

Village of Egg Harbor
Plan Commission Public Hearing Minutes
Shipwrecked Conditional Use Public Hearing
August 23, 2021 at 4:00 PM

- Commission Chair Cambria Mueller called the meeting to order at 4:01 PM
- Commission members present: Cambria Mueller - Chair, Paula Cashin, Kathy Navis, Lou Nyberg, Emily Pitchford, Jon Kolb, Chris Roedl
- Village Staff present: Megan Sawyer, James Kalny, Village Attorney, Lydia Semo, Tom Strong
- Public: John Heller Village President, Ann Harvey, Dawn McGinnis, Joseph Smith, Shipwrecked, Tyler Pluff, Jon Pinkert, Mary Reiley, Paul Brophy, Denny Phillips, Kaaren Northrop, John Heller, Liz Heller, Bill White, Laurie Culp, Peter Culp, Jennifer Blahnik, Chuck Baum, James Vander Heiden, Vonnie Calsen, Claude and Marion Crawford, Al Lohman, Jim Vitrano, Peter Crytall, Myra Crystall
- *Jim Kalny provided an overview of the Wisconsin Statutes regarding the Conditional Use hearing including the definition of testimony and substantial evidence that the Plan Commission can take into consideration for deliberation. There were changes in 2017 with regard to Conditional Use Permits. The law provides that if an applicant agrees to meet or agrees to meet all the conditions specified by the ordinance or imposed by the commission, the Village has to grant the conditional use permit. The new law also places requirements on what kinds of conditions may be imposed. Conditions have to be related to the purpose of the ordinance, based in substantial evidence, they have to be reasonable and to the extent it is practical it has to be measurable. The applicant has to demonstrate that they will meet the conditions imposed, proven to the level of substantial evidence as well. Substantial evidence means facts and information other than merely personal preferences or speculation. Simple opinions aren't enough. They need to have some substance supporting those opinions related to the ordinance or purpose of the ordinance. The substantial evidence has to be directly related to the requirements and conditions that are imposed, such that a reasonable person would accept that evidence in support of any conclusion that is reached based on it. To fortify the evidence, we follow the procedure to take the testimony under oath, allowing staff and the applicant to question those providing testimony. Once granted, the Conditional Use Permit shall remain in effect as long as the conditions imposed are followed. We are free to impose conditions such as duration, limitations on transfer or renewal, in addition to the other conditions imposed. That is the overview of the law that governs what we can do with Conditional Uses that I wanted to share with you before we start this hearing.*
- *Cambria Mueller thanked Jim Kalny for his comments. She thanked the in-person audience for spacing themselves out. We will start with the in-person testimony. I will swear you in, asking you for your name and address for the record. You can then provide your testimony. The person filing the application does have the right to ask questions. She asks testimony to remain civil and orderly.*
- *Megan Sawyer: There will be two separate hearings today. The first is for the Special Development District application. The second is for the Conditional Use Permit application.*
- *Jim Kalny: Under the new law, conditional uses include any type of special exception. We are going to have the public hearing that is related to both of these items. Any questions you have about the 75-foot setback exception, those questions should be raised along with any questions regarding the conditional use.*
- *Cambria Mueller: Thank you Jim Kalny. If at any time you are having trouble hearing testimony or the commissioners, please raise your hand. I will be asking you to step up to the microphone to provide testimony. We will start it off with the Special Development District Application hearing at this time.*

PUBLIC HEARING: On the conditional use permit application filed by David Pollman. Said application pertains to property located at 7791 and 7783 STH 42 (C-1 District with SDD Overlay) – Parcel #1180125302612N and #1180125302612P. Said conditional use permit application referenced above is required per section § 152.025 C-1, Commercial District (B) Conditional Uses, (4) Restaurants and taverns. **The applicant is proposing an addition to the existing restaurant commonly known as Shipwrecked.**

- Chair Cambria Mueller opened the public hearing regarding the Conditional Use Permit Application filed by David Pollman at 4:54 PM.
- Cambria Mueller swore in the Village Witness, Megan Sawyer, on behalf of the Village.
- Testimony: Megan Sawyer, Village Administrator, 6776 Division Road, Egg Harbor, WI 54209
 - *Megan spoke on behalf of the Village of Egg Harbor as presented in the meeting packet. My testimony is true to the*

best of my ability. Megan provided her Zoning Administrator's review of the project against zoning ordinances as well as the criteria for a Conditional Use Permit under 152.044 (A) as presented in the meeting packet. Megan reviewed the increase in density, traffic control, pedestrian safety, driveway access points, parking requirements and fulfillment, traffic congestion, sidewalks, storm mitigation, land scape plans, increased noise, and screening. Megan also made several recommendations for conditions for the Plan Commission to deliberate on at the regular meeting on August 24th

- Jon Kolb: Could you tell me more about the vision triangle sight lines? Also how does that apply to the Fat Louis property? Could there be a problem at that location?
- Megan Sawyer: Section 152.031, Traffic Visibility Standards defines the vision clearances. This could be one of the conditions imposed on this project. I haven't looked at the details of the Fat Louis Plan. We would have to look at that under it's own application.

- Cambria Mueller swore in the Witness, Tyler Pluff, on behalf of the Applicant.

- Tyler Pluff, 454 Kentucky St Sturgeon Bay, WI 54235.
- Tyler Pluff presented the Shipwrecked project application. I think it is important that we keep the project in perspective. We are only adding 90 seats. The 302 seats already exist. We are adding more parking spaces on site and at Fat Louis. We can no longer count the on-street parking for fulfillment. As Megan stated, there are a large number of parking spots added to both Church Street and Hwy 42. We are adding 16 spots on our parking lot and adding 13 spots at Fat Louis. At 4 seats per parking spot, the spots we are adding covers an additional 126 seats. more than the number of seats that we are adding. We know there are traffic challenges on Hwy G. We are doing our best to improve the situation. We are also using the Cape Cod Motel for employee parking. We aren't adding 394 new seats. 302 seats already exist. We are adding 92 more seats. We understand there are parking challenges in the Village, but church street and Hwy 42 will help. We are also trying to do what we can to add as many parking spaces as we can in the land available. Everyone has to pitch in and do the best they can to improve parking in the Village.
- Cambria Mueller: With additional spaces at Cape Cod, what is Shipwrecked going to do to enforce employees parking there? Or is it just going to be a suggestion to employees.
- Tyler Pluff: At this point it is just a suggestion, but we are open to the Plan Commissions recommendation on enforcement.
- Jon Kolb: At the last meeting, when we do a parking assessment, do we go back to square one or do we only consider the additional seats being added?
- Jim Kalny: This is an expanse of a use. I would say that you look at what the original requirement was. You will have to look at the history of this property. When the original improvement was made, on street parking was still being considered. Now we have the \$50 per spot per year rule. Can you say yes, you have to come into compliance for all 394 seats? Yes, that is basically what you are doing. But remember, the fulfillment rule has the defined ways that they application can fulfill the requirement.
- Jon Kolb: How many seats did you have before the fire and how many do you have now?
- Joe Smith: There were 270 before the fire. We now have 302.

- Cambria Mueller swore in the Witness, Al Lohman

- Testimony: 6041 Bluff Ledge Road Sturgeon Bay, WI 54235
- The Parking on Church Street has no bearing on this project on Hwy 42. Neither does the Cape Cod motel. In that case, why don't you connect the Door County Winery to this project? Many people don't even know that parking is available behind Fat Louis. The problem is that they are adding more seating without sufficient parking spaces. Why would people park on Church Street to go to Shipwrecked? That doesn't connect in my opinion. That is a poor comparison about what is needed.

- Cambria Mueller swore in the Witness, Dawn McGinnis

- Testimony: Dawn McGinnis 7813 Horseshoe Bay Road Egg Harbor, WI 54209

- I would like to address what Megan said about public nuisances. I consider having to navigate around a delivery truck parked in the lane of traffic is a nuisance. I consider the trucks parking on the sidewalk as a nuisance for a person walking on a sidewalk, especially someone with a disability. I don't understand how the back part of that building meets the requirement of the vision triangle. I don't see how the trucks will be able to safely back out of the delivery area as presented. I don't see how any of this can't be considered anything but a nuisance.

- Cambria Mueller swore in the Witness, Mary Reiley

- Testimony: Mary Reiley 7632 Evergreen Road, Egg Harbor, WI 54209

- Within a five-year period, the owner of this property is expanding the use by 45 percent while only providing 40 percent of the required parking. The problem is the scope of the proposal. The plan would add additional capacity that can't be accommodated on this site. The owner wants to shift the burden of parking on taxpayers and other

businesses in the Village. I would like to know what the cost is per space, compared to the pitiful 50 per spot that will be paid for by the property owner. If they pay that \$50 for 20 years would only be \$1,000. That isn't going to begin to cover the cost of an actual parking spot. Deficit of 60 parking spots is way beyond what any reasonable person would interpret as the intent for a fee in lieu of parking program. In the 2015 traffic study, the turnout from Fat Louis was represented a safety issue back then. If it was a problem in 2015, it is even more of a safety concern now. This applicant wants to expand use in an area that is a problem. Regarding noise, the owner has no current plans for music. What control would the Village have if they did start having music? That can't be left open ended. Most importantly, this project is flawed from the start. Megan mentioned that this project would reduce congestion by adding more parking spaces. The flip side of that is that this proposal is also greatly increasing the demand for parking. On May 11, one of the other business owners made a tongue in cheek statement that encouraged others to take advantage of the FILOP because it is so weak. Without some immediate action to get parking control under control and to get an Architectural Review committee now, we are simply losing control of this Village. It is a wonderful corner lot which is a gateway to our village. It is wonderful but it is also small and limited. We need to support our businesses. We need to diversify businesses in our village. That it doesn't mean you should approve a wrong use on this site.

- Cambria Mueller swore in the Witness, Lauren Schar
- Testimony: Lauren Schar 7755 Hwy 42 Egg Harbor, WI 54209
 - *I would urge the commission to understand the precedent you would be setting here. They are asking to add more concrete and more development all over town. What is next? The village is already close to a breaking point. Please deny this application so we can all move on.*

- Cambria Mueller swore in the Witness, Paul Brophy
- Testimony: Paul Brophy 7632 Evergreen Road, Egg Harbor, WI 54209
 - *I respectfully ask the Chair to incorporate my comments from the Special Development District meeting into this meeting. Regarding diversity, it would be interesting to know what has been developed since the long-range plan was put into place. From my observation, I believe it has all been tourism related. If that is in fact the case, this project would result in more of the same. I urge you to look at those facts for your deliberation, before accepting the notion that this project would add to the diversity in the Village.*
 - *Cambria Mueller: Attorney Kalny, we can incorporate the prior testimony?*
 - *Jim Kalny: The important thing is that the board and applicant knows you can ask questions regarding the prior testimony. It was taken under oath, so it is credible testimony. If they have additional questions, they should be allowed to ask them.*

- Cambria Mueller swore in the Witness, Ann Harvey
- Testimony: Ann Harvey 7765 West Shore Drive Egg Harbor, WI 54209
 - *I want to point out that the Shipwrecked website says it was built in 1882. It was actually built in 2017 to the best of my knowledge. This building doesn't resemble what was there in the past. I don't find it engaging. If they have event space for rehearsal dinners or weddings, I would like to know what the average length of time is their patrons would be there. I would imagine for an event, that would be a minimum of 4 hours. That is a lot of time and a lot of capacity in one of their rooms. Has the village considered requiring valet parking or larger events? Do any other establishments in the county use valet parking? According to a restaurant research website, the average amount of time that a 4 top is around 2 hours. That is a long time in a parking space. The amount of time their patrons will be taking up a parking spot needs to be taken into consideration. The walking mid street was very evident this year. I tried to politely point out that the Village put in 2 crosswalks. Yet people regularly ignored my comments and crossed in the middle of the road. It is a mess there and it is going to get worse.*
 - *Tyler Pluff: When you talk about 2 hours, where is that time frame from? Did you analyze Shipwrecked?*
 - *Ann Harvey: That is from a general industry average that I pulled from a website. I previously asked if Shipwrecked has any analysis to share. I asked that very early on at one of the original meetings for this project. What I found online is 2 people on average stay 1 hour and 45 minutes. 4 people on average stay for 2 hours. I wasn't looking for the longest one. I was just trying to educate myself. I certainly know it is longer than going to the grocery store or picking up a cup of coffee.*

- Chair Cambria Mueller closed the public hearing at 5:40 PM.

Minutes completed by Tom Strong on August 24, 2021 for approval on September 28, 2021.