

TUESDAY, OCTOBER 11, 2005

A regular meeting of the Council of the City of Burbank was held in the Council Chamber of the City Hall, 275 East Olive Avenue, on the above date. The meeting was called to order at 5:06 p.m. by Mr. Vander Borght, Mayor.

CLOSED SESSION

Present- - - - Council Members Golonski, Ramos and Vander Borght.
Absent - - - - Council Member Campbell.
Also Present - Ms. Alvord, City Manager; Mr. Barlow, City Attorney; and, Mrs. Wilson, Deputy City Clerk.

Oral Communications There was no response to the Mayor's invitation for oral communications on Closed Session matters at this time.

5:06 P.M. Recess The Council recessed at this time to the City Hall Basement Lunch Room/Conference Room to hold a Closed Session on the following:

- a. Conference with Labor Negotiator:
Pursuant to Govt. Code §54957.6
Name of the Agency Negotiator: Management Services Director/Judie Sarquiz.
Name of Organization Representing Employee:
Represented: Burbank City Employees Association, Burbank Management Association, International Brotherhood of Electrical Workers; Unrepresented, and Appointed Officials.
Summary of Labor Issues to be Negotiated: Contracts and Retirement Issues.
- b. Conference with Legal Counsel – Anticipated Litigation (City as possible plaintiff):
Pursuant to Govt. Code §54956.9(c)
Number of potential case(s): 1
- c. Conference with Legal Counsel – Anticipated Litigation (City as potential defendant):
Pursuant to Govt. Code §54956.9(b)(1)
Number of potential case(s): 1

Regular Meeting Reconvened in Council Chambers The regular meeting of the Council of the City of Burbank was reconvened at 6:49 p.m. by Mr. Vander Borght, Mayor.

Invocation The invocation was given by Reverend Ron Degges, Little White Chapel.

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Flag Salute The pledge of allegiance to the flag was led by Santa Calderon.

ROLL CALL

Present- - - - Council Members Campbell (left at 10:56 p.m.), Golonski, Ramos and Vander Borght.

Absent - - - - Council Members None.

Also Present - Ms. Alvord, City Manager; Mr. Barlow, City Attorney; and, Mrs. Campos, City Clerk.

301-1
Fire Prevention
Week Mayor Vander Borght presented a proclamation in honor of Fire Prevention Week to Interim Fire Chief Pansini.

301-1
Teen Read
Week Mayor Vander Borght presented a proclamation in honor of Teen Read Week to Melissa Gwynne, Young Adult Librarian.

301-1
Burbank High
School Class of
1965 Day Mayor Vander Borght presented a proclamation in honor of Burbank High School Class of 1965 Day to Trudie Hentze, President, and members of the Burbank High School Class of 1965 Reunion Committee.

301-1
Domestic
Violence
Awareness
Month Mayor Vander Borght presented a proclamation in honor of Domestic Violence Awareness Month to Stephanie Mines, President of Soroptimist International of the Verdugos, and Laurie Bleick, Executive Director of the Family Service Agency.

Reporting on
Council Liaison
Committees Mayor Vander Borght reported on the League of California Cities Annual Conference he attended with Mrs. Ramos and Mr. Campbell in San Francisco.

Mr. Campbell reported on the Southern California Association of Governments meeting he attended.

7:17 P.M.
Hearing
1704-3
1704-5
Appeal of CUP
No. 2005-50
California
Chicken Café Mayor Vander Borght stated that "this is the time and place for the hearing on the appeal of the Conditional Use Permit and variance for Project No. 2005-50. The Applicant, Andre de Montesquiou, applied for a Conditional Use Permit to operate a restaurant with incidental alcohol in the MPC-3, Magnolia Park General Commercial Zone, and a variance to reduce parking spaces by 20 spaces, for the property located at 2921 West Magnolia Boulevard. The Planning Board's approval was

appealed to the Council by Penny Church.”

Notice
Given

The City Clerk was asked if notices had been given as required by law. She replied in the affirmative and advised the City Clerk’s Office received: thirteen emails in favor of the project; nineteen emails in opposition to the project; five emails expressing concern with the project; a petition with 29 names; and, 129 postcards in opposition to the project.

Staff
Report

Mr. Velasco, Assistant Planner, Community Development Department, reported that on August 22, 2005, the Planning Board approved Project No. 2005-50, a request for a Conditional Use Permit (CUP) and a parking variance by Andre de Montesquiou to operate a restaurant with incidental alcohol at 2921 West Magnolia Boulevard in the MPC-3 Magnolia Park General Business Zone. He noted that a CUP is required to operate a restaurant in the MPC-3 Zone and a parking variance is required for a restaurant use at the proposed site due to the 20-space shortfall of the 47-parking space requirement. He noted that the approval was appealed by Penny Church.

With a visual aid, Mr. Velasco identified the subject site and surrounding neighborhood. He reported that a parking study conducted in the Magnolia Park area on July 7, 2005 concluded that there is available on-street parking for use by businesses with the exception of Saturdays at 1:00 p.m. He noted that the study also concluded that there is ample parking in the surrounding parking lots. He noted that the parking lots are on private property and the applicant would have to obtain permission from the parking lot owners. He added that the applicant is actively working to that end, and has obtained a legal written agreement with the Burbank Federal Credit Union which allows the restaurant to use five parking spaces at anytime, and have access to the parking lot Monday through Thursday after 5:00 p.m., Friday after 6:00 p.m., and Saturday and Sunday all day. He added that the agreement could be terminated by the Burbank Federal Credit Union with a 60-day notice; however, the Credit Union is not willing to sign a covenant requiring that the spaces be available for five years and as such the spaces cannot be added to the restaurant’s off-street parking total.

Mr. Velasco further reported that in April 2005, the Council approved a shared parking agreement with the Burbank Community Church to allow neighboring businesses to utilize

40 parking spaces for employee and customer parking. He stated that the applicant has expressed a willingness to purchase parking permits for employees once the lot is operational. He added that a parking survey conducted by the City concluded that 67 on-street parking spaces are available within the business area, and in addition, the City plans to reconstruct the south side of Niagara Street adjacent to the proposed restaurant to add an additional five parking spaces and three spaces on Catalina Street by January 2006. He noted that during the restaurant's peak noon-time period, the total parking demand ranged from 21 spaces on Mondays to 25 spaces during mid-week.

With regard to the alcohol license, Mr. Velasco also informed the Council that the subject property is located in census tract 3113 where there are currently five licenses permitting on-site alcohol consumption. He added that the Alcoholic Beverage Control considers more than four licenses an over concentration.

Mr. Velasco also reported that according to the Magnolia Action Plan, residents indicated restaurant use as a top priority; therefore, the proposed project was consistent with the Plan. He also added that on June 16, 2005, the Magnolia Park Citizens Action Committee (CAC) recommended approval of the project by a vote of 8-0, with two members abstaining. He noted a survey conducted by the applicant which indicated that 24 of the 29 residents in the adjacent neighborhood supported the project. He also commented on the public correspondence received regarding the project, indicating that those opposed to the project cited the potential to generate excessive traffic. He noted that the proposed use is predicted to generate 52 trips in the p.m. peak-hour and clarified that the project traffic will not significantly impact the street network.

Mr. Velasco indicated that staff categorizes the proposed restaurant as a sit-down high-turnover use. He added that the Public Works Department required the applicant to dedicate certain portions of the property for street right-of-way. He noted that with adequate parking, staff believes that the project would be a positive addition to Magnolia Park, but recommended that the Council uphold the appeal and deny the CUP and variance.

Appellant

Penny Church, appellant, addressed the Council and stated her reasons for appealing the project, including: the project is inconsistent with the Magnolia Park Action Plan which opposed fast-food restaurants, chain stores, increased congestion and high-rise buildings; the potential for creating virtual traffic gridlock in the area; and, encroachment on

neighborhood parking.

Jim Macris, resident on Niagara Street, commented on the potential trip generation by the proposed project, and noted that the traffic will cut through the residential neighborhoods.

Applicant

Andre de Montesquiou addressed the appellant's concerns with regard to the 20-space parking shortfall and the proposed mitigation measures; noted the study which concluded that surplus on-street parking is available; and, offered that if the project impacted the Niagara Street residents to a degree that the Planning Board determined needed remediation, the business would pay \$25,000 towards the installation of a signalized pedestrian crosswalk at the corner of Magnolia Boulevard and Niagara Street. He also noted that the proposed business is consistent with the Magnolia Park Action Plan; stated that the business is not a fast-food restaurant; and, commented on the survey he conducted in the adjacent residential neighborhood.

Citizen
Comment

Appearing to comment in opposition to the project were: Angela Lanci-Macris; Ken Assessor; Nili Nathan; Nick Altomare; Albert Epstein; Tony Church; Ramona Gardner; Ron Vankirk; Theresa Karam; Michelle Feather; Patricia Godlef; Esther Espinoza; Brett Loutensock; and, David Piroli.

Commenting in support of the project were: Sam Asheghian; Stephen Veres; Michelle Gutierrez; Leni Belshay; Bob Belshay; Nancy Hernandez; and, Jennifer Lithgow.

Also, Mark Barton expressed concern and Mike Nolan commented on staff's participation in the matter.

Rebuttal by
Appellant

Mr. Macris made rebuttal comments.

Rebuttal by
Applicant
Rebuttal by
Staff

Mr. de Montesquiou made rebuttal comments.

Mr. Ochsenbein, Senior Planner, Community Development Department, made rebuttal comments with regard to traffic issues and the trip generation analysis.

The Council requested clarification with regard to: the extent of staff's participation in the project negotiations; trip generation; cost of installing a pedestrian lighted crosswalk; parking lot configuration; and, number and size of the current parking spaces.

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Hearing
Closed

There being no further response to the Mayor's invitation for oral comment, the hearing was declared closed.

Council
Deliberations

Mrs. Ramos expressed concern with granting a parking variance which runs with the land and stated that since the business did not present a permanent parking solution, she would support upholding the appeal and denying the variance.

Mr. Golonski noted that the City has invested over \$3 million in the Magnolia Park area and noted that the Action Plan was opposed to fast-food establishments because of the associated impacts. He added that the operation of California Chicken Café is designed to support a high volume and stated that considering the ratio of take-out to eating-in orders, coupled with the lack of parking and the potential traffic impacts for congestion and trip generation for this type of use, he would not support the parking variance. He expressed concern that there is going to be considerable spill-over traffic in the neighborhood, and added that parking across Magnolia Boulevard is not a viable solution for customers.

Mr. Campbell expressed appreciation to the property owners for their efforts in obtaining a quality tenant as well as the neighborhood for expressing their concerns. He commented on the parking challenges he observed at the California Chicken Café in Encino, noted a crosswalk would be necessary if the project was approved, but stated he would not support the variance without adequate on-site parking.

Mr. Vander Borcht expressed support for the project; noted the City's investment in Magnolia Park; stated that regardless of the tenant obtained for the location parking will be a challenge and the City has determined that it is not feasible to buy adjacent R-1 residential properties to provide parking; and, noted that the current standards requiring ten parking spaces per 1000 square feet is a new Code requirement and that the old Code would have required five parking spaces per 1000 square feet. He added that whereas the business will be an inconvenience to the immediate neighborhood, he was supportive of the project in the context of making the best decision for the entire City; to make the major avenues as vibrant as possible within the available means. He also expressed a need for Conditions of Approval such as: no sale of alcohol; limit on operation hours; prohibiting delivery from Niagara Street; reconfiguring the parking lot to make it more usable; no left-turn from the alley to Catalina Street; no right-turn off the alley to Niagara Street; and, installation of a

lighted crosswalk.

Mr. Golonski reiterated that the Magnolia Park Action Plan was opposed to fast-food establishments due to the high volume, and noted the already-existing parking shortage in Magnolia Park.

Mr. Vander Borght noted that the peak turnover time for the proposed restaurant is in the evening when extra parking is available. He also noted that the Magnolia Park CAC was strongly supportive of the project

Mrs. Ramos noted the need to balance economic viability and neighborhood integrity, and suggested integrating housing and commercial uses along Magnolia Boulevard.

Motion It was moved by Mr. Golonski and seconded by Mrs. Ramos that "the following resolution be passed and adopted as modified:"

1704-3 RESOLUTION NO. 27,087:
 1704-5 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
 Appeal of CUP OVERTURNING THE PLANNING BOARD'S DECISION AND
 No. 2005-50 DENYING WITHOUT PREJUDICE THE CONDITIONAL USE
 California PERMIT AND VARIANCE FOR PROJECT NO. 2005-50 (2921
 Chicken Café West Magnolia Boulevard, Andre de Montesquiou, Applicant).

Adopted The resolution was adopted by the following vote:
 Ayes: Council Members Campbell, Golonski, Ramos and
 Vander Borght.
 Noes: Council Members None.
 Absent: Council Members None.
 10:56 P.M. The Council recessed at this time.
 Recess

11:10 P.M. The Council reconvened at this time with Mr. Campbell
 Reconvene absent.

Reporting on Mr. Barlow reported on the items considered by the City
 Closed Session Council and the Redevelopment Agency during the Closed
 Session meetings.

Initial Open Mr. Vander Borght called for speakers for the initial open

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Public Comment Period of Oral Communications	public comment period of oral communications at this time.
Citizen Comment	Appearing to comment were: Eden Rosen, on upcoming events in support of Alzheimer's disease and caregivers; Howard Rothenbach, announcing an upcoming conference on redevelopment abuse; Mark Barton, on the Burbank Civic Plaza and encouraging the City to develop a relationship with the Disney family; and, Mike Nolan, on the case of Nolan v. Alvord.
Staff Response	Members of the Council and staff responded to questions raised.
Agenda Item Oral Communications	Mr. Vander Borcht called for speakers for the agenda item oral communications at this time.
Citizen Comment	Appearing to comment were: Mark Barton, on the public hearing; and, Mike Nolan, inquiring as to the confidentiality of the City's contract with Airport counsel.
Staff Response	Members of the Council and staff responded to questions raised.
Motion	It was moved by Mrs. Ramos and seconded by Mr. Golonski that "the following items on the consent calendar be approved as recommended."
1204-1 Final Tract Map No. 61074 (721 East Cypress Ave.)	<u>RESOLUTION NO. 27,088:</u> A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING FINAL MAP OF TRACT NO. 61074 (721 East Cypress Avenue).
1602-2 Three-Way Stop Sign at Paseo Redondo and Sherlock Dr.	<u>RESOLUTION NO. 27,089:</u> A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING RESOLUTION NO. 18,339, TO REFLECT A THREE-WAY STOP AT THE INTERSECTION OF PASEO REDONDO AND SHERLOCK DRIVE.

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Mayor of the Council
of the City of Burbank