



[Banker's Hill](#) | [City Lights](#)

Ping-Pong Park

By [Dorian Hargrove](#) | Published Wednesday, Nov. 5, 2008

In the midtown community of Banker's Hill, a convertible Mercedes drives down Olive Street straight through the intersection with Third Avenue and onto a narrow paved driveway. The car coasts past a wooden sign displaying the names of three medical offices, loops around a light post, and parks in a shady spot, under the canopy of a eucalyptus growing above the slope of Maple Canyon.

For patients and employees of the medical center and many residents of Banker's Hill, the piece of land abutting the building, 80 feet wide by 120 feet long, is nothing more than a driveway and parking lot, flanked on one side by the low-growing shrubs in front of the building and on the other by an area covered with wood chips, recently landscaped with small trees and perennials.

But for many other residents, the land is dedicated parkland that has been mishandled by the City for the past 99 years and misused by the owner of the building for the past 45.

It began in 1909, when three families — the McKees, Fords, and Woods — donated a dusty, 16,000-square-foot plot of land that adjoined their properties, 40 percent of it in Maple Canyon, to the City of San Diego. Written on the January 20 deed are the words “forever for use as a public park.”

During the next 51 years, the land remained undeveloped, used only to access the backyards of the three neighboring properties — the Wood house to the north and the McKee and Ford houses to the south. In 1963, Dr. Milan Brandon and his land-investment firm, Beaver Investment Corporation, purchased the northern lot, overlooking Maple Canyon.

Brandon went to the City to request access to Olive Park for purposes of ingress and egress to his property and asked permission to ignore setback requirements so that his new medical building could be built up to the edge of the donated piece of land.

The City granted Brandon's wish with one condition: the site must be maintained as a park. Brandon agreed, and on June 11, 1963, the parties signed a Revocable

Encroachment Permit, granting permission to the “Permittee to landscape, develop, and maintain as and for a public park that certain parcel of land conveyed to City by deed.”

During the next decade, Brandon built his medical office from property line to property line and developed the adjacent land. He paved more than a third of it, laying down a circular driveway large enough for four parking spaces and extending the driveway to the back of his building, where cars enter the underground parking garage. He put in a wall, excavated a palm tree in favor of the light post, and planted the area in front of the building and south of the parking lot.

Michal McKee, the great-granddaughter of one of the benefactors, was a teenager when she learned about the new building and the changes made to the land. “Basically, they designed the whole building intending to use city property to park on. They paid nothing for this right; they just did it. My stepfather, back when I was a teenager, saw I was upset about this and wrote a letter to the City.”

The City’s Park and Recreation Department responded by looking into the intent of the permit and the condition of the land. In 1975, two letters were sent to Brandon informing him of the department’s concern.

“From a recent inspection of the property, it is apparent the property does not conform with the conditions of the permit,” Ed Mendoza, director of the Park and Recreation Department, wrote in his second letter to Brandon. “[It] has the appearance of being a private driveway and parking lot which was not the intent of the permit.... This is to advise that failure to comply with the terms of the permit will make it necessary to initiate action to revoke it.”

The City, however, began to question what should be done with the property. Just months after Mendoza sent his letter to Brandon, city staff recommended to the Central Area Committee (a community advisory group) that Olive Park be deleted from the park department’s inventory. According to city records, the committee considered the park too small, too close to Balboa Park, too costly, and too dangerous, as much of it was canyon slope. But after “heated and intense discussion,” the committee voted to keep the park.

Frustrated with the City’s indecision, the McKees sued the City in 1981, claiming reversionary rights on the property due to improper usage.

The court ruled in favor of the City, stating that Brandon was not in direct violation of the encroachment permit and had a right to use the land for access, as had the property owners before him. The court interpreted the words “for use as a public park” as meaning the canyon portion of the lot — despite the City’s earlier opinion that it was “dangerous.”

Upset about the defeat, McKee dropped the issue altogether. “About that time, I felt like the process was so corrupt and nothing was going to happen. I had spent the last ten years banging my head against the City wall, so I just went on with my life.”

Despite McKee's capitulation, the City's file on the park continued to expand. The opening line in a 1992 city memorandum on Olive Park from Olin Hughes at the property department began, "I guess it's time for another memo-on-the-record on this subject (the property file only has six or seven in it so far)."

Two years later, the land was mentioned in a 1994 letter from Mayor Susan Golding to a concerned citizen. "I have contacted the Real Estate Assets Department...who are currently investigating the matter. If a resolution is not forthcoming, then the department is prepared to proceed with the steps necessary to revoke the permit."

During the next ten years, no more complaints are found in the City's file on Olive Park, and no changes were made to the land. Then in 2004, Leo Wilson, chair of Uptown Planners, an officially recognized city advisory group, noticed activity occurring in Maple Canyon. "We saw some trees go down in the canyon, and it was listed as surplus property for sale by the City. The impression we had was somebody had taken the trees down...preparing to purchase it. But because it is dedicated parkland, it requires a vote of the people. If it wasn't for that, the property probably would have been sold."

Wilson says that sale would have provided a larger footprint for future developers. "If the City sold one portion to them, then they could get a tall building overlooking the canyon. Eventually, you could stick in a big condo complex, and the impact on Maple Canyon would be enormous."

To Wilson's surprise, in May of this year, Park and Recreation representative Debra Sharp showed up unannounced at the monthly meeting of the Uptown Planners to discuss options for Olive Park, despite the fact that the item was not on the agenda. Wilson said he felt as though the City was "passing a hot potato" to the planning group because the City wasn't sure what to do with the land.

Wilson was even more astounded to see KUSI News investigative reporter Michael Turko arrive at the meeting to report on the issue.

Responding to the newfound interest from the City and local media, Wilson, along with fellow boardmember and law professor Don Liddell, took the initiative and spent the following months reviewing the court's 1981 decision and visiting the city attorney's office for advice.

Armed with new information and reassurance from the city attorney's office, Wilson and Liddell were prepared to make a recommendation.

The City gave them four options to choose from. The first three involved selling all or portions of the park to Brandon. The last option included charging Brandon rent for his use of the land, as well as enlarging the park through a City purchase of two adjacent vacant lots to form a one-acre park called Wood/McKee Community Park.

In August, Uptown Planners voted 13-0 in favor of the last proposition.

Mark Brandon, son of Milan Brandon, says there are some misconceptions about the property and how his family has managed it over the years. “One of the pieces of misinformation is the idea that the McKees and the Woods gave the property to the City as a gift,” explains Brandon. “It’s a misleading way to portray it. What really happened was all of the families were using Olive Park, or then Olive Street, to get to their properties, just as we use it today. Somewhere along the way, one of the families suggested to the City that they close the paper street. If the City closed the paper street, then the homeowners agreed not to take the property. What they proposed to the City was, if you close the street, when the property comes to us we will give it back to the City and the City would keep it as a park. So that’s how the property got created as Olive Park. When that happened, the families still used the land exactly as they had before, and everyone just used it that way for decades. Nothing really changed. When we bought our property, we bought it with the understanding that we would always continue to use it the same way they had.

“Our position is we are not taking anything from the City, and we shouldn’t be paying rent on this,” says Brandon. “It’s an established access to our property that existed long before we bought it, and it’s the only way to get into our garage. At this point, we’re concerned with what to do because so many people have gotten involved in this recently. Frankly, the City hasn’t come to us — we’ve been hearing about all this from everyone else. We’re getting hit from all different directions on this.”

The Brandons feel that they have been fighting for access to their garage the entire 40 years they’ve been there. “It just means there would probably be another lawsuit. We’re in the neighborhood too — we’ve been here for four decades — and we like the idea of a park here. There’s been talk to take some of the other property and use some of that land for it. We’d support that, but no one has come to us.”

Councilmember Kevin Faulconer favors the establishment of a new Olive Park. “I will be working with them [Uptown Planners] and the rest of the community when we figure out the best options for the site,” he says. “Parks are very important, and getting new parks is good for every community. Earlier this year, we became aware of the renewed community effort to pursue the park, so I think it’s taking on a lot of momentum.”

According to Wilson, the Bankers Hill/Park West Community Association, a citizens’ group that works on neighborhood issues, formed a task force in September to make sure Olive Park isn’t once again forgotten, and Wilson vows to push the City forward with buying the adjacent lots for parkland. “The City will move forward, but we need to push them to make this happen,” he says. “We’re going to take the ball and run with this in Banker’s Hill.”