

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.

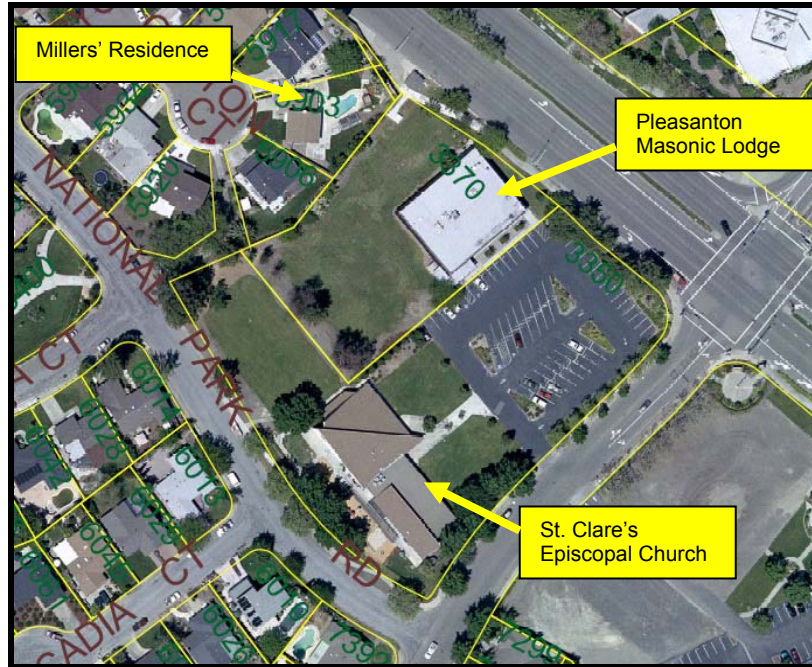
Staff believes that it is necessary to review the original intent and limitations of the use permit.

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