



Office of the City Manager

## REVISED AGENDA MATERIAL

**Meeting Date:** June 13, 2017

**Item Number:** 64

**Item Description:** LPC - NOD: 2126 Center Street

**Supplemental/Revision Submitted By:** Timothy Burroughs, Interim Director,  
Planning and Development Department

**“Good of the City” Analysis:**

*The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.*

**Due to an administrative error, the mailing of the LPC’s Notice of Decision was delayed until June 12, 2017. This also changes the end of the 15-day appeal period to June 27, 2017.**

**This administrative change does not impact the ability of the City Council at its June 13 meeting to set the matter for a hearing if it so desires. If no such action is taken, nor any appeal received, the new permit effective date would become June 27, 2017.**

***Consideration of supplemental or revised agenda material is subject to approval by a two-thirds roll call vote of the City Council. (BMC 2.06.070)***

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revised agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.



Office of the City Manager

## INFORMATION CALENDAR

June 13, 2017

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Interim Director, Planning & Development Department

Subject: LPC - NOD: 2126 Center Street—**REVISED REPORT**

### INTRODUCTION

The attached Landmarks Preservation Commission (LPC) Notice of Decision (NOD) is submitted to the Mayor and City Council pursuant to Berkeley Municipal Code (BMC) Section 3.24.240.

### CURRENT SITUATION AND ITS EFFECTS

The Landmarks Preservation Commission has approved a Signage Alteration Permit to install one wall sign with illuminated letters and one spot-lit blade sign on the exterior of the Mikkelsen & Berry building, a designated City of Berkeley Landmark located at 2126 Center Street. The project, which was approved on April 6, 2017, is more fully described in the attached materials. The NOD ~~will be mailed on May 29, 2017, was mailed on June 12, 2017,~~ which started ~~eds~~ a 15-day appeal period.

### BACKGROUND

BMC Section 3.24.300 allows the Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. In order for the Council to review the decision on its merits, the Council must certify the Notice of Decision. To do so, a Councilmember must move this Information Item to Action and then move to set the matter for a hearing on its own. Such action must be taken within 15 days from the mailing of the Notice of Decision or by ~~June 13, 2017~~ June 27, 2017.

If the Council chooses to certify the action of the LPC, a public hearing will be set pursuant to BMC Section 3.24.300. The Council may continue its hearing from time to time; reverse, affirm, or modify the LPC decision; or remand the matter for further consideration. If no action is taken within 30 days from the date that the public hearing is closed by the Council, the LPC decision is automatically deemed affirmed.

If the LPC decision is not appealed and the Council does not choose to reconsider the LPC determination, the attached Notice of Decision is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with this project.

POSSIBLE FUTURE ACTION

If it desires to review the LPC decision, the Council would need to set a public hearing date with a reasonable amount of time available to prepare the staff analysis of any issues raised.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Additional staff time would be required to prepare the necessary Council report and resolution.

CONTACT PERSON

Timothy Burroughs, Interim Planning Director, (510) 981-7437  
Alison Lenci, Assistant Planner, (510) 981-7544

Attachments:

1. 2126 Center Street (LMSA 2016-0002) – CORRECTED LPC Notice of Decision (NOD)



L A N D M A R K S  
P R E S E R V A T I O N  
C O M M I S S I O N

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N O T I C E O F D E C I S I O N

**DATE OF BOARD DECISION:** April 6, 2017  
**DATE NOTICE MAILED:** ~~May 29~~ June 12, 2017  
**APPEAL PERIOD EXPIRATION:** ~~June 13~~ June 27, 2017  
**EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification):** ~~June 13~~ June 27, 2017<sup>1</sup>

## 2126 Center Street

**Signage Alteration Permit LMSA2016-0002 for the installation of two new signs on the exterior of a designated City of Berkeley Landmark, the Mikkelsen & Berry building: one wall sign with illuminated letters and one spot-lit blade sign.**

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following permit:

**PERMITS REQUIRED:**

- Signage Alteration Permit

**APPLICANT:** Jenny Charron c/o Abracadabra Signs, 360 King Edward Street, Paris, Ontario, Canada N3L 3e

**ZONING DISTRICT:** C-DMU Core, Commercial Downtown Mixed-Use District

**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt pursuant to Section 15331 of the CEQA Guidelines (Historical Resource Rehabilitation).

**The Application materials for this project are available online at:**

<http://www.cityofberkeley.info/zoningapplications>

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<sup>1</sup> Pursuant to BMC Section 1.04.070, if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day. Pursuant to BMC Section 3.24.190, the City Council may “certify” any decision of the LPC for review, within fifteen days from the mailing of the NOD. Such certification shall stay all proceedings in the same manner as the filing of a notice of appeal.

**FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE**

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**COMMISSION VOTE: 7-0-1-0**

**YES:** ALLEN, BROWN, FINACOM, LINVILL, OLSON, SCHWARTZ, SUCZYNSKI-SMITH

**NO:**

**ABSTAIN:** ADAMS

**ABSENT:**

**TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):**

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.
2. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
  - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
  - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.

**STRUCTURAL ALTERATION PERMIT ISSUANCE:**

If no appeal is received, the Structural Alteration permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time. Information about the Building Permit process can be found at the following link:

<http://www.ci.berkeley.ca.us/permitservicecenter/>.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

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If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

**PUBLIC COMMENT:**

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Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

**FURTHER INFORMATION:**

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Questions about the project should be directed to the project planner, Alison Lenci, at (510) 981-7544 or ALenci@cityofberkeley.edu. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, between 8 a.m. and 4 p.m., Monday through Friday.

**ATTACHMENTS:**

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1. Findings and Conditions
  2. Project Plans, revised **FEBRUARY 23, 2017**



**ATTEST:**

Fatema Crane, ARCH, LEED AP, Secretary  
Landmarks Preservation Commission

cc: Applicant  
Owner  
City Clerk  
Applicant:

Jenny Charron c/o Abracadabra Signs  
360 King Edward Street  
Paris, Ontario  
Canada N3L 3e

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
LMSA2016-0002  
2126 Center Street  
June 13, 2017  
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Property Owner:  
Shu Wang Wu  
PO Box 6117  
Albany, CA 94706