

Conditional Use Amendment
Highland Center for the Arts
April 28, 2022

To consider a request by the Highland Center for the Arts to temporarily suspend Condition #5 of their 2014 Conditional Use permit. Condition #5 prohibits amplified sound outside of HCA's physical building.

Warnings were posted on April 4, 2022, at the Greensboro Town Hall, the Greensboro Post Office, the Greensboro Bend Post Office, and Willey's and Smith's Stores. The warning was sent to the applicant and the following abutters and neighboring property owners: Mountain View Country Club; Town of Greensboro; Patricia Mercier; the Bishop Family Trust; David Allen; NEXT 1, LLC; the Niemi Trust; Hardwick Electric Department; Arthur and Julie Brochu; Brenden and Lindsay Beer, on April 4, 2022. It was published in the Hardwick Gazette on Wednesday, April 4, 2022.

Development Review Board members present: Jane Woodruff, Nat Smith, Wayne Young, BJ Gray, Tim Brennan, Joann LaCasse (alternate), and Lise Armstrong (alternate).

Development Review Board members absent: Mike Metcalf; MacNeil recused himself and did not attend.

Others present: Julie Brochu; Brian Niemi; David Kelley; Meghan Rublee; Brett Stanciu.

Correspondence from interested persons:

Email from David Kelley, dated April 27, 2022, DRB exhibit #1.

Letter from David Allen, dated April 28, 2022, DRB exhibit #2.

The hearing was conducted by electronic communication (ZOOM).

Summary of Discussion:

Ms. Woodruff, chair, began the hearing at 7:02 p.m. She noted the hearing concerns a modified request outlined in Keisha Luce's April 26, 2022 letter for temporary relief of Condition #5 in Highland Center for the Arts' 2014 Conditional Use permit. The letter requests permission to host five outdoor events and three poetry readings in HCA's tent with amplified sound from June to August 2022. Ms. Woodruff noted the hearing is quasi-judicial, explained the procedure for the hearing, and requested the clerk to swear in any person who wished to participate in the hearing. She asked the clerk to enter into evidence David Kelley's correspondence as exhibit #1 and David Allen's correspondence as exhibit #2.

Ms. Luce stated her original letter, dated March 18, requested permission for the Center's entire summer season to be outside again. The site visit on April 23 was an opportunity for HCA to hear from the community. To address sound issues as a good neighbor, Ms. Luce and the HCA Board resubmitted a request that reflected a compromise between noise concerns and the Center's mission to provide programming to the community.

She noted caution about current Covid numbers. Summer in Greensboro attracts visitors from all over the country and possibly the world. The proposed plan relocates the outdoor stage. Equipment from the main stage inside will be utilized outdoors in an elevated location and will direct sound downward. HCA and its sound technician have consulted with a skilled sound

engineer from Northern Vermont University. The amended proposal requests permission for an outdoor venue for the five events with anticipated larger numbers and a greater financial cost for the Center. With anticipated lower attendance numbers, the play *Little Women* and events with traditionally lower attendance will be performed indoors. Ms. Luce noted indoor performances are attended at approximately 50% of their pre-pandemic numbers. This trend is consistent with other area arts centers. The requested five outdoor performances are between June 1 and August 31. The first concert will be performance primarily by people of color who have requested to be outdoors. Additionally, the request includes three poetry readings in the tent. Last summer, Ms. Luce determined there was no sound bleed outside the tent for similar poetry readings. The concerts are slated in a 6:30-8:30 p.m. evening time slot. She anticipates a total number of hours for the summer to be between eight and ten hours.

The Board clarified that HCA chose outdoor events based on anticipated numbers of attendance. In addition, the anticipated outdoor concerts have a greater financial cost for the Center, and a fuller audience is necessary to make these events viable. The Board suggested reserving the front two rows for people who have hearing difficulties and to turn the sound down. Ms. Luce noted that request is reasonable and can be put into action. The Board asked if HCA would consider turning down the sound for future events this season, if the Center received complaints from community members after a performance? Ms. Luce answered yes. She noted the Center is always working to decrease unwanted sound impact. HCA ordered thirty trees, eight feet tall, and will plant these in early May along Center Road. An offer was also extended to the Brochus to pay for landscaping on their property.

Julie Brochu said the Center has been good about trying to make adjustments, although she found sound mitigation unsatisfactory last summer. She said she found these proposed five events an acceptable compromise. Brian Neimi complimented Ms. Luce for her attempts to compromise and noted that hasn't happened in the past. He expressed appreciation for the upcoming landscape work which he stated was required by HCA's Act 250 permit. He appreciated the reduction in the proposed number of concerts. David Kelley said arts and music are critical to the health of the community. Many people are immune-compromised and cannot attend indoor events. HCA's request seems a small ask in these times.

Ms. Luce reiterated that neighbors and community members should reach out to her at any time. She reiterated HCA's commitment to the trees and their survival. Ms. Woodruff noted this hearing has come a long way from the first time HCA requested this temporary relief. The tenor of the cooperation has changed, and this benefits everyone. She expressed appreciation for everyone who attended this hearing and emphasized that this is a demonstration of how a community can work together.

The Board entered deliberative session at 7:38 p.m. and came back into public session to announce their decision at 8:02 p.m.

Decision and Conditions:

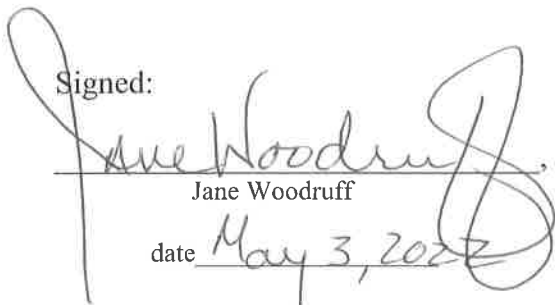
As the direction of the pandemic is still uncertain, the Board proposed to grant the Highland Center for the Arts a temporary suspension of Condition #5 to host outdoor sound-amplified

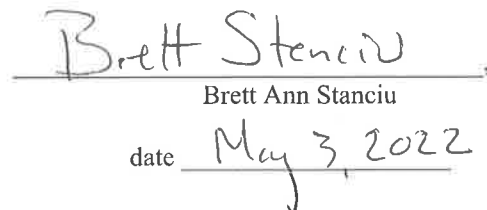
events between June 1 and August 31, 2022, with the expectation that these events will take place as presented to the Development Review Board at the April 28, 2022 hearing. Namely, these events will be at most two hours long, ending by 8:30 p.m. at the latest, and that there will be minimal amplification above the ambient sound level. The Board sees this short-term reprieve of Condition #5 as only short-term; this reprieve should not be interpreted as the beginning of outdoor, amplified sound concerts at HCA.

The Board voted unanimously to approve a temporary waiver of Condition #5 of Highland Center for the Arts' 2014 Conditional Use permit.

Conditions:

1. The Board approved the following proposed events for 2022, at these dates and times:
 - East Coast Inspirational Singers on Saturday, June 18, 6:30-8:30 p.m.
 - Della Mae on Friday, July 15, 6:30-8:30 p.m.
 - Bassel & The Supernaturals on Friday, August 5, 6:30-8:30 p.m.
 - Lakou Mizik on Saturday, August 13, 6:30-8:30 p.m.
 - Session Americana on Friday, August 19, 6:30-8:30 p.m.
 - Three Back Roads Readings: Dan Chiasson and Toussaint St. Negritude on July 10; Bianca Stone and Sharon Olds on July 24; Brad Kessler and Jay Parini on August 7; 3- 4 p.m. for all readings.
2. If any concern is raised about volume by community members, HCA is willing to modify future events in the 2022 summer season.
3. Any changes in dates, times, or performers will be conveyed promptly to abutters.
4. All amplified sound shall end no later than 8:30 p.m.
5. Every performance shall employ a sound engineer to control sound levels.
6. HCA shall keep a log of any complaints with name, contact information, and date. HCA will furnish that log, if created, to the zoning administrator by the season's conclusion.

Signed:  chair
Jane Woodruff
date May 3, 2022

 clerk
Brett Ann Stanciu
date May 3, 2022

NOTICE:

This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding (in person or in writing) before the Development Review Board. Such appeal must be made within 30 days of the date of this decision, pursuant to 24 V.S.A. #4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

