

**EXHIBIT A
DRAFT MODIFIED CONDITIONS OF APPROVAL**

**UP-77-13
3370 Hopyard Road, Pleasanton Masonic Lodge
June 22, 2016**

The conditions of approval for UP-77-13 are modified as follows. Deleted text is shown in ~~strikeout~~. Added text is shown in underline.

- ~~1. That the site be developed substantially as shown on the site plan, Exhibit A, on file with the Planning Department. That it is realized that the site plan is preliminary in nature and, therefore, the configuration of structures and the number of parking spaces may change in the future. With this in mind, the guiding standards for the development of the site shall be structures not total more than approximately 20,000 sq. ft. in area and that the buildings be designed so that activities will be focused toward the southern portion of the subject property. That access to the site shall be via Valley Trails Drive only.~~

Operation of the Pleasanton Masonic Lodge shall be in substantial conformance to Exhibit B, the modified operation, dated "May 23, 2013", on file with the Planning Division, except as modified by the following conditions. Minor changes to the plans or operations may be allowed subject to the approval of the Director of Community Development.

- ~~2. That the developer be advised that the property is located in the Valley Community Services District sewage treatment area and the availability of sewer connection to the VCSD plant are subject to an agreement dated November 8, 1972 which establishes priority listings for sewer connections. A copy of the above agreement can be obtained from the City Administrative offices. That the developer be informed that sufficient sewer connections are not now available to serve the subject property, that the time schedule when service would become available is uncertain (if ever), and that a building permit cannot be issued for construction on the property until disposal system is approved by the City Council. That the approval of the development with a private sewage disposal system does not entitle the development to any priority for a sewer connection. That if private disposal system were approved, the development could remain on it for an unknown number of years.~~
- ~~3. That the applicant be aware that design Review Board approval of a final site plan, landscape plan and elevations is required.~~
- ~~4. That utilities to serve the site be constructed underground.~~
- ~~5. That the construction site be kept free of fire hazards from the start of construction until final inspection.~~
- ~~6. That any damage done to street improvements now existing or done during construction on the subject property be repaired at full expense to the applicant.~~

- ~~7. That the applicant be informed that the property lies within a flood hazard zone (as defined by the National Flood Insurance Act of 1968 as amended) and that prior to issuance of a building permit by the City it must be shown that measures will be taken to insure flood safety as provided by City ordinance and the National Flood Insurance Act.~~
- ~~8. That the applicant pay any and all fees that the parcel may be subject to.~~
- ~~9. That the applicant submit a building permit survey and a site development plan in accordance with the Survey Ordinance (Article 3, Chapter 3, Title II) and that these plans be approved by the Director of Engineering Services prior to the issuance of a building permit.~~
- ~~10. That the site development plan include all required information to design and construct site, grading, paving, drainage and utilities.~~
- ~~11. That the paving sections for the parking and drive areas be designed on the basis of an R Value Test and a Traffic Index to carry the anticipated traffic loads. This design shall be subject to the approval of the Director of Engineering Services. The minimum paving section shall be 2 inch A.C. on 5 inch A.B. The minimum paving slope shall be 1%.~~
- ~~12. That the applicant install street frontage improvements per ordinance, to the satisfaction of the Director of Engineering Services prior to the issuance of a building permit for structures on the site. These improvements may include, but are not necessarily limited to grading, sidewalk, paving, storm drain, sanitary sewer, water facilities, street lights, underground utilities and traffic control devices.~~
- ~~13. That the applicant's contractor obtain an encroachment permit from the City prior to construction on the site.~~
- ~~14. That the applicant install street trees as required per ordinance.~~
- ~~15. That the emergency telephone number of the fire department be provided near all telephones on the site following construction.~~
- ~~16. That the applicant be aware that the conditional use permit be void one year following the date on which the use permit become effective unless prior to the expiration of that year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application. A use permit subject to lapse may be renewed for an additional period of one year, provided that prior to the expiration date, an application for renewal of the permit is filed with the Planning Commission. However, the Commission may deny an application for renewal of a use permit.~~

This conditional use permit shall lapse and become void one year following the date on which the use permit became effective, unless prior to the expiration of one year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application, or a certificate of occupancy is issued for the structure which was the subject of the use permit application, or the site is occupied if no building permit or certificate of occupancy

is required, or the applicant or his or her successor has filed a request for extension with the zoning administrator pursuant to the provisions of Section 18.12.030.

- ~~17. That the owner dedicate to the City, an eight foot public service easement along the Hopyard Road and Valley Trails Drive frontages of the subject property.~~
- 18. That the existing number "74" fire hydrant be replaced with a number "76" hydrant.
- 19. That the driveway be removed approximately 70 ft. to the west.
- ~~20. That the applicant provides an effective buffer between the development and the single family residential area surrounding the property.~~

The Masonic Lodge shall maintain the existing landscaping and install the required additional landscaping along the northern property line as a screen buffer between the Lodge and the residential properties at all times. No additional structures shall be constructed in the area between the Lodge building and the northern property line without prior City approval.

- 21. The permitted uses/activities that are directly associated with the Mason Lodge, a fraternal organization, shall include but are not limited to the following:

Primary Uses (Masonic Activities):

- a. Masonic Lodge member meetings
- b. Demolay meetings
- c. York Rite meetings
- d. Quilts of Valor
- e. Job's Daughter's meetings

Ancillary Uses (Non-Masonic Activities):

- a. Celebrations, including but not limited to weddings, bar mitzvahs, similar events, and associated receptions (celebrations open to the general public and/or celebrations with paid admission would be explicitly prohibited);
- b. Private events/functions, such as graduations, birthdays, retirements, and religious celebrations, that do not charge admission;
- c. Indoor training, seminars, workshops, and enrichment classes, no more than three consecutive days and no more than one class at a time;
- d. Up to one catering business at any given time with no more than five staff members;
- e. Public uses, such as a voting center/poll station, health fairs and screenings;
- f. Other similar uses determined by the Director of Community Development to be consistent with the approval.

- 22. Hours of Operation at the Masonic Lodge shall be the following:

Use of the Masonic Lodge Building (inside):

<u>Masonic Activities:</u>	<u>9:00 a.m. – 9:00 p.m. (Mon-Sun); all year</u>
<u>Non-Masonic Activities:</u>	<u>9:00 a.m. – 5:00 p.m. (Mon-Fri); all year</u>
	<u>9:00 a.m. – 9:00 p.m. weekends only; all year</u>

Use of the Patio and Outdoor Areas:

Masonic Activities: 9:00 a.m. – 9:00 p.m. (Mon-Sun) all year

Non-Masonic Activities:

Weekdays: 9:00 a.m. – 5:00 p.m.: March – October

Weekends: 9:00 a.m. – 9:00 p.m.:

March – May:

Maximum of two weekends; a total of four days

June – August:

Maximum of four weekends; a total of eight days

September – October:

Maximum of two weekends; a total of four days

No use of the patio and outdoor areas for non-Masonic activities shall be allowed November – February.

The Masonic Lodge shall make the event calendar available to staff at all times to track and verify number of Non-Masonic Activities held outdoors, if needed.

23. If additional hours of operation or activities beyond that stated in the Miller Starr and Regalia' written narrative, dated "May 23, 2013," on file in the Planning Division, are desired, prior City review and approval is required. The Director of Community Development may approve the modification or refer the matter to the Planning Commission if judged to be substantial.
24. A minimum of two Masonic Lodge members shall be on-site to monitor all rental uses that use the outdoor areas, take hourly sound decibel readings at the property lines, and enforce noise standards.
25. The Masonic Lodge shall continue to share the event scheduling calendar and coordinate events with St. Clare's Episcopal Church to avoid scheduling conflicts that could affect the shared parking lot.
26. Rental agreements for the Masonic Lodge shall be undertaken directly with the representatives of the Masonic Lodge.
27. The kitchen door on the north side of the building should remain closed but not locked during business hours.
28. The existing double/French door shall be replaced by a STC-rated door. The applicant shall consult an acoustic consultant in selecting the door and provide the details (specification sheet) of the STC-rated door to the Director of Community Development for review and approval prior to installation. The STC-rated door shall be installed within 30 days from the date this approval becomes effective.
29. The doors (exterior) of the building shall remain closed when not being used for ingress/egress purposes. The applicant shall install self-closing mechanisms within 30 days from the date when this approval becomes effective. A sign stating that the

doors of the establishment shall remain closed during all hours of operation shall be placed on or next to all doors.

30. Building occupancy shall be posted in each room within 30 days from the date this approval becomes effective.
31. The total number of persons at the Masonic Lodge (staff and guests combined) for Non-Masonic Lodge activities shall not exceed 150 persons.
32. All exterior lights shall be shielded to reduce light spillage/glare onto adjoining properties. This modification shall be implemented within 30 days from the date this approval becomes effective.
33. Additional landscape shall be installed along the northern property line to provide additional screening between the residential uses and the Masonic Lodge. The planting details, including species, quantity, size, and spacing shall be reviewed and approved by the Director of Community Development and City Landscape Architect prior to installation within 30 days from the date this approval becomes effective. Installation shall be complete within 45 days from the date this approval becomes effective.
34. All activities at the Masonic Lodge shall conform with Chapter 9.04 of the Pleasanton Municipal Code (Noise Regulations).
35. No music shall be allowed outside the building.
36. Live or pre-recorded music is allowed inside the building with doors closed.
37. The applicant shall provide a sample of window shades to be installed on the double/French doors to the Director of Community Development for review and approval prior to installation. The window shades shall be installed within 30 days from the date this approval becomes effective.
38. Window shades on the double/French doors shall be drawn at dusk to reduce light spillage to adjoining residential properties.
39. A timer shall be installed on the exterior light on the north side of the building.
40. The exterior doors of the facility shall remain closed when not being used for ingress/egress purposes. The Masonic Lodge shall install and maintain self-closing mechanisms on all exterior doors within 30 days from the date this approval becomes effective.
41. If the operation and activities at the Pleasanton Masonic Lodge site result in conflicts pertaining to parking, interior or exterior noise, traffic/circulation, public disturbances, or violations of these conditions, at the discretion of the Director of Community Development, this conditional use permit may be submitted to the Planning Commission to consider modifications to the conditions or revocation.

42. The existing signage for the catering business shall be removed within 7 days from the date this approval becomes effective.
43. Changes to the exterior of the building shall not be made without prior approval from the Planning Division.
44. The applicant shall maintain the site in a clean and orderly manner at all times.
45. To the extent permitted by law, the project applicant shall defend (with counsel reasonable acceptable to the City), indemnify and hold harmless the City, its City Council, its officers, boards, commissions, employees and agents from and against any claim (including claims for attorneys fees), action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including (without limitation) reimbursing the City its attorneys fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.
46. Any tenant improvement plans shall be submitted to the Building and Safety Division for review and approval prior to operation. The applicant shall obtain a building permit prior to commencement of any work. The applicant shall pay any and all fees to which the proposed application may be subject to prior to issuance of building permits. The type and amount of the fees shall be those in effect at the time the building permit is issued.
47. Pleasanton Masonic Lodge shall comply with the Chapter 9.24 of the Pleasanton Municipal Code (Smoking in Public and Work Places).

[end]

PLANNING COMMISSION
CITY OF PLEASANTON
COUNTY OF ALAMEDA
STATE OF CALIFORNIA

RESOLUTION NO. 1562

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PLEASANTON APPROVING A CONDITIONAL USE PERMIT FOR ALISAL LODGE #321, FILED UNDER UP-77-13.

WHEREAS, Alisal Lodge #321 has filed for a conditional use permit to allow the construction and use of a masonic lodge to be located at the intersection of Hopyard Road and Valley Trails Drive South; and

WHEREAS, zoning for the property is RM-2500 (Multiple Residential) District; and

WHEREAS, the Planning Commission, on September 14, 1977, held a public hearing on this request at which time all pertinent documents, maps, reports and testimony were heard by the Planning Commission; and

WHEREAS, the Planning Commission made the following findings:

- A. That because of its location on a major thoroughfare and the design of the project the conditional use is in accord with the objectives of this chapter and the purposes of the district in which the site is located.
- B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.
- C. That the proposed conditional use will comply with each of the applicable provisions of this chapter.

NOW, THEREFORE, THE PLANNING COMMISSION RESOLVES AS FOLLOWS:

Section 1. The Planning Commission approves UP-77-13, subject to the following conditions:

1. That the site be developed substantially as shown on the site plan, Exhibit A, on file with the Planning Department. That it is realized that the site plan is preliminary in nature and, therefore, the configuration of structures and the number of parking spaces may change in the future. With this in mind, the guiding standards for the development of the site shall be that structures not total more than approximately 20,000 sq. ft. in area and that the buildings be designed so that activities will be focused toward the southern portion of the subject property. That access to the site shall be via Valley Trails Drive only.

2. That the developer be advised that the property is located in the Valley Community Services District sewage treatment area and the availability of sewer connections to the VCSD plant are subject to an agreement dated November 8, 1972 which establishes priority listings for sewer connections. A copy of the above agreement can be obtained from the City Administrative offices. That the developer be informed that sufficient sewer connections are not now available to serve the subject property, that the time schedule when service would become available is uncertain (if ever), and that a building permit cannot be issued for construction on the property until disposal system is approved by the City Council. That the approval of the development with a private sewage disposal system does not entitle the development to any priority for a sewer connection. That if private disposal system were approved, the development could remain on it for an unknown number of years.
3. That the applicant be aware that Design Review Board approval of a final site plan, landscape plan and elevations is required.
4. That utilities to serve the site be constructed underground.
5. That the construction site be kept free of fire hazards from the start of construction until final inspection.
6. That any damage done to street improvements now existing or done during construction on the subject property be repaired at full expense to the applicant.
7. That the applicant be informed that the property lies within a flood hazard zone (as defined by the National Flood Insurance Act of 1968 as amended) and that prior to issuance of a building permit by the City it must be shown that measures will be taken to insure flood safety as provided by City ordinance and the National Flood Insurance Act.
8. That the applicant pay any and all fees that the parcel may be subject to.
9. That the applicant submit a building permit survey and a site development plan in accordance with the Survey Ordinance (Article 3, Chapter 3, Title II) and that these plans be approved by the Director of Engineering Services prior to the issuance of a building permit.
10. That the site development plan include all required information to design and construct site, grading, paving, drainage and utilities.

11. That the paving sections for the parking and drive areas be designed on the basis of an R Value Test and a Traffic Index to carry the anticipated traffic loads. This design shall be subject to the approval of the Director of Engineering Services. The minimum paving section shall be 2 inch A.C. on 5 inch A.B. The minimum paving slope shall be 1%.
12. That the applicant install street frontage improvements per ordinance, to the satisfaction of the Director of Engineering Services prior to the issuance of a building permit for structures on the site. These improvements may include, but are not necessarily limited to grading, sidewalk, paving, storm drain, sanitary sewer, water facilities, street lighting, underground utilities and traffic control devices.
13. That the applicant's contractor obtain an encroachment permit from the City prior to construction on the site.
14. That the applicant install street trees as required per ordinance.
15. That the emergency telephone number of the fire department be provided near all telephones on the site following construction.
16. That the applicant be aware that a conditional use permit becomes void one year following the date on which the use permit became effective unless prior to the expiration of that year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application. A use permit subject to lapse may be renewed for an additional period of one year, provided that prior to the expiration date, an application for renewal of the permit is filed with the Planning Commission. However, the Commission may deny an application for renewal of a use permit.
17. That the owner dedicate to the City, an eight foot public service easement along the Hopyard Road and Valley Trails Drive frontages of the subject property.
18. That the existing number "74" fire hydrant be replaced with a number "76" hydrant.
19. That the driveway be moved approximately 70 ft. to the west.
20. That the applicant provide an effective buffer between the development and the single family residential area surrounding the property.

Section 2. This resolution shall become effective 15 days from the date of passage and adoption.

PASSED AND ADOPTED by the Planning Commission of the City of Pleasanton on the 14th day of September, 1977, by the following vote:

AYES: Commissioners Doherty, Jamieson, Shepherd, Wood and Chairman Butler

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST: Secretary Harris

DATE: September 14, 1977

ATTEST:

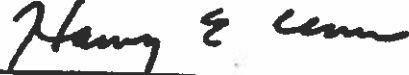


Robert J. Harris, Secretary



Robert E. Butler, Chairman

APPROVED AS TO FORM



Harvey E. Levine
Deputy City Attorney

Item 6b
Staff Report
PLANNING COMMISSION
September 14, 1977

SUBJECT: UP-77-13

APPLICANT: Alisal Lodge No. 321, Free and Accepted Masons

PURPOSE: Application for a conditional use permit to allow the establishment of an approximately 8,000 sq. ft. lodge building on property located at the northwest corner of the intersection of Hopyard Road and Valley Trails Drive, South. Zoning for the property is RM-2500 District.

ATTACHMENTS: 1. Negative Declaration
2. Site Plan

On June 9, 1976, your Commission approved a conditional use permit for St. Clare's Episcopal Church to allow the construction and operation of a church on property located at the northwest corner of Hopyard Road and Valley Trails Drive South. On July 13, 1977, you granted a years extension for that conditional use. St. Clare's is now proposing to sell approximately 1-acre of their property to the Alisal Masonic Lodge. The lodge intends to construct an approximately 8,000 sq. ft. lodge building on the property. Lodges are conditionally allowed uses in the RM District, therefore, the Masons have applied for a conditional use permit to allow the establishment of their lodge on this property.

The site plan which accompanies this report shows the church and parking area as it was approved by your Commission on July 13, 1977. The northern approximately 1/2 of the property was shown as vacant at that time. The Masons intend to construct their lodge building to the north of the proposed church parking lot. They hope to utilize joint parking facilities with the church, but if that is not possible they would construct additional parking adjacent to the lodge building.

One of the positive features of the conditional use permit approved for the church was that all structures were shown on the southern part of the parcel considerably removed from the residences north of the subject property. The current proposal shows the lodge building and a possible future parking in that intervening upper zone. While lodge meetings are normally staid affairs which do not generate such commotion, lodge buildings are commonly rented for non-lodge affairs such as wedding receptions and parties which can be nuisance creating. Physical separation of such facilities from residences, therefore, would normally be desirable. While it might be preferable to have the lodge building farther south on the property, it would be possible to design the structure so as to minimize any noise which is generated from within. This could be done by prohibiting openings on the north or west sides of the structure and, therefore, activity would be focused away from the northern residences.

While the square footage of structures has increased from 8,000 in the initial submittal to nearly 20,000 sq. ft. under the current proposal, buildings would still occupy only 14.8% of the subject property. Density of development therefore, would continue to be quite low.

As with the previously approved plan, access to the site would be solely from Valley Trails Drive. The Masons property would have frontage on Hopyard Road but no vehicular access to it. An access easement, therefore, would need to be granted by the church. It would probably be better if the driveway were moved farther west on Valley Trails Drive to minimize congestion at the Hopyard Road/Valley Trails Drive intersection.

A negative declaration accompanies this report. Based on the initial environmental study done for this project, it is the staff's opinion that UP-77-13 would not have a significant adverse effect on the environment because the conditions attached to the approval of the proposed project would reduce the possible adverse effects on the environment to an insignificant level. Conditions 1, 3-7, 9-12, 14 and 17-19 are mitigation measures. If your Commission concurs, you must make the finding that the negative declaration is appropriate for the project. The finding must be made prior to taking action on the project itself. Please refer to page 8 of the CEQA Guidelines for the definition of significant effect and to pages 20 through 22 of the Guidelines for the details on determining significant effect.

Staff Recommendation: The staff feels that the types and intensity of uses proposed are appropriate for the subject property. We also feel that all of the findings required for the granting of the conditional use permit can be made in this case, therefore, we recommend approval of UP-77-13 subject to the following conditions:

1. That the site be developed substantially as shown on the site plan, Exhibit A, on file with the Planning Department. That it is realized that the site plan is preliminary in nature and, therefore, the configuration of structures and the number of parking spaces may change in the future. With this in mind, the guiding standards for the development of the site shall be that structures not total more than approximately 20,000 sq. ft. in area and that the buildings be designed so that activities will be focused toward the southern portion of the subject property. That access to the site shall be via Valley Trails Drive only.
2. That the developer be advised that the property is located in the Valley Community Services District sewage treatment area and the availability of sewer connections to the VCSD plant are subject to an agreement dated November 8, 1972 which establishes priority listings for sewer connections. A copy of the above agreement can be obtained from the City Administrative offices. That the developer be informed that sufficient sewer connections are not now available to serve the

subject property, that the time schedule when service would become available is uncertain (if ever), and that a building permit cannot be issued for construction on the property until sewage treatment capacity is available or a private sewage disposal system is approved by the City Council. That the approval of the development with a private sewage disposal system does not entitle the development to any priority for a sewer connection. The development will be on an approved private system for an unknown number of years.

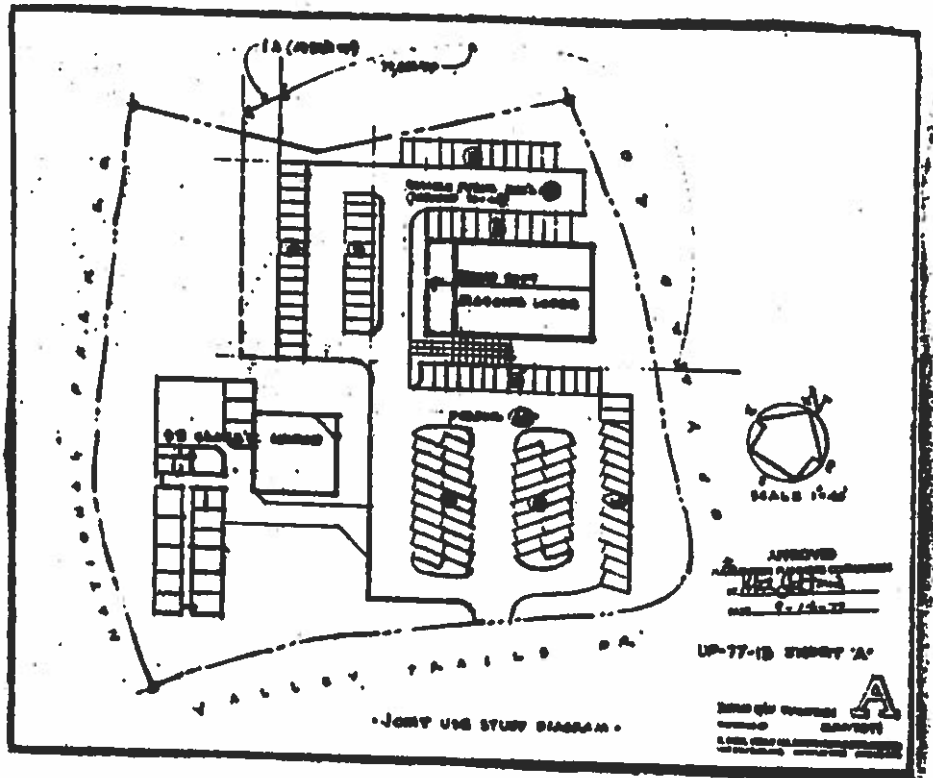
3. That the applicant be aware that Design Review Board approval of a final site plan, landscape plan and elevations is required.
4. That utilities to serve the site be constructed underground.
5. That the construction site be kept free of fire hazards from the start of construction until final inspection.
6. That any damage done to street improvements now existing or done during construction on the subject property be repaired at full expense to the applicant.
7. That the applicant be informed that the property lies within a flood hazard zone (as defined by the National Flood Insurance Act of 1968 as amended) and that prior to issuance of a building permit by the City it must be shown that measures will be taken to insure flood safety as provided by City ordinance and the National Flood Insurance Act.
8. That the applicant pay any and all fees that the parcel may be subject to.
9. That the applicant submit a building permit survey and a site development plan in accordance with the Survey Ordinance (Article 3, Chapter 3, Title II) and that these plans be approved by the Director of Engineering Services prior to the issuance of a building permit.
10. That the site development plan include all required information to design and construct site, grading, paving, drainage and utilities.
11. That the paving sections for the parking and drive areas be designed on the basis of an "R" Value test and a Traffic Index to carry the anticipated traffic loads. This design shall be subject to the approval of the Director of Engineering Services. The minimum paving section shall be 2 inch A.C. on 5 inch A.B. The minimum paving slope shall be 1%.
12. That the applicant install street frontage improvements per ordinance, to the satisfaction of the Director of Engineering Services prior to the issuance of a building permit for structures on the site. These improvements may include, but are not necessarily limited to grading, sidewalk, paving, storm drain, sanitary sewer, water facilities, street lighting, underground utilities and traffic control devices.

13. That the applicant's contractor obtain an encroachment permit from the City prior to construction on the site.
14. That the applicant install street trees as required per ordinance.
15. That the emergency telephone number of the fire department be provided near all telephones on the site following construction.
16. That the applicant be aware that a conditional use permit becomes void one year following the date on which the use permit became effective unless prior to the expiration of that year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application. A use permit subject to lapse may be renewed for an additional period of one year, provided that prior to the expiration date, an application for renewal of the permit is filed with the Planning Commission. However, the Commission may deny an application for renewal of a use permit.
17. That the owner dedicate to the City, an eight foot public service easement along the Hopyard Road and Valley Trails Drive frontages of the subject property.
18. That the existing number "74" fire hydrant be replaced with a number "76" hydrant.
19. That the driveway be moved approximately 70 ft. to the west.

If your Commission concurs and you approve UP-77-13, we suggest that you make the following findings required for the granting of a conditional use permit prior to such approval:

- A. That because of its location on a major thoroughfare and the design of the project the conditional use is in accord with the objectives of this chapter and the purposes of the district in which the site is located.
- B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.
- C. That the proposed conditional use will comply with each of the applicable provisions of this chapter.

7



MINUTES

PLANNING COMMISSION
Pleasanton Council Chambers
30 West Angela Street

September 14, 1977
8:00 P.M.

CALL TO ORDER

The regular meeting of the Planning Commission was called to order at 8:05 P.M. by Chairman Butler.

The Pledge of Allegiance to the Flag was recited.

ROLL CALL

Commissioners Present: Doherty, Jamieson, Shepherd (arrived at 8:10 P.M.), Wood, Chairman Butler
Commissioners Absent: None
Staff Members Present: Robert Harris, Director of Planning; Ken Scheidig, City Attorney; Harvey Levine, Deputy City Attorney; Brian Swift, Planning Analyst; Rich Glenn, Planning Analyst; Don Scoby, Director of Engineering Services; Yvonne McFadden, Recording Secretary.

Council Members Present: Ken Mercer, Liaison to the Planning Commission
Growth Management Committee Members Present: Penny Deleray, Ann Rathjen, Sharon Kosch.

APPROVAL OF MINUTES

The minutes of the August 10, 1977, meeting were approved as submitted.

MEETING OPEN FOR ANY MEMBER OF THE AUDIENCE TO ADDRESS THE PLANNING COMMISSION

Mr. Percival Scales, owner of Essener Investments, requested that the Planning Commission investigate the possibility of amending the Ordinance Code to allow waterbed stores in the C-N District. He explained that the Amador Center (zoned C-N) had allowed a waterbed store to take occupancy in the center. Mr. Scales assumed that the shopping center across the street carried the same kind of zoning as his center, and since there is a similar business in that center, he did not see anything irregular about the waterbed store located in his shopping center. He has since learned that waterbed shops are not allowed in the C-N District and requested an amendment to the Ordinance Code.

After some discussion, the Commissioners adopted Resolution 1557 initiating an amendment to the ordinance code to allow either as a permitted or conditional use waterbed stores in the C-N District.

PUBLIC HEARINGS - NEW BUSINESS

Z-77-116, Vic Lund - application for design approval to construct an addition to an existing building at 164 Main Street. Zoning for the property is O (Office) District and C-O (Civic Overlay) District.

Staff recommendation is for approval.

The Public Hearing was opened. Mr. Vic Lund was present to answer all questions. He agreed with all conditions for approval.

The Public Hearing was closed.

Resolution 1560 was entered and adopted recommending to the City Council approval of Z-77-116, subject to all conditions in the staff report.

Roll Call Vote

Resolution: Doherty

Seconded: Wood

Ayes: Doherty, Jamieson, Shepherd, Wood, Chairman Butler

Noes: None

Absent: None

Abstain: None

UP-77-13, Alisal Lodge #321

Review of negative declaration for the construction and use of a masonic lodge to be located at the intersection of Hopyard Road and Valley Trails Drive (South).

Secretary Harris described the staff report. This is a modification of the use permit granted to St. Clare's Episcopal Church on a portion of the property.

Staff is recommending approval subject to 19 conditions in the staff report.

Discussion centered on the 100-year flood level and what construction methods would be required to circumvent that possibility.

Commissioner Jamieson ascertained that the homes would be approximately 80 feet from the site on the proposed lodge.

Commissioner Shepherd requested that some wording be inserted to safeguard the residences from the facility, by means of buffering.

The Public Hearing was opened on the negative declaration.

Mr. Jack Fiorio, representing Alisal Lodge #321 was present. He had no comments to offer.

The Public Hearing was closed on the negative declaration.

Resolution 1561 was entered and adopted making the finding that the project would not have an adverse effect on the development and that a negative declaration would be prepared.

Roll Call Vote

Resolution: Wood
Seconded: Doherty
Ayes: Doherty, Jamieson, Shepherd, Wood, Chairman Butler
Noes: None
Absent: None
Abstain:

Application for a conditional use permit to allow the construction and use of a masonic lodge to be located at the intersection of Hopyard Road and Valley Trails Drive (South). Zoning for the property is RM-2500 (Multiple Residential) District.

The Public Hearing was opened on the conditional use permit review. Mr. Jack Fiorio was present. He took a minute out to read the staff report, which he did not receive. After reading the report, he had no objections.

Commissioner Shepherd requested addition of Condition 20, to require some kind of effective buffer between the residential area and the facility.

The Public Hearing was closed.

Resolution 1562 was entered and adopted approving UP-77-13, subject to all conditions in the staff report plus addition of Condition 20.

Roll Call Vote

Resolution: Jamieson
Seconded: Doherty
Ayes: Doherty, Jamieson, Shepherd, Wood, Chairman Butler
Noes: None
Absent: None
Abstain: None

PUD-77-6, Darwin Datwyler

Review of negative declaration for a project to construct a 22-unit town-house development between the Arroyo del Valle and the future Del Valle Parkway.

Secretary Harris related the history on this property. He then described the staff report. He noted a concern on Page 1, Paragraph 3, pertaining to Units 18 through 22, which come to within nine feet of the eastern property line. For this reason, rear yards are very shallow in this area and the units would be located extremely close to the existing single family residence. An alternate plan was suggested by staff in that same paragraph.

Staff recommendation is for approval subject to conditions in the staff report.

Some discussion ensued between staff and the Commissioners as to what plan is the valid one, Mr. Datwyler having submitted three separate applications for the same property.

Commissioner Jamieson inquired about the provision of landscaping throughout the project, even the upper portion of the bank of the Arroyo del Valle.

The Public Hearing was opened on the negative declaration.

12 copies
APPLICATION TO THE PLANNING COMMISSION
CITY OF PLEASANTON
CONDITIONAL USE PERMIT

City of Pleasanton
LV 20119
For: [unclear]

FEE: \$150.00 + \$25.00

Name of Applicant ALISA L. LORAN 3:1 3 AM

Business or Home Address PO Box 243 Pleasanton, CA

Business or Home Phone 46-2167 Ask For JACK FIGLIO

Address of Applicant's Property Intersection of Hedgkott & Valley Trails Dr.
Property Description: Lot 31 Block 0907 Tract 941 or 11006

Record Owner: Episcopal Bishop of CA zoning
5510 18th St. Pleasanton CA 94566 District High Density

Proposal or Additional Information may be attached to this Application Form.
TO BUILT A MASONIC LODGE BUILDING

Attached hereto and made a part hereof are plot plans and details of the relationship of the property in question to the surrounding property, also plans, diagrams, plot plans, contour information or any other information required by the Planning Commission.

I hereby certify that the foregoing statements are true and correct to the best of my knowledge and belief.

Date 3/13/77 Applicant [Signature]
(Signature)

Commission Action

The Planning Commission finds that the above application for a Conditional Use Permit (does) (does not) meet the standards and requirements of the Commission and does hereby (grant the Permit per the conditions listed below) (deny the Permit).

APPROVED
PLEASANTON PLANNING COMMISSION
[Signature]

Conditions of Approval

DATE 2-14-77

Fee Paid 45 Receipt No. 19835 (Do not write in this space)
Date 3/13 Applicant Notified of Public Hearing
Date of Public Hearing Action of Planning Commission
Date Published: Action of Planning Commission

Item 6b
Staff Report
DESIGN REVIEW BOARD
November 29, 1977

SUBJECT: 2-77-172

APPLICANT: Alisal Masonic Lodge

PURPOSE: Application for design review for an 8,000 sq. ft. Masonic lodge building proposed to be constructed on a site located at the northwest corner of the intersection of Valley Trails Drive (South) and Hopyard Road. Zoning for the property is RM-2500 District.

- ATTACHMENTS:
1. Exhibit A, Site Plan, Elevations and Landscape Plan
 2. Planning Commission, Resolution No. 1562

On September 14, 1977, the Planning Commission approved case UP-77-13, a conditional use permit to allow the construction and operation of an 8,000 sq. ft. Masonic lodge building on the northern portion of the approximately 3.1 acre parcel of land located at the northwest corner of the intersection of Valley Trails Drive (South) and Hopyard Road. The Masonic lodge is now applying for design approval of that project.

The location and size of the building are as were shown with the conditional use permit submittal. The building would be 8,000 sq. ft. in size and located immediately north of the parking lot approved in conjunction with the St. Clare's Episcopal Church submittal. That parking lot is large enough to accommodate both the church and lodge even for simultaneous uses. The lodge building would be rectangular in with dimensions of 80' X 100'. It would be constructed of scored, Texture 111 siding, redwood trim, and a heavy shake mansard roof. A canopy shown located at the southwest corner of the building would be supported by slumpstone columns. Colors used would be varying shades of beige and brown.

The entrance to the building would be on the south side. There would be no windows in the other three elevations and the only other openings would be to emergency exits (one on the east side and the other on the north side). Because the building would be used for lodge rituals, windows are not desired. Placing the entrance on the south side of the building concentrates outdoor activities as far as possible from bordering residences. This is in conformance with the requirements of the conditional use permit approval.

The area to the north and west of the building is intended as the site for future parking if necessary. No development of this area is proposed at this time except for landscaping.

While the architecture of the lodge building itself is internally consistent, a question is raised as to how a building of this style will appear in relation to the St. Clare's church structure, which was approved by your Board recently. The architectural styles of the two structures are completely different. The lodge however, is quite similar to the New Life Fellowship Church building which was recently constructed at the southwest corner of the intersection of Valley Trails Drive (South) and Hopyard Road. Since approval of these two dissimilar styles has already occurred in close proximity, construction of the lodge building will probably not be inharmonious.

No environmental assessment accompanies this case since a negative declaration was prepared for the Masonic lodge conditional use permit and the project has not changed in the interim.

Staff Recommendation: In the staff's opinion, the Masonic lodge building, itself, will be attractive and its architectural style should be harmonious with that of its neighborhood. For these reasons, we recommend approval of Case 2-77-172, subject to the following conditions:

1. That the development be substantially as shown on the site plan, elevations and landscape plan, Exhibit A, on file with the Planning Division, except that all non-planted areas around the lodge building be planted in grass and the proposed Chinese pistachio trees replaced with *Platanus Acerifolia* 40 ft. on center.
2. That approval of this case is subject to all applicable conditions of Planning Commission Resolution No. 1562, attached hereto and made a part of this case by reference.
3. That the structure meet all site requirements of the RM-2500 District.
4. That the Fire Division emergency number be provided adjacent to all telephones on the site.
5. That the street number of the building be posted so as to be easily seen from the street at all times, day and night.
6. That all ducts, meters, air conditioning equipment, and any other mechanical equipment, whether on the structure, on the ground, or elsewhere, be effectively screened from view with materials architecturally compatible with the main structure.
7. That all mechanical equipment be constructed in such a manner that noise emanating from it will not be perceptible at or beyond the property plane of the subject property in a normal environment for that zoning district.

8. That all lighting be constructed in such a manner that glare is directed away from surrounding properties and rights of way.
9. That all trash and refuse be contained completely within enclosures architecturally compatible with the main structure.
10. That all trees used in landscaping be a minimum of 15 gallons in size and all shrubs a minimum of 5 gallons.
11. That if signing for the development is desired, a comprehensive signing program be submitted to the City for consideration under separate application.
12. That 6" vertical concrete curbs be installed between all paved and landscaped areas.
13. That all parking spaces be striped and provided with wheel stops unless they are fronted by concrete curbs, in which case sufficient areas shall be provided beyond the ends of all parking spaces to accommodate the overhang of automobiles.
14. That the applicant enter into an agreement with the City approved by the City Attorney which guarantees that all landscaping included in this project will be maintained in a healthful, attractive and weedfree manner. Said agreement shall be recorded and shall run with the land for the duration of the existence of the structures located on the subject property.
15. That silhouette, low-level lighting be provided around the perimeters of all buildings on the subject property.
16. That all buildings be equipped with an alarm system, the type to be approved by the Police Department that this system shall be installed prior to final building inspection.
17. That the following water conserving plumbing fixtures be installed:
 - A. Low flush water closets
 - B. Shower flow control heads
 - C. Aerators in interior faucets
 - D. Insulation of hot water lines
18. That the owner of the 3.1 acre parcel file and record a parcel map for the subdivision of the property and that this map be approved by the City.
19. That the applicant secure a permanent vehicular access easement from the lodge site to Valley Trails Drive South.
20. That the Masonic Lodge enter into a non-revocable parking agreement with the Episcopal Church granting the lodge joint use of the parking lot and that this agreement be approved by the City prior to issuance of a building permit.

In addition to the conditions of design review mentioned previously, the applicant should be aware of the following City requirements:

- A. That a minimum 10 ft. wide public service easement for utility purposes be granted to the City between the lodge site and National Park Road.
- B. That the property owner dedicate an 8 ft. wide public service easement along the entire length of the Hopyard Road frontage of the property.

MINUTES

SPECIAL MEETING

DESIGN REVIEW BOARD
Pleasanton Council Chambers
30 West Angela Street

November 29, 1977
4:30 P.M.

Z-77-172, Alisal Masonic Lodge - application for design review for a building proposed to be constructed on a site located at the northwest corner of the intersection of Valley Trails Drive (South) and Hopyard Road. Zoning for the property is RM-2500 (Multiple Residential) District.

Secretary Harris reviewed the staff report. The conditional use permit had previously been approved. The parking lot would be to jointly serve this facility and St. Clare's Church. There is room for additional parking located to the west.

The Public Hearing was opened.

Mr. Tom Arney was present to represent Alisal Lodge. They were completely in agreement with staff recommendations.

Commissioner Butler ascertained from staff that the freestanding sign is not part of this application.

The Public Hearing was closed.

Chairman Wood had a question regarding Condition #16, requiring installation of burglar alarm system. Secretary Harris explained that this is a requirement imposed by the Police Department and is discretionary on their part. Under those circumstances, the Commissioners felt the condition should be modified to say that if required by the Police Department, an alarm system would be installed.

Resolution R-77-62 was entered and adopted approving the application subject to the conditions in the staff report, and modification to Condition #16 noted above.

Roll Call Vote

Resolution: Butler

Seconded: Jamieson

Ayes: Butler, Jamieson, Wood

Noes: None

Absent: None

Abstain: None

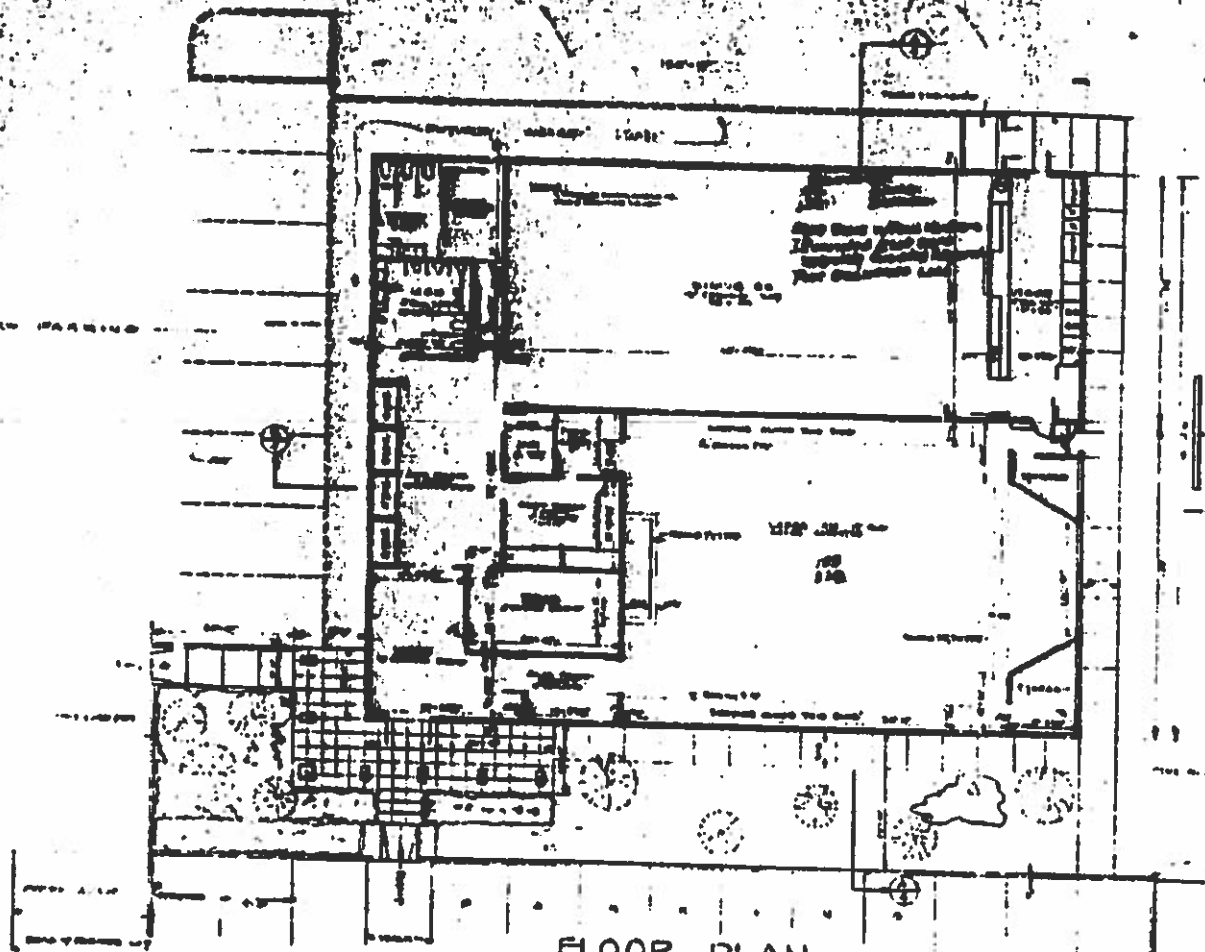
Secretary Harris announced that the applicant should be aware that the City would require a separate holding tank for this development. The approval for this would have to come from the City Council.

ADJOURNMENT

The special meeting of the Design Review Board was adjourned at 5:10 P.M.

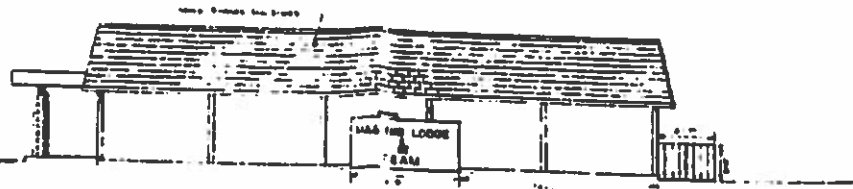


Robert J. Harris, Secretary

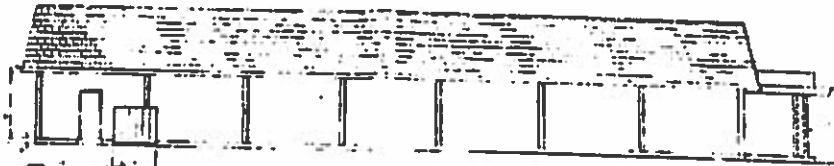


FLOOR PLAN

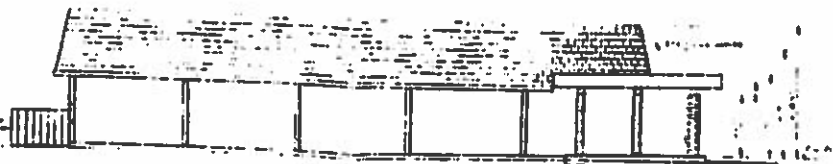
SCALE 1/4" = 1'-0"



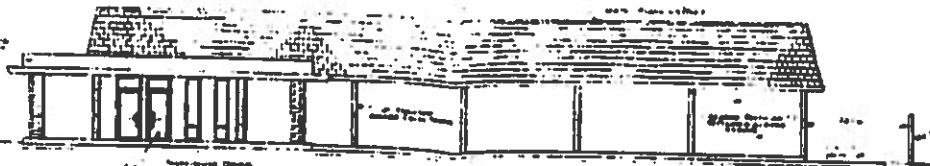
EAST ELEV.



NORTH ELEV.

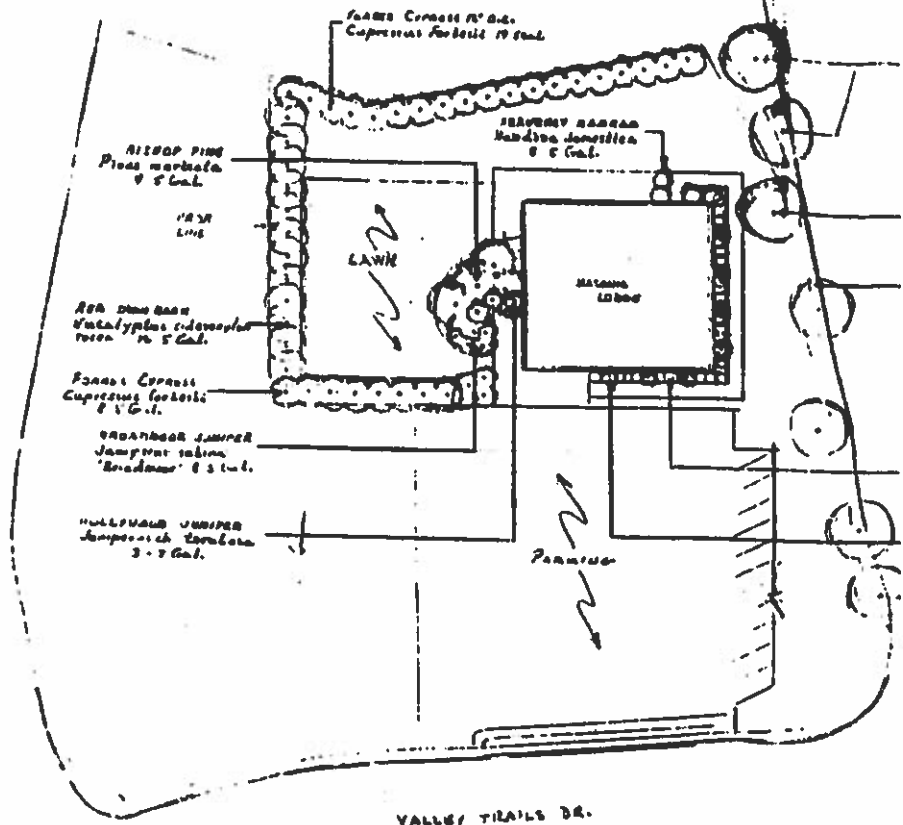


WEST ELEV.

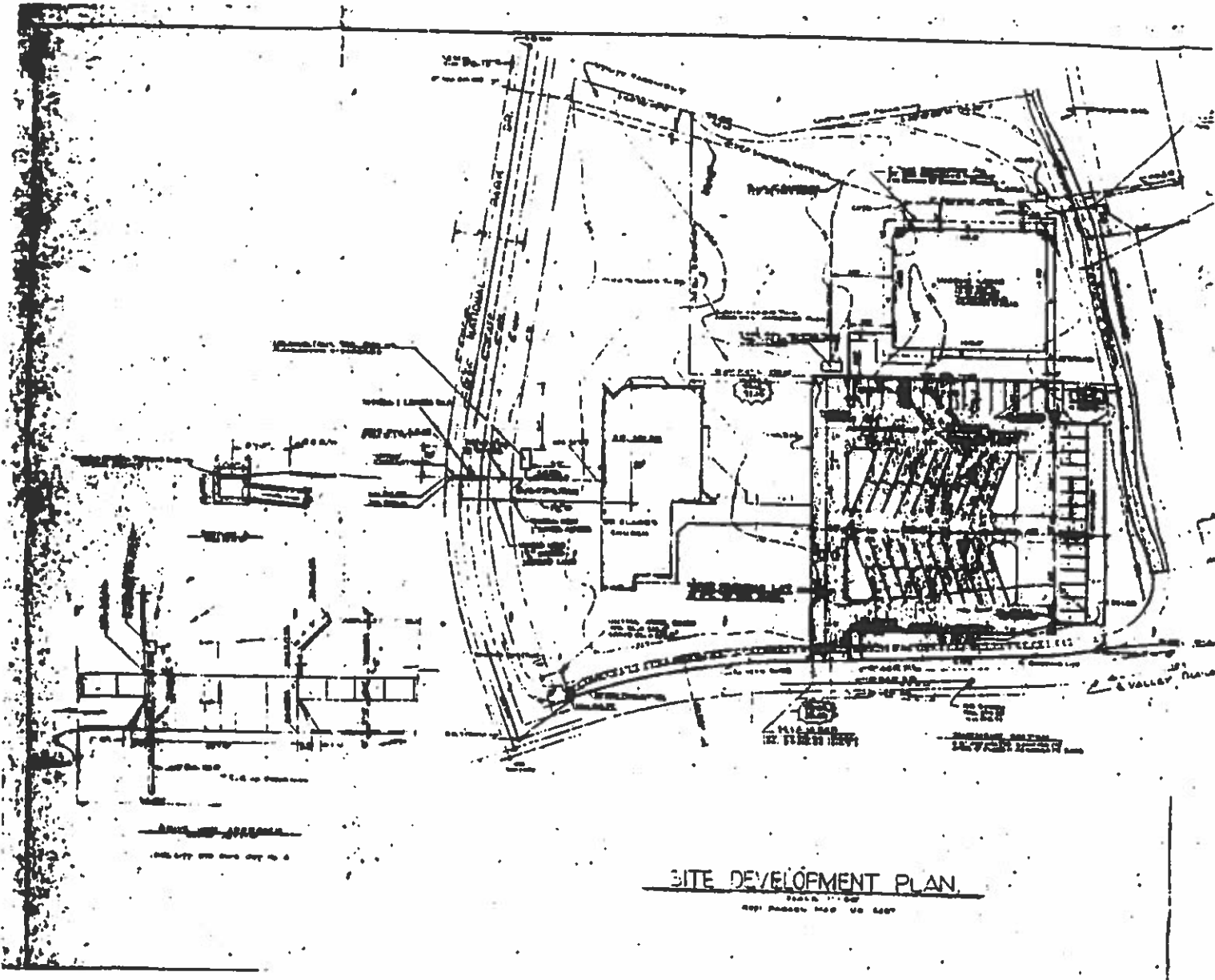


SOUTH WEST ELEV.



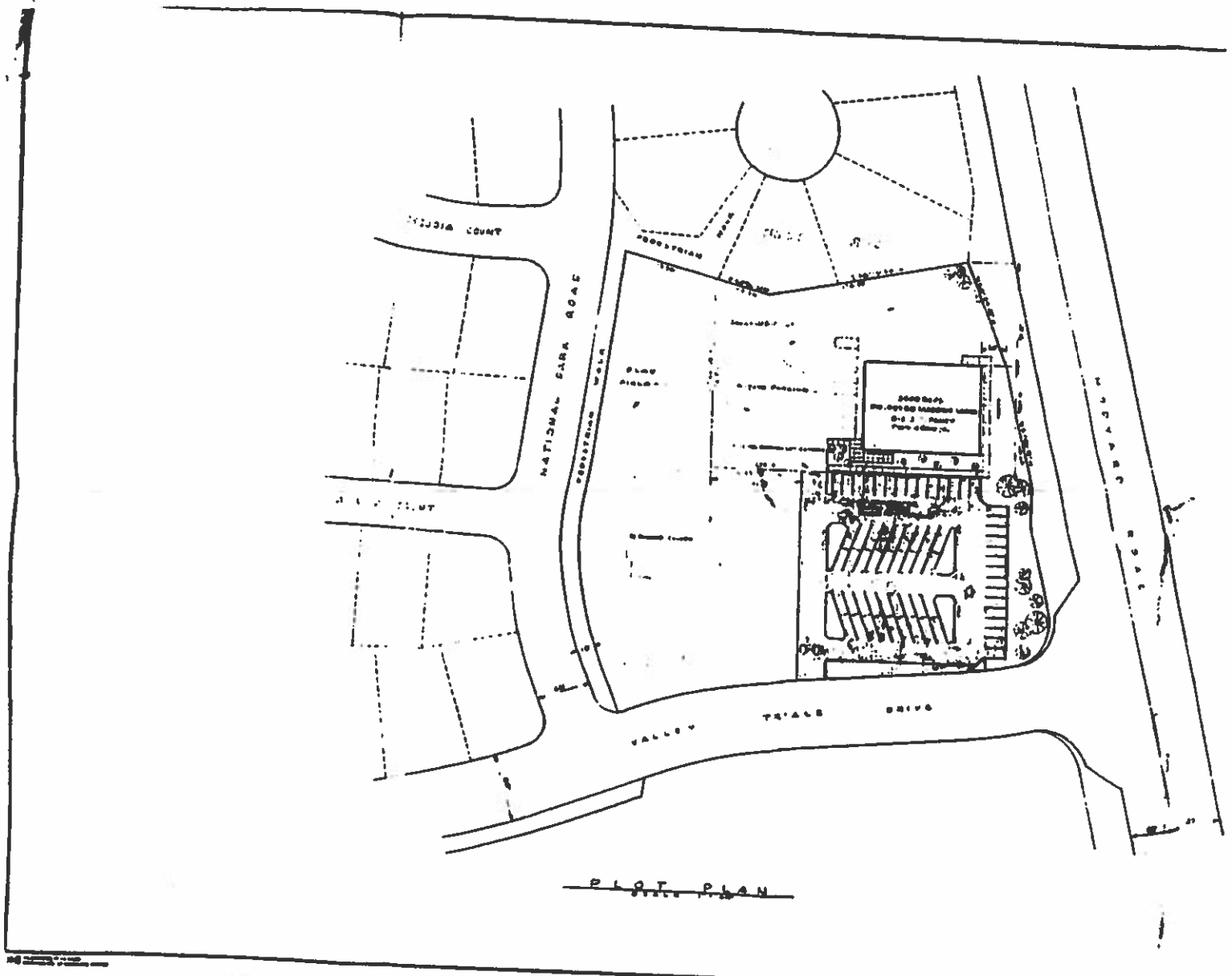


VALLEY TRAILS DR.



SITE DEVELOPMENT PLAN

Scale: 1" = 50'
 Date: 10/15/50



PLOT PLAN

DESIGN REVIEW BOARD
CITY OF PLEASANTON
COUNTY OF ALAMEDA
STATE OF CALIFORNIA

RESOLUTION NO. R-77-62

A RESOLUTION OF THE DESIGN REVIEW BOARD OF THE CITY OF PLEASANTON APPROVING DESIGN PLANS FOR ALISAL MASONIC LODGE, FILED UNDER APPLICATION NO. 2-77-172.

- WHEREAS, Alisal Masonic Lodge has filed for design review approval for a building proposed to be constructed on a site located at the northwest corner of the intersection of Valley Trails Drive (South) and Hopyard Road; and
- WHEREAS, zoning for the property is RM-2500 (Multiple Residential) District; and
- WHEREAS, the Design Review Board held a public hearing on this application on November 29, 1977, when all pertinent maps, drawings, reports and testimony were reviewed; and
- WHEREAS, the Lodge is similar in design to the recently constructed New Life Fellowship Church nearby.

NOW, THEREFORE, THE DESIGN REVIEW BOARD RESOLVES THE FOLLOWING:

Section 1. The Design Review Board approves 2-77-172, subject to the following conditions:

1. That the development be substantially as shown on the site plan, elevations and landscape plan, Exhibit A, on file with the Planning Division, except that all non-planted areas around the Lodge building be planted in grass and the proposed Chinese pistachio trees replaced with *Platanus Acerifolia* 40 ft. on center.
2. That approval of this case is subject to all applicable conditions of Planning Commission Resolution No. 1562, attached hereto and made a part of this case by reference.
3. That the structure meet all site requirements of the RM-2500 District.
4. That the Fire Division emergency number be provided adjacent to all telephones on the site.
5. That the street number of the building be posted so as to be easily seen from the street at all times, day and night.
6. That all ducts, meters, air conditioning equipment, and any other mechanical equipment, whether on the structure, on the ground, or elsewhere, be effectively screened from view with materials architecturally compatible with the main structure.

7. That all mechanical equipment be constructed in such a manner that noise emanating from it will not be perceptible at or beyond the property plane of the subject property in a normal environment for that zoning district.
8. That all lighting be constructed in such a manner that glare is directed away from surrounding properties and rights of way.
9. That all trash and refuse be contained completely within enclosures architecturally compatible with the main structure.
10. That all trees used in landscaping be a minimum of 15 gallons in size and all shrubs a minimum of 5 gallons.
11. That if signing for the development is desired, a comprehensive signing program be submitted to the City for consideration under separate application.
12. That 6" vertical concrete curbs be installed between all paved and landscaped areas.
13. That all parking spaces be striped and provided with wheel stops unless they are fronted by concrete curbs, in which case sufficient areas shall be provided beyond the ends of all parking spaces to accommodate the overhang of automobiles.
14. That the applicant enter into an agreement with the City approved by the City Attorney which guarantees that all landscaping included in this project will be maintained in a healthful, attractive and weedfree manner. Said agreement shall be recorded and shall run with the land for the duration of the existence of the structures located on the subject property.
15. That silhouette, low-level lighting be provided around the perimeters of all buildings on the subject property.
16. That if required by the Police Department, the building be equipped with an alarm system, the type to be approved by the Police Department; that this system shall be installed prior to final building inspection.
17. That the following water conserving plumbing fixtures be installed:
 - A. Low flush water closets
 - B. Shower flow control heads
 - C. Aerators in interior faucets
 - D. Insulation of hot water lines
18. That the owner of the 3.1 acre parcel file and record a parcel map for the subdivision of the property and that this map be approved by the City.
19. That the applicant secure a permanent vehicular access easement from the Lodge site to Valley Trails Drive South.

20. That the Masonic Lodge enter into a non-revocable parking agreement with the Episcopal Church granting the Lodge joint use of the parking lot and that this agreement be approved by the City prior to issuance of a building permit.

Section 2. This resolution shall become effective on December 14, 19

PASSED AND ADOPTED by the Design Review Board of the City of Pleasanton on the 29th day of November, 1977, by the following vote:

AYES: Commissioners Butler, Jamieson, Chairman Wood
NOES: None
ABSENT: None
ABSTAIN: None
ATTEST: Secretary Harris

Date: November 29, 1977

Attest:

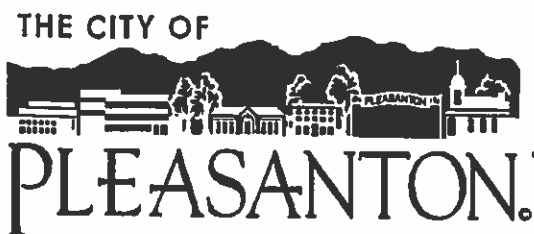


Robert J. Harris, Secretary

Walt Wood, Chairman

Approved as to form:

Harvey E. Levine
Deputy City Attorney



**Planning Commission
Staff Report**

March 25, 2009
Item 6.a.

- SUBJECT:** UP-77-13
- APPLICANT:** City of Pleasanton
- PROPERTY OWNER:** Alisal Masonic Memorial Temple Association, Inc.
- PURPOSE:** Review and consider the revocation of UP-77-13, an approved Conditional Use Permit granted to the Pleasanton Lodge.
- GENERAL PLAN:** Medium Density Residential (two to eight dwelling units/acre)
- ZONING:** RM-25 (Multiple-Family Residential, 2,500-square-foot lot per dwelling unit) District
- LOCATION:** 3370 Hopyard Road
- ATTACHMENTS:**
1. Exhibit A, Draft Revised Conditions of Approval
 2. Exhibit B, Planning Commission Resolution No. 1562 approving UP-77-13, dated September 14, 1977
 3. Exhibit C, UP-77-13 Planning Commission Meeting Staff Report and Minutes Excerpts, dated September 14, 1977
 3. Exhibit D, Z-99-172 Design Review Board Meeting Staff Report, Minutes Excerpts, Resolution No. R-77-62, and Proposed Building Plans, dated November 29, 1977
 4. Exhibit E, Letter from Fred Schwartz, Pleasanton Masonic Center, to staff, dated November 8, 2005
 5. Exhibit F, Response Letter from Staff to Fred Schwartz, dated November 18, 2005
 6. Exhibit G, Correspondence from Michael and Darlene Miller to staff, dated April 3, 2008; March 12, 2009; March 16, 2009; and March 18, 2009
 7. Exhibit H, Police Call Log, May 12, 2007 – March 3, 2009
 8. Exhibit I, Comments from the Public
 9. Exhibit J, Letters from Staff to Fred Schwartz, dated November 5, 2008 and December 19, 2008
 10. Exhibit K, Masonic Center Usage by Masonic Groups, January 2008 through February 2009
 11. Exhibit L, Location Map
 12. Exhibit M, Notification Map

BACKGROUND

The Pleasanton Masonic Lodge (herein referred to as the Lodge) is located at the northwest corner of Hopyard Road and Valley Trails Drive (South). It shares the driveway and parking lot with St. Clare's Episcopal Church.

On September 14, 1977, the Planning Commission approved UP-77-13, allowing the establishment of a Masonic Lodge building in the residentially zoned property (please see Exhibit B for resolution and Exhibit C for staff report and minutes). The use is conditionally permitted in the RM-25 zoning district. Over the past 20-plus years, the Lodge has been operated in a manner that is respectful to the residential community in that it has kept noise and traffic to a minimum.

Starting in February 2008, staff has been receiving complaints from neighbors regarding functions held at the Lodge that have caused considerable disturbance to the residential neighbors and St. Clare's Episcopal Church. Staff has met and discussed the issues relating to noise and disorderly conduct with the Masons' representatives on numerous occasions; little progress has been made. As the original Conditional Use Permit discussed and allowed non-Lodge functions, it did not specify as to what extent the non-Lodge functions are acceptable. Because of the lack of clarity in the original permit, the Lodge has been increasingly used as a venue for private parties and used as a venue for entertainment events with an admission fee.

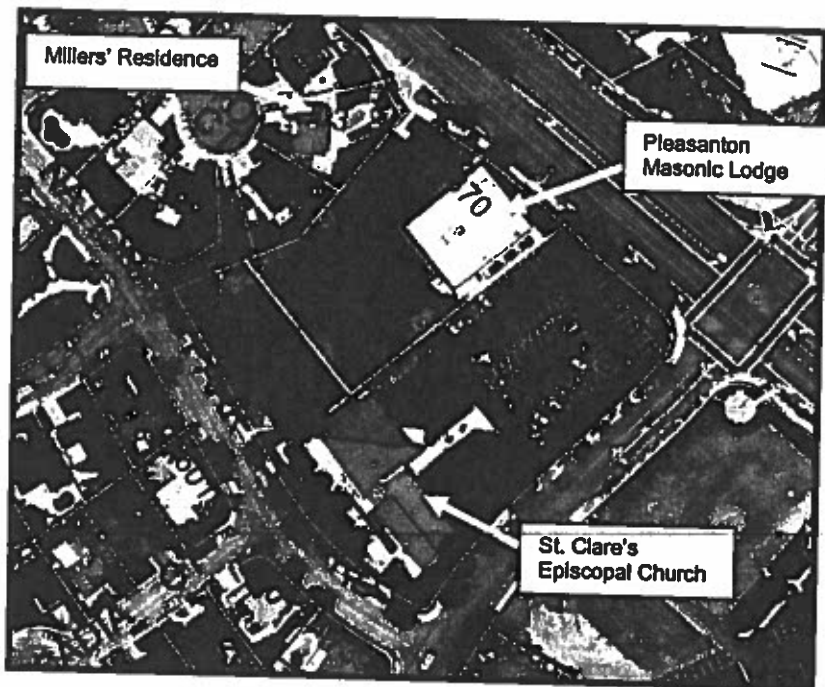
Staff believes that it is necessary to review the original intent and limitations of the use permit.

SITE DESCRIPTION

The Lodge building is located on a one-acre site to the north of St. Clare's Episcopal Church. The existing, approximately 8,000-square-foot building is located near the southern property line. It shares the parking lot with St. Clare's.

The subject site borders single-family residential use to the north and the west across from National Park Road; the City's Sports Park and residential use to the east across from Hopyard Road; and Harvest Valley Christian Church and single-family uses to the south.

The Lodge site abuts Hopyard Road on the east. Access to the Lodge is from Valley Trails Drive (S).



Location Map

APPROVED MASONIC LODGE USES AND FACILITIES

On September 14, 1977, the Planning Commission reviewed the request for a Conditional Use Permit for the Lodge. The Planning Commission granted the operation of a lodge at 3370 Hopyard Road and directed that the design of the building be reviewed by the Design Review Board.

The application for the Conditional Use Permit simply stated that the proposed development was to erect a Masonic Lodge building. It did not specify intended uses or activities.

The September 14, 1977 staff report (please see Exhibit C) presented to the Commission stated that lodge buildings are commonly rented for non-Lodge events such as wedding receptions and parties, which could be a nuisance. To steer noise away from the residential uses, the staff report suggested that prohibiting openings on the north or west sides of the structure could contain the noise within the building. The Planning Commission approval did not absolutely prohibit such openings but did clearly state in Condition No. 1 "... that the building be designed so that activities will be focused toward the southern portion of the subject property." Additionally, the Planning Commission required a Condition of Approval (Condition No. 20) that an effective buffer between the Lodge and the surrounding single-family residential development be provided.

On November 29, 1977, the Design Review Board reviewed and approved the project. The building was located approximately 70 feet away from the northern (also the residential) property line. This approval included a kitchen door on the north side of the building (please see Exhibit D for building plans) as required for exiting purposes.

The Lodge building was constructed in 1980.

Since the approval of the use permit in 1977, the following has occurred at the Lodge:

- A patio pad and landscaping have been constructed in the rear of the Lodge.
- The original kitchen door has been replaced by a double/French door. The door opens to the back patio and lawn area.
- A fence has been erected along the property line next to Hopyard Road.
- Several catering businesses have been allowed to use the kitchen facility at the Lodge.

ANALYSIS

Activities at the Lodge

Since its approval, the Lodge building has been used as a meeting place not only for Lodge associated functions, it has also been rented for company meetings, workshops, private parties, and been used by the community for events, such as scouts meetings. The Lodge has been operated in a manner that is compatible with the residential neighborhood until last year.

Since 2000, zoning compliance certifications for catering business have been approved by staff as an ancillary use to the Lodge. They have been allowed to use the commercial kitchen at the Lodge for food preparation.

In November 2005, the Masons wrote staff a letter requesting that *A Tasteful Event*, a catering business, be allowed at the Lodge. The letter stated that as the Masons share the parking lot with St. Clare's Episcopal Church, they will share their event calendar with St. Clare's to avoid scheduling conflicts. Further, the letter stated that as a standard practice, there would be no rental activities that would go on at the facility without their volunteer Building Manager present to ensure that the events would be problem-free. As such, the catering business was allowed to be located at the Lodge, provided that "the catering activities do not create nuisance to the surrounding residential neighborhood." With that, staff approved the Masons' request, provided that "the catering activities do not create a nuisance to the surrounding residential neighborhood" and that "all activities within the Lodge comply with UP-77-13." The request from the Masons and staff's response are attached as Exhibit E and Exhibit F, respectively.

In February 2008, Michael and Darlene Miller, residents at 5903 Bryce Canyon Court, contacted the City's Code Enforcement Division stating that the Lodge was causing disturbances to the surrounding residential neighborhood. The Millers pointed out that since the installation of the improvements associated with the rear door, the patio pad, the fence, and the landscaping, the rear yard is being used for functions at the Lodge. As such, they have reported that noise generated at the Lodge has exceeded the noise levels allowed by the Pleasanton Municipal Code. The Millers stated that they do not believe that the rear yard area of the Lodge was intended to be used for any activities other than for a future parking lot. They believe that the installation of the rear door should not have been allowed, as the approval of the original use permit discussed having activities be focused to the south side of the Lodge site.

Staff has discussed these concerns with the Millers on several occasions. The Millers have documented several of the events in materials provided in Exhibit G.

Since staff has been in contact with the Masons to address the nuisance issues at the Lodge, several incidents have occurred at the Lodge that have prompted staff's decision to bring this Conditional Use Permit before the Commission for reconsideration.

Since January 1, 2008, a total of 47 non-Lodge associated events were held at the Lodge. The majority of these events were private activities with an attendance ranging from 50 to 150 persons. In the most recent eight months, the Lodge has been rented for parties that were advertised on MySpace.com and on the radio, and an admission fee has been charged. These parties were held past 12:00 midnight, and they attracted crowds of several hundred people. Incidents of disorderly conduct were reported and enforced as described below.

On May 31, 2008, an event was hosted by Allstars Entertainment. The Pleasanton Police Department received calls that a gun shot(s) was fired at the Lodge. Pleasanton Police encountered a crowd of more than 100 people in the parking lot. This and several other events are documented in Police logs provided in Exhibit H.

On December 18, 2008, staff became aware that a "Naughty or Nice" teen event, hosted by a promoter (Club Metro), would be held at the Lodge on December 19, 2008. On December 19, 2008, staff met with the Masons' representatives and advised them to consider cancelling the event, or staff would initiate public hearing process to consider amendments to the existing Conditional Use Permit. Despite staff's notification, the party went on as scheduled. Approximately 500 teenagers attended. Calls for disturbance were received by the Police Department (Please see Exhibit H).

On January 18, 2009, the same promoter hosted another event, a "White Party." This party was advertised on MySpace.com and Wild 94.9, and through the distribution of flyers. The party provided music by several DJ's, and tickets were sold in advance and were purchased at the door. The promoter employed on-site security to manage the crowd. A crowd in excess of 600 people attended the party. The line to get into the event wrapped around the Lodge building and then through the parking lot. Several

juveniles were found sitting inside vehicles consuming alcoholic beverages and smoking marijuana. As many of these juveniles do not have a license to drive, the Pleasanton Police patrol officers located several intoxicated juveniles walking in the area while waiting for rides.

As previously mentioned, the original use permit application did not specify what type of non-Lodge uses may or may not be allowed at the Lodge. The staff report mentioned that the Lodge building may be rented for non-Lodge functions. As such, it has become difficult to determine that the above-listed uses are a violation of the Conditional Use Permit. However, from staff's perspective, it appears the uses described above are beyond the scope of the original use permit approval.

Calendar Issues

It has been brought to staff's attention that the Masons have not shared their event calendar with St. Clare's Episcopal Church for the last six to eight months. Specifically, last December, the Church had to cancel its holiday evening preschool program when it learned on the day of the event that a competing event with approximately 500 people was scheduled at the Lodge.

The Rear Door, Other Improvements, Noise Issues

In 2004, a building permit was issued for the installation of a double-door on the north side of the Lodge building. The door is a double-door with glass side panels. This permit was not finalized.

The Lodge later installed fence along Hopyard Road side for privacy and security. The installation of a six-foot high fence does not require prior City approval or permit. Additionally, a patio and a lawn area were installed in the rear yard area.

Due to the installation of the door, the rear yard area at the Lodge has become easily accessible.

The Millers believe that the installation of the rear door is a violation of the original Conditional Use Permit as the 1977 staff report stated "... prohibiting openings on the north or west sides of the structure, and therefore, activities would be focused away from the northern residences." The Millers further believe that improving the rear yard and using it are also a violation of the original approval as the "effective buffer between the residential area and the facility" is no longer in existence. The Millers thus request that the door be removed, and activity in the rear yard be prohibited.

The Noise Ordinance, §19.04.030 of the Pleasanton Municipal Code, states the following:

B. Multifamily Residential Property. No person shall produce or allow to be produced by any machine, animal, device, or any combination of the same, on multi-family residential property, a noise level in any dwelling unit in excess of 60 dBA except within the dwelling unit in which the noise source or sources originate. For purposes of this section, measurement of the noise level shall be taken at least four feet from any wall, floor, or ceiling inside any dwelling unit on the same property with the windows and doors of the dwelling unit closed.

The Noise Ordinance § 9.04.070 allows noise exceptions during daytime. It states that:

Any noise which does not produce a noise level exceeding 70 dBA at a distance of 25 feet under its most noisy condition of use shall be exempt from the provisions of Sections 9.04.030, 9.04.040 and 9.04.060(A) ¹ of this chapter between the hours of 8:00 a.m. and 8:00 p.m. daily, except Sundays and holidays, when the exemption herein shall apply between 10:00 a.m. and 6:00 p.m.

The Millers have stated that there was no problem with the Lodge until a few years ago when the door was installed and the rear yard area started to be used. The Millers have taken several noise readings from their rear yard with their own personal noise meter, and the readings have demonstrated noise levels over 70 dBA (Please see Exhibit G)

It is unknown what the noise level was in the rear yard prior to the installation of the double door. Staff assumes that the noise level prior to the installation of the new door conformed to the Noise Ordinance.

Specific Issues for Discussion

1. Should restrictions be placed on non-Lodge uses?

Some of the non-Lodge uses have gone beyond weddings and private parties. The Lodge has been used as a commercial entertainment venue open to the public with entry for a fee.

The original use permit did not define the scope of non-Lodge uses. Staff believes that it is necessary to place specific restrictions on non-Lodge uses so that it will be clear as to what uses are allowed. At a minimum, staff suggests that no events open to the public without a private invitation addressed to an individual or family unit be allowed.

¹ § 9.04.040 refers to noise limits in the commercial areas, and § 9.04.060(A) refers to noise limits on public property in any residential area.

2. Should the double-door on the north side of the building be removed?

From the Millers' complaints and the calls received by the Police Department, it is clear that activities at the Lodge have caused disturbances, mostly noise-related, to the adjoining residents.

One option is to modify the door. Having a solid door may reduce the noise level. The Masons may consult a sound attenuation professional to find out mitigation measure so the noise generated at the Lodge would not exceed the limits stated in the Noise Ordinance. The consultant's recommendations would be reviewed by the Director of Community Development, who would then determine whether or not the recommendations are acceptable and/or if the door needs to be modified or relocated. The door cannot be eliminated entirely as it is required for emergency exiting.

3. Should the use of the outdoor area, specifically the patio area in the back, be prohibited or restricted?

The Millers requested that noise be contained within the Lodge building and that the north side of the Lodge site not to be used for any activity.

Staff believes that prohibiting the use of the rear yard area at the Lodge may be extreme. When the Lodge was rented for company functions, lunches were served in the outdoor area without causing disturbance to the residential neighbors. If the usage of the outdoor area is limited to a certain number of people or restricted to certain hours (similar restriction has been placed on the event centers in Ruby Hill), it could alleviate noise impact to adjoining residents. Alternately, additional noise mitigation, such as the installation of noise walls could be required.

PUBLIC NOTICE

Notice of this application was sent to all property owners and occupants within 1,000 feet of the subject property.

Staff has received calls from the residents in the neighborhood inquiring about the notice. The majority of them stated that the Masons have been respectful to the residential neighbors since the Conditional Use Permit approval. However, some of the neighbors felt that the activities held in the last 12 months have gone out-of-hand, which prompted them to call the Pleasanton Police for enforcement.

Emails from the residents inquiring about the hearing notice are attached (Exhibit I). Staff has discussed the subject matter with Ms. Connie Cox, president of Valley Trails Homeowners Association (HOA).

Additionally, staff received letters and emails from Michael and Darlene Miller, residents at 5903 Bryce Canyon Court, which addressed their concerns regarding the Masons' operation.

CONCLUSION

The original use permit allowed the operation of a Lodge without significant restrictions or limitations. The Millers believe that the improvements to the building and the site (i.e., the installation of the patio, lawn, and door on the north side) and the recent activities at the facilities are violations of the Lodge's original approval. Staff concludes that while the improvements and activities may not technically violate the Permit, the current operation of the facility is not acceptable.

The Planning Commission has the following options:

Option No. 1 -- Revocation of UP-77-13.

Selecting this option means that the Planning Commission finds that the operation of the Lodge is detrimental to the public welfare and is injurious to properties in the vicinity based on the noise complaints. Under the Pleasanton Municipal Code, revocation of a use permit may occur when the original findings to support the operation can no longer be made. This option would require the Masons to cease all operations within a specific time period, unless appealed to the City Council.

Staff does not support this revocation option. As the Millers have pointed out, there was not any problem with the Masons until just a few years ago. Staff believes that these noise issues can be adequately addressed with new conditions regarding operations added to the use permit.

Option No. 2 -- Revision of Conditions of Approval

Selecting this option recognizes that the Lodge could be operated in a manner respectful to the residential neighborhood; however, additional restrictions and clarifications are needed so that there would be no misunderstanding in the future as to what uses/activities are allowed or not allowed at the Lodge. The option allows for additional conditions to be added to address issues that have been raised for discussion.

Staff supports this approach and has provided a revised set of Conditions of Approval as Exhibit A.

Option No. 3 -- Leave UP-77-13 as is.

Selecting this option means that the Masons would be allowed to maintain the status quo with respect to its operation. Staff does not support this option for reasons that were stated in the staff report.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission consider Option No. 2.

Staff Planner: Jenny Soo, Associate Planner, 925.931.5615, or email: jsoo@ci.pleasanton.ca.us

UP-77-13, City of Pleasanton

Review and consider the revocation of UP-77-13, an approved Conditional Use Permit granted to the Pleasanton Lodge located at 3370 Hopyard Road. Zoning for the property is RM-2,500 (Multi-Family Residential) District.

Commissioner Narum requested that Item 6.a., UP-77-13, City of Pleasanton be continued and have staff work with members of the Lodge and the neighbors to clarify Condition No. 1 regarding what the City's permitted non-Lodge versus Lodge uses were. She voiced concern that the condition was narrowed down and its intention was not clear. She added that while this condition was being reviewed, members of the Lodge could initiate the sound study.

Commissioner Fox supported the continuance and stated that she had previously sent comments to staff requesting that it review the land use Conditional Use Permit (CUP) and make a list of Lodge-sponsored and non-Lodge-sponsored activities and conditions. She further requested that, if the item were continued, staff consider that St. Clare's Episcopal Church, as a state-licensed child care center, needs the parking lot and that activities in the parking lot must conform to requirements.

Commissioner Blank announced for the public's benefit that any Commissioner can continue an item one time to be scheduled to the next available meeting.

Chair Pearce inquired whether there was availability at an upcoming meeting schedule to hear the item.

Ms. Decker replied that that next available date would be April 22, 2009; however, it would depend on when the noise study would be completed, assuming the Lodge members agree to conduct the study.

Chair Pearce asked staff if the public hearing could be opened to receive testimony and then continued to a future meeting, leaving the public hearing open.

Ms. Decker said yes.

Commissioner Fox requested that staff go back to the Millers' letter and comments regarding their concerns about some of the conditions. She noted that one of the conditions staff recommended is that a study be conducted; however, she stated that typically a condition in a use permit would read like: "The noise and decibel levels shall not exceed "x" between the hours of "y" and "z." She suggested that the condition include a limitation in terms of noise decibel limits and that activities be limited to 10:00 p.m. on weeknights and 12:00 midnight on Fridays and Saturdays.

With respect to the use of the outdoor area, Commissioner Fox suggested that the conditions be the same as those approved for St. Clare's Episcopal Church when it went through the City process in 2005. She recommended that a moratorium be placed

on Lodge activities so no activities similar to the "Naughty or Nice" event held a few months ago takes place until the matter returns to the Commission.

Commissioner Blank inquired whether or not the City could legally do this for an item that has been continued and has not yet been heard.

Mr. Dolan replied that the Commission can request but not direct staff to do things.

Chair Pearce suggested that staff contact the property owners to obtain their consensus regarding the requests.

Commissioner Fox stated that since the project is zoned as a CUP for private, non-commercial lodges and halls, any activity that includes commercial sales of tickets on the Internet would be grounds for revocation. She concluded that it would, therefore, be better for staff to clarify rules that classify businesses as commercial versus non-commercial.

Commissioner Blank stated that he did not disagree with Commissioner Fox but that he had a problem with the process, stating that the purpose of the hearing was to consider revoking the CUP. He added that he did not know if the Commission should place a moratorium on the business or otherwise revoke the CUP, as there was supposed to be a hearing tonight.

Commissioner Fox agreed with Commissioner Narum's assessment that a noise study is necessary but did not believe a way to test this was by having another event.

Commissioner Narum stated that the noise consultant would most likely require another event there to get an accurate reading of the noise and how it bounces around off of the buildings and fences. She noted that she would not want to make a decision based on a simulated noise study.

Commissioner Blank inquired if staff contacted the Police Department to determine whether or not complaints had been received. Ms. Decker said yes and added that this information was included in the materials.

Commissioner Narum stated that her preference would be for an independent consultant to conduct the noise study, assuming that the Lodge agrees to do this. She noted that the study would affect how the Commission thinks about the north side of the property and what mitigations would be included in the use permit that the Commission finally approves.

Commissioner Olson voiced his support for continuance of the item.

Chair Pearce stated that the Commission would open the public hearing, receive comments, and continue the item as an open hearing to the next appropriate Commission date.

THE PUBLIC HEARING WAS OPENED.

Reverend Ron Culmer, St. Clare's Episcopal Church, stated that his congregation sits adjacent to the Masonic Lodge and that they share the parking lot, which belongs to St. Clare's, through a Joint Use Agreement. He indicated that this issue is difficult for the leadership of St. Clare's because they like the Masons. He stated that St. Clare's has a pre-school as part of its property, and at times when the school has maintenance problems, the Masons have always been accommodating and allow the school children to use their bathrooms and facilities. He noted that they generally get along very well; however, the problem arises whenever catered parties are held at the Lodge, and the Church ends up cleaning up alcohol bottles in their backyard and the parking lot the following day.

Rev. Culmer recounted that they had a pre-school Christmas program event planned for the evening that the Lodge was having the "Naughty or Nice" party and that the school had to cancel its program because the "Naughty or Nice" party had been posted on the Internet, and people were coming from all over. He stated that he is still hearing complaints from parents who are furious about the event being canceled.

Rev. Culmer stated that he is interested in having a good neighborly relationship again but that he was having some difficulty with some issues. He expressed concern about the noise level and stated that he had made calls to police when things have gotten out of hand. He requested that these particular types of parties never be allowed to take place at the Lodge in the future.

Fred Schwartz, Masonic Lodge Board President, stated that they will conduct the sound study but that he did not believe it would prove a lot because the re-creation of their one mistake would need to be made, and he indicated that there would never be another event of that type at the Lodge. With respect to Condition No. 1 of the Conditions of Approval, he stated that they typically rent out the facility for weddings and anniversary parties but do hold events such as art auctions or tool shows. He requested that the language be tightened for that condition.

As regards Condition No. 2, Mr. Schwartz stated that they agree to do the acoustical study; however, he believed spending any money for a professional consultant would be extremely costly and is not necessary. He indicated that, as an alternative, they had began discussions with a major building contractor who deals with noise-related issues in high rise structures and that they expect to have a proposal shortly, which they will share with the City. He noted that they have never been cited for any noise issues in the past. He added that they have been recognized as good neighbors since 1979, that they do not intrude on their neighbors' peace, and that by eliminating events as stipulated in Condition No. 1, the noise issues would be eliminated. He stated that they do not accept any claims from neighbors concerning excessive decibel readings due to the fact that they have not been provided with any background calculations that take

into consideration the ambient noise from Hopyard Road at the time of each reading or any calibration data from the Radio Shack decibel meter was used.

Mr. Schwartz continued that they concur with Conditions Nos. 3 and 4. With regard to Condition No. 5, he stated that he did not believe St. Clare's should have veto power over any events at the Lodge; rather, they would continue to work closely with Reverend Culmer, as they have done in the past, and ensure that everyone is apprised of scheduled events.

Mr. Schwartz concluded that they concur with Conditions Nos. 6 and 7 as well.

Kevin Keen, a 32-year member of the Masonic Lodge, stated that he believed it was important for the Commission to recognize that while the police took calls on numerous occasions, not once did they indicated that the Lodge was in violation of any noise ordinance. He stated that he has personally been present when an officer had visited the Lodge after a call was made. He added that the officers had indicated they must respond to these calls and agreed there was no problem. He clarified that this did not mean they have never had noise issues and agreed that the "Naughty and Nice" event was a problem.

Mr. Keen stated that the Masons are planning the Lodge's 30th Anniversary celebration this summer and had just spent \$25,000 replacing the air-conditioning units. He added that they have also invested money putting in grease traps, walk-ins and other improvements.

Mr. Schwartz stated that Lodge's calendar of events is available on-line to the public at "www.atastefulaffair.com/calendar." He indicated that it was important for them to do what is best for the City, that they want to get along with neighbors and the Church, and that there is no intention to hurt or bother anyone needlessly.

Craig Bell, Officer at Masonic Lodge and a Pleasanton resident, pointed out three factual mistakes in the staff report: (1) The caterer's name is "A Tasteful Affair" and not "A Tasteful Event"; (2) He respectfully questioned Mr. Miller's qualifications to measure decibels and the equipment he uses; and (3) The report states that 47 non-Lodge events have been held between January 2008 and 2009. Mr. Bell stated that they have had numerous events, both sponsored and not sponsored by the Lodge.

With reference to the Conditions of Approval, Mr. Bell stated that it needs to be crafted such that everybody concerned agrees to it, in language that is extremely specific and accounts for everything. With respect to a condition that "No events open to the public at large should be allowed," he stated that the Lodge is a polling place, which includes the public at large. He added that when St. Clare's underwent remodeling of its preschool last year, the school rented some space from the Lodge, and a fee is charged for the conduct of the school. With respect to the condition that "No advertising of a social event shall be allowed," he inquired if this was for non-Lodge-sponsored social event. He noted that the Lodge notifies all members via the Internet and U.S. Mail of

their annual Children's Christmas Party and inquired if this would be deemed advertising. He indicated that he understood the concept behind the condition that "No alcohol shall be sold at any Lodge- sponsored event held at the Lodge" but questioned its practicality, citing the fact that many individuals rent halls and hire caterers in the City for weddings where alcohol is either served or sold. As to the condition that "The use of the outdoor area should be concluded no later than 9:00 p.m.," he requested that this be extended to 10:00 p.m. for a Friday or Saturday night. As regards the Condition No. 5; he stated that the Lodge has events that are not scheduled within 30 days and cited, as an example, a memorial service for a recent death. Finally, he indicated that he did not support the Church having veto power over the Lodge's activities.

Kenneth Hamm stated that he is a new member of the Lodge and a member of the Valley Trails Homeowners Association. He indicated that they have all been good neighbors over the years. With respect to the noise, he stated that he regularly walks the Pleasanton Sports Park where there are softball games as late as 11:00 p.m. He noted that he can hear their cheers from his backyard, just like he hears the football games at Foothill High School. He indicated that he is also a member of the Good Guys Car Club, which will hold an event this weekend, and Hopyard Road can be quite loud when they are in town. He cited that noise from traffic, blaring radios, and events around Hopyard Road will always affect those who live close by. He added that he believed there were noise regulations and guidelines already in place for events held at the Senior Center, Veterans Hall, and Century House.

Michael Miller characterized the noise situation as starting in one place, creeping along, and ending some place else. He stated that he and his wife, Darlene, had spent a lot of time trying to understand the situation at the Lodge, why a good relationship with the Masons for so many years had deteriorated so dramatically in the last few years. He noted that looking at the Planning Commission and permitting process language for the building back in 1977, it appeared that the Masons wanted a building with some sort of commercial use that would generate noise and activity, and because it abuts right up against a residential area where residents would be impacted, the Masons agreed to keep all noise inside and not allow any outdoor activity. He added that at the ensuing Design Review Board hearing, the conditions of the building design approved by the Board indicated that no openings would be allowed on the north or west side of the building, and all activities were to focus on the south side, with noise to be contained from within.

Mr. Miller stated that the Lodge had been good neighbors for many years, until the building was changed three years ago and doors were installed on the north side of the building and landscaping added. He noted that it was at this point that he and his wife began hearing loud noise and seeing a lot of activity. He stated that at one time, their house began to shake and thump from a party at the Lodge where there were about 30 to 40 people and music was blasting, violating the noise ordinance.

Darlene Miller added that they felt the vibration with their doors and the Lodge's doors closed and with their heater on.

Mr. Miller continued that he also went to the farthest room of his house and closed all the doors inside the house to get away from the noise, and he felt the noise levels were far greater than those shown on police reports.

Mr. Miller stated that unfortunately, the Masons have not been good neighbors the past few years. He noted that there were parties at the Lodge on every weekend of June 2008. He indicated that their life has been impacted by these weekend parties and that this building was not intended for this kind of use. He invited the Commissioners to come by their home during one of these parties to experience what they are going through.

Mrs. Miller stated that the log she submitted of the Lodge parties was only for the second year because that was when she and her husband met with the Planning Commission, with the guidance of Connie Cox, the President of the Valley Trails Homeowners Association. She noted that they did not log the first year, but there were parties Friday night, all day Saturday, and Saturday night. She asked if the earlier speakers from the Lodge had attended any of the parties and believed that the speakers were making statements based upon non-personal experience.

Mrs. Miller stated that she was shocked by the statement made earlier that there had been only one bad event. She added that police had told her when they called to report the noise that they were told by the Masons that the property is commercially zoned and that they can operate until midnight. She indicated that she and her husband are very frustrated with the police and that there is confusion regarding the training of police and proper procedures to measure noise. She noted that the site is residentially zoned and that they could not operate until midnight.

Ms. Miller referred to another statement made that there are many nuisances in the area and stated that people are aware of the nuisance when they move next to a park. She noted that this is not the case here as this nuisance moved into the neighborhood.

Ms. Miller also voiced concern that there would be a conflict of interest to have a noise study that will be paid for and conducted by the Masons. She stated that she felt the neighbors are not being protected from what was approved in the original use permit. She noted that the Design Review Board report provide significant evidence that the property was originally meant for only one building – St. Clare's Episcopal Church. She continued that St. Clare's sold part of the property to the Masons, and the Commission at that time recognized that the second building was being squeezed into a property meant for only one building, and therefore was built too close to the neighbors. She added that as a result, the entire building design was approved with the intention of protecting the neighbors from noise. She noted that there are hundreds of yards between neighbors across the street, which is unlike their situation where they are literally feet away from the structure. She indicated that they would like to see the original use permit enforced and requested the Commission to do so.

Jeff Renholts stated that he lives right behind Foothill High School and knows what noise is. He addressed the Millers' statement that the Masons do not attend any of the functions and indicated that while they do not attend the functions, they are on the premises during the time that the event is going on to monitor activity and noise. He noted that several times during the course of the evening, he has walked the perimeter of the property, out to the fence line of neighbors, and in all cases, unless the doors are open, which are closed after 8:30 p.m. or 9:00 p.m. in deference to neighbors, one cannot tell whether there is anything going on in the premises that is any louder than street noise or music playing from somebody's family room in an adjacent house. He stated that if the noise is noticeable, they require the DJ to turn down the music to an acceptable level.

Mr. Renholts noted that up until a few years ago, there was no fence between Hopyard Road and the back street that abuts St. Clare's property. He added that there was a complete pass-through there as parkland, and while it was a buffer, it was an ideal place for people to gather. He stated that they would constantly find empty beer bottles and other bottles in the bushes on both their and St. Clare's properties; hence, the blame should not solely be on those using the Lodge.

There being no other speakers, Chair Pearce stated that the item would be continued to a future meeting, with the public hearing remaining open.

Mr. Dolan clarified that it was the intention of staff to have the noise study conducted by a noise professional at the City's direction and funded by the applicant, which would not cause any conflict of interest.

Commissioner Blank requested that staff provide larger, blown-up site drawings in order that the Commission can properly read them. He further asked that staff review the double door that was permitted but not finalized, as well as its legal standing.

Commissioner Fox referred to the January 18, 2009 police call under Exhibit H, noting that there were "600 kids in attendance with a line to get in" and inquired what type of occupancy the building had, the maximum number of occupants allowed, what the ingress and egress is, and where the line was out to the roadway. She noted that there were similar noise issues experienced in the past from Toby's Restaurant and the Marquee, which came to the Planning Commission and the City Council. She recalled that with Toby's, there was some discussion about soundproofing and automatic shutting doors. She requested that the Chief Building Official be involved in refining the condition regarding the noise attenuation and work in conjunction with the noise study consultant. She further requested that a representative from the Police Department be present when this comes back to the Planning Commission.

Chair Pearce continued the public hearing to a future Planning Commission meeting.

**Exhibit A
Draft Revised Conditions of Approval
UP-77-13, Pleasanton Mason Lodge
March 25, 2009**

1. Allowed uses at the Lodge shall include Lodge-sponsored events, classes and seminars, and private social events (e.g., weddings, holiday parties, etc.) where specific guests are invited by written invitation and no fee is charged. No events open to the public-at-large shall be allowed. No advertising of any social events shall be allowed. No alcohol shall be sold at any non-Lodge sponsored event held at the Lodge.
2. The Pleasanton Mason Lodge shall consult an acoustics professional to explore mitigations to alleviate noise level. The acoustics professional shall be one that is on the City's consultant list. The consultant's report shall include mitigations and recommendations, if the anticipated noise levels are found to exceed the Noise Ordinance and the General Plan standards. The report shall be provided to the Planning Division within 90 days from the date of the approval. At the discretion of the Director of Community Development, the report may or may not be accepted. No non-Lodge functions shall be held until mitigations in the acoustics study have been implemented to the satisfaction of the Director of Community Development.
3. Non-Lodge functions shall conclude no later than 10:00 p.m. on weeknights and Sundays, and 12:00 midnight on Fridays and Saturdays.
4. The use of the outdoor area at the Lodge site shall be concluded no later than 9:00 p.m. At that time, all activities shall take place within the Lodge building, and the rear door shall remain closed but not locked.
5. The Lodge and St. Clare's Episcopal Church shall share a scheduling calendar as long as they share the same parking lot. Events shall be scheduled 30 days in advance or shall require a written consent from the other party.
6. The Lodge shall maintain the site in a clean and orderly manner at all times.
7. If the operation of this use results in conflicts pertaining to parking, noise, traffic/circulation, or other factors, at the discretion of the Director of Community Development, this Conditional Use Permit may be submitted to the Planning Commission for its subsequent review at a public hearing. If necessary, the Planning Commission may modify or add conditions of approval to mitigate such impacts, or may revoke the said Conditional Use Permit approval. Possible mitigation measures may include, but are not limited to, modification of the hours of operation, prohibition of amplified music, restriction on the number of non-Lodge activities per month, or other measures deemed necessary by the Planning Commission.

{end}

Pleasanton Masonic Center

3370 Hopyard Road
Pleasanton, CA 94588

TEL: (925) 462-8424

November 8, 2005

City of Pleasanton
Planning and Community Development
200 Old Bernal Avenue
Pleasanton, CA 94566-0802
Attn: Ms. Jenny Soo

Re: Pleasanton Masonic Center Use-Variance

Dear Jenny:

The following details the proposed change in operation of the Pleasanton Masonic Center located at 3370 Hopyard Road:

Objective: To expand present catering and rental activities which are predominantly for use by the Masons Lodge and other masonic bodies to include outside catering and facility rental which would also include preparation and serving of meals.

Present Actions:

- 1) Presently a Business License is in place allowing for food to be prepared at the facility only for consumption by masonic organizations. No off-site selling of food, no signage or advertising.
- 2) Parking is shared with Saint Clare's Church and as such all activities are coordinated with the church to ensure that there is no parking overflow issues. Parties meet each Tuesday to review calendars and update where appropriate. No masonic functions are scheduled during peak church services, i.e Christmas and Easter.
- 3) The Pleasanton Masonic Center has built a commercial kitchen which is regularly inspected by the Alameda Board of Health. Funds were raised by borrowing from members. total expenditure was in excess of \$200,000.00.
- 4) The masonic lodge is a fraternal organization performing community service, i.e The Shrine Hospitals. All non catering staff are non paid volunteers. All money generated from rental and catering activities is used for reducing debt as well as future facility improvements, i.e landscaping etc.

Future Actions:

- 1) Secure a use-variance for the Pleasanton Masonic Center which would allow our in-house caterer, A Tasteful Affair to secure a business license allowing for the preparation and distribution of food both at the facility as well as off-site to local businesses in the Pleasanton area.
- 2) Secure a use-variance for the Pleasanton Masonic Center to allow for increased rental activities at the Center which would be coordinated with Saint Clare's Church. It is anticipated that rentals would be one weekend night per month with the potential of doubling within six months. In addition it is anticipated that there would be one catered luncheon per week at the facility. This is in addition to normal masonic activities that have been part of the facility operation for twenty years.
- 3) There would be no signage at the facility with anticipated advertising to continue as presently done with the Chamber of Commerce, Tr-Valley Convention Bureau and Yellow Pages.
- 4) As has been standard practice there are no rental activities that go on at the facility without our volunteer Building Manager present to ensure there are no problems.

Jenny, it is hoped we can move forward with this program as soon as possible. I am available to meet with you or any other departmental personnel to discuss in more detail as required. As always we will continue to be good neighbors in the area.

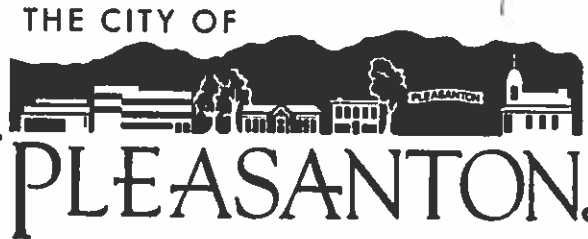
I can be reached @
hearing from you in the near future.

or on my cell phone @

I look forward to

Sincerely,


Fred Schwartz
Board President



November 18, 2005

Fred Schwartz
Board President
Pleasanton Masonic Center
3370 Hopyard Road
Pleasanton, CA 94588

Dear Mr. Schwartz,

This letter is in response to your inquiry concerning a desire the Mason's to allow catering activities within the Masonic Center.

The Pleasanton Masonic Center, Alisal Lodge No. 321, was approved by the Planning Commission on September 14, 1977 (UP-77-13). As stated in the staff report prepared for the Planning Commission at that time, in addition to the regular lodge meetings, the lodge building is commonly rented for non-lodge functions such as wedding receptions, parties, etc. As such, the lodge building is equipped with a commercial kitchen servicing various events within the building as needed. This commercial kitchen has been used by catering businesses in conjunction with on-site events. Staff does not see any conflict with the approved conditional use permit if this commercial kitchen is used by outside caterers with or without an on-site event, provided that the catering activities do not create a nuisance to the surrounding residential neighborhood and that no food is sold or consumed without an on-site event. In other words, the use of the commercial kitchen by outside caterers cannot change the lodge to an eatery without prior City approval.

In addition to ensure all activities within the lodge comply with UP-77-13, staff encourages that the Masons continue sharing a monthly calendar with St. Clare's Episcopal Church as along as the two facilities share the parking lot.

If you have any questions regarding this matter, please call me at (925) 931-5615, or via email: js00@ci.pleasanton.ca.us

Sincerely,

A handwritten signature in black ink that reads "Jenny Soo".

Jenny Soo
Associate Planner

Neighbor's statement - received 4-3-08

EXHIBIT G

Issues Regarding Masonic Temple on Hopyard Road

Background

Until a few years ago, there was no problem with the Masonic Temple. There was no noticeable noise from the building, and their activities did not cause a nuisance. A few years ago, however, the Temple built glass doors on the north side of the building, built a patio on the north side, landscaped the north side, and built a fence to provide privacy from Hopyard Rd. These building and grounds changes resulted in the Temple starting to have parties and other activities on the north side of the building during the day, opening the north side doors or keeping them open during parties at night, extending the parties in the building into the north side yard area, and having sound from parties inside the building pass through the doors on the north side.

Initially we wondered how the City Council and Planning Commission could grant a permit in a residential area for a business to conduct such activities. The other two closest businesses to the Masonic Temple, which are both churches, do not have these types of activities. This question caused us to request a copy of the Temple's conditional use permit and also research the Planning Commission files and meeting minutes for background on their thinking behind the provisions of the permit.

Staff Report and Public Hearing Notes

The Staff Report on page 1 states, "One of the positive features of the conditional use permit approved for the church [this refers to the original business on the property which sold part of the land to the Masonic Temple] was that all structures were shown on the southern part of the parcel considerably removed from the residences north of the subject property. The current proposal shows the lodge and a possible future parking lot in that intervening upper zone. While lodge meetings are normally staid affairs which do not generate much commotion, lodge buildings are commonly rented for non-lodge affairs such as wedding receptions and parties which can be nuisance creating. Physical separation of such facilities from residences therefore would normally be desirable. While it might be preferable to have the lodge building farther south on the property, it would be possible to design the structure so as to maintain any [emphasis added] noise generated from within. This could be done by prohibiting openings on the north or west sides of the structure, and therefore, activity would be focused away from the northern residences." The staff report was clearly concerned about noise nuisance and wanted the building to be designed to keep the noise within the structure and activities away from the north and west sides of the building so as not to be a nuisance to the neighbors. Furthermore, knowing that the Masonic Temple would be built closer to the residences than the original plans for the church, the Planning Commission specifically added the restrictions discussed above to protect the residences.

The Staff Report further states "activities restricted to south side of building" and "The guiding standards for the development of the site shall be that ... the buildings be designed so that the activities will be focused toward the southern portion of the subject property." Exhibit A shows the north side area was suppose to be parking lot, precluding any activities to the north side.

In the Public Hearing notes, page 6, it states that, "Commissioner Shepherd requested that some wording be inserted to safeguard the residences from the facility by means of buffering." Also, on page 7, "Commissioner Shepherd requested addition of Condition 20 to require some kind of effective buffer between the residential area and the facility."

In the Public hearing notes, the City Council accepted all 19 recommendations of the proposed planning resolution and added one more regarding a "buffer" as noted above. This clearly shows that the City Council agreed with the entirety of the Staff Report, and that the Staff Report shows the clear intent of the Commission and City Council.

The Staff report on page 1 states, "Lodges are conditionally allowed uses in the RM District." Since the Masonic Temple is in a residentially zoned area, and not commercially zoned area, the Planning Commission added the additional conditions discussed above to protect homeowners in a residentially zoned area.

Conditional Use Permit

The conditional use permit reflects the concerns raised in the public hearings and the Staff Report. It states:

Section 1, item 1. ".....the guiding standards for the development of the site shall be that structures not total more than approximately 20,000 sq. ft. in area and that the building be designed so that activities will be focused toward the southern portion of the subject property."

Section 1, item 20. "That the applicant provide an effective buffer between the development and the single family residential area surrounding the property."

Recent Changes to Structure

With the changes made to the building and grounds by the Masonic Temple several years ago, well after the building was constructed, the Masonic Temple is now in violation of the conditional use permit and the intentions of the Planning Commission in granting the permit. Specifically,

1. Construction of glass doors on the north side of the building allows sound generated within the building to pass outside the building to the north, creating a nuisance for the residential areas north of the building. This clearly violates the planning commission's intent that any noise be contained inside the building.
2. Construction of glass doors, a patio, and gardens on the north side allows participants of activities inside the building to move to the north side of the grounds outside the building and also allows the Temple to conduct activities on the north side of the building. This clearly violates the planning commissions' intent that activities be focused on the south side of the building and away from the north side. This also violates the planning commissions' intent that the area behind the building be used for a parking lot.

Remedy

What is required to remedy the nuisance being creating by the Temple is for the wishes of the Planning Commission and the provision of the conditional use permit to be enforced, specifically:

1. Noise is to be contained within the building.
2. There will be no openings on the north or west sides of the building.
3. Activities will be focused on the south side of the building, i.e. no activities on the north side of the building.

March 12, 2009

Dear Mr. Dolan,

The purpose of this letter is to share with you a very troublesome situation that has developed with the Masonic Lodge on Hopyard Road in Pleasanton.

Until a few years ago, there was no problem with the Masonic Lodge. There was no noticeable noise from the building, and their activities did not cause a nuisance. A few years ago, however, the Lodge built glass doors on the north side of the building, built a patio on the north side, landscaped the north side, and built a fence to provide privacy from Hopyard Rd. These building and grounds changes resulted in the Lodge starting to have parties and other activities on the north side of the building during the day, opening the north side doors or keeping them open during parties at night, extending the parties in the building into the north side yard area, and having sound from parties inside the building pass through the doors on the north side.

Initially we wondered how the City Council and Planning Commission could grant a permit in a residential area for a business to conduct such activities. The other two closest businesses to the Masonic Lodge, which are both churches, do not have these types of activities. This question caused us to request a copy of the Lodge's conditional use permit and also research the Planning Commission files and meeting minutes for background on their thinking behind the provisions of the permit. What we found indicated clearly to us that the Masonic Lodge is violating the intent of the planning commission and the conditional use permit they were granted.

The property was originally owned by St. Claire's Church. St. Claire's sold part of the land to the Mason's. Therefore, a land parcel that was originally only meant for only one building now has two. The 1977 staff report recognized this to be a problem in that the second building would be located closer to the residents than preferred. The Staff report on page 1 states, "One of the positive features of the conditional use permit approved for the church was that all structures were shown on the southern part of the parcel considerably removed from the residences north of the subject property. The current proposal shows the lodge building and a possible future parking in that intervening upper zone." The site map has the back area being a parking lot.

Regarding the proposed conditional use permit, the Staff Report on page 1 states, "While lodge meetings are normally staid affairs which do not generate much commotion, lodge buildings are commonly rented for non-lodge affairs such as wedding receptions and parties which can be nuisance creating. Physical separation of such facilities from residences therefore would normally be desirable. While it might be preferable to have the lodge building farther south on the property, it would be possible to design the structure so as to maintain any noise generated from within. This could be done by prohibiting openings on the north or west sides of the structure, and therefore, activity would be focused away from the northern residences." The staff report was clearly concerned about noise nuisance, and wanted the building to be designed to keep the noise within the structure and activities away from the north and west sides of the building so as not to be a nuisance to the neighbors.

The Staff Report further states "activities restricted to south side of building" and "The guiding standards for the development of the site shall be that ... the buildings be designed so that the activities will be focused toward the southern portion of the subject property." Exhibit A shows the north side area was suppose to be parking lot, precluding any activities to the north side.

In the Public Hearing notes, page 6, it states that, "Commissioner Shepherd requested that some wording be inserted to safeguard the residences from the facility by means of buffering." Also, on page 7, "Commissioner Shepherd requested addition of Condition 20 to require some kind of effective buffer between the residential area and the facility."

Public hearing notes the City Council accepted all 19 recommendations of the proposed planning resolution and added one more regarding a "buffer" as noted above. These findings and recommendations are consistent with the City's residential zoning ordinance, which provides that one of the several purposes of the ordinance is to "protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare and other objectionable influences." Pleasanton Municipal Code § 18.36.010(H).

The conditional use permit reflects the concerns raised in the public hearings and the Staff Report. It states:

Section 1, item 1. ".....the guiding standards for the development of the site shall be that structures not total more than approximately 20,000 sq. ft. in area and that the building be designed so that activities will be focused toward the southern portion of the subject property.

Section 1, item 20. "That the applicant provide an effective buffer between the development and the single family residential area surrounding the property."

Furthermore, if there is any ambiguity on the face of the Lodge's Conditional Use Permit, the Staff Report and Public Hearing notes should be used to interpret the meaning of the Permit and what the City Staff and Council intended at the time that the Permit was issued. While some City employees have contended that these ancillary materials are not "binding" on the City, they certainly explain what was intended when the Permit was issued in 1977. They also show how the site and structure were designed to focus activities toward the south side of the property and buffer noise from such activities from getting to and annoying the residents.

With the changes made to the building and grounds by the Masonic Lodge several years ago, well after the building was constructed, the Masonic Lodge is now in violation of the conditional use permit and the intentions of the Planning Commission in granting the permit. It is also in violation of the zoning ordinances because it has plainly changed its uses from those consistent with a residential neighborhood to ones more in line with a night club in a commercial area. Specifically,

1. Construction of glass doors on the north side of the building allows sound (which has been measured in excess of 70 decibels) generated within the building to pass outside the building to the north, creating a nuisance for the residential areas north of the building. This clearly violates the planning commission's intent that noise be contained inside the building.
2. Construction of glass doors, a patio, and gardens on the north side allows participants of activities inside the building to move to the north side of the grounds outside the building and also allows the Lodge to conduct activities on the north side of the building. This clearly

- violates the planning commissions' intent that activities be focused on the south side of the building and away from the north side and the residences on that side.
3. Previously, the Lodge building itself and the Lodge's prior activities that were consistent with its use permit acted as an effective buffer between it and the residences around the Temple. Currently, however, after making changes to the north side of the building and expanding its activities into the landscaped portion of its property adjacent to our home, the Lodge has failed to maintain an effective buffer between itself and its neighbors as the City instructed in the use permit. While the definition of an effective buffer was not specified in the public hearing notes or the permit, the Lodge is located on the north side of the site, very close to the residences to the north, so distance is obviously not an effective buffer, at least to noise. Furthermore, the fence between the Lodge and the residences was constructed by the home owners, not the Lodge, so it is unclear how the Lodge has addressed the "effective buffer" provision of the permit after making its recent changes. Adding shrubs, grass, and bark chips to Lodge grounds would not appear to satisfy that provision. The only workable buffer would be walls that contain the sound inside the building.

Finally, the Use Permit states, "That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to the properties or improvements in the vicinity." We have already been injured by this nuisance.

What is required to remedy the nuisance being creating by the Lodge is for the wishes of the Planning Commission and the provision of the conditional use permit to be enforced, specifically:

1. Noise is to be contained within the building.
2. There will be no openings on the north or west sides of the building.
3. Activities will be focused on the south side of the building, i.e. no activities on the north side of the building.

The Masonic Lodge applied for and was granted a construction permit for changes to the building and grounds that clearly resulted in the Lodge changing its previous uses of the property and engaging in repeated and significant violations of their use permit. We believe the Lodge was at fault for not checking their permit to make sure the changes were in compliance. These changes made about three years ago turned them from a good neighbor into an abusive one, and we want the situation remedied. We would not be allowed to throw parties with lots of people and loud music in our backyard. Neither should they. If as members of a residential community we asked for a permit to allow such activities in our home and backyard, the City would not allow it. We are quite sure that if you lived next to a residentially zoned facility doing what the Lodge is doing, you would be making the same complaints that we are. We have been talking with representatives of the planning commission for almost a year, and the Masons are still throwing loud parties with people on the north and west sides of the building. It is time to take action to stop this abuse, and we respectfully request that you do so.

Sincerely,

Michael D. Miller

Darlene R. Miller

**████ Bryce Canyon Ct.
Pleasanton, CA. 94588**

Police Codes and Violations

Police Codes

415	Loud noise or party
TS	Traffic stop. An officer stopped a person for a traffic violation near the Lodge
1059	Patrol check. An officer drove by the property
1033A	The security alarm in the building went off
S Pers	Suspicious person
P shoot	Gun shots fired on premises
RCI	Party?

Dispatched Violations

2006	Loud noise/party	3 - 6
2007	Loud noise/party	13
2008	Loud noise/party	1
	Gun shot	1
2009	Loud noise/party	1

There have been between 19 to 22 violations recorded by the police in the last three years in which officers were dispatched to the Lodge. However, these are not all the complaints. They appear to be just those in which an officer was dispatched. The Millers have made calls to the police that are not recorded in their logs. Furthermore, these are not all the violations. The Millers recorded six violations in 2008 but only called the police on one of them.

Previous calls at address: 3370 HOPYARD RD
(1 / 2)

	Recv Time	Type	NOI	Dispo	District	
1	012707	2256	415P	LOUD MUSIC	NAT	P/513 2706
2	011907	1725	1011	ADMIN DETAIL	NR	P/513 1926
3	123006	2251	415P	LOUD PARTY	ADJ	P/513 3055
4	122506	2207	INC	INCIDENT	NR	P/513 2526
5	122406	1320	INC	INCIDENT	RPT	P/513 2420
6	122306	2340	1059	PATROL CHECK	NR	P/513 2359
7	111806	2207	415N	MUSIC	NR	P/513 1818
8	111706	1414	RCI	??PARTY??	RPT	P/513 1714
1	110106	1957	MED	MEDICAL ASSIST	REFPFD	P/513 0116
2	102006	0006	1033A	AUDIBLE ALARM	EE	P/513 2014
3	091606	2200	MED	MEDICAL ASSIST	REFPFD	P/513 1615
4	082606	2035	415N	LOUD NOISE	Q	P/513 2606
5	081606	0615	1033A	AUDIBLE ALARM	SECURE	P/513 1633
6	051906	2154	1059	PATROL CHECK	NAT	P/513 1955
7	011006	1320	1091D	1010 ANIMAL	NAT	P/513 1042
8	010306	0918	1033A	AUDIBLE ALARM	SECURE	P/513 0333

CLEARED CALL SEARCH

Print Date/Time: 3/9/2009 5:57:39 PM

Call No.	Call Date/Time	Call Type	Location	Incident Number	Unit Number	Yes
985	08/07/2009 23:37:17	TS	3370 HOPYARD RD, PLS	2009-00011601	H11	Yes
981	08/07/2009 20:53:35	415	3370 HOPYARD RD, PLS	2009-00011578	K13, K12	Yes
829	08/07/2009 08:52:34	1033A	3370 HOPYARD RD, PLS	2009-00011489	H22, H21, H11	Yes
427	08/14/2009 22:23:34	1059	3370 HOPYARD RD, PLS	2009-00008025	K12	Yes
398	08/14/2009 20:07:15	1059	3370 HOPYARD RD, PLS	2009-00008001	K21, K12, K11	Yes
366	08/14/2009 17:15:54	1059	3370 HOPYARD RD, PLS	2009-00007976	K11	Yes
356	01/19/2009 10:51:32	484	3370 HOPYARD RD, PLS			Yes
303	01/19/2009 02:40:32	1059	3370 HOPYARD RD, PLS			Yes
233	01/18/2009 23:48:09	TS	3370 HOPYARD RD, PLS	2009-00003192	S12, H22, H21, H12	NO
254	01/18/2009 21:11:45	1059	3370 HOPYARD RD, PLS	2009-00003173	K22, H12	Yes
225	01/18/2009 18:27:07	TS	3370 HOPYARD RD, PLS	2009-00003147	H22	Yes
223	01/18/2009 18:11:03	TS	3370 HOPYARD RD, PLS	2009-00003125	K22	Yes
212	01/18/2009 17:18:26	1059	3370 HOPYARD RD, PLS	2009-00003123	K11	Yes
524	01/07/2009 09:03:05	1033A	3370 HOPYARD RD, PLS	2009-00003113	K22, K21, K11, S8	Yes
731	01/03/2009 08:04:40	1033A	3370 HOPYARD RD, PLS	2009-00000979	S12, J13, J12	Yes
843	12/19/2008 20:06:29	1059	3370 HOPYARD RD, PLS	2009-00000354	J12, J11	Yes
936	10/29/2008 05:00:29	1033A	3370 HOPYARD RD, PLS	2008-00063476	K12	Yes
651	10/14/2008 14:10:39	1091D	3370 HOPYARD RD, PLS	2008-00054019	H22, H12	Yes
395	06/28/2008 22:35:01	415	3370 HOPYARD RD, PLS	2008-00051357	SR2	Yes
918	05/31/2008 00:09:35	P SHOOT	3370 HOPYARD RD, PLS	2008-00031206	K32, H32	Yes
902	04/06/2008 08:01:37	1033A	3370 HOPYARD RD, PLS	2008-00025736	K32, K22, K13, K12, S6, H31, H22, H21, H12, H11	Yes
418	02/21/2008 15:51:30	1047	3370 HOPYARD RD, PLS	2008-00016629	J12, J11	Yes
971	02/03/2008 01:02:41	TS	3370 HOPYARD RD, PLS	2008-00008758	I68	Yes
702	01/23/2008 23:35:53	TS	3370 HOPYARD RD, PLS	2008-00005917	H22	Yes
450	12/24/2007 08:25:54	1033A	3370 HOPYARD RD, PLS	2008-00004005	K11	Yes
265	11/12/2007 12:00:17	1033A	3370 HOPYARD RD, PLS	2007-00050771	J12, J11	Yes
940	11/04/2007 22:44:27	415	3370 HOPYARD RD, PLS	2007-00043900	J31, J12	Yes
921	11/04/2007 19:24:05	415	3370 HOPYARD RD, PLS	2007-00042846	H21, H11	Yes
221	10/26/2007 02:09:09	TS	3370 HOPYARD RD, PLS	2007-00042832	K12	Yes
329	10/20/2007 20:17:59	415	3370 HOPYARD RD, PLS	2007-00041494	K22	Yes
288	10/20/2007 14:02:27	S PERS	3370 HOPYARD RD, PLS	2007-00040801	K12, H32	Yes
205	10/20/2007 00:54:06	1059	3370 HOPYARD RD, PLS			Yes
196	10/20/2007 00:12:44	415	3370 HOPYARD RD, PLS			Yes
33	09/22/2007 21:17:28	415	3370 HOPYARD RD, PLS	2007-00040710	H22, H11	No
491	09/09/2007 18:26:29	1033A	3370 HOPYARD RD, PLS			No
584	08/22/2007 06:43:44	TS	3370 HOPYARD RD, PLS	2007-00036516	K12, K11	Yes
7	08/03/2007 22:34:45	415	3370 HOPYARD RD, PLS	2007-00034487	K12, J22	Yes
766	07/28/2007 21:35:08	415	3370 HOPYARD RD, PLS	2007-00031334	H11	Yes
600	07/06/2007 20:19:42	415	3370 HOPYARD RD, PLS	2007-00028544	K11, H12	Yes
123	06/23/2007 22:33:08	415	3370 HOPYARD RD, PLS	2007-00027619	K12, K11	Yes
741	06/02/2007 22:17:26	415	3370 HOPYARD RD, PLS	2007-00024328	K12	Yes
723	05/19/2007 23:35:03	415	3370 HOPYARD RD, PLS	2007-00022455	K13, H22	Yes
313	05/12/2007 23:12:49	415	3370 HOPYARD RD, PLS	2007-00019118	K14, K12	Yes
885	03/10/2007 13:12:52	1033A	3370 HOPYARD RD, PLS	2007-00016674	K24, K22	Yes
733	02/22/2007 02:28:51	1033A	3370 HOPYARD RD, PLS	2007-00015620	H22, H11	Yes
				2007-00005924	J12, J11	Yes
				2007-00003478	K12, H11	Yes

Total Rows: 45

Date	Day	Start	Stop	Music	Type of party	Any activity on the north side?	Any activity on the south side?	Did we call the police?	Comments	Noise meter	Video available
#1	1-Jun	6 to 7 PM	9 to 9:30 PM	Yes	Mexican party	Yes	No	No	Lots of kids in backyard Glass doors open Party was inside and outside	Unknown We had not bought the noise meter yet	Yes
#2	9-Jun	Noticed at 8 PM	?	No	Jewish party	Yes	No	No	40+ people on the north side. No activity on the south	70 decibels (without music)	Yes
#3	26-Jun	?	?	No	Teen birthday party	Yes	No	No	7 to 8 teens in backyard singing happy birthday	70+ decibels (without music)	?
#4	28-Jun	5:30 PM	Called police at 10:30	Yes	Mexican wedding	Yes	No	Yes at 10:30 PM	Please see email that we had previously sent documenting this party, which is partially reprinted below—See (a)	With music and doors open: 90 to 95 decibels With doors closed (after we called police) we could still hear the music through the doors: 70 to 75 decibels	Yes
#5	14-Sep	5:30 to 6 PM	10 PM + (at 8 PM patio doors were shut)	Yes	Party (Mexican??)	Yes	No	No	From 5:30 to 8 PM: 14 kids in backyard playing, several adults and several teens. Doors were kept open for a while with music playing inside the building and blaring out the back doors. At 8 PM the doors were shut, yet still the noise meter read 69 decibels. Note: this was a hot day in the summer and our windows were open. I was trying to work in the upstairs office, which directly faces the Lodge's backyard area. The party music came blaring through our open window without a fence to block it on the second floor.	70	No
#6	12-Oct	Sunday 4:30 Clementine 4 NOISE	7:30	Yes	Mexican party kids	Yes	No	No	Arguing party blow up for kids	70	Yes
#7	15-Jan	?	?	Yes	Mexican wedding Duke w-sim at Pluswood light	Yes	No	Yes @ 10:20	Small back door open very loud night	75 @ 10PM	Yes
#8	7-Mar	Saturday 7:00	called Police at 8:00	Yes	Party	Yes	No	?	9:13 patcher sawish has 2 officers there	over 70 dB Come at 6:00	Yes

Jenny Soo

From: Miller, Darlene
Sent: Monday, March 16, 2009 2:47 PM
To: Terry Snyder; Donna Decker; Jenny Soo
Cc: Mike Miller
Subject: Follow up to meeting with Brian Dolan on March 12

Hi Terry, could you please ensure that Nelson Fialho, Brian Dolan and Donna Decker all get a copy of this letter.

Dear Mr. Dolan,

Thank you for meeting with us last Thursday, March 12. This letter summarizes our discussion as well as our feedback on your recommendations.

In the meeting you stated that you would not be loosening up the conditions in the use permit. You were quite emphatic about that, and we were very pleased to hear that. For years, the Masons have been very good neighbors, operating the building as it was originally designed, approved by the City, and constructed.

However, several times you stated that you would probably allow the Masons to keep the glass doors, and you did not state that you would prohibit activities on the north and west sides of the building. In our opinion, these are changes that **result in loosening up the conditions**, the very thing you committed not to do. Here is why.

Doors in Building

The general noise code for residential properties is 60 dB at the property plane (Code 9.04.030 Noise Limits—Residential Property). During the day, it is 70 dB 25 feet from the originating structure (8 a.m. and 8:00 p.m. daily Monday through Saturday and 10a.m. and 6:00 p.m. on Sundays and holidays) (Code 9.04.070 Daytime Restrictions)

The current doors are French doors with glass window panes. We do not know the sound transmission coefficient (STC) for the doors. However, our noise measurements indicate that the doors are inadequate to keep the Masons in compliance with the noise codes when music is played inside the building.

When music is being played inside the building and the doors are closed, our noise meter normally measures over 70 dB at our property line. Since our property is 75 feet from the structure, a reading 25 ft. from the structure would be even higher. The only way the Masons could comply with the noise ordinance is to: (1) remove the door and restore the original structure, (2) prohibit music inside the building, or (3) replace the existing doors with something much more sound proof, an expensive proposition, and they would still need to control the noise level inside. Bands and music systems can be very loud. Since the Masons do not attend the events they sponsor, there is no way for them to guarantee that the noise inside will not overpower whatever new doors they might install.

Also, having doors means they can be opened. Even if music generated from within meets the noise code when the doors are closed, it will exceed the code when they are opened. Also, having the doors facilitates having activity in the north and west areas. Even without music, we have measured well over 70 dB from the normal events of twenty to thirty people that the Masons sponsor.

The problem is that the events at the lodge exceed the normal use and frequency of a typical neighbor. Although the log that we gave you represents the use of the building in 2008, we did not document the use in 2007. In that year, there were more parties, probably because the economy was better, and the frequency was extreme. In one weekend, there was a party Friday night, a second party all day Saturday in the backyard area, and a third party Saturday night. A normal neighbor would not have this type of activity, and since the Mason's property is much larger than a typical Valley Trails home, the volume of people greatly exceeds a typical backyard party.

Activities Allowed in North and West Areas

Allowing activity in the back area, even without music, can easily exceed the noise codes. When twenty to thirty people are in the backyard area, the noise from masses of people talking and kids playing, measured 25 feet from the structure and/or at our property line, routinely **exceeds the noise codes**. Therefore even if the doors are taken out, the activities on the north side must stop.

The use permit states in condition #1, "activities focused on the south" and in condition #20, "applicant provide an effective buffer." The Staff Report and Public Hearing notes explain the meaning of the first condition, stating that activities on the north and west should be prohibited. Our prior letter stated, "If there is any ambiguity on the face of the Lodge's Conditional Use Permit, the Staff Report and Public Hearing notes should be used to interpret the meaning of the Permit and what the City Staff and Council intended at the time that the Permit was issued. While some City employees have contended that these ancillary materials are not "binding" on the City, they certainly explain what was intended when the Permit was issued in 1977. They also show how the site and structure were designed to focus activities toward the south side of the property and buffer noise from such activities from getting to and annoying the residents." Consequently, any fair reading of these documents would indicate that the Masons should not be conducting activities on the north and west sides of their building.

Also the property across from the Masons on the SW corner of South Valley Trails and Hopyard is built on the furthest corner away from the residents. There are either hundreds of yards between the structure and any neighbor, or public tennis courts. Both the space and tennis courts shield the neighbors—and that facility is only a church—not a lodge with known noise nuisance problems when renting for weddings, etc. We feel that this sets a precedent for planning in Pleasanton.

We also stated to you that St. Claire's church, and our neighbors Ron and Pam Lambert are the most effected due to location. Most other neighbors are either shielded by distance, buildings, etc.

Finally, we believe that the Masons are responsible for knowing their use permit and for implementing changes that violated it. With the changes made to the building and grounds by the Masonic Lodge several years ago, well after the building was constructed, the Masonic Lodge is now in violation of the conditional use permit and the intentions of the Planning Commission in granting the permit. Furthermore, the City's residential zoning ordinance has the purpose to "protect residential properties from **noise**, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare and other objectionable influences." Pleasanton Municipal Code § 18.36.010(H). Therefore, the Masons are also in violation of the zoning ordinances because they have plainly changed the lodge's uses from those consistent with a residential neighborhood to ones more in line with a night club in a commercial area.

Summary

We are very frustrated that we have had to spend so much time and effort in dealing with something that was so obvious to the original Planning Commission. The staff report clearly indicated that a second building was being built on property only meant for one, and therefore the second building was "squished too close to the neighbors." They dealt with this by requiring that the building have no openings on the north and west sides, that the building be designed to keep noise inside the structure, and that activities on the north and west sides of the building be prohibited. Anything that does not reinstate these conditions is loosening up the use permit and will continue to allow the chronic abuses that have been occurring since the Mason's modified the structure around 2005.

Sincerely,
Mike and Darlene Miller

cc: Nelson Fialho, Donna Decker

████████ Bryce Canyon Ct., Pleasanton, CA. 94588

✓

✓

3/16/2009

Terry Snyder

From: Miller, Darlene
Sent: Wednesday, March 18, 2009 11:18 AM
To: Terry Snyder
Cc: Donna Decker
Subject: FW: Follow up on your parking lot question

Hi Terry, could you please ensure that Donna gets this email.
Thanks,
Darlene

Darlene Miller

From: Miller, Darlene
Sent: Wednesday, March 18, 2009 11:16 AM
To: 'Donna Decker'
Cc: 'Mike Miller'
Subject: Follow up on your parking lot question

Hi Donna,

I had some additional thoughts regarding your question on the possibility of a parking lot being built on the north side of the Masonic Lodge.

1. I am guessing that regardless of the purpose for which the Masons use the north area, the noise codes still apply. The current codes state: (1) 60dba at the property plane, and (2) 70dba at 25 feet from the source (where the source is defined as "structure" or lodge building) for a daytime exception. The parking lot would bring noise from cars/trucks with doors opening/closing and engines starting, and people talking. I am not a sound engineer but would strongly suspect that a parking lot right next to our property would violate the noise ordinances, especially at night when the 60 dba rule applies.
2. Also the residential zoning ordinance has the purpose to "protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare and other objectionable influences." Pleasanton Municipal Code § 18.36.010(H). I think that a parking lot adjacent to our backyard would violate many of these protections including "noise, illumination, odors, dust, dirt, vibration, and other objectionable influences"

If you could please incorporate the above in your preparation of the staff report, we would certainly appreciate it.

3/18/2009

Thanks,
Mike and Darlene

Darlene Miller

Director, Platform Service Development

The information contained in this email message may be privileged, confidential, and protected from disclosure. If you are not the intended recipient, any dissemination, distribution, or copying is strictly prohibited. If you think you have received this email message in error, please email the sender at: dmiller@visa.com

3/18/2009



Police Activity

5/12/ 2007 - 3/3/2009

(Possibly related to Masonic Lodge)

5/12/2007 23:12	3370 HOPYARD RD	LOUD MUSIC	Loud music at famaily graduation party
5/19/2007 23:36	3370 HOPYARD RD	Disturbance	Nothing found
6/2/2007 22:17	3370 HOPYARD RD	Loud Party	Loud party/function at the Masonic Center.
6/23/2007 22:33	3370 HOPYARD RD	Loud Music	Loud Party/Music. RP requesting a "Noise Test" requesting a decipel reading. Contacted RP, and music was turned down and doors on the north side were closed.
7/6/2007 20:19	3370 HOPYARD RD	Loud Music	Loud music at the masonic temple. Rp would like contact. Host of party contacted. Will end at midnight
7/28/2007 21:35	3370 HOPYARD RD	Party	Party going on for approx 2 hours. Rp does not need contact. All quiet upon arrival. Senior citizens having party. Advised to shut doors and bring inside.
8/3/2007 22:34	3370 HOPYARD RD	Party Noise	At the Masonic Center. RP is a near by resident. Is upset by all the noise. Noise complaint unfounded Will be out by midnight. RP called again and said whenever they open the back door its loud at her house. Officer spoke to manager
9/22/2007 0:00	3370 HOPYARD RD	Nose Complaint	Neighbor complaining about loud noise coming from the party
10/20/2007 0:12	3370 HOPYARD RD	Nose Complaint	RP complaining of loud music/talking coming from the masonic center
10/20/2007 20:17	3370 HOPYARD RD	Loud Music	RP complaining of loud music. Officer delayed. Arrived at 23:30 hrs. Party over.
11/4/2007 19:24	3370 HOPYARD RD	Loud Party	Loud party at masonic hall. Called in by near by resident. Officer contacted representative and advised she would close the back door and have the kids in the rear quiet down.
11/4/2007 22:44	3370 HOPYARD RD	Loud Music	Music very loud. Rp would like them advised to quiet down. Officer arrived at 23:24. All quiet.
01/12/2008 14:26:03	3790 N GETTYSBURG CT	Disturbance	Nature Of Call: LOUD MUSIC; ONGOING PROBLEM WITH KIDS PLAYING THEIR MUSIC TOO LOUD. HOUSE AT THE END OF THE CT. 2 SUV'S PARKED IN DRIVEWAY AND A WHI DODGE NEON. RP WOULD LIKE AN OFFICER TO SPEAK WITH THE PARENTS.; contacted father two juv working on vehicles installing stereos. advised of complaint and will keep it down. testing newly installed speakers; nothing heard entire time on scene

RP HEARD WHAT SOUNDED LIKE 5 GUN SHOTS...RP CANNOT SEE THE PARK FROM THEIR HOUSE; HEARD THREE SHOTS FROM NB HOPYARD; RP CALLING FROM BRYCE CANYON STATES A GROUP IN THE LOT SETTING OF SOME TYPE OF EXPLOSIVE/FIREWORKS; FROM K13 APPEARS CODE 4; SEVERAL PEOPLE SAY THEY HEARD GUNSHOTS NO DESCRIPTION; APPEARS TO BE ANOTHER 415 BREWING OUT FRONT. NEED UNIT WITH PA SYSTEM; THREE PEOPLE CONFIRMED THEY SAW A SHOOTING AND A SUSPECT FLEE; BMA RAN TOWARDS BLK SWEATSHIRT NO HOOD BLUE JEANS; H22 WITH SUBJECT; one detained by k32 the rear; h21 also has one detained; ; MOBILE ON HOPYARD; EXPENDED SHELL CASINGS IN THE LOT CONFIRMED SHOOTING; FORD, BLK JAG; BLK YEL PLATE; ADDITIONAL ROUNDS ON SVT DIFFERENT CALIBER; WAS SEEN COMING OUT OF THE REAR OF THE BUILDING. HE WAS TAKEN INTO CUTOXDY AND HANDCUFFED.; detained subj | found sneaking from rear of main building. he was detained and handcuffed (dbl) locked and checked for lightness). once determined he was witness, uncuffed and statement taken

05/31/2008 00:09:35	3370 HOPYARD RD	Poss Shots Fired	2008-00025736						
06/06/2008 23:33:09	HOPYARD RD S VALLEY TRAILS DR	Traffic Stop	2008-00026988	SB HOP SO NVT.; ; IFO THE MASONIC LODGE ON SVT.; ; C4					
06/28/2008 22:35:01	3370 HOPYARD RD	Disturbance	2008-00031206	Nature Of Call: noise; RP IS REQUESTING THEY CLOSE THE BACK DOORS BECAUSE THE MUSIC IS TOO LOUD WITH THEMOPEN; C4; SHUTTING IT DOWN					
12/19/2008 22:47:08	NATIONAL PARK RD ACADIA CT	Juvenile Problem	2008-00063515	RP CAN HEAR SCREAMING AND LOTS OF CAR DOORS SLAMMING BEHIND THE CHURCH; RP CONCERNED BECAUSE NO HOUSES IN AREA....HEARD PEOPLE FOR LAST 30MINS; LOUD SPEAKERS FROM CARS...; Nature Of Call: J PROB; K12 CONTACTED 3 SUBJ'S IN A VEH AND THEY HAVE LEFT NOW					
12/19/2008 23:03:36	HOPYARD RD VALLEY TRAILS DR	Traffic Stop	2008-00063518						
12/19/2008 23:07:20	HOPYARD RD PARKSIDE DR	W CHECK	2008-00063523	FEMALE NEAR PARKSIDE...IN HER BRA AND PANTIES. TALKING ON HER CELL PHONE..WFA - BRO - IN HER 20'S; K21 CODE 4;					
01/18/2009 17:15:40	3370 HOPYARD RD	NEW CALL							
01/18/2009 17:18:26	3370 HOPYARD RD	Susp Circumstances	2009-00003113	OFF WITH 2 J'S AT PARKSIDE AND HOPYARD ONE FLEEING SOUTH THROUGH SPORTSPARK; Contacted 17 year old					
01/18/2009 18:11:03	3370 HOPYARD RD	Traffic Stop	2009-00003123						
01/18/2009 18:27:07	3370 HOPYARD RD	Traffic Stop	2009-00003125						
01/18/2009 19:04:17	VALLEY TRAILS DR HARBERS FERRY CT	Traffic Stop	2009-00003131						
01/18/2009 19:41:03	HOPYARD RD VALLEY TRAILS DR	Traffic Stop	2009-00003138						
01/18/2009 19:47:36	3350 HOPYARD RD	Susp Vehicle	2009-00003139	OCCUPIED BY 2 BLK JEEP; ; 600 KIDS IN ATTENDANCE WITH A LINE TO GET IN					
01/18/2009 21:11:45	3370 HOPYARD RD	Patrol Check	2009-00003147	No Narrative entered by Mobile Unit					
01/18/2009 21:55:32	7245 S VALLEY TRAILS DR	Suspicious vehicle	2009-00003156	K23 ENR WITH A PAS					
01/18/2009 23:48:09	3370 HOPYARD RD	Traffic Stop	2009-00003173	18 year old					

01/19/2009 02:40:32	3370 HOPYARD RD	Suspicious Circumstance	2009-00003192	2 JUV RUNNING WEST THROUGH THE LOT; ONE WEARING A BACKPACK; SUBJ TO THE REAR STILL RUNNING; OFF WITH 5 SUBJ; NORTHSIDE OF THE BUILDING...WALKING OUT;
01/19/2009 10:51:32	3370 HOPYARD RD	Theft		Nature Of Call: **PHONE** . LOST LAST NIGHT AT THE MASONIC CENTER; PHONE WAS STOLEN; RP WILL FILE THE REPORT ONLINE
02/14/2009 20:07:15	3370 HOPYARD RD	Juvenile Contact	2009-00008001	OUT WE;C4; CONTACTED PARENTS, THEY WILL MAKE ARRANGEMENTS FOR PU
02/14/2009 22:23:34	3370 HOPYARD RD	Juvenile Contact	2009-00008025	C4; REG VALID FROM: 052208 TO 052209 LIC#: YRMD;05 MAKE:INFI BTM :4D VIN :CITY:LIVERMORE C.C.:01 ZIP#:94550

Jenny Soo

From: Lisa And Don
Sent: Saturday, January 17, 2015 5:00 PM
To: Jenny Soo
Cc: Home
Subject: UP-77-13

Jenny-

We received the notice for approval on operating a private lodge at the Pleasanton Masonic Center. Can you please explain what private lodge means? Is this for housing?

Any information you could provide would be appreciated.

Thank you,

Lisa & Don Conley

Sent from my iPad

Click

<https://www.mailcontrol.com/sr/B!63fHgLv3bGX2PQP0mvUkaRNh6DuTliDIslCKMUR4jiCjkQmhgvxM8JUZ4v+a143!hFUkw9hXJaydNu2tBwg==> to report this email as spam.

Jenny Soo

From: Terry Greenaway
Sent: Sunday, January 18, 2015 6:33 AM
To: Jenny Soo
Subject: Conditional Use Permit for Pleasanton Masonic Center

Dear Ms. Soo,

Thank you for the notification of the city council's intent to take up this issue. I am a resident of Valley Trails and have heard from a homeowner who lives next to the Masonic building that the activities at the Mason building are a community disturbance. The disturbing noise is generated by the property being rented for parties and by a catering business.

I copied the mission of the California Masons from their website:

MISSION

A man who strives to improve himself can also improve his community and the world at large. This is the mission of the Masons of California. Through Masonic principles and tradition, we foster personal growth and improve the lives of others.

As a non-profit organization committed to improving the lives of others the Masons should not be disturbing the lives of neighbors by their activities.

Sincerely,

Terry Greenaway

Carlsbad Court

Pleasanton, CA 94588

Click [here](#) to report this email as spam.

Jenny Soo

From: Jenny Soo
Sent: Wednesday, February 25, 2009 2:51 PM
To:
Subject: RE: Public Hearing Notice: Revocation of UP-77-13

Hello Jim,

This notice refers to the Masonic Center located at 3370 Hopyard Road.

It has been brought staff's attention that in recent months, activities occurred at the Masons facility may have gone beyond the scope of the conditional use permit granted by the City in 1977. Staff believes that it is necessary to bring the application before the Planning Commission for further review and discussion so that it would be clear as to what functions could and could not be held at this facility.

Hope this answered your question. Please let me if you have further questions. Thanks,

Jenny Soo

From:
Sent: Wednesday, February 25, 2009 2:02 PM
To: Jenny Soo
Subject: Public Hearing Notice: Revocation of UP-77-13

Jenny, can you provide more details on this?

Thanks

Jim Tracy

2/26/2009

Jenny Soo

From: Jenny Soo
Sent: Thursday, February 26, 2009 9:09 AM
To: 'Matt Sullivan'; Pretzel, Carl
Cc: Brian Dolan; Donna Decker
Subject: RE: Revocation of up-77-13

Hello Councilmember Sullivan and Mr. Pretzel,

The notice refers to the Masonic Center located at 3370 Hopyard Road.

It has been brought staff's attention that in recent months, activities/functions held at the Masons facility may have gone beyond the scope of the conditional use permit granted to them by the City in 1977. Staff believes that it is necessary to bring the application before the Planning Commission for further review and discussion so that it would be clear as to what functions could/could not be held at this facility.

At the Masons request, the meeting is rescheduled to March 25, 2009.

Mr. Pretzel – I did not get your first email. You can always call me at (925)931-5615.

Thanks,

Jenny Soo

From: Matt Sullivan
Sent: Thursday, February 26, 2009 8:53 AM
To: Pretzel, Carl
Cc: Jenny Soo; Brian Dolan
Subject: Re: Revocation of up-77-13

Jenny,

Can I please get a synopsis of this as well?

Thanks

Matt Sullivan

On Thu, Feb 26, 2009 at 6:41 AM, Pretzel, Carl wrote:

You did not reply to my first email and therefore I had no opportunity to inform our homeowners of the issues.

I just got the second postcard notice of this. Is that just a legal requirement and being a resident there is no intention of you answering questions despite what the postcard says?

Do I need to give you a Chamber of Commerce membership # to get a response?

2/26/2009

Jenny Soo,

I just received postcard from you about this. I know that there will be a staff report available on March 6, but for now can you give me a brief summary of what the issues are? We have a homeowners meeting next wed and I want to make sure everyone understands what this is about.

Thanks,
Carl Pretzel

--

Matt Sullivan

Jenny Soo

From:
Sent: Tuesday, March 03, 2009 12:17 PM
To: Jenny Soo
Subject: Re: Rezoning the Masonic Temple

Thank you for your clarification. It is said re-zoning for multi-family residential it threw us for a loop.

-----Original Message-----

From: Jenny Soo
To:
Sent: Tue, 3 Mar 2009 11:47 am
Subject: RE: Rezoning the Masonic Temple

The application in question is not to change the existing zoning, but rather to review and reconsider the use permit granted to the Masons in 1977. It has been brought staff's attention that in recent months, activities/functions held at the Masons facility may have gone beyond the scope of the conditional use permit granted to them by the City in 1977. Staff believes that it is necessary to bring the application before the Planning Commission for further review and discussion so that it would be clear as to what functions could/could not be held at this facility. Hope this answered your concerns.
Thanks,

Jenny Soo

From:
Sent: Sat 2/28/2009 8:07 AM
To: Jenny Soo
Subject: Rezoning the Masonic Temple

Dear Planning Commisioner,

I want to address rezoning the Masonic Temple for Multi-family residential for which myself and many neighbors are opposed with valid concerns.

I live by the Evangical Church in a single family home and have been a hard advocate against overbuilding due to traffic, congestion of people, limitations of expansion of our park, and most prominent reduction of our property values. The Masonic Temple has all those element included except with zoning as multi-family residential we are talking about apartments, town homes or other dwellings that much more increased traffic and cars to our area. It increases crime by having non home owners in our area. It will also bring down the value of our homes considerably. I personally don't want to live beside a multi-unit complex for all those reasons.

I oppose rezoning if this is the intent of the Masonic Temple. I would much rather have a community complex remain that enriches the lives of people around it. & nbsp;I would personally like to see it available for weddings, community functions and leadership meetings for various groups.

3/18/2009

Thank you,

Leonore Rivas

Jenny Soo

From:
Sent: Tuesday, March 03, 2009 4:24 PM
To: Jenny Soo
Cc: Jennifer Tomic
Subject: Re: Pleasanton Lodge, 3370 Hopyard Rd.

Jenny,
Thank you. This addresses my questions. Milan Sent via BlackBerry by AT&T

-----Original Message-----

From: "Jenny Soo" <JSoo@ci.pleasanton.ca.us>

Date: Tue 3 Mar 2009 11:45:56

To:

Cc: Jennifer Tomic

Subject: RE: Pleasanton Lodge, 3370 Hopyard Rd.

Hello,

The property is zoned multiple family residential. The hearing is to review and reconsider the conditional use permit granted to the Masons in 1977 to operate the Lodge.

It has been brought staff's attention that in recent months, activities/functions held at the Masons facility may have gone beyond the scope of the conditional use permit. Staff believes that it is necessary to bring the application before the Planning Commission for further review and discussion so that it would be clear as to what functions could/could not be held at this facility.

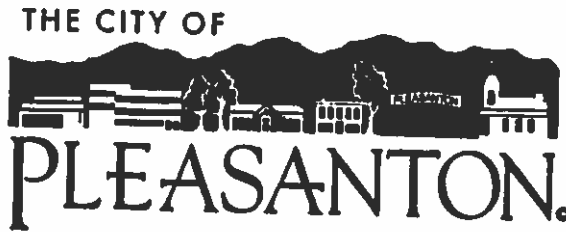
Hope this answered your questions.

Jenny Soo

From:
Sent: Sat 2/28/2009 1:54 PM
To: Jenny Soo
Cc: Jennifer Tomic
Subject: Pleasanton Lodge, 3370 Hopyard Rd.

Jenny,

We live in the tract near the lodge and would like some clarification of the Commission Meeting on March 25 regarding the Pleasanton Lodge property at 3370 Hopyard Rd. and the planned zoning. We are not clear from the hearing announcement if the property has been granted multi-family residential zoning at this time or if the hearing is to revoke the multi-family residential zoning? Can you please clarify. Thank you. Milan Tomic, [REDACTED] Olympic Ct.
Sent via BlackBerry by AT&T



November 5, 2008

Mr. Fred Shwartz
President, Masonic Building Association
Pleasanton Masonic Center
3370 Hopyard Road
Pleasanton, CA 94588

Re: UP-77-13
Alisal Lodge #321
Pleasanton Lodge

Dear Fred:

Over the last several months, the City of Pleasanton has been interested in having a discussion with the Lodge regarding the current activities and the events scheduled at the Pleasanton Lodge. Your website advertises and leases the Lodge to a variety of groups that use it for meetings and conferences, dining and catering, outdoor events and indoor/outdoor events. Additionally, the advertisement provides a list of various functions:

Pleasanton Masonic Center is the perfect place to host:		
<ul style="list-style-type: none"> • Seminars • Off-site Meetings • Company Picnics • Weddings & Receptions • Trade Shows 	<ul style="list-style-type: none"> • Dances • Barbeques • Special Event Dinners • Wine Tasting 	<ul style="list-style-type: none"> • Receptions • Formal Balls • Bar/Bat Mitzvah • Religious Events

Since April of this year, the City has received numerous complaints related to the events that are being scheduled and held at the Lodge. The prevalent issue is related to noise. The events held at your facility may be creating noise levels greater than allowed within the residential district that is adjacent to your facility. Noise generated from the site can be no more than 60 dBA at the property line. Preliminary readings with a noise instrument indicate these levels may be greater than 70dBA. This is creating a situation that is not consistent with your use permit. The resulting increase in noise may be caused by the exterior modifications that have been done creating an exit out of the dining area into a landscaped area adjacent to the residential neighbors.

Mr. Fred Shwartz
November 5, 2008
Page Two

Additionally, the City has concerns related to those improvements recently constructed that have no active building permit. The expiration of that permit alerted the Planning Division via a code enforcement review of the file. The improvements are not consistent with the conditions of approval for your existing conditional use permit (UP-77-13). The process for a modification to the conditional use permit needs to be reviewed by the Planning Division with action taken by the Planning Commission.

UP-77-13 was approved by the Planning Commission on September 14, 1977 under Resolution No. 1562. Design review was approved by the Design Review Board on November 29, 1977 under Resolution No. R-77-62. Copies of the Conditional Use Permit, Staff Reports, and Resolutions are available to you at 200 Old Bernal Avenue for review.

A review of the related staff reports and resolutions made it clear that there were concerns related to potential noise generated at the site and the negative impact that noise could have on the residential properties to the north. The staff reports referred to ways to minimize noise and conditions of approval addressed the issue by restricting the uses in that area. Condition no. 1 is specific to the design of the building so that activities will be focused toward the southern portion of the subject property, and Condition no. 20 required the applicant to provide an effective buffer between the development and the surrounding residential area. However, the buffer was not defined nor it does not appear to exist in any topographic or landscaped form.

In 2004, the Pleasanton Lodge applied for, and received, building permits to remodel the kitchen, remove an emergency exit in the kitchen on the north side of the building, and install new double doors in the connected dining hall, also on the north side of the building. It received an over-the-counter Planning Approval in August 2003, but was limited to the removal of a kitchen exterior door, and did not address the installation of new dining hall double doors. Nine months later a building permit was issued which included the new double doors in the dining hall. The lodge had several inspections, but failed to have some required inspections including the final inspection. The permit has since expired, although all the work was completed. The new dining hall doors are made of glass and have side window panels and do not provide mitigation from interior noise generated by the events held at the Lodge.

The City initiated contact with representatives in order to discuss the issues of your site. To date, we have been unsuccessful in finding a time that suits your schedule. If we are unable to discuss the issues related to the noise complaints and the installation of the doors that are located in direct conflict with your conditional use permit, other action may be necessary.

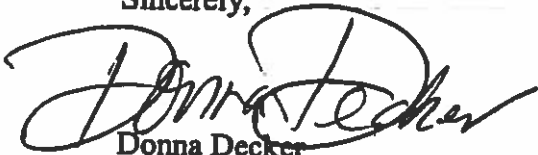
The City has begun a code enforcement action that is currently active. An alternative to the continuation of the code enforcement action may be that the City would submit your original project use permit to the Planning Commission for consideration and discussion. This may result in the placement of additional conditions that meet today's stringent operations requirements, or, the Planning Commission may consider a revocation of the original use permit.

Mr. Fred Shwartz
November 5, 2008
Page Three

I look forward to an opportunity to discuss these and other issues that you may have in the near future. Please call Terry Snyder at (925) 931-5603 to schedule a time for us to meet. I believe we should meet sooner than later and hopefully we can find a time in the next 30 days between the holidays.

This discussion is important to all of us, the City, your business success, and the adjacent residents.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donna Decker".

Donna Decker
Principal Planner
Current Planning
Planning Division
Community Development Department

THE CITY OF



PLEASANTON.

December 19, 2008

Mr. Fred Shwartz
3370 Hopyard Road
Pleasanton, CA 94588

Subject: Scheduled event -- December 12, 2008
7:00 pm -- 12:00 am

Dear Mr. Shwartz:

The City is aware that the Pleasanton Lodge has rented its facilities to an event promoter for a "Naughty or Nice" party targeted for high school teenagers who attend Foothill High School, Amador High School, and Dublin High School. City staff have been informed that the promoter, "Club Metro", which is the same operator known as "Famous Entertainer". The promoter's business name is actually the second, "Famous Entertainer", which utilizes the title for such parties and is known as the teen club hosting these events or "parties". The targeted teen population is aware of "Club Metro". "Club Metro" maintains a website advertising events as *myspace.com/metroclub08*. The site cannot be accessed unless an account is set up and only "acceptable" applicants are allowed to be a member.

The scope of the event appears that it may not end in conforming to the existing conditional use permit held by the Masons/Pleasanton Lodge. The existing entitlement does not allow outdoor use on any side of the structure, has an occupancy limited to less than the anticipated attendance of 600 students. The City has been assured that any number above the allowed occupancy of the facility.

The City has been monitoring the uses on your site for some time and currently have concerns related to noise, traffic, event attendance volume, and event conflicts. The City anticipates that the Pleasanton Lodge will assure that the event will be in conformity to the existing conditional use permit. We request that you submit an evaluation to the City of the success of this event. If it is determined that the event is not in conformity, staff will initiate a public hearing process at the Planning Commission to consider amendments to the existing conditional use for the Pleasanton Lodge.

P. O. Box 520, Pleasanton, CA 94566-0802

Planning & Community Development
(925) 931-5600
Fax: 931-5483

Building Inspection
(925) 931-5300
Fax: 931-5478

Utility Billing
(925) 931-5425
Fax: 931-5485

200 Old Bernal Avenue

Business License
(925) 931-5440
Fax: 931-5485

Please contact me should you have any questions or wish to further discuss the issues regarding the existing conditional use permit.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna Decker". The signature is fluid and cursive, with a large loop at the beginning.

Donna Decker
Principal Planner

C: Reverend Ron Culmer
Nelson Fialho
Brian Dolan
Mr. & Mrs. Mike Miller

Masonic Center Usage by Masonic Groups*

EXHIBIT K

January 2008 through February 2009

Weekday	Date	Event Description	Masonic?	Event Time	Est #	Catered?	Patio?
Saturday	January 5, 2008	Jobs Installation	Y	9am -11pm	100	N	N
Saturday	January 12, 2008	Jobs Installation	Y	9am -11pm	100	N	N
Saturday	February 2, 2008	Demolay Installation	Y	9am -11pm	100	N	N
Saturday	February 9, 2008	Demolay Function	Y	12pm - 12am	40	N	N
Saturday	February 16, 2008	Grand Bethel Reception	Y	Noon - 9pm	150	Y	N
Friday	February 22, 2008	Jobs Spaghetti Feed	Y	5pm - 10pm	100	N	N
Sunday	March 2, 2008	Memorial Svc	Y	7pm - 11pm	50	N	N
Saturday	March 15, 2008	E-Cycle in Parking Lot	Y	9am - 5pm		N	N
Saturday	March 22, 2008	Eastern Star Bruncg	Y	8am -1pm	75	N	N
Friday	May 2, 2008	Jobs Spaghetti Feed	Y	5 - 10pm	75	N	N
Saturday	May 10, 2008	Demolay Breakfast	Y	8am - 1pm	75	N	N
Saturday	May 17, 2008	Jobs Reception	Y	3pm - 11pm	200	N	N
Saturday	May 31, 2008	Jobs Installation	Y	3pm - 11pm	100	N	N
Saturday	June 6, 2008	Jobs Installation	Y	3pm - 11pm	100	N	N
Friday	July 11, 2008	Memorial Service	Y	7pm - 11pm	75	Y	N
Saturday	August 1, 2008	Demolay Installation	Y	5pm - 11pm	100	N	N
Saturday	August 13, 2008	Rainbow e-cycle	Y	11am - 5pm		N	N
Friday	September 19, 2008	DeMolay Pasta Dinner	Y	5pm - 10pm	75	N	N
Saturday	September 27, 2008	Jobs e-cycle	Y	9am - 4pm		N	N
Saturday	November 8, 2008	DeMolayHoliday Boutique	Y	11am - 6pm		N	N
Saturday	December 6, 2008	Masonic Installation	Y	2pm - 5pm	100	N	N
Sunday	December 21, 2008	Lodge Kids Holiday Party	Y	3pm - 10pm	75	N	N
Saturday	January 3, 2009	Jobs Installation	Y	9am - 11pm	100	N	N
Saturday	January 10, 2009	Jobs Installation	Y	9am -11pm	100	N	N
Saturday	January 31, 2009	Rainbow Reception	Y	Noon - 6pm	100	N	N
Saturday	February 7, 2009	Demolay Installation	Y	3pm - 11pm	150	N	N

* Events above are Masonic events in addition to regular monthly meetings held by Masonic youth groups (DeMolay and Jobs Daughters), Masons, and York Rite groups. Regular meeting dates and times are listed below. Catering is provided by A Tasteful Affair 1st Wednesday of every month and 3rd Thursday of every month.

Regular Masonic Meetings:

Jobs	2nd & 4th Monday of every month 7pm - 10 pm less than 15 cars in parking lot
DeMolay	1st and 3rd Tuesday of every month 7pm - 10pm less than 15 cars in parking lot
Masons	1st Wednesday of every month stated meeting and catered dinner 6pm - 10pm 20 - 30 cars in parking lot
Masons	2nd, 3rd, 4th Wednesday of every month 7pm - 10pm less than 15 cars in parking lot
York Rite	3rd Thursday of every month 6pm - 10pm less than 15 cars in parking lot

Masonic Center Rentals by Non-Masonic Groups

January 2008 through February 2009

Weekday	Date	Event Description	Masonic?	Event Time	Est #	Catered?	Patio?
Wednesday	January 16, 2008	Lifeline Screening	N	9am - 5pm		N	N
Wednesday	January 16, 2008	Chabad Jewish Dinner	N	6pm - 10pm	50	N	N
Friday	January 18, 2008	Tap Tool Sale	N	11am - 7pm		N	N
Saturday	January 19, 2008	Tap Tool Sale	N	11am - 4pm		N	N
Tuesday	February 5, 2008	Election Voting	N	7am - 8pm		N	N
Sunday	February 24, 2008	Bar Mitzvah	N	5pm - 10pm	75	N	N
Friday	March 28, 2008	Childrens Theater Rehersal	N	5pm - 6pm	25	N	N
Friday	April 4, 2008	Childrens Theater Rehersal	N	5pm - 6pm	25	N	N
Saturday	April 5, 2008	Childrens Musical Theater	N	1pm - 5pm	50	N	N
Tuesday	April 8, 2008	Solar Co Workshop	N	6pm - 9pm	25	Y	N
Saturday	April 12, 2008	Solar Co Workshop	N	2pm - 6pm	25	Y	N
Wednesday	April 16, 2008	Holocost Survivor Talk	N	7pm - 10pm	150	N	N
Friday	April 18, 2008	Church of God	N	5pm - 10pm	75	N	N
Saturday	April 19, 2008	Chabaad Jewish Event	N	Noon - 10pm	75	N	Y
Sunday	April 20, 2008	Chabaad Jewish Event	N	12pm - 7pm	50	N	Y
Tuesday	April 22, 2008	Corporate Meeting	N	9am - 1pm	50	Y	N
Tuesday	April 22, 2008	Solar Co Workshop	N	6pm - 10pm	25	Y	N
Saturday	April 26, 2008	Church of God	N	9am - 6pm	75	N	N
Saturday	May 3, 2008	Chabaad Services	N	10am - 3pm	50	N	N
Friday	May 16, 2008	Chabaad Dinner	N	6pm - 10pm	50	N	N
Sunday	May 18, 2008	BE Productions Screen Test	N	1pm - 5pm	100	N	N
Wednesday	May 21, 2008	Lifeline Screening	N	9am - 5pm		N	N
Sunday	June 1, 2008	Baptism Reception	N	4pm - 10pm	100	N	Y
Thursday	June 5, 2008	Solar Co Workshop	N	6pm - 8pm	25	N	N
Sunday	June 15, 2008	Baptism Reception	N	5pm - 10pm	50	N	Y
Saturday	June 28, 2008	BD Party	N	3pm - 11pm	80	N	N
Sunday	July 6, 2008	BE Productions Screen Test	N	1pm - 5pm	100	N	N
Saturday	July 12, 2008	Chabaad Services	N	10am - 3pm	50	N	N
Saturday	July 26, 2008	Tap Tool Sale	N	11am - 7pm		N	N
Saturday	September 6, 2008	Chabaad Services	N	10am - 3pm	50	N	Y
Sunday	September 7, 2008	BE Productions Screen Test	N	1pm - 5pm	100	N	N
Tuesday	September 9, 2008	Lifeline Screening	N	9am - 5pm		N	N
Monday	September 29, 2008	Chabaad Services	N	7pm - 10pm	50	N	N
Tuesday	September 30, 2008	Church of God	N	10am - 5pm	75	N	N
Tuesday	September 30, 2008	Chabaad Services	N	Noon - 5pm	50	N	Y
Saturday	October 11, 2008	Non-Profit Fundraiser	N	10am - 4pm	110	N	Y
Tuesday	November 4, 2008	Election Voting	N	7am - 8pm		N	N
Saturday	November 15, 2008	NRA Fundraiser	N	6pm - Midnite	85	Y	N
Sunday	November 23, 2008	BE Productions Screen Test	N	Noon - 5pm	100	N	N
Friday	December 5, 2008	Chaabad Dinner	N	5pm - 8pm	50	N	N
Tuesday	December 9, 2008	A Tasteful Affair Open House	N	4pm - 9pm	50	Y	Y
Wednesday	December 10, 2008	Chamber Mixer	N	5pm - 8pm	125	Y	Y
Friday	December 19, 2008	Teen Dance	N	7pm - Midnite	500	N	N
Saturday	January 17, 2009	Adult Bithday	N	6pm - Midnite	75	N	N
Sunday	January 18, 2009	Teen Dance	N	7pm - Midnite	500	N	N
Tuesday	January 20, 2009	Lifeline Screening	N	9am - 5pm		N	N
Friday	January 23, 2009	Teen Sports Awards Potluck	N	6pm - 9pm	50	N	N
Saturday	February 14, 2009	Teen Dance	N	7pm - Midnite	400	N	N

Pleasanton Masonic Center

3370 Hopyard Road
Pleasanton, CA 94588
(925) 462-8424

April 16, 2010

Mr. Brian Dolan, Planning Director
City of Pleasanton
200 Old Bernal Ave.
Pleasanton, CA 94566

Dear Brian:

Following a lengthily discussion with the Hall Association Board, I am authorized to propose the following use alterations which are open for further discussion/negotiation with your office:

- 1) Event sound at the Pleasanton Masonic Center during operating hours shall conform to the existing City of Pleasanton noise ordinance*. All proposed use applications shall be subject to review and approval per the sound ordinance prior to approval from the president of the Hall Association board.
- 2) Use of the patio for functions will have a sundown, not to run past 9:00 p.m., limit for all functions.
- 3) No amplified music will be allowed on the patio at any times.
- 4) All functions will have a minimum of two staff (expandable based on event size) to monitor the use and enforce the noise ordinance.
- 5) Pleasanton Masonic Center is willing to have all "live" music held in the lodge room only. Only pre-recorded music will be allowed in the dining room and only with the French Patio doors closed.
- 6) Pleasanton Masonic Center will furnish window shading on the French Patio doors during evening hours to minimize any impact on neighbors.
- 7) Pleasanton Masonic Center will install a double row of Italian Cypress trees along the common fence line with the neighbor in question to screen line of sight with the lodge property. If accepted, Pleasanton Lodge would require a condition in the final use permit if said neighbor, or subsequent residents, complain their view is blocked for any reason by these trees.
- 8) Pleasanton Masonic Center will take decibel readings hourly at the fence line during any and all events held in the dining room. Readings will be kept in a signed log available for review by the City.
- 9) Pleasanton Masonic Center will rent to non-profit organizations or organizations that do not charge admission at the door. Examples include but are not limited to seminars, enrichment

))
classes, health fairs/screenings, voting stations, birthday/wedding receptions, religious celebrations.

- 10) Pleasanton Masonic Center will limit the size of events it holds to not exceed maximum posted occupancy limits in the building.
- 11) Pleasanton Masonic Center will maintain a public website that lists calendared events for the local neighborhood to view.
- 12) Pleasanton Masonic Center will continue to meet with, and coordinate any and all functions with St. Clare's Episcopal Church.

*PMC requests a city ruling on a base line decibel reading due ambient noise from street traffic on Hopyard Road, and noise generated from the Pleasanton Sports Park activities across Hopyard Road from the Pleasanton Masonic Center. As department staff have witnessed, ambient noise from Hopyard Road during low traffic hours is near, or exceeding, the stated decibel limits.

The Pleasanton Masonic Center understands that the fire code has been changed since the time of the building's construction. Furthermore, we understand that the existing French patio doors located on the North side of the Pleasanton Masonic Center (PMC) conform to existing fire codes as an emergency exit from the dining hall.

We remain committed to being a good neighbor to St. Clare's Episcopal Church as well as the surrounding neighborhood and have put internal processes in place to ensure we are compliant with City regulations. Please feel free to contact me with any questions.

Sincerely,

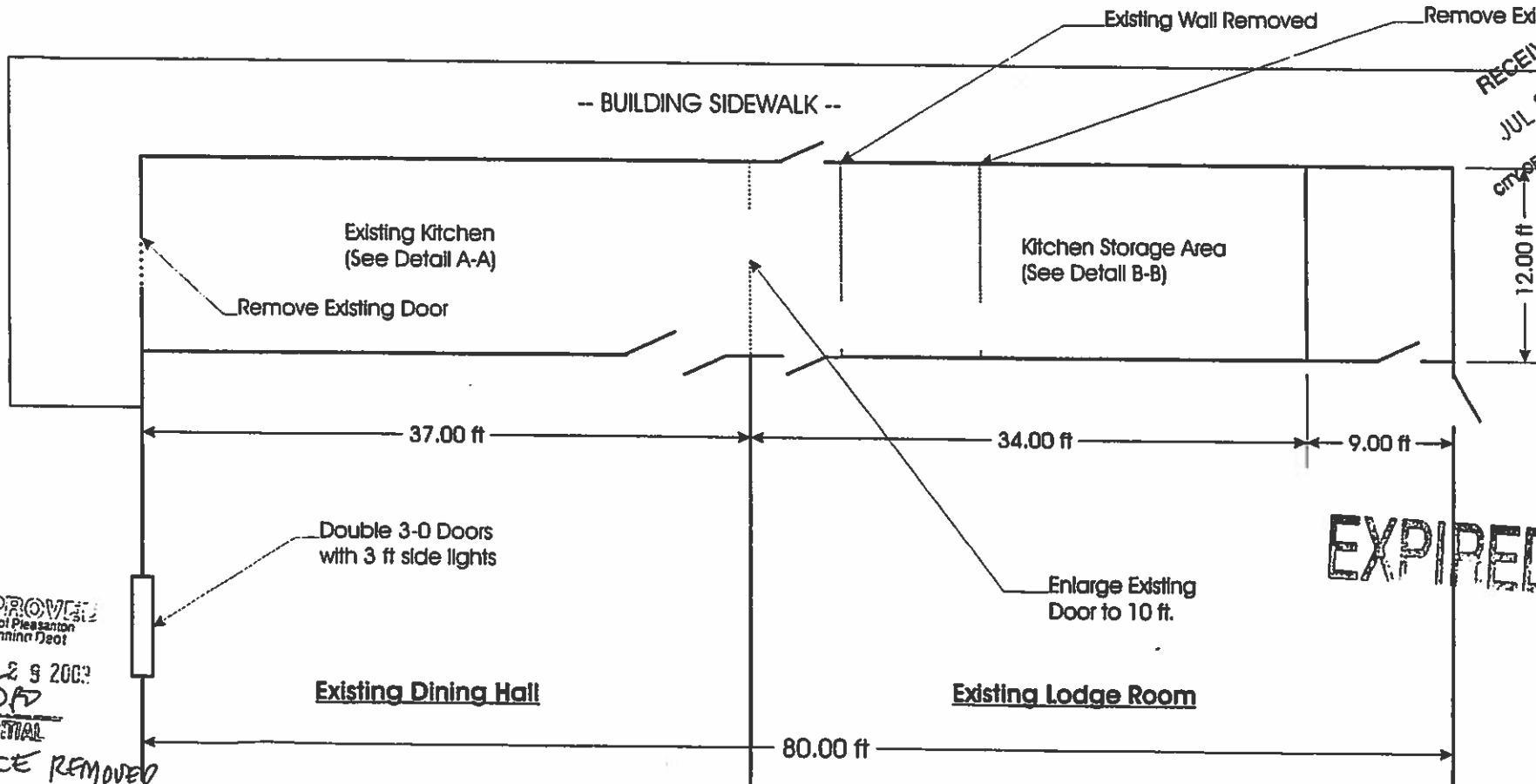


Chris Chamberlain, President
Pleasanton Masonic Center
(Formerly Alisal Masonic Temple Association)
3370 Hopyard Road
Pleasanton, CA 94588

CC: Julius Kahn III, Attorney at Law

HOPYARD ROAD

EXHIBIT G



RECEIVED
JUL 26 2004
CITY OF PLEASANTON BLDG.

EXPIRED

APPROVED
City of Pleasanton
Planning Dept

AUG 29 2003

SFD

INITIAL

REPLACE REMOVED
DOOR WITH T-1-11
SIDING PAINTED
TO MATCH EXIST.
BUILDING

Replace Dish Washer, Counters and Sinks
Remodel Existing Kitchen Storage Area
Add Exterior Door To Dining Hall
Pleasanton Masonic Center
3370 Hopyard Road
Scale: 1"=8'

COMR 200698



**MILLER STARR
REGALIA**

1331 N. California Blvd. T 925 935 9400
Fifth Floor F 925 933 4126
Walnut Creek, CA 94596 www.mslegal.com

Nadia L. Costa
nadia.costa@msrlegal.com
925 941 3235

May 23, 2013

VIA E-MAIL AND U.S. MAIL

Nelson Fialho
City Manager
City of Pleasanton
123 Main Street
Pleasanton, CA 94566

Re: Pleasanton Masonic Center, CUP No. UP-77-13

Dear Mr. Fialho:

This letter is sent on behalf of the Pleasanton Masonic Center, owner/operator of the Masonic Lodge ("Lodge") located at 3370 Hopyard Road in the City of Pleasanton ("City"). The purpose of this letter is to address the Lodge's use under the terms of its conditional use permit ("CUP") and to discuss voluntary measures to confirm the Lodge's commitment to remain a beneficial presence in the Pleasanton community.

A. Background

On September 14, 1977 the City's Planning Commission ("Commission") granted the Lodge CUP number UP-77-13 to construct and operate the Lodge by Resolution number 1562. The CUP did not place any express limitations on the manner or location of the uses to which the Lodge property would be put. However, the Commission report issued prior to the approval of the CUP noted that the Lodge would be used for events other than Lodge-specific activities (weddings, parties, etc.). That report as well as the CUP itself referred to a number of potential measures to reduce the Lodge's potential impact on nearby residential properties but did not impose any particular condition beyond standard nuisance and noise standards as set forth in the City's Municipal Code.¹ Since it was issued in 1977, the Lodge has never sought to expand or alter the terms of the CUP.²

¹ As noted by the Commission in a subsequent staff report dated March 25, 2009, the CUP permitted the Lodge to operate "without significant restrictions or limitations."

² Pursuant to requests made in 2000 and 2005, the Lodge was permitted to allow catering services to operate out of its commercial kitchen.

The Lodge was built and operated pursuant to the terms of the CUP without any major dispute for more than thirty years. However, in February of 2008, the Lodge's neighbors to the north, Michael and Darlene Miller ("Millers"), initiated a complaint with the City to the effect that the Lodge was being operated in a manner inconsistent with the CUP and the Municipal Code. In 2009, the matter was initially brought before the Commission, but no action by the Commission was ultimately taken.

Much of the Millers' complaint appears to relate to the use of the Lodge in its patio and yard area, including light and noise purportedly stemming from non-Lodge events held on the property. There have been a number of assertions that the CUP prohibits or limits such usage. However, it is clear from the terms of the CUP itself that no such limitations actually exist.³

Over the past several years, the Lodge and City staff have spent significant amounts of time, energy and funds in attempting to reach an amicable resolution. These efforts have included multiple meetings with the Millers, which resulted in several proposals from the Lodge, all of which the Millers rejected.⁴ While it is unfortunate that the Millers will not work with the Lodge and City to resolve the underlying issue, the Lodge is willing to comply with the measures set forth below as further evidence of its good faith desire to coexist peacefully with its neighbors.

B. Proposed Remedial Measures

The Lodge will voluntarily implement the following protocols to avoid any future problems with the usage of its property under the terms of the CUP.⁵

³ The Millers have specifically complained about the existence of a door in the north side of the Lodge building leading out to the adjoining patio area. However, as the Commission has itself noted, that door cannot be eliminated as it is required for emergency exit purposes.

⁴ As reflected in an email dated December 31, 2012, the Millers continue to mischaracterize the Lodge's efforts and stymie attempts at reaching a mutually agreeable solution to the dispute.

⁵ The Lodge is willing to abide by these measures in order to resolve the Millers' complaints with respect to its operations. Insofar as the Millers do not accept the Lodge's good faith efforts, it expressly reserves all of its rights under the terms of the CUP as well as its right to cease implementation of any or all of the remedial measures set forth herein.

1. Specific Restrictions Relating to Rental of Lodge's Patio/Outdoor Area for Non-Masonic Events

a. Weekdays (Mon-Fri) during the months of March through October

* The Lodge will be able to rent the facilities for outside, non-Masonic events, so long as such events are held during business hours only (9 a.m. to 5 p.m.); provided, however, the lodge will be able to extend the timing for the following weekday events to 8 p.m., as follows:

i. City-sponsored events (public awareness/service-oriented) – anticipated to happen one to two times per year.

ii. Chamber of Commerce mixer -- anticipated to happen one time per year.

iii. Church-related events (e.g., memorial service) -- anticipated to happen one to three times per year.

b. Weekends (Sat-Sun) during the months of March through May: The Lodge will be able to rent the facilities for outside, non-Masonic events for a total of two (2) weekends during this time frame. No weekend events will commence before 9 a.m.

c. Weekends (Sat-Sun) during the months of June through August: The Lodge will be able to rent the facilities for outside, non-Masonic events for a total of four (4) weekends during this time frame. No weekend events will commence before 9 a.m.

d. Weekends (Sat-Sun) during the months of September and October: The Lodge will be permitted to rent the facilities for outside, non-Masonic events for a total of two (2) weekends during this time frame. No weekend events will commence before 9 a.m.

e. The Lodge agrees that it will not rent its facilities for outside, non-Masonic events during the months of November through February.

f. All outside, non-Masonic events will also be required to adhere to the conditions set forth in #3-12 below.

2. The Lodge will be able to use its facilities (both indoors and outdoors) for Masonic events and for indoor, non-Masonic events on a year-round basis, subject to adherence to the conditions set forth in #3-12 below. No such events will

commence before 9:00 a.m. on any weekends (Sat./Sun), and will not extend beyond 9:00 p.m.

3. Event sound at the Lodge during operating hours will conform to the then-applicable provisions of the City of Pleasanton's Noise Ordinance. All proposed applications to the Lodge for use of its facilities will be subject to review and approval by the Lodge's President of the Board for the purpose of confirming compliance with all applicable standards.
4. No amplified music will be allowed on the patio at any time.
5. The Lodge will ensure that a minimum of two staff (which number could expand depending on size/needs of specific function) will be available on-site to monitor the function and enforce compliance with applicable noise standards.
6. All "live" music will take place within the Lodge's facilities, and will not occur on the patio. Only pre-recorded music will be allowed in the Lodge's dining room and only with the French patio doors closed.
7. The Lodge will furnish appropriate window shades on the French patio doors, which will be drawn during the evening hours to help reduce the emission of light/glare on adjacent neighbors.
8. The Lodge will take decibel readings hourly at the fence line during all organized functions held within the Lodge's facilities. Readings will be maintained in a reasonable fashion in a signed log, which will be available for review upon request by the City.
9. The Lodge will limit the rental of its facilities for non-Lodge functions to those individuals and organizations that are non-profit in nature and/or otherwise will not charge admission at the door. Examples include, without limitation, the following: seminars, enrichment classes, health fairs/screenings, voting stations, birthday/wedding receptions, and religious celebrations.
10. The Lodge will limit the size of its organized functions to ensure they adhere to maximum posted occupancy limits of the building.
11. The Lodge will maintain a website available to the public that lists its calendared events.
12. The Lodge will continue to meet with and coordinate (as feasible) events with St. Clare's Episcopal Church.
13. The Lodge will permanently disable the exterior light over the french doors to minimize light spillage.

14. The Lodge will re-direct the exterior lights near Hopyard to minimize light spillage.

15. The Lodge would be willing to cooperate with the Millers to repair the "good neighbor" fence shared by the property owners.

C. Conclusion

In conclusion, the Lodge continues to desire to work collaboratively with City staff to resolve any potential issues relating to noise or other aspects of the use of its property. As has been demonstrated by the record, the Lodge is fully in compliance with the terms of the CUP. It is nevertheless willing to abide by the voluntary measures set forth in this letter in order to avoid future problems. The Lodge fully reserves its right to revisit these measures, however, should the Millers continue to attack the Lodge's operations. At this point, unless the City indicates otherwise, the Lodge will take steps to implement the measures set forth above and will consider the matter closed.

Thank you for your attention to this matter. The Lodge wishes to continue its presence in the City as a good neighbor and citizen, and appreciates the dialogue that has afforded it the opportunity to discuss the issues raised. Please do not hesitate to contact me should you have any questions or concerns.

Very truly yours,

MILLER STARR REGALIA



Nadia L. Costa

NLC:mch/klw

cc: Jonathan Lowell, City Attorney
Chris Chamberlain
Mike Salazar

THE CITY OF



PLEASANTON.

May 30, 2013

Nadia L. Costa
Miller Starr Regalia
1331 N. California Blvd.
Fifth Floor
Walnut Creek, CA 94602

Re: Pleasanton Masonic Center, CUP No. UP-77-13

Dear Ms. Costa:

Thank you for your letter of May 23, 2013. I appreciate the Lodge's efforts to be a good neighbor and Pleasanton citizen. I think the voluntary measures your client is instituting will help to assuage many of the concerns raised by Mr. and Mrs. Miller. Your letter has been filed with the Community Development Department. I hope that in the coming months the Lodge and the Millers will peaceably co-exist as the Lodge institutes its voluntary measures.

Best regards,

Nelson Fialho
City Manager

c: Brian Dolan, Director of Community Development
Jonathan Lowell, City Attorney

P. O. Box 520, Pleasanton, CA 94566-0802

City Manager
(925) 931-5002
Fax: 931-5482

City Attorney
(925) 931-5015
Fax: 931-5482

1

Economic Development
200 Old Bernal Avenue
(925) 931-5038
Fax: 931-5476

123 Main Street

City Clerk
(925) 931-5027
Fax: 931-5492

Walter Wickboldt

From: Darlene Miller ·
Sent: Tuesday, November 12, 2013 11:10 AM
To: Walter Wickboldt
Cc:
Subject: RE: Complaint Form for Code Enforcement for Noise at Masonic Lodge

Hello Walter,

As you can see below, Mike and Darlene Miller are filing a Complaint Form for Code Enforcement due to the Masons having a party in the backyard. Below are the details. Please let me know if you have any comments or questions.

City of Pleasanton Code Enforcement Complaint Information Form

Location of Complaint: Pleasanton Masonic Lodge, 3370 Hopyard Road, Pleasanton, CA 94588

Complaint: On Saturday, November 9, 2013, the Masonic Lodge held a birthday party in the backyard of the lodge. There were approximately 25 children playing in the backyard area. The Millers measured the screams of the children at 4:00 PM at 79 dba at the fence line. This exceeds the noise code of 70 dba, 25 feet from the source, which is the building—as we discussed previously. The Millers called the police; however the police did not come. When followed up on, the police dispatcher said the officer did not understand that the screaming kids were associated with the Masons, but rather with the location of Hopyard and South Valley Trails so the officer closed the call when he did not see any children in the street. The Millers also went to the lodge. The only Mason on the premises was a wife of a Mason who was working in an office in the front of the building. She did not have a noise meter, and she was not monitoring the noise level of the party. When the Millers complained, she called Kevin Keen. Kevin Keen is the current President of the lodge who replaced Chris Chamberlain. The Millers requested that there be no activity in the backyard per the CUP, Conditional Use Permit, and that the back doors be closed. By the time the Millers and Kevin Keen finished their conversation, the party ended.

Name of complainant: Mike and Darlene Miller

HM phone:

Address: █████ Bryce Canyon Court, Pleasanton, CA, 94588

WK phone:

Contact requested: yes

Date of complaint: November 9, 2013

Time: 4 PM

Click [here](#) to report this email as spam.

THE CITY OF



PLEASANTON.

November 26, 2013

Mike & Darlene Miller
5903 Bryce Canyon Ct.
Pleasanton, CA 94588

Kevin Keen
C/O Pleasanton Masonic Lodge
3370 Hopyard Road
Pleasanton, CA 94588

Dear Mr. & Mrs. Miller and Mr. Keen,

This letter is to respond to the Miller's complaint received by the City on November 12, 2013 regarding the outdoor use of the backyard area of the Pleasanton Masonic Lodge on Sunday, November 10, 2013 about 4 pm. The complaint alleged the outdoor space was being used for a children's birthday party and that the noise created by the children's voices violated the City's noise ordinance since the Miller's measured the children's screams at 79 dba. The complaint also alleged a violation of the Conditional Use Permit in so far as the outdoor space was being used for an event.

I spoke to Kevin Keen, the current Lodge President, who contends the indoor lodge space was being used that day by a group of women to do quilting, and that it was their children who had gone outside to play. No part of the lodge was rented and there were no organized outdoor activities. He further stated that children playing outside on a Sunday afternoon is not an unexpected or unusual activity in a residential zoning district.

Pleasanton Municipal Code section 9.04.030 limits noise created by "machine, animal, device, or any combination of the same, on residential property" to a level not to exceed 60 dba outside the property line. Section 9.04.070 exempts higher levels of these noises during certain hours if that same noise does not exceed 70 dba when measured at a distance of 25 feet from the source. The code specifically prohibits noise created by "machine, animal, device, or any combination of the same" but does not set any limit on non-amplified human voice noise. As such, children's voices measured in excess of 70 dba does not violate the noise ordinance.

The Conditional Use Permit (CUP) issued to the Lodge in 1977 does not contain any conditions which prohibit the use of the outdoor areas of the lodge property. In 2013, the Lodge proposed voluntary measures designed to limit the impacts on neighbors due to events at the lodge. This proposal included item #1e, to not using the patio area for rented events during the months of November through February. According to Mr. Keen, the lodge was not rented for this activity, as many of the families involved on November 10th, are Lodge families.

COMMUNITY DEVELOPMENT

P. O. BOX 520, Pleasanton, CA 94566-0802

Planning
200 Old Bernal Ave.
(925) 931-5600
Fax: 931-5483

Building & Safety
200 Old Bernal Ave.
(925) 931-5300
Fax: 931-5478

Engineering
200 Old Bernal Ave.
(925) 931-5650
Fax: 931-5479

Traffic
200 Old Bernal Ave.
(925) 931-5650
Fax: 931-5479

Inspection
157 Main Street
(925) 931-5680
Fax: 931-5484

THE CITY OF



PLEASANTON.

The proposed measures also included item #5, to have a minimum of two staff on-site to monitor functions and enforce compliance with applicable noise standards, and item #8, to take decibel readings hourly, at the property line, during all organized functions held within the lodge's facilities. It appears that neither of these two procedures were followed. A copy of the Lodge Proposal letter is attached for your reference.

Since no violations of City codes were established, no enforcement action will be taken at this time. This letter however, will be kept on file for future reference.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Wickboldt", written over a horizontal line.

Walter Wickboldt
Senior Code Enforcement Officer

Attachment: May 23, 2013 letter from Nadia L. costa to Nelson Fialho

COMMUNITY DEVELOPMENT

P. O. BOX 520, Pleasanton, CA 94566-0802

Planning
200 Old Bernal Ave.
(925) 931-5600
FAX: 931-5483

Building & Safety
200 Old Bernal Ave.
(925) 931-5300
Fax: 931-5478

Engineering
200 Old Bernal Ave.
(925) 931-5650
Fax: 931-5479

Traffic
200 Old Bernal Ave.
(925) 931-5650
Fax: 931-5479

Inspection
157 Main Street
(925) 931-5680
Fax: 931-5484



Valley Trails Homeowners Association

Valley Trails Homeowners Association (VTHOA)
P.O. Box 143
Pleasanton, Ca 94566

Mr. Nelson Fialho, City Manager
City of Pleasanton
Pleasanton City Hall
123 Main Street
Pleasanton, CA 94566

September 14, 2014

RE: PROTECT PLEASANTON'S RESIDENTIAL NEIGHBORHOODS

Dear Mr. Fialho:

Ms. Darlene Miller presented to our VTHOA meeting on September 14th and explained to us the current situation at the Masonic Lodge building located at 3370 Hopyard Road. Attached are both the Millers' letter and their Attorney's letter.

Our members are very concerned about the intrusion of commercial activities into residential area in the guise of "accessory uses." The City needs to protect, not destroy, the peace and tranquility of our residential neighborhoods.

The VTHOA agrees with the Millers that these commercial activities, and the associated noise nuisance, should not be occurring in a residential neighborhood. The VTHOA also agrees that the Planning Department's justification of the commercial activities via the "accessory use" provision in the zoning code is not appropriate.

The VTHOA agrees with the Millers requests as included in their attached letter.

If you could find time to meet me and the Millers on this issue, I would certainly appreciate it

Most Sincerely,

VTHOA Board

Save Pleasanton's Neighborhoods

Although you may like going to parties, you probably never expected your neighbor on the other side of your backyard fence to morph into a commercial party business and financially profit by renting their backyard for large public parties (up to 600 people, including serving alcohol), while creating a noise nuisance for you—and that the City would condone it.

Think living next to Chuck E. Cheese during the day and your local bar at night.

But you say, "This isn't possible in Pleasanton where the City protects residential neighborhoods."

Yet, that is exactly what is happening in Pleasanton—the City is allowing two commercial businesses to operate at the Pleasanton Masonic Lodge, located in the Valley Trails neighborhood, and is allowing these businesses and the Masons to violate the Masons' conditional use permit and conduct loud public events outside the building.

Pleasanton has traditionally prided itself on being pro-resident, but the current Planning Department is undermining that position. The City is destroying the peace in residential neighborhoods to benefit commercial businesses. Unlike prior planners and commissioners, this Planning Department is allowing a building in a residential neighborhood to be used beyond anything that should be allowed in a residential neighborhood, including both loud outdoor public parties (up to 600 people including serving alcohol), and a catering company. The Planning Dept. is overriding zoning codes and allowing these violations by calling them an "accessory use" (AKA a minor use) despite the commercial uses being the major use and despite case law precedent. Who knows how the current Planning Departments' position will impact Pleasanton in the future, including allowing commercial businesses to mushroom into residential neighborhoods—what could churches and schools start operating to supplement their income—a furniture store, a car repair shop? Of course, large parties and commercial businesses have their place—but it shouldn't be in residential areas. In fact, commercial businesses are never supposed to be allowed in residential areas.

Furthermore, you will see that there are much bigger issues here impacting every citizen of Pleasanton:

- First, this dispute has exposed a big exclusion in the noise codes—which is human voices. This was discovered when the Millers submitted a code enforcement to complain about the noise (voices of screaming children) from a Masonic party. Walter Wickboldt, Code Enforcement Officer, denied the Millers' complaint stating:
"The code specifically prohibits noise created by 'machine, animal, device, or any combination of the same' but does not set any limit on non-amplified human voice noise. As such, children's voices measured in excess of 70 dba does not violate the noise ordinance. ...Since no violations of City codes were established, no enforcement action will be taken at this time."

If you are as shocked as we are about this, please read our sound engineer's statement in an attached document, including the following quote:

"However, in Wilson Ihrig's 48 years of operation in the San Francisco Bay Area, we have never heard of a city taking the position that non-amplified, human voices are exempt from noise ordinance limits. ... In our opinion, the City's skewed interpretation is technically unsupportable, and in our experience it is out of step with the noise ordinance interpretation of other cities in the Bay Area."

- Second, this dispute has exposed the position of the current Planning Department—which is the exact opposite of the Planning Commission in 1977 as well as past planners in prior years, who were pro-neighbor. That is, these prior commissioners and planners protected the peace in residential neighborhoods, cared about the lives of Pleasanton's residents, and built Pleasanton into the great community it has been and was intended to be. The current Planning Department seems to think that the peace and tranquility of the people who live in Pleasanton is not important.

I think you can see from the above two issues that the current Planning Department's position is not consistent with being pro-neighbor.

After dealing with this for 8 years, the Millers are now fighting this on two fronts.

- **First, we are taking our fight to the people of Pleasanton—because we feel they have a right to know the change in position of this Planning Department versus prior Planning Departments. We have created a website—www.SavePleasantonNeighborhoods.com, we have presented to the Valley Trails Homeowners Association—who has written a letter to Nelson Fiahlo (available upon request), we have created flyers and are handing them out at candidate meetings, and we making realtor associations aware since residential property values are being hurt. In the future, we are contemplating posting on Pleasanton's internet groups.**
- **Second, we are making the Planning Commissioners and City Council members aware of this issue, and if needed, we will file a law suit against the City. The Millers believe that they have an excellent case given that there is a similar case law precedent in Los Angeles with another Masonic lodge in which the Court decided that commercial activities in a residential zone do not constitute an allowable (accessory) use and ordered the Masons to cease and desist commercial activities. (Honestly, we don't understand why the case law in Los Angeles has not put an end to this—see attached letter from attorney Stu Flashman, in which this is discussed.)**

1. The Problem

Pleasanton has long recognized that while fraternal organizations, such as the Masons, are beneficial, permitting them to locate facilities in residential areas, could result in damaging impacts on residents from noise nuisances if not regulated properly.

How do the Masons create a noise nuisance? Some lodges like to supplement their income by renting their building to the public for parties, e.g., wedding receptions, children's birthday parties, etc.

This is why most lodges are located in commercial, not residential neighborhoods. Those few lodges located in residential areas either do not rent the building, or rent the building but not the outside.

Furthermore, the rare lodges located in residential areas need to be regulated since they are not a normal neighbor in that normal residents do not hold parties with the frequency motivated by a profit-driven commercial enterprise, nor with the quantity of people—the capacity of the lodge is 600.

Because of this, the 1977 City Commissioners, in recognizing that they were permitting the extremely rare act of allowing a Masonic Lodge in a residential area, put specific regulations (called conditions which are stipulated in a CUP—Conditional Use Permit) on the Pleasanton Masons to ensure that use of the facility did not create a noise nuisance to the neighbors.

Specifically, the conditions stated that: (1) the building was designed without any doors facing the neighbors (except a solid emergency door), (2) all noise had to be contained within the building, (3) activities had to be focused on the opposite side of the building away from the neighbors, and (4) the backyard area had to be used as a "buffer" to shield the neighbors against noise nuisances.

This created a win-win for everyone—the Masons could rent the inside of their building for events to the public, yet not create a noise nuisance to the neighbors.

(Please note, in 1977, when St. Clair's church sold part of their property to the Masons, two problems were created: (1) a small property parcel only meant for one building would now have two buildings, and (2) the Masonic building would be shoe-horned onto the property around the existing church. Therefore, the new Masonic building would be located closer to the neighbors than preferred—as stated by the 1977 Planning Commission report.)

See Attachment #1 for a summary of the conditions/regulations the 1977 City Commissioners created to eliminate the noise nuisance.

2. Violation of codes

The Millers coexisted peacefully with the Masons until, between 2004 to 2006, the City allowed the Masons to remodel and:

- #1: Break through the back wall of the banquet room, and install glass French doors to access the backyard area. This turned the backyard from a non-usable weed area, which acted as a buffer zone to shield the residences from noise as required in the 1977 CUP, into an outdoor entertaining area, by adding landscaping, a patio, and portable tents/tables for both public parties and Masonic events.

This “opened the door”, literally, to the severe noise nuisance of outdoor commercial events, and “Party Central” was born.

This morphed a sedate, private meeting place, where all noise was contained inside the building, to “Party Central”, including serving alcohol for a capacity of 600 people.

#2: Lease their kitchen out to a commercial catering company, A Tasteful Affair, which operates at all hours of the night also creating a noise nuisance.

See **Attachment #1**, **Attachment #2** and **the attached letter from the Millers’ attorney** for a summary of how these new uses for the lodge not only violated the 1977 conditions/regulations enforced on the Masons by the City, but also violated the City’s General Plan, and zoning codes, including public notice, which violated the due process rights of residents.

3. The Masons are a commercial business

Also, the Pleasanton Masonic Center, which is associated with the tax ID that manages the revenues of the catering company and party rentals, lost its tax exempt status, its non-profit corporate status, and its Pleasanton business license as an exempt-non-profit, and therefore is a for-profit company managing the revenues from the catering company and banquet facility, also in violation of zoning codes, which prohibits commercial businesses in a residential zone. Furthermore, the Masons have not reported to the public or IRS the revenues from the catering company and banquet facility for 4 of the past 8 years to demonstrate the public benefit of these monies as required by non-profits.

See **Attachment #3** for a summary of the Mason’s nonprofit status and tax returns from www.Guidestar.org—the website where the IRS posts tax returns for nonprofits.

4. How is the City allowing this?

The Planning Department is overriding zoning codes and justifying these violations by calling these activities an “accessory use.” Most of us would understand an accessory use to be a minor use associated with the main activity. The Planning Department’s interpretation, however, allows the tail to wag the dog, with the commercial activities creating the major use—both revenues and hours of use of the building from commercial activities far outweigh those of Masonic activities. Furthermore, the City is ignoring case law precedent in Los Angeles with another Masonic lodge in which the Court decided that commercial activities in a residential zone do not constitute an allowable (accessory) use and ordered the Masons to cease and desist commercial activities.

See **Attachment #4** for a summary of how the City is applying the accessory use provision incorrectly and the Los Angeles case law precedent—also discussed in the attached letter from Stu Flashman, the Millers’ attorney.

5. The City’s Mistakes

Furthermore, the City made mistakes in granting the Masons' building permit and the use variance for the catering company.

Instead of enforcing clearly defined codes, is the City justifying its mistakes via the accessory use provision?

See Attachment #5 for a summary of the City's mistakes.

6. Current Status

In 2014, the Millers indirectly become aware of a letter sent by the Masons to the City. The letter from the Mason's stated: (1) that Masons are not violating the CUP, and (2) that the Masons would rent the backyard area according to a schedule that the Masons proposed.

Mr. Fialhos' response to the Masons did not correct the Masons that they were not in compliance with the CUP or the zoning ordinances but rather stated, "I appreciate the Lodge's efforts to be a good neighbor and Pleasanton citizen."

Because of the pressure that the Millers are enforcing, the Masons' parties were reduced to several parties. However, the Millers: (1) live in constant fear that the parties may start again, and (2) the Millers must disclose noisy neighbors on realtor forms, which would include the letter from Mr. Fialho agreeing that the Masons are in compliance—therefore, the Millers' property value has been damaged by the City.

7. Additional Attachments

Attachment #6 for details of the Millers requests.

Attachment #7 for summary testimony of City officials who disagree with the Planning Staff.

Attachment #8 for additional background from 2006 to Present.

Attachment #9 for incorrect rebuttals the City has made to the Millers.

Attachment #10 for mistakes the Masons made.

Attachment #11 for rebuttal letter an acoustical consultant wrote regarding the noise codes (attached to email).

Attachment #12 for a letter sent from the Millers' attorney, Stu Flashman, to City Attorney, Jonathan Lowell, who is not returning Mr. Flashman's phone calls (attached to email).

8. In summary, we hope that you will agree to:

- Tell the City to protect the peace and tranquility of our residential neighborhoods by enforcing clearly stated conditional use permits, the zoning ordinances, and the general plan.
- Tell the City that they have set a dangerous precedent that could allow commercial enterprises to mushroom into residential areas.
- Tell the City how absurd it is to think that it is appropriate to allow a for-profit business, with a capacity of 600, located in a residential area to hold loud outside public parties, including serving alcohol.
- Tell the City that while Masonic lodges are beneficial, permitting them to locate in residential neighborhoods results in damaging impacts on residents if proper regulation is not enforced.
- Tell the City to protect Pleasanton's residential neighborhoods from organizations that come into residential neighborhoods under the premise of allowable organizations like a private club/lodge or fraternal organization and morph into commercial businesses.
- Tell the City to enforce the Mason's conditional use permit and building design requirements.
- Tell the City to enforce the Millers' requests as detailed in Attachment #6.

Attachments are listed below.

Attachment #1—Violations of 1977 Regulations (Also see attached letter from Attorney Stu Flashman)

• Conditional Use Permit (CUP)

- Condition #1: "...the guiding standards for the development of the site shall be that... the buildings be designed so that activities will be focused toward the southern portion of the subject property."
 - **VIOLATION #1:** Since the Millers house and the Masons backyard area are both on the north side, activities in the backyard area violate condition #1.
- Condition #20: "That the applicant provide an effective buffer between the development and the single family residential area surrounding the property." Planner Donna Decker, in an email to the Millers, defined the "buffer" as the backyard area.
 - **VIOLATION #2:** The Masons' use of the backyard area violates the required "buffer."
- Catering company: the catering company has no conditions in the Masons' CUP
 - **VIOLATION #3:** The catering company has no CUP to operate in the Masons' kitchen.
 - **VIOLATION #4:** The catering co., which is completely unrelated to the Masons, should not have use of the backyard for their own catering events—as advertised on their web site—which creates additional traffic and an additional noise nuisance.

• Staff Report

- The 1977 Staff Report showed the Planning Commission's intent to "minimize any noise generated from within [the structure]"
 - **VIOLATION #5:** Having parties in the backyard, directly across from the Millers fence line violates the intent of the staff report to "minimize any noise generated from within [the structure]."

• Design Review

- The 1977 Design Review Board states, "The entrance to the building would be on the south side. There would be no windows in the other three elevations and the only other opening would be to emergency exits (one on the east side and the other on the north side). Because the building would be used for Lodge rituals, windows are not desired. Placing the entrance on the south side of the building concentrates outdoor activities as far as possible from the bordering residences. This is in conformance with the requirements of the conditional use permit approval."
 - **VIOLATION #6:** The 1977 Design Review Board clearly restricted "openings" or doors/windows on the side of the building facing the neighbors, and clearly understood that converting the backyard area into an outdoor entertainment area violated the design review. BUT MORE IMPORTANTLY that restricting building "openings" (AKA doors/windows) on the north side is consistent with "the requirements of the conditional use permit." Therefore, it is clear that the design review and CUP do not allow activities in the buffer space between the Masons building and the neighboring residences.
- The Masonic building required a design review by the Planning Department when it was originally built in 1977; therefore, a design review by the City is required before any renovations.
 - **VIOLATION #7:** The City and the Masons violated the City's process that required design review and approval before changing the function of the building.

Attachment #2—Violations of Current Codes

(Also see attached letter from Attorney Stu Flashman)

• General Plan

The Masonic Lodge property is designated in the general plan as “public and institutional.”

- **VIOLATION #8:** Commercial businesses such as catering companies or private commercial banquet facilities are not “public and institutional” which Mr. Dolan, in a 2011 letter states as, “a school, a church, and other similar uses.” (Note: furthermore, since the Pleasanton Masonic Center is now a for-profit company, see Violation #12 below, it is not “public and institutional.”)
- **VIOLATION #9:** Mr. Dolan states in a letter to the EV Free Church, “California state law clearly directs the City to defer to the General Plan designation when there is a conflict between the general plan designation and the zoning of the property.” That is, the General Plan has priority.

• Zoning Codes

The Masonic Lodge property is designated as RM-2500, which is Multi-family Residential. “Private noncommercial clubs and lodges” (such as the Masons) are allowed in RM-2500 zoned area because of zoning code 18.36.040—See Table 1 below.

TABLE 1: Zoning code 18.36.040 lists the conditional uses in RM Multi-family Residential districts as:

A. Charitable institutions	E. Lodging houses	I. Private schools	M. Accessory structures
B. Churches	F. Motels (only in RM-1,500)	J. <i>Private noncommercial clubs and lodges</i>	N. Home occupations
C. Golf courses	G. Nursery schools	K. Public utilities	O. Day care facilities
D. Hospitals	H. Private recreation parks and swim clubs	L. Trailer parks	P. Small bed & breakfasts

- **VIOLATION #10:** Catering companies are only allowed in commercial districts CR, CN, CC, and CS. Catering companies are not allowed in RM-2500 (see Table 1 above).
- **VIOLATION #11:** The City violated case precedent—twice, in both 2000 and 2005, the Masons requested a use variance for a catering co. and were turned down by City Planners.
- **VIOLATION #12:** The Pleasanton Masonic Center has lost its tax exempt status, its non-profit corporate status, and its Pleasanton business license as an exempt-non-profit and therefore is now a for-profit company managing the revenues from the catering company and banquet facility. Therefore, it is no longer “noncommercial” as required by the codes.
- **VIOLATION #13:** Commercial banquet facilities are not allowed in RM-2500.

• Public Notice

The planning commission must hold a public hearing for applications and variances to use permits.

- **VIOLATION #14:** The Planning Department, without any public notice or hearing, granted the Mason's request for both the catering company and the building improvements, twice violating the due process rights of the citizens of Pleasanton.

Attachment #3—The Mason's nonprofit status and tax returns from www.Guidestar.org

		Pleasanton Masonic Center (PMC)	Pleasanton Lodge #321
Type of Organization		The holding company for the association	The association for the Masonic members
Tax ID		Tax ID 94-2673219	Tax ID 23-7158536
IRS Status	Original Designation	501(c) 2 Corporation (this is a <u>tax exempt</u> holding company)	501(c) 10 Association (this is a <u>tax exempt</u> fraternal beneficial society)
	Current Status	REVOKED (as of 2010)	<u>Active</u>
Secretary of State Corporate Designation	Original Designation	<u>Non-profit corporation</u>	<u>Non-incorporated association</u>
	Current Status	SUSPENDED (date not provided)	<u>Active</u>
Pleasanton business license	Original Designation	<u>Exempt-Non-Profit Organization</u>	<u>Exempt-Non-Profit Organization</u>
	Current Status	INACTIVE (as of 2011)	<u>Active</u>
Who owns the lodge building?		Owns title to the building at 3370 Hopyard Rd	Does not own any real estate
Who receives the rental income from the catering company and the banquet room?		Receives revenues from renting: (1) the commercial kitchen full time to the catering company (2) the banquet room on-demand to the public for events	Receives revenues from member dues only

As you can see from above, the tax exempt status with the IRS is revoked, the non-profit status with the Secretary of State is suspended, and the Pleasanton business license is inactive.

	2012	2011	2010	2009	2008	2007	2006	2005	Average
Revenues from member dues on tax returns of Pleasanton Lodge #321	\$27,402	\$24,545	\$25,221	\$37,041	\$30,557	\$9,021	NA	NA	\$25,631
Revenues from: (1) catering company, & (2) building rental for public parties on tax returns of Pleasanton Masonic Center	Revoked	Revoked	Revoked	\$75,096	No Filing	NA	\$89,593	\$91,113	\$85,267

As you can see from above, the revenues, from renting the building to the catering company and to the public for parties, is 2 to 4 times the revenues from the member dues. This clearly indicates that commercial activity is the main use of the building, generating most of the revenue, and that non-profit Masonic activity is a minor use.

- (1) The above numbers were derived from the Mason's tax returns posted on Guidestar.org by the IRS as legally required for non-profits.
- (2) NA is Not Available.

Attachment #4— The City’s justification of the code violations via “accessory use” is not valid

The City is overriding zoning codes with Accessory Use Provision 18.08.595, which states:

- “Accessory use’ means a use which is appropriate, subordinate, and customarily incidental to the main use of the site and which is located on the same site as the main use.”
- That is, the “accessory use” provision allows exceptions qualified by “appropriate, subordinate and customarily incidental.”

The “accessory use” provision is invalid because:

Case law conflicts with the City’s decision

- A. There is case law in Los Angeles with another Masonic lodge in which the court decided that commercial activities in a residential zone do not constitute an allowable (i.e., accessory) use and ordered that the Masons cease and desist commercial activities.

“Appropriate, subordinate & customarily incidental” conflicts with the City’s use

- B. A catering company and banquet facility are not an “appropriate” use for a Masonic Lodge whose primary function is non-profit meetings for members only. That is, how do loud parties with alcohol support the Masons’ primary function of holding meetings to impart moral teachings to its members? (See the Masons’ website.) Furthermore, the Los Angeles court, as detailed above in “A.”, upheld that the mere fact that the funds collected might eventually help support an allowable use did not convert the commercial use of the property from a nonconforming use into an allowable use.
- C. A catering company and banquet facility is not a “subordinate” (of lesser importance) and “customarily incidental” (not a major part of something) use for a Masonic Lodge when the revenues and hours of use for the catering company and banquet facility far outweigh that of the Masonic use. Commercial revenues are 2 to 4 times the revenues from member dues (estimated from tax returns--see Attachment 3), and commercial hours of use are 96% of total hours versus 4% for member meetings (estimated by the Millers--see the next page). That is, the catering company and banquet facility are the major use of the lodge, which has overtaken the use of the lodge for member meetings. (Should we change the name from the Masonic Lodge to the Masonic Catering Company and Banquet Facility?)

No one is safe—this has wide-reaching implications for residents

- D. The interpretation of ‘accessory use’ used by the City would allow a church to open a furniture store and a school to open a car repair shop.
- E. If the City’s interpretation of accessory use holds, no Pleasanton resident is safe who lives near a church, school, private lodge, etc. This has wide reaching implications for the residents of Pleasanton.
- F. But more importantly, this issue has exposed the philosophy of the current Planning Department, which is the exact opposite of the Planning Commission in 1977 as well as past planners in prior years—who were pro-neighbor. Today it is the Millers’ fight with the Masonic lodge, but tomorrow who knows how the current Planning Department’s philosophy will impact citizens of Pleasanton.
- G. And finally, Mr. Dolan’s own words, in a 2011 letter to the EV Free Church, would instruct the City to not apply the accessory use code in a way that conflicts with the General Plan.

Hours of use (Estimated by the Millers)

An estimated 96% of the Masonic building is used for commercial purposes for both the catering company and public parties versus only 4% for member meetings.

Hours of use of the lodge for non-Masonic events

- **Hours of use by catering company**

The catering company appears to use the building full time 40 hours plus per week for probably 4 to 6 employee. (Note: these are estimates by the Millers.)

- **Hours of use for public events**

The rental agents (two part-time employees whose job it is to rent the commercial banquet facility) use the building probably 10 hours per week. (Note: these are estimates by the Millers.)

On average, the Masons hold approximately 26 rental events per year (as told to the Millers by the Masons) which are estimated to use the building on average 2 hours per week.

- **Total hours**

The total of the above two uses for the catering company and the building rental for public events totals an estimated 52 hours per week for commercial uses.

Hours of use of the lodge for Masonic members

- The total estimated Masonic use for member meetings is approximately 2 hours per week.

The Masons' use of the building for the primary function of member meetings is approximately 4%, and commercial use of the building is approximately 96%. Hence the commercial uses are not subordinate and incidental. Rather, they are the primary use of the building.

Attachment #5—The City's mistakes

1. In 2004, the City incorrectly approved a building permit, without design review. This allowed the Masons to break through the back wall of the banquet room to add glass French doors and access the backyard. But more importantly, this allowed the Masons to make the building changes without any public notice or hearing, that is, without public scrutiny.
 - a. This action violated the due process rights of residents, denying the Millers and other residents in Pleasanton the opportunity to comment on the significant use change.
2. In 2005, the City incorrectly approved, without public notice or hearing, a commercial catering company to reside in the building.
 - a. In fact, the only documentation granting the Masons a catering company is a letter sent by Planner Jenny Soo without the normal use variance form, that is, Application for Zoning Approval.
 - b. This action violated the due process rights of residents, denying the Millers and other residents in Pleasanton the opportunity to comment on the significant use change.
3. Why were two major changes made at the Masonic Lodge without any public notice or scrutiny?
 - a. The City clearly understands the need for public notice as demonstrated by events with the Evangelical Free Church.
 - b. The Evangelical Free Church
 - i. On October 4, 2011, Planning Director Brian Dolan sent a letter to David Vesperman, who was soliciting development proposals for the vacant property at 6900 Valley Trails Drive, Pleasanton, in the Valley Trails neighborhood, on behalf of the Evangelical Free Church of Pleasanton. In the letter, Brian states,
 - ii. "I want to clarify for you and any potential buyers, the City's position on future development for the site. The General Plan Land use designation for the site is 'Public and Institutional,' which would allow the development of a school, a church, and other similar uses. Development of any other different uses would require extensive public dialogue with the neighborhood and consideration of a General Plan amendment by the Planning Commission and City Council. While we recognize that the current zoning is R-1-6,500 (One-Family Residential) District, California state law clearly directs the City to defer to the General Plan designation when there is a conflict between the general plan designation and the zoning of the property."
 - iii. Both the Masonic lodge and the above referenced church are designated "Public and Institutional."
 - iv. Yet the City granted the Masons' request for a catering company:
 1. Without any public dialogue
 2. Without a General Plan Amendment
 - v. Mr. Dolan is applying one set of rules to the Evangelical Free Church and another to the Masonic Lodge. How is this justified?

Attachment #6—The Millers' Requests

(See PowerPoint Presentation for additional details)

A. Enforce the 1977 CUP, Staff Report and Design Review

- The 1977 CUP, Staff Report and Design Review are to be enforced by the City so that: (1) "all" noise is contained within the building, (2) events are focused on the south side—the opposite side of the building away from the neighbors, and (3) no activity occurs in the buffer (the backyard area) on the north and west sides so that a shield is created against noise nuisances.

B. Replace the glass French doors with STC rated doors

- The 1977 design review also stipulated that the building be designed with no openings [doors] facing the neighbors. When the Masons broke through the wall and added glass French doors, the new doors were not STC (sound transmission class) rated, and hence the Millers can now hear, in their home, the music being played in the banquet room. Therefore, these doors need to be replaced with solid doors or STC rated doors. Another possibility that Millers may consider is, if these doors are not replaced, then music (live or recorded) needs to be restricted to the lodge room and not the banquet room.

C. Create a conditional use permit for the catering company

- The only documentation granting the Masons a catering company is a letter sent by City Planner Jenny Soo instead of a conditional use permit. The catering company also is a noise nuisance because it operates at all hours of the night. The Millers hear loud clanging, voices, music being played by workers, etc.
- A conditional use permit needs to be created so that conditions can be created for the use of the catering company, e.g., the back door must remain closed during operational hours to keep all noise within the building, the catering company cannot violate the buffer and create a noise, light or odor nuisance, etc. outside the building

D. As good neighbors, the Millers are willing to allow the catering company and commercial banquet facility to operate if the above stipulations are implemented.

- The Millers do not object to commercial activity as long as "all" noise and activity is kept within the building, as stated in the original 1977 staff report.
- The Millers feel that they are being good neighbors by acting with the same intent as the 1977 Planning Commission in trying to find a solution for everyone. Even though a catering company and a commercial banquet facility are not allowed in residential areas, the Millers' peace and tranquility of their home was preserved under the original 1977 conditions until 2006 when the 1977 conditions were violated. Please keep in mind that the Masons have had the privilege of renting the banquet room (excluding the outdoor area) since their inception in 1977. If the original 1977 stipulations are not implemented, then the Millers are requesting that the catering company be removed and the banquet facility cease operations to stop the noise nuisance.

Attachment #7—Summary of testimony from City officials who disagree with the current Planning Staff's opinion

A. Prior City planners in 2000 and 2005:

- Two decisions by prior City Planners in 2000 and 2005 denied the Masons their request to operate a catering company on the lodge premises.

B. Prior City planner in 2009

- Brian Dolan and Nelson Fialho are refusing to recognize the buffer as the backyard area even though Planner Donna Decker, in an email to the Millers, defined the "buffer" as the backyard area.

C. Prior case law:

- Brian Dolan and Nelson Fialho are refusing to recognize case law precedent in Los Angeles with another Masonic lodge in which the court decided that commercial activities in a residential zone do not constitute an allowable (i.e., accessory) use and ordered that the Masons cease and desist commercial activities.

D. Prior Planning Commission in 1977

- Brian Dolan and Nelson Fialho contradict the intent of the 1977 Planning Commission. The 1977 staff report states, "While lodge meetings are normally staid affairs which do not generate much commotion, lodge buildings are commonly rented for non-lodge affairs such as wedding receptions and parties which can be nuisance creating. Physical separation of such facilities from residences therefore would normally be desirable. While it might be preferable to have the lodge building farther south on the property, it would be possible to design the structure so as to minimize any noise generated from within. This could be done by prohibiting openings on the north or west sides of the structure, and therefore, activity would be focused away from the northern residences."

E. Prior Planning Commissioner in 2009:

- Brian Dolan and Nelson Fialho contradict prior Planning Commissioner, Anne Fox, who stated in an email to the Millers, "I don't understand why the Planning Department keeps bringing un-permitted work to the Planning Commission, asking for retroactive changes to the original conditional use permit, to in effect allow activities not permitted by zoning or unpermitted building or building or use not in conformance with the conditional use permit to be 'grandfathered in.' "

F. Brian Dolan

- Even Brian Dolan stated in a letter to the EV Free Church, "California state law clearly directs the City to defer to the General Plan designation when there is a conflict between the general plan designation and the zoning of the property." So why is he ignoring the General Plan designation of public and institutional with respect to the Masons?

Attachment #8—Additional Background from 2006 to Present

- Between 2006 and 2009:
 - The Millers, as did others, made numerous complaints about the noise generated at the Masonic building (including 1 gun shot in 2008, and a non-permitted “Naughty or Nice” teen party).
 - The Millers begin meeting with City planners, including Brian Dolan and Donna Decker, about these issues.
- March 25, 2009, a public hearing is held:
 - The City proposed 7 new conditions.
 - Condition #2 proposed by the City stated:
 - “The Pleasanton Mason Lodge shall consult an acoustic professional to explore mitigations to alleviate noise level. The acoustic professional shall be one that is on the City’s consultant with. The consultant’s report shall include mitigations and recommendations, if the anticipated noise levels are found to exceed the Noise Ordinance and the General Plan standards. The report shall be provided to the Planning Division within 90 days from the date of the approval. ... No non-lodge functions shall be held until mitigations in the acoustic study have been implemented to the satisfaction of the Director of Community Development.”
- On May 13, 2009, the Millers were notified by Mr. Dolan that the Masons refuse to comply with the condition to hire a noise consultant.
 - Note: The Millers’ attorney, Mr. Flashman, stated that there were consequences to the Mason’s actions to not do the noise study. Because the Masons did not comply with the conditions from the 2009 hearing, the original 1977 CUP is in effect, which the City should enforce.
- In 2010, the Pleasanton Masonic Center lost both its tax exempt status and its non-profit corporate status, and therefore became a for-profit company managing the revenues from the catering company and its own banquet facility. That is, it was no longer a non-profit as required by zoning codes.
- Between 2010 and 2013:
 - The City refuses to enforce the codes and instead requests mediation between the Millers and Masons.
 - The Millers hire an attorney specializing in land use and hire a second attorney specializing in tax law for non-profits.
 - The mediation resulted in conditions that the Masons sent to the Millers which the Millers rejected because they allowed activity in the buffer, creating a severe noise nuisance.
- 2014
 - The Millers indirectly become aware of a letter sent by the Masons to the City.
 - The letter from the Mason’s stated:
 - The lodge is fully in compliance with the terms of the CUP (Note: This statement is false as demonstrated in this document.)
 - The outside area will be rented for public events.
 - Mr. Fialhos’ response did not correct the Masons that they were not in compliance with the CUP or the zoning ordinances but rather abdicated the City’s responsibility to enforce its own codes.
 - The Millers are now considering a law suit against the City if the City does not enforce the CUP and require that the buffer on the north side not be violated.

Attachment #9—Incorrect rebuttals from the City

The City has communicated the following rebuttals to the Millers, which are incorrect.

- A hearing could be held

First, the City will tell you that a hearing could be held and new conditions set. Yet we have consistently reminded the City that a hearing was held on March 25, 2009—see **Attachment #8**. In that hearing, the City proposed 7 new conditions. Condition #2 requested the Masons to consult with “an acoustic professional” (AKA a sound engineer). The Masons refused to comply with this condition. The Millers attorney, Mr. Flashman, stated that there were consequences to the Masons’ actions to not do the noise study—because the Masons did not comply with the conditions from the 2009 hearing, the original 1977 CUP is in effect, which the City should enforce.

- The City has granted similar uses to churches

Second, the City has contended that other churches have been granted similar accessory uses to the Masons; however, the City has not identified any specific examples. The Millers reviewed some CUPs of churches in Pleasanton. Although hard to find, one church’s CUP stated that the church was to be used for “members only,” which is very different than what the Masons were granted—and actually, this is what the Millers would prefer for the Masonic lodge. If the City has granted accessory use conditions to similar entities such as the Masons, the Millers would like to know of these—especially to contact the surrounding neighbors to create a united effort. And, if these other entities exist, is the City comparing apples to apples? That is, are similar circumstances being compared? Remember, the Masons’ parties butt up to the Millers’ fence—that is, there is no buffer. Do these other entities, if they exist, have loud noisy parties on the other side of a resident’s fence without a buffer?

- The noise codes

The problem with Pleasanton’s noise codes is that they do not include human voices. Yes—this is true! If you, like us, are shocked by this, please read on. The Millers asked for a code enforcement with the City against the Masons for a party that exceeded the noise dba levels—but for voices only, that is, no music. Walter Wickboldt responded, “The code specifically prohibits noise created by ‘machine, animal, device, or any combination of the same’ but does not set any limit on non-amplified human voice noise. As such, children’s voices measured in excess of 70 dba does not violate the noise ordinance. ...Since no violations of City codes were established, no enforcement action will be taken at this time.” Therefore, the City has allowed a business to be next to a residence with no protection from the deafening roar of multitudes of people talking/laughing, and kids screaming—which makes the Millers’ backyard unusable and even filters inside their house, making peaceful living impossible. This is unthinkable.

Furthermore, just like the accessory use provision, the City is trying to use the noise codes to override violations of zoning codes. That is, meeting the noise codes do not allow the Masons to violate zoning codes and use permits.

Attachment #10—Mistakes the Masons made

- The Masons should have known that their building required design review, and that the 1977 approved design prohibited breaking through the back wall to add French doors and turning the backyard into an outdoor entrainment area.
- The Masons should have known that their conditional use permit prohibited events on the south side and violating the buffer on the north or west sides.
- The Masons should not have neglected their duties as a nonprofit entity by not reporting the revenues for the catering company and banquet facility to the IRS and Secretary of State in 4 of the past 8 years. Who benefited from these monies? How did the Masons demonstrate the public benefit of these monies since the General Plan is designated as Public & Institutional?
- The Masons should not have let their tax exempt status with the IRS, non-profit status with the Secretary of State, and business license with the City of Pleasanton all become revoked, suspended, or inactive, respectively.
- The Masons should have known that the revenues from both the catering company and banquet facility are being managed by a for-profit/commercial company, and commercial companies are NOT ALLOWED IN RESIDENTIAL NEIGHBORHOODS.
 - This is because the rental revenues from the catering company and banquet facility are reported on the tax returns for the Pleasanton Masonic Center (the holding company) and not the Pleasanton Lodge #321 (the association/fraternity), and the Pleasanton Masonic Center lost its tax exempt status with the IRS, and non-profit status with the Secretary of State, and therefore is now a for-profit company managing said revenues.
- The Masons should have known that becoming a commercial operation in addition to being a private club violates the General Plan designation of Public and Institutional.
- The Masons should have followed their own moral code documented on their web site: "Freemasonry holds dear the fundamental principles ... tolerance, peace and harmony, civil obedience and responsibility, brotherly love, family responsibility, and charity." The Masons have not been a "good neighbor" as one would expect from their moral code.
- The Masons should have been aware of case law precedent in Los Angeles with another Masonic lodge in which the Court decided that commercial activities in a residential zone do not constitute an allowable (accessory) use and ordered the Masons to cease and desist commercial activities.

Attachment #11—Rebuttal letter an acoustical consultant wrote regarding the noise codes

- *Attached to email*

Attachment #12—Letter sent from the Millers' attorney, Stu Flashman, to City Attorney, Jonathan Lowell

- *Attached to email*

Available upon request:

1. **2014 Letter Valley Trails Homeowners Association wrote the City**
2. **2014 Letter from W. Wickboldt, Code Enforcement Officer, regarding noise codes**
3. **The Masons' 1977 Staff Report, CUP, and Design Review**
4. **2000 and 2005 letters from planners denying the Masons a catering company**
5. **2014 Letter the Masons wrote the City**
6. **2014 Letter the City wrote the Masons**
7. **2011 Letter Brian Dolan wrote to the Evangelical church**
8. **2005 to 2012 tax return statement for the Masons**
9. **2009 Planning Commission Staff Report from 2009 hearing**
10. **2005 Letter from Planner Jenny Soo granting catering activities**

Law Offices of
Stuart M. Flashman
5626 Ocean View Drive
Oakland, CA 94618-1533
(510) 652-5373 (voice & FAX)
e-mail: stu@stufash.com

December 31, 2012

Mr. Jonathan Lowell, City Attorney
City of Pleasanton
Pleasanton City Hall
123 Main Street
Pleasanton, CA 94566

RE: Use Permit for Pleasanton Masonic Lodge (3370 Hopyard Road).

Dear Mr. Lowell:

I am writing on behalf of my clients, Michael and Darlene Miller, to bring to your attention violations of the City of Pleasanton's zoning ordinance and improper and illegal activities taking place under the conditional use permit issued by the City to the Pleasanton Masonic Lodge (#321). The lodge's site, like my client's home, is zoned residential. Consequently, commercial uses are generally prohibited with limited exceptions. The uses currently occurring on the property containing the Masonic lodge facilities do not fall within these exceptions. The illegal and improperly authorized uses at that site are creating a continuing nuisance for my clients, for which they hold the City at least partly responsible. Their (and my) attempts to address this through the City's planning department and City Manager have been unavailing. I am writing to you in the hopes of getting the situation addressed without having to take legal action against the Masons and the City.

As you may be aware, my clients have had a problem with continuing noise disturbances and light pollution emanating from the property where the lodge facilities are located, dating back to 2006. The problems relate primarily to two commercial business activities that began that year: a separately-owned catering business doing business as "A Tasteful Affair" and a commercial banquet and party facility, which is apparently being run by the lodge itself.

In June of 2000 and February 2005, the Masons submitted informal requests to the City for "use variances" to conduct catering and banquet hall rental businesses on the site¹. Those requests were denied. Later, in November 2005, the Masons submitted another letter repeating those requests. (Copy attached.) This time, the planning department, without any public notice or hearing, granted the requests.

In their letter, the Masons represented that these businesses were just expansions of the existing food preparation for Mason-related functions and building use for Masonic functions. They further represented that the building rentals would amount to one or at most two weekend nights per month, plus one catered luncheon per week. The letter made no mention of using the backyard of the lodge building, which fronts directly on my clients' back yard, as part of the banquet hall rental business. The uses have since expanded far beyond what the Masons requested in 2005.

After doing a considerable amount of investigation, my clients have recently discovered that the representations made in the Masons' 2005 letter were neither true nor accurate. As it turns out, the catering business, "A Tasteful Affair," is not the

¹ In 1993, 2000, and 2002, the Masons submitted much more limited requests to allow catering services for internal Masonic events. Those requests were granted. (See below. under accessory use.)

Masons' "in-house caterer," but a separate business with its own paid staff. Further, neither the catering business nor the banquet and party facility business can properly be considered an incidental use related to the Mason's primary fraternal organization activities. Because of these misrepresentations to the City, because the uses are not allowable uses under the zoning ordinance, and because the City failed to follow proper procedures in approving the businesses, and in doing so violated my clients' due process rights, my clients request that the City issue a cease and desist order against the Masons continuing the illegal businesses at this site. If the Masons want to use this residentially-zoned site, they must comply with the zoning ordinance's requirements. If they wish to conduct a commercial operation, they should do so on an appropriately-zoned site.

The "Use Variance" for the Catering Business was Improper.

In seeking a "use variance" for the catering business, the Masons made several misrepresentations. Just in themselves, these misrepresentations justify revoking any approval that may have been granted. Beyond that, the improper procedures used and the changed circumstances since the approval require the City to revoke the improperly granted permission for these businesses to operate in a residential zone.

The first misrepresentation was that the catering business was associated with the Masons themselves. This was and is untrue. The catering business rents out the building used by the Masons. However, it is not an "in-house" business. It is an independent business entity with its own business license. Further, it is not even directly associated with the Masons themselves. Instead, it leases its space from the owner of the lot and building, which is not the Masons but a separate, although totally controlled, holding company, Pleasanton Masonic Center. As reported on both the Masons' and the holding company's tax returns, the Masons themselves rent the building from the holding company. Contrary to the representations in their 2005 letter, the Masons do not even appear to receive the revenue from the catering business. The Masons' Form 990 Federal tax returns for the past few years show no revenue from the catering business. Instead, that revenue shows up as rental income on the holding company's 2005, 2006, and 2009 tax returns. (The holding company did not file tax returns for 2007, 2008, 2010, or 2011.)

The second misrepresentation is that the catering business amounts to an incidental activity of the Masons, and therefore qualifies to operate under the Mason's conditional use permit. The Masons are currently qualified as a 501(c)(10) tax-exempt fraternal beneficial society, although they are actually not incorporated. However, the catering business is associated not with the Masons, but with the holding company. The holding company was incorporated as a tax-exempt 501(c)(2) holding company, but it lost its tax-exempt status in 2010 and at this point its status as a qualified nonprofit corporation has been suspended by the State of California. Having lost both its tax exemption and its status as a nonprofit corporation, the holding company should not be involved in operating businesses in a residentially-zoned area².

Additionally, the "use variance" for these businesses was improperly granted by the City. The Masons hold a properly-granted use permit, dating back to 1977. That use permit, when issued, had attached to it required findings, including that the use, "will not be detrimental to the public health, safety or welfare, or materially injurious to the properties or improvements in the vicinity."³ (PMC §18.124.070(B).) The municipal

² Indeed, as a 501(c)(2) property holding company, the Pleasanton Masonic Center should not be involved in any active use of the property.

³ It should be noted that the staff report for the 1977 use permit application explicitly noted the risk of impacts on adjoining properties and placed conditions on the use permit requiring activities to be

code does allow the zoning administrator to approve, "minor revisions or modifications" to an existing conditional use permit so long as they would not affect the required findings. (PMC §18.124.120.) In this case, however, because the modifications involved a significant expansion of business uses in a residential area and outdoor activities directly adjacent to adjoining residences, the findings for the existing use permit were inadequate to cover those changes. Instead, the Mason's letter should have been considered as an application for either a use permit modification or a variance and processed pursuant to the City's normal public hearing and notice requirements. (PMC §§ 18.124.040; 18.132.060; 18.12.040.) Because the authorization for the commercial uses under the Mason's CUP was improperly granted, it is void. (PMC §18.12.010.) For all these reasons, the businesses are not appropriately covered by the Mason's use permit.

The Commercial Activities do not Qualify as Accessory Uses.

Finally, even if the catering business and the banquet facilities rental business were being run by the Masons themselves (and there is no evidence from the Mason's tax returns that they receive revenue from the banquet facility rental business either), they do not qualify as "accessory uses" entitled to operate under the Masons' use permit. An accessory use is defined in the zoning ordinance as follows, "Accessory use means a use which is appropriate, subordinate and customarily incidental to the main use of the site and which is located on the same site as the main use. (PMC §18.08.595 [emphasis added].) As noted earlier, the Masons had previously applied for and been granted amendments to their use permit to allow food preparation and catering services for on-site Masonic events. Those amendments were at least arguably appropriate, considering the food service as an accessory use to the Mason's primary use of the facility for Masonic events. The more recent 2005 informal amendment to the use permit, however, presents a very different situation.

According to the tax returns filed by the Masons and the holding company, the revenue from the catering business and the commercial banquet facility is between twice and four times the revenue the Masons derive from their own members' dues. In terms of use of the facilities, according to my clients, the Masons appear to have lodge meetings twice a month and one weekly "degree practice". The total time involved averages roughly two hours per week. By comparison, the catering business appears to run practically full-time (40 hours per week, and involving an estimated 4-6 employees). The banquet facilities rental business appears to involve two part-time employees working roughly ten hours per week, and rents out the building for approximately two hours per week. Thus the Masons apparently use the facility roughly two hours a week, the catering business, 40 hours per week, and the banquet facilities rental business, twelve hours per week. In other words, the Masons' use of the facilities amounts to about 2/54, or approximately four percent of the total facilities use. One must question whether the commercial uses, at 96% of total use, are appropriate or subordinate for a fraternal organization. By the same token, one must question whether, both in terms of income and use of facilities, the commercial activities are "customarily incidental" to the Masons' use of the site as a fraternal organization.

There is California case law that is relevant to this question. The case is *Scottish Rite Cathedral Assn. of Los Angeles v. City of Los Angeles* (2007) 156 Cal.App.4th 108. There, as here, a Masonic group sought, and was granted, permission to conduct its

restricted to the south side of the building, with no building openings on its north side. In addition the Planning Commission added a condition requiring an effective buffer between the development and the single family residential area surrounding the property, specifically to safeguard the residences from the facility. The changes to the building and its uses violate these conditions and their intent.

Mr. Jonathan Lowell, City Attorney
12/31/2012
Page 4

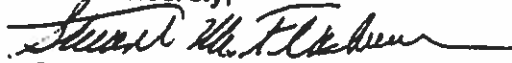
fraternal business next to a sensitive residential area; a situation that would not have been allowed for a commercial enterprise.

There, as here, the Masons, once established, began conducting uses, namely concerts, parties, and other non-Masonic events, that were not part of their primary function but were essentially a commercial enterprise, even though the profits from that enterprise were presumably intended to help fund the continuation of the primary Masonic function. Also, like here, the Masons passed on the conduct of those commercial functions to another related entity. However, the court held that the mere fact that the funds collected might eventually help support an allowable use did not convert the commercial use of the property from a nonconforming use into an allowable use.

Similarly here, the commercial uses undertaken on the property where the Masons hold a use permit remain nonconforming commercial uses, regardless of whether the profits generated by those uses might eventually help fund the Masons' activities.

As I indicated earlier, my clients feel that they have been very patient with the City and the Masons. They have repeatedly sat down and attempted to negotiate a compromise that would conform to the original use permit and an appropriately subordinate, incidental, and non-impactful role for any non-Masonic functions at the site. Those efforts have been unavailing. My clients and I would like to meet with you at your earliest convenience to discuss the speedy resolution of the current unacceptable situation.

Most sincerely,



Stuart M. Flashman

cc: City Manager (via e-mail)
Planning Director (via e-mail)

Pleasanton Masonic Center

3370 Hopyard Road
Pleasanton, CA 94588

TEL: (925) 462-8424

November 8, 2005

City of Pleasanton
Planning and Community Development
200 Old Bernal Avenue
Pleasanton, CA 94566-0802
Attn: Ms. Jenny Soo

Re: Pleasanton Masonic Center Use-Variance

Dear Jenny:

The following details the proposed change in operation of the Pleasanton Masonic Center located at 3370 Hopyard Road:

Objective: To expand present catering and rental activities which are predominantly for use by the Masons Lodge and other masonic bodies to include outside catering and facility rental which would also include preparation and serving of meals.

Present Actions:

- 1) Presently a Business License is in place allowing for food to be prepared at the facility only for consumption by masonic organizations. No off-site selling of food, no signage or advertising.
- 2) Parking is shared with Saint Clare's Church and as such all activities are coordinated with the church to ensure that there is no parking overflow issues. Parties meet each Tuesday to review calendars and update where appropriate. No masonic functions are scheduled during peak church services, i.e Christmas and Easter.
- 3) The Pleasanton Masonic Center has built a commercial kitchen which is regularly inspected by the Alameda Board of Health. Funds were raised by borrowing from members. total expenditure was in excess of \$200,000.00.
- 4) The masonic lodge is a fraternal organization performing community service, i.e The Shrine Hospitals. All non catering staff are non paid volunteers. All money generated from rental and catering activities is used for reducing debt as well as future facility improvements, i.e landscaping etc.


Future Actions:

- 1) Secure a use-variance for the Pleasanton Masonic Center which would allow our in-house caterer, A Tasteful Affair to secure a business license allowing for the preparation and distribution of food both at the facility as well as off-site to local businesses in the Pleasanton area.
- 2) Secure a use-variance for the Pleasanton Masonic Center to allow for increased rental activities at the Center which would be coordinated with Saint Clare's Church. It is anticipated that rentals would be one weekend night per month with the potential of doubling within six months. In addition it is anticipated that there would be one catered luncheon per week at the facility. This is in addition to normal masonic activities that have been part of the facility operation for twenty years.
- 3) There would be no signage at the facility with anticipated advertising to continue as presently done with the Chamber of Commerce, Tr-Valley Convention Bureau and Yellow Pages.
- 4) As has been standard practice there are no rental activities that go on at the facility without our volunteer Building Manager present to ensure there are no problems.

Jenny, it is hoped we can move forward with this program as soon as possible. I am available to meet with you or any other departmental personnel to discuss in more detail as required. As always we will continue to be good neighbors in the area.

I can be reached @ [REDACTED] or on my cell phone @ [REDACTED]. I look forward to hearing from you in the near future.

Sincerely,


Fred Schwartz
Board President

THE CITY OF



PLEASANTON.

November 18, 2005

Fred Schwartz
Board President
Pleasanton Masonic Center
3370 Hopyard Road
Pleasanton, CA 94588

Dear Mr. Schwartz,

This letter is in response to your inquiry concerning a desire the Mason's to allow catering activities within the Masonic Center.

The Pleasanton Masonic Center, Alisal Lodge No. 321, was approved by the Planning Commission on September 14, 1977 (UP-77-13). As stated in the staff report prepared for the Planning Commission at that time, in addition to the regular lodge meetings, the lodge building is commonly rented for non-lodge functions such as wedding receptions, parties, etc. As such, the lodge building is equipped with a commercial kitchen servicing various events within the building as needed. This commercial kitchen has been used by catering businesses in conjunction with on-site events. Staff does not see any conflict with the approved conditional use permit if this commercial kitchen is used by outside caterers with or without an on-site event, provided that the catering activities do not create a nuisance to the surrounding residential neighborhood and that no food is sold or consumed without an on-site event. In other words, the use of the commercial kitchen by outside caterers cannot change the lodge to an eatery without prior City approval.

In addition to ensure all activities within the lodge comply with UP-77-13, staff encourages that the Masons continue sharing a monthly calendar with St. Clare's Episcopal Church as along as the two facilities share the parking lot.

If you have any questions regarding this matter, please call me at (925) 931-5615, or via email: jsoo@ci.pleasanton.ca.us

Sincerely,

Jenny Soo
Associate Planner

P. O. Box 520, Pleasanton, CA 94566-0802

Planning & Community Development
(925) 931-5600
Fax: 931-5483

Building Inspection
(925) 931-5300
Fax: 931-5478

Utility Billing
(925) 931-5425
Fax: 931-5485

200 Old Bernal Avenue

Business license
(925) 931-5440
Fax: 931-5485

**Pleasanton Police Call Logs
January 1, 2009 --May 31, 2016**

CALLS FOR SERVICE	2009	2010	2011	2012	2013	2014	2015	2016 (through 5/31/16)	Grand Total
242 PC- BATTERY	1								1
415 PC- DISTURBANCE	2	3	2		1	4			12
459 PC- BURGLARY	2	1							3
594 PC- VANDALISM	1		1				2		4
ADVICE			1						1
ALARM	9	5	7	5					26
FIELD INTERVIEW		1							1
INCIDENT	1	2	1				1		5
PATROL CHECK	6	2							8
PED STOP	2								2
PMC VIO								1	1
SUSPICIOUS PERSON					2				2
SUSPICIOUS VEH.		1				1			2
TRAFFIC COLLISION								1	1
TRAFFIC STOP	4	1	2		2	1	1		11
Grand Total	28	16	14	5	5	6	4	2	80

Law Offices of
Stuart M. Flashman
5626 Ocean View Drive
Oakland, CA 94618-1533
(510) 652-5373 (voice & FAX)
e-mail: stu@stufash.com

December 31, 2012

Mr. Jonathan Lowell, City Attorney
City of Pleasanton
Pleasanton City Hall
123 Main Street
Pleasanton, CA 94566

RE: Use Permit for Pleasanton Masonic Lodge (3370 Hopyard Road).

Dear Mr. Lowell:

I am writing on behalf of my clients, Michael and Darlene Miller, to bring to your attention violations of the City of Pleasanton's zoning ordinance and improper and illegal activities taking place under the conditional use permit issued by the City to the Pleasanton Masonic Lodge (#321). The lodge's site, like my client's home, is zoned residential. Consequently, commercial uses are generally prohibited with limited exceptions. The uses currently occurring on the property containing the Masonic lodge facilities do not fall within these exceptions. The illegal and improperly authorized uses at that site are creating a continuing nuisance for my clients, for which they hold the City at least partly responsible. Their (and my) attempts to address this through the City's planning department and City Manager have been unavailing. I am writing to you in the hopes of getting the situation addressed without having to take legal action against the Masons and the City.

As you may be aware, my clients have had a problem with continuing noise disturbances and light pollution emanating from the property where the lodge facilities are located, dating back to 2006. The problems relate primarily to two commercial business activities that began that year: a separately-owned catering business doing business as "A Tasteful Affair" and a commercial banquet and party facility, which is apparently being run by the lodge itself.

In June of 2000 and February 2005, the Masons submitted informal requests to the City for "use variances" to conduct catering and banquet hall rental businesses on the site¹. Those requests were denied. Later, in November 2005, the Masons submitted another letter repeating those requests. (Copy attached.) This time, the planning department, without any public notice or hearing, granted the requests.

In their letter, the Masons represented that these businesses were just expansions of the existing food preparation for Mason-related functions and building use for Masonic functions. They further represented that the building rentals would amount to one or at most two weekend nights per month, plus one catered luncheon per week. The letter made no mention of using the backyard of the lodge building, which fronts directly on my clients' back yard, as part of the banquet hall rental business. The uses have since expanded far beyond what the Masons requested in 2005.

After doing a considerable amount of investigation, my clients have recently discovered that the representations made in the Masons' 2005 letter were neither true nor accurate. As it turns out, the catering business, "A Tasteful Affair," is not the

¹ In 1993, 2000, and 2002, the Masons submitted much more limited requests to allow catering services for internal Masonic events. Those requests were granted. (See below, under accessory use.)

Masons' "in-house caterer," but a separate business with its own paid staff. Further, neither the catering business nor the banquet and party facility business can properly be considered an incidental use related to the Mason's primary fraternal organization activities. Because of these misrepresentations to the City, because the uses are not allowable uses under the zoning ordinance, and because the City failed to follow proper procedures in approving the businesses, and in doing so violated my clients' due process rights, my clients request that the City issue a cease and desist order against the Masons continuing the illegal businesses at this site. If the Masons want to use this residentially-zoned site, they must comply with the zoning ordinance's requirements. If they wish to conduct a commercial operation, they should do so on an appropriately-zoned site.

The "Use Variance" for the Catering Business was Improper.

In seeking a "use variance" for the catering business, the Masons made several misrepresentations. Just in themselves, these misrepresentations justify revoking any approval that may have been granted. Beyond that, the improper procedures used and the changed circumstances since the approval require the City to revoke the improperly granted permission for these businesses to operate in a residential zone.

The first misrepresentation was that the catering business was associated with the Masons themselves. This was and is untrue. The catering business rents out the building used by the Masons. However, it is not an "in-house" business. It is an independent business entity with its own business license. Further, it is not even directly associated with the Masons themselves. Instead, it leases its space from the owner of the lot and building, which is not the Masons but a separate, although totally controlled, holding company, Pleasanton Masonic Center. As reported on both the Masons' and the holding company's tax returns, the Masons themselves rent the building from the holding company. Contrary to the representations in their 2005 letter, the Masons do not even appear to receive the revenue from the catering business. The Masons' Form 990 Federal tax returns for the past few years show no revenue from the catering business. Instead, that revenue shows up as rental income on the holding company's 2005, 2006, and 2009 tax returns. (The holding company did not file tax returns for 2007, 2008, 2010, or 2011.)

The second misrepresentation is that the catering business amounts to an incidental activity of the Masons, and therefore qualifies to operate under the Mason's conditional use permit. The Masons are currently qualified as a 501(c)(10) tax-exempt fraternal beneficial society, although they are actually not incorporated. However, the catering business is associated not with the Masons, but with the holding company. The holding company was incorporated as a tax-exempt 501(c)(2) holding company, but it lost its tax-exempt status in 2010 and at this point its status as a qualified nonprofit corporation has been suspended by the State of California. Having lost both its tax exemption and its status as a nonprofit corporation, the holding company should not be involved in operating businesses in a residentially-zoned area².

Additionally, the "use variance" for these businesses was improperly granted by the City. The Masons hold a properly-granted use permit, dating back to 1977. That use permit, when issued, had attached to it required findings, including that the use, "will not be detrimental to the public health, safety or welfare, or materially injurious to the properties or improvements in the vicinity."³ (PMC §18.124.070(B).) The municipal

² Indeed, as a 501(c)(2) property holding company, the Pleasanton Masonic Center should not be involved in any active use of the property.

³ It should be noted that the staff report for the 1977 use permit application explicitly noted the risk of impacts on adjoining properties and placed conditions on the use permit requiring activities to be

code does allow the zoning administrator to approve, "minor revisions or modifications" to an existing conditional use permit so long as they would not affect the required findings. (PMC §18.124.120.) In this case, however, because the modifications involved a significant expansion of business uses in a residential area and outdoor activities directly adjacent to adjoining residences, the findings for the existing use permit were inadequate to cover those changes. Instead, the Mason's letter should have been considered as an application for either a use permit modification or a variance and processed pursuant to the City's normal public hearing and notice requirements. (PMC §§ 18.124.040; 18.132.060; 18.12.040.) Because the authorization for the commercial uses under the Mason's CUP was improperly granted, it is void. (PMC §18.12.010.) For all these reasons, the businesses are not appropriately covered by the Mason's use permit.

The Commercial Activities do not Qualify as Accessory Uses.

Finally, even if the catering business and the banquet facilities rental business were being run by the Masons themselves (and there is no evidence from the Mason's tax returns that they receive revenue from the banquet facility rental business either), they do not qualify as "accessory uses" entitled to operate under the Masons' use permit. An accessory use is defined in the zoning ordinance as follows, "Accessory use means a use which is appropriate, subordinate and customarily incidental to the main use of the site and which is located on the same site as the main use. (PMC §18.08.595 [emphasis added].) As noted earlier, the Masons had previously applied for and been granted amendments to their use permit to allow food preparation and catering services for on-site Masonic events. Those amendments were at least arguably appropriate, considering the food service as an accessory use to the Mason's primary use of the facility for Masonic events. The more recent 2005 informal amendment to the use permit, however, presents a very different situation.

According to the tax returns filed by the Masons and the holding company, the revenue from the catering business and the commercial banquet facility is between twice and four times the revenue the Masons derive from their own members' dues. In terms of use of the facilities, according to my clients, the Masons appear to have lodge meetings twice a month and one weekly "degree practice". The total time involved averages roughly two hours per week. By comparison, the catering business appears to run practically full-time (40 hours per week, and involving an estimated 4-6 employees). The banquet facilities rental business appears to involve two part-time employees working roughly ten hours per week, and rents out the building for approximately two hours per week. Thus the Masons apparently use the facility roughly two hours a week, the catering business, 40 hours per week, and the banquet facilities rental business, twelve hours per week. In other words, the Masons' use of the facilities amounts to about 2/54, or approximately four percent of the total facilities use. One must question whether the commercial uses, at 96% of total use, are appropriate or subordinate for a fraternal organization. By the same token, one must question whether, both in terms of income and use of facilities, the commercial activities are "customarily incidental" to the Masons' use of the site as a fraternal organization.

There is California case law that is relevant to this question. The case is *Scottish Rite Cathedral Assn. of Los Angeles v. City of Los Angeles* (2007) 156 Cal.App.4th 108. There, as here, a Masonic group sought, and was granted, permission to conduct its

restricted to the south side of the building, with no building openings on its north side. In addition the Planning Commission added a condition requiring an effective buffer between the development and the single family residential area surrounding the property, specifically to safeguard the residences from the facility. The changes to the building and its uses violate these conditions and their intent.

fraternal business next to a sensitive residential area; a situation that would not have been allowed for a commercial enterprise.

There, as here, the Masons, once established, began conducting uses, namely concerts, parties, and other non-Masonic events, that were not part of their primary function but were essentially a commercial enterprise, even though the profits from that enterprise were presumably intended to help fund the continuation of the primary Masonic function. Also, like here, the Masons passed on the conduct of those commercial functions to another related entity. However, the court held that the mere fact that the funds collected might eventually help support an allowable use did not convert the commercial use of the property from a nonconforming use into an allowable use.

Similarly here, the commercial uses undertaken on the property where the Masons hold a use permit remain nonconforming commercial uses, regardless of whether the profits generated by those uses might eventually help fund the Masons' activities.

As I indicated earlier, my clients feel that they have been very patient with the City and the Masons. They have repeatedly sat down and attempted to negotiate a compromise that would conform to the original use permit and an appropriately subordinate, incidental, and non-impactful role for any non-Masonic functions at the site. Those efforts have been unavailing. My clients and I would like to meet with you at your earliest convenience to discuss the speedy resolution of the current unacceptable situation.

Most sincerely,



Stuart M. Flashman

cc: City Manager (via e-mail)
Planning Director (via e-mail)

Pleasanton Masonic Center

3370 Hopyard Road
Pleasanton, CA 94588

TEL: (925) 462-8424

November 8, 2005

City of Pleasanton
Planning and Community Development
200 Old Bernal Avenue
Pleasanton, CA 94566-0802
Attn: Ms. Jenny Soo

Re: Pleasanton Masonic Center Use-Variance

Dear Jenny:

The following details the proposed change in operation of the Pleasanton Masonic Center located at 3370 Hopyard Road:

Objective: To expand present catering and rental activities which are predominantly for use by the Masons Lodge and other masonic bodies to include outside catering and facility rental which would also include preparation and serving of meals.

Present Actions:

- 1) Presently a Business License is in place allowing for food to be prepared at the facility only for consumption by masonic organizations. No off-site selling of food, no signage or advertising.
- 2) Parking is shared with Saint Clare's Church and as such all activities are coordinated with the church to ensure that there is no parking overflow issues. Parties meet each Tuesday to review calendars and update where appropriate. No masonic functions are scheduled during peak church services, i.e Christmas and Easter.
- 3) The Pleasanton Masonic Center has built a commercial kitchen which is regularly inspected by the Alameda Board of Health. Funds were raised by borrowing from members. total expenditure was in excess of \$200,000.00.
- 4) The masonic lodge is a fraternal organization performing community service, i.e The Shrine Hospitals. All non catering staff are non paid volunteers. All money generated from rental and catering activities is used for reducing debt as well as future facility improvements, i.e landscaping etc.

Future Actions:

1) Secure a use-variance for the Pleasanton Masonic Center which would allow our in-house caterer, A Tasteful Affair to secure a business license allowing for the preparation and distribution of food both at the facility as well as off-site to local businesses in the Pleasanton area.

2) Secure a use-variance for the Pleasanton Masonic Center to allow for increased rental activities at the Center which would be coordinated with Saint Clare's Church. It is anticipated that rentals would be one weekend night per month with the potential of doubling within six months. In addition it is anticipated that there would be one catered luncheon per week at the facility. This is in addition to normal masonic activities that have been part of the facility operation for twenty years.

3) There would be no signage at the facility with anticipated advertising to continue as presently done with the Chamber of Commerce, Tr-Valley Convention Bureau and Yellow Pages.

4) As has been standard practice there are no rental activities that go on at the facility without our volunteer Building Manager present to ensure there are no problems.

Jenny, it is hoped we can move forward with this program as soon as possible. I am available to meet with you or any other departmental personnel to discuss in more detail as required. As always we will continue to be good neighbors in the area.

I can be reached @ [REDACTED] or on my cell phone @ [REDACTED]. I look forward to hearing from you in the near future.

Sincerely,


Fred Schwartz
Board President



November 18, 2005

Fred Schwartz
Board President
Pleasanton Masonic Center
3370 Hopyard Road
Pleasanton, CA 94588

Dear Mr. Schwartz,

This letter is in response to your inquiry concerning a desire the Mason's to allow catering activities within the Masonic Center.

The Pleasanton Masonic Center, Alisal Lodge No. 321, was approved by the Planning Commission on September 14, 1977 (UP-77-13). As stated in the staff report prepared for the Planning Commission at that time, in addition to the regular lodge meetings, the lodge building is commonly rented for non-lodge functions such as wedding receptions, parties, etc. As such, the lodge building is equipped with a commercial kitchen servicing various events within the building as needed. This commercial kitchen has been used by catering businesses in conjunction with on-site events. Staff does not see any conflict with the approved conditional use permit if this commercial kitchen is used by outside caterers with or without an on-site event, provided that the catering activities do not create a nuisance to the surrounding residential neighborhood and that no food is sold or consumed without an on-site event. In other words, the use of the commercial kitchen by outside caterers cannot change the lodge to an eatery without prior City approval.

In addition to ensure all activities within the lodge comply with UP-77-13, staff encourages that the Masons continue sharing a monthly calendar with St. Clare's Episcopal Church as along as the two facilities share the parking lot.

If you have any questions regarding this matter, please call me at (925) 931-5615, or via email: jsoo@ci.pleasanton.ca.us

Sincerely,



Jenny Soo
Associate Planner

P. O. Box 520, Pleasanton, CA 94566-0802

200 Old Bernal Avenue

Planning & Community Development
(925) 931-5600
Fax: 931-5483

Building Inspection
925) 931-5300
Fax: 931-5478

Utility Billing
(925) 931-5425
Fax: 931-5485

Business license
(925) 931-5440
Fax: 931-5485

Law Offices of
Stuart M. Flashman
5626 Ocean View Drive
Oakland, CA 94618-1533
(510) 652-5373 (voice & FAX)
e-mail: stu@stufash.com

Delivery via email

June 15, 2016

Mr. Mark Dennis, Senior Code
Enforcement Officer
Mr. Adam Weinstein, Planning Manager/
Deputy Director of Community
Development
Mr. Gerry Beaudin, Director of
Community Development
City of Pleasanton
P.O. Box 520
Pleasanton, CA 94566-0802

RE: UP-77-13, Pleasanton Masonic Center (3370 Hopyard Road).

Dear Sirs:

I am writing on behalf of my clients, Michael and Darlene Miller, regarding the Planning Commission hearing next Wednesday, June 22nd, and the City's unwillingness to enforce the conditions on the Use Permit governing use of the above-referenced parcel. As you know, this parcel is situated in a residentially zoned area, and is directly adjacent to my clients' home. The parcel's location in a residential area is obviously central to understanding the use permit conditions.

The lodge apparently conformed to the conditions in the use permit until 2004. Since then, however, there have been systematic violations of those conditions, and of the underlying zoning.

My clients have repeatedly asked the City to enforce the use permit and the zoning, to no avail. Most recently, Mr. Mark Dennis, Pleasanton Code Enforcement Officer, wrote to my client, in a letter dated May 13, 2016, that Condition Number 1 of the Lodge's Conditional Use Permit only applied during the construction of the lodge building, and therefore had no effect on current lodge operations. Both my clients and I find this interpretation nothing short of ridiculous. Nowhere in the use permit is there any indication that this condition was for construction activities. Nor has the City ever raised this claim in all the time that my clients have been attempting to have the Use Permit enforced.¹ The City cannot simply rewrite conditions to avoid their enforcement.

1. THE MASONS CANNOT USE THEIR PROPERTY IN WAYS THAT MATERIALLY INJURE SURROUNDING NEIGHBORHOOD PROPERTIES OR RESIDENTS.

When the Lodge received its Use Permit in 1977, the governing zoning regulations were essentially the same as they now are. Under RM zoning, and specifically Municipal Code Section 18.124.070 (b), the City must make the following finding before granting a conditional use permit:

- B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be

¹ In the staff report for the cancelled January 2015 Planning Commission hearing, the City acknowledged that enforcing this condition "would not allow continued use of the patio area."

detrimental to the public health, safety or welfare, or materially injurious to the properties or improvements in the vicinity;

The conditions attached to a use permit are intended to ensure that the use will not violate this requirement by creating detrimental impacts on surrounding properties and their residents.

2. THE CONDITIONS THE PLANNING COMMISSION PLACED ON THE LODGE'S USE PERMIT WERE INTENDED TO PROTECT AGAINST THE INJURIES THE FINDINGS WERE AIMED AT PREVENTING.

The Planning Commission recognized that placing a club building had the potential to be incompatible with the neighboring residents. It was precisely for that reason that the Commission enacted Condition #1, requiring

That the building be designed so that activities will be focused towards the southern portion of the subject property [i.e., the side of the property furthest removed from adjoining residents] (Resolution No. 1562, attached hereto as Exhibit A.)

The Planning Commission was well aware that an organization like the Masons could create problems for a residential neighborhood unless there were proper controls on its activities. Knowing that the Masons sometimes hold parties and other celebrations, including outdoor activities, the obvious purpose of this condition is to minimize the impact of the Mason's use of the property, and specifically of outdoor activities associated with the use, on the adjoining residential properties and their residents. Since it talked about the design of the building, rather than its construction, it is quite obviously not a construction-related condition.

The staff report for the Planning Commission meeting where the Use Permit was approved only reinforces the intent of the condition. It indicates an intent to "minimize any noise generated from within" the building; that the building entrance would be on the south side, that there would be no windows on the other three sides² (which face residential areas) and that the only other openings would be emergency exits.

The Project's design review also confirms this interpretation of Condition Number 1, as it states, "Placing the entrance on the south side of the building concentrates outdoor activities as far as possible from the bordering residences."

Thus the Use Permit condition itself, other references in the permit, the staff report, and the design review all make it abundantly clear that the condition was intended to keep activity, including especially outdoor activity, away from the residential properties to the north of the site.

3. THE LODGE, AND THE CITY'S, SUBSEQUENT ACTIONS FLOUTED THE CONDITION THAT THE CITY HAD ENACTED.

Despite the use permit's clear Condition #1, in 2004 the City allowed the Lodge to remodel the building and install glass French doors opening onto the north side of the building, directly facing my clients' home. Predictably, this both literally and figuratively opened the door to having outdoor activities take place on the north side of the building, in direct contradiction to Condition #1 in the use permit.

Predictably, since the installation of the glass doors, the Lodge has violated Condition Number 1 on a regular basis by holding loud parties and other events in the

² The lack of windows also made sense to maintain the secrecy of Masonic rituals held in the building.

"backyard" northern portion of the property, directly adjacent to my clients' home. Indeed, they have essentially turned the northern portion of the property into an outdoor entertainment area. This has been done despite the strenuous objections of my clients, both to the Lodge and the City. These outdoor events have indeed been materially injurious to my clients, their property, and the health, safety, and welfare of the Lodge's immediate residential neighbors.

Even more alarming has been the City's continued and increasing resistance to enforcing the conditions it set on the use of the property. Not only has the City's unwillingness to enforce the Use Permit conditions caused damage to my clients; it has also set a dangerous precedent for other use permits granted for nonresidential uses in residential areas, essentially sending a message that use permit conditions can be safely ignored.

4. THE LODGE HAS VIOLATED THE SITE'S RM ZONING BY ESTABLISHING A COMMERCIAL PARTY VENUE ON THE SITE.

Not only has the Lodge itself violated Use Permit Condition Number 1; through its holding company, the Pleasanton Masonic Center, which actually owns the parcel, it has gone further by establishing blatantly commercial enterprises at the location. The Lodge is now in the business of renting out the hall, and the northern outdoor yard area, to groups and individuals with the express purpose of hosting parties on this property. Such a commercial use in a residential area is neither contemplated in the use permit; not is it allowed by the site's RM zoning.

While the site's RM zoning does allow for "space for semipublic facilities needed to complement urban residential areas ...," (PMC §18.36.010(D)), it also calls for the zoning "To protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare and other objectionable influences." (PMC §18.36.010(H)).

Under Conditional Uses, the RM district allows "Private noncommercial clubs and lodges, not including hiring halls." (PMC §18.36.040(J).) However, the only purely commercial activities allowed in the RM zone are golf course, lodging houses, private schools of some kinds, private recreational parks and swim clubs, trailer parks, family daycare and small bed & breakfast operations and inns, and home occupations. The zoning ordinance does not allow commercial party venues in the RM zone, either indoor or outdoor with or without live or recorded music.³

5. THE LODGE HAS VIOLATED THE SITE'S RM ZONING BY LEASING SPACE TO A COMMERCIAL CATERING COMPANY.

In addition to running a commercial party hosting business in a residential area, the Lodge has also rented out its commercial kitchen facilities, intended for use for internal member functions, to an outside commercial catering service. While the effects of the catering business on adjoining residences may not be as damaging as hosting a party venue, the catering business is also a type of commercial enterprise not allowed in the RM zone.⁴

³ Such uses are, instead, provided for in the City's C-C zone.

⁴ Such uses are allowed in some of the various commercial "C" zones.

6. THE CITY MAY NOT ALLOW ILLEGAL COMMERCIAL ACTIVITIES IN THE RM ZONE UNDER THE GUISE OF "ANCILLARY USES."

The City has claimed that these commercial activities are allowed in the RM zone as "ancillary activities" under the Masonic Lodge's use permit. This stretches ancillary activities far beyond what is contemplated in the zoning ordinance.

While holding Masonic functions, including parties, may be allowable under the use permit, they would still have to abide by the requirement that such functions focus towards the southern portion of the subject property and that they respect the buffer zone between the parcel and surrounding residential properties.

Likewise, the Lodge may be allowed to engage in on-site food preparation and service for its own functions, while again respecting the general requirement that uses not result in noise, illumination, odors, dirt, smoke, glare, or other objectionable influences on neighboring residential properties. However, the Lodge has very clearly stepped over the line into nonpermissible uses by renting out its facilities for purely commercial ventures

7. CALIFORNIA COURTS HAVE MADE CLEAR THAT A FRATERNAL ORGANIZATION MAY NOT STRETCH THE LAW TO ALLOW COMMERCIAL ACTIVITIES IN A RESIDENTIAL AREA

The Pleasanton Masonic Lodge is not the first fraternal organization to try to skirt zoning laws to establish a commercial venue in a residentially-zoned area. In a published California appellate decision, *Scottish Rite Cathedral Assn. of Los Angeles v. City of Los Angeles* (2007) 156 Cal.App.4th 108, a masonic group established its fraternal facilities next to a sensitive residential area. There, like here, a strictly commercial venture would have violated the zoning. However, there, like here, the Masonic facility began conducting parties, concerts, and other moneymaking events. They justified this by claiming the profits would go to fund their Masonic functions. The court rejected that argument. It held that commercial activities violated the zoning regardless of how the profits would be used. Similarly here, a commercial enterprise may not hide, like a wolf in sheep's clothing, under the auspices of a fraternal group.

8. THE CITY'S PAST MISTAKES DO NOT JUSTIFY ITS ALLOWING THE LODGE TO CONTINUE TO VIOLATE ITS USE PERMIT AND THE ZONING.

The blame for some of the current problems lies as much with the City's negligence as it does with the Lodge's overreaching. In 2004, when the City approved the Lodge's remodeling, including installation of the glass doors on the building's northern frontage, the building department acted without requesting Planning Department review and without considering the Use Permit's conditions. It may be too late to undo the approvals given to the building changes, but the use permit conditions still need to be respected, which means that while the glass doors may be able to stay, they should be redesignated for emergency exit only, and the southern entrance should return to being the only way one normally enters or exits the building.

Similarly, while the City may have improperly allowed Masonic and other functions to use the "backyard" area on the northern side of the property, future outdoor activities, especially those generating any significant amount of noise, should be restricted to the southern property frontage.

The City has also refused to enforce the City's noise ordinance (PMC Chapter 9.04) against the Lodge, claiming that the ordinance does not cover noise from human

voices, but only from mechanical sources. Yet that limitation is not evident from the ordinance itself, which states that

No person shall produce or allow to be produced by any machine, animal, device, or any combination of the same, on residential property, noise level in excess of 60 dBA at any point outside of the property plane, unless otherwise provided in this chapter." ((PMC § 9.94.030(A).)

The City's current position also runs counter to the noise ordinance's fundamental Declaration of Policy, which states that,

The citizens of the city require protection from excessive, unnecessary and unreasonable noises from any and all sources in the community. (PMC § 9.04.010 [emphasis added].)

The plain language of the noise ordinance makes it clear that it applies to all noise produced, or allowed to be produced, by human beings. That includes human voices, as well as musical instruments or mechanical devices. It should be noted, however, that if the Lodge's outdoor activities were moved to the property's northern frontage, as the Use Permit clearly intends, the need for noise ordinance enforcement would likely disappear.

9. THE LODGE'S PROBLEMS EXTEND BEYOND ITS VIOLATIONS OF THE USE PERMIT AND THE ZONING ORDINANCE.

It should be noted that the Pleasanton Masonic Center, the holding company for the property and the actual legal owner for both the land and the building, appears to have failed to file its required tax forms for a number of years and has had both its federal tax-exempt status and its state corporate status suspended. Having lost its nonprofit corporate status, the Lodge must now be considered a commercial business, which is not allowed in a residential zone. In addition, the Pleasanton Masonic Center operates its commercial activities without a Pleasanton business license. This gives it an unfair advantage over law-abiding Pleasanton commercial businesses..

CONCLUSION

As the staff report for a past Planning Commission hearing on these issues, which has been continued multiple times, noted, my clients have attempted to resolve their disputes with the Masonic Lodge on multiple occasions, including my involvement as a facilitator and the City's involvement as a mediator. Those attempts have unfortunately failed, as the Masonic Lodge has steadfastly refused to acknowledge the limitations on its activities that the sites zoning and use permit require.

My clients ask for nothing more than the protections that the City's zoning ordinance and the use permit granted by the City to the Masonic Lodge were intended to provide. All my clients request is that the City enforce its own laws. Anything less would be an unconstitutional denial of my client's right of equal protection under the law.

Most sincerely,


Stuart M. Flashman

cc: City Manager (via e-mail)
J. Soo, Associate Planner (via e-mail)
Planning Director (via e-mail)

The Millers’ Response to the January 28, 2015 Planning Commission Staff Report

Quick Review

Unlike prior planners and commissioners, this Planning Department is allowing a building in a residential neighborhood to be used beyond anything that should be allowed in a residential neighborhood, including both loud outdoor public parties (up to 600 people including serving alcohol), and a catering company. In 1977, when the Masons requested to build a Masonic Temple on land inside a residentially zoned area and immediately next to residential homes, the City was rightly concerned about the impact of noise on the residences. The City therefore required the Masons to contain “any” noise within the building. This requirement is now being violated. Furthermore, the City required the Masons to not hold any activities in the outdoor area next to residences. This “buffer” zone is the land on the north and west sides of the building. Since 2006, this buffer has been violated by the Masons, creating a severe noise nuisance for the Millers. Additionally, from the 1977 CUP and design review, the Masons building was to only have doors and windows on the south side of the building, away from residents, except for emergency exits. This condition is also being violated. And finally, currently the Pleasanton Masonic Center and *A Tasteful Affair*, both of which are for-profit commercial businesses, are operating in the building, conducting illegal commercial activities, and violating not only the 1977 CUP but also the current zoning codes and General Plan, which add to the severe noise nuisance for the Millers.

Contents

- 1. There are critical errors and omissions in the City’s Jan. 28, 2015 Staff Report, including the omission of the proof that that the Masons are violating the City’s codes.....2
- 2. The City omitted a precedent set in a recent similar noise nuisance hearing regarding a school for children, called Young Ivy Academy.....4
- 3. The Masons’ parties have subsided due to the Millers’ efforts—not the City’s efforts5
- 4. If the Masons’ parties have subsided, why are the Millers still asking for a hearing?.....5
- 5. What do the Millers want?.....6
- 6. The Masons cannot apply for a new CUP without also changing the zoning codes and General Plan, which are also being violated.....7
- 7. The noise codes are currently being incorrectly interpreted by the City8
- 8. Attachments.....8
 - Attachment #1—The City’s Errors & Omissions in the Jan. 28, 2015 Staff Report9**
 - Attachment #2—Violations of 1977 Regulations.....24
 - Attachment #3A—Violations of Current Codes25
 - Attachment #3B—The Masons’ Tax Exempt & Nonprofit Statuses, and Tax Return Summary27
 - Attachment #4—Young Ivy Academy.....28
 - Attachment #5—Flyers the Millers handed out at Political Meetings (1 of 2)30
 - Attachment #6—Flyers the Millers handed out at Political Meetings (2 of 2)31
 - Attachment #7—Letter from the Millers’ sound engineer, Derek Watry.....32
 - Attachment #8—Letter from the Millers’ attorney, Stu Flashman.....32

1. There are critical errors and omissions in the City's Jan. 28, 2015 Staff Report, including the omission of the proof that that the Masons are violating the City's codes.

- a. The Jan. 28, 2015 Planning Commission Staff Report regarding the Masonic Center has critical errors and omissions. As you will see in **Attachment #1, when these errors and omissions are corrected, the conclusions drawn from the document are substantially changed.**

See **Attachment #1** for details of the errors and omissions.

Also, see item "d" below for a quick overview of the City's errors and omissions for the **zoning codes only.**

- b. Although staff's January 28, 2015 report does refer to the:
- 1977 conditional use permit (CUP),
 - 1977 staff report,
 - 1977 design review documents,

staff either omits critical information or creates incorrect conclusions.

See **Attachments #1 & #2** for details of the errors and omissions.

- c. Furthermore, staff's January 28, 2015 report contains **none** of the violations in the current:
- General Plan,
 - RM-2,500 zoning codes,
 - Public notice.

See **Attachments #1 & #3** for details of these errors and omissions.

- d. For your convenience, below is a **quick** summary of **only the zoning code** errors and omissions in the January 28, 2015 staff report. Please see **Attachment #1** for a complete summary of all errors and omissions.
- Staff states, "The 1977 conditions of approval indicate an effective buffer be provided between the lodge and the surrounding residential neighborhood." Staff **OMMITS A CRITICAL FACT** that the land between the Millers and the Masons is to function as the buffer (per email from Planner Donna Decker) to protect the neighbors from the noise nuisance created by the Masons. **Therefore, when the Masons hold parties in the buffer, they are violating their CUP.** (See #1 in Attachment #1.)
 - Staff states that the 1977 Planning Commission "did **not** prohibit such openings [doors/windows]" in the Masons' building on the side facing the neighbors. That is, staff is saying that the Masons had the right to install the glass French doors. **THIS IS INCORRECT.** The 1977 Design Review Board clearly states, "**There would be no windows in the other three elevations and the only other opening**

would be to emergency exits (one on the east side and the other on the north side),” that is, there would be no doors/windows, except for an emergency door, on the side facing the neighbors, and that, “This is in conformance with the requirements of the conditional use permit approval.” (See #2 & #10 in Attachment #1.) Therefore, the Masons’ newly installed glass French doors on the north side facing the neighbors are in violation of their CUP.

Note: prohibition of doors facing the neighbors is not stated in the CUP because it would be redundant given that it is stated in the design review, and the design review links to the CUP via the statement, “This is in conformance with the requirements of the conditional use permit approval.”

- iii. Staff states that prior planning departments, “Permitted catering businesses to use the Masonic building.” THIS OMMITS A CRITICAL FACT that although catering companies were allowed, they had very restricted capacity and therefore did not remotely resemble a true catering company. (See #3 & #12 in Attachment #1.) Staff also OMITTED to state that the zoning codes prohibit catering companies from operating in RM-2,500 zones. (See #10 in Attachment #3.)
- iv. Staff refers to the 1977 Planning Commission Staff Report. However, STAFF OMMITS A CRITICAL SENTENCE in that report stating, “... design the structure [the lodge building] so as to minimize any noise which is generated from within.” (See #4 in Attachment #1.) Therefore, the Masons are violating the intent of the CUP when they create noise outside the lodge structure.
- v. Staff states that, “The buildings be designed so that activities will be focused toward the southern portion of the subject property.” THIS OMMITS A CRITICAL FACT that for 8 years the City has been allowing activities that violate this by allowing activities on the northern portion of the property despite the Millers asking the City to enforce their codes. (See #10 in Attachment #1.)
- vi. Staff refers to the City issuing a building permit to the Masons in 2003 to install the double French door on the north. Staff OMITTS the City’s wrongdoing in issuing this permit without design review by the Planning Dept. (See #11 in Attachment #1.)
- e. Staff states, “Furthermore, the Millers claim that the Masonic Center is operating unlawfully.” This is INCORRECT. The Millers do not “claim,” but rather the Millers have sent the City documented proof that the Masons are violating the City’s codes. None of this proof was included in staff’s report. This proof includes: (See #24 in Attachment #1.)
 - i. Links to the IRS & Secretary of State sites documenting the Pleasanton Masonic Centers’ (PMC) loss of it tax-exempt and non-profit statues making it a for-profit company, which is not allowed in residential zones.
 - ii. A summary of the Masons’ tax returns showing that the Pleasanton Masonic Center (PMC) is the entity that reports to the IRS the revenues from the catering company and party venue. Therefore, the catering company and party venue should also not be allowed in a residential area since they too are for-profit companies and are no longer sheltered by a non-profit company.
 - iii. An email documenting that the Pleasanton Masonic Center is operating without a Pleasanton business license.

- iv. A letter from the Millers' attorney documenting the Masons' violations in the General Plan, zoning codes, 1977 Conditional Use Permit, 1977 Staff Report and 1977 Design Review.
 - v. A letter from the Millers' attorney documenting relevant case law in Los Angeles with another Masonic lodge in which the Court decided that commercial activities in a residential zone do not constitute an allowable (accessory) use and ordered that the Masons cease and desist commercial activities.
 - vi. A summary of the Masons' tax returns documenting that the revenues from the catering company and party venue are 2 to 4 times the fraternity membership dues, and an estimate by the Millers that the building is used 4% of the time for lodge meetings versus 96% of the time for commercial uses as a catering company and party venue. These facts support that the "use" of the lodge has changed from a fraternity to a commercial business.
- f. Also, staff omitted all of the errors made by the City including, (1) in 2004: approving the Masons' building permit without design review; (2) in 2005: incorrectly approving the catering company without public notice; and (3) for the past 8 years: not enforcing the codes by demanding that the Masons stop using the backyard area. (See #24 in Attachment #1.)

2. The City omitted a precedent set in a recent similar noise nuisance hearing regarding a school for children, called Young Ivy Academy

There is **no mention** in staff's Jan. 28, 2015 report of a similar noise nuisance situation regarding Young Ivy Academy presented to the Planning Commissioners in November, 2014. For Young Ivy Academy, staff was clearly concerned with the "ambient noise" impact to neighbors from the playground that the school wanted to build for 16 children.

Staff stated, "The introduction of the outdoor playground area, with up to 16 children at any given time, and no significant sound attenuation, could result in increased ambient noise levels during the hours of 2 PM to 6 PM. Consequently the staff is recommending denial of this portion of the proposal." And please note that only one neighbor complained.

But why would staff **not allow** Young Ivy Academy their outdoor playground due to ambient noise from **16** children with the nearest neighbor between **60 to 80 feet away**, and yet, on the other hand, staff **would allow** the Masons their outdoor entertainment area to create ambient noise from **600** people with the nearest neighbor **on the other side of the fence?** (See Attachment #4.)

The Millers' hope is that you, the Planning Commissioners, will implement consistent recommendations. Please note that our City's mission statement is, "*Pleasanton, a City of Character*" and that character is making consistent decisions.

Also, Jeb Bing, Editor of the Pleasanton Weekly newspaper, stated in his editorial on February 13, 2015, "Is Young Ivy Academy in the wrong location?" when Young Ivy wanted to expand its use to an outdoor playground. The Millers are also asking, "Are the Masons in the wrong location?" if they want to expand their use from a fraternity to a catering company and party venue?"

3. The Masons' parties have subsided due to the Millers' efforts—not the City's efforts

It is true that the Masons' parties have subsided in the past few years; however, this is because of the Millers' efforts—not the City's.

After the 2009 hearing, the Millers lost faith in the City to enforce the codes and so kept the pressure on the Masons through the Millers' own efforts, including:

- Complaining directly to the Masons during parties
- Creating and publicizing a website (savepleasantneighborhoods.com)
- Passing flyers out at the 2014 political candidate forums (**See Attachments #5 & #6.**)
- Telling Kevin Keen, Masonic President, that the Millers had pulled the Masons' tax returns
- Contacting the IRS
- Contacting the Secretary of State
- Contacting the Pleasanton Business License Office
- Presenting to the Valley Trails HOA who wrote a letter to the City supporting the Millers
- Emailing the Mayor and City Councilmembers
- Meeting with Councilmember Kathy Narum
- Contacting realtor associations
- Bringing these issues before the Planning Commission for a new hearing
- Contacting the local newspapers (note: this is still in process).

It is the Millers' belief that these efforts paid off in terms of motivating the Masons to be cautious and reduce their parties. Without these efforts, the Millers believe that there would have been many more parties. **However, just this last Monday, there was another party in the backyard.**

4. If the Masons' parties have subsided, why are the Millers still asking for a hearing?

There are several reasons for the Millers bringing this before the planning commissioners even though the parties have subsided.

- The Millers believe that their efforts have motivated the Masons to reduce the number of outdoor activities, but without a resolution from the City, the Masons could resume activity at any time. And in fact, there have been two events in August—one event used the backyard area, and the other event did not use the backyard, but the music bled through the glass French doors since the doors are not sound rated.
- The leadership of the Masons could change at any time, and the new leadership may wish to pursue increased commercial activity at the site
- The Millers need to restore the damage to their property value. An appraiser estimated the damage to the property at 3% to 5%, or possibly even 100% if the Millers could not sell at all due to buyers preferring homes without noise nuisances. At current market values, this is between

\$25,500 and \$42,500, or possibly even \$850,000 if the Millers could not sell at all. Note: noisy neighbors are required by law to be disclosed on realtor sales forms.

- The illegal glass French doors installed facing the Millers are not sound rated and therefore, even if the Masons contain the parties inside, loud music still bleeds through creating a noise nuisance. These doors need to be changed to STC rated doors or solid doors if the Masons want to continue to have loud music in the dining hall with the “boom, boom, boom” bass sounds creating vibrations and noise.
- The Millers are not only fighting for themselves, but for everyone in Pleasanton since this issue has far reaching implications for every Pleasanton resident. If the City allows entities in residential areas to violate their CUPs and morph into commercial establishments at will, no one who lives next to such establishments will be safe.
- If Pleasanton is a City of Character, which is what we all want it to be, the City must keep its promises and enforce its codes. Otherwise, this is an empty slogan.

5. What do the Millers want?

The Millers feel that they are being good neighbors by agreeing to the following:

- The Masons can do whatever they want inside the building, even if these activities violate codes, as long as the Millers are not impacted by a noise nuisance from these activities.
- The commercial entities, which currently include the Pleasanton Masonic Center and *A Tasteful Affair*, can continue to operate at the lodge even though they are not allowed in a residential area and should rightfully be told by the City to cease and desist operations.
- The Masons, the Pleasanton Masonic Center, and *A Tasteful Affair* will all stop their use of the outside of the building on the north and west sides of the property, i.e. the backyard area. That is, the Millers want the original 1977 CUP, 1977 staff report, and 1977 design review to be enforced, including that “any” noise is to be contained within the building. Note: this would include *A Tasteful Affair* keeping the backdoor to the kitchen closed to prevent the noise nuisance from kitchen operations. This should be documented in Conditions of Use for *A Tasteful Affair*, since none exist at this time.
- The glass French doors will be changed to STC rated doors or solid doors if the Masons want to continue to have live or recorded music in the dining hall, or if the doors are not replaced, music must be restricted to the Masons’ meeting room located on the south side of the building so that noise is contained within the building.
- The large flood lights on the north and west sides of the building will be extinguished except as required by law for emergency exists.

If the Masons find these terms unacceptable, the Millers will ask the City to order the *Pleasanton Masonic Center’s* party venue and *A Tasteful Affair’s* catering company to cease and desist operations since they are both commercial companies which are not allowed to operate in residential zones.

Furthermore, the Millers may also ask the City to cease and desist operations of the Masons’ fraternal operations of Pleasanton Lodge #321 since the fraternity is currently violating the General Plan and zoning codes, which is discussed in the next section below.

And finally, since the Pleasanton Masonic Center has lost its tax-exempt and non-profit statuses, it can no longer manage the commercial activities from the party venue and catering company in a residential zone. If the Masons want to continue to operate the commercial activities in a residential zone, their only option would be to funnel the commercial activities through the fraternity, Pleasanton Lodge #321. However, this could jeopardize the fraternity's tax-exempt and non-profit statuses, and the City could rescind the fraternity's CUP causing the fraternity to cease and desist operations. Therefore, the Masons could not only risk losing their commercial operations, but also their fraternal operations too.

6. The Masons cannot apply for a new CUP without also changing the zoning codes and General Plan, which are also being violated.

The CUP is only one piece of a three piece puzzle. Without changing the zoning codes and General Plan, it is useless for the Masons to ask for a new CUP. (See Attachment #3.)

Note: in the Jan. 28, 2015 staff report, staff provided the planning commissioners with three options to consider in regard to the Masonic Center's existing CUP. Option #3 is to modify the existing CUP. Staff completely OMITTED the following violations to the zoning codes and General Plan, which would prevent modifications to the existing CUP without also modifying the zoning codes and General Plan.

- General Plan
 - The fraternity violates the General Plan

The Masonic fraternity is currently violating the general plan designation of "public and institutional" since it excludes all women and some men who are not voted in by the current membership. That is, the Masons are a private club, not a public club like the Boy Scouts, in which anyone can be a member. And as Mr. Dolan states in a letter to the EV Free Church, "California state law clearly directs the City to defer to the General Plan designation when there is a conflict between the general plan designation and the zoning of the property," that is, the general plan has priority. Therefore, the Masonic fraternity risks being able to operate at its current location.
 - The catering company and party venue violate the General Plan

Catering company: The catering company is a private commercial business, with a separate tax ID and business license, and is not associated with the Masons. Therefore, the catering company is not "public and institutional."

Party venue: The party venue is managed by the Pleasanton Masonic Center (PMC). The PMC lost its tax exempt and non-profit statuses, and therefore is a for-profit business. Therefore, the party venue is not "public and institutional."
- Zoning Codes
 - The fraternity violates the zoning codes

The Millers have demonstrated, by analyzing the Masons' tax returns, the fraternity's use has changed from a fraternity to a catering company and party venue. The Masons' revenues from the catering company and party venue are two to four times the

revenues from the fraternity dues. Therefore, the fraternity is no longer a “private noncommercial club or lodge” as required by the zoning codes.

- o The catering company and party venue violate the zoning codes

The fraternity is located in a RM-2500 zoned area. Zoning code 18.36.040 lists the conditional uses for the RM 2500 districts which do not include catering companies or party venues. Furthermore, there are additional zoning codes specifically for catering companies, which restrict catering companies to commercial districts.

Additionally, since the catering company and party venue are managed and reported on the PMC’s tax return, and the PMC has lost its tax exempt and non-profit statuses, the catering company and party venue are now for-profit companies, which are not allowed in a RM-2500 district.

7. The noise codes are currently being incorrectly interpreted by the City

The current City’s interpretation of the noise codes does not include voices. **(See Attachment #7.)** This was brought to light when the Millers filed a noise code enforcement with the City against the Masons.

The Millers’ sound engineer believes that the City’s current interpretation of the code is incorrect. He states that any logical reading of the City’s noise code would include human voices. He further states that no other city in the Bay Area exempts human voices but rather that other cities in fact have stricter codes regarding human voices.

Furthermore, Planner Donna Decker obviously did include voices in the codes as she states in a March 10, 2009 email to the Millers, “The [sound] measurement would be from a structure. What that would mean in terms of sound from a band or people attending a function, it would be measured 25 feet from the structure.”

Because the noise codes do not currently include voices, it is imperative that the City not locate businesses in residential neighborhoods. Businesses like the Masons’ catering company and party venue have a profit motive to hold parties with larger quantities of people and greater number of parties than a normal neighbor. **The noise from voices alone from large numbers of people (the capacity of the lodge is 600) can be deafening creating an extreme noise nuisance, and yet neighbors have no protection under the codes since voices are not included.** This is an excellent example of the problem the City created by allowing the Masons to expand activities into the backyard, which resulted in an extreme noise nuisance for neighbors.

8. Attachments

Attachment 1. The City’s Errors & Omissions in the Jan. 28, 2015 Staff Report

Attachment 2. Violations of 1977 Regulations

Attachment 3. Violations of Current Codes

Attachment 4. Young Ivy Academy

Attachments 5 and 6. Flyers the Miller’s provided at political meetings.

Attachment 7. Letter from the Millers’ sound engineer, Derek Watry

Attachment 8. Letter from the Millers’ attorney, Stu Flashman

Attachment #1—The City's Errors & Omissions in the Jan. 28, 2015 Staff Report

1. Page 2 of the 2015 Staff Report discusses the 1977 conditions of approval and states,
“Conditions of approval indicate that an effective buffer be provided between the Lodge and the surrounding residential neighborhood.”
 - The City omitted a major clarifying point which is the definition of the buffer. Specifically, the buffer was defined in an email on 3/24/2009 by City Planner, Donna Decker, who states,
“At the time of the bldg. approval, providing the maximum distance between the building and the residential area was accepted as the ‘buffer’ and no other requirements were requested. Therefore, inclusion of this condition did not appear appropriate, in that the City has accepted the distance as the ‘adequate buffer’ provided.”
 - That is, the land between the Millers and the Masons is there to function as a buffer to protect the neighbors from a noise nuisance created by the Masons.
 - **Therefore, when the Masons hold parties in the buffer, they are violating their CUP.**

2. Page 2 of the 2015 Staff Report continues discussing the 1977 conditions of approval and states,
“Since the 1977 approvals, the Masonic center removed the original kitchen door and installed a new double/French door in the dining hall.”
 - The City omitted a major point which is that installing the double/French door not only violates the design review but also violates the CUP.
 - The 1977 Design Review Board states,
“The entrance to the building would be on the south side. **There would be no windows in the other three elevations and the only other opening would be to emergency exits (one on the east side and the other on the north side).** Because the building would be used for Lodge rituals, windows are not desired. Placing the entrance on the south side of the building concentrates outdoor activities as far as possible from the bordering residences. **This is in conformance with the requirements of the conditional use permit approval.**”
 - Therefore, the 1977 Design Review Board clearly restricted “openings,” or doors/windows, on the side of the building facing the neighbors and clearly understood that converting the backyard area into an outdoor entertainment area violated the design review. But more importantly, that restricting building “openings” (AKA doors/windows) on the north side is consistent with “the requirements of the conditional use permit.” Therefore, it is clear that the design review and CUP do not allow activities in the buffer space between the Masons building and the neighboring residences.
 - Note: prohibition of doors facing the neighbors is not stated in the CUP because it would be redundant given that it is stated in the design review, and the design review links to the CUP via the statement, “This is in conformance with the requirements of the conditional use permit approval.”

3. Page 2 of the 2015 Staff Report discusses the catering company and states,
“In addition, [previously] the City permitted catering businesses to use the building.”
 - This statement is misleading because it omits that although a catering business was allowed starting in 2000, it had very restricted functions and therefore did not remotely resemble a true catering company.

- On June 12, 2000, the City wrote a letter to a catering company, Royal Raspberry (which later became *A Tasteful Affair*), stating, “Catering establishments are not allowed in this zoning district. For this reason staff cannot approve the zoning certificate for Royal Raspberry at the proposed location.”
- On June 29, 2000, the City approved very limited functionality for Royal Raspberry, including, “... Internal consumption ... No food sold off site ... food sold indoors to Masonic Lodge members.”
- On February 4, 2005, the City approved very limited functionality for *A Tasteful Affair* (previously *Royal Raspberry*) for, “... No food sold off site ... All food sold indoors to Masonic Lodge members.”
- Therefore, from 2000 to 2005, the caterer could only sell food onsite at lodge functions and not offsite to the public. Furthermore, the food could only be sold indoors, clearly indicating that the prior planning commission recognized that outdoor activities were not allowed.
- However, on November 18, 2005, the Masons wrote staff a letter requesting to expand the catering uses to offsite catering to the general public.
 - Ten days later, Planner Jenny Soo wrote the Masons a letter allowing catering to the general public and offsite. That is, Jenny Soo’s letter overturned prior decisions in both 2000 and 2005.
 - The City refers to Jenny Soo’s letter to cite the City’s approval of the Masons’ requests despite the fact that no public notice was given, violating residents’ due process rights, and despite the fact that no zoning certificate was provided. These facts are also omitted from staff’s 2015 report.
 - However, the Millers argue that since no public notice and no zoning certificate was provided by the City, that therefore *A Tasteful Affair* was never legitimately granted the expanded catering abilities, and hence should only be selling food on-site and inside the Masons’ building.
- Furthermore, *A Tasteful Affair* holds its own events in the Masons’ backyard.
 - On their own website, *A Tasteful Affair* advertises the Masons’ backyard as a party venue for *A Tasteful Affairs*’ own events. To repeat this very important point, *A Tasteful Affair* is not only acting as a full blown caterer, but also using the Masons’ backyard area for their own events—despite the fact that *A Tasteful Affair* is a completely separate entity from the Masons. Therefore, the City’s decision to allow a catering company to reside in the lodge is a major factor contributing to the noise nuisance in the backyard since it doubled the entities using the backyard—both the Masons and *A Tasteful Affair*. Please note, the catering company has no conditional use permit to operate in the Masons’ kitchen, which is why the Millers hear them at all hours of the night.
- Also, in addition to CUP violations, the catering company is also violating:
 - Zoning codes: Staff’s 2015 report omits the zoning codes violations. Specifically, catering companies are only allowed in commercial districts CR, CN, CC, and CS. Since the Masons property is zoned RM-2500, Multi-family Residential, catering companies are not allowed. This is why prior staff in the year 2000 wrote, “Catering companies are not allowed in this zoning district.”
 - General Plan: Staff’s 2015 report omits the General Plan violation. Commercial businesses such as catering companies or party venues are not “public and

institutional” which Mr. Dolan, in a 2011 letter states as, “a school, a church, and other similar uses.”

4. Page 2 of the 2015 Staff Report refers to the 1977 Planning Commission Staff Report (Exhibit B).
 - However, the City omits the critical sentence in that report stating,

“... design the structured [the lodge building] so as to minimize any noise which is generated from within.”
 - Having Masonic parties in the backyard area, directly across from the Millers fence line, violates the intent of the staff report to “minimize any noise generated from within [the structure].”
 - Please note in this report that the 1977 Planning Commission’s intent was to protect Pleasanton’s neighborhoods by designing the lodge so that: (1) activities are focused on the south side of the building away from the neighbors, (2) no openings (doors/windows) on the north side next to the neighbors, and (3) minimize any noise generated from within the building.

5. Page 2-3 of the 2015 Staff Report discusses the Millers’ complaints received by staff:

“Around February 2008, staff started to receive complaints from Michael and Darlene Miller, property owners and residents at 5903 Bryce Canyon Court, regarding functions held at the Masonic center.”

 - The City omits prior complaints by other residents.
 - One of the loudest voices complaining against the Masons was St. Clare’s church.
 - In 2008, Planner Donna Decker had set up the first meeting between the Masons and the Millers. However, that meeting never took place. As the Millers were waiting in the Planning Department offices for the meeting to start, Donna Decker informed us that the meeting needed to be postponed due to a higher priority complaint against the Masons. Donna then informed us that the Masons had rented the lodge for a “Naughty-or-Nice” teen party taking place that night and that St. Clare’s church was quite concerned. Donna Decker asked us to join the meeting, which the Millers did. In that meeting, several representatives from St. Clare’s attended, including Reverend Ronald D. Culmer. He stated that a few months earlier, after another teen party at the Masonic Lodge, he found drug paraphernalia and empty alcohol bottles around the parking lot, which both that the Masons and St. Clare’s share, and on the church’s property.
 - This event is discussed in more detail on page 6 of staff’s report which states, “Approximately 500 teenagers attended. Calls for disturbance were received by the police department.” Please note that none of these calls were made by the Millers since the Millers were away for the evening and thought that the party had been cancelled. Therefore, many other residents were complaining about the Masons.
 - Staff also states on page 6, “Despite staff’s notification, the party went on as scheduled,” and yet no code enforcement was sanctioned against the Masons. Why?
 - The Masons were creating an environment for drug users and importing them into our neighborhood. And not just drugs but gun shots too (see page 6).
 - Other residents complained too.

- In the 2009 hearing, the Planning commission staff report contained reports of calls to police regarding the Masons. Staff summarized the complaints as follows:
 - 2006: 3 to 6 loud noise/party
 - 2007: 13 loud noise/party

As can be seen above in the year 2007, many other residents were complaining. In 2008, at the suggestion of staff, the Millers started their own log and recorded 6 parties between June and November. The Millers did not call the police regarding these parties since the Millers thought it was unfair to impact innocent people who were renting the lodge for a party unaware that the lodge was in a residential zone and violating zoning codes. The Millers decided to wait on calling the police until after the meeting that Planner Donna Decker was trying to set up with the Masons in December of 2008.

- The Masons stopped the teen parties advertised to the general public on the Internet after pressure from residents
 - The Masons eventually learned that the teen parties advertised to the general public on the Internet raised too many complaints and so stopped renting the lodge for these types of parties. That meant that the drug related problems and widespread neighborhood disturbances, including gun shots, were eliminated.
 - However, the Masons use of the backyard for parties continued to create a severe noise nuisance for the Millers.
 - The Millers are the only neighbor who share a fence line with the Masons behind the entertainment area, and since noise is a function of distance, the Millers hear all of the noise from outdoor parties held in the buffer zone.
 - The Millers' neighbors, Ron and Pam Lambert also complained of noise but not from parties.
 - Ron and Pam Lambert do not live behind the outdoor entertainment area on the Masons' property. Instead, the Lamberts live behind an open field, also owned by the Masons, which is next to the outdoor entertainment area. The Lamberts complained to the Masons regarding: (1) homeless workers from the catering company living in tents in the open field on the other side of the Lambert's fence, and (2) teens smoking weed behind the trees in the open field on the other side of the Lambert's fence. What is interesting is that Ron and Pam do not hear the party noise, and the Millers do not hear the noise from homeless workers or drug loiterers in the field.
6. Page 3 of the 2015 Staff Report discusses staff's meetings with the Masons and states,
- "Staff met and discussed the issues relating to noise and disorderly conduct with Masonic representatives on numerous occasions; however, little progress was made in resolving neighbor concerns."
- Yes, it is true that little progress was made. The reason is that the Millers kept expecting the City to enforce the codes and insist that the Masons stop using the backyard. However, at no time did the City ever ask the Masons to stop using the backyard despite violations in the General Plan, zoning codes and CUP. Instead, the City allowed these violations as an accessory use, which was also invalid. This was discussed in detail in the Millers' prior document, and is briefly discussed here. Basically, an accessory use is a minor use. However, the Millers clearly showed that the Masons' commercial businesses were the major use of the lodge. That is, the use of the lodge had changed from a fraternity to a commercial

business. By using the Masons' tax returns, the Millers showed that the Masons' commercial revenues (from the catering company and party venue) were two to four times the Masons' fraternity revenues (from membership dues). Furthermore, the Millers estimated that the hours-of-use of the lodge were 96% for commercial uses and 4% for fraternity uses.

- Consider this analogy. You are driving down a street when you are hit by a car who ran a red light. An officer drives up to the scene of the accident, and you expect the officer to ticket or arrest the driver of the other car. But instead of enforcing the traffic codes, the officer says, "Let's negotiate." Your first question may be, "Why are we negotiating when there was a clear violation of the codes?" So now you have to spend your time researching the traffic codes and eventually hiring an attorney to prove that the officer should have written a ticket to the driver of the car that hit you. The appropriate and correct approach would be for the officer to enforce the law and write a ticket. That is what the City should do to those who violate their CUP, the zoning ordinances, and the General Plan—not negotiate but rather enforce the codes.

7. Page 3 of the 2015 Staff Report discusses the March 25, 2009 Planning Commission meeting and states:

"The commission also requested that a study be initiated to evaluate noise impacts."

- This statement by the City is incorrect and misleading because the City omits that it was the Masons who were required by Condition #2 in the 2009 staff report to do the noise study, and subsequently that the Masons refused to do the noise study.
 - In the public hearing regarding Millers vs. Masons held on March 25, 2009:
 - The City proposed 7 new conditions.
 - Condition #2 proposed by the City stated:
 - "The Pleasanton Mason Lodge shall consult an acoustic professional to explore mitigations to alleviate noise level. The acoustic professional shall be one that is on the City's consultant with. The consultant's report shall include mitigations and recommendations, if the anticipated noise levels are found to exceed the Noise Ordinance and the General Plan standards. The report shall be provided to the Planning Division within 90 days from the date of the approval. ... No non-lodge functions shall be held until mitigations in the acoustic study have been implemented to the satisfaction of the Director of Community Development."
 - On April 3, 2009, Planner Donna Decker emailed the Millers stating, "Brian is out of the office ... He is coordinating with the Masons to retain a consultant to provide the study and will outline the scope of the work."
 - On April 6, 2009, the Millers' attorney, David Austin, emailed the City stating, "We have retained Derek Watry of Wilson Ihrig & Associates as a qualified acoustical consultant to assist us in connection with these proceedings. He will be engaged to review and comment on the suitability and effectiveness of the noise ordinance compliance study [conducted by the Masons] that will be conducted on the activities of the Masons at the

aforementioned location.” That is, the Millers were only hiring a consultant to ensure that the Masons’ noise study was performed fairly.

- On April 6, 2009, Planner Donna Decker emailed the Millers’ attorney David Austin, “The City is currently working with the Masons and imparting the direction given by the Planning Commission. As we learn more of the scope, timing and how the study will be conducted, we will contact you.”
- On May 13, 2009, the Millers were emailed by Mr. Dolan that the Masons refused to comply with the condition to hire a noise consultant. Mr. Dolan stated, “The Masons have informed us that they will not fund a noise study.”
- On June 4, 2009, the Millers sent an email to Brian Dolan asking, “Are you now saying that we are financially responsible for the noise study?”
- In an email on Jun 4, 2009, Brian Dolan states, “[The Masons] have refused to do the [noise] study. ... I am not sure how the Planning Commission will react to that position but it is unlikely that it will help them. ... Whether you fund a noise study is up to you.”
- On June 12, Brian emailed the Millers stating, “I am trying to decide when to reschedule the Masons’ use permit at Planning Commission ...” However, that meeting was never scheduled.
- The Millers’ attorney, Mr. Flashman, stated that there were consequences to the Mason’s actions to not do the noise study. Because the Masons did not comply with the conditions from the 2009 hearing, the original 1977 CUP is in effect, which the City should enforce.

8. Page 3 of the 2015 Staff Report discusses staff conducting its own noise study, and states:

“Since the hearing in 2009, staff has contacted ... an acoustical consulting firm to conduct a noise study during an event at the Masonic Center. Over the course of one year, staff monitored the Masonic center event calendar, but did not identify a suitable event at which to conduct noise monitoring. Thus, no noise study was conducted.”

- This is incorrect. First, the Millers were unaware that the City was conducting their own study after the Masons refused to do the noise study as required in Condition #2 of the 2009 hearing.
- The Millers emailed Brian Dolan on 2/16/2010 complaining about another Masonic party over the weekend, for which the Millers did call the police. Brian Dolan emailed back stating, “We had been waiting until we had measurements from a scheduled event but in light of the events this weekend, we are contacting Chris Chamberlain to ask for a meeting.” Therefore, there absolutely was a “suitable event” to conduct noise monitoring.

9. Page 3 of the 2015 Staff Report discusses additional complaints received since the March 2009 hearing:

“Since the March 2009 Planning Commission meeting, ... the City’s code enforcement division received two complaints from the Millers related to noise generated at the Masonic center: (1) a baptism in the afternoon of Saturday, October 5, 2011, and (2) a birthday party in the afternoon of Saturday, November 9, 2013.”

- It is true that the Masons' parties have subsided in the past few years; so why are the Millers still bringing this before the commissioners? There are several reasons for this as discussed below.
- After the 2009 hearing, the City did not take action to enforce the codes. To keep the pressure on the Masons, the Millers initiated their own efforts and believe these had a material impact on reducing the Mason outdoor events, including:
 - Complaining directly to the Masons during parties
 - Creating a website (savepleasantonneighborhoods.com)
 - Creating flyers and passing them out at the 2014 political candidate forums (See Attachments #4 & #5.)
 - Telling Kevin Keen, current president of the Masons, that the Millers had pulled the Masons' tax returns from Guidestar (note: the IRS posts all non-profit tax returns on Guidestar).
 - Contacting the IRS and the Secretary of State to request that they not reissue the Pleasanton Masonic Center's (PMC) statuses as exempt and non-profit, respectively, because the Masons "use" has completely changed from a nonprofit fraternity to a commercial party venue and catering company. Note: the PMC lost both its exempt and non-profit statuses in approximately 2010 due to its own accord, and therefore, the Millers were only asking that exempt and non-profit statuses not be re-instated.
 - Contacting the Pleasanton Business License Office to request that they not reissue the Pleasanton Masonic Center's (PMC) business license as an exempt non-profit since the PMC is no longer exempt or non-profit. Note: the PMC lost its Pleasanton business license in 2011 due to its own accord, and therefore the Millers were only asking that business license not be reinstated.
 - Presenting to the Valley Trails Homeowners Association, who subsequently wrote a letter to the City supporting the Millers
 - Emailing the Mayor and City Councilmembers
 - Meeting with Councilmember Kathy Narum
 - Contacting realtor associations
 - Bringing these issues before the Planning Commission for a new hearing in 2014
 - Contacting the local newspapers (note: this is still in process)

The Millers believe these efforts motivated the Masons to be cautious and reduce their outdoor parties. Without these efforts, the Millers believe that there would have been many more parties.

Similarly, in 2009, it was the public outcry against the Masons' teen parties which stopped the Masons from renting the lodge for these types of parties that solicited 500 to 600 teens with drugs and alcohol. Please note that it was the public outcry, and not the City, that accomplished this since the City has still not created a code enforcement or any other penalty prohibiting the Masons from holding these types of teen parties or even sanctioning the Masons for holding three of these parties in 2008/2009 without a permit. Also, for one teen party in 2008, the City specifically told the Masons to cancel the party, and yet the Masons held the party anyway, and the Masons were not sanctioned.

- If the parties have subsided, why are the Millers still fighting?

- The Millers believe that their efforts have motivated the Masons to reduce the number of outdoor activities, but without a resolution from the City, the Masons could resume activity at any time.
- The leadership of the Masons could change at any time, and the new leadership may wish to pursue increased commercial activity at the site.
- The Millers need to restore the damage to their property value. An appraiser estimated the damage to the property at 3% to 5%, or possibly even 100% if the Millers could not sell at all due to buyers preferring homes without noise nuisances. At current market values, this is between \$25,500 and \$42,500, or possibly even \$850,000 if the Millers could not sell at all. Note: noisy neighbors are required by law to be disclosed on realtor sales forms.
- The illegal glass French doors installed facing the Millers are not sound rated and therefore, even if the Masons contain the parties inside, loud music still bleeds through creating a noise nuisance. These doors need to be changed to STC rated doors or solid doors if the Masons want to continue to have loud music in the dining hall with the “boom, boom, boom” bass sounds creating vibrations and noise.
- The Millers are not only fighting for themselves, but for everyone in Pleasanton since this issue has far reaching implications for every Pleasanton resident. If the City allows entities in residential areas to violate their CUPs and morph into commercial establishments at will, no one who lives next to such establishments will be safe.
- If Pleasanton is a City of Character, which is what we all want it to be, the City must keep its promises and enforce its codes. Otherwise, this is an empty slogan.

10. Page 4-5 of the 2015 Staff Report discusses the 1977 staff report and states,

“To direct noise away from the residential uses, the [1977] staff report suggested prohibiting openings on the North and West sides of the structure. The Planning Commission approval did not prohibit such openings but did state in Condition No. 1 ‘...that the buildings be designed so that activities will be focused toward the southern portion of the subject property.’”

- The statement above by staff is incorrect. In fact, the 1977 Planning Commission approval did prohibit such openings. This was discussed in #2 above.
- Furthermore, staff makes no statement as to how the City is currently allowing activities on the northern portion of the property when Condition No. 1 clearly states, “Activities will be focused toward the southern portion of the subject property.” To be very clear, because this is such an important point, since the Millers house and the Masons backyard area are both on the north side, activities in the backyard area violate Condition No. 1, and should have been stopped 8 years ago.

11. Page 5 of the 2015 Staff Report discusses the 2003 building permit issued by the City,

“In June 2003, a building permit was issued to remove the existing kitchen door on the north elevation and install a new double/French door on the north elevation at the dining hall (Exhibit F).”

- The 2015 staff report omits stating that the building permit was incorrectly issued by the City’s Building Department. Since the lodge is a building that required design review to be built, it therefore needs design review before any changes are made to the structure. However, the Masons did not seek a design review, and the City’s building department

incorrectly issued the building permit over-the-counter instead of referring the matter to the Planning Department for a design review.

12. Page 5 of the 2015 Staff Report discusses the catering business and states,

“Several zoning certificates for catering businesses have been approved by staff since the operation of the Masonic Center. Catering businesses were determined to be a use ancillary to the Masonic Center facility, and were allowed to use the commercial kitchen for food preparation, including food served on site.”

 - Again, this is an incorrect and misleading statement. This has already been discussed in #3 above.

13. Page 6 of the 2015 Staff Report discusses three teen events the Masons held at the lodge, including: Alistair's Entertainment, Naughty or Nice, and White Party.
 - The City omitted to state that all three of these events are very different from private parties such as a private wedding or birthday party. Instead, these parties target teens by advertising on the Internet, and require teens to pay a fee at the door to enter. Usually hundreds of teens attend these parties.
 - These parties turned a quiet residential neighborhood into a party location for teens to come and drink alcoholic beverages and smoke marijuana. This is completely inappropriate for a residential area, and yet, this is exactly what the City has created. And this isn't much different from today when private parties are held at the lodge and alcohol is served—that is the City put a bar in the middle of a residential area.
 - Also, the Millers' understanding is that these types of “pay-at-the-door” parties that target teens require permits. Yet the Masons never got permits for any of these parties and to this day have not been sanctioned by the City.
 - As noted in a section above, it was the public outcry that stopped these parties.

14. Page 6 of the 2015 Staff Report states,

“Mr. David Austin, an attorney retained by the Millers, indicated the Millers would have their own acoustic consultant prepare an acoustic study to document the noise levels associated with the events at the Masonic Center. ... Staff has not heard any update from the Millers regarding the study.”

 - This is an incorrect statement by the City. This was discussed in #7 above.

15. Page 7 of the 2015 Staff Report discusses that on April 16, 2010, the Masons proposed changes to its operations, including :

“All functions would conform to the City's noise ordinance.”

 - Although this is true, since the City's current interpretation of the noise ordinances is to exclude voices, the noise ordinances provide little protection for the Millers. Since the capacity of the lodge is 600, the noise level from voices alone can be deafening and makes the Millers' backyard unusable.
 - However, Planner Donna Decker, obviously did include voices in the codes as she states in a March 10, 2009 email to the Millers stating, “The measurement would be from a structure. What that would mean in terms of sound from a band or people attending a function, it would be measured 25 feet from the structure.”

- Please note that the Millers believe that the current City’s interpretation of the noise codes is incorrect.

16. Page 7 of the 2015 Staff Report continues discussing the proposed changes by the Mason on April 16, 2010, and states:

“The Millers indicated that they would review the proposal, but no formal reply was submitted. The Millers continued meeting with staff to discuss their concerns ...”

This statement is incorrect. The Millers’ attorney, David Austin, had left his practice and so the Millers were in the process of hiring another attorney. A formal reply was eventually submitted in 2011; however, the Millers did respond verbally to the City as verified in the next sentence that “the Millers continued meeting with staff to discuss their concerns.”

17. Page 7 of the 2015 Staff Report discusses a Mason party for which that the Millers submitted a code enforcement to the City via Walter Wickbolt on October 15, 2011. Staff states that it was a baptism and that:

“The Millers did not specify the location of the noise measurement.”

- This is incorrect.
- First, the Millers had no idea that this was a baptism; the Millers only knew that this was a loud party with music exceeding 60 dba measured at the fence line.
- Walter’s concern was not where the measurement was taken but rather when the measurement was taken. When Walter found out that the measurement was taken before 8pm, he denied the code enforcement based on the “Daytime exception” code. Walter stated in his email on Oct. 26, 2011, “Between the hours of 8am and 8pm (except Sundays and holidays) the level changes to 70dba.” However, Walter left out a critical part of the code which is that the level changes to “70dba at a distance of 25 feet,” that is the measurement is no longer at the fence line.
- To understand this better, you need to know that there are two noise codes.
 - The first noise code (9.04.030) restricts noise below 60dba measured at the fence line. Unfortunately, which makes it confusing, this code has no reference to the second code, which can override this code.
 - The second noise code (9.04.070), for “daytime exceptions,” increases the dBA from 60 to 70 during day light hours (8am to 8pm). In addition, the measurement is no longer taken at the fence line, but rather the measurement is taken at a distance of 25 feet.
 - The Millers contacted Planner Donna Decker to understand from where the 25 feet should be measured. Donna Decker stated in an email, “It would be measured 25 feet from the structure.” That is, the measurement is taken 25 feet from the French doors in the lodge building, which is in the middle of the backyard.
- During one party with excessive noise in the backyard, the Millers went to the lodge and found Scott Walsh, a Mason on the leadership team. Together, Scott Walsh and Darlene Miller went to the backyard area and took noise measurements on the Millers’ noise meter at 25 feet from the building. Of course, this put the noise measurement in the middle of all of the party goers and the noise. It was no surprise that the meter exceeded 70dba. That is, when measured 25 feet from the source, the Masons were easily violating the noise code.
- At this point, the Masons are no longer inviting the Millers to perform noise measurements during parties, which brings us to another problem in relying on the noise codes to protect

the Millers. How do the Millers take measurements in the middle of the Masons' yard? The Millers cannot go on the Masons' property to take the measurements. The Millers' only option is to call the police. When the party goes see the police, they stop whatever they are doing, which makes the noise measurement not representative of the real situation.

- It must be remembered here that the issue is not compliance with the noise ordinances, but rather the issue is violating the CUP, zoning codes and General Plan, which prohibit the activities in the backyard. A commercial business, with a profit motive, generates the quantity of people and quantity of events far exceeding that of a normal neighbor. This is why the 1977 Planning Commission protected the neighbors from "any" noise generated by the Masons.

18. Page 7 of the 2015 Staff Report discusses the 2013 letter that the Masons' attorney sent to the City:

"May 23, 2013—Ms. Nadia Costa, an attorney ... representing the Masonic Center, wrote to staff and identified voluntary measures to address the Millers concerns ... A copy of the letter was forwarded to the Millers. The Millers submitted no formal response to the proposal."

- This is incorrect. The Millers never received the letter.
- As you can see, Ms. Costa's letter is addressed to Nelson Fialho with the "cc" list containing: (1) Jonathan Lowell, City Attorney, (2) Chris Chamberlain, and (3) Mike Salazar. The Millers were not copied.
- The Millers found out about this letter when the Masons were having yet another party, and the Millers went to the Masonic Lodge to complain and spoke directly to the catering coordinator who called Kevin Keen, the current Masonic President. It was Mr. Keen who informed the Millers of this letter, and that the Masonic Center was operating by the rules articulated in the letter. The Millers told Mr. Keen that they had never seen the letter and asked Kevin to forward a copy, which he did in an email dated 11/9/2013. However, the letter Kevin forwarded to us was not Ms. Costa's letter, but rather Nelson Fialho's response to Ms. Costa's letter. As you can see on Nelson Fialho's response to Ms. Costa, the letter is addressed to Ms. Costa with the "cc" list containing: (1) Brian Dolan, and (2) Jonathan Lowell. Again, the Millers were never copied.
- As a result of seeing this letter, the Millers realized that the City agreed with the Masons and that the Millers needed to take their case directly to the City Planning Commissioners. The Millers began meeting with the Planning Commissioners in 2014.

19. Page 8 of the 2015 Staff Report discusses the City's opinion regarding the 2013 letter that the Masons' attorney sent to the City:

"Staff felt that [the Masons'] voluntary measures, when instituted would help to address many of the concerns raised by the Millers."

- This is incorrect. These measures clearly did not address the Millers concerns. First of all, there was no constraint on Masonic parties (only on public parties). Not only that, but also it put the burden on the Millers to monitor the parties to determine if they were a Mason or non-Mason event and to keep a tally on the non-Masonic parties. Since there was no way to monitor this, the Millers found that this proposal unacceptable.

- Furthermore, the Masons are violating their conditional use permit, essentially breaking the City's law. Why would the Millers agree to something that allows the Masons to break the law a little less?
 - It has been the Millers position from the beginning that the Masons are breaking the law, and the City needs to enforce the codes and stop the Masons' parties in the backyard. The Millers don't know how they can be any clearer.
20. Page 8 of the 2015 Staff Report discusses a noise complaint filed by the Millers on November 9, 2013 regarding another party with 25 children playing and screaming in the backyard.
- "Staff contacted the President of the Masonic Center, and was informed that the indoor space was used by a group of [Masonic] women engaging in quilting, and the quilters' children were playing outside"
- This is correct. However, the following clarifying point was omitted. Since the lodge was not rented out, it is assumed that the women were Masons. Therefore, even if the parties are Masonic parties, and not public parties, they can still be extreme noise nuisances, as in this case when 25 Masonic children were running around screaming in the backyard. Please remember that the backyard is part of the buffer, which is not allowed to be used.
21. Page 8 of the 2015 Staff Report also states,
- "Staff responded that children's voices measured in excess of 70 DBA does not violate the noise ordinance."
- This is actually correct. However, as a point of clarification, this occurred when the Millers submitted a code enforcement request for noise violation to Walter Wickboldt and discovered that that voices are not included in the noise codes.
22. Page 8 of the 2015 Staff Report refers to the "Pleasanton Police Calls for Service Log Associated with the Masonic Center Site" in exhibit D.
- Although the City provides the exhibit, the City omitted the numerous other parties that are listed in this log who also complained against the Masons. This is discussed in #5 above.
23. Page 9 of the 2015 Staff Report discusses the Millers' claims against the City:
- "The Millers have made claims indicating that the City Planning Division has unreasonably allowed an incremental expansion of activities at the Masonic center that have adversely affected neighboring residents."
- This is true. The City is destroying the peace in residential neighborhoods to benefit commercial businesses. Unlike prior planners and commissioners, this Planning Department is allowing a building in a residential neighborhood to be used beyond anything that should be allowed in a residential neighborhood, including both loud outdoor public parties (up to 600 people including serving alcohol), and a catering company. The Planning Dept. is overriding zoning codes and allowing these violations by calling them an "accessory use," (or minor use) despite the commercial uses being the major use and despite case law precedent in Los Angeles where the court ruled that such activities do not meet the standard for accessory use.
24. Page 9 of the 2015 Staff Report discusses the Millers claims against the Masons:

“Furthermore, the Millers claim that the Masonic Center is operating unlawfully.”

This is incorrect. The Millers do not “claim” that the Pleasanton Masonic Center is operating unlawfully, instead the Millers have sent the City documented proof that the Pleasanton Masonic Center and the City are violating the zoning codes and General Plan.

First, in reading the below comments, it is important to remember that three entities occupy the Masonic building:

- (1) The Masonic Lodge #321, i.e., the fraternity for the Masons
- (2) The Pleasanton Masonic Center (PMC), i.e., the holding company for the fraternity which manages the rental income from the catering company and party venue
- (3) *A Tasteful Affair*, i.e., the catering company

The following reviews the documentation sent to the City regarding the unlawful activities by the Masons violating the City’s zoning codes and General Plan:

- I. In an email on Oct. 16 2014 to Nelson Fialho, Brian Dolan and Kathy Narum, the Millers made the City aware that the Pleasanton Masonic Center lost both its tax exempt status and non-profit status by providing links to sites for the IRS and Secretary of State.
 - o The City omitted the Millers’ email in their 2015 staff report.
 - o This is important because now the Pleasanton Masonic Center is a for-profit commercial company, and commercial companies are not allowed in RM-2500 zoned areas or in Public & Institutional designated areas in the General Plan
 - The City omitted these city codes from their 2015 staff report, making it more difficult for you, the Planning Commissioners, to determine if the codes are being violated.
- II. The Millers also provided a summary of the Masons’ tax returns showing that the Pleasanton Masonic Center is the entity that reports to the IRS the rental revenues from: (1) the catering company (*A Tasteful Affair* rents the kitchen from the Masons), and (2) the party venue (the PMC, which is the holding company for the fraternity, owns the lodge building and rents the building to the public for parties).
 - o Therefore, the catering company and party venue activities should not be allowed in a residential area since both of these activities are being managed by the PMC, a for-profit company and not a non-profit.
 - o The City omitted this information in the 2015 staff report to you.
- III. In the same email mentioned above, the Millers stated that the Pleasanton Masonic Center has been operating without a Pleasanton business license since 2011. Furthermore, the Millers wrote to the Pleasanton Business License Dept. asking the City to not reissue the business license for the Pleasanton Masonic Center as an exempt-non-profit corporation because the PMC is no longer exempt or non-profit as noted in the bullet above.
 - o The City omitted this letter in the 2015 staff report to you.
- IV. The Millers and their attorney made the City aware of violations by the Masons in the General Plan, zoning codes, 1977 Conditional Use Permit, 1977 Staff Report and 1977

Design Review, during the eight years that the Millers have been fighting this issue through meetings, emails, and phone calls with the City, and most recently through a comprehensive document emailed on Sept. 26, 2014. The Millers' attorney also made the City aware of these violations in a letter dated December 20, 2012 to the City Attorney, Jonathan Lowell with copies to Nelson Fialho and Brian Dolan.

- The City omitted this information in the 2015 staff report to you.
- V. The Millers' attorney, in the same letter mentioned above, made the City aware of relevant case law in Los Angeles with another Masonic lodge in which the Court decided that commercial activities in a residential zone do not constitute an allowable (accessory) use and ordered that the Masons cease and desist commercial activities.
 - The City omitted this information in the 2015 staff report to you.
- VI. The Millers provided proof that the use of the lodge has changed from a fraternity to a commercial entity by documenting both the revenues and the hours-of-use of the building for fraternal activities versus commercial activities. The commercial revenues are 2 to 4 times the membership dues from the fraternity (as documented by the Masons in their tax returns), and the building is used 4% of the time for lodge meetings versus 96% of the time for commercial uses (as estimated by the Millers). Therefore, the building is no longer a Masonic fraternity but rather a commercial business which rents its building to the Masonic fraternity for a minor level of use.
 - The City omitted this information in the 2015 staff report to you.
- VII. The Millers not only claim that the Pleasanton Masonic Center is violating the City's codes but also that the City is violating its own codes.
 - In 2004, the City incorrectly approved a building permit, without design review. This allowed the Masons to break through the back wall of the banquet room to add glass French doors and access the backyard. But more importantly, this allowed the Masons to make the building changes without any public notice or hearing, that is, without public scrutiny. This action violated the due process rights of residents, denying the Millers and other residents in Pleasanton the opportunity to comment on the significant use change.
 - In 2005, the City incorrectly approved, without public notice or hearing, a commercial catering company to reside in the building. In fact, the only documentation granting the Masons a catering company is a letter sent by Planner Jenny Soo without the normal use variance form, that is, Application for Zoning Approval. This action violated the due process rights of residents, denying the Millers and other residents in Pleasanton the opportunity to comment on the significant use change.
 - Most importantly, the City is not enforcing its own codes. For the past eight years, the City has not told the Masons to stop using the backyard area. Instead of enforcing the codes, the City has mediated. Mediation is not appropriate when there is a clear violation of the codes. How would you respond if while you are driving your car, you are hit by another car who has ran a red light, and the officer says, "Let's mediate," instead of enforcing the traffic codes and writing a ticket to the other driver?

- Finally, of the three options that staff is providing to you in the 2015 staff report, Option #1 will allow you to continue the current CUP and Design Review. Please note that staff states,
“Enforcement of the existing conditions of approval would not allow continued active use of the patio area.”

Staff is admitting that the current CUP does not allow use of the backyard. Eight years ago when this started, the Planning Department should have told the Masons to stop using the backyard while this was being reviewed with the City. To this day, the Planning Department has still not told the Masons to stop using the backyard, and therefore, the Masons are continuing to use it.

The Millers’ are confused as to why the City did not include any of the above important information in the January 28, 2015 Staff Report.

25. Page 9 of the 2015 Staff Report discusses that despite the City’s efforts, no resolution has been reached.

“Since the March 2009 Planning Commission meeting, staff has worked with the Masonic Center and the Millers to mitigate concerns raised by the Millers. Staff has met with the Millers several times to address their concerns, discuss the noise ordinance, and discuss the voluntary measures proposed by the Masonic center. However, no resolution has been reached.”

- It is true that no resolution has been reached. However, the City omitted to state that this is because the City is asking the Millers to allow uses of the Masonic building that are not allowed by the Masons’ CUP, the zoning codes or the General Plan and that will destroy their residential home. Would any of the Planning Commissioners or staff be willing to allow an establishment right across their fence line to operate commercial activities with up to 600 people at any time they chose, day or night with alcohol? Of course not, but that is what the Masons are requesting and what the City is asking the Millers to accept. The City should protect the people who live here and enforce the codes.

26. Page 9 of the 2015 Staff Report discusses the three options offered to you by staff.

- The Millers are asking the Planning Commission to vote for Option #1 and to include the Millers other requests as stated in Section #5 above starting on page 7.

Attachment #2—Violations of 1977 Regulations

• 1977 Conditional Use Permit (CUP)

- Condition #1: "... the guiding standards for the development of the site shall be that... the buildings be designed so that activities will be focused toward the southern portion of the subject property."
 - **VIOLATION #1:** Since the Millers house and the Masons backyard area are both on the north side, activities in the backyard area violate condition #1.
- Condition #20: "That the applicant provide an effective buffer between the development and the single family residential area surrounding the property." Planner Donna Decker, in an email to the Millers, defined the "buffer" as the backyard area.
 - **VIOLATION #2:** The Masons' use of the backyard area violates the required "buffer."
- Catering company: the catering company has no conditions in the Masons' CUP
 - **VIOLATION #3:** The catering company has no CUP to operate in the Masons' kitchen.
 - **VIOLATION #4:** The catering co., which is completely unrelated to the Masons, should not have use of the backyard for their own catering events—as advertised on their web site—which creates additional traffic and an additional noise nuisance.

• 1977 Staff Report

- The 1977 Staff Report showed the Planning Commissions intent to "minimize any noise generated from within [the structure]"
 - **VIOLATION #5:** Having parties in the backyard, directly across from the Millers fence line violates the intent of the staff report to "minimize any noise generated from within [the structure]."

• 1977 Design Review

- The 1977 Design Review Board states, "The entrance to the building would be on the south side. There would be no windows in the other three elevations and the only other opening would be to emergency exits (one on the east side and the other on the north side). Because the building would be used for Lodge rituals, windows are not desired. Placing the entrance on the south side of the building concentrates outdoor activities as far as possible from the bordering residences. This is in conformance with the requirements of the conditional use permit approval."
 - **VIOLATION #6:** The 1977 Design Review Board clearly restricted "openings" or doors/windows on the side of the building facing the neighbors, and clearly understood that converting the backyard area into an outdoor entertainment area violated the design review. BUT MORE IMPORTANTLY that restricting building "openings" (AKA doors/windows) on the north side is consistent with "the requirements of the conditional use permit." Therefore, it is clear that the design review and CUP do not allow activities in the buffer space between the Masons building and the neighboring residences.
- The Masonic building required a design review by the Planning Department when it was originally built in 1977; therefore, a design review by the City is required before any renovations.
 - **VIOLATION #7:** The City and the Masons violated the City's process that required design review and approval before changing the function of the building.

Attachment #3A—Violations of Current Codes

- **The Pleasanton Masonic Center (PMC) is no longer tax exempt or non-profit**

- The PMC, who owns the lodge building, has lost its tax exempt status, its non-profit corporate status, and its Pleasanton business license as an exempt-non-profit, and therefore is now a for-profit commercial business. Furthermore, the PMC manages the revenues from renting the kitchen to a privately-owned commercial catering company, and from renting the building to the public as a party venue. (Please note, the fraternity, *Pleasanton Lodge #321*, does not own the building. Instead, the PMC owns the building. The significance of this is discussed below.)

- **General Plan**

The Masonic Lodge property is designated in the general plan as “public and institutional.”

- **VIOLATION #8:** Commercial businesses such as the PMC, privately-owned commercial catering companies, and privately-owned commercial party venues, are not “public and institutional” which Mr. Dolan, in a 2011 letter states as, “a school, a church, and other similar uses.”
- **VIOLATION #9:** The Mason fraternity is not “public and institutional” since it excludes all women and some men who are not voted in by the current membership.
- **VIOLATION #10:** Mr. Dolan states in a letter to the EV Free Church, “California state law clearly directs the City to defer to the General Plan designation when there is a conflict between the general plan designation and the zoning of the property.” That is, the General Plan has priority, and the GP does not allow private clubs or commercial businesses in this area.

- **Zoning Codes**

The Masonic Lodge property is designated as RM-2500, which is Multi-family Residential. Fraternal organizations such as the Masons are allowed in RM-2500 areas because of zoning code 18.36.040 and provision “J” for “Private noncommercial clubs and lodges.”

A. Charitable institutions	E. Lodging houses	I. Private schools	M. Accessory structures
B. Churches	F. Motels (only in RM-1,500)	J. <u>Private noncommercial clubs and lodges</u>	N. Home occupations
C. Golf courses	G. Nursery schools	K. Public utilities	O. Day care facilities
D. Hospitals	H. Private recreation parks and swim clubs	L. Trailer parks	P. Small bed & breakfasts

TABLE 1: Zoning code 18.36.040 lists the conditional uses in RM Multi-family Residential districts as:

- **VIOLATION #11:** The Pleasanton Masonic Center, since it is now a commercial business, is not allowed in RM-2500.
- **VIOLATION #12:** Commercial catering companies are not allowed in RM-2500. Commercial catering companies are only allowed in commercial districts CR, CN, CC, and CS.
- **VIOLATION #13:** Commercial party venues (AKA commercial banquet facilities) are not allowed in RM-2500.
- **VIOLATION #14:** Also, the City violated prior case precedent by overturning prior decisions in both 2000 and 2005 which only allowed extremely limited catering for on-site events only.

- **Public Notice**

The planning commission must hold a public hearing for applications and variances to use permits.

- **VIOLATION #15**: The Planning Department, without any public notice or hearing, granted the Mason's request for both the catering company and the building improvements, twice violating the due process rights of the citizens of Pleasanton.

Attachment #3B—The Masons’ Tax Exempt & Nonprofit Statuses, and Tax Return Summary

		Pleasanton Masonic Center (PMC)	Pleasanton Lodge #321
Type of Organization		The holding company for the association	The association for the Masonic members
Tax ID		Tax ID 94-2673219	Tax ID 23-7158536
IRS Status	Original Designation	501(c) 2 Corporation (this is a tax exempt holding company)	501(c) 10 Association (this is a tax exempt fraternal beneficial society)
	Current Status	REVOKED (as of 2010)	Active
Secretary of State Corporate Designation	Original Designation	Non-profit corporation	Non-incorporated association
	Current Status	SUSPENDED (date not provided)	Active
Pleasanton business license	Original Designation	Exempt-Non-Profit Organization	Exempt-Non-Profit Organization
	Current Status	INACTIVE (as of 2011)	Active
Who owns the lodge building?		Owns title to the building at 3370 Hopyard Rd	Does not own any real estate
Who receives the rental income from the catering company and the banquet room?		Receives revenues from renting: (1) the commercial kitchen full time to the catering company (2) the banquet room on-demand to the public for events	Receives revenues from member dues only

As can be seen from the above, the tax exempt status with the IRS is revoked, the non-profit status with the Secretary of State is suspended, and the Pleasanton business license is inactive.

	2012	2011	2010	2009	2008	2007	2006	2005	Average
Revenues from member dues on tax returns of Pleasanton Lodge #321	\$27,402	\$24,545	\$25,221	\$37,041	\$30,557	\$9,021	NA	NA	\$25,631
Revenues from: (1) catering company, & (2) building rental for public parties on tax returns of Pleasanton Masonic Center	Revoked	Revoked	Revoked	\$75,096	No Filing	NA	\$89,593	\$91,113	\$85,267

As can be seen from the above, the revenues from renting the building to the catering company and to the public for parties is 2 to 4 times the revenues from the member dues. This clearly indicates that commercial activity is the main use of the building, generating most of the revenue, and that non-profit Masonic activity is a minor use.

(1) The above numbers were derived from the Mason’s tax returns posted on Guidestar.org by the IRS as legally required for non-profits; (2) NA is Not Available.

Attachment #4—Young Ivy Academy

Overview

During the Planning Commission hearing, on November 12, 2014, Young Ivy Academy proposed to build a new outdoor playground area to replace eight existing parking spaces at the rear of the shopping center to be used between 2 PM and 6 PM on Monday through Friday for students in kindergarten through sixth grade. No more than 16 students would occupy the playground area at any given time.

Staff's recommendation to the Planning Commissioners regarding Young Ivy Academy is exactly the position that the Millers expected staff to take regarding the Masons. The Millers are confused as to why staff can clearly see the issues with the ambient noise impact to neighbors with respect to Young Ivy Academy, but not with respect to the Masons.

The Millers are requesting the same considerations that staff provided to the neighbors of the Young Ivy Academy to also be provided to us.

Background

In 2014, staff made the recommendation to not allow Young Ivy to build the outdoor playground by stating in their report,

"[the outdoor playground] would be a new ancillary used to the primary use, and is proposed outside of the building close to existing residential uses, with only the existing shopping center soundwall along the eastern property line to provide any type of sound attenuation for those residences to the east. No sound attenuation would be provided for the residences to south on the opposite side of Junipero Street. The introduction of the outdoor playground area, with up to 16 children at any given time, and no significant sound attenuation, could result in increased ambient noise levels during the hours of 2 PM to 6 PM. Consequently the staff is recommending denial of this portion of the proposal."

"With the elimination of the proposed outdoor playground area, noise levels related to the Heritage school would be minimal and staff believes that it is unlikely that the noise generated during facility use would **impact the nearby residences** or surrounding shopping center tenants. Recommended conditions of approval required that the exterior doors remained closed when not being used for ingress/egress purposes and that the applicant inform all students/parents not to loiter or make loud noises outside the building before or after instruction. Staff has also included a standard condition of approval on the project that allows the City to review the project again to add mitigating conditions should any future complaints regarding noise levels occur. Such conditions could include modifying the hours of operation or reducing the number of students."

Please note in the above that staff was concerned about ambient noise to the neighbors. Let's review some of the major points in the above two paragraphs:

- Staff was concerned about noise impacting neighbors on the east side, who are 60 feet away with an 8 foot solid brick sound wall in between to buffer the noise.
- Staff was even concerned about noise impacting neighbors on the south side, who are 80 feet away with a street in between to buffer the noise.

The noise nuisance created by the Masons is much worse than what staff stated was unacceptable at Young Ivy as detailed in the table below.

	<u>Young Ivy Academy</u>	<u>Masons</u>	<u>Comments</u>
Number of people allowed outside?	<ul style="list-style-type: none"> • 16 children 	<ul style="list-style-type: none"> • 600 children and adults 	<ul style="list-style-type: none"> • If staff was concerned with noise nuisance created by 16 children at Young Ivy, why are they not concerned with up to 600 people at the Masons?
How close to neighbors?	<ul style="list-style-type: none"> • On the east, 60 feet away, with a sound wall in between • On the south, 80 ft. away, with a street in between 	<ul style="list-style-type: none"> • On the other side of the Millers' fence, that is, zero feet 	<ul style="list-style-type: none"> • Our situation with the Masons is much worse than Young Ivy since we share a fence line with the Masons who are producing the noise nuisance.
Hours of proposed use	<ul style="list-style-type: none"> • Monday to Friday only, and 2 to 6 PM only 	<ul style="list-style-type: none"> • Anytime including evenings and weekends 	<ul style="list-style-type: none"> • Our situation with the Masons is much more extensive than Young Ivy in terms of hours of operation
How many neighbors complained?	<ul style="list-style-type: none"> • One neighbor, Mr. H. Broumand 	<p>Numerous neighbors:</p> <ul style="list-style-type: none"> • The Millers • Valley Trails HOA • The Lamberts regarding pot smoking kids and homeless people living in the Masons' field behind their house • ST. Clare's church and numerous other neighbors for the unpermitted teen parties (i.e., Naughty/Nice), including a gun shot 	<ul style="list-style-type: none"> • One neighbor is enough in the case of Young Ivy to motivate staff's concern for ambient noise, yet there are many groups and individuals who have complained about noise and commercial activity by the Masons.

PROTECT PLEASANTON'S RESIDENTIAL NEIGHBORHOODS

Although you may like going to parties, you probably never expected your neighbor on the other side of your backyard fence to morph into a commercial party business and financially profit by renting their backyard for large public parties (up to 600 people, including serving alcohol), while creating a noise nuisance for you—and that the City would condone it. Think living next to Chuck E. Cheese during the day and your local bar at night.

The peace of Pleasanton's residential neighborhoods is at risk due to actions by the current Planning Department. Pleasanton has traditionally prided itself on being pro-residents, but the current Planning Department, unlike prior planners and commissioners, is undermining that stance. Only a strong reaction from residents will restore the balance. We hope you will agree that:

- It's wrong for the City to allow commercial businesses to destroy the peace of residential neighborhoods.
- The precedent the City has set could allow commercial enterprises to mushroom into residential areas.
- Private clubs and non-profit organizations cannot be allowed to morph into commercial businesses in residential areas.

Pleasanton has long recognized that while fraternal organizations, such as the Masons, are beneficial, permitting them to locate facilities in residential areas could result in damaging impacts on residents from noise nuisances if not regulated properly.

How do the Masons create a noise nuisance? Some lodges like to supplement their income by renting their building to the public for parties, for example, wedding receptions, children's birthday parties, etc. This is why most lodges are located in commercial, not residential neighborhoods. Those few lodges located in residential areas either do not rent the building or do not rent the outside.

Because of this, the 1977 City Planning Commissioners, in recognizing that they were permitting the extremely rare act of allowing a Masonic Lodge in a residential area, put specific regulations (called conditions which are stipulated in a CUP—Conditional Use Permit) on the Pleasanton Masons to ensure that the use of the facility did not create a noise nuisance to the neighbors. Specifically, the conditions stated that the Masons could not use the outside backyard area and that all noise had to be contained within the building. This created a win-win for everyone—the Masons could rent the inside of their building for events to the public yet not create a noise nuisance to the neighbors.

However, the current Planning Department has allowed the Masons to remodel their building and turn the backyard area into an outdoor entertainment space to rent to the public for large, noisy, parties, up to 600 people, including alcohol, and therefore have created "Party Central." Furthermore, the Planning Department has allowed the Masons to rent the kitchen to a catering business, also creating a noise nuisance since it operates at all hours of the day and night. These changes have destroyed the peace and tranquility of neighboring residents. This is contrary to the zoning codes and the use permit that the Planning Commission approved. Of course, large parties and commercial businesses have their place – but it shouldn't be in residential areas. In fact, commercial businesses are never supposed to be allowed in residential areas.

The Planning Department is overriding zoning codes and justifying these violations by calling these activities an "accessory use." Most of us would understand an accessory use to be a minor use associated with the main activity. The Planning Department's interpretation, however, allows the tail to wag the dog, with the commercial activities creating the major use. Both revenues and use of the building combined from the catering company and public parties far outweigh the revenues and use of the building for Masonic membership dues, meetings and activities. Furthermore, the City is ignoring case law precedent in Los Angeles with another Masonic lodge in which the Court decided that commercial activities in a residential zone do not constitute an allowable (accessory) use and ordered the Masons to cease and desist commercial activities.

Who knows how the current Planning Departments' position will impact Pleasanton in the future by allowing commercial businesses to mushroom into residential neighborhoods, and by letting churches, schools and even Masonic Temples to start commercial businesses to supplement their income. Protect the peace and tranquility of your home—join us in telling the City to enforce the codes and protect Pleasanton's residences from these abuses.

Please read more about this at www.SavePleasantonNeighborhoods.com

PROTECT PLEASANTON'S RESIDENTIAL NEIGHBORHOODS STOP THE SUFFERING—ENFORCE THE NOISE CODES!

Here's a riddle for you—what's the difference between:

- (1) Singers singing a cappella (without instruments and voices only) at 80 dba
- (2) The same singers recorded on a CD being played on a stereo and loudspeakers at 80 dBA

The answer is that the first one does not violate Pleasanton's noise codes, and the second one does—even though your ears cannot tell the difference.

That is, the City has decided that human voices do not violate the City's noise codes, even though they are noises like any other noise. Therefore, your neighbor can shout, scream or sing opera all they want, and you would receive no help from the City.

If this doesn't make sense to you, as it doesn't to us, then please read on to discover yet another way in which Pleasanton's Planning Department is not protecting Pleasanton's residential neighborhoods and is not pro-neighbor.

Pleasanton has noise codes to protect the peace in residential neighborhoods. Specifically, noises that exceed 60 dBA (or 70 dBA during daylight hours) create a noise code violation. Specifically, code 9.04.030 states,

"No person shall produce or allow to be produced by any machine, animal, device, or any combination of the same, on residential property, noise level in excess of 60 dBA at any point outside of the property plane, unless otherwise provided in this chapter." (Also see code 9.04.070 for "daytime exceptions" which increases the dBA from 60 to 70 during day light hours.)

According to the City's Code Enforcement Officer, Walter Wickboldt, "The code specifically prohibits noise created by 'machine, animal, device, or any combination of the same' but does not set any limit on non-amplified human voice noise. As such, children's voices measured in excess of 70 dba does not violate the noise ordinance."

First, let's defer to experts in this field called "acoustical and vibration consultants." Mr. Derek L. Watry, Principal, WILSON, IHRIG & ASSOCIATES, INC. states the following,

"However, in Wilson Ihrig's 48 years of operation in the San Francisco Bay Area, we have never heard of a city taking the position that non-amplified, human voices are exempt from noise ordinance limits. ... In our opinion, the City's skewed interpretation is technically unsupportable, and in our experience it is out of step with the noise ordinance interpretation of other cities in the Bay Area. ... Noise is unwanted sound ... The actual source of this noise level should be irrelevant in the City's determination to provide you protection. ... speech and music tend to be more annoying than other types of noise. The City's policy, as interpreted by Mr. Wickboldt, not only ignores this well-established tendency, it flies in the face of it by exempting speech noise altogether.

Second, noise code 9.04.010 states, "It is declared to be the policy of the City that the peace, health, safety and welfare of the citizens of the City require protection from excessive, unnecessary and unreasonable noises from any and all sources in the community." Therefore, "any and all sources" would include voices.

Third, as a matter of English language and logic, Mr. Wickboldt's comment misinterprets the basic noise ordinance language by ignoring the key conjunction, "or." The ordinance does not say, "No person shall produce by any machine ...", rather, it says, "No person shall produce or allow to be produced by machine ..." [emphasis added]. In logic, the conclusion is true if either of the premises is true. If you drive over the speed limit or drive recklessly by weaving too much, you get a ticket.

The peace of Pleasanton's residential neighborhoods is at risk due to actions by the current Planning Department. We must deliver an overwhelming wave of opposition to the City's misguided interpretation of the noise codes.

Please read Mr. Watry's entire letter on www.SavePleasantonNeighborhoods.com

Attachment #7—Letter from the Millers' sound engineer, Derek Watry

- **Previously sent and available upon request.**

Attachment #8—Letter from the Millers' attorney, Stu Flashman

- **Previously sent and available upon request.**

Mark Dennis

From: Gerry Beaudin
Sent: Friday, March 25, 2016 1:36 PM
To: Mark Dennis
Cc: Nelson Fialho
Subject: FW: Code enforcement requests for Chabad's operations at the Masonic Lodge
Attachments: Chabad noise code enforcement v1.docx; Chabad event for noise code enforcement--screen shot.docx

The attachments are here from Darlene Miller.

Gerry Beaudin | AICP, LEED AP
Director of Community Development | City of Pleasanton
E – gbeaudin@cityofpleasantonca.gov
P – 925.931.5600
@PleasantonCDD

From: Darlene Miller
Sent: Friday, March 25, 2016 12:57 PM
To: Adam Weinstein <AWeinstein@cityofpleasantonca.gov>; Jay Lee <jlee@cityofpleasantonca.gov>; Gerry Beaudin <gbeaudin@cityofpleasantonca.gov>
Cc: Karla Brown
Kathy Narum

Subject: Code enforcement requests for Chabad's operations at the Masonic Lodge

Please see the attached requests for code enforcements for (1) noise, (2) CUP, and (3) off-street parking for Chabad of the Tri-Valley on two different occasions during the last week on the Masonic property.

Please note the last update from the City is that Chabad has not closed escrow with the Masons. Chabad applied to the City for a CUP on 2/10/2016. On 3/10/2016, the City responded to Chabad asking for clarifications on many of the items in Chabad's proposal.

In this interim period, we are assuming that Chabad is operating under the Masons' CUP.

Thank you,
Mike and Darlene Miller

Click [here](#) to report this email as spam.

March 18th Violation

Date: March 18, 2016

Time: 6:33 PM

Noise violation: Six children associated with Chabad were in the Masonic yard on the west side. The children were playing games and consequently screaming. We believe that these children were at the location for a faith based educational class associated with Chabad.

Since the event was taking place before 8PM, the "Daytime Exception" provision of the noise code applied. We could only take measurements at our fence line and not in the yard at 25 feet from the many different sources of noise. The noise meter reading was 70 dba at the fence line, much farther away than the code distance of 25 feet. Therefore, the noise clearly exceeded 70 dba at a distance of 25 feet. Also, the Millers heard additional louder screams after the recording was stopped.

CUP violation: Children were playing outside the building on the west side, which is a violation of the Masons' conditional use permit. Note: we are operating under the Masons' original CUP during this interim period.

Additional evidence: We have additional evidence available documenting the violation, if needed.

Noise, CUP and Off-street Parking Code Enforcements for Chabad

We are requesting a noise code enforcement, a CUP enforcement, and an off-street parking code enforcement for Chabad of the Tri-Valley for two separate occasions over the past week. Below are the details. Please contact the Millers for any additional information that you may need either by email or phone: 925-413-9652

March 24th Violation

Date: March 24, 2016

Time: Approximately 6:00 PM to 7:30 PM

Noise violation: Approximately 100 people were on the Masonic property for a party entitled "Purim in the Jungle," please see attached description from Chabad's website.

We called the police to take noise measurements at a distance of 25 feet in the yard. Since the event was taking place before 8PM, the "Daytime Exception" provision of the noise code applied. We could only take measurements at our fence line and not in the yard at 25 feet from the many different sources of noise. However, Officer Habib could not respond until almost an hour after our initial call. At that time, it was becoming dark, and the party moved inside.

However, prior to Officer Habib arriving, we were able to take noise measurements at the fence line at 71 dba, clearly indicating the noise was exceeding the daytime limit.

CUP violation: Many people were in the backyard on the north and west side, which is a violation of the Masons' conditional use permit. Note: we are operating under the Masons' original CUP during this interim period.

Off-street parking violation: There were approximately 30 cars on the street, 37 cars were in the Harvest Valley Christian Church parking lot, and the Masonic parking lot was full.

Pleasanton municipal code 18.88.030 states,

"Auditoriums, churches, private clubs and lodges halls, community centers ... and other places of public assembly, including church, school and college auditoriums—one space for each six seats or one space for each 60 square feet of floor area usable for seating if seats are not fixed, in all facilities in which simultaneous use is probable as determined by the zoning administrator."

The Masonic building has approximately 8,000 square feet. $8,000 / 60 = 133$ parking spaces. Furthermore, the parking lot is shared by St. Claire's church. Therefore, the square footage of St. Clare's would need to be added into this equation. However, using only the Masonic square footage, the 133 spaces already exceed the current capacity of the shared parking lot. Therefore, it is our belief that the Masonic building does not meet the off-street parking ordinance requirements and therefore should not be allowed to have commercial activities. However, given that 30 cars were on the street last night proves that the shared Masonic parking lot is not big enough for Chabad. The street was so congested with cars and visibility so impacted that we were almost hit by a car entering South Valley Trails from Hopyard.

Additional evidence: We have additional evidence available documenting the violation, if needed.



PLEASANTON

March 31, 2016

Mike & Darlene Miller
 [REDACTED] Bryce Canyon Ct.
 Pleasanton, CA 94588

Dear Mr. & Mrs. Miller,

This letter is to respond to the complaints submitted by you and received by the City via email on Friday, March 25th, 2016. The complaints received involve events that took place at the Masonic Lodge located at 3370 Hopyard Road on Friday, March 18, 2016 and Thursday, March 24, 2016. The complaints allege noise violations, violations of the existent Conditional Use Permit (UP-77-13) and an off-street parking violation. Both events mentioned in your complaints were conducted by the Chabad of the Tri-Valley as tenants of the Masonic Lodge.

Your, March 18, 2016 complaint alleges that at 6:33 p.m. “six children associated with Chabad were in the Masonic yard on the west side. The children were playing games and consequently screaming.” Your complaint alleges that the noise created by these six children playing is a violation of the noise ordinance because it exceeded the day time decibel level of 70dBA and that the children “playing outside the building on the west side...is a violation of the Masons’ conditional use permit”.

Your, March 24, 2016 complaint alleges that between the hours of 6:00 p.m. and 7:30 p.m. there were approximately 100 people on the Masonic property for a “party” entitled “Purim in the Jungle” put on by Chabad of the Tri-Valley and that the people from this event created noise that exceeded the day time noise level of 70 dBA and is a violation of the City of Pleasanton’s noise ordinance. Your complaint also alleges that during this event “many people were in the backyard on the North and West side, which is a violation of the Masons’ conditional use permit” and that “there were approximately 30 cars (parked) on the street, 37 cars (parked) in the Harvest Valley Christian Church parking lot, and that the Masonic parking lot was full.” You suggested that these conditions violate the off-street parking requirements of Pleasanton Municipal Code, section 18.88.030.

Regarding the alleged noise violations, Pleasanton Municipal Code section 9.04.030 limits noise created by “machine, animal, device, or any combination of the same, on residential property” to a level not to exceed 60 dba outside the property line. The daytime exception, Section 9.04.070

COMMUNITY DEVELOPMENT

P. O. BOX 520, Pleasanton, CA 94566-0802

Planning 200 Old Bernal Ave. 925/931-5600 Fax: 931-5183	Building & Safety 200 Old Bernal Ave. 925/931-5300 Fax: 931-5478	Engineering 200 Old Bernal Ave. 925/931-5650 Fax: 931-5479	Traffic 200 Old Bernal Ave. 925/931-5650 Fax: 931-5479	Inspection 157 Main Street 925/931-5680 Fax: 931-5481
---	--	--	--	---



PLEASANTON

exempts higher levels of these noises during certain hours (between 8 a.m. – 8 p.m. Mon.-Sat. and between 10 a.m. – 6 p.m. on Sun. and holidays) if that same noise does not exceed 70 dba when measured at a distance of 25 feet from the source. **The code specifically prohibits noise created by “machine, animal, device, or any combination of the same” but does not set any limit on non-amplified human voice noise. As such, voices measured in excess of 70 dba, do not violate the noise ordinance.** This determination is consistent with letter sent to you on November 26, 2013 (see attached).

Regarding the alleged Conditional Use Permit violations, **the Conditional Use Permit (CUP) issued to the Lodge in 1977 (UP-77-13) does not contain any conditions which prohibits the use of the outdoor areas of the lodge property.** The only language in the existent Conditional Use Permit that slightly addresses outdoor activities reads as follows:

Condition #1 – “...that the buildings be designed so that activities will be focused toward the southern portion of the subject property...”

Condition #20 – “That the applicant provide an effective buffer between the development and the single family residential are surrounding the property.”

Neither of the above conditions prohibits the use of outdoor areas of the Masonic Lodge. In 2013, the Lodge proposed voluntary measures designed to limit the impacts of lodge events on neighbors. However, it does not appear that the events mentioned in your complaints are in violation of the voluntary measures the lodge created in 2013, with the possible exception of #5 - “to have a minimum of two staff on-site to monitor functions and enforce compliance with applicable noise standards.” and #8 – “to take decibel readings hourly, at the property line, during all organized functions held within the lodge’s facilities.” It has yet to be determined if these two voluntary measures were followed on the dates in question. This determination is consistent with the letter sent to you on November 26, 2013 (see attached).

Regarding the alleged off-street parking violation, the parking criteria listed in Pleasanton Municipal Code Section 18.88.030, applies to new construction. The Masonic Lodge would have had to have met the parking criteria established at the time of construction in approximately 1977 or 1978. The City of Pleasanton would not retroactively apply new parking standards to an established use.

Since no violations of City codes were established, no enforcement action will be taken at this time. However, staff is sensitive to your ongoing concern about activities at the Masonic Lodge and has presented two options to the Masons:

COMMUNITY DEVELOPMENT

P. O. BOX 520, Pleasanton, CA 94566-0802

Planning 200 Old Bernal Ave. 925-931-5600 Fax: 931-5483	Building & Safety 200 Old Bernal Ave. 925-931-5300 Fax: 931-5473	Engineering 200 Old Bernal Ave. 925-931-5650 Fax: 931-5479	Traffic 200 Old Bernal Ave. 925-931-5650 Fax: 931-5479	Inspection 117 Main Street 925-931-5680 Fax: 931-5481
---	--	--	--	---



PLEASANTON

- 1) Cease all rentals to outside organizations until a Conditional Use Permit for a new property owner has been approved; or
- 2) Bring the existing Conditional Use Permit for the Masonic Lodge back to the Planning Commission for evaluation and possible amendment.

The Masons have expressed a preference for Option 2, and have indicated that they are available to attend the May 25th meeting of the Planning Commission. Staff will be reaching out to you to discuss your preference for next steps.

This letter will be kept on file for future reference.

Please let me know if you have any further questions or concerns regarding this matter.

Sincerely,

Mark Dennis
Senior Code Enforcement Officer
City of Pleasanton

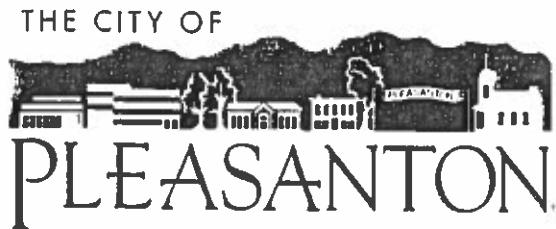
Attachment: Letter – November 26, 2013

Electronic Copy:
Gerry Beaudin – Director of Community Development
Adam Weinstein – Planning Manager
Larissa Seto – Assistant City Attorney

COMMUNITY DEVELOPMENT

P. O. BOX 520, Pleasanton, CA 94566-0802

Planning 200 Old Bernal Ave. 925-931-5600 Fax: 931-5483	Building & Safety 200 Old Bernal Ave. 925-931-5300 Fax: 931-5478	Engineering 200 Old Bernal Ave. 925-931-5650 Fax: 931-5479	Traffic 200 Old Bernal Ave. 925-931-5650 Fax: 931-5479	Inspection 177 Main Street 925-931-5680 Fax: 931-5484
---	--	--	--	---



November 26, 2013

Mike & Darlene Miller
 [REDACTED] Bryce Canyon Ct.
 Pleasanton, CA 94588

Kevin Keen
 C/O Pleasanton Masonic Lodge
 3370 Hopyard Road
 Pleasanton, CA 94588

Dear Mr. & Mrs. Miller and Mr. Keen,

This letter is to respond to the Miller's complaint received by the City on November 12, 2013 regarding the outdoor use of the backyard area of the Pleasanton Masonic Lodge on Sunday, November 10, 2013 about 4 pm. The complaint alleged the outdoor space was being used for a children's birthday party and that the noise created by the children's voices violated the City's noise ordinance since the Miller's measured the children's screams at 79 dba. The complaint also alleged a violation of the Conditional Use Permit in so far as the outdoor space was being used for an event.

I spoke to Kevin Keen, the current Lodge President, who contends the indoor lodge space was being used that day by a group of women to do quilting, and that it was their children who had gone outside to play. No part of the lodge was rented and there were no organized outdoor activities. He further stated that children playing outside on a Sunday afternoon is not an unexpected or unusual activity in a residential zoning district.

Pleasanton Municipal Code section 9.04.030 limits noise created by "machine, animal, device, or any combination of the same, on residential property" to a level not to exceed 60 dba outside the property line. Section 9.04.070 exempts higher levels of these noises during certain hours if that same noise does not exceed 70 dba when measured at a distance of 25 feet from the source. The code specifically prohibits noise created by "machine, animal, device, or any combination of the same" but does not set any limit on non-amplified human voice noise. As such, children's voices measured in excess of 70 dba does not violate the noise ordinance.

The Conditional Use Permit (CUP) issued to the Lodge in 1977 does not contain any conditions which prohibit the use of the outdoor areas of the lodge property. In 2013, the Lodge proposed voluntary measures designed to limit the impacts on neighbors due to events at the lodge. This proposal included item #1e, to not using the patio area for rented events during the months of November through February. According to Mr. Keen, the lodge was not rented for this activity, as many of the families involved on November 10th, are Lodge families.

COMMUNITY DEVELOPMENT

P. O. BOX 520, Pleasanton, CA 94566-0802

Planning	Building & Safety	Engineering	Traffic	Inspection
300 Old Bernal Ave.	200 Old Bernal Ave.	200 Old Bernal Ave.	200 Old Bernal Ave.	157 Main Street
925-931-5600	925-931-5300	925-931-5650	925-931-5650	925-931-5680
Fax: 931-4183	Fax: 931-5178	Fax: 931-5179	Fax: 931-5179	Fax: 931-4184

THE CITY OF



PLEASANTON

The proposed measures also included item #5, to have a minimum of two staff on-site to monitor functions and enforce compliance with applicable noise standards, and item #8, to take decibel readings hourly, at the property line, during all organized functions held within the lodge's facilities. It appears that neither of these two procedures were followed. A copy of the Lodge Proposal letter is attached for your reference.

Since no violations of City codes were established, no enforcement action will be taken at this time. This letter however, will be kept on file for future reference.

Sincerely,

Walter Wickboldt
Senior Code Enforcement Officer

Attachment: May 23, 2013 letter from Nadia L. costa to Nelson Fialho

COMMUNITY DEVELOPMENT

P. O. BOX 520, Pleasanton, CA 94566-0802

Planning 200 Old Bernal Ave 925-931-5600 Fax: 931-5483	Building & Safety 200 Old Bernal Ave 925-931-5300 Fax: 931-5478	Engineering 200 Old Bernal Ave. 925-931-5650 Fax: 931-5479	Traffic 200 Old Bernal Ave 925-931-5650 Fax: 931-5479	Inspection 157 Main Street 925-931-5680 Fax: 931-5484
--	---	--	---	---

Mark Dennis

From: Darlene Miller
Sent: Tuesday, May 03, 2016 11:44 AM
To: Mark Dennis; Adam Weinstein; Gerry Beaudin; Jay Lee
Cc: ncallen@ ; greg.oconnor@ ; herb@ ; jack.balch@ ; dnagler@ ; mmiller@ ; Karla Brown; Kathy Narum
Subject: Rebuttal to you letter denying Millers' code enforcement at the Masonic Lodge
Attachments: Noise complaint response to Mark Dennis v4.docx

Officer Dennis,

Thank you for responding to our recent code enforcement for noise nuisance and backyard use violations at the Masonic Lodge. In your letter dated March 31, 2016, you state that that the CUP conditions:

"Only **slightly** addresses outdoor activities," and that
Neither of the [CUP] conditions prohibit the use of outdoor areas of the Masonic Lodge."

We find your statements confusing since they are incorrect. The 1977 documents including the CUP, Design Review, and Staff Report all provide a compelling case, which specifically addresses outdoor activity and prohibits use of the backyard.

In addition, we have also provided the City with proof that the Pleasanton Masonic Center (PMC) is now a commercial business after losing its tax-exempt status, non-profit status, and business license, and therefore should not be operating in a residential area. In addition, although the Pleasanton Lodge #321 has a CUP to operate on the premises, the Pleasanton Masonic Center does not have a CUP. Therefore, the PMC and the businesses it manages—the catering company and party business—should not be operating in a residential area.

Furthermore, in 2014, the City's own staff report for a similar situation, Young Ivy, also provides evidence to prohibit use of the backyard.

Finally, you refer to the Masons' "voluntary measures." These measures are not code and do not supersede a valid CUP, so they carry no weight and have no bearing on a code enforcement action. Furthermore, we did not agree to them.

All of these topics are discussed in more detail in the attached letter. If you could please provide responses, we would appreciate it.

Thank you,
Mike and Darlene Miller

Click [here](#) to report this email as spam.

Response to Code Enforcement Officer Mark Dennis' Letter to the Millers

Dated March 31, 2016

✓ 1) **CUP—Condition #1 does prohibit use of the backyard contrary to your statement:**

Condition #1: "the guiding standards for the development of the site shall be that ... the buildings be designed so that activities will be focused toward the southern portion of the subject property..."

During the party on March 24, the backyard area on the north had several tables set up with food, blankets for people to sit on, and trashcans for the paper plates on which they were eating. The tables, blankets, and trashcans were all set up on the north side in the backyard and none of these things were set up on the south side. Therefore, a reasonable person would conclude that there was a clear focus on the north and no focus on the south. That is, this event was not "focused toward the southern portion of the subject property," which is a clear violation of Condition #1.

Also, we have evidence of this if you would like to request it.

Please respond with your feedback.

✓ 2) **CUP—Condition #20 does prohibit use of the backyard contrary to your statement:**

Condition #20: "that the applicant provide an effective buffer between the development and the single family residential area surrounding the property."

Planner Donna Decker, in an email to the Millers, defined the "buffer" as the backyard area.

Also, the Minutes from the 1977 Commission Hearing state,

"Commissioner Shepherd requested that some wording be inserted to safeguard the residents from the facility, by means of buffering."

In the event on March 31, 2016, people used the backyard. Therefore, the backyard area was not being used as a buffer and the neighbors were not being "safeguarded" from the noise nuisance.

Please respond with your feedback.

✓ 3) **1977 staff report does prohibit use of the backyard:**

The 1977 Staff Report states,

"While it might be preferable to have the lodge building farther south on the property, it would be possible to design the structure so as to minimize any noise which is

generated from within. This could be done by prohibiting openings on the North or West sides of the structure and, therefore, activity would be focused away from the Northern residences."

The staff report clearly gives insight into the intent of the commissioners. That is, that any noise was to be contained within the structure and not create a noise nuisance by using the backyard, and that activity would be focused away from the Northern residences. Having 100 people in the backyard, at a dba greater than 70, violates this.

Please respond with your feedback.

4) 1977 design review prohibits use of the backyard

The 1977 Design Review states,

"The entrance to the building would be on the south side. There would be no windows in the other three elevations and the only other opening would be to emergency exits (one on the east side and the other on the north side). Because the building would be used for Lodge rituals, windows are not desired. Placing the entrance on the south side of the building concentrates outdoor activities as far as possible from the bordering residences. This is in conformance with the requirements of the conditional use permit approval."

The design review clearly states to concentrate outdoor activity as far as possible from bordering residences. Having 100 people on the other side of our fence violates concentrating "outdoor activities as far as possible from the bordering residences."

Please also note that the sentence "This is in conformance with the requirements of the conditional use permit approval" clearly communicates that "concentrating outdoor activities as far as possible from bordering residences" is in compliance with the CUP. Therefore, 100 people in the backyard, on the other side of our fence line, violate the CUP.

Please respond with your feedback.

5) Therefore, when one looks at all of the above 1977 documents in combination, a consistent pattern emerges where the 1977 Planning Commission is protecting the residences from noise generated at the Masons' property:

- CUP Condition #1: "... activities were to be focused on the south..."
- CUP Condition #20: "that the applicant provide an effective buffer between the development and the single family residential area surrounding the property."
- Hearing Minutes: Commissioner Shepherd requested that some wording be inserted to safeguard the residents from the facility, by means of buffering
- Staff report: "minimize any noise generated from within"
- Staff report: "prohibiting openings on the North or West sides of the structure"

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

- **Staff report:** “activity would be focused away from the Northern residences”
- **Design Review:** The entrance to the building would be on the south side. There would be **no windows** in the other three elevations and **the only other opening** would be to emergency exits (one on the east side and the other on the north side). Because the building would be used for Lodge rituals, windows are not desired.
- **Design review:** “Placing the entrance on the south side of the building concentrates outdoor activities as far as possible from the bordering residences”
- **Design review:** “This is in conformance with the requirements of the conditional use permit”

You can see that the building was mandated to be designed with no windows, and only one door on the south (except for two emergency exits) to contain “any noise” within the building, and prevent people from using the backyard—since there was no access to it. Not even windows were allowed on the north side—which the Masons violated by installing the French doors.

Looking at all the above items together, a reasonable person would **not** conclude as you did that the CUP only “slightly addresses outdoor activities,” and that the CUP does not “prohibit the use of outdoor areas.” Protecting the neighbors from noise nuisances by prohibiting activity in the backyard is a dominant theme in the CUP and related documents.

Please respond with your feedback.

6) **General Plan & Zoning Codes prohibit a private for-profit business from operating at the lodge**

The General Plan is a public and institutional designated area, where the lodge is located, and zoning code 18.36.040 Provision J allows private noncommercial clubs and lodges in an RM-2,500 area.

There are two entities operating at the lodge. Below is a summary of the differences and relationship between these two entities. (Note: We have provided the City with the tax returns for both of the entities.)

- **Pleasanton Lodge #321:**
This entity is the fraternity; it has Tax ID: 23-7158536; it receives revenues from member dues; and is a tax exempt nonprofit.
- **Pleasanton Masonic Center (PMC):**
This entity is the management company; it owns the lodge building; it has Tax ID: 94-2673219; it receives revenues by renting the kitchen to the catering company, renting the building to the public for parties, and renting the lodge to the Masons. The PMC was a tax-exempt nonprofit until 2010 when it became a privately owned commercial business because its tax-exempt status with the IRS was revoked in 2010, its nonprofit status with the Secretary of State was suspended, and its Pleasanton business license

became inactive in 2011. (Note: we sent proof of this to the City in an email with links to IRS and state websites to verify this.)

The PMC and its catering company and party business should not be allowed to use the backyard, or for that matter any part of the site, for the following two reasons:

1. The PMC is no longer tax-exempt or non-profit but rather is now a private-for-profit company.
2. The rental revenues for the catering company and party business are both reported on the PMC's tax return.

That is, the PMC is a private company, which is conducting business in a residential area, and violating both the General Plan and zoning code 18.36.040.

Please respond with your feedback.

7) The use has changed from a fraternity to a catering company and party business:

The Masons are allowed to operate at the lodge because their use is that of a fraternity (Note: Both (1) the Masons CUP, and (2) Zoning Code 18.36.040 Provision J—Private non-commercial clubs and lodges, allow the Masons in a residential area to operate as a fraternity.)

However, the use of the lodge has changed so that it is no longer a fraternity. Instead, the use is a catering company and party business. The PMC's and fraternity's tax returns demonstrate this.

As can be seen from the below chart, the revenues from renting the building to the catering company and to the public for parties is 2 to 4 times the revenues from the member dues. This clearly indicates that commercial activity is the main use of the building, generating most of the revenue, and that non-profit fraternity activity is a minor use.

	2012	2011	2010	2009	2008	2007	2006	2005	Average
Revenues from member dues on tax returns of Pleasanton Lodge #321	\$27,402	\$24,545	\$25,221	\$37,041	\$30,557	\$9,021	NA	NA	\$25,631
Revenues from (1) catering company, & (2) building rental for public parties on tax returns of Pleasanton Masonic Center	Revoked	Revoked	Revoked	\$75,096	No Filing	NA	\$89,593	\$91,113	\$85,267

Nonprofits are only allowed 5% to 20% of unrelated business expense, not 200% to 400%.

Therefore, the use of the fraternity has changed to a catering company and party business. Since the fraternity no longer operates as a fraternity as its main use, it is violating codes and should not be allowed to operate on the premises.

Please respond with your feedback.

8) **The public is not benefiting from the revenues generated by the catering company and the party business as required in a P&I area:**

P&I prohibits the use by entities which do not benefit the public—such as private companies.

Before the PMC lost its tax exempt non-profit status, the IRS posted its returns on a public website (GuideStar.com) so that the public could verify the public benefit of the PMC's revenues.

However, now that the PMC is a for-profit company, its tax returns are no longer posted on GuideStar by the IRS. We are asking the question, "Where is the money going?" That is, who is benefiting from the revenues from the catering company and party business?

Currently, someone is benefiting from these monies, but it is a private company and not the public. Why are commercial activities being allowed in an area designated P&I and residential?

Please respond with your feedback.

9) **The PMC does not have a business license:**

The Pleasanton Masonic Center does not even have a Pleasanton business license. The PMC's business license became inactive in 2011. How is the City justifying this entity operating its businesses—the catering company and party venue—on the lodge's premises?

Please respond with your feedback.

10) **The PMC does not have a CUP to operate at 3370 Hopyard Road**

The City's CUP for 3370 Hopyard Road is issued to Alisal Masonic Lodge. In 2000, the lodge name was changed to Pleasanton Lodge #321 (according to the Mason's website). Therefore, Pleasanton Lodge #321, the fraternity, has been issued a CUP by the City of Pleasanton. However, the Pleasanton Masonic Center, the management company, has not been issued a CUP by the City. Please remember that the PMC is the entity that manages the rental revenues from the catering company and party business. Therefore, the PMC and its rental businesses (as designated on the tax returns of the PMC) should not be allowed to use the backyard or in fact any part of the site since it has no CUP for operating there.

Please respond with your feedback.

11) **The City protected neighbors from ambient noise from Young Ivy's proposed playground—why is the City not protecting neighbors from ambient noise from the Masons?**

In 2014, staff wrote the following in their staff report regarding Young Ivy Academy, a school for children, and turned down their request for building a playground in the parking lot near Raley's grocery store.

"The introduction of the outdoor playground area, with up to 16 children at any given time, and no significant sound attenuation, could result in increased ambient noise levels during the hours of 2 PM to 6 PM. Consequently the staff is recommending denial of this portion of the proposal."

And please note that only one neighbor complained.

But why would staff not allow Young Ivy Academy their outdoor playground due to ambient noise from 16 children with the nearest neighbor between 60 to 80 feet away, and yet see no problem with the Masons' outdoor entertainment area creating noise from hundreds of people all hours of the day and night, including weekends, with the nearest neighbor zero feet away on the other side of the fence?

Please respond with your feedback.

12) The voluntary measures offered by the Masons are not code.

We are confused as to why you are referring to a document of voluntary measures that the Masons have provided. The Mason's document is not code and does not supersede a CUP or zoning codes. Furthermore, we did not agree to them.

Please respond with your feedback.

13) Conclusion

It is clear that the 1977 documents of the CUP, staff report, and design review all provide a compelling case, which specifically addresses outdoor activity and prohibits use of the backyard. The 1977 documents all point in the same direction, which is to protect residents from noise generated at the Masons' building. One of the key elements of that protection is to maintain a buffer, which is the land between the building and the residences, and that no activity occur in that buffer. This has been clearly understood and enforced until the Masons illegally installed French doors on the north side in 2006 and began conducting activities on the north and west side of the building. Furthermore, the Pleasanton Masonic Center, which is the entity renting the building to the public and causing the noise nuisance, is a commercial business, which is prohibited from operating in a residential zone. Finally, the City was extremely protective of residents who could hear noise from the Young Ivy's proposed playground—the same consideration should be given to us. Given these facts, why has the City not enforced the code relating to the event on March 31, 2016, which generated a severe noise nuisance for the residences by conducting activities on the north and west sides of the building in the buffer?

Please respond with your feedback.

A Tasteful Affair **Pleasanton Lodge #321** **Pleasanton Masonic Center (PMC)**

A Catering Company **Mason Fraternity** **Management Company for Pleasanton Lodge #321**

Tax ID: Not available **Tax ID: 23-7158536** **Tax ID: 94-2673219**

Provides catering to the public **Holds fraternity meetings & functions** **Owns the land & building**

Receives revenues from the public for catering **Receives revenues from member dues** **Receives revenues from:**

1. Renting the building to the public as a party venue
2. Renting the kitchen to the catering company
3. Renting the building to the fraternity for meetings

Commercial Business Completely separate from the Masons **Tax exempt non-profit** **Until 2010: Tax exempt non-profit**
Currently: Commercial business

REVOKED tax-exempt status with IRS revoked (2010)
SUSPENDED Non-profit status with Sec. of State
INACTIVE Pleasanton business license (2011)*

***Note: The PMC cannot get another Pleasanton business license because it is no longer exempt or non-profit**

As a commercial business, it violates the zoning codes and General Plan **As a non-commercial private club, it:**

- Is allowed by zoning codes
- Violates the General Plan*

***Note: according to B. Dolan, by law, the City must defer to the GP when the GP and zoning codes conflict**

- As a commercial business, it:**
- Violates zoning codes
 - Violates the General Plan



May 13, 2016

Mike & Darlene Miller
 [REDACTED] Bryce Canyon Ct.
 Pleasanton, CA 94588

Dear Mr. & Mrs. Miller,

Thank you for your response letter/email dated May 3, 2016. I will attempt to clarify further aspects of the existing Conditional Use Permit (UP-77-13) as it relates to your complaints and questions. You cite in your email, other documents which may provide background information about the original approval of the Masonic Lodge but which are not enforceable (i.e. staff reports, design review, minutes, etc.). The only document which can be enforced and which runs with the property are the conditions within the Conditional Use Permit (UP-77-13). Below is the actual language of Conditions #1 and #20 of UP-77-13 (attached for your reference); our comments in regard to each condition are in italics.

Condition #1 –

That the site be developed substantially as shown on the site plan, Exhibit A, on file with the Planning Department. That it is realized that the site plan is preliminary in nature and, therefore, the configuration of structures and the number of parking spaces may change in the future. With this in mind, the guiding standards for the development of the site shall be that structures not total more than approximately 20,000 sq. ft. in area and that the buildings be designed so that activities will be focused toward the southern portion of the subject property. That access to the site shall be via Valley Trials Drive only.

Condition #1 relates to the development of the site and design of the building. Once the site was developed and the building was constructed per the standards of this condition, this condition was determined to be successfully implemented. This condition would only now apply to any new construction or development on-site, none of which is currently proposed by the Masons. This condition does not have any language explicitly prohibiting outside activities (noted in November 26, 2013 Letter to Mr. & Mrs. Miller and March 31, 2016 letter to Mr. & Mrs. Miller).

Condition #20 –

That the applicants provide an effective buffer between the development and the single family residential area surrounding the property.

COMMUNITY DEVELOPMENT

P. O. BOX 520, Pleasanton, CA 94566-0802

Planning	Building & Safety	Engineering	Traffic	Inspection
700 Old Bernal Ave	700 Old Bernal Ave	700 Old Bernal Ave	700 Old Bernal Ave	67 Main Street
925 931 5600	925 931 5300	925 931 5600	925 931 5600	925 931 5600
Fax: 931 5173	Fax: 931 5173	Fax: 931 5179	Fax: 931 5179	Fax: 931 5131



PLEASANTON

Condition #20, which is also specific to the development of the site, required the applicant to provide an "effective buffer" between the development and the surrounding residential area. However, the nature of such buffer was not defined in the Conditional Use Permit. In addition, no activity in this undefined buffer area was prohibited in the language of the Conditional Use Permit (noted in April 8, 2008 Memo, November 5, 2008 Letter to Fred Shwartz)

In conclusion, the Conditional Use Permit issued to the Masonic Lodge in 1977 (UP-77-13) does not contain any conditions or language which prohibit the use of the outdoor areas of the lodge property. This finding is consistent with the letters mailed to you on November 26, 2013 and March 31, 2016.

The City of Pleasanton is aware that the language in the Conditional Use Permit issued in 1977 does not address your concerns about ongoing activities at the Masonic Lodge. In order to address your concerns, City staff is bringing the existing Conditional Use Permit for the Masonic Lodge back to the Planning Commission for evaluation and possible amendment on June 22, 2016. This would be the best time for you to raise your concerns about the Masonic Lodge, the uses at this property and any other issue you feel is relevant in this regard.

Staff will continue to be in contact with you to answer any questions you have as we approach the June 22 hearing.

This letter will be kept on file for future reference.

Please let me know if you have any further questions or concerns regarding this matter.

Sincerely,

Mark Dennis
Senior Code Enforcement Officer
City of Pleasanton

COMMUNITY DEVELOPMENT

P. O. BOX 520, Pleasanton, CA 94566-0802

Planning	Building & Safety	Engineering	Traffic	Inspection
900 Old Bernal Ave.	900 Old Bernal Ave.	900 Old Bernal Ave.	900 Old Bernal Ave.	1777 Main Street
925-931-6600	925-931-6300	925-931-6650	925-931-6650	925-931-6600
Fax: 931-6183	Fax: 931-6178	Fax: 931-6179	Fax: 931-6179	Fax: 931-6141

THE CITY OF



PLEASANTON

Attachment:
UP-77-13

Electronic Copy:
Gerry Beaudin – Director of Community Development
Adam Weinstein – Planning Manager
Larissa Seto – Assistant City Attorney
Julie Harryman – Assistant City Attorney

COMMUNITY DEVELOPMENT

P. O. BOX 520, Pleasanton, CA 94566-0802

Planning	Building & Safety	Engineering	Traffic	Inspection
700 Old Bernal Ave. 945 931-6600 Fax: 931-6431	700 Old Bernal Ave. 945 931-6300 Fax: 931-6473	700 Old Bernal Ave. 945 931-6630 Fax: 931-6479	700 Old Bernal Ave. 945 931-6630 Fax: 931-6479	147 Main Street 945 931-6630 Fax: 931-6431

PLANNING COMMISSION
CITY OF PLEASANTON
COUNTY OF ALAMEDA
STATE OF CALIFORNIA

RESOLUTION NO. 1562

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PLEASANTON APPROVING A CONDITIONAL USE PERMIT FOR ALISAL LODGE #321, FILED UNDER ██████████

WHEREAS, Alisal Lodge #321 has filed for a conditional use permit to allow the construction and use of a masonic lodge to be located at the intersection of Hopyard Road and Valley Trails Drive South; and

WHEREAS, zoning for the property is RM-2500 (Multiple Residential) District; and

WHEREAS, the Planning Commission, on September 14, 1977, held a public hearing on this request at which time all pertinent documents, maps, reports and testimony were heard by the Planning Commission; and

WHEREAS, the Planning Commission made the following findings:

- A. That because of its location on a major thoroughfare and the design of the project the conditional use is in accord with the objectives of this chapter and the purposes of the district in which the site is located.
- B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.
- C. That the proposed conditional use will comply with each of the applicable provisions of this chapter.

NOW, THEREFORE, THE PLANNING COMMISSION RESOLVES AS FOLLOWS:

Section 1. The Planning Commission approves UP-77-13, subject to the following conditions:

1. That the site be developed substantially as shown on the site plan, Exhibit A, on file with the Planning Department. That it is realized that the site plan is preliminary in nature and, therefore, the configuration of structures and the number of parking spaces may change in the future. With this in mind, the guiding standards for the development of the site shall be that structures not total more than approximately 20,000 sq. ft. in area and that the buildings be designed so that activities will be focused toward the southern portion of the subject property. That access to the site shall be via Valley Trails Drive only.

2. That the developer be advised that the property is located in the Valley Community Services District sewage treatment area and the availability of sewer connections to the VCSD plant are subject to an agreement dated November 8, 1972 which establishes priority listings for sewer connections. A copy of the above agreement can be obtained from the City Administrative offices. That the developer be informed that sufficient sewer connections are not now available to serve the subject property, that the time schedule when service would become available is uncertain (if ever), and that a building permit cannot be issued for construction on the property until disposal system is approved by the City Council. That the approval of the development with a private sewage disposal system does not entitle the development to any priority for a sewer connection. That if private disposal system were approved, the development could remain on it for an unknown number of years.
3. That the applicant be aware that Design Review Board approval of a final site plan, landscape plan and elevations is required.
4. That utilities to serve the site be constructed underground.
5. That the construction site be kept free of fire hazards from the start of construction until final inspection.
6. That any damage done to street improvements now existing or done during construction on the subject property be repaired at full expense to the applicant.
7. That the applicant be informed that the property lies within a flood hazard zone (as defined by the National Flood Insurance Act of 1968 as amended) and that prior to issuance of a building permit by the City it must be shown that measures will be taken to insure flood safety as provided by City ordinance and the National Flood Insurance Act.
8. That the applicant pay any and all fees that the parcel may be subject to.
9. That the applicant submit a building permit survey and a site development plan in accordance with the Survey Ordinance (Article 3, Chapter 3, Title II) and that these plans be approved by the Director of Engineering Services prior to the issuance of a building permit.
10. That the site development plan include all required information to design and construct site, grading, paving, drainage and utilities.

11. That the paving sections for the parking and drive areas be designed on the basis of an R Value Test and a Traffic Index to carry the anticipated traffic loads. This design shall be subject to the approval of the Director of Engineering Services. The minimum paving section shall be 2 inch A.C. on 5 inch A.B. The minimum paving slope shall be 1%.
12. That the applicant install street frontage improvements per ordinance, to the satisfaction of the Director of Engineering Services prior to the issuance of a building permit for structures on the site. These improvements may include, but are not necessarily limited to grading, sidewalk, paving, storm drain, sanitary sewer, water facilities, street lighting, underground utilities and traffic control devices.
13. That the applicant's contractor obtain an encroachment permit from the City prior to construction on the site.
14. That the applicant install street trees as required per ordinance.
15. That the emergency telephone number of the fire department be provided near all telephones on the site following construction.
16. That the applicant be aware that a conditional use permit becomes void one year following the date on which the use permit became effective unless prior to the expiration of that year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application. A use permit subject to lapse may be renewed for an additional period of one year, provided that prior to the expiration date, an application for renewal of the permit is filed with the Planning Commission. However, the Commission may deny an application for renewal of a use permit.
17. That the owner dedicate to the City, an eight foot public service easement along the Hopyard Road and Valley Trails Drive frontages of the subject property.
18. That the existing number "74" fire hydrant be replaced with a number "76" hydrant.
19. That the driveway be moved approximately 70 ft. to the west.
20. That the applicant provide an effective buffer between the development and the single family residential area surrounding the property.

Section 2. This resolution shall become effective 15 days from the date of passage and adoption.

PASSED AND ADOPTED by the Planning Commission of the City of Pleasanton on the 14th day of September, 1977, by the following vote:

AYES: Commissioners Doherty, Jamieson, Shepherd, Wood and
Chairman Butler

NOES: None

ABSENT: None

ABSTAIN: None

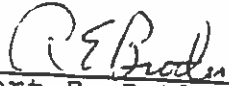
ATTEST: Secretary Harris

DATE: September 14, 1977

ATTEST:




Robert J. Harris, Secretary



Robert E. Butler, Chairman

APPROVED AS TO FORM



Harvey E. Levine
Deputy City Attorney

Jenny Soo

From: Jesse
Sent: Friday, June 17, 2016 12:40 AM
Cc: Jenny Soo;
Subject: UP-77-13, Pleasanton Masonic Center

Hi,

This email is regarding UP-77-13, Pleasanton Masonic Center.

And it was brought to our attention over time from hearing the noise from the direction facing the Masonic Center from our house at [REDACTED] Bryce Canyon Ct., especially at night.

We as a family are really concerned of the noise as well as the languages we heard from time to time which are inappropriate in a family community.

Unfortunately, we will not be able to make the hearing but we want to raise our concern to the city.

Thank you for your attention.

Best Regards,

Jesse & Amy @ [REDACTED] Bryce Canyon Ct.

Click

<https://www.mailcontrol.com/sr/C!Se4ZSnLJbGX2PQP0mvUncn6oS6IHz1XJ9iKY95BXqO69DmvXsclvOoJ2GmxLffCsmU42zlpv+g1M3YVHc55g==> to report this email as spam.

Jenny Soo

Subject: FW: opposing to the planning of allowing outside activities of the Masons building

From: Taeseok Kim
Sent: Thursday, June 16, 2016 7:08 PM
To: Adam Weinstein
Subject: opposing to the planning of allowing outside activities of the Masons building

Dear Planning manager,

I am a resident in Valley Trails Dr. of Pleasanton, since 2011 and have been happy in the peaceful environment in this neighborhood. I recently heard the city's planning around the Masons, and can't help writing this letter to strongly protest the idea as below

1. I think it is quite absurd to allow a for-profit business, with a capacity of 600, located in a residential area to hold loud outside public parties, including service alcohol.
2. I believe the city has an obligation to protect the people who live here from unnecessary and unwarranted noise, so it should refuse the Masons' request to conduct events outside the building. All the noise should stay inside their building where it belongs
3. You are ignoring case law precedent in LA with another Masonic lodge in which the court decided that commercial activities in a residential zone do not constitute an allowable use and ordered the Masons to cease and desist commercial activities
4. If the Masons want to hold noisy commercial events, they should move to a commercial zone

I hope these help you make a right decision on this matter.

Best Regards,

Taeseok Kim

██████ valley trails dr.
Pleasanton, CA

Click [here](#) to report this email as spam.

Jenny Soo

Subject: FW: The Masons

From: usha gurazada
Sent: Friday, June 17, 2016 9:39 AM
To: Adam Weinstein
Subject: The Masons

Adam Weinstein

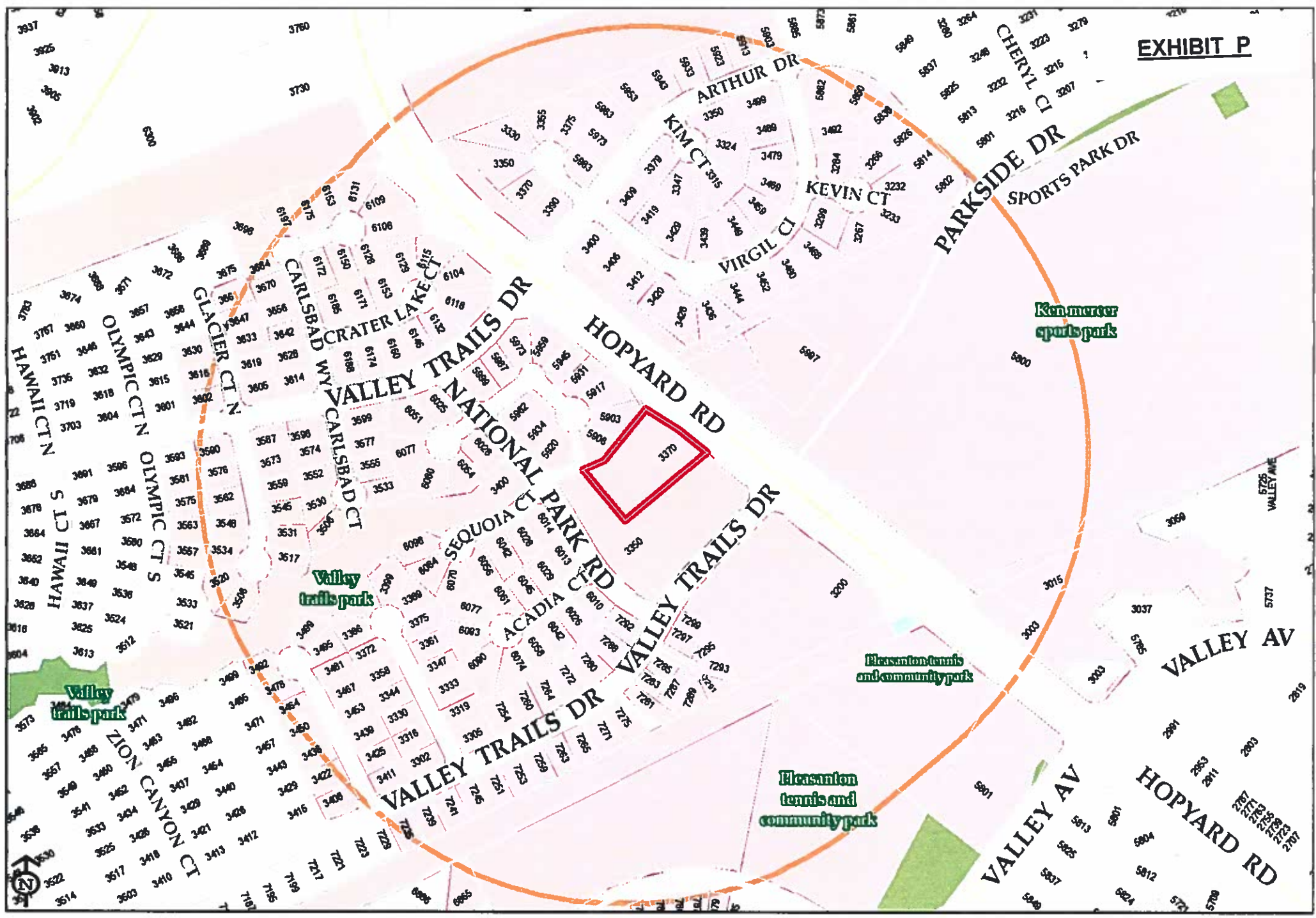
We want to draw your attention to the Masons who have been in building in our neighbourhood and are clearly insensitive to the disruption they are causing in our residential community.

How is it ok with the city of Pleasanton to allow for profit companies to have loud public parties outside with over 600 people including serving alcohol in a residential area ...

We need the city to take action to protect the peace and tranquility of our residential neighbourhood by enforcing the clearly stated conditional restricted permits , zoning ordinances and the general plan...

Am honestly hoping and expecting the City of Pleasanton to stand up for families making a life and raising families here in Pleasanton...

Usha and Shyamal Gurazada
[REDACTED] bryce canyon court , pleasanton, CA 94588



UP-77-13, 3370 Hopyard Road, Pleasanton Masonic Center

Planning Division
June 9, 2016

