



Office of the City Manager

INFORMATION CALENDAR

March 25, 2014

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To: Honorable Mayor and Members of the City Council

From:  Christine Daniel, City Manager

Submitted by: Andrew Clough, Director, Public Works

Subject: Access to Divisional Islands

INTRODUCTION

At its June 4, 2013 meeting Council directed “the City Manager to provide a report on the possibility of limited and permitted access to divisional islands (medians), and any attendant issues.” This would be a change or exceptions to Section 14.32.040* of the Berkeley Municipal Code (BMC), which states that it is unlawful for any person to use any divisional island for any purpose other than that necessary to provide temporary safety from moving vehicular traffic.

The premise of Council’s action would be to allow access that would “serve a municipal service.” An example was submitted with the June report: a 2009 proposal from the Earth Island Institute, in cooperation with the City Manager’s Office, to “adopt” the “Oxford Median Strip” facing the David Brower Center. It was anticipated that volunteers would maintain the native and drought tolerant plantings, and “assume responsibility for watering and weeding.” Other references were made to a bench placed at Adeline and Oregon Streets; and to business customers in North Berkeley using a narrow grassy area between traffic lanes, in spite of the signage to keep off this median.

CURRENT SITUATION AND ITS EFFECTS

Public Works Traffic Engineers evaluated the current uses of, and access to traffic medians in the City. It remains staff’s opinion that access to medians (divisional islands) for any purpose other than what is allowed under BMC 14.32.040 will create safety, access, liability, and administrative issues.

1. Safety: Medians are intended to separate opposing directions of traffic in an effective and environmentally pleasing manner. Permitting even limited public use of these

* BMC 14.32.040: Standing in roadway – Use of divisional islands. It is unlawful for any person to stand in any roadway other than in a safety zone or in a crosswalk if such action interferes with the lawful movement of traffic and it is unlawful for any person to use any safety zone or divisional island for any purpose other than that necessary to provide temporary safety from moving vehicular traffic. This section shall not apply to any public officer or employee, or employee of a public utility when necessarily upon a street or divisional island in the line of duty.

areas would compromise public safety. Unlike sidewalks, which are commonly separated from traffic lanes by parked cars, street trees, landscaping strips, utility poles, parking meters, and other physical barriers, medians commonly have none of these features to enhance the separation and safety of vehicles and pedestrians. Constructing guard rails or other safety barriers would entail expenditures for both construction and ongoing maintenance.

2. Access: Use of the medians would trigger ADA access issues, including: pedestrian access ramps for entry and exit points, accessibility of planting areas and boxes with a minimum of 4' wide paths of travel and a 5' turn around space at the ends, which would likely limit possible uses and significantly reduce the green space on landscaped medians. There would be additional significant construction costs to install ADA compliant ramps.
3. Liability: The City is open to considerable liability if the public is allowed to use an area in the middle of active roadways that includes heavy vehicle traffic.
4. Administrative: There are staffing impacts and expenses associated with establishing, managing and enforcing a permit process for any form of public access to, and use of medians, which would affect staff from several different City Departments, including City Manager – Code Enforcement, City Attorney, Police, Parks, and Public Works.

Based on these considerations, staff does not support amending provisions of access to divisional islands for purposes other than what are currently allowed in the BMC. Even considering exceptions, the Oxford Street Median example attached to the June 2013 report has proved to be unsustainable, and maintenance is now conducted principally by Parks staff. At this time, with limited City resources to initiate, monitor and enforce changes of use for even "large median spaces, such as Sacramento Street" or other strips of land on traffic routes, no further action is proposed. If funding and other support become available in the future, staff might reconsider reasonable options or exceptions.

BACKGROUND

BMC Section 14.32.040 states that it is unlawful for any person to use any divisional island for any purpose other than that necessary to provide temporary safety from moving vehicular traffic.

POSSIBLE FUTURE ACTION

No future action is anticipated in the near future.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

As long as there is no further action, there is no further fiscal impact.

CONTACT PERSON

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