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**NOTICE
OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

**Thursday, October 13, 2016
7:00 p.m.**

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. Public Comment on Non-Agenda Items
5. Approval of Minutes – September 22, 2016
6. Old Business
 - a. Landscape Ordinance Amendments
7. Any Other Business
 - a. Medical Marijuana Dispensary
 - b. Food Trucks as a Temporary Use
8. Planning Commissioner Comments
9. Adjournment

**Policy for Public Comment
Township Board Regular Meetings, Planning Commission & ZBA Meetings**

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

- a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official to respond at a later date.
- b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be board discussion prior to call for a motion.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name; it is not required unless the speaker wishes to have their comment recorded in the minutes.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment or Citizen Comment on Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which is in contravention of any of the principles and procedures set forth herein.

(adopted 5/9/2000)
(revised 5/14/2013)

**Policy for Public Comment
6:00 p.m. "Public Comment"/Portion of Township Board Meetings**

At the commencement of the meeting, the Supervisor shall poll the members of the public who are present to determine how many persons wish to make comments. The Supervisor shall allocate maximum comment time among persons so identified based upon the total number of persons indicating their wish to make public comments, but no longer than ten (10) minutes per person. Special permission to extend the maximum comment time may be granted in advance by the Supervisor based upon the topic of discussion.

While this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official to respond at a later date.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name; it is not required unless the speaker wishes to have their comment recorded in the minutes.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor shall terminate any public comment which is in contravention of any of the principles and procedures set forth herein.

(adopted 2/27/2001)
(revised 5/14/2013)

**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

MINUTES OF A MEETING HELD September 22, 2016

Agenda

Old Business:

- a. Landscape Ordinance Amendments**

Other Business:

- a. Zoning Ordinance Re-organization**
-

A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, September 22, 2016 commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Millard Loy, Chair
Fred Antosz
Wiley Boulding, Sr.
Dusty Farmer
Mary Smith

MEMBER ABSENT: Pam Jackson

Also present were Julie Johnston, Planning Director, James Porter, Township Attorney, and Martha Coash, Meeting Transcriptionist. No other persons were in attendance.

Call to Order and Pledge of Allegiance

The meeting was called to order by Chairperson Loy at approximately 7:00 p.m., and the "Pledge of Allegiance" was recited.

Agenda

The Chairperson asked if there were any additions, deletions or corrections to the Agenda. Hearing none, he called for a motion to accept the Agenda as presented.

Mr. Boulding, Sr. made a motion to accept the agenda as presented. Mr. Antosz seconded the motion. The motion passed unanimously.

Public Comment on Non-Agenda Items

Chairperson Loy noted there were no audience members present and proceeded to the next agenda item.

Approval of the Minutes of September 8, 2016

Chairperson Loy asked if there were any additions, deletions or corrections to the minutes of September 8, 2016. Hearing none, he asked for motion to approve the minutes.

Mr. Antosz made a motion to approve the minutes of September 8, 2016 as presented. Ms. Smith seconded the motion. The motion was approved unanimously.

OLD BUSINESS

Landscape Ordinance Amendments

Chairperson Loy asked Ms. Johnston to review the proposed Landscape Ordinance Amendments.

Ms. Johnston reminded Commissioners that at the July 28th Planning Commission meeting, Staff presented three landscaping ordinances for review. These ordinances were:

- The existing ordinance – Section 75: Landscaping
- Minor amendments to Section 75: Landscaping
- An Alternate Approach that was a departure from the existing Ordinance in many ways, including the removal of the buffer zones that are required around the property lines.

She added that at the meeting, staff presented some of the pros and cons of each ordinance based on landscape plans developed by Karen High for the Wings, Etc. site on 9th Street and Seeco Drive. The Planning Commission requested staff review the proposed ordinances and come back with a preferred method. Staff spent time over the last two months refining the three presented ordinances into one recommended approach.

Ms. High created landscape plans based on our current ordinance requirements and the preferred approach for the Wings, Etc. site as well as the Omni Credit Union site on West Main Street, which Commissioners visited during our landscaping tour last fall. Some of the differences between the two ordinances are as follows:

- The preferred approach requires an overall percentage of the site be landscaped, which is generally slightly less in square footage than the current ordinance landscaping requirements.

- The current ordinance is very specific where landscaping must occur – at the property lines and in parking lots. The preferred method requires landscaping in the parking lot and at public and private rights-of-way, but allows the design professional to determine where the rest of the required landscaping will be planned on the site.
- The total number of required trees is slightly less than the current ordinance, which will hopefully allow tree species a better opportunity to survive on the site.
- There are very specific requirements for opaque screening between incompatible land uses in the recommended ordinance, which can include a variety of berms, fences, walls, landscape materials, etc. But, the screening must be six feet in height and opaque. The current ordinance requires larger buffer zones between incompatible uses, but the plant materials are generally trees, which do not provide much screening when the lower branches reach a height beyond five feet.
- For certain landscape plans, the seal of an architect is required in the recommended ordinance. This is to ensure that if someone is requesting tree credits or wishes to submit an alternate approach to the landscaping requirements, a landscape design professional is creating the plans to ensure trees selected will be viable.

Ms. Johnston concluded by saying the changes will also result in a more user-friendly document.

Chairperson Loy asked if there were questions for Ms. Johnston.

In response to questions from Commissioners, Ms. Johnston explained the "Intent" section was similar to a statement of purpose, not binding, but a description what needs to be addressed. The ordinance needs to be changed to address buffer zones and screening problems.

Attorney Porter added there are so many trees on commercial sites that often passers-by cannot see the business and too often the trees are so crowded that they die. Either way they do not perform the desired function.

Ms. Johnston went through the document, pointing out new/altered items, particularly concentrating on the new "Screening Between Land Uses," item E, intended to address the problem described by Attorney Porter. Commissioner questions focused on the elimination of buffer zones and the use of berms.

Ms. Johnston said the elimination of buffer zones will make it easier to achieve cross-access and shared parking. There may still be buffering, but it will not be proscribed on each property line. This will allow developers to design larger, more

creative landscape plans without the current requirements. Requirements are important when there are incompatible uses next to each other.

In answer to a question from Ms. Farmer, Ms. Johnston said she would talk with Attorney Porter and look into what others are doing to determine whether prohibition of clear-cutting of land could be enforceable and what sort of incentive could be offered for preserving trees. Mr. Antosz suggested offering credits might be effective. Attorney Porter cautioned that whatever was offered could not create the appearance of disparate treatment.

There was extended discussion of the effectiveness and maintenance of berms, with consensus that they can serve a useful purpose and should be kept in the ordinance. Ms. Johnston pointed out if the reviewing body feels additional screening is warranted due to particular intensity of the site, it can be requested.

Commissioners agreed that provisions for required additional landscaping as described under O. "Provisions for Existing Sites," when adding parking spots, could be prohibitively expensive for business owners and that they should be provided assistance, possibly bonding, to make it more affordable. Also discussed was what percentage of addition should be subject to landscaping requirements as well as a time-frame for completion. Ms. Johnston will look into this further.

Ms. Johnston said she was leaning toward eliminating the current additional planting requirements (#1) under "Exceptions" as it is not used. Attorney Porter agreed.

Chairperson Loy said he likes the new plan. After some tweaking as described in Commissioner comments, he would like to see it reviewed by the Commission one more time.

Ms. Smith said she is concerned the change in buffering language will result in a line of stores with a buffer from the street, but that will feel like a solid block of stores with only parking lots and concrete between them.

Mr. Antosz felt the revisions offer businesses a lot more opportunities for landscaping and likes the idea of allowing a landscape architect to come up with a more creative plan, providing the Township more confidence in outcomes.

Ms. Johnston said the plan can always be changed later if it doesn't work. She also likes allowing the applicants the opportunity to be creative. She will tweak the plan to reflect discussion and bring it back to the Board for review.

OTHER BUSINESS

Zoning Ordinance Re-organization

Chairperson Loy asked Ms. Johnston to review the Zoning Ordinance Re-organization.

Ms. Johnston said Staff would like to group the document by overall ordinance type, generally as follows:

- Introduction and Use of Language – essentially how to use the Ordinance and the definitions.
- Zoning Districts
- Overlay Zones
- Special Development Options – this section is for the PUD and Open Space development options. We currently have two Open Space ordinances. The consultant will be reviewing these two ordinances to see if they can be combined or one removed. Since both of these are listed as Special Exception Uses, some ordinance language changes will be needed.
- Use Requirements – this section is the biggest change with the Ordinance. Currently, our ordinance has uses listed in the Zoning Districts which are permitted but have conditions attached to the development of the use. Instead of having these conditions listed within each zoning district, they will be placed under a Permitted Uses with Conditions article. The uses will be alphabetically listed and the required conditions provided. In addition, I would like to recommend we change the Special Exception Uses to Special Land Uses. These uses will also be listed under this article with any development requirements shown.
- Schedule of Regulations – this section will list all of the bulk requirements of the Ordinance: setbacks, height, lot size, etc.
- General Requirements – all of the other requirements of the Ordinance: landscaping, lighting, parking, etc.
- Non-Conforming Uses, Structures and Land
- Review and Approval Procedures – this section will include all of the review requirements for site plans, special land uses, building permits and the ordinances that established the Planning Commission and Zoning Board of Appeals; it will be more specific than what we currently have.

- Amendments and Enforcement – will include the steps to rezoning or conditional rezoning land and the procedures the Township uses to enforce the Zoning Ordinance.

Ms. Johnston noted the format will be laid out as tables rather than paragraphs. She said if the Planning Commission was comfortable with the overall re-organization matrix, Staff will have Wade Trim, the consultant assisting with the project, begin the re-organization. The re-organization will be a learning curve. During the process, Staff will be bringing any necessary amendments for the Planning Commission to review.

It was the consensus of Commissioners that Ms. Johnston should proceed with the re-organization of the Zoning Ordinance as presented.

PLANNING COMMISSIONER COMMENTS

Ms. Smith commented as the Township becomes more urban with 8th, 9th and 10th Streets developing, pretty soon blocks will inevitably be surrounded by businesses, she wishes something could be done to keep that from happening.

Ms. Farmer said she appreciated the good discussion of the ordinances and appreciated the effort put forth on these important issues that have been talked about for so long.

Ms. Johnston reported a new Planning Commissioner has been appointed and will attend the first meeting in October.

Attorney Porter informed the Commission he will be appearing before the Michigan State Supreme Court on October 5, regarding the ITC case.

Chairperson Loy said there would be a Sunday afternoon open house at the Drake House on October 23. The capital campaign fund is currently at \$35,000. When it reaches \$70,000 it will go public.

ADJOURNMENT

Having exhausted the agenda, and with there being no further business to discuss, Chairperson Loy adjourned the Planning Commission meeting at approximately 8:26 p.m.

Minutes prepared:
September 24, 2016

Minutes approved:
_____, 2016



October 6, 2016

Mtg Date: October 13, 2016
To: Planning Commission
From: Julie Johnston, AICP
Subject: Landscape Ordinance

Based on the Planning Commission meeting of September 22nd, staff made some adjustments to the recommended Landscaping Ordinance language. The new language is shown in **red** and any wording recommended for removal is ~~stricken~~.

The changes from the previous draft can be found in the following sections:

Section 75.C.5 - Land Clearing
Section 75.C.7.a - Maintenance
Section 75.D.1 and 2 - Total Site Landscaping
Section 75.E.4 – Screening between Land Uses
Section 75.O - Provisions for Existing Sites
Section 75.P - Exceptions

Karen High has provided some additional landscaping plans that demonstrate the update draft ordinance language and the existing ordinance requirements. I will have a comparison of these plans prepared for the night of the Planning Commission meeting.

Thank you.

SECTION 75 LANDSCAPING

A. Intent

The intent of this section is to promote the public health, safety, and welfare and improve the visual appearance of the Township by requiring landscaping for each development for which site plan review is required. It is further the intent of this section to achieve the following:

- Increase compatibility between uses and provide buffering between dissimilar land uses.
- Improve the overall aesthetics and appearance of public rights-of way.
- Improve air quality and provide shade.
- Decrease wind velocity, reduce soil erosion and increase surface water retention.
- Reduce glare from buildings, cars, night lighting, and other sources.
- Screen unattractive features.
- Reduce noise.
- Define safe access and circulation.
- Enhance or focus attention toward a feature (building, entrance, sign, etc.)
- Provide visual relief from monotonous features such as building walls, large parking lots and streets.
- Add natural color and texture and provide habitat for wildlife.
- Enhance and maintain the natural character and appearance of the community.

B. Application of Requirements

These requirements shall apply to all uses subject to site plan review as defined in Section 82 of this ordinance. No site plan shall be approved unless a landscape plan is provided which meets the requirements set forth herein.

C. General Provisions

1. Minimum Requirements - The requirements in this Section are minimum requirements and shall not preclude the developer and the Township from mutually agreeing to additional landscaping.
2. Landscape plan preparation – Landscape plans are required for all developments requiring site plan approval. However, site plans that meet one or more of the following must submit a Landscape Plan that is sealed by a landscape architect:
 - a. 100 or more parking spaces
 - b. Screening Between Land Uses
 - c. Request tree preservation credits
 - d. Request credits for preserving native vegetation
 - e. Request to submit an alternative landscape plan to restore pre-settlement vegetation
3. Site coverage - Portions of the site not devoted to floor area, parking, access ways or pedestrian use shall be appropriately landscaped with live plant material consisting of deciduous canopy and coniferous trees, understory trees, shrubs, ground cover, and grasses and maintained in a neat and orderly manner.

4. Visibility - Landscaping material and structures shall be placed in such a manner so as to not interfere with cross-visibility, public safety, or the safe movement of vehicles and pedestrians. A triangular clear view zone area shall be established at the intersections of street rights-of-way and internal circulation drives intended for continued movement within a site and between properties. The clear zone shall be 25 linear feet for street rights-of-way and 15 linear feet for internal circulation drives drawn along each right-of-way from their point of intersection, creating a triangular clear corner. No plant materials above a height of two feet from the established street grades shall be permitted within the clear view zone area.
5. Land clearing - Land clearing shall be limited to that needed for the construction of buildings, structures, parking lots, street right(s)-of-way, drainage and utility areas, other site improvements, and any grading necessary to accommodate such construction. **A five percent reduction in plant materials will be granted for maintaining undisturbed areas which measure at least 20 percent of the parcel, lot or building site, allowing these areas to be retained in their natural state.**
6. Public right-of-way/private easement greenspace – the land area lying between the paved portion of a public right-of-way/private easement and the property line shall be neatly maintained with grass or groundcover.
7. Maintenance – installation, maintenance, and completion
 - a. All landscaping required by this section shall be planted before obtaining a certificate of occupancy or the appropriate financial guarantee such as cash **placed in an escrow account**, letter of credit, and/or ~~certified check~~ **performance bond** shall be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed.
 - b. All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner, according to accepted planting and grading procedures.
 - c. Landscaping required by this section shall be maintained in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.
 - d. Any areas that become disturbed for any reason shall be restored in accordance with the original landscape plan unless approved otherwise in writing by the Township.

D. Total Site Landscaping

1. Landscaping shall be provided on a minimum of **18** percent of the property. Such site area landscaping square footage may include, but is not limited to all of the requirements outlined herein.
2. **Site landscaping shall be distributed throughout the developed area of the parcel, lot or building site, including side and rear yards and adjacent to buildings. This requirement is in addition to the street rights-of-way greenbelt.**

3. In addition to the other tree requirements outlined herein, one (1) canopy tree will be required for every 1,500 square feet and one (1) understory tree will be required for every 2,500 square feet of the total site landscaping.
4. Site area landscaping shall be provided to screen potentially objectionable site features such as, but not limited to, retention/detention ponds, transformer pads, air conditioning units, and loading areas.

E. Screening Between Land Uses

1. A landscape buffer shall be constructed to create a visual screen between the following land use types:
 - a. Nonresidential land use or zoned property along all adjoining boundaries of a residential land use or zoned property.
 - b. Multi-family or manufactured home community along all adjoining boundaries of a one or two-family land use or zoned property.
2. The buffer shall be the width of the required setback.
3. The landscape buffer must create a visual barrier at least six (6) feet in height that provides opacity to the adjacent property owner.
4. The landscape buffer must contain two (2) canopy trees, **two (2) evergreen trees** and (2) understory trees for every 100 linear feet of required buffer length. Evergreens may be substituted for canopy and understory trees at a 1:1 ratio.
5. The landscape buffer must also include a combination of one or more of the following to provide an opaque visual barrier:
 - a. Berms – landscaped undulating earthen berms with varying heights as measured from the grade of the abutting property.
 - b. Walls or fences – Walls or fences must be a minimum of six (6) feet in height as measured on the side of the proposed wall or fence having the higher grade. A required wall or fence shall be located on the lot line except where underground utilities interfere and except in instances where conformity with front yard setback is required. Upon review of the landscape plan, the reviewing body may approve an alternate location of a wall or fence.

The Planning Department shall review and the Zoning Board or Appeals or Planning Commission shall approve the construction materials of the wall or fence which may include face brick, poured-in-place simulated face brick, precast brick face panels, stone, or wood. Chain link fences with opaque slats are not permitted.

- c. Plant materials – Landscape planting materials may consist of a variety of materials but must provide opacity to the adjacent property. For plant materials the height requirement is based upon reasonably anticipated growth over a period of three (3) years.
6. Where there is a need to provide a greater noise or dust barrier or to screen more intense development as determined by the reviewing body, a solid wall or fence with additional landscape materials shall be required.

F. Parking Lot Landscaping

1. Parking lot landscaping shall include islands or peninsulas to delineate on-site circulation, ensure adequate sight distance at the intersection of aisles and interior roadways, and to prevent diagonal vehicular movement through parking lots. Features shall be designed with sufficient radii to ensure drivers are able to make turns without encroaching upon landscaping or adjacent traffic lanes.
2. Total parking lot landscaping shall be based on the following:
 - a. Parking lots with 10 parking spaces or fewer shall be exempt from parking lot landscaping requirements.
 - b. Parking lots with 11 spaces or more shall provide landscaping at 25 square feet per parking lot space. Total square footage shall be dispersed into separate landscape features, such as islands or peninsulas, within parking lots so as to break up the broad expanse of pavement, guide the circulation of vehicular and pedestrian traffic, and to provide shade and visual relief from pavement.
3. There shall be a minimum of one (1) canopy tree and two (2) low growing shrubs for every 200 square feet of required parking lot landscaping.
4. The minimum size of any parking lot landscape feature shall be no less than six (6) feet in any single dimension and no less than 200 square feet in area.
5. To reduce the impacts of extensive concrete or asphalt, a parking lot landscape feature must be provided at least every 200 linear feet of parking spaces.
6. All parking lot landscaping shall be neatly maintained with plant material or mulch.
7. Parking lot landscape features shall be protected by the installation of a raised concrete or asphalt curb, anchored landscape timbers around of the border, or other suitable means. A minimum distance of three (3) feet shall be established between proposed trees and the backside of the protection device.
8. The reviewing body may, at its discretion and based on Planning Department recommendations, approve alternative landscape plantings at the perimeter of parking lots where landscaping within parking lots would be impractical due to the size of the parking lot or detrimental to safe and efficient traffic flow.

G. Street Rights-of-Way Greenbelts

1. Greenbelts shall be 20 feet wide along a public rights-of-way and 15 feet wide along private rights-of-way, measured from the right-of-way line.
2. The greenbelt shall be landscaped with a minimum equivalent of one (1) canopy tree and two (2) understory trees for every 100 linear feet, or fraction thereof, of frontage abutting a street right-of-way.
3. Parking lots adjacent to street rights-of-way shall provide shrubs at a ratio of 1.5 shrubs for every one (1) parking space. Shrubs that reach a mature height of at least three (3) feet shall be utilized and they shall be in groupings spaced at least three (3) feet on center to screen the parking lot from the right-of-way.
4. In addition to the required plantings within the greenbelt, the remainder of the greenbelt shall be landscaped with grass, ground cover, shrubs, and other organic landscape materials.
5. Access drives from public rights-of-way through required greenbelts shall be permitted, but such drives shall not be subtracted from the linear dimension used to determine the minimum number of trees required.
6. Trees may be placed in groupings within the greenbelt.

H. Loading/Unloading Areas

Loading areas shall be landscaped in such a manner as to screen the area from view of public rights-of-way or private access easements.

I. Screening of Trash and Recycling Containers

1. Outside trash and recycling disposal containers shall be screened on all sides with an opaque fence or wall and gate at least as high as the container, but no less than six (6) feet in height, and shall be constructed of material that is compatible with the architectural materials used in the site development. The Planning Commission or Zoning Board or Appeals, at its discretion, may approve alternative methods of screening.
2. Containers and enclosures shall be located away from public view insofar as possible, and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.
3. Screening and gates shall be of a durable construction. Chain link fences with opaque slats are not permitted.

J. Landscape Elements

1. Native plant materials – At least 75 percent of required trees shall be native to Lower Michigan. At least 30 percent of all other required landscape material within each Plant Material Type shall be native to Lower Michigan. For a listing of species native to Lower Michigan, see MICHIGAN FLORA ONLINE at www.michiganflora.net.
2. Composition -
 - a. The use of a single species is prohibited. Except for plantings used for evergreen screening, no one species of tree or shrub may make up more than 50 percent of the total amount of required landscaping material.
 - b. Any species known to have structural weakness or excessive bearing of fruit or nuts shall not be used in areas of vehicular or pedestrian traffic.
 - c. Species not permitted within street rights-of-way greenbelts and should be used with caution when placed in proximity to any existing or proposed building, structure, walkway, or parking area are listed in the below table:

Botanical Name	Common Name
Acer negundo	Box Elder
Acer saccharinum	Silver Maple
Aesculus hippocastanum	Horse Chestnut
Ailanthus altissima	Tree of Heaven
Catalpa speciosa	Catalpa
Ginkgo biloba (Female)	Female Ginkgo
Populus spp.	Poplars, Cottonwood, Aspen
Liquidambar styraciflua	Sweet Gum
Salix spp.	Willows
Ulmus spp.	Elms
Fraxinus	Ash

3. Minimum size requirements - Where landscaping is required, the following minimum size requirements for representative landscape materials shall be applicable. Height of a plant is measured from the top of the root ball or top of the container soil to the top of the leader, the primary stem of the plant.

Plant Material Type	Size
Canopy Tree - Single Stem	2" caliper*
Canopy Tree - Multi-Stem Clump	10 feet (height)
Understory Tree	8' to 10' (height)
Evergreen Tree	5 feet (height)
Shrub - Deciduous	24 inches (height)
Shrub - Evergreen	18 inches (height)
Shrub - Low Growing	2 gallon pot

*2" caliper as measured in conformance with the American Standard for Nursery Stock.

4. Hardy plant materials - All landscaping material shall be hardy to the area and appropriate to the situation in which it is proposed, free of disease and insects, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen.
5. Invasive species - To protect species indigenous to the Township, the use of invasive species which naturalize are prohibited. Those invasive species not permitted are listed on the Midwest Invasive Species Information Network at www.misin.msu.edu.
6. Berms – Any proposed berms shall be constructed with slopes not to exceed a one to three (1:3) gradient. Berm slopes shall be protected with sod, seed, or other form of natural ground cover.
7. Coordination with utilities - Provision shall be made to coordinate landscaping with existing and proposed underground and overhead utility lines so as to avoid interference with plant growth.
8. Stormwater retention and detention ponds - The integration of stormwater retention and detention ponds in the overall landscape concept is recommended. Ponds with a natural or free form shape, rather than square or rectangular design and appearance, shall be required. If site constraints dictate a more engineered shape, the design and appearance must be approved by the reviewing body. Any fenced areas that are visible from an adjacent property, public right-of-way or private access easement shall be landscaped to screen them from view.

K. Tree Preservation Credits

1. Tree preservation credits shall be given for trees located within the developed portion of a parcel, lot or building site. The location of preserved trees shall determine which specific landscape requirement shall be reduced.
2. Credit shall be awarded for preserving canopy trees. The number of credits awarded for tree preservation shall be in accordance with the table presented below. Trees intended to be preserved shall be indicated on the landscape plan and type and size shall be noted.

Tree Preservation Credits	
Diameter of Preserved Tree*	Number of Trees credited
Over 24 inches	4
12 inches to 24 inches	3
8 inches to 11.9 inches	2
2 inches to 7.9 inches	1

*Diameter measured at 4' above ground level.

3. In the event that healthy trees which are used to meet the minimum requirements of this section or those labeled to remain are cut down, destroyed, damaged, or excavated at the dripline, as determined by the Township, the contractor shall replace them with trees which meet Ordinance requirements.

L. Tree Protection prior to and during Construction.

1. Before development, the developer or builder shall erect tree protection fencing that will shield and protect all trees designated to be preserved. Fencing should be placed no closer than ten feet from the trunk of a tree or five feet beyond the drip line of a tree or group of trees, whichever is greater.
2. Fencing shall be a minimum of 48 inches high.
3. Tree protection fencing shall be maintained during construction and all construction materials, supplies, and equipment shall be kept out of the protected areas.
4. Paving, or other site improvements, shall not encroach upon the dripline of the existing trees to be preserved.
5. Location of tree protection fencing must be shown on the approved landscape plan.

M. Preservation of Existing Native Vegetation.

Credit shall be awarded for preserving existing vegetation native to Lower Michigan, including shrubs and grassland species. By preserving existing native vegetation, tree and shrub planting requirements can be reduced. The number of credits awarded shall be recommended by Township planning staff and approved by the reviewing body based on a natural features inventory prepared by an environmental professional or landscape architect that describes existing species and the intended function of the required tree and shrub plantings.

N. Incentives for Restoring Pre-Settlement Vegetation

1. Oshtemo Township's pre-settlement vegetation types were primarily Oak Savanna, Oak Forest, and Beech-Sugar Maple Forest, with smaller areas of Prairie, Marsh, Bur Oak Opening, and Southern Swamp Forest. A map of pre-settlement vegetation showing the geographic location of

these vegetation types is on file in the Township office. It includes a description of the predominant plant species for each vegetation type.

2. To encourage restoration of pre-settlement vegetation, all uses subject to site plan review may opt to submit a landscape restoration plan in lieu of a landscape plan. A landscape restoration plan shall use native vegetation types to meet the intent of screening and buffering requirements while at the same time strive to restore the pre-settlement vegetation of the immediate area. Even though the exact number of each landscape element may not be provided, approval of such a plan shall be granted so long as the overall intent is satisfied. Township planning staff shall recommend and the reviewing body shall approve a landscape restoration plan.

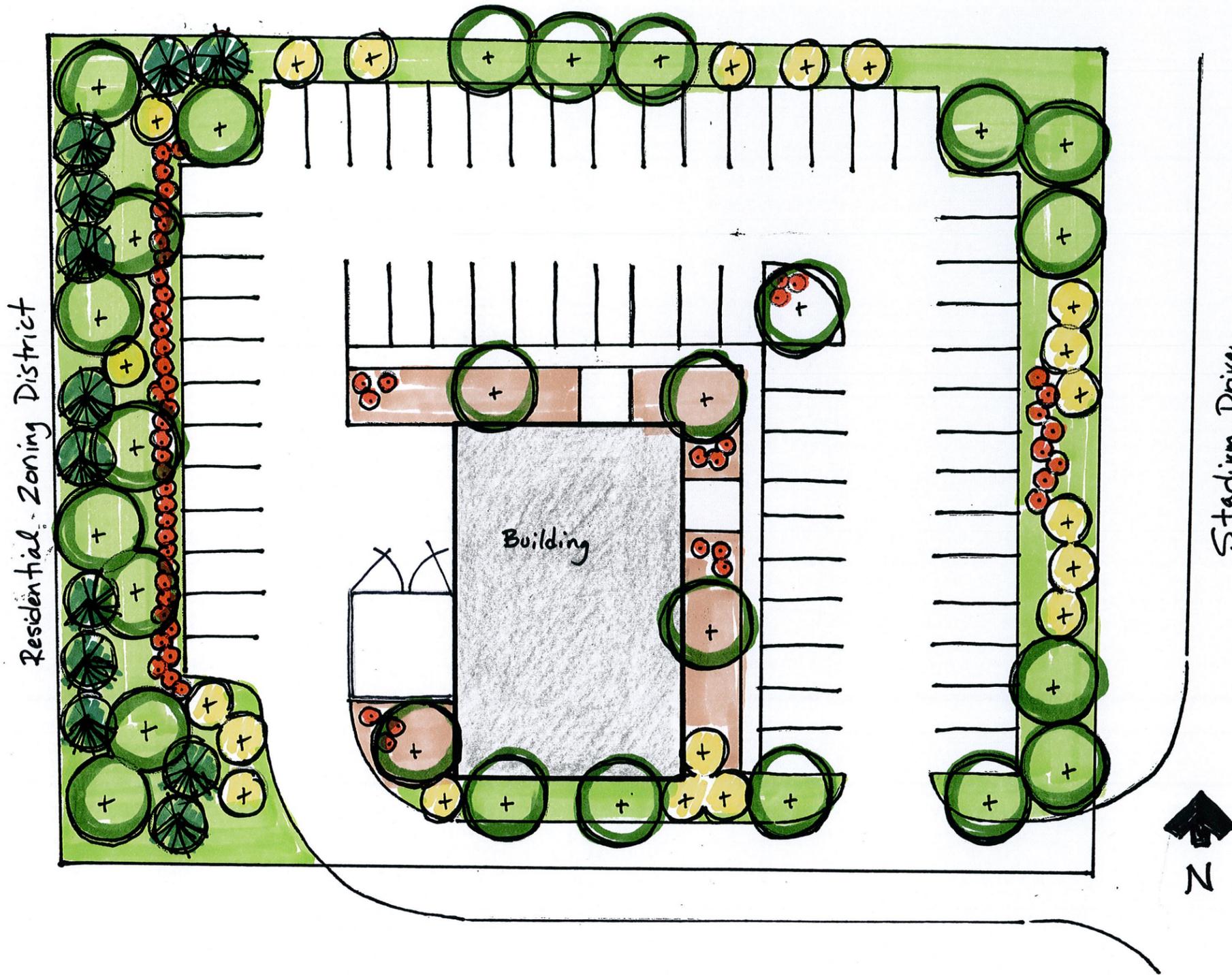
O. Provisions for Existing Sites

1. Street rights-of-way greenbelts and screening between land uses shall be required for any ~~renovation, expansion or alteration of an~~ existing site **where the renovation, expansion or alteration increases the structure by more than 25 percent of the existing floor area or is greater than 2,000 square feet.**
2. Landscape requirements for parking lots shall apply when expansions increase the number of parking spaces by ~~20~~ **25** percent or at least eleven (11) parking spaces. Parking lot landscaping requirements shall be based on, and only apply to, the new spaces developed.
3. If site constraints prevent the application of these requirements, the reviewing body may grant relief through the site plan review process.

P. Exceptions

1. ~~Additional Planting Requirements—For reason of conflicting uses, unfavorable topography, or other unusual physical circumstances, the reviewing body may increase the required landscape plantings if it is determined that an increase is necessary to reasonably achieve the spirit, purpose and intent of this Section.~~
2. ~~Reductions and Substitutions of Plantings—~~ If an unusual physical circumstance exists on **or affects** a property, the reviewing body may approve modifications to the requirements of this Section. These modifications may include the approval of plantings and visual screening such as hedges, fences, walls, and/or combinations thereof, which provides an alternate approach the reviewing body deems appropriate to ensure compliance with the spirit, purpose and intent of this Section.

If existing topography and vegetation are determined by the reviewing body to provide equal or better landscape and buffering effect, reductions in plantings may also be approved if the spirit, purpose and intent of this Section is met.



Current Ordinance

Approved Landscape Plan Pixie's Fictional Restaurant

Greenspace and Planting Requirements

North property line: ("A" Greenspace Type)

- 10' wide greenspace
- 1 canopy tree/100 linear feet = 3 total
- 2 understory trees/100 linear feet = 5 total

South property line: ("A" Greenspace Type)

- 10' wide greenspace
- 1 canopy trees/100 linear feet = 3 total
- 2 understory trees/100 linear feet = 5 total

East property line: Stadium Drive ("C" Greenspace Type)

- 20' wide greenspace
- 2 canopy tree/100 linear feet = 4 total
- 3 understory trees/100 linear feet = 6 total
- 4 shrubs/100 linear feet = 8 total

West property line: ("F" Greenspace Type)

- 35' wide greenspace
- 4 canopy trees/100 linear feet = 8 total
- 2 understory trees/100 linear feet = 4 total
- 18 shrubs/100 linear feet = 36 total
- 6 evergreens/100 linear feet = 12 total

Parking Lot Landscaping:

- 60 spaces proposed
- 25 square feet of interior landscape (ILA) / parking space = 1,500 sq. ft.
- 1 canopy tree/200 square feet of ILA = 8
- 2 shrubs/200 square feet of ILA = 15

Summary:

■ Total landscape area required:	17,290 sq. ft.
■ Total canopy trees required:	26
■ Total understory trees required:	20
■ Total shrubs required:	59
■ Total evergreens required:	12
■ Greenspace not required	



Recommended Approach

Pixie's Fictional Restaurant Illustration

Total Site Landscaping

Total site area = 49,664 square feet
 18% of site must be landscaped. 18%=8,940 sq.ft.
 1 canopy tree/1,500 sq. ft. = 6
 1 understory tree/2,500 sq. ft. = 4

Screening Between Land Uses

Adjacent to residential zoning district to west
 30' wide landscape buffer required
 2 canopy trees/100 linear feet = 4 total
 2 understory trees/100 linear feet = 4 total
 2 evergreen trees/100 linear feet = 4 total
 6' opaque screen – berm, fence or shrubs

Parking Lot Landscaping:

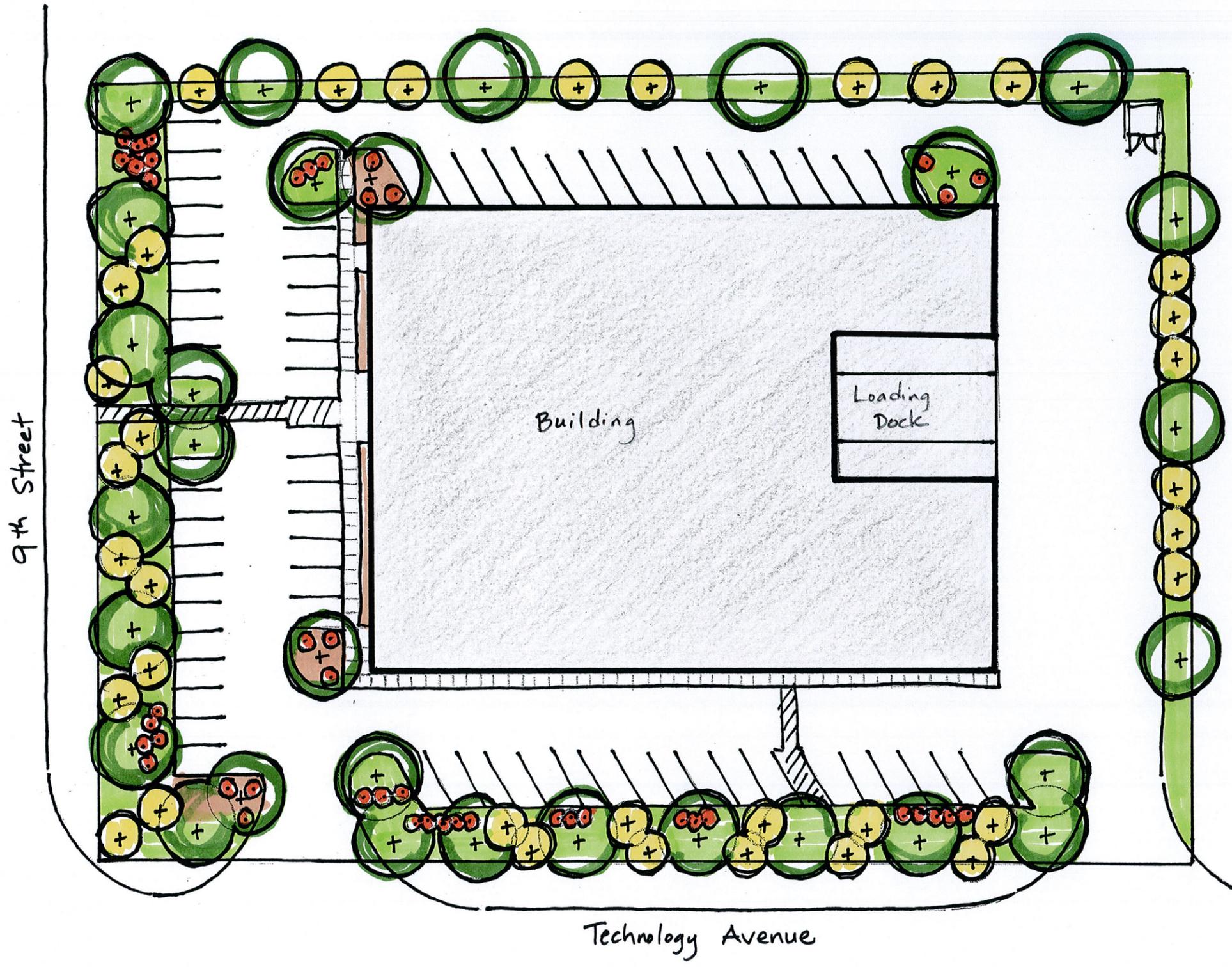
60 spaces proposed
 25 square feet of interior landscape (ILA) / parking space = 1,500 sq. ft.
 1 canopy tree/200 square feet of ILA = 8
 2 shrubs/200 square feet of ILA = 15

Street Rights of Way Greenbelts

20' wide greenspace
 1 canopy trees/100 linear feet = 2 total
 2 understory trees/100 linear feet = 4 total
 Shrubs required when parking lot is adjacent to street.
 14 spaces along Stadium x 1.5 = 21 total

Summary:

Total landscape area required:	8,940 sq. ft. (11,200)
Total canopy trees required:	20
Total understory trees required:	12
Total shrubs required:	36
Greenspace not required:	
Evergreen trees req:	4



Current Ordinance

Approved Landscape Plan 6480 Technology Drive

Greenspace and Planting Requirements

North property line: ("A" Greenspace Type)
 10' wide greenspace
 1 canopy tree/100 linear feet = 4 total
 2 understory trees/100 linear feet = 8 total

South property line (Technology Avenue): ("C" Greenspace Type)
 20' wide greenspace
 2 canopy trees/100 linear feet = 8 total
 3 understory trees/100 linear feet = 12 total
 4 shrubs/100 linear feet = 16 total

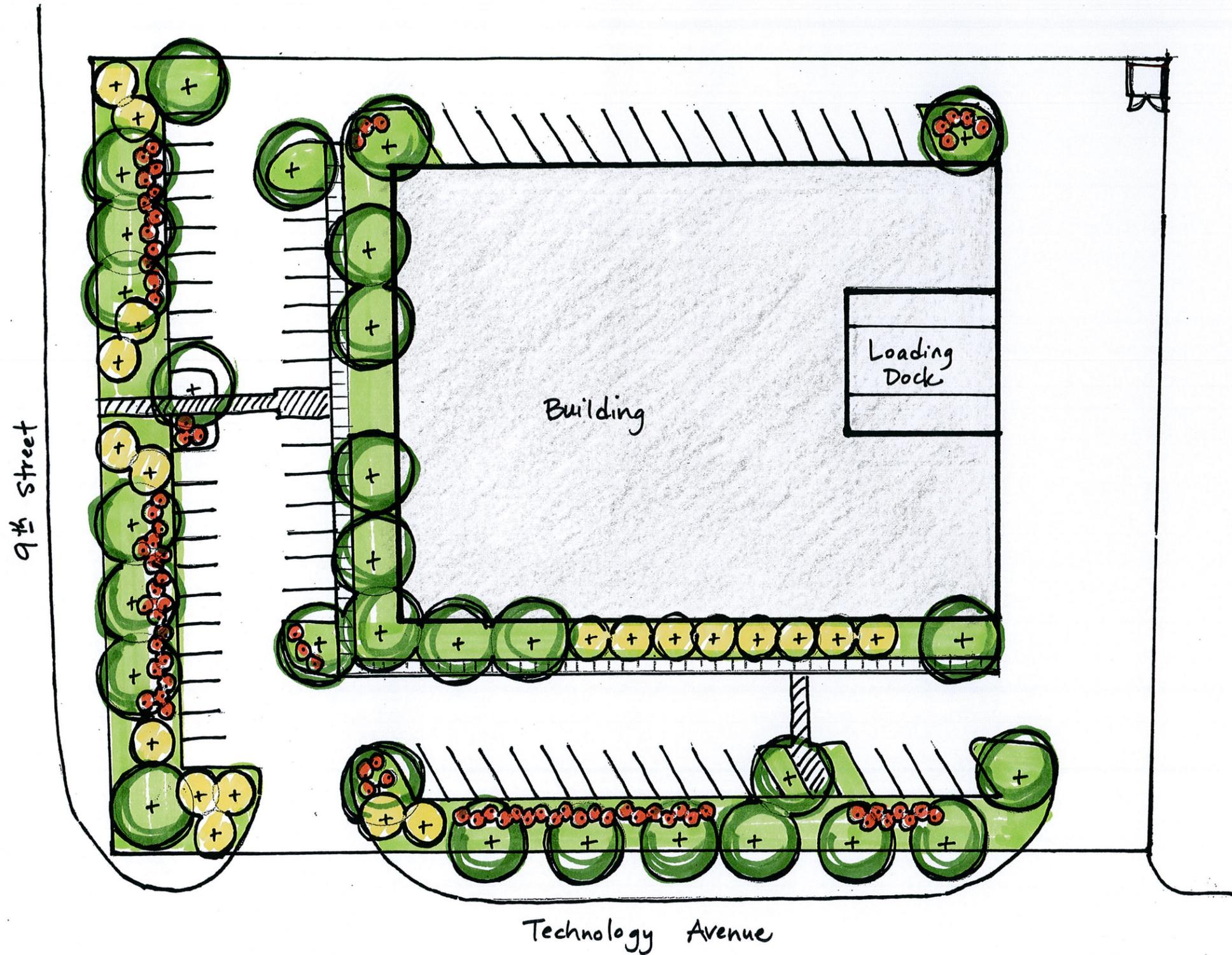
East property line: ("A" Greenspace Type)
 10' wide greenspace
 1 canopy tree/100 linear feet = 3 total
 2 understory trees/100 linear feet = 6 total

West property line (9th Street): ("C" Greenspace Type)
 20' wide greenspace
 2 canopy trees/100 linear feet = 6 total
 3 understory trees/100 linear feet = 9 total
 4 shrubs/100 linear feet = 12 total

Parking Lot Landscaping:
 69 spaces proposed
 25 square feet of interior landscape (ILA) / parking space = 1,725 sq. ft.
 1 canopy tree/200 square feet of ILA = 9
 2 shrubs/200 square feet of ILA = 18

Summary:

— Total landscape area required:	20,661 sq. ft.
— Total canopy trees required:	30
— Total understory trees required:	35
— Total shrubs required:	46
— Greenspace not required	



Recommended Approach

6480 Technology Drive Illustration

Total Site Landscaping

Total site area = 110,995 square feet

18% of site must be landscaped. $18\% = 19,980 \text{ sq. ft.}$

1 canopy tree/1,500 sq. ft. = 13

1 understory tree/2,500 sq. ft. = 8

Screening Between Land Uses

None required because the site is surrounded by industrial land uses

Parking Lot Landscaping:

69 spaces proposed

25 square feet of interior landscape (ILA) / parking space = 1,725 sq. ft.

1 canopy tree/200 square feet of ILA = 9

2 shrubs/200 square feet of ILA = 18

Street Rights of Way Greenbelts

20' wide greenspace

1 canopy trees/100 linear feet = 8 total

2 understory trees/100 linear feet = 12 total

Shrubs required when parking lot is adjacent to street.

18 spaces along Technology x 1.5 = 27 total

21 spaces along 9th Street x 1.5 = 32

Summary:

— Total landscape area required:	19,980 sq. ft.
— Total canopy trees required:	30
— Total understory trees required:	20
— Total shrubs required:	77
— Greenspace not required:	

October 6, 2016



Mtg Date: October 13, 2016
To: Planning Commission
From: Julie Johnston, AICP
Subject: Any Other Business

There are two agenda items under Any Other Business that local citizens/business owners requested the Planning Commission consider as part of the October 13th agenda. They are:

1. Medical Marijuana Dispensaries –

The Michigan legislature recently passed some new medical marijuana laws that may impact the Township's current ordinance. Staff has not yet had an opportunity to review the new legislation. Currently, the Township Zoning Ordinance addresses medical marijuana under Section 78.900: Home Occupations. Section 78.910.L allows for the growing and distribution of marijuana as a home occupation for a primary caregiver as defined by the Michigan Medical Marijuana Act, P.A. 2008. Section 78.910.L.10 specifically prohibits dispensaries.

Mr. Jerald Brown has approached the Township requesting the opportunity to open a dispensary. Planning staff informed him that this type of use was not allowed and that the only way that it would be permissible is if a zoning ordinance change was recommended by the Planning Commission and approved by the Township Board. He has requested an opportunity to speak to the Planning Commission on this issue and has provided a letter to this effect, which is attached to this memo. He will be in attendance the night of October 13th.

2. Food Trucks

A food truck owner approached Township Planning staff with a request to place a food truck at the First National Bank at 5313 West Main Street. Based on current Zoning Ordinance regulations, food trucks would be governed under the requirements for temporary events. Staff informed the applicant that only a one day event could be approved administratively and that anything longer than a day would require Planning Commission approval. We informed him that the Planning Commission has granted temporary events for up to approximately 30 days.

He indicated that it was his wish to place the food truck at this location every day (or almost every day) on an annual basis. The truck would arrive sometime before the lunch hour and then stay for the remainder of the day. It was unclear when the truck would leave the site, but staff was told it would leave each day. We explained that this is outside of the normal approvals granted by the Planning Commission and that further discussion was needed.

There are several potential ways in which to manage food trucks in the Township, including:

1. Draft a separate ordinance specifically designed to manage the placement and duration of food trucks on a particular property.
2. Manage them as temporary outdoor event in the same manner the Planning Commission currently handles temporary events (setting a specific time frame). Under this option, a time frame could be set as a trial period for the food truck. If things go well, the approval could be renewed periodically by either staff or the Planning Commission.
3. Regulate them under the General Ordinance No. 122.000 – Hawkers, Peddlers and Solicitors.
4. Regulate them as a prohibited use

Depending on the outcome of the discussion, the business owner would like to move forward with his request, if possible.

Thank you.

**OSHTEMO CHARTER TOWNSHIP PLANING AND ZONING DEPARTMENT
REQUEST TO REVIEW AND AMMEND ORDINANCE'S 521 ND 522**

In light of new legislation signed by Governor Snyder permitting the licensing of Medical Marihuana Dispensaries in Michigan, I am requesting a review and amendment of Oshtemo Charter Township Ordinances 521 and 522. Under the new legislation it is up to local municipalities to determine whether or not they will permit Medical Marihuana Dispensaries and how many can be licensed. Currently Ordinance's 521 and 522 allow for a single care provider to provide patients with doctor prescribed Medical Marihuana and no Dispensaries are permitted. For your convenience, below I have provided links to the new State of Michigan legislation as well as the current Oshtemo Township Ordinances addressing this issue.

I am a business owner in Oshtemo Township and would like to explore the possibility of establishing a Medical Marihuana Dispensary at our current location. Here is some background information about myself and the business.

Name and Address:

Jerald M. Brown
4012 Rockwood
Kalamazoo, MI 49004

Business Name, Address and information:

Lawrence Productions, Inc.
6146 West Main, Suites A and B
Kalamazoo, MI 49009

Lawrence Productions is a full service video/audio production company. Please visit our website if you get a chance at www.lpi.com. We have been in business in West Michigan for over 30 years. I have been the President of the company for 12 years and my wife Leslye and I purchased the company in 2008. We currently occupy the entire first floor at 6146 West Main Street in Oshtemo Township. The building is owned by Ken Bertolisi. The property includes a parking lot with 52 parking spaces. We have plenty of space to expand and remodel to accommodate a second business at this location.

Thanks very much for considering my request. I will be attending your meeting on Thursday October 13, 2016 to make my request in person and answer any questions you may have. Please go to the second page of this document for links to all the legislation mentioned above.

Sincerely,
Jerry Brown

HOUSE BILL 4209

<http://www.legislature.mi.gov/documents/2015-2016/publicact/pdf/2016-PA-0281.pdf>

HOUSE BILL 4210

<http://www.legislature.mi.gov/documents/2015-2016/publicact/pdf/2016-PA-0283.pdf>

HOUSE BILL 4827

<http://www.legislature.mi.gov/documents/2015-2016/publicact/pdf/2016-PA-0282.pdf>

OSHTEMO CHARTER TOWNSHIP ORDINANCE 522

<http://www.oshtemo.org/wp-content/uploads/2012/09/Ord-522-Text-Amendments1.pdf>

OSHTEMO CHARTER TOWNSHIP ORDINANCE 521

<http://www.oshtemo.org/wp-content/uploads/2012/09/Ord-521-Medical-Marihuana-Ordinance1.pdf>



STATE PASSES NEW MEDICAL MARIHUANA LAWS

WHAT DOES IT MEAN FOR YOUR COMMUNITY? WE'VE GOT ANSWERS TO YOUR QUESTIONS!

Do the new laws finally provide clarity on commercial marihuana dispensaries?

Yes. A "provisioning center" is a marihuana facility and may be allowed in accordance with Public Act 281.

Is my community required to permit medical marihuana facilities?

No. Public Act 281 was created using an "opt-in" approach. To permit medical marihuana facilities, a community will be required to adopt an ordinance indicating the types of facilities allowed and the number of each they wish to have.

If my community allows medical marihuana facilities, whose responsibility is it to regulate and enforce the facilities?

The state has assumed this responsibility and has created a board to oversee the implementation of Public Act 281. However, local law enforcement has the ability to investigate and monitor medical marihuana facilities located within the community.

Can we still develop zoning regulations pertinent to medical marihuana facilities?

Yes. You should consider appropriate zoning districts for medical marihuana facilities, as well as site development requirements.

Continued on the next page -->

On September 21, 2016, the State of Michigan enacted three new laws related to medical marijuana. These laws will take effect on December 20, 2016. A brief summary of each new law is provided below.

Public Act 281 of 2016: The Medical Marijuana Facilities Licensing Act

- Licenses and regulates certain medical marijuana facilities including growers, processors, provisioning centers, secure transporters, and safety compliance facilities.
- Specifies that a marijuana facility may not operate in a municipality unless the local unit of government has adopted an ordinance that authorizes such facilities.
- Creates a state licensing board with responsibility for implementing the Act.
- Establishes a medical marijuana excise fund, generated through a 3% tax on a provisioning center's gross retail receipts, which will be distributed to governmental entities including municipalities and counties in which marijuana facilities are located.

Public Act 282 of 2016: The Marijuana Tracking Act

- Establishes a state-wide monitoring system for use as an integrated marijuana tracking, inventory, and verification system.

Public Act 283 of 2016: An Act to Amend the Michigan Medical Marijuana Act

- Defines marijuana-infused products (beverages and edible substances containing usable marijuana) and allows for the consumption of such products for medical use.
- Provides additional protections for qualifying patients and primary caregivers.
- Expands the listing of prohibited activities related to the open transport and consumption of medical marijuana.

Can we charge fees for administrative and enforcement costs associated with medical marijuana facilities?

Yes. A municipal ordinance may establish a nonrefundable annual fee of not more than \$5,000 on a licensee to help defray administrative and enforcement costs.

Will our local municipality benefit from state revenues generated from medical marijuana facilities?

Yes, but only if you have a medical marijuana facility within your community. Public Act 281 specifies that 25% of the state medical marijuana excise fund will be allocated to municipalities in which a marijuana facility is located, in proportion to the number of marijuana facilities within the municipality.

We have already adopted an ordinance pertaining to primary caregivers. Do we need to amend our existing language?

No. However, there are new protections given to primary caregivers by Public Act 283. You may wish to incorporate these added protections into your existing language.

How long do we have to make a decision on the local regulation of medical marijuana facilities?

The state will not accept applications for medical marijuana facilities until 360 days after Public Act 281 becomes effective. This gives local municipalities approximately 1 year to opt-in through the adoption of a local ordinance.

Who can we talk to for more information or assistance in creating or amending medical marijuana regulations?

Wade Trim would be glad to assist your community in developing an appropriate response to these new laws. For more information, please contact your Wade Trim client representative or any member of the planning team.

New State of Michigan Medical Marihuana Laws: Detailed Summary of Impact on Community Regulation

PA 281 of 2016: the Medical Marihuana Facilities Licensing Act

This Act allows a licensee to obtain a license from the state of Michigan to operate one or more of the following “marihuana facilities”:

- a **grower** (a commercial entity that cultivates, dries, trims, or cures and packages marihuana for sale to a processor). [Note: growers are divided between three classes: Class A (500 marihuana plants); Class B (1,000 marihuana plants); and Class C (1,500 marihuana plants.);
- a **processor** (a commercial entity that purchases marihuana from a grower and that extracts resin from the marihuana or creates marihuana-infused product for sale and transfer to a provisioning center);
- a **provisioning center** (a commercial entity that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients’ registered primary caregivers). [Note; a noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through Michigan’s marihuana registration process in accordance with the Michigan Medical Marihuana Act is declared not to be a provisioning center.]; or
- a **safety compliance facility** (a commercial entity that receives marihuana from a marihuana facility [a location at which a license holder is licensed to operate under PA 281] or a registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility).

A marihuana facility may not operate in a municipality unless the local unit of government has adopted an ordinance that authorized that type of facility. A municipality may adopt an ordinance to authorize one or more types of marihuana facilities and to limit the number of each type.

A municipality may adopt other ordinances relating to marihuana facilities within its jurisdiction, including zoning regulations, but cannot impose regulations regarding the purity or pricing of marihuana or interfering with or conflicting with statutory regulations for licensing marihuana facilities.

The applicant seeking permission to establish a marihuana facility, must first notify the municipality of their intent to obtain a license to establish the marihuana facility. Information obtained by the municipality from an applicant related to licensure is exempt from disclosure under the Freedom of Information Act (PA 442 of 1976).

The Act also creates a Medical Marihuana Licensing Board (Board). The Board has general responsibility for implementing the Act. A municipality must provide the Board with the following information to the Board within 90 days after the municipality receives notification from an applicant that he or she has applied for a license under the Act:

- a copy of the local ordinance that authorizes the marihuana facility. [Note; a municipal ordinance may establish an annual, nonrefundable fee of not more than \$5,000 on a licensee to help defray administrative and enforcement costs associated with the operation of a marihuana facility within in the community. Pursuant to Section 208 of the Act, a marihuana facility and all articles of property in that facility are subject to examination at any time by a local police agency or state police];

- a copy of any zoning regulations that apply to the proposed marihuana facility;
- a description of any violation of the local ordinance or zoning regulations committed by the applicant, but only if those violations relate to activities licensed under PA 281 or the Michigan Medical Marihuana Act (Initiated Law 1 of 2008).

Applicants may apply for a license of a medical marihuana facility beginning 360 days after the effective date of PA 281. [Note: PA 281 takes effect 90 days after the date it was enacted into law. It was signed into law by Governor Snyder on Tuesday, September 21, 2016.] The Board must grant or deny each application “within a reasonable time” pursuant to the procedures specified in Part 4 of the Act.

Included are the following requirements:

- a copy of the notice informing the municipality by registered mail that the applicant has applied for a license; and,
- the applicant must also certify that it has delivered the notice to the municipality or will do so by 10 days after the date the applicant submits the application for a license to the Board.

An applicant is ineligible to receive a license if the applicant holds an elective office of a governmental unit within Michigan, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in Michigan, another state, or the federal government; or is employed by a governmental unit of Michigan. This prohibition does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.

The Board may approve, suspend, revoke, or restrict a license. An approved license is issued for a 1-year period and is renewable annually. In its decision on an application for renewal, the Board must consider any written input it receives from the an individual or entity within the community in which the applicant for renewal is located.

By 30 days after the end of each state fiscal year, each licensee must transmit to the Board and to the municipality financial statements of the licensee’s total operations.

The Act creates a medical marihuana excise fund. All money collected under Section 601 of the Act (3% tax on a provisioning center’s gross retail receipts) and all other fees, fines, and charges imposed under the Act – but specifically excluding local licensing fees – must be deposited in the fund. The money in the fund must be allocated, upon appropriation, as follows:

- 25% to municipalities in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the municipality;
- 30% to counties in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the county;
- 5% to counties in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the county to be used exclusively to support the county sheriffs; and,
- 30% to the State of Michigan, ultimately for deposit in the First Responder Presumed Coverage Fund created as part of the Worker’s Disability Compensation Act of 1969;
- 5% to the Michigan Commission on Law Enforcement Standards to train local law enforcement officers; and,
- 5% to the Michigan State Police.

PA 282 of 2016: Medical Marihuana Tracking Act

This Act requires the Michigan Department of Licensing and Regulatory Affairs to establish a statewide monitoring system for use as an integrated marihuana tracking, inventory, and verification system. The Act specifies that the system must allow for the interface with third-party inventory and tracking systems described in the Medical Marihuana Licensing Act to provide access by the State of Michigan, licensees, and law enforcement personnel.

The information in the system is confidential and is exempt from disclosure under the Freedom of Information Act.

PA 283 of 2016: An Act to Amend Initiated Law 1 of 2008 (Michigan Medical Marihuana Act)

This Act was designed to clarify ambiguities in the law in accordance with the original intent of Initiated Law 1 of 2008. Language in PA 283 does not impact community regulation of the primary caregiver – qualifying patient relationship or licensing requirements for marihuana facilities.

This amendatory Act applies retroactively to the following: clarifying the quantities and forms of marihuana for which a person is protected from arrest, precluding the interpretation of “weight” as aggregate weight, and excluding an added inactive substrate component of a preparation in determining the amount of marihuana, medical marihuana, or usable marihuana that constitutes an offense. Retroactive application of this amendatory Act does not create a cause of action against a law enforcement officer or any other state or local government officer, employee, department, or agency that enforced this Act under a good-faith interpretation of its provisions at the time of enforcement.

A series of new definitions were added to the Act. These include: marihuana infused product (beverage, edible substance or similar product containing usable marihuana intended for human consumption); marihuana plant (any plant of the species *Cannabis sativa* L); plan (any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material); and, usable marihuana equivalent (the amount of usable marihuana in a marihuana-infused product that is considered equivalent to 1 ounce of usable marihuana).

A privilege from arrest for a primary caregiver has been expanded. It applies, in part, if the primary caregiver possesses marihuana in forms and amounts that do not exceed a combined total of 2.5 ounces of usable marihuana **and usable marihuana equivalents** for each qualifying patient. Pursuant to Section 4(c) of the Act, for purposes of determining usable marihuana equivalency, 1 ounce of usable marihuana is now considered to be equal to 16 ounces of marihuana-infused product in a solid form, 7 grams of marihuana-infused product in a gaseous form, and 36 fluid ounces of marihuana-infused product in a liquid form.

The Act provides additional protections. A qualifying patient or primary caregiver is not subject to arrest or prosecution if: they are transferring or purchasing marihuana from a licensed provisioning center; if they are transferring or selling marihuana seeds or seedling to a licensed grower; or, if they are transferring marihuana for testing to or from a licensed safety compliance facility.

PA 283 addresses how marihuana-infused products must be transported in a motor vehicle. It also expands the listing of prohibited activities. By examples, this listing originally prohibited the possession

of marihuana in a school bus or the grounds of any preschool, primary or secondary school. It also prohibited the smoking of marihuana in any public place or on any form of public transportation. The Act now also prohibits any person to do any of the following:

- separate plant resin from a marihuana plant by butane extraction in any public place or motor vehicle, or inside or within the curtilage (yard, garden, or field) belonging to any residential structure; and.
- separate plant resin from a marihuana plant by butane extraction in a manner that demonstrates a failure to exercise reasonable care or reckless disregard for the safety of others.

As may be remembered, the original public initiated Act established a marihuana registry fund created within the State Treasury. However, PA 283 specifies that for the fiscal year ending September 30, 2016, \$8,500,000 must be appropriated from the fund for the initial costs of implementing the PA 281 (the Medical Marihuana Licensing Act) and the PA 282 (the Marihuana Tracking Act).