

VILLAGE OF EGG HARBOR PLAN COMMISSION MINUTES

TUESDAY OCTOBER 13 – 6:00 P.M.

Donald & Carol Kress Pavilion Great Hall 7845 Church Street Egg Harbor, WI 54209

<https://villageofegg Harbor.zoom.us/j/84871750995>

Call in Number: 312 626 6799 Meeting ID: 848 7175 0995

Cambria Mueller, Chair
Kathy Navis, Commissioner
Emily Pitchford, Commissioner
Jon Kolb, Commissioner

Paula Cashin, Commissioner
Lou Nyberg, Commissioner
Chris Roedl, Commissioner

Agenda:

1. Call Meeting to Order
 - a. **Chair Cambria Mueller called the meeting to order at 6:00 PM.**
 - b. Commission members present: Cambria Mueller, Paula Cashin, Jon Kolb, Kathy Navis, Lou Nyberg, Emily Pitchford, Chris Roedl.
 - c. Absent: None.
 - d. Staff present: Tom Strong, Megan Sawyer, Jim Kalny, Village Council
 - e. Audience members: Joe Smith, Tyler Pluff, Jon Pinkert, David Pollman, Robert Pollman, Dawn McGinnis, MaryJo Kolb, Karen Petersen, Kevin Egan, Myles Dannhausen Jr, John Heller Village President, Ann Harvey, Laurie Culp, Lisa Van Laanen, Kim Jensen, Kevin Egan, Jennifer Blahnik.

2. Approve Agenda
 - a. **Emily Pitchford moves to approve the agenda.**
 - b. **Kathy Navis second.**
 - c. **Motion unanimously carried.**

3. Pledge of Allegiance

4. Open Session
 - a. *Chairperson Mueller opened the floor for public comment.*
 - b. *Karen Petersen: I ask you to please look at the Shipwrecked project in light of the Comprehensive Plan. Is this good for Egg Harbor? Is it appropriate in that location? You have heard from people in the community who overwhelmingly oppose this project. Please keep in mind that you represent the Village and people of Egg Harbor. Thank you for doing this. I know it hasn't been easy.*
 - c. *Lisa Van Laanen: I would simply like to second all that Karen just said. I couldn't have said it any better than that.*
 - d. *Dawn McGinnis: I hope some of you had a chance to listen to the comments I made during the open sessions at Monday's trustee meeting. When I become aware of a hazard situation,*

I can't just ignore it. I want you to clear up a few things. Under the conditions of law, section 7, it states the 15 foot may not be adequate for deliveries by semi-trucks, therefore requiring delivery trucks to park in the public right of way to complete deliveries. Does this statement mean that all of you condone semi-trucks parking on the sidewalks and in the roadway where the curb is painted yellow? Does this mean that the pictures of the semi-trucks parking on the sidewalks did not provide evidence of a substantial safety issue? Did the pictures of the trucks on the sidewalk mean nothing? I don't consider these pictures I sent in to be insignificant. Do you realize how it looks that you paid more attention to hiding the garbage than to discuss the issue of delivery truck safety? I do appreciate your attention to signage in the lot asking customers to use sidewalks between the parking lot and Hwy 42. Do you realize that many people use the sidewalks on County G? Some go to Blacksmith. Some go to the music in the park. Some go to the beach, the Landing Resort and Harborview Grill. Developing the parking lot does nothing for congestion mitigation. The second plan without any parking expansion made more sense. These deliveries were at least to some degree manageable. I sent an email to Cambria Mueller on September 16, 2021, that read "Looking over revised parking lot plan, could you consider eliminating green space #6 to allow for better delivery truck access, keeping section #12 screening on County G? No need to back up trucks. I am assuming the Conditional Use Permit goes through." Clearly my issue is not with the beer garden. Last week when reviewing the Wisconsin Supreme Court and Court of Appeals cases, it appears that a notice of appeal was filed in a circuit court on September 13, 2021. This is of course related to the sidewalk condemnation on County G. An appeal of the initial ruling is how I understand it. Tyler Pluff can speak more clearly to that if he wants to. I am unsure why this has no bearing in these deliberations. What happens if they win this appeal? People will once again be walking on the roads. Congestion mitigation to some people including me does not mean just adding more parking stalls. It means cleaning the roads up to make sure they are safe from cars. Thank you.

5. Deliberation, consideration, and possible action on Conditional Use Permit Application filed by David Pollman on behalf of Sojenhomer LLC for an addition at 7783 STH 42 and 7791 STH 42 (Parcel #s 118-0125302612N and 118-0125302612P)
 - a. *Cambria Mueller opened the deliberation tabled at the last meeting.*
 - b. *Chris Roedl recused himself from this deliberation.*
 - c. *Jim Kalny: I think it is important that we once again review the burdens in making decisions in this matter. I also think it is important that I address the parking ordinance to some degree based on our conversations at the last meeting. I didn't want to leave the impression that I didn't think this commission was in the position to interpret its own code. I will clarify those issues. The memo that I provided way back in May is included in the meeting packet. I will use this as a guide for our discussion at this meeting. I would like to go through that again as I believe it is all relevant. I believe you have done a good job following it to this point. Statutory burden under Act 67 is different than it used to be. It is very important that we pay attention to it, and I think we have been. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence. This has to be the basis for your decision. The requirements and conditions described under sub. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration,*

transfer, or renewal. This is something we don't always address. I would like to keep this in mind. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence. The ordinance strongly suggests you have the right to deny a permit, but that has to be based on substantial evidence. The "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion. There is our burden. We have been over this a number of times. We have been discussion section 152.030 of the zoning code, our parking requirements. It sets parking requirements based on use, the number of seats in this case, then provides 6 different ways to fulfill those requirements that may be used in combination including provide the spaces, obtain a shared use agreement, pay a fee in lieu of parking spaces, reducing the functional space, require employees to park in a public parking facility and obtain a variance. The code says the owner may submit the six different ways for approval. The ordinance also states that the Plan Commission may require additional spaces if the scope of the project indicates that more parking spaces are needed. Practically speaking, in order to make these decisions you will have to interpret the ordinance. There is another provision that states the Plan Commission may accept any combination of the above methods that meets the intent of the ordinance, or another alternative that is acceptable. That seems to put the decision to determine if the fulfillment combination is acceptable or not in the hands of the Plan Commission. The Plan Commission must determine if the combination meets the intent of the ordinance. I may have overstated that, but you do have to consider if the fulfillment combination meets the ordinance. That is a part of the charge is to determine if the application is consistent with your ordinances and requirements. One of them has to do with the intent of the ordinances, particularly related to parking. The Plan Commission should consider the purpose expressed in §152.002 Purpose, the purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics, and general welfare of the community, and under §152.003 Intent, it is the intent of this chapter to relate to the built environment as viewed from a public right-of-way. It is also the intent of this chapter to compliment the intent of the Comprehensive Master Plan; in particular: the vision statement; transportation recommendations; downtown development directives; harbor and waterfront recommendations; existing and potential land use conflicts; preferred land use plan; land use policies; and recommended implementation strategies. The intent of the Commercial District, C-1 is to provide for the location of professional offices, retail stores and multi-family dwellings. The Commercial district has a less significant lot size and minimal setbacks. It maintains the Village's small town feel by fostering development that has a traditional small-town appearance in which its housing, shops, workspaces, parks, and civic facilities co-exist in relative harmony. You have already started to work through the conditional use factors for consideration. Conditional use factors 152.044 The following are factors, deemed to be reasonable concerns to be addressed when considering the granting of a conditional use including 1. Traffic control on abutting Village roads and streets and safety to the Villagers, pedestrians, and motorists; 2. The kind and quality of amusements or entertainment; 3. General growth and dynamics of the Village; 4. Consistency with the Village master plan; 5. Consideration shall also be given to the purpose and intent of the Village Zoning Code as found in §152.002 and §152.003 Egg Harbor Zoning Code respectively. All these things are fair game to consider. You also have the testimony that is offered and the record that has been made. That is what you base your

decision on. Regarding the Comprehensive Plan, we have talked a lot about the definition of “quaint”. I’m glad to see you have made a finding about this point. Other provisions of the Comprehensive Plan you should also consider. Testimony as to what provisions of the Comprehensive Plan means is certainly relevant, particularly if that testimony is from an individual who was involved in the creation of that plan or from the board members who were involved in the approval of the plan. We now have to circle back to the burden. It is good that you are considering all these things. For your determination, the Plan Commission must determine if there is substantial evidence to find that the developer has or will comply with the regulations. Does the combination of methods to meet the parking requirements meet the intent of the ordinance? Are you satisfied that it is consistent with that intent? Is the proposal consistent with the comprehensive plan? Regarding substantial evidence there are three qualifications. 1. It has to be based on facts and information, other than merely personal preferences or speculation; 2. It has to directly pertain to the requirements and conditions an applicant must meet; AND 3. It must be such that reasonable persons would accept in support of a conclusion. You should consider these factors if you are going to accept something as substantial evidence. Conditions are very similar. Conditions and findings need to be related to the purpose of the ordinance, based on substantial evidence, reasonable, and measurable to the extent possible. You will want to point to specific testimony/evidence of record that describe how that evidence leads to the decision you make and why it reasonably supports the conclusion and be as measurable as practicable. We have had recusal considerations going on. It is important today that when you render a decision, that each and every one of you who is voting base your decision solely on the information that has been presented to you in the hearing. That is a part of due process. It is also important that none of you have a preconceived notion, that you have decided this matter before the hearing, or that you are biased against the applicant. That is something that would be contrary to due process. If you have any questions, I would be happy to answer them.

- d. Cambria Mueller: Opened the floor for questions for Jim Kalny. Hearing none, we will pick up the deliberations.
- e. Megan Sawyer: The two items highlighted in red in the DRAFT document presented in the meeting packet are the ones we were working on during deliberation at the last meeting. This includes conclusion number eight and condition number twelve. This is still in DRAFT form. We can still make modifications and add new items during this deliberation.
- f. Kathy Navis: I keep coming back to Jon Kolb's comments about our intent for the parking fee ordinance. Our intent when we passed the fee for parking should be paying \$250 per space. I would like to know if we can require that any parking fees at \$250 per spot. Jim Kalny, is this something we can do? If this is something we can do, I would like to recommend that for the number of spots they will be paying the fee for is set at \$250, not at \$50.
- g. Jim Kalny: The problem you will have is that ordinance was enacted after this applicant had already applied.
- h. Kathy Navis: Our intention was \$250 per space.
- i. Lou Nyberg: Our initial intent was \$250. Joe presented it at \$250, the way we told him to do it. Other members of the board raised objection and suggested the fee should drop to \$50.
- j. Emily Pitchford: I know that the intent at the trustee level was not put into writing. We all know the intent was not for 54 spaces. It isn't only for the amount, but also for the number of spaces. I looked through all the meeting minutes. There is testimony that it wasn't the intent of the board to allow the fee for 54 parking spaces. From our recent discussion that has now gone through to the Village board, we solidified what that cap was. Maybe it

- wasn't in writing back then, but that was the intent. My intent was even lower than that. I believe the number is too high. The intent is also to not burden the neighboring businesses.
- k. Cambria Mueller: I also get hung up on the number of spaces. I understand from the conversations that this wasn't the intent. To Jim Kalny's point, if you make it a condition, it is going against our ordinance in a way. I don't think that is a possibility.
- l. Jon Kolb: Option G under fulfillment ends with "or another alternative that is acceptable". I would find it more acceptable at the \$250 level, and at a quantity that we would find acceptable. I think we have room built into our ordinance that gives us the authority to do that.
- m. Jim Kalny: I think it is a viable conclusion that you can look at alternatives. I am a little troubled that it is contrary to your ordinance. I don't know what a court would do with that.
- n. Commission members debated alternatives on the number of spots that the commission members would allow for the applicant to pay the fee in lieu of parking.
- o. Cambria Mueller: We have been doing our due diligence by stating we aren't happy with the parking options proposed. Our role as the Plan Commission is to determine if we feel the parking plan is meeting the requirements. If we aren't comfortable with the parking plans proposed, we then ask them for an updated plan. This is the process we have been going through since the start of the year. I disagree with the statement that we are throwing this on them at the last minute. They have told us this is their final proposal. We still have some of the same issues with this plan. It is an unfortunate thing that we are still saying it isn't meeting the requirements. I don't think we should approve the permit because they tried to get more parking in.
- p. Lou Nyberg: I think they added a number of parking spots for this proposal. I am in favor of a compromise, but I am not in favor of saying we won't give them any more seats.
- q. Cambria Mueller: I reviewed all the ordinances that are related to the Plan Commission. The first one is that it is the function and duty of the Plan Commission to make and adopt a Comprehensive Master Plan for the physical development of the Village. That is our main purpose. I am going to stand on the Comprehensive Master Plan. I am going to interpret it based on the testimony that was provided based on what our ordinance and parts of the Comprehensive Plan that talk about the small-town look and feel. I think the Comprehensive Plan can be interpreted in different ways. I feel that is the beauty of the voices of the Village coming together to create the Comprehensive Plan that we are supposed to follow. It does give us some leigh way. As Jim Kalny pointed out, the intent and purpose are covered right in the zoning code. It is the intent to relate to the environment as viewed from the public right of way. To me, the testimony provided is what I am standing on. I know some of them didn't have a degree in architectural engineering, but their voices matter. They are the voices that made the comprehensive plan. That is what I intend to stand on. Yes, we offer six options for parking fulfillment, but they are piecemealing different options together right now. Fat Louie's isn't even within 500 feet of Shipwrecked. We are making another exception there to our ordinances that are in place. I struggle with all the concessions we would have to make for this project to go through.
- r. Jon Kolb: We are the Plan Commission for the entire Village of Egg Harbor. We have to be cognizant of the other businesses in this area. That area is the center of our Village.
- s. Lou Nyberg: The project from the time they introduced it until now has been a work in progress. The fundamental reason for the project to begin with is for the addition of outdoor seating. If we are going to deny that saying there was no justification for additional seating, we should have indicated that much earlier.
- t. Jon Kolb: We said right away that the additional people in that area was a concern we need to deliberate on. It wasn't something that just came up a week ago.
- u. Cambria Mueller: I feel like that we are going through this process. Sometimes you don't

think of something until you are reviewing the final project. Now with the amount of parking spots they are proposing, I don't think it justifies the additional 92 seats. I feel no additional seats are justified.

- v. *Lou Nyberg: That answers my question. I don't agree with you.*
- w. *Kathy Navis: I don't agree with you either. I have a business close enough to them that their customers could already be using my parking. Right now, they have 302 seats. They are adding 92 seats. If those customers would be using my parking spots, they would be doing that already. Adding 92 more seats isn't going to mean that more people are going to be using my parking. Do we really think they are going to have 394 people seated at the same time? Do you think people are going to be eating on the second floor of Shipwrecked when they could be eating outside? I don't think that will ever happen.*
- x. *Cambria Mueller: When the outside is full, they will sit inside. I hear and respect your opinion, but I think there are ten other businesses in the Village that feel otherwise.*
- y. *Jon Kolb: Designworks is going to lose their parking spots the same way that Main Street Market has lost their parking spots.*
- z. *Lou Nyberg: You don't think that if you deny this application, we aren't going to have the same parking issues? I tried to turn on County E to Hwy 42 on a Tuesday at 10:30 AM. I had to wait for 41 cars that were traveling north. We have a lot of people coming to Door County. To suggest that you could prove that adding these 92 outdoor seats will make it worse is a stretch.*
- aa. *Kathy Navis: Do you have substantial evidence that these 92 seats is going to make the problem worse? We have to have substantial evidence to apply a condition or deny this application.*
- bb. *Commission members debated the point of the measurable impact of adding 92 outdoor seats on parking requirements and traffic congestion related to conclusion number 8.*
- cc. *Cambria Mueller: It does not look like we are going to get anywhere with conclusion number 8. One Barrel was approved prior to this Comprehensive Plan. I am not trying to take that out on Shipwrecked. This is about being proactive. I'm not trying to stunt any businesses in the Village. I struggle with the number of seats.*
- dd. *Lou Nyberg: I would agree with you if they had the room to add parking spaces. They have done everything they can to add as many parking spots as possible. The Village is spending millions of dollars to expand parking on Church Street and on Hwy 42 to address the problem of parking. I think we should go forward with the idea of a compromise to show we want to work with them in good faith. They employ a lot of people here. They bring people here. That is what the businesses of this Village want.*
- ee. *Cambria Mueller: I feel like I am representing the good faith of the entire Village. I struggle with at what point have they outgrown that parcel size. It is a great location, but it is a small parcel. We can't have businesses saturating their parcel capacity, depending on everyone else to pick up that slack.*
- ff. *Lou Nyberg: We aren't asking other businesses to pick up the slack. The Village is doing that with taxpayer funds.*
- gg. *Kathy Navis: We passed an ordinance that gave owners six ways to meet the parking ordinance. They are meeting the parking ordinance. Joe Smith knew we were changing the ordinance. They could have submitted this plan a month earlier and they could have used on street parking within 500 feet. In that case we wouldn't even be having this discussion about meeting parking requirements.*
- hh. *Lou Nyberg: When they presented this plan, there was no cap in place. Now we decided that wasn't our intent. How would they know that when they applied? That is the issue I am stuck with. Have you seen the traffic coming up Hwy 42 lately? I went to Fish Creek, and I couldn't find a parking space there unless you went to the distant parking lot. Do you think*

- you will find parking in Sister Bay? We have tens of thousands of people that come here on the weekend. We will never get ahead of it.*
- ii. Jon Kolb: What are we going to do when Mojo Rosa's presents their plan? What are we going to do when Trio presents their plans? According to you, we are going to say that we let One Barrel and Shipwrecked move forward so now we will have to approve those plans too.*
- jj. Lou Nyberg: I'm not happy about what happened with One Barrel. We made the mistake and let that one through. I'm saying we have been working with them for seven months. I don't think it is right to say no at this point.*
- kk. Kathy Navis: I agree with Lou. If we were going to come to this conclusion that we would allow them to build the building but not add any more seats, then why did we have this discussion? Who would spend a million dollars on an addition and not make any money on the project because they can't add any seats?*
- ll. Jon Kolb: I think we are confusing the fact that a beer garden is a nice addition.*
- mm. Kathy Navis: It is a nice addition for us as well. This will make that big flat wall look much better. That is what we are going to be stuck with if we deny this.*
- nn. Paula Cashin: So, we should just keep putting more beer drinkers on the sidewalks and back in their cars.*
- oo. Jon Kolb: This isn't offering diversity in the Village.*
- pp. Commission members debated the point of diversity in the Egg Harbor Business community.*
- qq. Cambria Mueller: Let's get a consensus on conclusion number 8, that addresses the consistency and inconsistency related to the comprehensive plan.*
- rr. Megan Sawyer reviewed the DRAFT conclusion number 8 as presented in the meeting packet.*
- ss. Emily Pitchford: If you are talking about the Comprehensive Plan, this project is not consistent with safety.*
- tt. Megan Sawyer: General intent and purpose of the zoning code are covered under 152.002 and 152.003. In terms of safety and coming to that conclusion, we need to tie in the testimony in with substantial evidence. The testimony regarding the delivery trucks ties in with safety. There is additional testimony that ties in with safety if we are going to add a conclusion on that point.*
- uu. Cambria Mueller: Let's add another conclusion that this is not in compliance with the purpose and intent of the Zoning Code.*
- vv. Commission members deliberated on the details of this new conclusion.*
- ww. Megan Sawyer read the new conclusion 9: The Plan Commission reviewed the project consistency against the purpose and intent of the zoning code section 152.002, 152.003 and concludes that deliveries needing to be made within the right of way contributes negativity to pedestrian and vehicle safety therefore not meeting the purpose of the promotion of health and safety and general welfare of the community as stated in the ordinance. As photos of deliveries being made in the right of way was provided as substantial evidence. Testimony was provided as substantial evidence in relation to the congestion of the STH 42 CTH G intersection and CTH G and Dock Road intersection.*
- xx. Kathy Navis: If we are coming down to a 3-3 vote, we can write all the conditions we want. If we can't agree on a compromise between the 92 seats and 0 seats, what is the point of adding these other conditions? They have six options for fulfilling the parking requirements.*
- yy. Commission members deliberated on the point of allowing 92 additional seats, coming to a compromise, or allowing no additional seats. including discussion about reducing the number of seats based as one of the options for parking requirement fulfillment.*
- zz. Kathy Navis: I would like to suggest that we change conclusion number 8, applicant pay*

\$250 per space per year, pursuant to the intent of the initial fee in lieu of parking. I would also propose that we set the limit for seating at 348. At least then the Village would get some funds to use for pedestrian safety. Maybe we could convince the state to allow us to put in flashing lights at the crosswalks.

- aaa. Megan Sawyer: 348 total seats translate into 87 required parking spots just based on the number of seats. They would have 31 spaces on sight and 13 proposed spots at Fat Louie's. I would not include employee parking at Cape Cod at this point as it is outside the 500-foot limit. That would bring down the number of parking spots they would have to pay a fee for to 43 spots. There would be an additional 6 parking spots required for employees.
- bbb. Commission members deliberated on the details to include in condition number 8.
- ccc. Megan Sawyer read condition number 8: In order to meet the intent of the ordinance related to parking, the applicant pay a fee in lieu of parking for a total of 49 parking spaces in the amount of \$250 per space per year until another means of parking fulfillment as described in section 152.030(D) of the ordinance is reviewed and approved by the Plan Commission.
- ddd. Jon Kolb: Is the number of seats at 348 something that we can enforce? What about standing area? I want you to realize that will drive a lot of pedestrian traffic there, more than just the number of seats. That is why I am more comfortable at 302.
- eee. Jim Kalny: If you are going to impose a limit on the number of seats, you will want to support that with substantial evidence to justify that number. The question is going to be if there is substantial evidence to support that. The problem we will have is to show how you came to that number.
- fff. Commission members deliberated about how to justify imposing a condition, limiting seating capacity to either 302 or 348.
- ggg. Jon Kolb: Jim Kalny, is it correct that the viability of this project isn't the Plan Commission's concern?
- hhh. Jim Kalny: You could take that position, but then ask yourself if you want to encourage business and development or don't you. The concern of the Plan Commission is what is in the best interest of the Village. I am concerned about using what they already have as the basis for what we are going to allow them to have. We are talking about an addition to the parcel, not about what they are doing right now. Some of this discussion I find it hard to see a thread of reason to it. We have already calculated the number of required parking spots based on what is in the ordinance.
- iii. Commission members continued to deliberate about limiting seating capacity to either 302 or 348, and the impact on the viability of this project.
- jjj. Kathy Navis: Let's suppose we deny this, and they get approval via other means. They have done everything we have asked for as we have worked through this. We could lose all of those concessions if we deny it.
- kkk. Cambria Mueller: I would like to get a consensus for the dollar amount per spot and the number of seats we want to have in number 8 and 12. Commission members all agreed on the fee of \$250 per spot for the fee in lieu of parking for 49 parking spaces. For the number of seats, Mueller - 302. Cashin - 302. Nyberg - 348. Navis - 348. Kolb - 302. Pitchford - 302.
- lll. Megan Sawyer: Does this meet the purpose of the ordinance at limiting the number of seats at 302? I have condition number 9 captured as "The Plan Commission reviewed the project consistency against the purpose and intent of the zoning code section 152.002, 152.003 and concludes that deliveries needing to be made within the right of way contributes negativity to pedestrian and vehicle safety therefore not meeting the purpose of the promotion of health and safety and general welfare of the community as stated in the ordinance."

- mmm. Jim Kalny: The 302 seats represent the capacity they already have? They will then be paying \$250 for those spots? I believe this will be subject to reasonableness.*
- nnn. Jon Kolb: Jim, you are doubting reasonableness? Is that because you are thinking on the side of the business decision to proceed? Or is that based on reasonableness of the Plan Commissions decision about what is best for the village?*
- ooo. Jim Kalny: You have to be able to show substantial evidence. I think this entire process has to be done with a view toward reasonableness. If you don't think they should do this, then you should just deny it. If you are in agreement with what they are proposing, then you should accept it. I would be more comfortable with you not imposing that type of condition. That doesn't seem like something someone would reasonably accept. I would rather advise you to deny it. If you deny the application, you will still want to put some conditions on it. Are you going to deny the permit even with those conditions? That is what you will be voting on.*
- ppp. Commission members deliberated on the option to deny the application.*
- qqq. Cambria Mueller moves to deny Conditional Use Permit Application filed by Sojenhomer LLC for an addition at 7783 STH 42 and 7791 STH 42.**
- rrr. Paula Cashin second**
- sss. Jim Kalny: Under discussion, you should set forth the specific reasons for denial and what evidence supports it. Clearly part of the burden is it has to be based on substantial evidence.*
- ttt. Cambria Mueller rescinds her motion.**
- uuu. Paula Cashin rescinds her second.**
- vvv. Cambria Mueller moves to deny Conditional Use Permit Application filed by Sojenhomer LLC for an addition at 7783 STH 42 and 7791 STH 42, on the basis of the inconsistencies with the Village Comprehensive Master Plan, with the addition of 92 seats adding congestion and safety to the area, and lack of parking to support the project, which was substantially short of the requirements per our ordinance.**
- www. Paula Cashin second.**
- xxx. Jon Kolb: Do you need to specifically state ordinance 152.002 purpose and 152.003 intent?*
- yyy. Cambria Mueller rescinds her motion.**
- zzz. Paula Cashin rescinds her second.**
- aaaa. Cambria Mueller moves to deny Conditional Use Permit Application filed by Sojenhomer LLC for an addition at 7783 STH 42 and 7791 STH 42, on the basis of the inconsistencies with the Village Comprehensive Master Plan, with the addition of 92 seats adding congestion and safety to the area, the lack of parking to support the project, which was substantially short of the requirements per our ordinance, and section 152.002 and 152.003 the intent of our zoning ordinance.**
- bbbb. Megan Sawyer: I think it would be better if we finish up the conclusions regarding sections 152.002 and 152.003, and the intent of the commercial district. They could deny it on those specific conclusions.*
- cccc. Jim Kalny: I think it does make sense to have a discussion of those provisions that you believe are severe enough to merit a denial, along with the evidence that support it.*
- dddd. Cambria Mueller rescinds her motion.**
- eeee. Commission members deliberated on the final conclusion details to include for a final vote.*
- ffff. Megan Sawyer: Captured the details of this deliberation and presented the conclusions numbers 8 through 13 for the commission members.*

8. The Plan Commission reviewed the project consistency with the Village Comprehensive Master Plan and determined that the project including a building addition

and an addition of 92 seats is consistent with the Comprehensive Plan relative to the building addition as the addition matches the architecture of the existing building but is inconsistent with page 35 of the Comprehensive Plan relative to managed growth and diversification of businesses relative to the additional 92 seats as the additional 92 seats contributes to a continuation of an existing business type in the village and is also inconsistent with the Comprehensive Plan relative to congestion mitigation as the project has limited onsite parking spaces and requires patrons to park offsite and travel from other areas of the village to the business. On the basis of, due to the financial gain of 92 seats a reasonable person could assume that more people will visit the area.

9. The Plan Commission reviewed the project consistency against the purpose and intent of the zoning code section 152.002, 152.003 and concludes that deliveries needing to be made within the right of way contributes negativity to pedestrian and vehicle safety therefore not meeting the purpose of the promotion of health and safety and general welfare of the community as stated in the ordinance. As photos of deliveries being made in the right of way was provided as substantial evidence. Testimony was provided as substantial evidence in relation to the congestion of the STH 42 CTH G intersection and CTH G and Dock Road intersection.

10. The Plan Commission concludes that the scale of the additional seating of the proposed project does not meet the intent of the C-1 district which is to provide for location of professional offices, retail stores and multifamily dwellings. The Commercial district has a less significant lot size and minimal setbacks. It maintains the Village's small town feel by fostering development that has a traditional small-town appearance in which its housing, shops, workspaces, parks, and civic facilities co-existing in relative harmony. On the basis that a 392-seat restaurant is contrary to the small town feel of the Village.

11. The Plan Commission reviewed the parking fulfillment against section 152.030 of the Zoning Ordinance and determined that the means of fulfillment as proposed does not meet the intent of the ordinance as the lack of onsite parking spaces creates a nuisance to neighboring parking lots.

12. The Plan Commission reviewed the project against section 152.044 and concludes that the lack of onsite parking and increase of 92 seats will bring additional vehicles and pedestrians to the property which will negatively contribute to traffic control on abutting Village roads and streets and safety to Villagers, pedestrians, and motorists. As there is substantial evidence provided in the testimony that the area is already congested, and the additional seats would further exacerbate the congestion.

13. Page 28 of the Comprehensive Plan identifies that over 75% of the public would like more attention paid to maintaining the quaintness, while only 2% want less attention paid to the same initiative (23% were neutral) as reflected in testimony provided as substantial evidence.

gggg. Cambria Mueller moves to deny Conditional Use Permit Application filed by Sojenhomer LLC for an addition at 7783 STH 42 and 7791 STH 42, based on the Conclusions of Law numbers 8 through 13 as captured by Megan Sawyer, Village Zoning Administrator.

hhhh. Paula Cashin second.

iiii. Cambria Mueller: Is there any additional discussion? Hearing none let's take the vote.

jjjj. Motion to deny the application carried. 4 aye votes, 2 nay votes, 1 commissioner abstained.

6. Deliberation, consideration, and possible action on Special Development District Relief Application filed by Tyler Pluff on behalf of Sojenhomer LLC for 7783 STH 42 and 7791 STH 42 (Parcel #s 118-

125302612N and 118-0125302612P)

- a. *Jim Kalny: This application is no longer relevant with the Conditional Use Application denial. I would recommend that you still take a vote for the record, based on the denial of the conditional use application.*
- b. **Cambria Mueller moves to deny SDD relief Application filed by Tyler Pluff on behalf of Sojenhomer LLC for an addition at 7783 STH 42 and 7791 STH 42 (Parcel #s 118-0125302612N and 118-0125302612P) based on the denial of the conditional use permit**
- c. **Paula Cashin second**
- d. **Motion to deny the application carried. 4 aye votes, 2 nay votes, 1 commissioner abstained.**

7. Correspondence

- a. Cambria Mueller opened the floor to any comments regarding the correspondence.
- b. *Megan Sawyer: No Correspondence since last night's meeting.*

8. Open Session

- a. *Cambria Mueller opened the floor for public comment.*
- b. *Cambria Mueller: I would like to say thank you to everyone for their time and the long hours you have put into this. It wasn't easy.*
- c. *Robert Pollman: I would like to see any evidence to back up the safety issues. This is all created by you just to deny us. You have nothing to back this up at all. We are going to follow this through.*
- d. *Lisa Van Laanen: On more than one meeting we have heard people talk about how the reason we are working on Hwy 42 is because of parking. I am the Chair of the Parks and Public Works committee. Our main purpose in ten years hasn't changed. In a single word it is about safety. We want to provide multimodal means of travel in the Village. We are connecting sidewalks from Church Street through to the Village beach. Parking on Hwy 42 is an added bonus, but that isn't the main reason. Church Street was accelerated for parking I believe but that was also for bike paths and walking paths. I just wanted to clarify that point for when it comes up again.*
- e. *Jon Kolb: Was there any consideration given in the Hwy 42 project to that curved section?*
- f. *Lisa Van Laanen: We have made adjustments on County G by bringing the crosswalk forward, adding an island and putting a sign in there. When Hwy 42 comes in it will have left hand turn lanes in both directions. We are hoping that will help ease things up. We are also going to make more visible crosswalk markings. I think we have done all we can for that.*
- g. *Robert Pollman: I would like to know what survey that allowed the curvy road on Hwy G that accommodated leaving the porch on the Blacksmith building and the sidewalk going directly up to her stairway. I would like to know who allowed it and who paid for it. I have a legitimate question that I need to see addressed.*
- h. *Cambria Mueller: We are not going to address this here. You can take that up with Village staff.*
- i. *Jim Kalny: This item was not noticed on the agenda so it would not be appropriate to address it at this time.*
- j. *Robert Pollman: It is still a reality that it was made with those curves to accommodate saving her building.*

9. Next Meeting

- a. Regular Meeting: October 26, 2021, 6:00 PM at the Kress Pavilion and on Zoom.

10. Adjourn

- a. **Cambria Mueller moved to adjourn.**
- b. **Jon Kolb second.**
- c. **Motion unanimously carried.**
- d. Meeting adjourned at 9:04 PM.

Minutes completed by Tom Strong on October 20, 2021. Submitted for approval on October 26, 2021.

Bold – Commission Action

Italics – Summarized Comments