

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

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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.



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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

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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: 931-5179	Inspection 157 Main Street 925/931-5680 Fax: 931-5181
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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:

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- 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

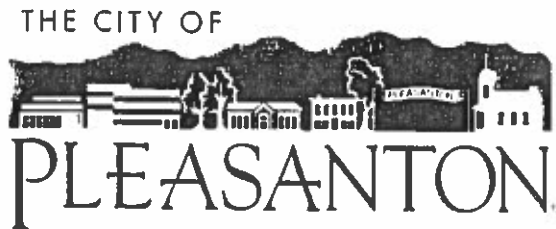
Attachment: Letter – November 26, 2013

Electronic Copy:
Gerry Beaudin – Director of Community Development
Adam Weinstein – Planning Manager
Larissa Seto – Assistant City Attorney

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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.

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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

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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

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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

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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"

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- **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 **Tax exempt non-profit** **Until 2010: Tax exempt non-profit**
Completely separate from the Masons **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