

**OFFICIAL PROCEEDINGS OF THE
MARQUETTE CITY PLANNING COMMISSION
October 19, 2021**

A regular meeting of the Marquette City Planning Commission was duly called and held at 6:00 p.m. on Tuesday, September 21st, 2021, in the Commission Chambers at City Hall.

ROLL CALL

Present: W. Premeau, M. Dunn, S. Mittlefehldt, A. Andres, Vice-Chair M. Larson

Absent: Chair J. Cardillo, E. Brooks (excused).

AGENDA

It was moved by S. Mittlefehldt, seconded by A. Andres and carried 5-0 to approve the agenda.

MINUTES

The minutes of September 21th, 2021 were approved by consensus.

CONFLICT OF INTEREST

D. Stensaas stated that J. Cardillo is sitting out this meeting due to a conflict of interest.

PUBLIC HEARINGS

A. Interventional Review of Special Land Use Permits for Outdoor Entertainment and Community Events and the expansion of Outdoor Food and Beverage Service granted to Superior Culture LLC at 717 N. Third St.

M. Larson, acting as Chair, stated that this is a public hearing for an interventional review of the Special Land Use Permit (SLUP) for the Outdoor Entertainment and Community Events SLUP and the SLUP granted for the expansion of Outdoor Food and Beverage Service granted to Superior Culture LLC at 717 N. Third Street.

D. Stensaas stated that before he begins with the staff report, he would like to remark that the Planning Commission is a volunteer board and there are nine seats on the board, and that there are currently two vacancies. He also stated that no matter how this hearing turns out, if you feel strongly about it, know that you can apply to be a member of the Planning Commission if you are a city resident and want to help your community. He then read the memo for the proceeding and went through the staff report and showed all of the materials on the video monitors in the room and also showed five video clips that were provided with written complaints. He also stated the Community Master Plan – CMP - acknowledges on page 1-5 that “The main challenge facing Marquette is change, particularly the ongoing tension between the desires of community members to preserve beloved historical and natural elements of the City, while accepting new technologies, urban development, landscape changes, and more people and traffic.”, which was written circa 2015. He stated also that in Appendix G, which is the Third St. Corridor Sustainable Development Plan there is a statement on p.B-16 of the Plan, that “one concern with N. 3rd is that 3rd St. was transitioning from a pedestrian-friendly neighborhood shopping district to a suburban-like shopping center of freestanding businesses disjointed from each other.”, and that a general planning concept is that businesses in a primarily residential neighborhood should be complimentary, not disjointed. He said, finally, that this past Monday the City adopted a Land Acknowledgement Resolution that states “Marquette...is located on the ancestral homelands of the Anishinaabe...of the Three Fires Confederacy”, and that this brings to mind that this place has a long story, and each of us here tends to think of themselves as a whole – our lives are everything to us and are of ultimate importance – but community planners have to think of each of us and the neighborhoods, businesses and institutions and the parks and the lake and streams as pieces that make up the whole. And so, understanding that there are generations unborn that are going to be affected by decisions they make is part of what goes into the job of being a Planning Commissioner, so there is more to this than what is transpiring today.

A. Landers read three items of correspondence; one from Ada Popovic of 216 W. Hewitt St., stating that she has “been negatively affected by the live music” and requesting that the Planning Commission “re-evaluate the situation and take into consideration the people that live in the neighborhood and are

negatively affected by the live music that is being presented by Superior Culture.”; one from Karen and Robert Schmitt of 226 W. Hewitt St., stating that they “have enjoyed music in their indoor space, but we do not support their outdoor entertainment venue due to the noise levels.”; and one from Igor Popovic of 216 W. Hewitt St., stating that “...I believe that Mr. Rowland has chosen the wrongest possible way and the single most inadequate location to do what he purports to do, namely, promote and support live entertainment in Marquette.”

D. Stensaas read an item of correspondence from Grace M. Shumman, of 713 N. Third St., stating that “to remove this venue would be more harmful to the community than helpful.”

M. Larson stated thank you to staff and that next up we are going to invite the applicant, Mr. Alex Rowland, to address the Commission.

Mr. Alex Rowland presented a history of how the venue was utilized for past performances and the timeframe during the day when the shows were held. Mr. Rowland emphasized that such entertainment had strictly adhered to the sound ordinances and explained changes that were made to the venue design to improve noise reduction. He also gave details regarding new equipment that was purchased with the same objective of reducing the noise level. Mr. Rowland expressed that without such venues for the younger demographic of a college town, similar activities which could also include alcohol consumption may become dispersed throughout different areas of the town, which would be undesirable. He emphasized that this is a non-alcoholic venue with no hard liquor. Mr. Rowland reported that the retention of the younger demographic in the town was important for the economy and that the venue hires several young people. He expressed the opinion that while it is a published fact that keeping the cultural scene alive in Marquette is vital to its economy and the retention of creative artists, there was some negativity being expressed by the community and this could be expressed as “not in my back yard”.

M. Larson opened the public hearing.

Caden Reed, resident of 421 North Front Street and employee of Superior Culture for the past two years reiterated Mr. Rowland’s emphasis on the fact that it is of “the utmost importance” that the entertainment is closed by 10:00 p.m. He explained that after the performances, there are still people in the back yard until 11:00 p.m., but if they are too noisy, he will close the back yard by 10:30 p.m. Mr. Reed stated that although the written communications have been somewhat negative, the reviews online have been very good and there is a very positive and diverse clientele at the venue itself. He expressed the opinion that the availability of this venue prevents incursions of such activities into other surrounding the town and that the venue being in town eliminates a lot of drinking and driving. Mr. Reed went on to compare the venue of Superior Culture to the similar venue of Blackrocks Brewery and stated that although Blackrocks is not located as close to a heavily populated residential area, he knew that similar impacts were occurring because his own home is nearby. He emphasized that the other venue concentrated only on one type of music while Superior Culture’s offerings were more diverse. He requested that the positive feedback regarding the venue’s contribution to the artistic diversity and other positive feedback be considered as much as any negativity being expressed.

Susan Bohor, resident of 130 W. Hewitt Ave., and owner of the nearby duplex at 134/136 W. Hewitt Ave., requested a revocation of the Special Land Use Permit for Outdoor Entertainment and Community Events as a principle use for Superior Culture. She stated that this use of the business is incompatible with the heavily populated Victorian constructed residential neighborhoods nearby due to the noise level and has a negative impact on property values and the resident’s peace of mind. She stated that residents had spent a lot of money to refurbish and repair these old homes and the investment should not be wasted. She informed the committee that the noise continued well after the night’s artists have ceased to perform. She stated that she summarized her request by pleading that such a disturbance would normally be reported to the police if it was a college block party every weekend. Ms. Bohor pleaded those homeowners should not be driven out of their homes by such a routine disturbance of the peace.

Ronald Sundell, also of 130 West Hewitt stated that he wished to add a couple of comments to what his wife, Susan Bohor, had stated. Mr. Sundell stated that his home being 500 feet away from the venue, could not recognize the sound coming from Superior Culture as music at all, but at such a distance and

after reverberating off of the surrounding buildings, the end effect was just irritating noise. He explained to the committee that the activity being held at the venue was affecting people much further out than the 300 feet illustration.

Hannah Milkie of 316 Blemhuber Avenue, stated that she has lived all around that area and that in her experience there is always an increase of activity on the weekends and that she believes that the owner of Superior Culture is abiding by all the necessary regulations. She emphasized that the owner is a new business and is still in the process of making desirable improvements and only recently completed some necessary enhancements. She stated that the business is a vital component of the art and culture scene in Marquette and that she is upset with the unfair criticism of the business owner by some people who say they support the art and culture scene but are giving conflicting signals. Like others before her, Ms. Milkie stated that without such venues the young people who are part of this art and culture community would end up in the basement of a residential neighborhood. She expressed this was a safe and regulated area for such activities to take place. Ms. Milkie reminded the members that the venue was not only for rock and roll, but also for poetry and other cultural activities.

Linda Popovich of 216 West Hewitt Avenue said that she was present in order to support the revocation of the Special Land Use Permits previously approved for Superior Culture, or in lieu or revocation that the committee limit the types and frequency of the events permitted. She asked that the previous submissions of comments, photographs and videos that she has submitted to the committee be considered and that some empathy would be shown to the residents living close to Superior Culture. Ms. Popovich stated that although she is a highly educated musician herself, she did not agree with the statements in Mr. Rowland's petition stating that the venue provides any meaningful contribution to the musical culture and arts of Marquette. She said that the surrounding neighborhoods have been subjected to loud disruptions three nights a week for the past two years and that it is her opinion that the applicant is not presenting these events in a professional manner. She stated that the purpose of the business is to brew both alcoholic and non-alcoholic beverages and not presenting concerts. She stated that limiting the outdoor musical events would not present a threat to this business as the business is presented to the public. She stated that she would request that amplification not be used at these events and only acoustic presentations be held indoors.

Rebecca Finco stated that she serves as the Executive Director of the Marquette Downtown Development Authority (DDA), and that she and the City Manager had received complaints about the applicant's business, Superior Culture. The city Police and the DDA met with the business owner, Alex Rowland, to address mitigating the concerns of the neighboring residents while operating his business in compliance with the regulations of his Special Land Use Permit. She stated that the following action items were agreed upon: lowering the volume - which would remain under the personal control of Mr. Rowland for each band that performed; setting the performance hours on Thursdays from 7:00 to 9:00 p.m.; strictly enforcing 8:00 to 10:00 p.m. hours on Fridays and Saturdays; and finally, installing sound dampening materials. Ms. Finco stated that it was agreed at this meeting that Mr. Rowland would be given an opportunity to implement these items before any further action would be taken. She stated that her understanding is that Mr. Rowland would have until July of 2022 before the subject would be reviewed again and that she was disappointed that this call for revocation had taken place shortly after their meeting with the city police and the DDA. Ms. Finco stated that she supported allowing Mr. Rowland an opportunity to implement the measures that were discussed before punitive action is taken.

Nick Curry, of 338 Mesnard St., stated that he is a patron of Superior Culture and many similar businesses in town which have live music events. He stated that such a similar business, Blackrocks used to have its band on the front patio and had received similar complaints from nearby neighbors. He stated that Blackrocks had made changes to accommodate this problem and that Mr. Rowland is now facing the same type of issue. He also stated that Mr. Rowland should be allowed to keep his Special Land Use Permit.

Paul Gluski, of 212 W. Hewitt Ave., stated that he and his wife are active members of the community and have invested a lot into their home and to its landscaping and that their home was included in the Garden Tour of Marquette. He stated that they should be allowed to enjoy a quality of life in their home, which they worked hard to improve, and that the Superior Culture was not like the other similar businesses because it is located in a small residential area. He stated that the venue was too loud and that he did not approve of

the Special Land Use Permit being continued. He stated that the back of his yard abuts the business in question. He stated that he sympathized with Mr. Rowland facing a hardship, but that many of the residents of Marquette have had to endure hardships in order to obtain what they have obtained and that it is a very rough situation for he and his wife and that the loud noise is only 100 feet away from their window.

Sandra Gluski, of 212 W. Hewitt Ave., stated that she initially supported Mr. Rowland and his business, but the end result was loud and disruptive and not what she was expecting initially, such as therapy classes with music lessons. She stated that they used to enjoy get together with family and friends, but now there are times when they can hardly hear each other. She stated that she does not agree with Mr. Rowland's statement at the meeting the June, previous to this meeting, when he stated he shuts everything down at 10:00. She stated that his patrons remain outside and can be louder than the music. She expressed her wishes for Mr. Rowland's success and stated that the money he invested could go to good use for cultural activities; however, she and her family have invested \$15,000 in their back yard and that this investment is also important. She stressed the adverse affect that the music venue has had on their quality of life and the value of their home. She quoted from a letter of Mr. Rowland's regarding the patrons, "... at the end of the day, these are the people for whom we and the Planning Commission are compelled to serve." She felt this statement was very telling because it showed that the residents of the neighborhood were not part of the equation. She stated that Mr. Rowland should be restrained to two nights a month, no later than 10:00 p.m., in accordance with his original statement that he might have music once a month, that the volume should be controlled, and the light turned off at 10:00 to encourage his patrons to go inside. She expressed that she felt Mr. Rowland had shown disregard to such arrangements.

Tara Gluski stated that she was Sandra Gluski's daughter, and she had comments she would like to add. She stated she worked for the City of Marquette for 14 years. She stated that she supported small and local businesses and that she is invested in the community and its growth. She stated she worked for a local non-profit and volunteers for many local events. She stated that although she realizes Marquette is a college town, it is not only a college town. She stated that she was disappointed with comments made at the last meeting in June and felt that were short-sighted. She expressed that families with children were being impacted and both people who work inside and outside the home. She stated that it was inappropriate to instruct such people that "this town just isn't a good fit for them". She stated that the city needs to be inclusive of everyone and that's what makes the city vibrant. She reiterated the opinion of many people that Superior Culture was touted as a tavern and not a music venue and needs to have consideration for its neighbors and that the neighbors would be supportive if this consideration was taken into account.

Harold Lawrence, of 204 Genesee St., stated that he was a student and a patron of Superior Culture. He stated that he moved to Marquette on July 17th of 2020 and that it is his opinion the business provides a safe, caring, and authentic feel and a place that encourages each person to express themselves through art by creating and maintaining an environment where people can be who they are. He stated he felt fortunate to be part of the community that Superior Culture creates. He said he was disheartened to learn about this hearing which seeks to dissolve that community. He said that because of the atmosphere created by Mr. Rowland's business, he felt comfortable enough to perform and it was a pivotal experience of his life. Mr. Lawrence reiterated that the music scene would most likely go underground into the basements of residential neighborhoods.

Lisa Graham of 221 West Ridge Street stated that she is the wife of a musician, has become educated about sound proofing and her husband has successfully performed at the venue with no sound complaints. She said that this could serve as an example that the performances can be executed at that location without disrupting the neighborhood. She stated that according to her research there is a sound abnormality affecting specifically 212 and 214 Hewitt Street as described in complaints. She said that this is not necessarily a reason to shut the venue down and that the sound management problem is something that can be resolved. She expressed she thought some redesign and change of acoustic materials was necessary to prevent the high decibel level at the Popovic residence as demonstrated by the videos submitted,, and that this was an aberration. She explained that she had a conversation with a consultant and described the difference between a sound dampening material and sound absorbing material. Her time then expired.

Bernie Huetter of 224 W. Hewitt Ave. stated that he has been residing in Marquette with his wife and four kids since 1981. He related that in 1992 he purchased an adjoining house that had a shared driveway at 200 W. Hewitt, which he now rents out. He stated that there are eight tenants on the property and the renters are adversely affected by the Special Land Use permit which has been allowed to have the entertainment venue near the back yard. He agreed that there is an acoustic problem with the site due to the way the sound projects back into the residential area. He sympathized that Mr. Rowland had made attempts to control the problem but that these attempts have been unsuccessful. Mr. Huetter stated that it is not his belief that this issue can ever be effectively controlled by any alterations or adjustments. He stated that it is his opinion that the permit should be revoked and that he has no issues with the music being performed inside the designated business. He asked the commission to consider the area uncontrollable as far as the disruption and upset that occurs.

Troy Graham, of 221 West Hewitt St., stated that he is a professional musician and a school music teacher at Father Marquette Catholic School. He stated that it is upsetting to him that a place which is so accommodating and tries so hard to be welcoming and bring people together as an artist community would cease to exist. He stated that in his opinions the sound issues can be resolved and remedied. He encouraged both sides to listen to each other and work together. He stated that he felt that it was unfair when it was related by someone that Alex was unprofessional. He stated that Alex was very professional and that when Mr. Graham himself had played there it ended sharply at 9:55 p.m. and he never witnessed the performances go beyond that time period, although he patronized the business several times per week. He strongly emphasized that the venue is extremely unique, though Mr. Graham has traveled widely as a musician he has not seen anything like it, and that it gives every and all musicians a chance to perform. He went on to say that he himself earns money from this venue and that it would be taking money out of his pocket for him and his family if the permit gets revoked. Mr. Graham emphasized the importance for this artistic community to exist.

Ryan Stock, of 1085 Woodridge Ave., related that he is a professor at Northern Michigan's department of Earth, Environmental and Geographic Sciences. He stated that the venue is important to the cultural vitality of the city and that he approves of the permit being allowed to remain in place. He asked that Mr. Rowland be given the opportunity to resolve the problems surrounding his business. Mr. Stock explained, however, he was actually at this meeting to discuss the climate crisis.

Leon Joel Shobeth of 204 W. Ridge St., stated that he works at a locally owned business and that he is a professional musician and music instructor with a degree in music. He expressed his gratitude for the venue that Superior Culture has provided, and he has witnessed the growth of the business and has seen their unparalleled work for the growth of the community. He stated that he could attest that the guidelines regarding that the performances are completed at or before 10:00 p.m., as well as the volume being kept at reasonable levels. He expressed that he thought removing the outdoor venue would dampen the music community of Marquette as well as hurting Mr. Rowland's business. Mr. Shobeth stated that revoking the permit would be a disservice to all those who desire a sustainable and collaborative community in Marquette.

Jeff Byer of 426 Front Street stated that he started working at Superior Culture the past summer and has had a very good experience and met many musicians and local artists. He testified that he shuts down the music every single time at 10:00 p.m. on the dot. He stated he has never had people present as late as 1:00 p.m. He stated that at the most there may be people cleaning up at the latest 12:20 a.m. He also stated that there may have been lights on as late as 11:00 p.m. but he always instructs all the patrons to leave that that time. He stressed the legality and that a regulated venue was superior to house parties held by the local young people and that when it can be counted on to have something to do every single weekend without resorting to such illegal venues, it is a boon to the community for that reason.

M. Larson closed the public hearing.

It was moved by S. Mittlefehldt, seconded by W. Premeau, and carried 5-0 to suspend the rules for discussion.

S. Mittlefehldt outlined the conundrum of the City of Marquette being a community with a diverse array of land uses. She stated that the city comprises of both quiet residential neighborhoods and at the same time, a vibrant arts scene. She stated that the arts and culture aspect is part of the community master plan and that the planning commissions do want to support young entrepreneurs who are trying to bring new life to the City of Marquette. She also stated that the need for balance the competing uses and for such a balance to be in harmony with the community master plan, and explained that the Special Land Use Permit is not necessarily a right that goes with commercial properties. She stated that when this was approved there were conditions on the permit and that some conditions have not been met and that there is some frustration on the part of the city authorities that some of the items that were promised were not fulfilled. She said that Blackrocks had made necessary adjustments in order to solve similar problems to what Superior Culture is currently facing, such as the music hours. She illustrated that Blackrocks made the necessary adjustments on their own by remaining in communication with the community and did not have to be instructed to do so. She reiterated the need for the conditions to be met which were promised before things could move forward.

W. Premeau stated that an excuse was being used due to COVID, and some promises were let slide, but he expressed that personally he felt none of the rules which were set were followed.

A. Andres inquired of the applicant why the applicant did not follow through on what he had promised.

Mr. Alex Rowland stated that the fence barrier has been completed to code, as stipulated, and that some problems that had occurred in regard to installing the acoustic canopy - due to a problem with a tree being in the way - and also that the acoustic dampening materials are on the back wall of the stage, but they placed cedar shakes over them. He stated that there were challenges regarding the installation of the bike racks. He apologized for the delay and said he is going to definitely make the corrections regarding these two issues which are in violation.

D. Stensaas stated that he wanted to clarify a point regarding the site plan requirements. He stated that staff's Planning-Zoning Technician was in touch with Mr. Rowland and went to the site and tried to match everything up, before and after they reviewed the site plan. He also stated that he had missed the canopy symbols on the site plans, and that he did not know the sound damping materials were on the back wall of the stage.

Mr. Alex Rowland stated that the removal of the tree was challenging and that he would show the photographs from the inside of the property where the tree was visible.

S. Mittlefehldt inquired if altering the hours could be a creative solution to help alleviate some of the issues.

Mr. Alex Rowland stated that that would be a possible solution, but emphasized that the business has a younger crowd and sometimes people don't show up until 8:00 or 8:30 p.m. He stated that there would be very limited attendance if the performance was started at 6:00 or 7:00 p.m.

M. Dunn stated that the committee is facing a situation where they had rights of different parties that were in conflict. He stated that the probability that the same issue would most like arise again in the future on 3rd Street. He stated that it would be necessary not only to weigh the rights of the people involved, but also the entire community. He asserted that nevertheless he has observed that there have been several occasions throughout the entire process where conditions that were placed upon the approvals were not met. He stated that regardless of the various possible reasons, the fact is that there is a noise problem that needs to be addressed. He said that he did not feel that it is right to put the rights of the business owners above the rights of those that want to enjoy their residence. He stated that he was in agreement to revoke the outdoor events permit for a period of time until it has been proven that the sound would no longer be creating a problem for the neighbors. He stated that he was open to any kind of creative suggestions for a method of resolution to this issue.

M. Larson reminded the committee that there was an agreement to review the project after one year from when it was approved, but due to these complaints it was necessary to move the process up. He stated that due to the meeting with the DEA and the City of Marquette Police and this hearing, Mr. Rowland has

become aware of the significance of the problem. He also emphasized that other venues such as Blackrocks were not exactly comparable to this property, because the small lot utilized by Superior Culture was not designed for music performances. He stated he also understood the 3rd Street development and that the City of Marquette is changing and that there could be some room for balance in this situation. He suggested possible solutions could include a change of hours and the type of performances, and that compromises could be made, although currently he did not know what these could be in detail.

M. Dunn requested to hear more from the citizen who had educated herself and knew more about the special sound characteristics of this particular area in question. He stated that he knew that this was not the same type of site like Blackrocks and that special accommodations would be necessary.

Lisa Graham, of 221 West Hewitt St., returned as speaker to present her ideas about accommodations and corrections which could be made tailored to the specific area in question and suggested that Superior Culture develop its own sound management plan. She stated that sound abatement experts should be consulted, recognizing that the business exists in a noise-sensitive area. Ms. Graham gave technical details of the situation and possible solutions, products, and strategies. She also gave examples of other 3rd Street businesses of a similar nature and what actions they took to reduce the noise level of their own venues.

Ms. Dunn thanked Ms. Graham for her clarification and expressed he felt there could be a solution in the future. He stated that he is still undecided and realizes that it is impossible to make everybody happy in this situation. He asserted that the outdoor permit should be suspended until a sound management program could be solidified.

S. Mittlefehlt stated she that if no concrete steps were taken in between now and 2022, when the modifications were due to be completed, then the revocation would have to be issued. She stated the reason for her granting some leeway was because COVID has obviously made this a difficult year, but there could be a stipulation that no outdoor events be held until the sound dampening equipment has been installed, the bike racks were installed, and the hours were revised.

A. Andres stated that the residents should not have to wait a year for the problem to be resolved, and the noise complaints could be ended.

S. Mittlefehlt clarified that what she meant was that the outdoor music would be suspended until the necessary sound dampening equipment was up, but she was not in support of revoking the permit altogether at this point. She said in 2022 if there was still a problem, then revocation would be considered and that this is her proposed idea of how to move forward.

M. Dunn stated that he was open to Ms. Mittlefehlt's proposed idea but had a concern. He said to Mr. Rowland that although he appeared to have a lot of support and many people showed up to support him, he would need some additional assurance that this issue is indeed going to be taken seriously. He stated that more could have been done to protect the residents and that immediately action has to be taken, because Mr. Rowland had already been granted leeway in the past and it has not worked thus far. He stated that there need needs to be a firm deadline for the conditions to be met. He emphasized he did not feel it was fair to the residents to extend any more chances to Mr. Rowland to handle these issues.

A. Andres asked about what the timeframe of this deadline should be. He stated that he would like balance and communication and compromise between all the parties involved.

M. Larson stated that his opinion was that Mr. Rowland should be given outlines to adhere to specifically, since this is the first action the city has taken due to the registered complaints. Examples were adjusting the hours of the performances and the food and beverage service causing background noise as people sit and enjoy the outdoors. He stated that Mr. Rowland should be given a chance to restrict his hours and develop a sound management plan. He emphasized the need to balance the rights of all involved and that limitations could be applied without cancelling the venue altogether. M. Larson then invited feedback from the applicant, Mr. Rowland.

Alex Rowland stated that he could simplify the timeline, and that only six more shows have been planned before shutting the outdoor venue down for the winter season. He offered to suspend all shows and there would be no outdoor performances or activities until they had another meeting perhaps sometime in the spring. He stated that would give them more construction time to come back with completions of the items on the permits and more defined limits to the venue. He requested he be allowed to use the six months down time in the winter to come up with an acceptable plan.

S. Mittlefehldt inquired whether it was possible to pause the permit. M. Larson stated that he would give some time to the subject in a few minutes.

M. Dunn stated that he wanted to clarify that any restrictions regarding outdoor activities needed to apply to both permits, the food and beverage permit and the outdoor music permit. He reemphasized that he felt it was unfair for residents to not be able to use their back yards during the summer. He asserted that the factual necessity was that outdoor music, people talking, noise the clean-up crew makes, and any music which was not live but still being played all need to comply with the set hours, not just the live music. He stated that the residents' concerns need to be taken more seriously than has been done in the past.

M. Larson outlined the decision that the members needed to make, that being is Mr. Rowland's plan to take the sound management steps by April of May of 2022 acceptable. He stated that he was open to the idea of taking immediate steps to relieve the residents' complaints while giving Mr. Rowland an opportunity to resolve the issue through taking concrete steps by next year. Mr. Larson opened the floor for input from other members.

D. Stensaas stated that it should be clarified that Mr. Rowland stated that he only had a music schedule through the end of the month and that the board needs to decide whether the music would end today or at the end of the month. He also stated that there are often studies needed for development projects, such as engineering and traffic studies, but the City does not conduct those studies and that if there is going to be a sound study done there should be a third-party expert to verify that the steps taken for sound dampening and management would be successful and could be achieved. He also stated that is done with similar projects like the construction of a cell tower where the Planning Commission lacks the expertise on technical issues. He stated that a formal written proposal from Mr. Rowland about the technical steps that would be taken and the specific adjustments to the hours is appropriate.

M. Dunn stated that Mr. Rowland needs to understand that even with the sound management plan, it does not guarantee that anything would be approved. He stated that even if all the technical specifications, such as decibel levels, were met, nevertheless he was still not comfortable with three nights a week, every week, for the entire summer as a schedule for events. He stated he wanted it to be very clear that he is not willing to go back to what was.

A. Andres emphasized the need to clarify a deadline for when this was to take place being given to the applicant.

S. Mittlefehldt stated that she liked the idea of stopping the music until the sound dampening infrastructure was in place, starting today. She emphasized the need for the proper expertise to be acquired and that the hours need to be revised for when the events do start up again in the spring. She suggested that they then revisit the issue in July of 2022 as stipulated by the current permit and then at that time they could decide whether to revoke the permit or not.

M. Larson mentioned acoustic versus amplified, hours for performances as pertinent issues to be considered and mentioned the neighbors be presented with the management plan for consideration.

M. Dunn asked regarding the process for making such alterations to the permit and what the procedure would be.

D. Stensaas clarified that the Planning Commission has the authority to place conditions on any land use approval and it is interpreted fairly broadly. He gave the example of one of the topics Mr. Rowland had presented as a possible option, such as solo and duo performances versus bands. He stated events could

be categorized in various ways such as amplified or acoustic or what instruments were involved. He suggested that certain types of performances which are more disruptive could be limited to once or twice a month, for example, and reasserted they had the authority to make such modifications at their discretion.

W. Premeau stated that he did not feel the sound could be stopped and immediate decisions should be made, and actions taken.

A. Andres sympathized with the statement by W. Premeau stating that they were getting off in the weeds and they need to make a decision, either they are going to allow music or they're going to allow poetry.

Mr. Larson stated that unfortunately this was a situation where they had to be in the weeds. He stated that despite W. Premeau asserting that the commission needed to do things right now, he stated he felt there was some merit in having a formal consensus put forth that the commission could work on. He then responded to a request from a member of the public to speak again.

Ms. Sandra Gluski stated that they want Mr. Rowland to be successful, but that the residents would like to have some nights without any music or outdoor seating. She stated this came down to the issue of frequency and that they residents want to work together and are willing to participate in a formal meeting with the applicant, Mr. Rowland, prior to the 2022 outdoor season so that everyone can come up with a balanced plan and give Mr. Rowland a chance to fix the things he is supposed to fix.

M. Larson clarified with Mr. Rowland that the remaining events scheduled for the year would be moved indoors, a sound management plan would be developed, and that in essence what would be happening is a postponement of this public hearing. He reminded Mr. Rowland that he'd heard from at least one resident that they would be willing to cooperate and reach a compromise. M. Larson stated that since this house was not designed as a music venue, some compromise would be inevitable but there would be no guaranteed outcome.

Alex Rowland clarified that he was financially bearing all of the costs and had not taken any loans for investing in the business, and that he was getting assistance from a friend who is in the construction business. He stated that giving himself the winter period to hire an acoustic specialist and changing the scheduling procedure and taking into consideration the types of performances and musicians and consulting with the neighbors along the way would be a solution and explained some of the challenges they had during the prior season. He expressed concern that during this indoor period, some activities of patrons could not be controlled, such as those patrons wanting to go outside and smoke and that it could be a possible area of contention.

M. Larson mentioned the commission had the authority to handle the problems of patrons being outside during indoor venues and that some rules could be laid down. He suggested that this issue be handled separately for each permit.

S. Mittlefehlt asked for clarification of the timeframe for which the motion would be put on the table regarding the postponement. M. Larson stated that they would be postponing the decision until an outdoor sound management plan including music and crowds including hours and days of the week was clarified.

S. Mittlefehlt stated that this could be done in cooperation and consultation with the neighbors, and this should be included in the motion. She reminded the committee about the issue of the bike racks.

M. Larson inquired how it was intended to manage the conversation with the neighbors as part of this new plan. He reemphasized that not everyone would be in agreement no matter what decision was made.

M. Dunn stated that he did not understand how the committee members could attach conditions and requirements to the permit if the hearing is simply being postpone as previously mentioned.

M. Larson stated that they could make a condition that one of the conditions of the current permit is that they cease operations that are not in line with these two permits until the formal plan is given to the committee and until approval of that happens. He suggested amending the current permit to have the

stated requirements met.

M. Larson stated that that would be handled through a third-party verification from an entity that specialized in acoustics.

W. Premeau stated that the activities should cease, and the applicant can bring back the proposal at the appropriate time.

Caden Reed asked to speak again, which M. Larson allow. Mr. Reed stated that the kinds of changes that were being discussed at today's meeting, such as scheduling changes, had already been talked about within the business. He stated that per his observation there were no complaints during the business' use of the food and beverage permit, it was only after the music permit was allowed that they encountered these problems. He stressed the relationship between the loudness of the music and the loudness of the crowd. He stated that he did not necessarily see a reason to cut off the food and beverage permit. The male employee stated that internal discussions and ideas were already being discussed within the business of how to reduce the noise and that they are working this out; he asked that they be given a chance to keep the permit and then in the summer if the problem is not resolved it could be revoked at that point.

M. Larson asked DDA Executive Director if she would be willing to be involved in this process and Ms. Finco agreed that she absolutely would be willing to participate and help with the process.

Alex Rowland mentioned the amount of money it took to apply for the permit and have site plans created, and asked that if the revocation and reapplication process could be avoided so that he didn't have to reapply, that is what he would like to do.

It was moved by S. Mittlefehldt, seconded M. Dunn, and carried 5-0 that after review of the Staff Report and 04-SUP-06-21-INT & 05-SPR-06-21, and after conducting a Public Hearing for this case, the Planning Commission finds that conditions of approval of the Special Land Use Permit granted for Outdoor Entertainment and Community Events to Superior Culture LLC have not been met, by not having all sound dampening materials installed per the Site Plan dated June 3, 2021, and by operations outdoors exceeding the 10 p.m. limit on multiple occasions and causing disturbance to the peace and enjoyment of the neighboring property owners, and hereby amends the conditions of approval as follows:

- 1. That no further live music events are held outdoors until all site plan elements related to outdoor music – specifically the sound dampening materials on the back of the stage and the acoustic fabric canopy – is installed, and that the block wall repair is completed as required.*
- 2. That bike racks are added to the property to meet the requirement for bike parking on the property.*
- 3. That a "sound management plan", developed in consultation with the neighbors, be presented to the planning commission on April 19, 2022, subject to further amendments of the conditions of this permit.*

It was moved by M. Dunn, seconded by S. Mittlefehldt, and carried 5-0 that after review of the Staff Report and 04-SUP-06-21-INT & 05-SPR-06-21, and after conducting a Public Hearing for this case, the Planning Commission finds that conditions of approval of the Special Land Use Permit granted for Outdoor Food and Beverage Service to Superior Culture LLC have not been met, by operations outdoors exceeding the 10 p.m. limit on multiple occasions and causing disturbance to the peace and enjoyment of the neighboring property owners, and hereby postpones any further action until the meeting of April 19, 2022.

NEW BUSINESS

A. Resolution Declaring a Climate Emergency

D. Stensaas referenced the memo in the agenda packet and stated that the City Manager corrected him on the memo statement about the draft resolution being presented to the City Commission on Monday night,

which he thought had been done, as he has watched the public comment portion of the meeting and saw that several people made comments about it. He also stated that there were two items of correspondence on this items that were received today that are going to be read into the record. A. Landers read a letter from Emily Leach in support of the resolution, and D. Stensaas read a letter from Tyler Penrod in support of the resolution.

Mr. Ryan Stock, 1085 Woodridge Ave., introduced himself as a professor at Northern Michigan University's Department of Earth, Environmental and Geographical Sciences. He stated that he was a resident of Marquette County and requested that the record reflect that there were approximately an additional 10 to 15 people that were going to speak.

Molly Miller, of 218 Jackson St., stated that there are several people including students on campus who are supporting the Climate Emergency Declaration in Marquette. She stated she would like to express her support for the declaration and stated that it is indeed an emergency and that scientist had identified several positive feedback loops that will drastically increase the severity of the situation. Ms. Miller mentioned forest fires, melting glaciers, and other factors that would lead to a tipping point or point of no return where it would be too late to stop climate catastrophe. She thanks all the people who supported the efforts to support climate action as volunteers.

Jane Pitkin, of 225 North 4th St., stated that she was at the meeting to address the committee on climate action. She stated that she considers herself to be a local leader on sustainability and climate action and that she's the co-leader of the Energy Conservation Group on campus as well as the President of Gamma Theta Upsilon which is the Geographic Honor Society at NMU. And related that she has observed the effects first-hand of climate change on the City of Marquette and reiterated the urgency to address such issues. She stated that she did understand that there has been an emphasis on individual action, however she felt that a lot more was necessary than only the individual actions of people like herself and like-minded individuals. She stated that action at the municipal level needed to be stressed and thanked the commission members for their volunteer efforts toward the cause of environmental awareness. She stated that she looked forward to seeing what more could be done at the level of the City Commission to address the problems in the immediate future.

John O'Bryan, of 912 Wilson St., stated that he also wished to make public comment in favor of climate action. He wished to encourage the Planning Commission to make a Declaration of Climate Emergency or a similar such action. He mentioned the recent actions in the U.S. Congress to incentivize power players to address climate issues, but related that unfortunately the movement had fell through over the weekend. He mentioned that two alternatives, the Clean Electricity Payment Program and the Carbon Tax appeared to now be on the table. Mr. O'Bryan mentioned several techniques which could be utilized to reduce carbon emissions which were being considered in Congress and looked forward to seeing how the city would be encouraging and assisting with such implementations for the people of the city.

Caden Reed, of 421 North Front St., thanked all the climate activists for their patience during the previous agenda item and stressed how much dedication it shows that they stayed for three hours in order to present their case. Mr. Reed stated that although he did not consider himself to be as much of a leader as Ms. Jane Pitkin, he mentioned that he has also participated in educating the public and cleaning up trash has been part of his day-to-day activities. He stated that during his time as a resident of Marquette he has observed there is much more than a handful of individuals who are passionate about pollution issues and climate change concerns. Mr. Reed expressed the opinion that it takes the involvement of community leaders to get more people to step up and take notice that this is a problem, and that is why he advocates for the Declaration of a Climate Emergency and other similar actions. He mentioned that from personal experience with dedicated individuals, he has realized that it is not just a climate emergency but also a health emergency. Mr. Reed elaborated that there are physical and mental health impacts due to the stress of living in a polluted environment, that people have come to the area seeking fresh air and clean water and a woodsy environment and that as the influx of more populations occurs, the City of Marquette should take measures to be prepared for this migration.

It was moved by S. Mittlefehldt, seconded by M. Dunn, and carried 5-0 that the Planning Commission would send a letter of support for the Resolution Declaring a Climate Emergency and the Creation of a Climate Action Plan.

COMMISSION AND STAFF COMMENTS

S. Mittlefehldt stated [to people in attendance] get your applications in [for the Planning Commission].

M. Dunn stated [to people in attendance] please apply, keep doing what you are doing, and get involved in the nuts and bolts of updating the city codes and ordinances.

A. Andres stated [to people in attendance] that application materials are online.

D. Stensaas stated that the City Commission approves applications for Boards and Committees. He also stated that sometimes it takes a long time to get things moving at the legislative level, but the Planning Commission has been implementing a variety of measures to address the climate crisis for years and they will continue doing that, including with elements of the amendments to the Land Development Code that are being developed now.

A. Landers reiterated how to apply to serve on City boards and commissions.

ADJOURNMENT

The meeting was adjourned by Vice-Chair M. Larson at 9:50 p.m.

Prepared by:



David Stensaas, City Planner and Zoning Administrator
Planning Commission Secretary