

*Village of Fall Creek*  
*Minutes of Public Hearing & Plan Commission Meeting*  
*February 24, 2022*

1. **Call to Order:** 5:30 p.m., Village Hall Meeting Room, 122 E. Lincoln Ave., Fall Creek
2. **Roll Call:** Members Present: Village President Tim Raap, Helen Hartmann, Karen Hurd, John Kuehn, Curt Strasburg, Curt Van Auken. Members Absent: Evan Nyberg. Staff Present: Administrator/Public Works Director Jared McKee, Deputy Clerk Joan Drehmel. Also Present: 7 citizens.
3. **Certify Open Meeting Law Requirements Have Been Met:** A notice of the meeting and an agenda was posted at the three public places and local newspapers were notified, as well as property owners within 300' of the property.
4. **Adopt Agenda:**
  - MOTION (Strasburg/Hurd) to adopt the agenda. PASSED, without negative vote.
5. **Consider Sign Permit in Downtown Business District @ 208 E Lincoln Ave:** Rose City Inc submitted a sign permit for 208 E Lincoln Ave (Fall Mart) to update the canopy advertising and down lighting, and to add an animated message center and a diesel price sign to the existing gas price sign. The Village Architect's review of the permit stated that it met the sign ordinance requirements and was in keeping with the intent of the Downtown Business District. He noted the Village might want to consider how the lighting levels and refresh rate of the message center might affect traffic especially as it is located next to the school crossing zone.
  - MOTION (Hurd/Strasburg) to recommend approving the sign permit with the stipulation that the sign's refresh rate and lighting levels will be adjusted by the owner if future issues arise. PASSED, without negative vote.
6. **Discuss Combining or Moving the Zoning Administrator Role Under the Village Administrator:** President Tim Raap noted that the Plan Commission has been working on updating the Zoning Code. One such possible change would be to have the Village Administrator take over the responsibilities of the Zoning Administrator. The Zoning Administrator reviews permits pertaining to the use of land, buildings, or structures. It is a volunteer position that leaves the burden of enforcement of zoning ordinances on a fellow citizen. The Zoning Administrator sometimes consults with the Administrator/Public Works Director to ensure the permit meets village code, existing easements, and other issues of land use. The Administrator/ Public Works Director sees the Village on a daily basis and is aware of the history of such issues. The members discussed combining the two roles to promote efficiency in the permit approval process. Karen Hurd asked how other municipalities handle the position and is the enforcement issue something the police department could handle.
  - MOTION (Strasburg/Hurd) to table the issue until the next meeting to gather more information. PASSED, without negative vote.
7. **Public Hearing Regarding Karen Hurd Petition Requesting a Conditional Use Permit to Allow Residential Living at 114 S State Street:** President Raap opened the public hearing at 6:08 p.m. Karen Hurd relinquished her seat on the Plan Commission and joined the audience, stating she would not be acting as part of the Plan Commission for agenda item #7 and #8. President Raap reviewed the difference between a permitted use and a conditional use, and that if the ordinance was silent on the topic, it was not an allowed use. The property at 114 S State Street is zoned Commercial C1 and is in the Downtown Business District. Karen Hurd explained that since Covid 19 she no longer conducts business at this location, it is all done online. She would like to use the space as a residence for her father, her husband

and herself.

Tony Pilgrim of 122 S State Street voiced concerns regarding parking. At times their dental customer parking spaces have been used by people going into Hurd's building.

Amy Boettcher of 125 E Lincoln Avenue felt the Downtown Business District was created to protect the businesses already in place and to encourage future business. If ground floor apartments would be allowed, then the existing empty buildings could be turned into apartments and the business district would disappear. She stated it is a lot easier to rent apartments than it is to keep a business open. She asked if it is not listed as a permitted use or a conditional use in the ordinance, how can you approve it? She felt this conditional use permit application does not fit.

Norma Dehnke of 110 E Lincoln Avenue had no problem with the permit.

Karen Hurd replied to the comments made, saying there would only be one vehicle and it would be parked in the existing two-car garage at the back of the building; the residence would not be rented out. She would agree to any stipulations the Plan Commission would want to add to the conditional use permit. There was no further public comment.

- MOTION (Van Auken/Strasburg) to close the public hearing at 6:25 p.m. PASSED, without negative vote.

#### **8. Plan Commission Recommendation on Petition for Conditional Use Permit:**

Administrator Jared McKee explained the Downtown Business District guidelines were created in 2008 and became part of the ordinance in 2019. It is an overlay map which imposes stricter regulations than the Commercial C1 District, and only apartments above the first floor are listed as a permitted use in both districts. Members discussed other options such as a variance, rezoning the property, or changing the ordinance. Curt Strasburg stated the Plan Commission has to abide by the Downtown Business District ordinance as it is written.

- MOTION (Strasburg/\_\_\_\_\_) to recommend denying the petition because the ordinance does not list a first-floor residence as a conditional use. Hartmann was on via telephone and didn't hear Strasburg's motion.
- MOTION (Hartmann/\_\_\_\_\_) to recommend approving the petition.

President Raap explained parliamentary procedure requires the first motion to be addressed. John Kuehn verified that other options had been discussed by the commission and then seconded Strasburg's motion.

- MOTION (Strasburg/Kuehn) recommending denying the petition for a conditional use permit at 114 S State Street as the ordinance does not list a first-floor residence as a conditional use. PASSED, roll call vote: Kuehn-yes, Raap-yes, Strasburg-yes, Van Auken-yes, Hartmann-no.

#### **9. Adjournment: @ 7:10 p.m.**

Joan Drehmel, Deputy Clerk