



**Practical Preservation: Creating
Defensible Tree Protection
Standards to Support
Environmental and Development
Goals**

Kristin Kolb

JD, Associate Attorney



ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

Paul Montagno

AICP, Principal



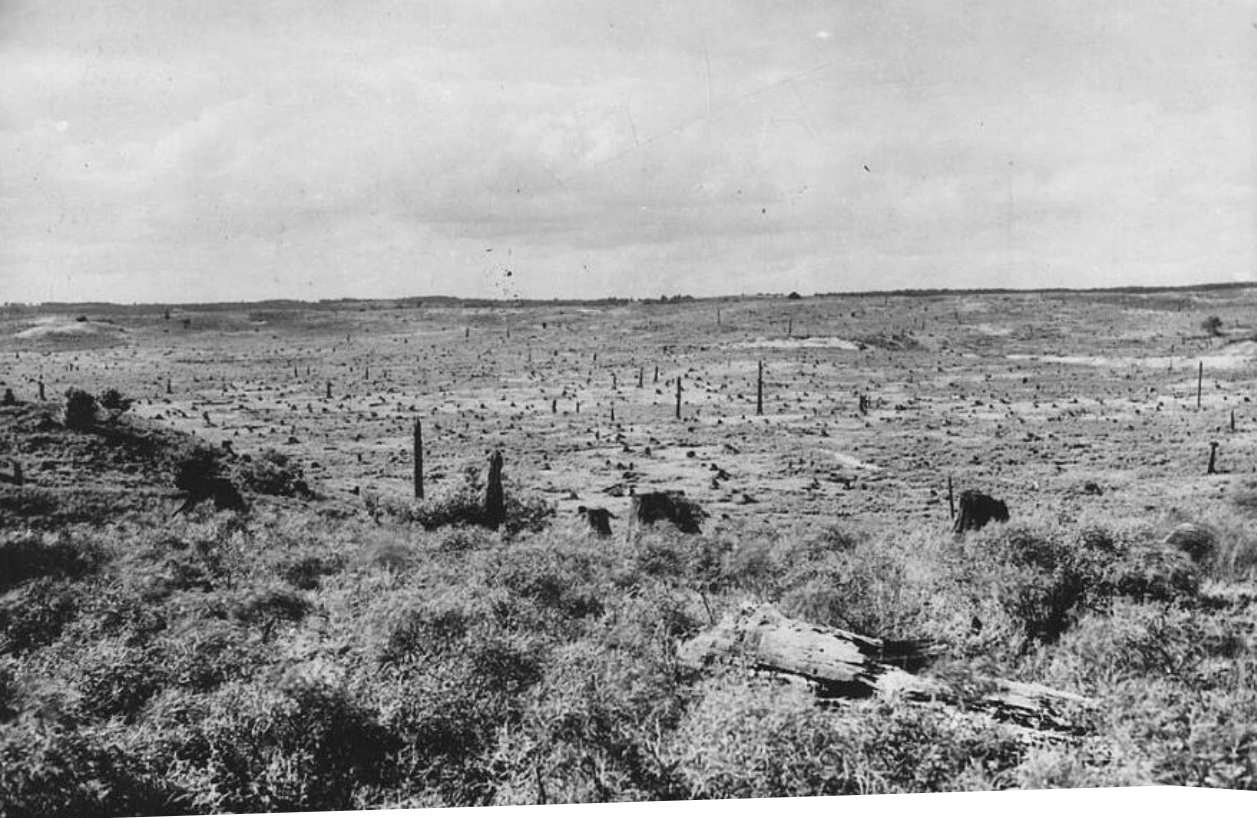
Carlisle | Wortman
Associates

Robert Wiszowaty

ISA Certified Arborist, Owner



Moderator: Michelle Marin, AICP, Planner - Carlisle | Wortman Associates



Forests in Michigan – what happened?



Commercial Forest Program

Manage your forest for long-term timber production and get reduced taxes.



Forest Legacy Program

Protect privately owned and environmentally significant forest lands.



Forests for Fish

Forests provide abundant clean water and quality fish habitat.



Forest Stewardship Program

Develop a plan to manage, protect and enjoy your forest.



Registered Foresters

Find a professional forester registered with the State of Michigan.



Wheels to Woods

Wheels to Woods provides transportation grants for schools to visit a forest or forest products company.

Typical Tree Removal Mitigation Options

- Replacement on-site
- Replacement off-site
- Payment into a tree fund





The current canopy loss fee rate is:
\$244/inch

Canopy loss fee example

Example:

Trees to be removed: 12" Silver Maple, 6" Hackberry and 6"
Sweetgum

Total DBH inches of trees removed= 24"

Replacement trees: Three, 2" caliper trees

Total Caliper inches of replacement trees = 6"

Canopy Loss Fee Calculation: $(24" - 6") \times \$244/\text{inch} = \$4,392$





Urban Forest Management Plan Toolkit

[Home](#)

[1\) Work Plan](#)

[2\) Urban Forest Management Planning](#) ▾

[3\) Adaptive Management](#)

[Resources](#) ▾



Vision

Inventories and Assessments ▾

Strategic Plan ▾

Implementation Plan

Monitoring Plan

Final Steps



Ordinances can be impractical

- Species-specific needs and limitations
- Differing language among ordinances
- Risk value
- Specific location



F.P. Development v Canton Canton v 44650, Inc

- Two property owners, not developers, clearcut without permits
- Courts ruled in favor of property owners
- ***Only thing shut down within Township ordinance was mitigation requirements: replacement or tree fund***
- Individualized assessments must be conducted



Individualized Assessment

- Measure the impact of removing *specific* trees
- Court ruling is vague
- Could be tree inventory *plus*
 - Tree risk assessment
 - Health/condition rating
 - Tree Appraisal



Subject: Tree Appraisal

Dear [REDACTED]:

Recently you requested an appraisal for a Camphor tree *Cinnamomum camphora* that was potentially impacted by nearby construction.

Tree Specifications:

Species: *Cinnamomum camphora*

Diameter breast height (DBH): 1st 33.8" 2nd 28.7"

Height: 35'

Spread: 25'

Condition: 55%, Fair Vigor Fair Structure

Location: 75% Based on, Contribution, Placement, Site

Species Rating: 70%

Notes: Repeating pattern codominance, mycelium on patch of trunk decay, successful pruning (crown reduction-elevation) has allowed some interior growth, concern of root system impacting underground utilities.

Three codominant stems (two have grown together) main split occurs below 54", Two Diameters listed: 1st is trunk measured below codominant stems; 2nd is based off following equation where D=Diameter and S=Stem

$D = \sqrt{S1^2 + S2^2}$

Appraisal: 1st Diameter: \$11,621 2nd Diameter: \$8,096

Sincerely,

Robert Wiszowaty

Owner, Inspire Tree Experts

ISA Certified Arborist #WE-11553A

Certified Tree Care Professional #04312

ISA Tree Risk Assessment Qualified

B.S Environmental Horticulture and Urban Forestry



Decision making criteria	Description
Criterion 1: Death	The heritage tree is dead.
Criterion 2: Tree risk rating	The condition of heritage tree poses a high or extreme risk rating under the International Society of Arboriculture Best Management Practices.
Criterion 3: Tree health rating	The heritage tree is (a) dying or has a severe disease, pest infestation, intolerance to adverse site conditions, or (b) likely to die within a year.
Criterion 4: Species	The heritage tree has been designated as invasive or low species desirability.

Criterion 5: Development	The heritage tree interferes with (a) proposed development, repair, alteration, or improvement of a site or (b) the heritage tree is causing/contributing to structural damage to a habitable building. There is no financially feasible and reasonable design alternative that would permit preservation of the heritage tree.
Criterion 6: Utility interference	The removal is requested by a utility, public transportation agency, or other governmental agency due to a health or safety risk resulting from the heritage tree's interference with existing or planned public infrastructure. There is no financially feasible and reasonable design alternative that would permit preservation of the heritage tree.

Services provided by trees

- Crime reduction: property crime, violent crime, speeding
- Stormwater retention
- Erosion control
- Carbon sequestration
- Oxygen production
- Improved air quality
- Reduced energy costs
- Improved health benefits: mental and physical health
- Noise reduction



Tree protection ordinances

- **Michigan**

- Ordinances predominantly impact new developments that require site plan approval
- Ordinances impacting residential uses are rare
- Ordinances impacting non-construction related activities even rarer

- **Other states**

- California Environmental Quality Act (CEQA) requires evaluation of Oak Woodlands impacts
- Maryland Forest Conservation Act establishes protection goals during development. Administered at the local level.



**What do we need?
State enabling legislation**

Why Tree Ordinances Might Fail

- Conflict with other ordinance standards and requirements
- Weak Purpose section of ordinance provision that does not strongly link tree preservation/mitigation to a community benefit
- No tree preservation / mitigation plan document to guide the ordinance
- Weak or missing definitions; definitions that conflict with other communities
- No method of assessing tree preservation value from provided tree inventory (“individualized assessment”)
- Not requiring assessment by a certified arborist
- No explanation of activities that do not require a permit
- Tree fund program poorly administered
- Regulations by zoning district rather than canopy cover
- Absent state woodlands/tree protection regulations
- **Tree removal requirement still open to challenge

