



Office of the City Manager

ACTION CALENDAR
July 2, 2013

To: Honorable Mayor and Members of the City Council

From:  Christine Daniel, City Manager

Submitted by: Eric Angstadt, Director, Planning and Development

Subject: Parklets Pilot Program

RECOMMENDATION

Affirm by motion the recommendation of the Transportation Commission to move forward with a three year pilot program allowing up to ten parklets in the commercial districts of the City of Berkeley subject to the procedures and conditions attached to the staff report.

FISCAL IMPACTS OF RECOMMENDATION

Parklets may cause a reduction in parking revenues. The exact amount cannot be determined since the applications for parklets have not been submitted.

CURRENT SITUATION AND ITS EFFECTS

A Parklet is the temporary use of space in the dedicated public right-of-way (parking spaces, unused bus stops, and other types of vehicular and non-vehicular zones) for public uses such as seating or bicycle racks. Several surrounding cities, including San Francisco and Oakland, have begun allowing parklets. There is growing interest in parklets in the City of Berkeley. Staff is recommending the City of Berkeley adopt a pilot program to allow parklets. If the pilot program is successful, staff will propose changes in the municipal code governing the location and installation of parklets in Berkeley.

BACKGROUND

Parklets are publicly accessible space for the enjoyment and use of all citizens, and are privately constructed and maintained. It is envisioned that the Parklets will be located in areas with pedestrian activity, as additional seating areas for retail patrons, and in areas where there is a desire to create a more pedestrian-friendly environment.

Parklets are intended to be seen as pieces of street furniture, providing aesthetic enhancements to the overall streetscape. In place of car parking, a platform is built to extend the grade of the sidewalk into the street. Once the platform is installed, benches, tables, chairs, landscaping, and bike parking can all be placed on top in order to create a Parklet. Parklets must remain publicly accessible and will require signage to

this effect. Table service is not permitted. Commercial signage and advertising are not permitted.

The Transportation Commission considered the staff proposal for the pilot program at their May 16, 2013 meeting. The Transportation Commission (M/S Schneider/Broadbudd 6-0-0-1 Ayes: Broadbudd, Lathbury, McCaughrin, Roberts, Schneider, Smulka Noes: None Abstain: None Absent: Watson) recommended an expanded pilot program be forwarded to the City Council for consideration.

KEY ISSUES

Number and Location

The Transportation Commission recommended the pilot program be available in the commercial districts and allow up to ten total parklets. Consideration was given to parklets in manufacturing and residential districts but a decision on those districts was put off until the experience with the commercial districts was available.

Public Notice

The Transportation Commission accepted the staff recommendation that parklet proposals be noticed in a manner similar to other zoning applications. An applicant for a parklet would post a notice board like the yellow zoning notice board at the location of the proposed parklet. In addition, they would mail notices to property owners, occupants and interested neighborhood groups within 300 feet of the proposed location. Once a decision to approve or deny a particular parklet location is made, it is also recommended that notice of that decision is mailed to the same recipients.

Permitting and Appeal

Staff believes that parklets are a form of minor encroachment, i.e. non-permanent structure in the public right-of-way, and parklet proposals should be evaluated based on the minor encroachment procedures. The Transportation Commission accepted the staff recommendation that for the pilot program Public Works would be the lead agency for processing parklet applications. Parklet applications would be charged the current fees for a minor encroachment permit which total approximately \$1,700. The Transportation Commission recommended that the City Manager be allowed to waive fees in cases of demonstrated financial hardship.

Several other staff sections would assist PWA staff including Planning staff on design and building code issues including accessibility review under California and Federal ADA standards. PWA staff would issue an administrative decision to permit or deny a specific proposal with notice as described above. Should anyone wish to appeal the decision, appeals would be filed with the City Clerk and be scheduled for consideration by the City Council. This is similar to the current appeal process for minor encroachment permits. Currently, there is no board or commission set up to process parklet applications. If a permanent program is recommended a board or commission may be designated to handle these applications.

In addition, The Transportation Commission added a performance component such that an issued parklet permit must be installed in a time certain or the pilot program slot will be given to the next applicant in line.

Revenue Replacement

The Transportation Commission recommended that revenue replacement of any metered parking location used as a parklet not be required. They further recommended that parklet applicants work with staff to explore all potential means of revenue replacement, including direct payment by the applicant, installation of meters in previously un-metered locations, or other means based on the particulars of each application.

Length of Pilot Program

The Transportation Commission recommended the pilot program be authorized for three years. This would allow for sufficient time to collect data on the benefits and impacts of parklets. This data will be used to make a recommendation on adopting a permanent parklet program or discontinuing allowing parklets. If a permanent program is recommended, the three years of experience will help staff make recommendations for a permanent ordinance. The Transportation Commission accepted the staff recommendation that applicants who install parklets be allowed to continue the operation of the parklet for up to two years after the pilot program ends if a permanent ordinance is not adopted or have up to two years to modify, if necessary, their parklet to conform to the permanent ordinance. The two years would be in the form of two one year extensions contingent on compliance with any maintenance and operational requirements attached to the approved application.

OTHER ISSUES

Proposed Responsibilities

The Permit Holder for each Parklet will be required to meet all requirements and conditions of their Permit. In addition, Permit holders will be required to do the following:

- 1) **Carry Insurance.** As required and in an amount specified by the City, naming the City as an additional insured.
- 2) **Sign a Maintenance Agreement.** Sign a Maintenance Agreement with the City of Berkeley that will require the Permit Holder to do the following:
 - a. Keep all plants in good health
 - b. Keep the Parklet free of debris and grime
 - c. Adequately maintain the surface.
 - d. Sweep out debris from under the Parklet on an as-needed basis.
 - e. Once a year before the rainy season, move the Parklet to allow street sweepers underneath if required by Public Works.

A schedule for removal of Parklet improvements and for restoration of public improvements will be required as part of the Maintenance Agreement. This schedule should demonstrate that such removal and restoration will be complete upon expiration of the permit.

A performance bond or other security will also be required to secure removal of parklet improvements at the time of their expiration and to restore the site to its prior condition.

Unsecured furniture is not permitted after business hours if the Permit Holder is a business. If the Permit Holder is not a business, the hours for unsecured furniture will need to be included in the Maintenance Agreement. Any unsecured furniture will have to be clearly different from the furniture used by a business in order to emphasize that the parklet is public space.

Secured furniture is allowed. Consideration must be given to how the space can be used when the adjacent business is closed to prevent the area from becoming dead space.

Signage must be installed to clearly indicate that the parklet is public space. In addition, "No Smoking" signs should be installed as the parklets are extensions of the sidewalk and sidewalks in commercial areas are smoke free.

Proposed Design Parameters

Parklets are intended to be aesthetic improvements to the streetscape, and materials will be required to be of high quality, durable, and attractive. The width of the Parklet must not extend beyond six feet from the curb line. Safe hit posts and wheel stops, or approved equals, may be required. A visible edge to the Parklet is required, which may consist of planters, railing, or cabling. The edges should be visually permeable or "see-through." Access panels must be included in order to maintain the gutter and area underneath the Parklet and the design must allow for drainage along the gutter to pass underneath the Parklet.

If bike parking is provided, the bike racks can be at street grade.

RATIONALE FOR RECOMMENDATION

A pilot program will allow the City of Berkeley time to see if parklets are a useful addition to the public rights-of-way. In addition, it will provide real world experience on which to base a permanent ordinance if the program proves successful.

CONTACT PERSON

Eric Angstadt, Director, Planning and Development, 981-7401

Attachments:

1. Parklets Pilot Program Procedures and Conditions

Parklets Pilot Program Procedures and Conditions

Procedures:

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| 1. Length of Pilot Program | 3 Years |
| 2. Number | Up to 10 Parklets |
| 3. Location | Commercial Zoning Districts |
| 4. Public Notice | Per BMC AUP procedures, 300 foot radius |
| 5. Permitting and Appeal | By Public Works Staff as lead |
| | Minor encroachment fees apply |
| 6. Revenue Replacement | Not required |

Conditions:

Carry Insurance

Sign a Maintenance Agreement

Keep all plants in good health

Keep the Parklet free of debris and grime

Adequately maintain the surface.

Sweep out debris from under the Parklet on an as-needed basis.

Once a year before the rainy season, move the Parklet to allow street sweepers underneath if required by Public Works.

Schedule for removal

Performance bond for removal

Public Space Signage

No Smoking Signage

