millard Rental, and, 2) the construction of a residential development known as 320 West Cedar (“Project”) on the 5,000 square foot (“SF”) premises located on the northwest corner of West Cedar and Union streets in the Little Italy neighborhood of the Downtown Community Plan (DCP) area and within the Centre City Planned District (CCPD); and more particularly described as: Lot 7 in Block 33 of Middletown, in the City of San Diego, County of San Diego, State of California, according to partition map thereof made by J.E. Jackson on file in the Office of the County Clerk of said San Diego County.

Subject to the terms and conditions set forth in this Permit, permission is granted to the Owner/Permittee to construct and operate a development and uses as described and identified by size, dimension, quantity, type and location as follows and on the approved Basic Concept/Schematic Drawings and associated Color and Materials Boards dated December 5, 2017 on file at Civic San Diego (“CivicSD”).

1. General

The Owner and/or Permittee shall construct, or cause to be constructed on the site, a development consisting of a 8-story (approximately 93-foot tall), residential development located on a 5,000 SF premises located on the north side of Cedar Street between State and Union streets in the Little Italy neighborhood. The Project contains 43 dwelling units (“DU”) including a separate 5-story single-family home with a total of 12 automobile parking spaces below grade. The total Floor Area Ratio (FAR) of the development for all uses above ground shall not exceed 6.9 (including all FAR Bonuses). The development shall not exceed a height of 93 feet above grade level, measured to the top of the parapet of the uppermost floor, with roof equipment enclosures, elevator penthouses, mechanical screening and architectural elements above this height permitted per the Centre City Planned District Ordinance (CCPDO).

2. Site Development Permit (SDP)

The City of San Diego City Council (“City Council”) hereby grants a SDP allowing the Substantial Alteration of a Designated Historical Resources as follows:

The City of San Diego HRB Site No. 282, the Oscar H. Millard Rental (“Millard Rental”) located at 1610 Union Street may be demolished per the City Council having made the SDP findings in San Diego Municipal Code (SDMC) Section 126.0504(a) & (i) and in compliance with the 2006 Final Environmental Impact Report (FEIR) Mitigation, Monitoring, and Reporting Program (MMRP) Measures HIST A.1-3. Mitigation Measure HIST A.1-3 requires an approved Documentation Program that must include Photo Documentation and Measured Drawings of the resource.

3. Centre City Planned Development Permit (CCPDP)

The City Council hereby grants a CCPDP pursuant to Sections 156.0304(d) and (f) of the CCPDO for deviations to the following development regulations within the CCPDO and San Diego Municipal Code (SDMC):

- a. CCPDO 156.0310(d)(1)(D) Minimum Streetwall Height. Streetwall to be recessed nine feet from property line for a distance of 16 feet along Cedar Street.
- b. CCPDO 156.0313 Parking Standards. Allowing driveway slope of 10%, allowing garage gate to be on property line, and allowing driveway width of 12 feet.

4. Floor Area Ratio (FAR) Bonus

- a. Affordable Housing Bonus – The development is entitled to an FAR bonus of 2.1 (10,500 SF). The Owner/Permittee shall provide a minimum of 5 affordable units restricted to tenants with incomes of no more than 50% of Area Median Income (AMI) for a minimum of 55 years. An agreement with the San Diego Housing Commission shall be executed to enforce and monitor the affordability restrictions prior to issuance of any building permit for construction of any residential unit.

5. Parking

The development shall include 12 parking spaces, to be designed to meet City Standards, except as modified by the CCPDP cited above. The twelfth parking space shall be obtained through the provision of a mechanical vertical lift in Space #11.

## **PLANNING AND DESIGN REQUIREMENTS**

1. Urban Design Standards

The proposed development, including its architectural design concepts and off-site improvements, shall be consistent with the CCPDO and Centre City Streetscape Manual (CCSM). These standards, together with the following specific conditions, will be used as a basis for evaluating the development through all stages of the development process.

- a. Architectural Standards – The architecture of the development shall establish a high quality of design and complement the design and character of the Little Italy neighborhood as shown in the approved Basic Concept/Schematic Drawings on file with

CivicSD. The development shall utilize a coordinated color scheme consistent with the approved Basic Concept/Schematic Drawings.

- b. Form and Scale – The 8-story residential development and 5-story single family home have a total of 43 residential units with an uppermost height of approximately 93 feet tall measured to the top of the roofline and/or parapet, with roof equipment enclosures, elevator penthouses, and mechanical screening above this height permitted per the CCPDO and the Federal Aviation Administration (FAA).
- c. Building Materials – All building materials shall be of a high quality as shown in the Basic Concept/Schematic Drawings and approved materials board. All materials and installation shall exhibit high-quality design, detailing, and construction execution to create a durable and high quality finish. The base of the buildings shall be clad in upgraded materials and carry down to within one inch of finish sidewalk grade, as illustrated in the approved Basic Concept/Schematic Drawings. Any plaster materials shall consist of a hard troweled, or equivalent, smooth finish. Any stone materials shall employ larger modules and full-corner profiles to create a substantial and non-veneer appearance. Any graffiti coatings shall be extended the full height of the upgraded base materials or up to a natural design break such a cornice line. All downspouts, exhaust caps, and other additive elements shall be superior grade for urban locations, carefully composed to reinforce the architectural design. Reflectivity of the glass shall be the minimum reflectivity required by Title 24.

All construction details shall be of the highest standard and executed to minimize weathering, eliminate staining, and not cause deterioration of materials on adjacent properties or the public right of way. No substitutions of materials or colors shall be permitted without the prior written consent of the CivicSD. A final materials board which illustrates the location, color, quality, and texture of proposed exterior materials shall be submitted with 100% Construction Drawings and shall be consistent with the materials board approved with the Basic Concept/Schematic Drawings.

- d. Street Level Design – Architectural features such as awnings and other design features which add human scale to the streetscape are encouraged where they are consistent with the design theme of the structure. Exit corridors including garage/motor-court entrances shall provide a finished appearance to the street with street level exterior finishes wrapping into the openings a minimum of ten feet.

All exhaust caps, lighting, sprinkler heads, and other elements on the undersides of all balconies and surfaces shall be logically composed and placed to minimize their visibility, while meeting code requirements. All soffit materials shall be high quality and consistent with adjacent elevation materials (no stucco or other inconsistent material), and incorporate drip edges and other details to minimize staining and ensure long-term durability.

- e. Utilitarian Areas – Areas housing trash, storage, or other utility services shall be located in the garage or otherwise completely concealed from view of the ROW and adjoining developments, except for utilities required to be exposed by the City or utility company.

The development shall provide trash and recyclable material storage areas per San Diego Municipal Code (SDMC) sections 142.0810 and 142.0820. Such areas shall be provided within an enclosed building/garage area and shall be kept clean and orderly at all times. The development shall implement a recycling program to provide for the separation of recyclable materials from the non-recyclable trash materials.

- f. Mail and Delivery Locations – It is the Owner’s and/or Permittee’s responsibility to coordinate mail service and mailbox locations with the United States Postal Service and to minimize curb spaces devoted to postal/loading use. The Owner and/or Permittee shall locate all mailboxes and parcel lockers outside of the ROW, either within the building or recessed into a building wall. A single, centralized interior mail area in a common lobby area is encouraged for all residential units within a development, including associated townhouses with individual street entrances. Individual commercial spaces shall utilize a centralized delivery stations within the building or recessed into a building wall, which may be shared with residential uses sharing a common street frontage address.
- g. Access – Vehicular access to the development’s parking shall be limited to one driveway on Union Street with a curb cut not to exceed 14 feet in width.
- h. Circulation and Parking – The Owner and/or Permittee shall prepare a plan which identifies the location of curbside parking control zones, parking meters, fire hydrants, trees, and street lights. Such plan shall be submitted in conjunction with 100% Construction Drawings. All on-site parking shall meet the requirements of the City Building Official, Fire Department, and Engineer.
- i. Open Space and Development Amenities – A landscape plan that illustrates the relationship of the proposed on and off-site improvements and the location of water, and electrical hookups shall be submitted with 100% Construction Drawings.
- j. Roof Tops – A rooftop equipment and appurtenance location and screening plan shall be prepared and submitted with 100% Construction Drawings. Any roof-top mechanical equipment must be grouped, enclosed, and screened from surrounding views (including views from above); except where exempted by this Permit.
- k. Signage – All signs shall comply with the City Sign Regulations and the CCPDO.
- l. Lighting – A lighting plan which highlights the architectural qualities of the proposed development and also enhances the lighting of the ROW shall be submitted with 100% Construction Drawings. All lighting shall be designed to avoid illumination of adjoining properties.
- m. Noise Control – All mechanical equipment, including but not limited to, air conditioning, heating and exhaust systems, shall comply with the City of San Diego Noise Ordinance and California Noise Insulation Standards as set forth in Title 24. All mechanical equipment shall be located to mitigate noise and exhaust impacts on adjoining development, particularly residential. Owner and/or Permittee shall provide evidence of compliance at 100% Construction Drawings.



- n. Energy Considerations – The design of the improvements shall include, where feasible, energy conservation construction techniques and design, including cogeneration facilities, and active and passive solar energy design. The Owner and/or Permittee shall demonstrate consideration of such energy features during the review of the 100% Construction Drawings.
- o. Street Address – Building address numbers shall be provided that are visible and legible from the ROW.

2. On-Site Improvements

All off-site and on-site improvements shall be designed as part of an integral site development. An on-site improvement plan shall be submitted with the 100% Construction Drawings. Any on-site landscaping shall establish a high quality of design and be sensitive to landscape materials and design planned for the adjoining ROW.

**PUBLIC IMPROVEMENTS, LANDSCAPING AND UTILITY REQUIREMENTS**

3. Off-Site Improvements

The following public improvements shall be installed in accordance with the Centre City Streetscape Manual (CCSM). The CCSM is currently being updated and the Owner and/or Permittee shall install the appropriate improvements according to the latest requirements at the time of Building Permit issuance:

	Cedar Street	Union Street
Street Trees	Jacaranda	Raywood Ash
Sidewalk Paving	Little Italy Paving	Little Italy Paving
Street Lights	Gateway Street Lights	Little Italy Enhanced Standard Streetlight

- a. Street Trees – Street tree selections shall be made according to the CCSM. All trees shall be planted at a minimum 36-inch box size with tree grates provided as specified in the CCSM, and shall meet the requirements of Title 24. Tree spacing shall be accommodated after street lights have been sited, and generally spaced 20 to 25 feet on center. All landscaping shall be irrigated with private water service from the subject development.

The Owner and/or Permittee will be responsible for evaluating, with consultation with the CivicSD, whether any existing trees within the ROW shall be maintained and preserved. No trees shall be removed prior to obtaining a Tree Removal Permit from the City’s Development Services Department (DSD) per City Council Policy 200-05.

- b. Street Lights – All existing lights shall be evaluated to determine if they meet current CivicSD and City requirements, and shall be modified or replaced if necessary. Gateway

and Little Italy Enhanced Standard street lights shall be painted with Tiger Drylac RAL#6005 Powder Coat (Dark Green).

- c. Sidewalk Paving – Any specialized paving materials shall be approved through the execution of an Encroachment Removal and Maintenance Agreement (EMRA) with the City.
- d. Litter Containers – The development shall provide a minimum of one litter receptacle painted with Tiger Drylac RAL#6005 Powder Coat (Dark Green) and shall be located as specified in the CCSM.
- e. Landscaping – All required landscaping shall be maintained in a disease, weed and litter free condition at all times. If any required landscaping (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent in size per the approved documents and to the satisfaction of the CivicSD within 30 days of damage or Certificate of Occupancy.
- f. Planters – Planters shall be permitted to encroach into the ROW a maximum of two feet for sidewalk areas measuring at least twelve feet and less than fourteen feet in width. For sidewalk areas fourteen feet or wider, the maximum permitted planter encroachment shall be three feet. The planter encroachment shall be measured from the property line to the face of the curb to the wall surrounding the planter. A minimum five foot clear path shall be maintained between the face of the planter and the edge of any tree grate or other obstruction in the ROW.
- g. On-Street Parking – The Owner and/or Permittee shall maximize the on-street parking wherever feasible.
- h. Public Utilities – The Owner and/or Permittee shall be responsible for the connection of on-site sewer, water and storm drain systems from the development to the City utilities located in the ROW. Sewer, water, and roof drain laterals shall be connected to the appropriate utility mains within the street and beneath the sidewalk. The Owner and/or Permittee may use existing laterals if acceptable to the City, and if not, Owner and/or Permittee shall cut and plug existing laterals at such places and in the manner required by the City, and install new laterals. Private sewer laterals require an EMA.

If it is determined that existing water and sewer services are not of adequate size to serve the proposed development, the Owner and/or Permittee will be required to abandon any unused water and sewer services and install new services and meters. Service abandonments require an engineering permit and must be shown on a public improvement plan. All proposed public water and sewer facilities, including services and meters, must be designed and constructed in accordance with established criteria in the most current edition of City's Water and Sewer Facility Design Guidelines and City regulations standards and practices pertaining thereto.

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. If and when the Owner and/or Permittee submits for a tentative map or tentative map waiver, the Water Department will require Covenants, Conditions, and Restrictions (“CC&Rs”) to address the operation and maintenance of the private on-site water system serving the development. No structures or landscaping of any kind shall be installed within ten feet of water facilities.

All roof drainage and sump drainage, if any, shall be connected to the storm drain system in the public street, or if no system exists, to the street gutters through sidewalk underdrains. Such underdrains shall be approved through an Encroachment Removal Agreement with the City. The Owner and/or Permittee shall comply with the City’s Storm Water Management and Discharge Control Ordinance and the storm water pollution prevention requirements of Chapter 14, Article 2, Division 1 and Chapter 14, Article 2, Division 2 of the SDMC.

- i. Franchise Public Utilities – The Owner and/or Permittee shall be responsible for the installation or relocation of franchise utility connections including, but not limited to, gas, electric, telephone and cable, to the development and all extensions of those utilities in public streets. Existing franchise utilities located above grade serving the property and in the sidewalk ROW shall be removed and incorporated into the adjoining development where feasible. All franchise utilities shall be installed as identified in the Basic Concept Drawings. Any above grade devices shall be screened from view from the ROW.
- j. Fire Hydrants – If required, the Owner and/or Permittee shall install fire hydrants at locations satisfactory to the City’s Fire Department and DSD.
- k. Water Meters and Backflow Preventers – The Owner and/or Permittee shall locate all water meters and backflow preventers in locations satisfactory to the Public Utilities Department and CivicSD. Backflow preventers shall be located outside of the ROW adjacent to the development’s water meters, either within the building, a recessed alcove area, or within a plaza or landscaping area. The devices shall be screened from view from the ROW.

All items of improvement shall be performed in accordance with the technical specifications, standards, and practices of the City's Engineering, Public Utilities, and Building Inspection Departments and shall be subject to their review and approval. Improvements shall meet the requirements of Title 24.

#### 4. Storm Water Compliance

- a. Prior to issuance of any construction permit, the Owner and/or Permittee shall enter into a Maintenance Agreement for the on-going permanent Best Management Practices (BMP) maintenance, satisfactory to the City Engineer.
- b. Prior to the issuance of any Construction Permit, the Owner and/or Permittee shall incorporate any construction BMP necessary to comply with Chapter 14, Article 2,

Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.

- c. Prior to issuance of any construction permits, the Owner and/or Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Part 2 Construction BMP Standards, Chapter 4 of the Storm Water Standards.
- d. Prior to the issuance of any construction permit, the Storm Water Quality Management Plan will be subject to final review and approval by the City Engineer.

5. Removal and/or Remedy of Soil and/or Water Contamination

The Owner and/or Permittee shall (at its own cost and expense) remove and/or otherwise remedy as provided by law and implementing rules and regulations, and as required by appropriate governmental authorities, any contaminated or hazardous soil and/or water conditions on the Site. Such work may include without limitation the following:

- a. Remove (and dispose of) and/or treat any contaminated soil and/or water on the site (and encountered during installation of improvements in the adjacent ROW which the Owner and/or Permittee is to install) as necessary to comply with applicable governmental standards and requirements.
- b. Design construct all improvements on the site in a manner which will assure protection of occupants and all improvements from any contamination, whether in vapor or other form, and/or from the direct and indirect effects thereof.
- c. Prepare a site safety plan and submit it to the appropriate governmental agency, CivicSD, and other authorities for approval in connection with obtaining a building permit for the construction of improvements on the site. Such site safety plan shall assure workers and other visitors to the site of protection from any health and safety hazards during development and construction of the improvements. Such site safety plan shall include monitoring and appropriate protective action against vapors and/or the effect thereof.
- d. Obtain from the County of San Diego and/or California Regional Water Quality Control Board and/or any other authorities required by law any permits or other approvals required in connection with the removal and/or remedy of soil and/or water contamination, in connection with the development and construction on the site.
- e. If required due to the presence of contamination, an impermeable membrane or other acceptable construction alternative shall be installed beneath the foundation of the building. Drawings and specifications for such vapor barrier system shall be submitted for review and approval by the appropriate governmental authorities.

**SUSTAINABILITY**

6. Cool/green roofs must be utilized in the development including:
  - a. Roofing materials with a minimum three-year aged solar reflection and thermal emittance or solar reflection index equal to or greater than the values specified in the voluntary measures under the California Green Building Standards Code must be implemented.

Compliance with this measure must be demonstrated prior to the issuance of the building permit.

7. The development must include, at a minimum, the following fixtures (if provided):
  - a. Residential Buildings
    - Kitchen faucets: maximum flow rate not to exceed 1.5 gallons per minute at 60 psi;
    - Standard dishwashers: 4.25 gallons per cycle;
    - Compact dishwashers: 3.5 gallons per cycle; and,
    - Clothes washers: water factor of 6 gallons per cubic feet of drum capacity.

Compliance with this measure must be demonstrated prior to the issuance of the building permit.

8. The development must be designed to have an energy budget that meets or exceeds a 10% improvement with both indoor lighting and mechanical systems when compared to the Title 24, Part 6 Energy Budget for the proposed design building as calculated by Compliance Software certified by the California Energy Commission (percent improvement over current code). The demand reduction may be provided through on-site renewable energy generation, such as solar, or by designing the project to have an energy budget that meets the above-mentioned performance standards, when compared to the Title 24, Part 6 Energy Budget for the Proposed Design Building (percent improvement over current code). Compliance with this measure must be demonstrated prior to the issuance of the building permit.
9. A minimum of 3% of the total required parking spaces must be provided with a listed cabinet, box or enclosure connected to a conduit linking the parking spaces with the electrical service, in a manner approved by the building and safety official. Of the total listed cabinets, boxes or enclosures provided, at least 50% must have the necessary electric vehicle supply equipment installed to provide active electric vehicle charging stations ready for use by residents. Compliance with this measure must be demonstrated prior to the issuance of the building permit.

## **STANDARD REQUIREMENTS**

### **10. Environmental Impact Mitigation Monitoring and Reporting Program**

As required by CCPDO Section 156.0304(h), the development shall comply with all applicable Mitigation Monitoring and Reporting Program (MMRP) measures from the 2006 Downtown Final Environmental Impact Report (Downton FEIR) for the DCP.

11. Development Impact Fees

The development will be subject to Centre City Development Impact Fees. For developments containing commercial space(s) the Owner and/or Permittee shall provide to the City's Facilities Financing Department the following information at the time of application for building permit plan check: 1) total square footage for commercial lease spaces and all areas within the building dedicated to support those commercial spaces including, but not limited to: loading areas, service areas and corridors, utility rooms, and commercial parking areas; and 2) applicable floor plans showing those areas outlined for verification. In addition, it shall be responsibility of the Owner and/or Permittee to provide all necessary documentation for receiving any "credit" for existing buildings to be removed.

12. Inclusionary Affordable Housing Ordinance

Prior to receiving the first construction permit for a residential building, Owner/Permittee shall comply with the provisions of Chapter 14, Article 2, Division 13 of the San Diego Municipal Code ("Inclusionary Affordable Housing Regulations") by entering into a written "Exemption Agreement" and "Public Entity Agreement" as set forth in the Inclusionary Affordable Housing Implementation and Monitoring Procedures Manual, which are acceptable to the San Diego Housing Commission, and which are secured by a deed of trust.

13. Construction Fence

Owner and/or Permittee shall install a construction fence pursuant to specifications of, and a permit from, the City Engineer. The fence shall be solid plywood with wood framing, painted a consistent color with the development's design, and shall contain a pedestrian passageway, signs, and lighting as required by the City Engineer. The fencing shall be maintained in good condition and free of graffiti at all times.

14. Development Identification Signs

Prior to commencement of construction on the site, the Owner and/or Permittee shall prepare and install, at its cost and expense, one sign on the barricade around the site which identifies the development. The sign shall be at least four feet by six feet and be visible to passing pedestrian and vehicular traffic. The signs shall at a minimum include:

- Color rendering of the development
- Development name
- Developer
- Completion Date
- For information call \_\_\_\_\_

Additional development signs may be provided around the perimeter of the site. All signs shall be limited to a maximum of 160 SF per street frontage. Graphics may also be painted on any barricades surrounding the site. All signs and graphics shall be submitted to the CivicSD for approval prior to installation.

15. Tentative Map

The Owner and/or Permittee shall be responsible for obtaining all map approvals required by the City prior to any future conversion of the residential units and/or commercial spaces to condominium units for individual sale.

16. This Permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this Permit is not utilized in accordance with Section 126.0108 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time (EOT) has been granted pursuant to Section 126.0111 of the SDMC.
17. Issuance of this Permit by CivicSD does not authorize the Owner and/or Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies.
18. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner and/or Permittee and any successor(s) in interest.
19. This development shall comply with the standards, policies, and requirements in effect at the time of approval of this development, including any successor(s) or new policies, financing mechanisms, phasing schedules, plans and ordinances adopted by the City.
20. No permit for construction, operation, or occupancy of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until this Permit is recorded in the Office of the San Diego County Recorder.
21. The Owner and/or Permittee shall defend, indemnify, and hold harmless the CivicSD and 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, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The CivicSD will promptly notify the Owner and/or Permittee of any claim, action, or proceeding and, if CivicSD should fail to cooperate fully in the defense, the Owner and/or Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. CivicSD 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, the Owner and/or 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 CivicSD and the Owner and/or Permittee regarding litigation issues, the CivicSD 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 and/or Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner and/or Permittee.

22. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If 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" conditions(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 there.

This CCDP/CCPDP/SDP No. 2016-39 is granted by the City of San Diego City Council on June 20, 2017.

CIVIC SAN DIEGO:

OWNER/PERMITEE:

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Christian Svensk  
Senior Planner

Date

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Jonathan Segal  
JMan at the K Lofts, LLC

Date

**Note: Notary acknowledgment  
must be attached per Civil Code  
Section 1189 et seq**