

VILLAGE OF DECATUR  
PLANNING  
COMMISSION  
REGULAR MEETING  
AGENDA

Thursday  
November 17,  
2022



VILLAGE OF DECATUR – PLANNING COMMISSION  
REGULAR MEETING  
Thursday, November 17, 2022 – 1:00PM  
Village Hall – 114 N. Phelps Street, Decatur, MI 49045

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1:00 PM Planning Commission Meeting (Action to be taken by the Commission on the following agenda items)

**Note: Please be courteous and turn cell phones off during the meeting.**

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL (Excused Absences, if Any)**

4. **PUBLIC COMMENT**

5. **APPROVAL OF AGENDA**

5A - Approval of the Regular Meeting Agenda for November 17, 2022

6. **APPROVAL OF MINUTES**

6A - Approval of the Minutes of the Regular Meeting of October 20, 2022

7. **PUBLIC HEARING**

7A - Request to hold a public hearing regarding Amendment to Article 4 – Special Use Permit, of the Village Zoning Ordinance, to add land use standards for a ‘Child Care Facility’ (Family; Group; Center); and ‘Foster Care Facility’ (Small Group; Large Group).

8. **UNFINISHED BUSINESS**

9. **NEW BUSINESS**

9A.1 – Review proposal draft for Master Plan updates

10. **PLANNING COMMISSION COMMENTS**

11. **ADJOURNMENT**

## PLEASE NOTE

### AUDIENCE PARTICIPATION:

In addition to addressing the Planning Commission during public hearings and under "Public Comment," members of the audience may address the Chairperson, please limit your comments to three minutes or less per item. Please step up to the podium and state your name and address.

The proposed process for items listed under agenda items above shall be as follows:

1. Announcement of the agenda item by the Chairperson.
  2. Verbal report provided by staff.
  3. The Chairperson asks Commission members if they have any questions for staff to clarify the staff report.
  4. Motion is made by a Commission member and seconded by another Commission member.
  5. The chairperson calls on Commission members to discuss the motion if Commission members wish to discuss.
  6. Chairperson calls for a vote on the item after discussion has occurred.
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Village of Decatur  
Planning Commission Regular Meeting Minutes  
Thursday, October 20, 2022, at 1:00 P.M  
Village Hall, 114 N. Phelps Street  
Decatur, MI 49045

I. **Call to Order**

Rex called the meeting to order at 1:04 PM

II. **Pledge of Allegiance**

III. **Roll Call**

Trustee Mike Verran, Commission Member Janet Moelaart, Cindy Pachner, Chairman Blaine Rex, Village Manager Tapper, Village Clerk/Treasurer, Megan Duncan and Village Planner Rebecca Harvey.

IV. **Public Comment**

Dan McKeeby received the Public Hearing letter in the mail, sent by Village Hall, and was there for general questions.

V. **Approval of Agenda**

Moelaart offered a motion with support from Pachner to approve the amended agenda for September 22, 2022, as presented, motion passed 4-0.

VI. **Approval of Minutes**

Moelaart offered a motion with support from Verran to approve the meeting minutes from October 20, 2022, as presented, motion passed 4-0.

VII. **Public Hearing**

Moelaart offered a motion with support from Pachner to close the regular session at 1:08 P.M and enter into a public hearing to receive public comments requested by Ryan Rarick for the proposed conditional rezoning of approximately 3.21 acres located at W. Edgar Bergen Blvd from R-1One and Two-Family Residential District to the R-2 Multiple Family District.

Ryan Rarick presented information to the public about his business partners, Ryan and Adam Garland, his family, wife and children, and the vision for this

blighted property. It would be an HFA- Home for the Aged, non-driving residents aged 55 and older, who need assisted living. Each resident will have a private room and restroom. Will be aided with cooking and cleaning. Most assisted care facilities are 15:1 resident verse faculty, this one would be 5:1. Mr. Rarick and his partners picked this property to help rehabilitate the home, neighborhood, and to invest in the Village of Decatur.

Public comments:

- a. Bob Danielson expressed his frustration with the prior owners and how they were dishonest with what they did to the property, removing trees and disrupting wetlands. He is against commercial development, he doesn't want the construction, and it should just stay the way it is.
- b. Terry Newell was concerned if this is approved and the business that is being presented fails. What happens to the building zoning?
- c. Steve Pajkos had concerns with parking and traffic. He expressed interest in seeing site plans but had concerns if this business would fail.
- d. Manager Tapper stated that an email came in on 10/18 from Joseph Goodwin and there were no objections.
- e. Manager Tapper also stated that there was no objection from Decatur Public Schools.

Moelaart offered a motion with support from Verran to close the public hearing at 1:24 pm and re-enter the regular, motion passed 4-0.

Village planner, Rebecca Harvey clarified to the PC Members that the amendments to Section 42-9. – Definitions of the Village of Decatur Zoning Ordinance, so as to add the following definition:

*Care Home means a facility, including rest and nursing homes, convalescent homes and homes for the aged, established to render nursing care for chronic or convalescent patients but excludes facilities for care of active or violent patients such as feeble-minded or mental patients, epileptics, alcoholics, senile psychotics, or drug addicts.*

An amendment of Section 42-91. – Land Use and Base Zoning District Table so as to add the following;

*'Care Homes' as a Special Land Use ('S') in the R-2 District allows the*

application request to be considered. The applicant requests the subject site be rezoned from the R-1 District to the R-2 District. The application cites ‘as a condition of rezoning, we would be willing to accept the property be rezones to the R-2 District only for the use of allowing a ‘care facility’. In that the applicant has offered to condition the requested rezoning on a specific use of the property, the rezoning analysis may be applied in consideration of only the proposed use.

Pachner offered a motion with support from Verran to approve the application for conditional rezoning of approximately 3.21 acres located at W. Edgar Bergen Blvd from R-1One and Two-Family Residential District to the R-2 Multiple Family District., motion passed 4-0.

Verran offered a motion with support from Moelaart to close the regular session at 1:53pm and enter into a public hearing in regarding application from Tree Fig LLC, by Benjamin Tregoning, 413 W. Delaware, site plan review on a recreational marihuana establishment, motion passed 4-0.

Benjamin Tregoning, Tree Fig LLC, presented his current site plans for the new construction at 413 W. Delaware Street. The site plan consisted of dimensions of the construction, drawings of the exterior, and a drive thru.

Public Comments:

- a. No public comments were given or received.

Village Planner, Harvey, explained to PC Members that the original Special Land Use Application from Tree Fig LLC was for a micro-business and since Mr. Tregoning is wanting to open as a recreational dispensary, the original application no longer applies. The applicant is again requesting Special Land Use Permit/Site Plan Approval.

Moelaart offered a motion with support from Verran to close the public hearing at 2:22 pm and return to the regular session of the meeting, motion passed 4-0.

Village Planner, Harvey, held a discussion with the PC Members on the Site Plan that was presented. The Special Land Use Request/Site Plan Review for the proposed establishment may be granted if in compliance. Under Section 42-142 – Adult Use Marihuana Facilities there are many inconsistencies that compliance cannot be confirmed. Applicant stated that his plans and designs will comply.

Pachner offered a motion with support from Verran to a conditional approval of the Special Land Use Permit for 413 W. Delaware with discussion with

Department of Public Works, installation of sidewalks along Delaware, and a revised site design with final conditional approval of the Village Planner, motion passed 4-0.

Village Manager Tapper requested that the PC Members postpone the request to hold a public hearing regarding Amendment to Article 4 – Special Use Permit, of the Village Zoning Ordinance, to add land use standards for a ‘Child Care Facility’ (Family; Group; Center), and ‘Foster Care Facility’ (Small Group; Large Group) until PC meeting on November 17, 2022, at 1:00pm.

Rex offered a motion with the support of Moelaart to postpone the request to hold a public hearing regarding Amendment to Article 4 – Special Use Permit, of the Village Zoning Ordinance, to add land use standards for a ‘Child Care Facility’ (Family; Group; Center), and ‘Foster Care Facility’ (Small Group; Large Group), until PC meeting on November 17, 2022, at 1:00pm, motion passed 4-0.

VIII. **Unfinished Business**

Village Manager Tapper reported the Village Council was asking the Planning Commission to review the Parking Ordinance along with Ordinance 184, along with the Sign Ordinance. Both Ordinances are in need of review.

IX. **New Business**

None

X. **Planning Commission Comments**

- a. Rex asked Village Manager Tapper if Cedar Street was going to be under construction, Wightman and Associates were marking the area.

XI. **Adjournment**

Moelaart offered a motion with support from Pachner to adjourn the meeting at 2:39p.m., motion passed 4-0.

Minutes submitted by: Megan Duncan, Clerk & Treasurer



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## MEMORANDUM

TO: Planning Commission  
FROM: Rebecca Harvey, Village Planner  
REVIEWED BY: Christopher Tapper, Village Manager  
DATE: November 17, 2022

SUBJECT: Zoning Ordinance Amendments – Child Care Facilities & Foster Care Facilities

### Action Requested:

Amend the Zoning Ordinance so as to define and allow for ‘child care facilities’ and ‘foster care facilities’, consistent with State law.

### Review:

- The Zoning Ordinance is currently silent with respect to ‘child day care homes’ and ‘foster care facilities’ . . . which are required by the Michigan Zoning Enabling Act to be addressed.
  - Specifically, the MZEA states . . . *'A state licensed residential facility shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones . . . and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.'*
  - The Act then defines 'state licensed residential facility' as: *'a structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act (1979 PA 218 (400.701-400.737) or 1973 PA 116 (722.111-722.128), and provides residential services for 7 or fewer individuals under 24-hour supervision or care.'*



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Proposed Amendments:

Amend Article 2 – Definitions to add:

**CHILD CARE FACILITY:** A facility for the care of children under 18 years of age, as licensed and/or registered and regulated by the State under Public Act 116 of 1973, as amended, and the associated standards and rules promulgated by the State. Such facilities shall be further defined as follows:

**CHILD CARE CENTER:** A facility, other than a private residence, in which one or more children are given care and supervision for periods of less than 24 hours per day, and where the parents or guardians are not immediately available to the child. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall be considered accessory to such principal use and shall not be considered to be a child care center.

**FAMILY CHILD CARE HOME:** A private home which is the bona fide private residence of the operator of the family child care home and in which one but fewer than eight minor children (or such other number of minor children permissible under State Law) are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

**GROUP CHILD CARE HOME:** A private home which is the bona fide private residence of the operator of the group child care home and in which more than seven but not more than 14 minor children (or such other number of minor children permissible under State Law) are given care and supervision for periods of less than 24 hours a day, unattended by a parent or guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

**FOSTER CARE (LARGE GROUP) FACILITY:** A residential facility registered or licensed and regulated by the State under Public Act 218 of 1979, as amended, or under Public Act 116 of 1973, as amended, which provides resident services, supervision and care for six or fewer persons 24 hours per day.



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**FOSTER CARE (SMALL GROUP) FACILITY:** A residential facility registered or licensed and regulated by the State under Public Act 218 of 1979, as amended, or under Public Act 116 of 1973, as amended, which provides resident services, supervision and care for seven to 20 persons 24 hours per day.

Amend Section 42-91 – Land Use and Base Zoning District Table to add the following:

- ‘Family Child Care Home’ as a Permitted Use in the R-1 and R-2 Districts
- ‘Group Child Care Home’ as a SLU in the R-1 and R-2 Districts
- ‘Child Care Center’ as a SLU in the R-2 District
- ‘Foster Care (Small Group) Facility’ as a Permitted Use in the R-1 and R-2 Districts
- ‘Foster Care (Large Group) Facility’ as a SLU in the R-2 District

Amend Article 4 – Special Use Permit to add the following special land use standards for ‘child care facilities’ and ‘foster care facilities’:

#### **Section 42-143 – Child Care Facilities**

- a) Each child care facility shall be duly licensed or registered by the State of Michigan Department of Social Services (DSS) continuously and for all times it is operating as a child care facility. Any child care facility whose license or certificate of registration by the State of Michigan is no longer valid and/or which has been revoked or denied or refused by the DSS shall immediately lose its status and authorization to continue to operate.
- b) Buildings and lots used for child care facilities shall conform to all state, DSS, and local requirements, rules, and standards.
- c) Each child care facility shall provide, equip, and maintain on the premises the minimum square feet of indoor floor space and outdoor play area as required by the DSS. An applicant for a group child care home or child care center or day care center shall submit to the Planning Commission sufficient information and documentation regarding the maximum number of children allowed and the amount of indoor floor space and outdoor play area required by the DSS for the proposed child care facility prior to obtaining a special land use permit or site plan approval to operate within the Township.



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- d) **The lot occupied by any child care facility shall have a fence which shall be not less than four feet but not more than six feet in height and which shall completely enclose the outdoor area where the minor children play or congregate, except that interior fences within a mobile home park shall not exceed 36 inches in height. However, the provisions of this subsection shall not apply to family child care homes.**
- e) **A group child care home licensed or registered under Michigan Public Act 116 of 1973 shall be issued a special land use permit if the group child care home meets the following standards:**
  - 1) **A group child care home shall comply with all the requirements set forth in subsections a)-d) above.**
  - 2) **A group child care home shall be located not closer than 1,500 feet to any of the following:**
    - a. **Another licensed group child care home, or**
    - b. **Another adult foster care small group home or large group home licensed under the adult foster care facility licensing act, Michigan Public Act 218 of 1979, being Section 400.701 to 400.737 of the Michigan Compiled Laws, or**
    - c. **A facility offering substance abuse treatment and rehabilitation service to seven or more people licensed under Article 6 of the Public Health Code, Michigan Public Act 698 of 1978, being Sections 333.6101 to 333.6523 of the Michigan Compiled Laws, or**
    - d. **A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.**
  - 3) **The property containing a group child care home shall be maintained in a manner which is consistent with the visible characteristics of the neighborhood.**
  - 4) **The operation of a group child care home shall not exceed 16 hours of operation during a 24-hour period.**
  - 5) **A group child care home operator shall provide one off-street parking space for each employee. These parking spaces shall be in addition to the off-street parking facilities serving the residents of the home. These off-street parking spaces shall be located on the lot in such a manner as to provide unblocked automobile access from the street to the required residential off-street parking facilities.**
  - 6) **The subsequent establishment of any of the facilities listed in subsection e) 2) a.-d. of this Section, within 1,500 feet of the licensed or registered group child care**



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- 7) home will not affect any subsequent special land use permit renewal, pertaining to the group child care home.
- 8) The distances specified in subsections 2) and 6) above shall be measured along a road, street, or place maintained by this state or a political subdivision of this state and generally open to use by the public as a matter of right for the purpose of vehicular traffic, not including an alley.
- 9) An applicant for a group child care home shall submit to the Planning Commission a to-scale rendering which shows the dimensions of the zoning lot, setbacks of all structures on the lot, the proposed location of the fencing, the proposed parking arrangement, and any other features relevant to the application for special land use approval.

#### **Section 42-144 – Foster Care Facilities**

- a) Foster care facilities serving more than six residents shall not be considered a single-family dwelling.
- b) Foster care facilities shall, as a condition of Special Land Use approval, at all times maintain all valid state and local licenses.
- c) A foster care facility shall not be located within 1500 feet of any other foster care facility.
- d) All outdoor lighting shall be established so as to prevent light from glaring onto adjoining properties.
- e) All off-street parking shall be in accordance with Section Article 5. and shall satisfy peak parking needs.
- f) A landscape buffer shall be provided along all property lines that abut a less intense land use and around the perimeters of all parking areas visible from adjacent properties or streets.
- g) The foster care facility shall maintain the property consistent with the visible characteristics of the surrounding area.