

Orlando City Council – November 16, 2015

September 15, 2015 Municipal Planning Board Minutes)

Item #9- Recommended Approval: Grills Family Restaurant Lakeside
Master Plan MPL2015-00023

Approving Master Plan MPL#2015-00023, subject to (1) the conditions contained within the staff report, (2) the additional conditions recommended by the MPB, and (3) the following additional conditions related to noise:

a. That the required as-built noise study include noise measurements from, at a minimum, the following locations:

- i. Onsite, near the shore of Lake Fairview
- ii. From the Fairview Grande condominium building; these measurements must be made out of doors, from an upper floor (2nd or higher) of the condominium building, and from the lake-facing side of the building (this measurement is only required if reasonable access is made available by a condominium owner or the condominium association)
- iii. The backyard of a single-family home on Lake Fairview and addressed on Anchor Court (this measurement is intended to measure the noise levels at property fairly directly across the lake from the site at issue and is only required if reasonable access is made available by a homeowner)
- iv. Lake Fairview Park

b. That the required as-built noise study reasonably include noise measurements made in a variety of meteorological conditions, including various wind directions, wind speeds, temperatures, relative humidity levels, and times of day/night.

c. That the required as-built noise study include noise measurements of actual amplified and non-amplified samples of music representative of the type of music planned for the venue.

d. That due to the special characteristics of noise traveling over the open water of Lake Fairview, and due further to the establishment's close proximity to residential uses, that, notwithstanding anything in Chapter 42, Orlando City Code, to the contrary, the property shall be considered a "Multi-Use" (rather than "Commercial") property for purposes of maximum noise levels provided by Chart 1 of section 42.03, Orlando City Code. Notwithstanding the foregoing, prior to and during the required as-built noise study the applicant shall perform comparative tests wherein amplified music representative of the type of music planned for the venue shall first be played at a level such that the sound measured from the lakeside edge of the property is sustained at 70dBA/75dBC (the Commercial Use level for the 7 am to 10 pm time period set forth in Ch. 42, Chart 1) and shall be simultaneously measured from the backyard of a single-family home on Lake Fairview, selected by the City as representative of other such homes

across the lake (which home must be addressed on Anchor Court, Anchor Way or Grant Blvd.). If the owner of such representative home and the City both reasonably agree the sound reaching the representative home is non-offensive, the sound level as measured at such representative home shall be noted and deemed the “Maximum Permitted Receiving Decibel Level” and 70 dBA/75dBC shall be deemed the Maximum Permitted Sending Decibel Level.” The Maximum Permitted Receiving Decibel Level and the Maximum Permitted Sending Decibel Level shall be recorded by the City Planning Director on the face of the approved Master Plan and shall thereafter be deemed the Class A Standard for the property between 7 am and 10 pm and shall be enforceable as set out in Chapter 42 of the City Code as though the same was specifically set forth in Chapter 42, Chart 1, Maximum Noise Levels in A and C-Weighted Decibels. The Class A Standard for the property from 10 pm to 7am shall be 5 decibels lower.

In the event that the owner of such representative home and the City do not reasonably agree the sound reaching the representative home is non-offensive when the sound emanating from the property is 70 dBA/75dBC, as measured at the subject property, the sound being transmitted from the property shall be incrementally reduced until such time as the owner of such representative home and the City do reasonably agree that the sound reaching the representative home is non-offensive. At such point, the Maximum Permitted Receiving Decibel Level and the corresponding Maximum Permitted Sending Decibel Level shall be recorded by the City Planning Director on the face of the approved Master Plan and shall thereafter be deemed the Class A Standard for the property between 7 am and 10 pm and shall be enforceable as set out in Chapter 42 of the City Code as though the same was specifically set forth in Chapter 42, Chart 1, Maximum Noise Levels in A and C-Weighted Decibels. The Class A Standard for the property from 10 pm to 7 am shall be 5 decibels lower.

It is the intent of this provision that a reasonable non-offensive Maximum Permitted Receiving Decibel Level be established and thereafter be enforceable against the subject property based on sound measurements taken at or near the representative home.

It is further the intent that the Maximum Permitted Receiving Decibel Level may be established at a level such that the corresponding Maximum Permitted Sending Decibel Level is ultimately lower than the Class A Standard that would otherwise be applicable to the subject property pursuant to Chapter 42, Chart 1, Maximum Noise Levels In A and C-Weighted Decibels. However, while the Maximum Permitted Sending Decibel Level may be established lower than the Class A Standard set for Multi-Use Property in Chart 1, it shall in no event be permitted to exceed the Class A Standard for Commercial Property set forth in Chart 1

The measurements for all required sound tests shall be made with the same or essentially the same meter that is used by the City in investigating noise complaints under Ch. 42 and shall be made in the same manner as described in Chapter 42, section 42.03(2) and Chart 1.

- e. That subwoofers and percussion instruments are prohibited.
- f. That the City’s noise ordinance and the additional conditions of development for this master plan apply to acoustic and amplified music and to both live and pre-recorded music

g. Notwithstanding anything in the staff report, the additional conditions recommended by the Municipal Planning Board, or herein, the certificate of occupancy for the property shall not be conditioned on the prior completion of the required as-built noise study, however, no outside music shall be permitted on the property until such time as the as-built noise study has been completed and approved by the Planning Director.

h. All outside music will end at 11:30 pm on Friday and Saturday, and 10 pm Sunday through Thursday provided, however, that the Zoning Official can approve up to six (6) waivers a year to allow for extended hours for special events, holidays, or holiday weekends.