



LODI TOWNSHIP BOARD OF TRUSTEES

DRAFT - Special Meeting Minutes

Monday, October 20, 2025 at 6:30 pm

Lodi Township Hall
3755 Pleasant Lake Road
Ann Arbor, Michigan 48103

1. Call to order - Pledge of Allegiance

The special meeting of October 20, 2025, opened with the Pledge of Allegiance at 6:30 pm.

2. Roll Call

Present: Blackburn, Foley, Godek, Marsh, Matelski, Rentschler, Smith
Absent: None

3. Approval of minutes – 10/07/2025 & 10/16/2025

Smith moved to approve the meeting minutes for the special meeting on 10/7/2025 as presented. Second by Matelski. A voice call vote was taken. Aye=all, Nay=none. Motion carried, 7-0.

Smith moved to approve the meeting minutes for the special meeting on 10/16/2025 as presented. Second by Marsh. A voice call vote was taken. Aye=all, Nay=none. Motion carried, 7-0.

4. Short Public Comment

Public comment began at 6:31 pm. Public comment was received from 8 people. Public comment ended at 6:44 pm.

5. Revision / Approval of Agenda

Smith moved to approve the agenda as presented. Second by Rentschler. A voice call vote was taken. Aye=all, Nay=none. Motion carried, 7-0.

6. Unfinished Business

a. Arbor Preserve Final Site Plan

Township Planner Hannah Smith, with assistance from Township Engineer MC Moritz and Township Attorney Jesse O'Jack, reviewed the questions received from Clerk Smith and Trustee Blackburn regarding the Final Site Plan submittal for Arbor Preserve. Those questions were answered to the best of the consultants' abilities.

Blackburn made the following points:

- Toll Brothers is a property owner just like any other in the Township and needs to meet the Township's laws that apply to everyone. In property law, no one has a right to use their property in a way most profitable to them.
- Comments made about the unnamed experts appear to be made to discredit those individuals. Blackburn named them as John Vine and David Dixon Hammond and gave their credentials. Blackburn's credentials were also stated.

- The tree data that was submitted by Toll Brothers on the February plans was summarized by the “local data expert”, not gathered by him. It was stated there was no trespassing to gather this data.
- It was said that it is every property owner’s right to harvest trees. Blackburn ~~does not believe states stated that~~ this is **not** always true. Harvesting trees when under application for a PUD is a violation of the Zoning Ordinance 42.002. ~~Toll Brothers~~ **The Applicant** violated this Ordinance when removing black walnut trees on the property a couple years ago.

Blackburn stated the wish to pause answering questions and debating about the data to note that both sides have put in a lot of work, but Blackburn feels the Board of Trustees is still looking at a set of plans that do not meet the agreements. Blackburn believes that the Board of Trustees has an opportunity in front of them to do something beautiful for the region and for the residents that still offers many benefits to Toll Brothers.

Godek ~~interrupted Blackburn~~ **Blackburn and** requested to state her qualifications before moving on in light of the qualifications given by Blackburn. Blackburn **continued to** ~~interrupted~~ Godek and stated that there was a request for Toll Brothers that was requested to be added first to the agenda. Blackburn requested to look at that request which was created in response to the information provided at the October 16, 2025 special meeting.

Clerk Smith stated that she received that request at midnight and passed it on to O’Jack and Attorney Fred Lucas at midnight. O’Jack stated that he discussed the request with Lucas and Toll Brother’s attorney, Alan Greene, and Greene stated that Toll Brothers would not agree to the request, period. Greene confirmed this.

Smith noted that she would like to make a motion to approve Arbor Preserve North and South and provided the following statement to provide context for the public and for the record:

In 2023, the Lodi Township Board of Trustees **unanimously**¹ approved the First Amended Consent Judgment, which reduced the development on this property from approximately 400 units down to 107. That approval included a number of specific conditions that the developer was required to meet. **Four members of this current Board were part of that unanimous decision.**²

Under the terms of the Consent Judgment, the Board of Trustees alone holds the authority to approve deviations from the Consent Judgment through an amended agreement. These deviations are not violations—they are tools built into the Consent Judgment itself to allow the Township to respond appropriately to real-world conditions, as guided by our Planner, Engineer, and legal counsel.

The deviations proposed in the Second Amended Consent Judgment are:

- Adjustments to wetland setbacks on specific lots to move homes out of environmentally sensitive areas;
- Corresponding front yard setback modifications for those lots;
- Toll Brothers’ commitment to planting 2 trees per lot to enhance replanting efforts;
- And a \$750,000 contribution from Toll Brothers in lieu of trees that cannot be replaced on-site due to legitimate site constraints.

¹ This was incorrectly stated at the meeting; in 2023 it was approved 5-2 by the Board of Trustees

² This was incorrectly stated at the meeting, 3 members of the current Board voted yes, and one voted no.

While in a perfect world all mitigation would happen on-site, our consultants—Planner, Engineer, and Toll Brothers’ own professionals—have confirmed this is not feasible. It’s important to recognize that our Zoning Ordinance does not provide guidance for what happens when tree mitigation cannot occur on the property. Without clear direction in the ordinance, the Consent Judgment gives us a path forward—and this amendment uses that authority responsibly.

We have heard many comments from the public—some in favor, mostly opposed. Some concerns have been rooted in valid questions; others have been more emotionally driven or come from those fundamentally opposed to any development in Lodi Township. While all voices matter, the role of this Board is to make decisions based on facts, data, legal precedent, and professional recommendations.

This development has a long history going back to 2004, when it was originally proposed as a nearly 900-unit project. After legal challenges and court rulings that required the land to be zoned R-3, a plan for nearly 400 units was submitted in 2020—well within the rights of that zoning. At that time, the Township Supervisor worked with the developer to propose a lower-density alternative, resulting in the 107-unit plan the Township Board approved in 2023 as the first Amendment to the Consent Judgement.

Toll Brothers has worked in good faith to meet the conditions laid out in the First Amended Consent Judgement, and our Township consultants have reviewed the latest plans and found them to be in general compliance. The Planning Commission also found the plans were generally in compliance with the Zoning Ordinance and listed four items as their reason of denial to the Township Board. Those four reasons have been addressed further by the Planner, Engineer and Developer. The Second Amended Consent Judgement is a measured response that protects wetlands, mitigates tree loss responsibly, and results in a development that is far less intensive than what is permitted by right under the R-3 zoning.

We must remember that the Consent Judgment is the zoning ordinance that applies to this specific development. It was designed to allow for flexibility when guided by facts and professional input. This amendment reflects that purpose.

Smith moved to approve the final site plan for Arbor Preserve’s North and South Planned Unit Development with conditions with the following Resolution:

Township of Lodi
Resolution No. 2025-014
October 7, 2025

A resolution to approve with conditions the final site plan for Arbor Preserves North and South Planned Unit Development.

WHEREAS all of the original properties covered by the original Consent Judgment per that Consent Judgment are zoned R-3 (or “low density multiple family residential”); and

WHEREAS Red Equities, LLC has entered into agreements to acquire approximately 106 acres of the original properties covered by the original Consent Judgment; and

WHEREAS on or about October 14, 2020, Red Equities, LLC submitted an application for preliminary site plan approval for multiple-family housing developments on the Red Equities Parcels, consisting of 434 units (later amended to reduce the density to 391 units), along with

recreation areas, private roads, two community wells and a private wastewater treatment facility; and

WHEREAS after discussion between the parties Red Equities, LLC submitted a different request for a Planned Unit Development with an area/preliminary site plan, including but not limited to, with a maximum number of residential units of 107, an individual on-site water well within the boundary of each lot or site with an agreement that if Red Equities, LLC is not able to obtain a governmentally approved individual on-site water well within the boundary of an individual lot or site, that the maximum number of residential units in the Residential Development will be reduced accordingly, and including open space and preserved areas; and

WHEREAS the Township consultants reviewed and provided reports to the Township on the request for a Planned Unit Development with an area/preliminary site plan; both finding that the request and area/preliminary site plan, other than the proposed waste water treatment, was in substantial compliance with the Township's ordinance and regulations so long as certain conditions were met as part of the final site plan process; and

WHEREAS the Planning Commission held a Public Hearing on the request and held an additional informational meeting regarding the wells, wastewater, and drainage; and

WHEREAS the Planning Commission after review of the public comments, review of the consultants reports and discussion with the consultants, study and review of the request, and discussion with representatives of Red Equities, LLC, found that the request including the area/preliminary site plan was in substantial compliance with the Township's ordinances and regulations, other than the proposed waste water treatment, so long as certain conditions were met as part of the final site plan process; and

WHEREAS the Planning Commission recommended that the Township Board deny the application solely due to the proposed community wastewater treatment; and

WHEREAS the Township Board held a second Public Hearing on the request; and

WHEREAS the Township Board considered all the public comments on the request; the reports of its consultants, and the findings and recommendations of the Planning Commission; and

WHEREAS the Township Board found that the request including the area/preliminary site plan was in substantial compliance with the Township's ordinances and regulations, other than the proposed waste water treatment, so long as the conditions in the attached document entitled Arbor Preserve Area/Preliminary Site Plan, List of Conditions, dated September 12, 2023 were met as part of the final site plan process; and

WHEREAS while the Red Equities Parcels were not within the area currently planned for municipal utility services, the Township Board found that the combination of several factors and features made the circumstances unique in the Township, including: (i) the agreement to develop land, which was zoned R-3, and which allowed for a materially higher density multiple family use if municipal sanitary sewage facilities were available, for a lower-density single-family use which would, among other things, substantially reduce traffic, preserve open space and natural features and reduce impacts on municipal services; (ii) the fact that the land, when originally made subject to original Consent Judgment, was located in a planned future utility

district; (iii) based upon certain soil borings and other information available to date, the land appeared to be not suitable for safe and economically feasible on-site septic systems; and (iv) considering the proposed extensive open space and preserved areas.

WHEREAS the Lodi Township Board of Trustees found that it would best secure the public safety, health, and welfare of its residents and property owners of Lodi Township by the entering of the First Amendment to Consent Judgment in case no. 05-001086-NZ.

WHEREAS the First Amendment to Consent Judgment approved the Planned Unit Development rezoning and the proposed area/preliminary site plan subject to the conditions set forth in the First Amendment to Consent Judgment including that the conditions set forth in the attached document entitled Arbor Preserve Area/Preliminary Site Plan, List of Conditions, dated September 12, 2023 (**Attached as Exhibit 1**) were met as part of the final site plan process.

WHEREAS Toll Northeast V Corp. purchased the Red Equities, LLC properties from Red Equities, LLC, and submitted final plans in early 2025 and a revised final site plan (dated May 22, 2025) that in response to comments made modifications to the plans including to reduce the impact on wetlands, tree removal, update the natural features information, and provide missing information.

WHEREAS the Lodi Township Planning Commission reviewed the Final Site Plan submittals at its regular meeting on July 22, 2025. After reviewing consultant reports, applicant presentation and Commission discussion, the Planning Commission considered the three options on the table: recommend approval to the Township Board, recommend denial to the Township Board, or postpone the decision. In response to the discussion by the Planning Commission, a representative of the applicant stated, "The plan is the plan at this point, and a postponement will not result in any changes to that plan." After further discussion, the Planning Commission unanimously voted to recommend to the Lodi Township Board of Trustees denial of the Final Site plans for the following reasons:

- The Natural Features Statement of Impact, Protection, and Mitigation does not meet the criteria detailed in Section 54.08.D.
- The wetland setbacks, as required by the ordinance in Section 54.08.E.6 and amendment consent judgement, are not provided in all areas.
- The proposed tree replacement plan is not in compliance with ordinance requirements in Section 54.08.O and proposed replacement offered by applicant is an insufficient alternative.
- The proposed plan will increase the volume of existing surface water on neighboring property in violation of Section 55.02.B.

WHEREAS during the discussion at the July 22, 2025, Planning Commission meeting various commissioners raised a number of additional concerns regarding the Final Site plans. (**See attached Exhibit 2 letter to the applicant regarding the recommendation of denial and the draft minutes to the meeting that were attached to the letter**).

WHEREAS subsequent to the July 22, 2025 recommendation of denial from the Lodi Township Planning Commission, the applicant submitted revised final site plans and

supplemental materials to address the concerns set forth in the recommended denial, the other concerns stated by Planning Commission members, and the consultant review letters, including an updated layout plan addressing the outstanding building encroachments into the required 50-foot wetland setback for buildings; a revision to the access area to the adjacent parcel; revised drafts of the master deed and bylaws; proposed language for an amendment to the existing consent judgment; correspondence from the US Fish & Wildlife Service and the Washtenaw County Health Department; among other materials.

WHEREAS the Township Consultants have reviewed the revised site plans and other materials and provided their comments to the Lodi Township Board.

WHEREAS the Lodi Township Board have reviewed the revised final site plans, the Planning Commission's findings, conclusions, and recommendations regarding the previous version of the final site plans, and the reports of its consultants.

WHEREAS the Lodi Township Board makes the following findings of fact:

1. The Lodi Township Board finds that the revised site plans are substantially in compliance with the Lodi Township Zoning Ordinance, the approved Area Plan/Preliminary Site Plan, and the First Amendment to Consent Judgment including its attached conditions, with the exception of the tree replacement and certain setbacks.
2. The Lodi Township Board with regard to whether the applicant has complied with the conditions attached to the First Amendment to Consent Judgment as part of its findings of fact adopt by reference the October 1, 2025, document from OHM regarding "Arbor Preserve Final Site Plan – Consent Judgment Conditions (UPDATED)." **(Attached as Exhibit 3).**
3. The Lodi Township Board further adopts by reference as part of its findings of facts the OHM Planning Final Site Plan Review and Engineering Final Site Plan Review, both dated October 1, 2025. **(Attached as Exhibit 4).**
4. The applicant has proposed a Second Amendment to Consent Judgment to in part address the tree replacement issue and with regard to the tree replacement the Lodi Township Board finds that the proposed Second Amendment to Consent Judgment is in best interest of the health, safety, and welfare of Lodi Township for the reasons set forth in that document. **(See proposed Second Amendment to Consent Judgment attached as Exhibit 5).**
5. The applicant has proposed a Second Amendment to Consent Judgment to in part address the wetland setback issue and the Lodi Township Board finds that granting the proposed setback deviations for 13 Units to eliminate all encroachment into the wetland setbacks for 12 units and to reduce the encroachment for Unit 26 to 7 feet is in best interest of the health, safety, and welfare of Lodi Township. **(See proposed Second Amendment to Consent Judgment attached as Exhibit 5).**
6. The Lodi Township Board finds that it is appropriate to grant the applicant request to not provide street lighting.

7. The Lodi Township Board finds that the applicant has provided a private road maintenance agreement as required and it has been approved by the township attorney.
8. Sidewalks along internal roads: In an effort to further minimize impacts to wetlands and preserve more of the wetlands, some areas on the revised site plan provide sidewalks only on one side of internal roads, including areas of Mill Race Court in Arbor Preserve North and Cortland Road and Gilbert Court in Arbor Preserve South. Where sidewalks are only proposed on one side of the road, dedicated pedestrian crossing areas are provided. It should also be noted that on the revised site plan, sidewalks in some areas are pulled in toward the road in an effort to further minimize wetland impacts. In these areas, a guardrail is provided along the road. The proposed guardrails have a rustic appearance; a detail is provided within the submittal. The Lodi Township Board finds sidewalks on one side of internal roads where shown is reasonable and appropriate to minimize impacts on existing wetlands.
9. The Lodi Township Board has reviewed the proposed wetland mitigation plan and finds that it is acceptable.
10. The proposed second amendment to the consent judgment outlines the proposed front yard setback deviations. The Lodi Township Board finds that the applicant must clarify that all side yard setbacks are still in compliance with required setbacks.
11. The buildable footprints shown on the plans reflect buildable area within the required setback, although building footprints are shown outside of the setback area. The Lodi Township Board finds that the applicant must clarify that lots will be restricted to the building footprints shown on the plans.
12. The Lodi Township Board finds that the applicant must indicate how the 25-foot buffer from the wetlands is to be established as untouched area, especially for lots that have yard area within the setback area. The Lodi Township Board further finds that the applicant should consider locating the conservation signs at the 25-foot setback, rather than the wetland boundary, or propose an alternative method of indicating the area to remain undisturbed.
13. WWTP Building Setbacks. The Lodi Township finds that because the wastewater treatment plants are now proposed to be fully enclosed within buildings, the buildings must meet required setbacks per the Ordinance. The applicant should clarify proposed setbacks of the WWTP buildings. If the buildings do not meet the required setbacks, the location if kept within the setback will require approval from the Lodi Township Board for a setback modification.
14. Condominium Documents. The Lodi Township Board finds that the developments are proposed as a site condominium. Section 45.04 requires that condominium documents, including bylaws, deed restrictions, articles of incorporation and other covenants or restrictions to be imposed upon land or buildings shall be submitted with the final site plan. The revised submittal includes draft master deed, bylaws, and open space preservation easement. The Lodi Township Board finds that these documents must be approved and following approval, the property owner/developer must record all

condominium documents/exhibits with the Washtenaw County Register of Deeds and provide copies to the Township Clerk in line with Section 45.17.

15. Easements. An ingress/egress easement providing access to Parcel M-13-01-300-013 is shown on the existing conditions plan and site plans for Arbor Preserve South. The applicant has provided a copy of the amended access easement with the submittal. The easement provides access from Waters Road and provides access to the parcel from Gilbert Court. As part of the supplemental package provided on September 18th, the applicant team provided a sheet indicating a 20-foot-wide asphalt stub road within the existing access easement indicated for "Township access to adjacent property." The Lodi Township Board finds that upon approval of the Township Engineer of the proposed access road specifications that the Board finds those specifications acceptable. The Lodi Township Board further finds that the applicant must clarify how access to this easement will be provided given the gated entryway specified in the plans and obtain approval for that access.
16. Traffic Impact Study. An updated traffic impact study is provided with the revised submittal, as required by the amended consent judgment. Recommendations of the traffic study include installation of an actuated traffic signal at Wagner & Waters intersection and left-turn lanes for both entrances on Wagner Road. The Lodi Township Board finds that the recommendations are appropriate.
17. The Lodi Township Board reviewed the Natural Features Statement, per review criteria in Section 54.08.D, and finds that in addition to the findings made above that the applicant must comply with all applicable state, local, and federal laws, ordinances, standards, and regulations. The applicant has provided information that it is working with or has submitted to applicable agencies. The Lodi Township Board further finds that final site plan approval should not be granted until approval is provided by all applicable agencies.
18. The Lodi Township Board finds all reviews and approvals from all applicable consultants, departments, and agencies must obtained and provided.
19. The Lodi Township Board finds that the following reviews and permits are required:
 - a. Washtenaw County Road Commission (WCRC): Review and approval will be required. A permit will be required for all work within the right-of-way.
 - b. Washtenaw County Water Resources Commissioner's Office (WCWRC): Review and approval will be required for establishment of the drainage district and storm water detention and outlet.
 - c. Washtenaw County Water Resources Commissioner's Office (WCWRC): A permit will be required for soil erosion and sedimentation control.
 - d. Saline Area Fire Department: Review and approval will be required.
 - e. Washtenaw County Health Department (WCHD): Permits will be required for wells.

- f. Michigan EGLE Sanitary/Part 41 (WWTP NPDES): A permit will be required for the collection system and WWTP.
 - g. Michigan EGLE Wetlands & Watercourses/Part 303: A permit may be required for the wetland mitigation measures prior to construction.
 - h. Other permits/approvals/etc. may be required.
20. The Lodi Township Board finds that after approval of the final site plan that a Development Agreement per the Lodi Township Zoning Ordinance Section 54.20 should be entered into and the Board hereby requests it.

THEREFORE, be it resolved, based on the above findings of fact by the Lodi Township Board regarding the revised (2) final site plans for Arbor Preserve North and Arbor Preserve South (parcels # M-13-01-300-007, M-13-01-300-008, M-13-01-300-009, M-13-01-300-010, M-13-01-300-005, M-13-01-300-011, M-13-01-300-012, M-13-01-300-014), as supplemented and amended (attached as Exhibit 6), that the revised final site plans are approved, subject to the following conditions:

1. The signing, entry, and recording of the proposed Second Amendment to Consent Judgment with the agreement to add that Toll Brothers will provide two trees to each lot owner to be planted and increase the contribution sum under item 3 Tree Replacement to Seven Hundred Fifty Thousand Dollars (\$750,000). **(See proposed Second Amendment to Consent Judgment attached as Exhibit 5).**
2. The proposed second amendment to the consent judgment outlines the proposed front yard setback deviations. The applicant must clarify that all side yard setbacks are still in compliance with required setbacks.
3. The buildable footprints shown on the plans reflect buildable area within the required setback, although building footprints are shown outside of the setback area. The proposed second amendment to the consent judgment lists the proposed front yard setback modifications, for the purpose of moving the houses out of the required wetland setback. The Lodi Township Board finds that the homes on those lots listed in the Consent Judgment are restricted to the setbacks as detailed in the Consent Judgment.
4. The applicant must indicate how the 25-foot buffer from the wetlands is to be established as untouched area, especially for lots that have yard area within the setback area and obtain approval from the Lodi Township Board for the method chosen.
5. WWTP Building Setbacks. The wastewater treatment plant building setbacks are approved as provided on the plan because the buildings are in the setbacks of the PUD as indicated.
6. Condominium Documents. The developments are proposed as a site condominium. Section 45.04 requires that condominium documents, including bylaws, deed restrictions, articles of incorporation and other covenants or restrictions to be imposed upon land or buildings shall be submitted with the final site plan. The revised submittal includes draft master deed, bylaws, and open space preservation easement. The applicant must obtain final approval of these documents from Lodi Township and

following approval, the property owner/developer must record all condominium documents/exhibits with the Washtenaw County Register of Deeds and provide copies to the Township Clerk in line with Section 45.17. The applicant will add the 25-foot wetland setback information to the Condominium Documents for applicable lots to be approved by attorney review.

7. Easements. An ingress/egress easement providing access to Parcel M-13-01-300-013 is shown on the existing conditions plan and site plans for Arbor Preserve South. The applicant has provided a copy of the amended access easement with the submittal. The easement provides access from Waters Road and provides access to the parcel from Gilbert Court. As part of the supplemental package provided on September 18th, the applicant team provided a sheet indicating a 20-foot-wide asphalt stub road within the existing access easement indicated for "Township access to adjacent property." The applicant must obtain approval of the Township Engineer of the proposed access road specifications. Additionally, the applicant must clarify how access to this easement described above will be provided given the gated entryway specified in the plans and obtain approval from Lodi Township for that access. The gated entryway will have the option to be removed now or in the future to give access to the public to Parcel M-13-01-300-013. The Township Engineer will do a final inspection of the stub road to access Parcel M-13-01-300-013 to make sure that it meets the same standards as the rest of the roads.
8. Traffic Impact Study. The applicant must comply with the updated traffic study including installation of an actuated traffic signal at Wagner & Waters intersection and left-turn lanes for both entrances on Wagner Road, or if the WCRC has additional or different requirements, those requirements must be met.
9. Regarding the Natural Features. The applicant must comply with all applicable state, local, and federal laws, ordinances, standards, and regulations and obtain and provide approval from all applicable agencies as required.
10. The applicant must obtain and provide reviews and approvals from all applicable consultants, departments, and agencies.
11. The applicant must obtain and provide the following reviews and permits:
 - a. Washtenaw County Road Commission (WCRC): Review and approval will be required. A permit will be required for all work within the right-of-way.
 - b. Washtenaw County Water Resources Commissioner's Office (WCWRC): A permit will be required for soil erosion and sedimentation control.
 - c. Washtenaw County Health Department (WCHD): Permits will be required for wells.
 - d. Michigan EGLE Sanitary/Part 41 (WWTP NPDES): A permit will be required for the collection system and WWTP.
 - e. Michigan EGLE Wetlands & Watercourses/Part 303: A permit may be required for the wetland mitigation measures prior to construction.

- f. Other permits/approvals/etc. may be required.
12. Per the First Amendment to Consent Judgment, if the applicant is not able to obtain a governmentally approved individual on-site water well within the boundary of an individual lot or site, that the maximum number of residential units will be reduced accordingly. Therefore, the right to build on any individual Unit is conditioned on obtaining governmentally approved individual on-site water well within the boundary of that individual lot or site.
13. The applicant after approval of the final site plan must execute with Lodi Township a Development Agreement per the Lodi Township Zoning Ordinance Section 54.20.
14. Unit 26 in the North development will be a smaller house footprint in the buildable envelope in order to remove the building from the 50-foot wetland set back.

Township Trustee _____ moved the adoption of the foregoing Resolution, which was seconded by Township Trustee _____ and thereupon adopted by the Lodi Township Board of Trustees by a roll call vote of the Township Board at the special meeting, held this 20th day of October 2025.

The following members voted:

Ayes:

Nays:

Absent or abstain:

The Supervisor declared the resolution adopted.

Christina Smith, Lodi Township Clerk

Second by Rentschler.

Rentschler explained his reasoning for seconding the motion and voting yes. Rentschler stated that the property in question has been proposed for cluster housing in the Master Plan and Rentschler would like to see the houses in that spot since that land is not good for farming. The land appears to Rentschler to be good for houses and he seconded the motion to keep the houses in that area.

Marsh asked about what happens when the easement for access to Parcel M-13-01-300-013 expires in December since it appears that an access road will not be able to be constructed before the easement expires, what voting to approve the final site plan locks Lodi Township into if that easement expires, and why the Board of Trustees is rushing to approve the final site plan if it will need to change with the expiration of the easement. O'Jack stated that he believes that the issue would go to court in the case the easement expires due to a previous statement from Greene that the previous easement would not go into effect if the current easement expired. The issue would need to be settled in court between Toll Brothers and the owner of Parcel M-13-01-300-013. Greene stated that the stub road access to Parcel M-13-01-300-013 was added to the plans to ensure public access to the property even if the easement expires.

Blackburn noted disappointment that the submitted request for Toll Brothers did not appear before the Board of Trustees for discussion and a vote before discussion resumed on the final site plan submittal. Blackburn stated disappointment that that request was presented to Toll Brothers before it was discussed and approved by the Board of Trustees. Godek stated that she did not remember the discussion that the requests would come before the Board of Trustees before going to Toll Brothers. Matelski stated that he did remember Lucas stating **many times** it was a decision to be made by the Board of Trustees as a whole. Blackburn then read the proposed request **that a committed group of people put together to present to Toll Brothers for Toll Brothers with the idea that could be presented to us as a board today so that we could decide together if that was a reasonable set of thing for Toll to consider.**

The Final Site Plan and second amendment to the Amended Consent Judgement are not acceptable as currently drafted. Including the following: plans lack adequate tree-loss mitigation, resolution of wetlands encroachments, adequate wetland mitigation, required assessment/mitigation of deleterious impact on neighboring properties including ZO 55.02.B violation, failure to secure drainage rights (45.10.J.4), economic impact on surrounding properties (42.301.A6), agreed-upon open space, and public benefit.

The Township foresees a pathway to agreement if Toll Brothers can meet the following conditions:

1. Toll Brothers will acquire Susan Miller's 19.05-acre parcel on terms to be arranged between seller and buyer.
2. Toll Brothers will eliminate the North WWTP from their site plans and operate the South WWTP to process wastewater from both developments. The South plant shall be properly sized for both developments.
3. Utilities will be run, as needed, along the west edge only of the acquired property and will not encumber more than one acre of the acquired land. Tree cutting will be kept to a minimum and be approved by the Township Board as part of final approval.
4. Toll Brothers will arrange for donation, to a qualified Michigan land trust or public entity* (see list below), of the former Miller property (less utilities acreage), plus the approximately 6 acres of undisturbed upland forested area named in the site plans, plus additional, adjacent forested and wetland acreage (currently designated open space). The combined acreage will total not less than 30 acres. The land will be designated a public preserve with public access from Waters Road by way of the development's roadway and an additional stub road if needed. A map of the land designated for donation will be subject to Township Board approval to verify contours consistent with the above.
5. Lodi Township will accept the wetland mitigation plan of paying credits to a wetland bank as well as improving the wetlands on site as proposed by Toll Brothers. The Township needs more details on, and to approve, how the improvements will be managed.
6. Lodi Township will accept the front yard setback deviations to 17 lots, yet the 25-foot wetland setback shall be undisturbed during construction and in perpetuity with appropriate changes to the edge of construction/silt fence (--xx--) line, signage and HOA documentation.

7. Toll Brothers will adjust lot boundaries to exclude 25-foot wetland setbacks and meet Amended Consent Judgement conditions bullet 5, ZO 54.08.E.6. The Township will give serious consideration to lot size deviation requests in order to protect wetlands.

8. Toll Brothers will seek consultation from Limnotech or another highly qualified, independent water projects expert to evaluate downstream adverse effects of the WWTP discharge plans and will undertake needed mitigation efforts, if any, to prevent flooding, bank erosion, and other harmful effects of altered water flow and quality. The Township Board will approve the choice of consultant.

9. Toll Brothers will use cut-and-fill construction only where absolutely essential since large-scale bulldozing and regrading violates many provisions of the Zoning Ordinance and is highly destructive of the natural features that were not adequately disclosed in the preliminary site plans. With few exceptions, designated open space shall preserve the original, native trees and vegetation or, if preservation is impossible, be relandscaped by a qualified, township-approved company utilizing native trees and vegetation. Exceptions can be approved by the Township Board in areas heavily invaded by non-native, invasive species.

10. HOA documents will include a list of prohibited invasive plant and tree species in order to protect the preserve and other open space areas from rapidly spreading, destructive plants. This list will be gathered from consulting local area experts such as Plantwise, a local, native plant and ecological restoration company.

11. Toll Brothers will consider including the Planning Commission's request for a bridge over wetlands to further reduce wetland impact.

12. Toll Brothers will include in HOA documentation that the HOA will encourage and actively support--with education and expertise--landscaping with native plants and no-mow grasses rather than extensive turf grass area.

13. Lodi Township Board will accept Toll Brothers' request to not provide street lighting.

14. Lodi Township Board will accept that sidewalks on one side of internal roads where shown is reasonable and appropriate to minimize impacts on existing wetlands.

15. Toll Brothers will pay \$750,000 to the Township to compensate for trees cut and not replaced and will plant 2 native trees per building site. [Include specifics of size of replacement tree, care plan for trees in initial period after planting to prevent high mortality and/or a plan to replace those replacement trees that die within a few months of planting? Does our ordinance cover this?]

Benefits of this proposal to Toll Brothers include:

1. They are freed from any fencing and signage obligations to the Miller parcel.
2. Their South Preserve homeowners are freed from concern about a polluted, possibly-flooding stream close to their properties.
3. They are freed from the need to build, operate, maintain, and provide escrow money for the North plant.
4. They are freed from losing lots on North due to 300 ft isolation distance for wells from WWTP discharge.

5. They are able to meet township requirements for appropriate open space, public benefit, tree mitigation and PUD additional eligibility criteria.
6. They are freed from the obligation to manage a significant portion of their designated open space, which will be managed by a land trust.
7. They are able to donate land to achieve a significant tax benefit.
8. Many of their building sites will back up to a nature preserve available for home owners' use, not a fenced no-trespass private property.
9. Walking access to a nature preserve will be a strong selling point for new homes and will support higher home prices, especially for the many homes backing directly onto the preserve.
10. Toll Brothers will be freed from the need to provide street lighting, and their homeowners will have the benefit of reduced light pollution and improved night skies.
11. Toll Brothers will create good will and decrease opposition within the community.
12. They can legitimately use the name "Preserve".

*List of possible land conservancy groups: Legacy Land Conservancy, Washtenaw County Natural Areas Preservation Program, Michigan Nature Association, City of Ann Arbor Parks and Recreation [the preserve will be in the Greenbelt], Southeast Michigan Land Conservancy, The Nature Conservancy (Michigan chapter).

Blackburn noted that Lodi Township currently only has one nature preserve that is open to the public. That preserve has awkward public access with no trespassing signs. The presented request to Toll Brothers would provide a first-time opportunity to have a nature preserve with public access in the Township that would be protecting land that has an intact native forest that has been undisturbed since before development. Those native forests were not acknowledged in the preliminary site plans and were not acknowledged until the May plans were submitted. Blackburn expressed disappointment that the stated request was not reviewed by the Board of Trustees to see if anything should be removed or added to the list before submitting it to Toll Brothers. Godek asked where the nature preserve in Lodi Township was. Blackburn stated that it was the Joan Rodman Memorial Nature Preserve on Saline Waterworks Rd. **No-Trustee was Other Trustees were not** aware of the location or that it was a public preserve.

Godek asked O'Jack if it would be appropriate to allow Toll Brothers to comment on the presented request. O'Jack reminded the Board of Trustees that they were in the discussion section of a motion. Toll Brothers has the right to consent to whatever they want to consent to as long as they are able to come into agreement with the Township. O'Jack noted that several of the items in the request were requests already made, but the majority of the requests would require amending the Consent Judgement. Greene confirmed that the request was received and reviewed. Toll Brothers would absolutely refuse to renegotiate the Consent Judgement in the way requested. The developers spent a year negotiating the Consent Judgement and Toll Brothers bought the property on the basis of the current Consent Judgement. Greene also noted that the list of requests that Blackburn stated starts with a foundation of statements about what Toll Brothers is doing wrong or violating the Consent Judgement. Toll Brothers disagrees with the foundation that they are violating the Consent Judgement and has made every change requested by the Township Planner and Township Attorney. If Toll Brothers were to agree to the

proposed request, Toll Brothers would lose the previous years' worth of work on the final site plan and submittals, permits, and approvals to/from other agencies.

Marsh **stated that the applicant is "talking out both sides of their face by asking for an amendment to the Consent Judgement"** but will not consider the request presented by Blackburn. Greene responded by stating that the Second Amendment to the Consent Judgement was suggested by O'Jack and was originally only to deal with the issue of tree replacement. Since the Zoning Ordinance does not specify what to do if the tree replacement requirements cannot be met, a solution would need to be addressed in a Second Amendment to the Consent Judgement. Greene stated that the proposed Second Amendment to the Consent Judgement is not Toll Brothers asking for something special, but finding a solution to the problem that was suggested by the Township's attorney.

Marsh then stated that it is not the Township's fault that Toll Brothers started requesting approval from the other agencies before receiving final site approval from the Township. Also, according to Marsh, it still does not change the fact that Toll Brothers is refusing to amend the Consent Judgement while also asking the Township to amend the Consent Judgement. Greene responded that the request made by Blackburn would require renegotiating the original Consent Judgement; they are requesting amending the **Amended** Consent Judgement to address an issue that is not addressed in the Zoning Ordinance. The Board of Trustees is allowed to do that because there is a Consent Judgement in place that allows that. Greene noted that Toll Brothers could challenge Lodi Township's Zoning Ordinance instead. Since an amendment to the Consent Judgement was already necessary to deal with the tree replacement issue, it was recommended to also include in the amendment the other issues being addressed. The proposed Second Amendment to the Consent Judgement was not intended to ask for more, but an attempt to comply. Greene also reviewed the concessions made by Toll Brothers in purchasing the property and accepting the Consent Judgement. Greene stated that Toll Brothers was not going to **renegotiate** the Consent Judgement because, today, some people who were not involved in the previous deliberation believe that the people who were deliberating the Consent Judgement missed something or did not get a good enough deal. Both sides thought it was a fair settlement at that time.

Matelski asked for verification on whether the original proposal of 400 units is possible according to the Zoning Ordinance. O'Jack verified that, with municipal utilities, 400 units would be allowed on that property according to the Zoning Ordinance. Without municipal utilities, that level of density would not be allowed under the Zoning Ordinance. The question being raised by the 2007 lawsuit was whether the Township would be required to provide municipal utilities. Greene confirmed this as well and explained the issue with the term "municipal utilities." **Greene also went on to explain that the law doesn't distinguish between municipal utilities/private utilities in regard to the development of any property. Clerk Smith stated that the Township could also be responsible for a community WWTP and community well if this goes back to court.**

Matelski also asked about what it means for the 25-foot wetland setbacks to be preserved in their "natural state." There have been some differing opinions on what that looks like. Blackburn states that it needs to be untouched before construction, but a Toll Brother's representative stated that it would be able to be disturbed during construction and then would need to remain untouched after construction. Matelski asked for clarification from Planner Smith. Smith stated that if that setback is disturbed in the process of construction, it would be considered an encroachment on that setback. This is the reasoning behind Smith stating that the Board of

Trustees needs to determine if that encroachment is reasonable and if so, the Board of Trustees has the ability to find that encroachment acceptable and approve that encroachment. Approving the final site plan would be agreeing and approving that there might be encroachments in those areas. O'Jack further stated that, likely, the developer would argue that those encroachments were **shown on the approved area and** preliminary site plan which was already approved by the Township. **Board of Trustees with the adoption of the Consent Judgement.**

Blackburn noted that this was an example of Toll Brothers requesting further deviations than those already approved **in the amended Consent Judgement** and discussed other examples of this such as the WWTP and the density. Blackburn stated that the Board of Trustees can either choose to approve the deviations or say no because the developer needs to follow the **Amended Consent Judgement** which states that the 25-foot wetland setback must be protected before construction and there are multiple places where those setbacks are not being followed.

Green stated that there is only one lot that violates the 25' setback, the others have the 25' within the lot. Greene **also** stated that lots in the 25-foot wetland setback are allowed and it is only a few feet on a few lots; just because a wetland setback is within the lot, does not mean that it will be **tore**n down. Greene stated the belief that Toll Brothers is not violating the wetland setbacks except for Unit 26 **which is within the 25' setback, Blackburn interjected to state that Green is talking about the 50' setback. Green stated the setback** will be taken care of with a smaller house **as stated in the resolution.** Conservation of those wetland setbacks will be in the Condominium Documents so that people know where those setbacks are and that they should not be messed with.

Godek asked Planner Smith if a wetland is disturbed and then left alone, if the wetland will come back. Smith stated that she does not know.

Foley asked if Smith would be willing to amend the motion so that the \$750,000 donation will need to be voted on to be used. Smith stated that it would need to be voted on anyways because it is using Township Funds. Foley stated that she does not think that it should go in the General Fund. Matelski agreed with Foley. Greene said that they could handle the donation however would be best for the Township.

Toll Brothers representative Jason Iacoangeli stated that, according to his understanding, the 25-foot wetland setback is being misconstrued. He stated that most 25-foot setbacks in Zoning Ordinances across Michigan are referred to as a natural feature setback. In those cases, if someone bought a piece of property and was going to put a home on it, but the property abuts a wetland, a silt fence within 25 feet of the wetland would need to be erected prior to building the house for sedimentation control. Iacoangeli stated that the Ordinance does not apply to building a subdivision where the wetlands are being impacted to build roads and lots. The 25-foot natural features setback would come into effect after the fact when the property is bought and the property owners are looking to build an additional building on the property. On top of that, a riparian buffer of 25 feet would be needed which would not be mowed and let to grow naturally. According to Iacoangeli, applying the 25-foot wetland setback to the entire site is not correct.

Clerk Smith asked Planner Smith if she agrees with Iacoangeli's statement. Planner Smith stated that she would have to re-review the standard from that lens. Her understanding is that prior to any land alteration or construction, that that setback is established. She would need to read the Ordinance in detail again to see if it differentiates for an individual lot or to a project as a whole. Planner Smith believes that it applies to any development of any project in the Township.

Iacoangeli responded that the Ordinance says that the Planning Commission has the authority to set a wetland use permit and the 25-foot setback is one of the conditions for that permit. Procedurally, the Planning Commission never put out conditions for a wetland use permit and never required a wetland use permit. Iacoangeli argued that in this case, the Township is looking at standards that have not been effectuated by the Planning Commission. The 25-foot wetland setback is in the list because it is supposed to be a condition for a permit issued on a per lot basis, but is, instead, being applied towards an entire subdivision which is not how it was meant to be interpreted according to Iacoangeli. Blackburn stated that this is an attempt to distract from something that is true, **stating there are 38 lots that violate one of our ordinances and one of Amended Consent Judgement conditions plus others that we can go through.**

Blackburn **then** stated **the need to revisit the Planner's answers to the submitted questions.** Godek stated that Blackburn's request doesn't have anything to do with the motion on the floor, Blackburn said it does have to do with the motion. Godek requested input from attorney O'Jack. Attorney O'Jack stated that Blackburn can make an argument of why the motion should be voted down. Blackburn is suggested to take a pause on coming back to the questions Planner Smith answered. Blackburn **stated** **focused on the following reasons this should be denied and absolutely not be approved tonight: that this has following reasons for why the motion to approve the final site plan with conditions should be denied:**

1. Because of some of the reasons Blackburn has been naming, the Township will likely be sued by residents if **the final site plan this** is approved.
2. The impact on neighboring properties has not been addressed and must be **considered** before **approving with conditions** ~~giving approval~~. There are three points to this:
 - a. There are some required assessment and mitigation of negative impacts for neighboring properties including the Zoning Ordinance 55.02.B violation that the Planning Commission used in their Findings of Fact when they unanimously recommended denial.

At this time, quorum of the Planning Commission was present, so Strader called the Planning Commission meeting to order. See Planning Commission minutes for more details.

- b. The failure to secure drainage rights as required under Section 45.10.J.4. **(specifically, in regards to Sue Miller's property).**
 - c. This development will impact the continued use or development of surrounding properties in violation of Section 42.301.A.6. **Specifically noted the impact on Sue Miller's property.**
3. There is missing information and changes are likely with the WWTP. If EGLE needs to make changes to the WWTP, that could change the plans and approving the final site plan at this time would be premature, ~~Balekburn~~ Blackburn noted that these WWTP are undersized, at this point Attorney O'Jack interrupted stating Township Board must support the EGLE application any discussing opposing the EGLE application may put the Township in liability. Blackburn interrupted Attorney O'Jack, stating that this is not opposing EGLE's permit and that changes that could be made downstream will impact the shape and size of this "box" that is going to include Wastewater Treatment Plants if these plans are approved. Blackburn is requesting more detailed information on the WWTP before these plans can be approved. Godek asked Blackburn to continue reasons why the Township should deny.
4. What happens if the WWTP fails?

5. How would the Township protect itself if the WWTP fails or if raw sewage is released?
6. There has been no expert assigned to the Township surrounding the WWTP to address the gaps in the Zoning Ordinance and outside agency approvals regarding the WWTP.
7. **Blackburn stated that we need to listen to the experts telling us there are too many open questions to approve these plans.**

Gedek Godek stated that she ready to call the vote on the original motion, Rentschler also called ~~the vote the question~~ **stated** he had heard enough from Blackburn and was ready to vote. Godek called the vote on the original motion **to approve with conditions Resolution 2025-014** made by Smith, and seconded by Rentschler.

A roll call vote was taken. Smith=aye, Godek=aye, Marsh=nay, Blackburn=nay, Matelski=nay, Rentschler=aye, Foley=aye. Motion carried, 4-3.

7. Public Comment

Public comment began at 8:59 pm. No comments were received from the public. Public comment ended at 8:59 pm.

8. Closed Session: None

9. Adjournment

Smith moved to adjourn at 9:00 pm. Second by Foley. A voice vote was taken. Aye=all, Nay=none. Motion carried, 7-0.

Respectfully Submitted,



Christina Smith,
Lodi Township Clerk

Michelle Joppeck,
Recording Secretary