



Office of the City Manager

CONSENT CALENDAR  
December 11, 2012

To: Honorable Mayor and Members of the City Council

From:  Christine Daniel, City Manager

Submitted by: Andrew Clough, Director, Public Works

Subject: Major Encroachment Permit: University of California for the Berkeley Art Museum and Pacific Film Archive

RECOMMENDATION

Adopt a Resolution authorizing the issuance of a major encroachment permit to the University of California for the Berkeley Art Museum and Pacific Film Archive, consisting of a building cantilever, an Americans with Disabilities Act compliant accessible ramp and stairs, fire department system test connections, and bookstore windows over and in the public right of way on Center Street.

FISCAL IMPACTS OF RECOMMENDATION

There is no financial cost to the City. The applicant will pay all fees related to the encroachment permit.

CURRENT SITUATION AND ITS EFFECTS

Center Street, between Oxford Street and Shattuck Avenue, is a two-way street approximately 48 feet in width from curb-to-curb with sidewalk on both sides of the street. At the northwest corner of Center Street and Oxford Street is the University of California (UC) printing plant and parking structure. The University intends to repurpose the printing plant and remove the parking structure to create a new home for the Berkeley Art Museum and Pacific Film Archive theater (BAM/PFA). In addition, the sidewalk areas along the Center Street and Oxford Street frontages will be widened approximately 7.0 – 7.5 feet to include rain gardens in the planting strip.

BACKGROUND

The BAM/PFA is currently located at 2626 Bancroft Way, housed in a fan-shaped concrete building constructed in the late 1960s. In 1997, this uniquely shaped building was deemed to be deficient in meeting present-day seismic standards. In 2001, a partial retrofit of the building addressed some of the major vulnerabilities, but a complete retrofit would greatly reduce the functionality of the museum's open exhibit spaces. In 2008, the University presented a new design to the public and City commissions for the BAM/PFA to be relocated to the site of the printing plant, but due to economic uncertainty the following year, the proposal was put on hold. In 2011, the University presented the project to the City's Planning and Landmarks Preservation Commissions, and the Design

Review Committee. In January 2012, the UC Regents officially endorsed the design, allowing the Berkeley campus to proceed with the project.

### RATIONALE FOR RECOMMENDATION

The new BAM/PFA includes several proposed encroachments into the public right of way of Center Street. The new design includes a café on the upper floor. This café is located in the portion of the building cantilevering over the sidewalk a distance of 16 to 20 feet at a height of about 19 feet. The design also includes a secondary emergency safety exit, west of the main entry. To accommodate this exit, a 6 feet wide accessible ramp and stairs are to be built along the building face. Further proposed encroachments include locating the connection points for fire department system testing in the planter strip, and large bookstore windows to encroach approximately 4 inches into the sidewalk area. See Attachment 2, Site Plan & Building Elevations, and Attachment 3, Graphics of Proposed Building Cantilever and Accessible Ramp.

Berkeley Municipal Code (BMC) Section 16.18.080 requires that 7 criteria (A – G below) be satisfied prior to granting of an encroachment permit. All the applicable criteria have been met to the satisfaction of the City Engineer, as follows:

**Criterion A** requires that the applicant be substantially damaged by the refusal to grant the permit as requested. With additional frontages along Oxford Street and Addison Street, the Center Street building cantilever establishes the main point of entry into the new BAM/PFA. The exterior accessible ramp and stairs are needed due to the downward westward slope of Center Street which would cause reduced head heights in the lower floor if the ramp was located inside the building. Fire department system test connections are located in the planter strip area because due to the amount of building openings on the Center and Oxford Street facades there is insufficient room to install the type of wall-mounted devices normally required by the fire department and campus fire marshal. Lastly, large museum bookstore windows encroach into the public right of way 4 inches changing the character of the wall face from opaque industrial of the existing print plant to the transparent and inviting feel of the newly redesigned portion, while creating visual interest for pedestrians on both sides of Center Street.

**Criterion B** requires that no other reasonable method of obtaining the desired results is available except as proposed by the applicant. For the building cantilever, no other solution better establishes the location of the main entry point, while providing public access to east-west views of the campus and downtown. If ramping for the secondary safety exit was provided inside the building, the amount of usable space on the ground floor and the head height for the level below would be greatly reduced. For the fire department system test connections, the building facades do not allow proper space to install a wall-mounted device, and such the only choice is to locate it away from the building face and in the planter strip area away from the path of travel. Lastly, large windows along Center Street are the best solution for opening up the inside of the building while offering a contrast to the small windowed façade of the existing building.

**Criterion C** requires that granting of the permit not be materially detrimental to the public interest, safety, health and welfare or injurious to the other property. The

proposed encroachments provide safe ingress and egress in and out of the building for both the general public and those with disabilities, while at the same time improving the pedestrian experience along Center Street. The project has been reviewed by appropriate City staff as well as the campus fire marshal and the campus Seismic Review Committee. The purpose of the requested encroachment is to improve public access, safety and welfare and prevent injury to persons or property.

**Criterion D** requires that the applicant comply with the City of Berkeley's Public Works specifications. The applicant has consulted with Public Works staff regarding the design of the encroaching elements. Prior to construction, applicant will submit plans for review by Public Works staff to ensure compliance with Public Works' standards and specifications.

**Criterion E** requires that a minimum clear space of 6 feet remain open for public use in the sidewalk area. The proposed site improvements maintains more than 6 feet of open space in the sidewalk area, with no street hardware within this space, as shown in Attachment 2, Site Plan & Building Elevations.

**Criterion F** requires that a minimum height of an encroachment be greater than 12 inches above the base of the encroachment and no portion project beyond the base of the projection of the encroachment unless at a height of 8 feet or more above the sidewalk. This criterion is satisfied in that all encroachments have a minimum height of 12 inches and no portion projects beyond the base projection of the encroachment at a height less than 8 feet.

**Criterion G** requires that a clear color differentiation exists between sidewalk paving and encroaching objects placed in the sidewalk area. The paving and coloring of the emergency access ramp and stairs will be differentiated from the sidewalk paving. Likewise the proposed bookstore windows will be materially different than the sidewalk which offers the required clear color differentiation.

BMC Chapter 16 requires that a notice of intent to encroach be posted for public viewing. Public Works reviews the responses to the public noticing in conjunction with the information supplied with the application, in order to evaluate compliance with the approval criteria under BMC Section 16.18.080. Based upon this evaluation, the Public Works Director makes a recommendation to the City Council who makes the final decision on the approval of the major encroachment permit.

Notices were posted at various locations adjacent to the property, and no responses were received. Public Works has reviewed the proposed encroachment and has determined that all the criteria have been met. It is therefore recommended that the Council adopt a resolution granting the University of California a major encroachment permit for the purpose of constructing the new facility for the Berkeley Art Museum and Pacific Film Archive.

### ALTERNATIVE ACTIONS CONSIDERED

The alternative would be to not approve the proposed encroachments. Consequently, the new museum and theater would not have the building cantilever to visually draw the public to its main entry point; the secondary emergency access ramp and stairs would need to be installed inside the building, reducing usable interior space and head heights; and the pedestrian experience along Center Street would not be enhanced without allowing the bookstore windows to provide visual interest with their contents. There is no alternative to locating the fire department system test connections from the planter area, as there is insufficient space on the building façade.

### CONTACT PERSON

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Vincent Chen, Associate Civil Engineer, Public Works, 981-6409

### Attachments:

1. Resolution
2. Plans & Building Elevations
3. Propose FDC / Test Connection
4. Graphics

RESOLUTION NO. #####-N.S.

ISSUING A MAJOR ENCROACHMENT PERMIT TO THE UNIVERSITY OF CALIFORNIA FOR THE BERKELEY ART MUSEUM AND PACIFIC FILM ARCHIVE

WHEREAS, the City owns the public right-of-way of Center Street at the site of the new Berkeley Art Museum and Pacific Film Archive, located at 2150 Addison Street; and

WHEREAS, a building cantilever, an ADA accessible ramp and stairs, fire department system and system test connectors, and bookstore windows are to be located in the subject right-of-way; and

WHEREAS, the City Council, pursuant to Berkeley Municipal Code Section 16.18.060, hereby finds as follows:

- A. The applicant will be substantially damaged by refusal to grant the permit as requested.
- B. No other reasonable method of obtaining the desired results is available except as proposed by the applicant.
- C. The granting of the permit will not be materially detrimental to the public interest, safety, health and welfare or injurious to the other property.
- D. All plans submitted for the construction of the encroachment will be reviewed by Public Works staff to ensure compliance with Public Works standards and specifications to the extent that such standards and specifications are applicable.
- E. The proposed encroachment retains a minimum clear space of 6 feet open for public use in the sidewalk area.
- F. The encroachment height will be a minimum of 12 inches and will not project beyond the base projection of the encroachment.
- G. There will be clear color and/or material differentiation between the encroachments and the sidewalk pavement.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council approves the issuance of a major encroachment permit to the University of California to encroach into the public right-of-way on Center Street for the purpose of constructing a building cantilever, an ADA compliant accessible ramp and stairs, fire department system test connections and bookstore windows, subject to the approval and conditions of the City Engineer. A record signature copy of said encroachment permit to be on file in the Office of the City Clerk.