



September 16, 2026

Planning Commission
Lodi Township
3755 Pleasant Lake Road
Ann Arbor, Michigan 48103

Attention: Cindy Strader, Planning Commission Chair

Subject: Tree Regulation and Replacement Requirements

Dear Ms. Strader,

During the September 2nd Township Board Meeting, the Township Board recommended the Planning Commission review considerations relevant to the regulations of trees and tree mitigation in the Zoning Ordinance. The request was made to resolve regulatory challenges stemming from a recent application by Scott Kovanda of Frontier Club, LLC to develop 13 parcels totaling approximately 334 acres to serve a golf course.

Although we do not recommend consideration of zoning ordinance amendments to address the needs of an individual application, this issue is likely to arise for future development proposals as well. Review of this section will benefit the Township by ensuring that this application, and future applications, are reviewed under standards that do not create hardships and reduce the potential for variance requests or legal challenges. The Planning Commission should evaluate these provisions to determine whether the proposed amendments are appropriate to address future development while maintaining the intent of the ordinance.

This memorandum includes a review of four topics relevant to the Natural Features Protection and Preservation Ordinance in Section 54.08:

1. Tree Survey Requirements
2. Dead, Dying, and Invasive Trees
3. Tree Preservation Requirements
4. Tree Replacement Requirements

Background

Relevant Case Law

Recent litigation in Canton Township, including F.P. Development, LLC v. Charter Township of Canton and Charter Township of Canton v. 44650, Inc. demonstrated the possibility of limitations on local tree-preservation and replacement requirements. In both cases, challenges were made regarding the constitutionality of the ordinance, with the courts ultimately ruling in favor of the developers.

1. **F.P. Development LLC v. Charter Township of Canton.** F.P. Development owned property in Canton Township that it wanted to develop. The property contained a large number of trees. Canton Township had a Tree Ordinance requiring property owners to obtain a permit before removing certain trees and, in many circumstances, to replace removed trees or pay money into the Township's tree fund. F.P. removed trees from its property without obtaining a permit. F.P. said it needed to remove the trees because a clogged drainage ditch was causing flooding on the property. The Township determined that 159 regulated trees had been removed and required F.P. either to replant 187 trees or pay approximately



\$47,898 into the Township's tree fund. F.P argued that the tree requirements were unconstitutional, making the claim that the Ordinance resulted in a “taking” without just compensation. F.P. argued that forcing them to either replace trees or pay into the tree fund was an unconstitutional “taking” of property under the **Fifth Amendment**, which mandates just compensation for property taken for public use.

The case was heard by the U.S. District Court for the Eastern District of Michigan and subsequently appealed to the Sixth Circuit Court of Appeals. Ultimately, the appellate Court agreed that Canton was in violation of the Fifth Amendment and that the regulations resulted in a taking.

This ruling means that Townships can regulate tree removals for the purpose of preserving natural resources, but that these types of regulations must be proportionate to the impact of the development. In this case, the courts found that the Township went too far by requiring replacement of the removed trees or paying \$48,000 based upon the circumstances that were presented. Regarding replacement trees, the court determined that the mechanism for counting replacement trees did not adequately account for the consequences of removing them, requiring an individualized assessment of the environmental impact of each tree’s removal on the property and surrounding area to reasonably relate required mitigation requirements as proportionate that impact.

Notably, this case involved the removal of trees in a drainage ditch, and evidence was presented to the court indicating that clearing the clogged ditch and removing dead trees might have actually resulted in improvements to the property and surrounding area.

2. **Charter Township of Canton v. 44650, Inc.** In this case, 44650, Inc. owned a 16-acre parcel in Canton Township with the intent of using the property for agricultural purposes. Although the applicant was notified of the local tree ordinance, they clear-cut the property without first obtaining the Township’s required tree-removal permit. The trees were in poor condition, with many dead ash trees, invasive species, and other brush, and characterized as “blighted and neglected” by 44650, emphasizing that the tree removals did not occur in a healthy forest. Canton Township sued the applicant to enforce the ordinance, but similar to FP, the applicant argued that the Ordinance resulted in a “taking” without just compensation. The applicant argued that forcing them to preserve or replace trees or pay into the tree fund was an unconstitutional “taking” of property under the **Fifth Amendment**, which mandates just compensation for property taken for public use. Their claim argued that Canton could not condition the use of the property on giving the Township something unless there was sufficient connection and proportionality between the requirement and the impact of the proposed activity. Canton’s requirement was not sufficiently connected to the environmental impact of what was removed.

Following an initial hearing in front of the Wayne County Circuit Court which favored the applicant, the case was subsequently appealed to the Michigan Court of Appeals. The Court of Appeals found that although Canton can regulate tree removal, the requirement must be justified; when a government requires a property owner to give up something in exchange for use of the land, there must be (1) a legitimate connection between the government’s requirement and the problem caused by the property owner’s activity and (2) a reasonable relationship between the amount of mitigation and the impact of the property owner’s activity. Canton had a legitimate tree-preservation objective, but its mitigation requirements weren't adequately tied to the particular impact of the property owner's activity.

Notably, this case highlights that distinctions between dead, diseased, invasive, or hazardous trees should be incorporated into regulations to ensure that the environmental impact of each tree removal is adequately evaluated.



Recent Developments in Lodi Township

In addition to the findings of the Canton Township lawsuits, it should be further noted that two recent large-scale developments required relief from the tree ordinance requirements, granted by way of a variance and a consent judgement. In both cases, relief was granted to account for trees that were dead, dying, or invasive.

This pattern of hardships may be a signal that the current language in the ordinance may not adequately account for the practical challenges of developing land uses that are permitted by the zoning ordinance (or listed as special land uses). Furthermore, in a similar manner as the Canton Township cases, these developments highlight the importance of considering the environmental impact of tree removal when accounting for replacement trees.

Tree Survey Requirements (Section 54.08.D.a.4.e)

The Lodi Township Ordinance requires a tree survey for all developments that involve a preliminary site plan, preliminary plat, or Planned Unit Development, as described in Section 54.08 Natural Features Protection and Preservation. The tree survey applies to individual trees or groupings of trees whose individual bases are located at a ground elevation within one (1) foot of each other.

With that, when portions of a site are undeveloped and trees are to remain in-tact, it may not be necessary to require a survey of each individual tree. This amendment proposes to allow applicants to forgo the tree survey on portions of a site where trees are not impacted by construction. The proposed amendment also removes language requiring the tree survey to include trees within 100-feet beyond the property line.

Ultimately, this relief from the survey requirements helps to ensure that the tree ordinance does not require excessive information and that all required information is tied to the regulations in the ordinance.

Dead, Dying, and Invasive Trees

Section 54.08 Natural Features Protection and Preservation includes standards to ensure that the impact of tree removal is offset by a proportionate level of new plantings. This section of the ordinance has helped to preserve the Township's robust tree canopy, while allowing for new development that is compatible with the Township's character and natural environment.

With that, the ordinance does not consider the condition or species type when determining the mitigation requirement. The language below includes considerations that the Township may wish to consider to ensure that planting requirements are proportionate to the impact of tree removals. This language will also help to align the ordinance with the legal precedents set in the *F.P. Development LLC v. Charter Township of Canton* and *Charter Township of Canton v. 44650, Inc* cases.

In addition, the proposed language includes updates to the qualifications of arborists and qualified wetland consultants to ensure the accuracy and objectivity of tree and wetland evaluation in making these determinations.

Tree Preservation Requirements

The ordinance requires preservation of thirty-five percent of the number of protected or landmark trees that have existed on the subject site within the last five years. If the preserved trees do not average 15 trees per acre, then additional mitigation trees must be planted to ensure sufficient canopy. If additional trees are planted, they can count towards an applicant's existing mitigation requirements.



These standards raise some important policy considerations and questions based on the relevant case law described above:

1. Does the five year lookback mean a developer can be penalized for trees that were removed before the developer owned the property? *If the intent of this regulation is to prevent a property owner from intentionally clearing trees shortly before a development application, the ordinance should clearly distinguish between trees removed by the current owner and trees removed by a prior owner. With that, it is important to ensure that no individual clears trees for the purpose of avoiding replacement requirements.*
2. Does the ordinance create an inconsistent incentive by providing replacement credits for new trees planted to meet the minimum preservation requirement, but does not give credit for preserved trees? *Since landmark trees are the most valuable for preservation and provide the greatest ecological impact, we recommend providing replacement credit for preserved landmark trees.*
3. Are the standards of “35%” and 15 trees per acre arbitrary? What is the justification for these preservation requirements? How are these numbers connected and proportional to the impact of the regulation? *We recommend providing credits for landmark trees that are preserved, rather than requiring an arbitrary level of preservation. In some circumstances (such as those included in the Canton Township cases) tree removal may provide a greater ecological benefit than preservation. In addition, the 15-trees-per-acre requirement may require new plantings when a site does not currently have any trees, rather than providing a base level of preservation. Instead of this requirement, we recommend a “general site landscaping” requirement that can be met with existing or new trees.*

The draft language eliminates the required preservation minimums to ensure that they are not considered arbitrary or excessive. Instead, a general site landscaping requirement was added to the landscaping section, which can be met using existing vegetation to encourage preservation. In addition, a preservation credit is offered for preserved landmark trees which incentivizes preservation by reducing the number of replacement trees needed.

Tree Replacement Requirements

The ordinance includes a replacement schedule for trees that are removed, requiring any clearing to be aligned with restoration of the canopy. While these regulations play an important role in minimizing the impact of tree removal, it is important to make sure that replacement plantings are proportionate to the impact of tree removal and that they cannot be deemed excessive.

The draft language includes a mechanism for relief, based upon an individualized assessment of the impact of tree removal, to ensure that the requirement does not hinder the development feasibility of a site and that replacement requirements are proportionate to the impact of removal.

Additional Considerations

While the draft language proposes a waiver in circumstances where site constraints prevent an applicant from being able to provide required replacement trees, the Township may also consider a conservation fund to serve as an alternative approach to mitigation in circumstances where tree replacement would be infeasible.

Many communities use a tree fund that supports plantings on public lands at the discretion of the community. However, in Lodi Township, a tree fund may be problematic because the Township does not own any roads or parks where tree planting would typically take place. One potential alternative could be to create a conservation fund, but this would require the implementation of a substantial conservation policy.



The conservation fund would be used to support the purchase of development rights or conservation easements in the Township. A new conservation policy would be required, which would likely include the creation of a new public body responsible for reviewing and selecting sites, creating plans or partnerships for stewardship, establishing funding priorities and criteria, overseeing acquisitions and easements, and developing a mechanism for monitoring and enforcing conservation requirements.



Proposed Text

The text below provides language in accordance with the policy analysis above. The proposed language is intended to serve as a starting point for discussion and subject to change based on the Planning Commission's priorities and intent. Text in black is existing zoning ordinance language; text in blue is new proposed language, and language proposed to be removed is in ~~red-strikethrough~~.

Section 2.03 Definitions

Qualified Arborist. A person who, through education, training, and professional experience, has demonstrated expertise in the care, preservation, and management of trees and meets all of the following minimum qualifications:

1. Has a bachelor's or graduate degree from an accredited institution in a field related to arboriculture, including, but not limited to, arboriculture, forestry, horticulture, botany, plant science, landscape architecture, natural resources, or a related field as determined by the Township.
2. Has at least three years of professional experience in arboriculture, horticulture, forestry, landscape architecture or other closely-related field as determined by the Township.
3. Holds a current arboricultural credential or certification from a nationally recognized professional organization, such as the International Society of Arboriculture (ISA).
4. Is able to provide documentation of qualifications, including relevant training, professional experience, and examples of comparable tree assessment, preservation, or management work, upon request by the Township.

Qualified Wetland Professional. A person who, through education, training, and professional experience, possesses demonstrated expertise in wetland identification and delineation and who meets all of the following minimum qualifications:

1. Has a bachelor's or graduate degree from an accredited institution in a field related to wetland science, including, but not limited to, biology, ecology, environmental science, natural resources, soil science, hydrology, botany, or a related field.
2. Has at least three years of professional experience conducting wetland identification, delineation, assessment, or permitting work, including demonstrated experience in Michigan.
3. Has knowledge of Michigan's Part 303, Wetlands Protection, and applicable federal wetland regulations.
4. Is able to provide documentation of qualifications, including relevant training, professional experience, and examples of comparable wetland delineation work, upon request by the Township.

Protected tree. Any deciduous tree species having a DBH of six (6) inches or greater or coniferous tree species with a height of six (6) feet or greater and that is not included in the definition of landmark tree.

Section 54.08 (D) (4) (a) (4) Natural Features Statement of Impact, Protection, and Mitigation

- (4) Natural feature location survey, in a form acceptable to the Township, including but not limited to the following:
 - a. All natural features located on the parcel shall be inventoried by an actual field survey and shown on a map by type, location and drawn to scale.
 - b. Proposed changes to any designated natural resources within the subject site.
 - c. A statement setting forth how natural features, not to be relocated or physically impacted, are to be protected during land clearance and/or development construction.



- d. A general grading plan prepared by a registered engineer or land surveyor showing the anticipated drainage patterns, including the location of any areas where cut and fill operations are likely to occur and their potential impact on the viability of the natural resources.
 - e. Existing landmark trees, as regulated by Section 54.08.I.2. (Landmark Tree Identification), all existing individual deciduous trees of six (6) inch diameter at breast height (D.B.H.) or larger, and all existing individual evergreen trees six (6) feet in height or higher located on the property, within adjoining road rights-of-way, ~~and within 100 feet beyond the property~~ shall be shown on the map and clearly identified by numbered dots, along with an accompanying database table of corresponding species and size listings, and the ground elevation at the base of each tree. Groups of trees whose individual bases are located at a ground elevation within one (1) foot of each other may be shown on the map as a group with the overall crown spread drawn to scale, by predominant species, with estimated number and size of each predominant species, and with an average base elevation of each group.
 - i. The above tree survey is only required for portions of the site where development is proposed and where the development area is supported by clearly defined clearing limits. Trees with driplines that extend into the area to be developed shall be included in the tree survey, even if the trunk of the tree is not in an area that will be disturbed.
 - f. An evaluation of the quality of woodland area and trees proposed for removal, conducted by a Qualified Arborist. The evaluation shall include: ~~including but not limited to:~~
 - i. Tree species (including diversity of species).
 - ii. Tree size and density.
 - iii. Health and vigor of the trees. Tree health and vigor shall be evaluated in accordance with the latest edition of the International Society of Arboriculture's Guide for Plant Appraisal or similar rating system approved by the Township Zoning Administrator.
 - iv. Soil conditions and site drainage characteristics.
 - g. Other factors such as the value of the woodland area as a scenic asset, wind block, noise buffer, or other environmental benefit (i.e., cooling effect).
 - h. Isolated trees shown on the topographical map shall be tagged in the field with identifying numbers using non corrosive metal tags. Groups of trees shall be tagged sufficiently to identify the group upon field inspection. Such identifying numbers shall be shown on the topographical map.
 - i. All existing trees proposed to remain, to relocate, or to remove shall be so designated by the identifying number.
 - j. If existing trees are to be relocated, the proposed locations for such trees, together with a statement setting forth how such trees are to be removed, protected or sorted during land clearance, development, and construction, and how they are to be maintained after construction.
 - k. A determination of all wetlands regulated in accordance with part 303 of the Natural Resources and Environmental Protection Act and the Administrative Rules thereunder, as amended. The wetland determination must be conducted by a Qualified Wetland Professional, or the applicant may submit an applicable wetland determination or delineation verification issued by the Michigan Department of Environment, Great Lakes, and Energy (EGLE). The Zoning Administrator may reject a wetland delineation if the person preparing the delineation does not demonstrate the qualifications required by this Ordinance or if the submitted information is insufficient to determine the location or extent of wetlands. The Zoning Administrator may require a supplemental delineation or independent review by another Qualified Wetland Professional.
- (5) Documentation of compliance with Section 54.07.D. (Floodplain Standards and Requirements).
- (6) Such other information and detail as to vegetation or physical details as may be requested by the Township.



- (7) Where a professional credential is not specifically required by this Ordinance, ~~All~~ information and details shall be provided by a registered land surveyor, registered engineer, registered landscape architect, certified arborist, or forester who shall verify the contents by seal or signature, whichever applies.

54.08 (I) Woodland and Tree Preservation Standards

1. No Changes Proposed
2. No Changes Proposed
3. Tree removal. Except as otherwise provided in this Section, any development that includes a building, structure, or use that requires site plan review and approval, according to Article 44.0 (Site Plan Review), subdivision plat approval or PUD approval shall not remove, transplant, damage or destroy any landmark tree or other deciduous tree, evergreen tree or similar woody vegetation regulated by this Section and Ordinance currently existing on the subject site ~~or that has existed on the subject site within the last five (5) years~~; and shall not conduct any land clearing or grubbing activities within any woodland area.
4. ~~The following requirements shall apply to all property subject to or proposed for development requiring site plan, plat, or PUD approval:~~
 - a. ~~Except as provided elsewhere within this Section, the developer shall be subject to the following requirements:~~
 1. ~~Preserve and leave standing a minimum of thirty-five percent (35%) of the total number of individual deciduous trees of six (6) inch D.B.H. or larger and individual evergreen trees six (6) feet in height or higher within the development that have existed on the subject site within the last five (5) years~~
 2. ~~If existing preserved trees do not average 15 trees per acre in the subject development, additional trees shall be planted to equal a minimum average ratio of 15 trees per acre, at a minimum D.B.H. of 2.5 inches for deciduous trees and a minimum of six (6) feet for evergreen trees within any development subject to the provisions of this Section. Species and spacing of trees shall be subject to the approval of the planning commission. The required mitigation of trees shall be counted towards this ratio.~~

54.08(O) Tree Relocation and Replacement.

Tree Relocation and Replacement. The intent of this Section is to replace removed species with similar species in appropriate habitats. Whenever the removal of individual landmark trees and other deciduous trees and coniferous trees regulated by this Section and Ordinance is deemed necessary, such trees shall be replaced or relocated in accordance with this Section. If removed trees are to be replaced as provided within this Section, replacement trees may be used to satisfy preservation percentage requirements of this Section.

- (1) When removed, trees shall be replaced in accordance with the following replacement standards. The replacement standards shall apply to all trees that have existed on the subject site within the last five (5) years preceding submission of the development application. A tree that was removed from the subject site before the applicant acquired or obtained a legal interest in the property shall not be included in the calculation of trees subject to the replacement requirements of this Section, unless the Township determines, based upon substantial evidence, that the tree was removed for the purposes of avoiding the replacement requirements of this section.
- (2) Replacement species standards. Replacement trees shall be of the same species as the removed tree, except where otherwise provided ~~for in this Section below~~
 - (a) Non-native species. Species that are not native to Michigan may be substituted with ~~for non-native species or prohibited species.~~



- (b) Not available. Replacement trees for species not readily available from qualified nurseries may be substituted with an appropriate species acceptable to the applicable approving body or official.
- (c) More appropriate. Different species that are more appropriate for local conditions or that provide greater benefits than the removed trees may be approved by the applicable approving body or official.
- (d) Diversity. A maximum of twenty-five (25) percent of replacement trees may be of a single species in order to preserve genetic diversity and resilience, unless otherwise approved by the applicable approving body or official.
- (e) Habitat. Replacement tree species shall be suitable for the habitat where they will be located and may be substituted with an appropriate species based upon site-specific environmental conditions with approval by the applicable approving body or official.

(3) Exemptions.

- (a) Exempt without Written Notice and Approval. The following trees, when removed, shall be exempt from the replacement standards of this section, however, if the removed tree was part of an approved site plan or required under Section 55.09, the tree must be replaced in accordance with the approved site plan or Section 55.09, as applicable. Removal of any of the following trees shall not require written notice or approval:
 - i. Any deciduous tree less than six (6) Inches DBH as determined by a Qualified Arborist.
 - ii. Any evergreen tree less than six (6) feet tall as determined by a Qualified Arborist.
- (b) Exempt after Written Notice and Approval. The following trees, when removed, shall be exempt from the replacement standards of this section, however, if the removed tree was part of an approved site plan or required under Section 55.09, the tree must be replaced in accordance with the approved site plan or Section 55.09, as applicable. Removal of any of the following trees requires written notice and approval by the Township Zoning Administrator:
 - i. *Dead trees or trees in poor condition.* Removal of any dead tree or tree that has been determined by a Qualified Arborist to be in poor or very poor condition using the latest edition of the International Society of Arboriculture's Guide for Plant Appraisal or similar rating system approved by the Township Zoning Administrator;
 - ii. *Damaged, diseased, and infested trees.* Removal of any damaged, diseased, or infested tree that is likely to die as a result of the damage, disease, or infestation as determined by a Qualified Arborist;
 - iii. *Hazards.* Removal of any tree that is a hazard or danger to human life or property due to its condition where such removal will prevent injury or damage to persons or property, as determined by a Qualified Arborist and verified by the Township Zoning Administrator, with the removal using accepted standard forestry practices;
 - iv. *Government agencies.* Removal, transplanting, or trimming of trees by or on behalf of government entities or agencies for public interest purposes when the Township Zoning Administrator determines the activities serve a bona fide public interest;
 - v. *Public road right-of-way and private road easement.* Removal, transplanting, or trimming of trees in an existing public road right-of-way or an existing private road easement but only to the extent necessary for safe access and proper drainage along such right-of-way or private road easement and to protect the public health, safety, and welfare;
 - vi. *Washtenaw County drain easement.* Removal, transplanting, or trimming of trees in a Washtenaw County drain easement when such removal, transplanting, or trimming is authorized by Washtenaw County in accordance with Washtenaw County requirements;
 - vii. *Invasive or prohibited species.* Any tree species identified by the Michigan Department of Natural Resources (MDNR) or other applicable state or federal agency as an invasive species, or identified by a recognized scientific or professional organization as an invasive species that is known to be unsuitable for use as a replacement tree, in addition to any



species listed as one of the “prohibited species” in accordance with *Section 54.08.O.9* below

- (4) Replacement Ratio. Replacement trees are required when protected trees and landmark trees are removed unless the removed tree is exempt from replacement in accordance with Section 54.08.O.3 above. The replacement schedule below is based on the impacts of the tree removal and the offsetting mitigation to replace the benefits provided by trees. ~~Removed trees shall be relocated or replaced in accordance with the following schedule.~~ Where more than one replacement ratio may apply to an individual tree, the higher ratio shall apply:

Size of Removed Tree	Replacement Ratio (Number of replacement trees per removed tree)
Coniferous (Height)	
Six (6) to ten (10) feet	1:1
Ten (10) to fourteen (14) feet	1.5:1
More than 14 feet	2:1
Landmark coniferous tree	One (1) tree per four (4) inches of removed tree DBH
Deciduous (DBH)	
Six (6) to ten (10) inches	1:1
Ten (10) to 14 (14) inches	1.5:1
More than 14 inches	2:1
Landmark deciduous tree	One (1) tree per four (4) inches of removed tree DBH

- (5) Credit for Preserved Trees. Existing landmark trees that are not exempt in accordance with 54.08.O.3 above shall be provided credit towards the total replacement calculation for a development when the landmark tree is preserved. The overall required replacement calculation shall be reduced by one (1) tree per four (4) inches of preserved landmark tree DBH.
- (6) Reduction of replacement trees based on new trees in landscape plan. When new trees are proposed on a landscape plan in accordance with Section 55.09 of this ordinance (e.g., screening trees, parking lot trees), the total number of trees required by (a) and (b) above shall be reduced by one hundred (100) percent of the number of trees proposed on a landscape plan in accordance with Section 55.09. For example purposes only, if a site development proposal requires one hundred (100) replacement trees pursuant to (a) and (b) above and sixty (60) trees are proposed on the landscape plan in accordance with Article 5, then the number of required replacement trees will be reduced to forty (40) (i.e., one hundred (100) replacement trees required minus sixty (60) trees proposed in accordance with Section 55.09, equals forty (40) net replacement trees required).
- (7) **(RE-ORDERED)**. Location. The location of any replacement tree shall be on the same parcel as the removed tree wherever feasible, as determined by the Township. If the tree replacement on the same parcel is not feasible, the Township may designate another planting location for the replacement tree within the Township.
- (8) Minimum Requirements. **(NO CHANGES PROPOSED)**
- (9) ~~Species prohibited as replacement trees~~ Prohibited Species. **(NO CHANGES PROPOSED)**
- (10) Maintenance. **(NO CHANGES PROPOSED)**
- (11) Identification of trees to be removed or transplanted. **(NO CHANGES PROPOSED)**
- (12) Relief from tree replacement requirements.
- Impact Assessment.
 - An applicant seeking relief from the tree replacement requirements of this section shall submit an assessment prepared by a qualified arborist addressing the proposed tree removal and the anticipated impacts of such removal. The assessment shall include, as



applicable, an evaluation of the number, size, species, condition, location, and canopy of the trees proposed for removal; the environmental, aesthetic, screening, buffering, stormwater, and other functions or benefits provided by the trees; the anticipated impacts of the proposed removal; and the extent to which proposed replacement trees or other mitigation measures address such impacts.

- ii. Upon review of the arborist assessment and other information submitted with the application, the Township Board may reduce, modify, or waive the required number of replacement trees when it determines, based upon the specific characteristics and circumstances of the site, that the otherwise required tree replacement is disproportionate to the impacts of proposed tree removal. Any reduction, modification, or waiver granted in accordance with this subsection shall be based upon the specific facts and circumstances of the application.
- (b) Site Constraints. The Township Board may reduce, modify, or waive the replacement requirements of this section upon a determination that the physical configuration, existing development, parcel dimensions, or other unusual characteristics of the subject property create exceptional site constraints such that strict compliance would prevent reasonable development of the property and no alternative locations are available.

55.09 Landscaping, Screening, and Land Use Buffers.

A-G: NO CHANGES PROPOSED

H. (NEW SUBSECTION) General Site Landscaping.

- (1) In addition to any landscape screening and/or parking lot landscaping required by this section, ten percent of the site area, excluding existing public rights-of-way, shall be landscaped. Such site area landscaping may include a combination of the preservation of existing native vegetation and tree cover, planting of new trees and plant material, landscape plazas and gardens and building foundation planting beds. Landscaping that is used to screen potentially objectionable site features such as, but not limited to, retention/detention ponds, transformer pads, air conditioning units, and loading areas may be counted towards this site area landscaping requirement.
- (2) Wetlands and/or areas used for storm drainage purposes, such as drain courses and retention areas shall not be counted towards this requirement.

I. **(RENUMBER) Prohibited Plant Materials.** The trees listed in Section 54.08.O.4-9. (Prohibited Species) have been determined by the Township to be undesirable for the landscaping, screening, and buffering purposes of this Section and Ordinance, and except under the limited circumstances noted in Section 54.08.O.4-9. shall not be used to satisfy the requirements of this Section. Existing undesirable trees may be left in place.

J. **(RENUMBER) Installation and Maintenance. (No Changes proposed)**

K. **(RENUMBER) Modifications.** The Township Board shall have the authority to approve alternative designs or plant materials as part of final site plan approval, after recommendation by the Planning Commission. The Planning Commission shall have the authority to make recommendations to the Township Board regarding how the standards of this Section apply to existing conditions and redevelopment sites. Such actions shall be subject to the following:

- (1) Alternative designs or materials. The Township Board may approve alternative landscape designs or plant materials upon determination that the alternative would meet the purpose and objectives of this Section.
- (2) Existing conditions. The Township Board shall have the authority to determine that requirements of this Section have been satisfied by existing topography, vegetation or other means recommended for acceptance by the Planning Commission.
- (3) Redevelopment sites. Where an existing building is undergoing renovation, expansion, or change in use, required landscaping and screening improvements shall be in reasonable proportion to the size and



configuration of the site and the scale of proposed improvements, as recommended for acceptance by the Planning Commission in accordance with the purpose and objectives of this Section.

- (4) General Site Landscaping. The Township Board may modify the general site landscaping requirements of Section 55.09.H where compliance is not reasonably feasible due to the parcel's size or configuration, or the extent of wetlands or areas used for storm drainage purposes located on the parcel.

Sincerely,
OHM Advisors

Julia Upfal
Client Representative

Hannah (Smith) Firlit
Senior Planner

cc: Jacob Schiabe, Township Supervisor
Christina Smith, Township Clerk
Marcus McNamara, OHM Advisors
MC Moritz; OHM Advisors