

HERITAGE TREE LIST and PROCESSES

I. Removal of heritage/historic trees.

(a) Except when located on a modified home site, it is presumed that heritage/historic trees should only be removed in the most compelling and extraordinary circumstances. Removals can be done only after a thorough investigation by a New Jersey board-licensed tree expert with a filing of a written report of findings with recommendations and the agreement of the Township Forester.¹ The loss of lot yield, building area or profitability of development layout shall be deemed neither compelling nor extraordinary.

(b) Compelling and extraordinary circumstances may be found if all of the following factors exist:

[1] The lot(s) containing the heritage/historic tree(s) has existing realty improvements; and

[2] Some or all of the realty improvements are in a state of significant disrepair and/are derelict as to condition; and

[3] The lot(s) owner/applicant proposes costly improvements to the lot(s) which would:

[a] Correct all disrepair and derelict conditions; and

[b] Construct or reconstruct realty improvements which will transform the property into one having a positive impact on the neighborhood and the public good.

[4] Removal of one or more heritage/historic trees is reasonably necessary to accomplish the action. The lot(s) owner/applicant proposes costly improvements to the lot(s) which would:

[a] Correct all disrepair and derelict conditions; and

[b] Construct or reconstruct realty improvements which will transform the property into one having a positive impact on the neighborhood and the public good.

[5] The owner agrees to pay a fee for the value of the tree or trees to be removed, based on a certified ISA tree appraisal method performed by a New Jersey board-licensed tree expert for each heritage/historic tree necessary to be removed, such payment to be deposited into the Reserve for Shade Tree account to be utilized by the Township for the planting, preservation and maintenance of trees within the Township.

II Process

[1] After visiting the site and considering the relevant conditions of the foregoing section, the Forester shall grant or deny the application by setting forth in writing his relevant observations and the reasons for the issuance or refusal to issue the tree removal permit. Said action shall be taken by the Forester within 30 days from the date of receipt of a completed written application, correct application fee and receipt of any additional information which the Forester may require.

[2] A copy of application and the Forester's written decision to grant or deny the application shall be forwarded to the Township Engineer and to the Township's Shade Tree Commission.

¹ Forester and Conservation Officer are to be considered one and the same

[3] The Forester is empowered to prepare and require the use of such application and submittal forms, checklists, and decision forms consistent with this article and which are not inconsistent with such forms, if any, which may be adopted by the Township Council.

[4] By making application pursuant to this article, the applicant has implied consent to the Forester, members of the Shade Tree Commission, Township officials and other consultants hired by the Township entering upon and performing such inspections and testing as may be necessary to make a determination as required.

III Appeal procedure for heritage/historic tree determinations.

A. Those who may take appeal. As to all determinations of the Forester relating to heritage/historic trees, the applicant may appeal the Forester's denial of the application for a tree removal permit.

B. Time and manner in which to appeal.

(1) A written appeal of the Forester's decision must be filed with the Township Engineer, the Shade Tree Commission ("Commission") and the Forester within 180 calendar days from the date of the Forester's decision. An appeal shall be perfected by submitting each of the following:

(a) Written notice of appeal setting forth each of the following:

[1] Lot(s) and block(s) designation of the subject property as it appears on the Official Tax Map of the Township.

[2] Name, address and telephone number of subject property owner.

[3] Name, address and telephone number of other parties interested in the property, i.e. prospective tenants, etc.

(2) In addition to the written notice of appeal, the appellant shall submit each of the following:

(a) A plan depicting the proposed use of the subject property.

(b) The plan shall include by separate colored symbols the location of each heritage/historic tree, superimposed upon the plan which would include tree trunk and canopy-spread measurements in scale.

(c) A plan which would allow for the utilization of the subject property for a permitted use in the zone within which it is located which results in the minimum number of heritage/historic trees being removed.

(d) A tree appraisal utilizing the latest ISA method, performed by a New Jersey board-licensed tree expert, setting forth an appraisal value for each historic/heritage tree proposed to be removed. The appraisal must set forth individual appraisal data and a value for each such tree, keyed to the tree symbols.

(e) A copy of the Forester's determination being appealed.

- C Appeal tribunal. The Commission shall hold a hearing and decide the appeal de novo². The Commission shall consider the written decision of the Forester, additional evidence which the Forester may present, the reports of the appellant's experts, the testimony of the appellant's experts, the testimony or other evidence desired to be submitted by the appellant. The Commission shall have the right, if it deems it necessary, to employ an outside expert or experts to review the matter and present evidence and opinions on the appeal. The Commission shall also have the right to visit the site and vicinity to assist it in deciding the appeal. The rules of evidence shall not apply to the appeal hearing, but due process and a reasonable opportunity to be heard should be accorded to all interested parties.
- D. Fee on appeal. The appellant shall, at the time of filing the appeal, submit an appeal fee plus an escrow amount to the Township Engineer. The escrow amount shall be used by the Township to offset direct expenses of the appeal, including cost of stenographer, attorney and any outside experts employed by the Commission for the appeal. In the event the initial escrow amount shall be exhausted, the escrow shall be replenished within five business days after notification to the appellant from the Commission or the Township Engineer. Any balance of the escrow amount shall be refunded to the appellant.
- E. Time and form of decision. The Commission shall, within two weeks of the date upon which a complete appeal application has been received, set an initial date for the hearing. The initial hearing date shall be set for not more than 45 days from the date upon which a complete application of appeal was received unless the next regularly scheduled meeting is later, in which case the hearing shall be set for that meeting. If more than one date is required for the appeal, the Commission shall schedule successive hearing dates as expeditiously as possible, giving consideration to other business and demands upon its time which must be accommodated. Within 60 days of the conclusion of the hearing(s), the Commission shall render a decision, orally or in writing. The Commission may affirm, reverse or modify the decision of the Forester. The Commission's decision may be rendered orally or by written resolution setting forth findings and reasons therefor. If the Commission's decision is initially rendered orally, a written resolution of memorialization setting forth findings and reasons must be adopted within 45 days from the date of the oral decision. Only those members of the Commission voting in favor of the oral decision may vote on the resolution of memorialization.
- F. Mitigation requirements. In the event the Commission's decision on appeal shall modify or reverse the decision of the Forester, any heritage/historic trees which shall be allowed to be removed as a result of the Commission's decision shall be subject to the mitigation requirements which shall be detailed in the written decision of the Commission. Representative mitigation techniques which may be required include but

² The phrase "de novo" is a latin term meaning "anew" or "afresh." The Shade tree commission will hear the case all over again, as if it had not previously been heard or decided. .

are not limited to one or more of the following, depending upon the particular circumstances as revealed during the hearing process:

(1) A monetary contribution for each removed heritage/historic tree to be paid to the Township and used for purposes of maintaining existing trees under the jurisdiction of the Shade Tree Commission or for other purposes under the jurisdiction of the Commission. The Commission shall use its expertise in arriving at the amount of the contribution. The ISA method of appraisal shall serve as the basis for determining the value of each tree. The Commission shall consider, but is not bound by, the appraisal submitted and/or

(2) Planting a minimum of five new trees, preferably the same type as the heritage/historic tree being removed, if available, nursery quality shade trees of no less than three to 3 1/2 inches in caliper or evergreens at eight feet to 10 feet of height, on the subject property or other designated property within the Township, for each heritage/historic tree removed.

Standards for Determining Heritage Trees ⁱ

Tree species, cultivar, or variety ⁱⁱ	Common Name	Diameter / Circumference
<i>Abies concolor</i>	White Fir	14½" / 45"
<i>Acer campestre</i>	Hedge Maple	25" / 78"
<i>A. nigrum</i>	Black Maple	25" / 78"
<i>A. platanoides</i>	Norway Maple	28¾" / 90"
<i>A. rubrum</i>	Red Maple	33½" / 105"
<i>A. saccharinum</i>	Silver Maple	50" / 157"
<i>A. saccharum</i>	Sugar Maple	25" / 78"
<i>Aesculus hippocastanum</i>	Horse Chestnut	14½" / 45"
<i>A. octandra</i>	Yellow Buckeye	19¾" / 62"
<i>Betula nigra</i>	River Birch	33½" / 105"
<i>B. pendula</i>	White Birch	25" / 78"
<i>Carya ovata</i>	Shagbark Hickory	14½" / 45"
<i>Carya sp.</i>	Hickory	19 ¼"/60"
<i>Castanea dentata</i>	American Chestnut	11¾" / 37"
<i>Fagus grandifolia</i>	American Beech	17" / 53"
<i>F. sylvatica</i>	European Beech	22½" / 70"
<i>Fraxinus americana</i>	American Ash	25" / 78"
<i>F. pennsylvanica lanceolata</i>	Green Ash	28¾" / 90"
<i>Gleditsia triacanthos inermis</i>	Honey Locust	28¾" / 90"
<i>Gymnocladus dioicus</i>	Kentucky Coffeetree	28¾" / 90"
<i>Ilex opaca</i>	American Holly	14½" / 45"

Juglans nigra	Black Walnut	28 ³ / ₄ " / 90"
Liquidambar styraciflua	Sweet Gum	25" / 78"
Liriodendron tulipifera	Tulip Poplar	40 ¹ / ₂ " / 127"
Nyssa sylvatica	Black Gum	25" / 78"
Picea abies	Norway Spruce	30" / 94"
P. pungens 'Glauca'	Colorado Spruce	22 ¹ / ₂ " / 70"
Pinus nigra	Austrian Pine	25" / 78"
P. resinosa	Red Pine	22 ¹ / ₂ " / 70"
P. rigida	Pitch pine	22 1/2" / 70"
P. virginiana	Virginia pine	22 1/2" / 70"
P. strobus	White Pine	23 1/4" / 73 "
P. sylvestris	Scotch Pine	28 ³ / ₄ " / 90"
Platanus occidentalis	American Planetree	28 ³ / ₄ " / 90"
Platanus acerifolia	London Planetree	28 3/4"/90"
Prunus serotina	Black Cherry	25" / 78"
Pseudotsuga menziesii	Douglas Fir	22 ¹ / ₂ " / 70"
Pyrus calleryana 'Bradford'	Bradford Pear	33¹/₂" / 105"
Pyrus calleryana sp.	Callery Pear	33 1/2" /105"
Quercus alba	White Oak	19³/₄" / 62"
Q. bicolor	Swamp White oak	19 3/4" / 62"
Q. coccinea	Chestnut Oak	25" / 78"
Q. imbricaria	Shingle/Laurel Oak	19 ³ / ₄ " / 62"
Q. palustris	Pin Oak	28 ³ / ₄ " / 90"
Q. prinus	Scarlet Oak	22 ¹ / ₂ " / 70"
Q. rubra	Red Oak	28 ³ / ₄ " / 90"
Q. shumardii	Shumard Oak	33 ¹ / ₂ " / 105"
Q. velutina	Black Oak	28 ³ / ₄ " / 90"
Tilia americana	American Linden	30 ¹ / ₄ " / 95"
T. cordata	Littleleaf Linden	33 ¹ / ₂ " / 105"
Ulmus americana	American Elm	33 ¹ / ₂ " / 105"

ⁱ This list is subject to modifications based on new information, species adjustments or recommendations of the US Forest Service or APHIS.

ⁱⁱ Diameter/Circumference in inches at 4.5 feet (DBH) above ground level on uphill side

^{lii} Strike indicates deletion, bold indicates addition.