



## Planning Commission Staff Report

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January 28, 2015

Item 6.b.

- SUBJECT:** UP-77-13
- APPLICANT:** City of Pleasanton
- PROPERTY OWNER:** Pleasanton Masonic Center
- PURPOSE:** Work session to discuss the existing Conditional Use Permit (UP-77-13) granted to operate a private lodge (Pleasanton Masonic Center)
- LOCATION:** 3370 Hopyard Road
- GENERAL PLAN:** Community Facilities - Other Public and Institutional
- ZONING:** RM-2,500 (Multiple-Family Residential) District
- EXHIBITS:**
- A. [Planning Commission Resolution No. 1562 Approving UP-77-13](#)
  - B. [September 14, 1977 Planning Commission Staff Report with Site Plan, Planning Commission Meeting Minutes and Application Form](#)
  - C. [November 29, 1977 Design Review Board Staff Report with plans, Design Review Board Meeting Minutes, and Design Review Board Resolution No. R-77-62 Approving Z-77-172](#)
  - D. [March 25, 2009 Planning Commission Staff Report with the following attachments, and Meeting Minutes:](#)
    - a. Draft Conditions of Approval
    - e. Letter from Fred Schwartz, Pleasanton Masonic Center, to staff, dated November 8, 2005 regarding *A Tasteful Affair*
    - f. Staff's response letter to Mr. Schwartz dated November 18, 2005
    - g. Correspondence from Michael and Darlene Miller to Staff, Dated April 3, 2008, March 12, 2009, March 16, 2009, and March 18, 2009.
    - h. Police Call Log

- i. Public Comments
  - j. Letters from Staff to the Pleasanton Masonic Center dated November 5, 2008 and December 19, 2008 Concerning Activities at the Masonic Center
  - k. Masons' Event Log – January 2008 through February 2009
  - E. [April 16, 2010 Proposal from Pleasanton Masonic Center](#)
  - F. [Building Permit Plan showing Kitchen Remodel and Exterior Door](#)
  - G. [May 23, 2013 Proposal from Nadia Costa, Legal Counsel for the Masonic Center, and Staff's Response Letter dated May 30, 2013](#)
  - H. [Code Enforcement Complaint Information Form filed by Darlene Miller, dated November 12, 2013, and Staff's Response Letter dated November 26, 2013](#)
  - I. [September 14, 2014 Letter from Valley Trails Homeowners Association with attachments](#)
  - J. [Police Call Logs: January 1, 2009 to December 31, 2014](#)
  - K. [Comments from the Public](#)
  - L. [Location and Notification Maps](#)
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## **BACKGROUND**

In September 1977, the Planning Commission approved UP-77-13, allowing the operation of a private lodge, the Pleasanton Masonic Center, at 3370 Hopyard Road. The Conditional Use Permit (see Exhibit B) did not specify intended uses or activities other than the operation of a Masonic Lodge, but conditions of approval (see Exhibit A) indicated that an effective buffer be provided between the Lodge and the surrounding residential neighborhood, and that Lodge activities be focused towards the southern portion of the project site. The subsequent Design Review Board approval (see Exhibit C) in November 1977 allowed for construction of the Lodge building, which would be located 70 feet south of the northern property line. That approval included a kitchen door on the north side of the building, as required for emergency exiting purposes. Since the 1977 approvals, the Masonic Center removed the original kitchen door and installed a new double/French door in the dining hall, installed a patio and associated landscaping in the northern portion of the site, and erected a fence adjacent to Hopyard Road. In addition, the City permitted catering businesses to use the building.

Since the initial approvals, the Masonic Center has been used as a meeting place for Masonic functions, but has also been rented for company meetings, workshops, private parties, and entertainment events (some of which attracted large crowds) and has been

used by community groups for events. 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 that had caused considerable disturbance to the residential neighbors and the adjoining St. Clare's Episcopal Church, which shares the parking lot adjacent to the Masonic Center. Staff met and discussed the issues relating to noise and disorderly conduct with Masonic Center representatives on numerous occasions; however, little progress was made in resolving neighbor concerns.

On March 25, 2009, staff brought UP-77-13 to the Planning Commission for review and consideration of revocation. The Planning Commission continued the item and public hearing, and requested that staff work with members of the Masonic Center and neighbors to decide what uses should be allowed at the Masonic Center. The Commission also requested that a study be initiated to evaluate noise impacts. The March 25, 2009 Planning Commission Meeting staff report and minutes (excerpt) are attached in Exhibit D.

Following the March 2009 Planning Commission hearing, staff met with the Millers, and representatives from the Masonic Center, both individually and together. In April 2010, in response to neighbor concerns, the Masonic Center proposed to alter operations at the Masonic Center including: limiting functions held at the facility; sharing its event calendar with St. Clare's Episcopal Church to avoid conflicts in using the shared parking lot; planting trees along the northern property line; maintaining a minimum of two Masonic Center members at each event held on site to ensure orderly conduct; undertaking a noise study; and making other operational and site design modifications (see Exhibit E). The Millers indicated the proposed modifications would not resolve their concerns as the Masonic Center intended to retain the double door on the north side of the building and to continue using the rear yard area.

Since the Planning Commission hearing in March 2009, staff has contacted Rosen Goldberg Der & Lewitz, Inc., an acoustical and audiovisual 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.

Since the March 2009 Planning Commission meeting, and after the conclusion of staff's one-year monitoring of the Masonic Center event calendar, 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 15, 2011 and (2) a birthday party in the afternoon of Saturday, November 9, 2013.

At the Planning Commission hearing on November 12, 2014, Michael and Darlene Miller requested the Commission to agendaize a hearing to review and enforce the Masonic Center's Conditional Use Permit and Conditions of Approval. The Commission agreed to agendaize this matter at a future hearing.

## SITE DESCRIPTION

The subject site (see Figure 1 on the following page) is an approximately one-acre parcel located on the west side of Hopyard Road, north of South Valley Trails Drive. The site contains a one-story Masonic Center building, which is approximately 8,000 square feet in floor area; a landscaped area and a concrete patio area to the north of the building; and approximately 22,400 square feet of vacant land to the west of the building. There is a 66-space parking lot on the adjacent St. Clare's Episcopal Church site to the south, which the Masons share with the church.

Properties adjacent to the project site include residential uses to the north; St. Clare's Episcopal Church and residential uses to the west; Harvest Valley Church and residential uses to the south; and Zone 7 Water Agency and the City's Ken Mercer Sports Park to the east and southeast.

Figure 1: Site Location



## PROJECT CHRONOLOGY

### UP-77-13 Approval

The application for the Conditional Use Permit stated that the site would be used for operation of a Masonic Lodge but did not specify or elaborate upon intended uses or activities. The 1977 staff report to the Planning Commission (attached as Exhibit B) stated that Lodge buildings are commonly rented for non-Lodge affairs such as wedding receptions and parties, which could create a nuisance. To direct noise away from the

residential uses, the 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." Additionally, the Planning Commission required as a Condition of Approval (Condition No. 20) that an effective buffer between the development (lodge) and the surrounding single family residential development be provided.

On November 29, 1977, the Design Review Board reviewed and approved the design of the Masonic Center building and site improvements, under which the building would be located approximately 70 feet away from the northern property line. The Masonic Center building was constructed in 1980.

### **Site and Building Changes at the Masonic Center**

Since the 1977 Design Review approval, the following construction activities have taken place at the project site:

- A concrete patio, with associated landscaping, has been constructed to the north of the Masonic Center building. Staff did not find any City approvals for the construction of the concrete patio.
- 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).
- A fence was erected on the Hopyard Road side of the project site.
- Several accessory structures have been placed on the property near the north side of the building and placed against the west side of the building. Staff did not find any City approvals for the installation of these accessory structures.

### **Activities/Uses at the Site**

- 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.
- In November 2005, the Masons wrote staff a letter proposing to expand the existing catering and rental activities. The letter specifically proposed to allow *A Tasteful Affair* to prepare food by using the kitchen facility at the Masonic Center and cater to events held off-sites, and to expand the facility rental to functions that are not organized by the Masonic Center or other masonic bodies (Exhibit D). The letter stated that the Mason Center would share its event calendar with St. Clare's to avoid activity scheduling conflicts, including conflicts concerning the parking lot shared with St. Clare's, and that the volunteer Building Manager would be present at all events at the Masonic Center to supervise activities and minimize nuisance complaints. Staff approved the 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 Masonic Center and staff’s letter are attached as Exhibit G.

- February 2008 - Michael and Darlene Miller, residents at 5903 Bryce Canyon Court, contacted the City’s Code Enforcement Division and raised the following concerns:
  - The Masonic Center’s increased use of the open space area to the north of the building.
  - Noise generated at the Masonic Center exceeding the noise level thresholds in the Pleasanton Municipal Code.
  - The inconsistency of the double door on the north side of the building with previous approvals.
- May 31, 2008 - an event was hosted by Allstars Entertainment, an event promoter, at the Masonic Center. The Pleasanton Police Department received calls that a gunshot(s) was fired at the Masonic Center. Pleasanton Police encountered a crowd of more than 100 people gathered in the parking lot.
- 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 the 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.

Letters from staff to the Pleasanton Masonic Center dated November 5, 2008 and December 19, 2008 concerning activities at the Masonic Center are listed in Exhibit D.j.

- January 18, 2009 - a “White Party” was held at the Masonic Center. A crowd in excess of 600 attended the party and several juveniles were found sitting inside vehicles consuming alcoholic beverages and smoking marijuana.
- March 25, 2009 - staff brought the Masonic Center’s conditional use permit approval to the Planning Commission for review (see background section of the report).
- March 2009 to April 2010 - staff worked with representatives of the Masonic Center and the Millers to reach a resolution to the issues raised by the Millers. 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 events at the Masonic Center.

Staff forwarded the Millers the link to the Masonic Center's calendar. Staff has not heard any update from the Millers regarding this study.

- April 16, 2010 – staff met with the Millers and representatives of the Masonic Center. The Masonic Center proposed changes to its operations (Exhibit H), which included the following:
  - all functions would conform to the City's Noise Ordinance;
  - use of the patio for functions<sup>1</sup> would end no later than 9:00 p.m.;
  - no amplified music would occur on the patio at any time and all "live" music would be held only in the lodge room;<sup>2</sup>
  - a minimum of two Masonic Center staff would be present at non-Masonic Center related functions to monitor the use and enforce the Noise Ordinance;
  - only pre-recorded music would be allowed in the dining room and only with the double doors closed;
  - window shades would be installed on the double doors and the shades would be closed during evening hours to minimize any impact on neighbors; and
  - a double row of Italian Cypress would be planted along the rear property line.<sup>3</sup>

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 related to the use of the rear yard area and the existence of the rear double/French door at the Masonic Center.

- October 15, 2011 – the Millers notified the Code Enforcement Division about a baptism and music played at the Masonic Center between 5:00 p.m. and 6:00 p.m. on a Saturday with the double door open. The Millers stated that they took noise readings and that the noise exceeded 60 A-weighted decibels (dBA), which they believed violated the City's Noise Ordinance. The Millers did not specify the location of the noise measurements.
- May 23, 2013 - Ms. Nadia Costa, an attorney at Miller Starr Regalia, a law firm representing the Masonic Center, wrote to staff and identified voluntary measures to address the Millers' concerns (see Exhibit G). The proposed voluntary measures modified the April 10, 2010 proposal to include measures addressing when the outdoor area<sup>4</sup> could be used by non-Masonic Center related events and to whom the Masonic Center could be rented. A copy of

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<sup>1</sup> The proposal did not specify the functions that would be allowed.

<sup>2</sup> The lodge room is located in the southern (front) portion of the building.

<sup>3</sup> The proposal did not specify if the Italian cypress would be planted along the Masons' entire rear property line or if they would only be planted along the section of property line abutting the Millers' property.

<sup>4</sup> The letter did not specify if outdoor area means the patio area or any area outside the building.

the letter was forwarded to the Millers. The Millers submitted no formal response to this proposal.

Staff felt that the voluntary measures, when instituted, would help to address many of the concerns raised by the Millers. Please see staff's response letter in Exhibit G.

- November 9, 2013 - The Millers filed a complaint stating that a birthday party was held in the rear yard of the Masonic Center and that approximately 25 children were playing in the backyard area, generating noise levels (screams of the children) that exceeded the Noise Ordinance. Staff contacted the President of the Masonic Center, and was informed that the indoor space was used by a group of women engaging in quilting, and the quilters' children were playing outside. According to the Masons, no part of the Masonic Center building was rented that day and there were no organized activities. Staff responded that children's voices measured in excess of 70dba does not violation he noise ordinance. Please see Exhibit H.
  
- In October 2014, staff received a letter from Valley Trails Homeowners Association (VTHOA), dated September 14, 2014, stating support for the Millers' concerns about the activities at the Masonic Center (Exhibit I). The VTHOA letter includes several attachments including requests by the Millers for the implementation of additional conditions at the Masonic Center. The Millers' Requests are summarized below:
  - Enforce the existing conditional use permit approval to contain all noise within the existing building and prohibit activities in the outdoor space to the north and west of the building.
  - Replace the glass French door with a Sound Transmission Class (STC) rated door.
  - Require the catering company to procure a Conditional Use Permit, which would include conditions related to the minimization of noise, light, odors, and other potential nuisances.
  - The Millers are willing to be a good neighbor and allow catering company and commercial banquet facility to operate if the above stipulations are implemented.
  
- On November 12, 2014, the Millers requested that the Planning Commission agendize a review of the conditional use permit granted to the Masonic Center.

**Pleasanton Police Calls for Service Log Associated with the Masonic Center Site**

Staff requested a Calls for Service log from the Pleasanton Police Department for the Masonic Center site (Exhibit J) which indicates the number of calls received by the Police Department since the 2009 Planning Commission hearing and callers used the Masonic Center site as an location identifier to report incidents and/or crimes (calls for service between May 12, 2007 – March 3, 2009 were listed in Exhibit D.g.).



## DISCUSSION

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. Furthermore, the Millers claim that the Masonic Center is operating unlawfully. . 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.

Below, staff presents three options for the Planning Commission to consider in regard to the Masonic Center's existing Conditional Use Permit:

Option No. 1: No Changes to UP-77-13 Approval.

*If the Planning Commission chooses this option, the approval and conditions of UP-77-13 and Design Review Z-77-172 would remain in their current form. No changes/additions to the conditions would be undertaken. Enforcement of the existing conditions of approval would not allow continued active use of the patio area.*

Option No. 2: Revoke UP-77-13 Approval.

*If the Planning Commission chooses this option, staff would schedule a revocation hearing on a later date because the Planning Commission cannot revoke UP-77-13 at this meeting. Staff would prepare a notification and staff report for the revocation hearing.*

Option No. 3: Modify UP-77-13 Approval.

*If the Planning Commission chooses this option, staff requests that the Commission provide direction on which items it would like staff to pursue as part of the modification. Staff suggests the following options:*

- a. pursue modifications based on the proposed voluntary measures by the Masonic Center identified in the letter of May 23, 2013 (Exhibit G);*
- b. pursue modifications based on the Millers' requests included as an attachment to the Valley Trails Homeowners Association letter (Exhibit I);*  
*or*
- c. pursue modifications that are not listed in either letter.*

## **PUBLIC NOTICE**

Notices regarding this item were mailed to the surrounding property owners and tenants within a 1,000 foot radius of the subject site. A map showing the noticing area is attached to this report. The public notice was also published in *The Valley Times*.

Terry Greenaway, resident at 3530 Carlsbad Court, emailed staff, commenting that “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.” Lisa and Don Conley emailed staff inquiring about the hearing. Both emails are attached in Exhibit K.

Staff will forward to the Planning Commission any public comment received after publication of the staff report.

## **ENVIRONMENTAL ASSESSMENT**

Since the Planning Commission will take no formal action on the project at the work session, no environmental document accompanies this work session report.

## **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission review the attached material, take public testimony, and provide direction to staff on which option it would like staff to pursue.

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