



## CITY of NOVI CITY COUNCIL

**Agenda Item D**  
**March 4, 2019**

**SUBJECT:** Adoption of Resolution accepting Wayne County permit conditions to plant 41 trees along 8 Mile Road.

**SUBMITTING DEPARTMENT:** Department of Public Works, Field Operations Division

**CITY MANAGER APPROVAL:**  PA

**BACKGROUND INFORMATION:**

Trees are a significant component of Novi's urban environment. They provide important economic, social, and environmental benefits to the community. Because of these numerous benefits, the Department of Public Works continues to grow its urban forest through partnerships with adjacent roadway agencies.

Wayne County has approved the City of Novi's plans to plant 41 deciduous canopy trees of 2.5-inch to 3-inch caliper along the 8 Mile Road corridor between Chase Drive and Haggerty Road. Trees will be planted within the right-of-way and not impact intersection sight vision zones or utility easements per the attached 8 Mile Tree Planting Plan.

The City Attorney has reviewed the resolution as sees no legal impediment (Beth Saarela, February 20, 2019).

**RECOMMENDED ACTION:** Adoption of Resolution accepting Wayne County permit conditions to plant 41 trees along 8 Mile Road.

ELIZABETH KUDLA SAARELA  
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Farmington Hills, Michigan 48331  
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rsjalaw.com



ROSATI | SCHULTZ  
JOPPICH | AMTSBUECHLER

February 20, 2019

Jeffrey Herczeg, Director of Public Works  
City of Novi  
Field Services Complex  
26300 Lee BeGole Drive  
Novi, MI 48375

**RE: 8 Mile Tree Planting Project  
Wayne County Right-of-Way Permit**

Dear Mr. Herczeg:

We have prepared the enclosed Resolution Accepting Wayne County Permit Condition 8 Mile Tree Planting Project. Wayne County requires the Resolution as a condition of the issuance of the permit to install trees within its public right-of-way. In addition to requiring the City to comply with the permit conditions and permanently maintain the trees it installs, the Resolution requires the City to indemnify Wayne County for any liability resulting from planting and maintaining the trees, subject to governmental immunity the City and the County are entitled to by statute.

Since the permit has already been issued, and was signed by the City's tree planting contractor as the City's agent, the Resolution authorizes the contractor to sign the permit.

We see no legal impediment to approval of the Resolution as it repeats the same conditions that the City is subject to under the Right-of-Way Permit that the County issued.

Should you have any questions or concerns relating to the issues set forth above, please feel free to contact me in that regard.

Very truly yours,

ROSATI SCHULTZ JOPPICH  
& AMTSBUECHLER PC

A handwritten signature in blue ink, appearing to read 'Elizabeth Kudla Saarela', is written over the printed name.

Elizabeth Kudla Saarela

Jeffrey Herczeg, Director of Public Works  
City of Novi  
February 20, 2019  
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EKS

Enclosure

C: Cortney Hanson, Clerk (w/Enclosure)  
Matt Wiktorowski, Field Operations Senior Manager (w/Enclosures)  
Tiffany Giacobazzi, Forestry Asset Manager (w/Enclosures)  
Rick Meader, Landscape Architect (w/Enclosures)  
Sue Troutman, City Clerk's Office (w/Enclosure)  
Thomas R. Schultz, Esquire (w/Enclosure)

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

**RESOLUTION ACCEPTING WAYNE COUNTY PERMIT CONDITIONS**  
**8 MILE TREE PLANTING PROJECT**

Minutes of a Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall of said City on \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_ o'clock P.M. Prevailing Eastern Time.

PRESENT: Councilmembers \_\_\_\_\_

ABSENT: Councilmembers \_\_\_\_\_

The following preamble and Resolution were offered by Councilmember \_\_\_\_\_ and supported by Councilmember \_\_\_\_\_.

**WHEREAS**, the City of Novi has applied to Wayne County for the issuance of a permit to plant and maintain trees within Wayne County's 8 Mile Road Right-of-Way;

**WHEREAS**, Wayne County has agreed to issue the City a permit to plant and maintain the trees subject to the City passing a formal Resolution to accept and comply with Wayne County's Permit No. C-50990, to Construct, Operate, Use and/or Maintain; and,

**WHEREAS**, the City desires to comply with Wayne County's Permit No. C-50990, to Construct, Operate, Use and/or Maintain;

**NOW, THEREFORE, BE IT RESOLVED** that the City of Novi does hereby accept the Permit Conditions set forth in Wayne County's Permit No. C-50990, to Construct, Operate, Use and/or Maintain, dated February 8, 2019.

**BE IT FURTHER RESOLVED** that Pursuant to the Permit requirements, the City of Novi hereby agrees to maintain the trees and/or landscaping that it installs in accordance with the approved plan, in perpetuity, without any expense to Wayne County;

**BE IT FURTHER RESOLVED** that to the extent allowed by law, the City of Novi, as Permit Holder shall hold harmless and defend Wayne County, its Department of Public Services, its officials and employees, for the City's own negligence, tortious acts, errors or omissions, and the acts, errors and omissions of any of its employees, on account of injury to persons or damage to property, including Property of the County, arising out of any and all work performed under the permit, or in connection with work not authorized by the permit, or resulting from failure to comply with the terms of the permit, or arising out of continued existence of work product that is the subject of the permit. This hold harmless provision shall not be construed as a waiver of governmental immunity by the County or the City, as provided by statute or modified by court decision.

**BE IT FURTHER RESOLVED** that the City of does hereby designate, its contractor, Bob Sopsich with RC Tuttle, as its agent for permit execution, to sign the Permit.

**AYES:**

**NAYS:**

RESOLUTION DECLARED ADOPTED.

\_\_\_\_\_  
Cortney Hanson, City Clerk

**CERTIFICATION**

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2019, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.

\_\_\_\_\_  
Cortney Hanson, City Clerk  
City of Novi









**Wayne County Department of Public Services  
Engineering Division – Permit Office  
Conditions & Limitations of Permits**

**Plan Approval and Specifications:** All work performed under the permit shall be done in accordance with the approved plans, specifications, maps, statements and special conditions filed with the County and shall comply with Wayne County Specifications, as defined in the current *Wayne County Rules, Specifications and Procedures for Permit Construction*, included as an attachment to this permit, the *Wayne County Standard Plans for Permit Construction*, and the *MDOT Standard Specifications for Construction*, as modified by WCDPS Special Provisions, and other WCDPS specifications. Any situation or problem which occurs as a result of the construction, operation, use and/or maintenance of the facility in the right-of-way and is not covered by the approved plans nor by the County's current Standards and Specifications shall be resolved by the Permit Holder as directed and approved by the Permit Office. Any significant change to the plans must be approved by the Permit Office and is authorized only when an approved addendum is obtained from the Permit Office.

**Fees:** The Permit Holder shall be responsible for all fees and costs incurred by the County in connection with the permit and shall deposit payment for fees and costs as determined by the County at the time the permit is issued.

**Bond:** The Permit Holder shall furnish a bond in cash or Certified check in an amount acceptable to the County to guarantee performance under the conditions of the permit. The County may use all or any portion of the bond which shall be necessary to cover any expense, including inspection costs or damage incurred by the County through the granting of the permit. Should the bond be insufficient to cover the expenses and damages incurred by the County, the Permit Holder shall pay such deficiency upon billing by the County. If the bond amount exceeds the expenses and damages incurred by the County, the excess portion will be returned to the Depositor. The excess performance bond provided for herein, when it cannot be returned, shall be deposited into the County Road Fund and become a part thereof, unless claimed by the Depositor within one year of the date of satisfactory completion of the construction authorized by the permit.

**Insurance:** The Permit Holder shall furnish proof of liability and property damage insurance in the form and amounts acceptable to the County with Wayne County named as an insured party. The Permit Holder shall maintain this insurance until the permit is released, revoked or cancelled by the County.

**Indemnification / Hold Harmless:** Sub-Section 1 herein applies to all Permit Holders except Municipalities. Sub-Section 2 herein applies to Municipalities only.

1. To the extent allowed by law, the Permit Holder shall indemnify, hold harmless and defend Wayne County, its Department of Public Services, its officials and employees against any and all claims, suits and judgments to which the County, the Department, its officials and employees may be subject and for all costs and actual attorney fees which may be incurred on account of injury to persons or damage to property, including property of the County, whether due to negligence of the Permit Holder or to the joint negligence of the Permit Holder and the County, arising out of any and all work performed under the permit, or in connection with work not authorized by the permit, or resulting from failure to comply with the terms of the permit or arising out of the continued existence of the work product that is the subject of the permit. This hold harmless provision must not be construed as a waiver of any governmental immunity by the County.
2. To the extent allowed by law, the Municipality as Permit Holder shall hold harmless and defend Wayne County, its Department of Public Services, its officials and employees, for the Municipality's own negligence, tortious acts, errors, or omissions, and the acts, errors, or omissions of any of its employees, on account of injury to persons or damage to property, including property of the County, arising out of any and all work performed under the permit, or in connection with work not authorized by the permit, or resulting from failure to comply with the terms of the permit or arising out of the continued existence of work product that is the subject of the permit. Sub-section 1 above applies to contractors, subcontractors, consultants, or agents of the Municipality. This hold harmless provision must not be construed as a waiver of any governmental immunity by the County or the Municipality's, as provided by statute or modified by court decisions.

**Permit on Site:** The Permit Holder shall keep available a copy of the permit and any associated approved plans on site during permitted activities.

**Notification for Start and Completion of Work:** The permit shall not become operative until it has been fully executed by the County. The Permit Holder shall notify the County before starting construction and shall notify the County when work is completed. The Permit Holder or their representative shall have copies of the executed permit and approved plans in their possession on the job site at all times.

1. The Permit Holder shall provide at least three (3) days advanced notice, excluding Saturdays, Sundays and holidays, to the Permit Office prior to the commencement of any permitted activities by submitting a START OF WORK NOTIFICATION form by mail, fax or e-mail. In certain instances, additional notice may be required by the Permit Office. In the event that construction work ceases for a period of time, then the Permit Holder shall notify the Wayne County Inspector at least 24 hours prior to resuming work.
2. The Permit Holder shall comply with all requirements of the Miss Dig Statute, MCL 460.701 et seq., as amended. The Permit Holder shall call "MISS DIG", at (800) 482-7161, at least 72 hours, excluding Saturdays, Sundays and holidays, but not more than twenty-one (21) calendar days, before starting any underground work. The Permit Holder assumes all responsibility for damage to or interruption of underground utilities.
3. The Permit Holder shall call Wayne County Department of Public Services' Traffic Operations Office at (734) 955-2154, at least 72 hours prior, excluding Saturdays, Sundays and holidays, but not more than twenty-one (21) calendar days, before starting any underground work in the vicinity of any traffic signal equipment owned, operated or maintained by Wayne County.

**Safety:** The Permit Holder agrees that all work under the permit shall be performed in a safe manner and to keep the area affected by the permit in a safe condition until the work is completed and accepted by the County. The Permit Holder shall furnish, install and maintain all necessary traffic controls and protection which are in accordance with the current *Manual on Uniform Traffic Control Devices (MUTCD)*. The Permit Holder shall conduct all activities and maintain all facilities as set forth in the permit in a manner so as not to damage, impair, interfere with, or obstruct a public road or create a foreseeable risk of harm to the traveling public. The Permit Holder shall comply with all applicable OSHA and MIOSHA requirements.

**Underground Utilities:** The Permit Holder shall contact all utility owners regarding their facilities prior to starting work and shall comply with all applicable provisions of Act 53, Public Acts of 1974, as amended. Wayne County makes no warranty either expressed or implied as to the condition or suitability of subsurface conditions or any existing facility which may be encountered during an excavation. The presence or absence of utilities is based on the best information available and the County is not responsible for the accuracy of this information. The Permit Holder assumes all responsibility for the interruption and damage to underground utilities. The Permit Holder is responsible for proper disposal, in accordance with current regulations, of any material excavated from within the right-of-way. Such materials include, without limitation, soils or groundwater contaminated by petroleum products or other pollutants associated with sites identified by the MDEQ or reported on appropriate release forms for underground storage tanks.

**Assignability:** The permit is neither transferable nor assignable without the written consent of the County.

**Limitation of Permit:** The Applicant and the Permit Holder shall be responsible for obtaining and shall secure any permits or permission necessary or required by law from State, federal or other local governmental agencies and jurisdictions, corporations or individuals. These include, without limitation, those pertaining to drains, inland lakes and streams, wetlands, woodlands, flood plains, filling, noise regulation and hours of operation. Issuance of a Wayne County permit does not authorize activities otherwise regulated by State, federal or local agencies.

**Access of Other Vehicles:** The Permit Holder shall, at all times possible, maintain a minimum of one acceptable access to all abutting occupied properties, driveways and side streets unless otherwise specified on the approved plans. The Permit Holder shall notify all owners or occupants of properties whose access may be temporarily disrupted during the permitted work. The local police, fire or emergency service agencies shall define acceptable access. The Permit Holder shall provide signing and other improvements necessary to ensure adequate access until the roadway, driveway or side street is restored. The Permit Holder shall conduct all operations so as to minimize inconvenience to abutting property owners. Wayne County reserves the right to reasonably restrict the progress of work by the Permit Holder based on the rate of roadway and right-of-way restoration, including permanent or temporary pavement. Wayne County may require that work be suspended until satisfactory backfilling of open trenches or excavations has been completed and driveways, side streets and drainage restored.

**Restoration:** The Permit Holder agrees to restore the County road and road right-of-way, County drain easement or County park property to a condition equal to or better than its condition before work under the permit began. If the Permit Holder fails to satisfactorily restore the permitted work area, Wayne County may take all practical actions necessary to provide reasonably safe and convenient public travel, preservation of the roadway and drainage, prevention of soil erosion and sedimentation, and elimination of nuisance to abutting property owners caused by the permitted activity. Security in the form of cash, a certified check or surety bond shall be required to secure the cost of restoring the disturbed portion of the right-of-way to an acceptable safe condition. The amount of the security shall be determined by the Permit Office. In the event that a suspension of work will be protracted or that the work will not be completed by the Permit Holder, the Permit Holder shall restore the right-of-way to a condition similar to the condition that existed prior to issuance of the permit.

**Acceptance:** Acceptance by the County of work performed does not relieve the Permit Holder of full responsibility for work performed or the presence of the permitted facility. The Permit Holder acknowledges that the County has no liability for the presence of the Permit Holder's facility located within the County road right-of-way, County drain easement or County park property.

**Permit Expiration and Extension of Time:** All work authorized by the permit shall be completed to the satisfaction of the Permit Office on or before the expiration date specified in the permit. Any request for an extension of time for completion shall be on a completed County form and shall demonstrate good cause for granting the request. Additional requirements may be imposed as a condition of an extension of time due to seasonal limitations or other considerations. These additional requirements may include, without limitation, changes to materials or construction methods, reestablishment of fees, bonds, deposits and insurance requirements.

**Responsibility:** The design, construction, operation and maintenance of all work covered by the permit shall be at the Permit Holder's expense with the exception that the Permit Holder will not be responsible for maintaining road widenings or similar facilities which become part of the County roadway.

**Revocation:** The permit may be suspended or revoked at the will of the County. Upon order of the County, the Permit Holder shall surrender the permit, cease operations and remove, alter or relocate, at their expense, the facilities for which the permit was granted. The Permit Holder expressly waives any right to claim damages for compensation resulting from the revocation of the permit.

**Violation:** The County may declare the permit null and void if the Permit Holder violates the terms of the permit. The County may require immediate removal of the Permit Holder's facilities and restoration of the County property, or the County may remove the facilities and restore the County property at the Permit Holder's expense. The Permit Holder agrees that in the event of a violation of the terms of the permit or in the event the work authorized by the permit is not satisfactorily completed by the permit expiration date, the County may use all or any portion of the performance bond to restore the County road right-of-way, drain easement, wastewater facility or park property as necessary for reasonably safe and efficient operations and maintenance, or to establish extraordinary maintenance procedures as required to assure reasonably safe and efficient operation of the County facility.

**Inspection and Testing of Materials:** Wayne County reserves the right of inspection and the testing of materials by its authorized representatives of all permitted activities and/or activities within the road right-of-way, County owned property or within a County drain easement. All items identified by the final inspection shall be resolved prior to release of the permit. All materials and methods utilized during the course of the authorized permit work shall meet the requirements of the current *MDOT Standard Specifications for Construction*, as modified by Wayne County Special Provisions, Standard Plans for Permit Construction and this manual. The Permit Holder shall reimburse Wayne County for all required inspections and testing of materials.

**Design:** The Permit Holder is fully responsible for the design of the permitted facility, such that the design shall be consistent with all applicable County standards, specifications, guidelines, requirements and with good engineering practice. Any errors in the plans that become evident after the issuance of a permit, and which change the scope of permitted work, are subject to review and may be grounds for revocation of the permit. The Permit Office will not relieve the Permit Holder of the responsibility of correcting errors, deficiencies, or omissions due to oversight or unforeseen contingencies such as faulty drainage, poor subsoil conditions or the failure of the Permit Holder's engineer to show all the related or pertinent conditions inside or outside the plan area.

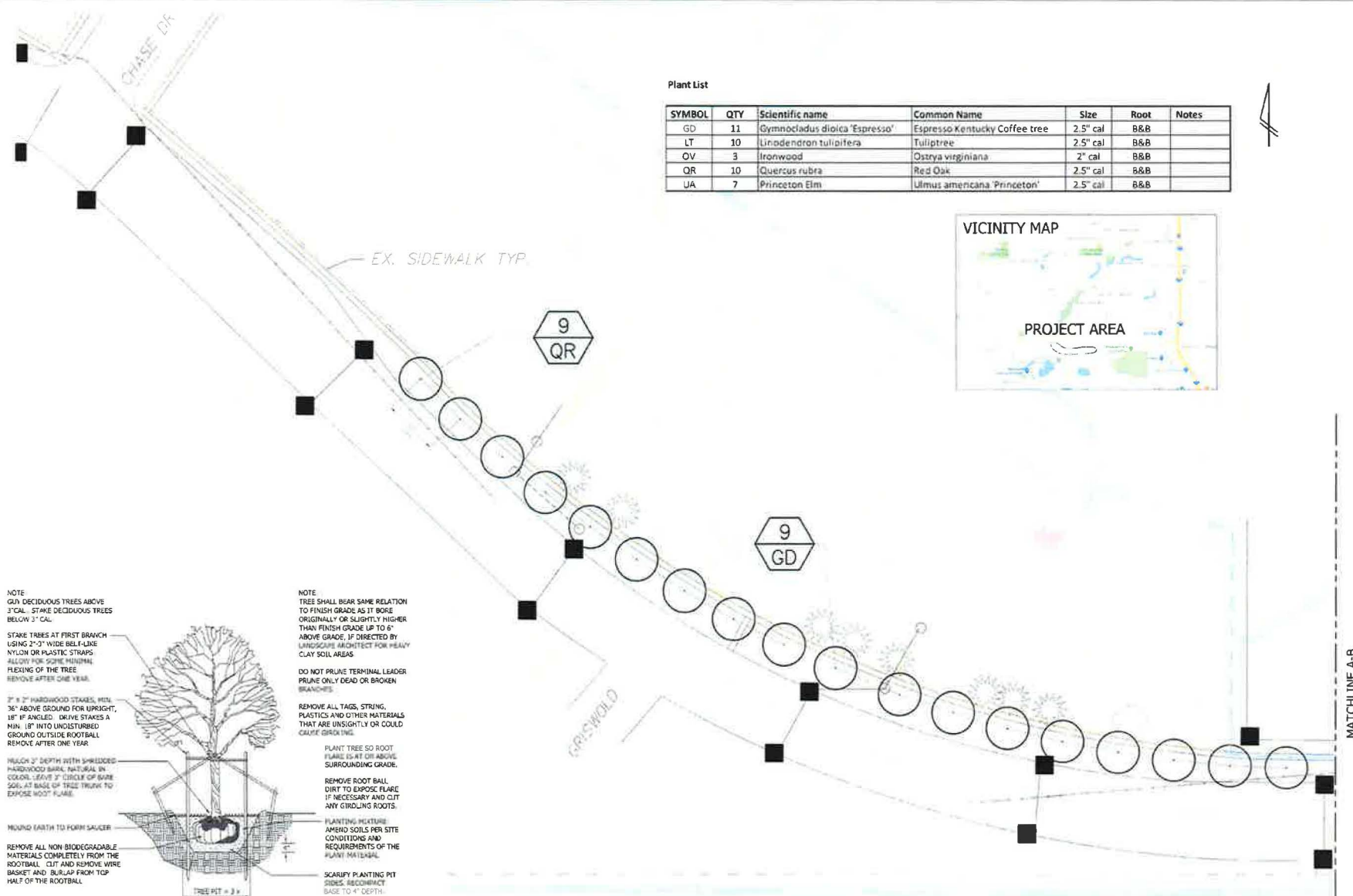
**Drainage:** Drainage shall not be altered to flow into the road right-of-way or road drainage system unless approved by Wayne County.

**Permit Holder Compliance:** The Permit Holder shall abide by the conditions and limitations contained on the permit and all other conditions listed within the WCDPS Rules, Specifications and Procedures for Construction Permits. The application of any work undertaken under the permit shall constitute the Permit Holder's agreement to the Provision.



Plant List

SYMBOL	QTY	Scientific name	Common Name	Size	Root	Notes
GD	11	Gymnocladus dioica 'Espresso'	Espresso Kentucky Coffee tree	2.5" cal	B&B	
LT	10	Liriodendron tulipifera	Tuliptree	2.5" cal	B&B	
OV	3	Ostrya virginiana	Ostrya virginiana	2" cal	B&B	
QR	10	Quercus rubra	Red Oak	2.5" cal	B&B	
UA	7	Princeton Elm	Ulmus americana 'Princeton'	2.5" cal	B&B	



NOTE:  
 GD: DECIDUOUS TREES ABOVE  
 3" CAL. STAKE DECIDUOUS TREES  
 BELOW 3" CAL.

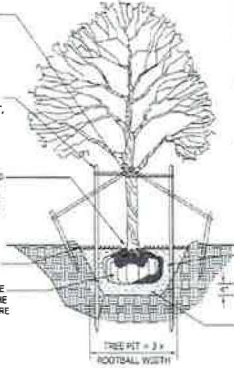
STAKE TREES AT FIRST BRANCH  
 USING 2"-3" WIDE BELT-LIKE  
 NYLON OR PLASTIC STRIPS  
 ALLOW FOR SOME MINIMAL  
 FLEXING OF THE TREE  
 REMOVE AFTER ONE YEAR.

3" x 3" HARDWOOD STAKES, MIN.  
 36" ABOVE GROUND FOR UPRIGHT,  
 18" IF ANGLED. DRIVE STAKES A  
 MIN. 1/2" INTO UNDISTURBED  
 GROUND OUTSIDE ROOTBALL  
 REMOVE AFTER ONE YEAR.

MULCH 3" DEPTH WITH SHREDED  
 HARDWOOD BARK, NATURAL IN  
 COLOR. LEAVE 1" CLEAR OF SOIL  
 AT BASE OF TREE TRUNK TO  
 EXPOSE ROOT FLARE.

MOUND EARTH TO FORM SAUCER

REMOVE ALL NON BIODEGRADABLE  
 MATERIALS COMPLETELY FROM THE  
 ROOTBALL. CUT AND REMOVE WIRE  
 BASKET AND BURLAP FROM TOP  
 HALF OF THE ROOTBALL.



DECIDUOUS TREE PLANTING DETAIL

NOTE:  
 TREE SHALL BEAR SAME RELATION  
 TO FINISH GRADE AS IT BORE  
 ORIGINALLY OR SLIGHTLY HIGHER  
 THAN FINISH GRADE UP TO 6"  
 ABOVE GRADE, IF DIRECTED BY  
 LANDSCAPE ARCHITECT FOR HEAVY  
 CLAY SOIL AREAS

DO NOT PRUNE TERMINAL LEADER  
 PRUNE ONLY DEAD OR BROKEN  
 BRANCHES

REMOVE ALL TAGS, STRING,  
 PLASTICS AND OTHER MATERIALS  
 THAT ARE UNSIGHTLY OR COULD  
 CAUSE GIRDLING.

PLANT TREE SO ROOT  
 FLARE IS AT OR ABOVE  
 SURROUNDING GRADE.

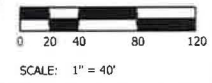
REMOVE ROOT BALL  
 DIRT TO EXPOSE FLARE  
 IF NECESSARY AND CLIP  
 ANY GIRDLING ROOTS.

PLANTING MIXTURE:  
 AMEND SOILS PER SITE  
 CONDITIONS AND  
 REQUIREMENTS OF THE  
 PLANT MATERIAL.

SCARIFY PLANTING PIT  
 SIDES. RECOMPACT  
 BASE TO 4" DEPTH.

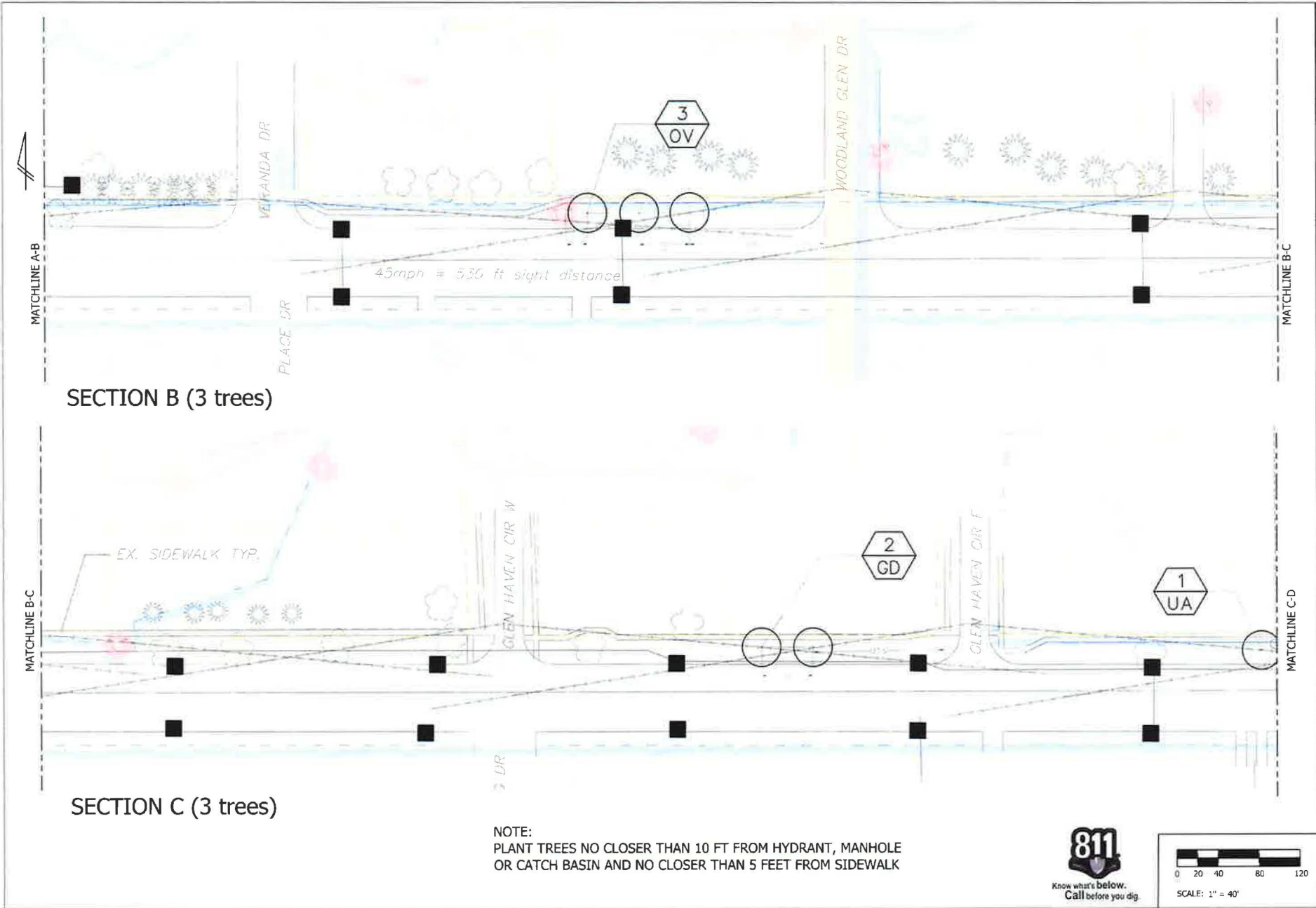
SECTION A (18 trees)

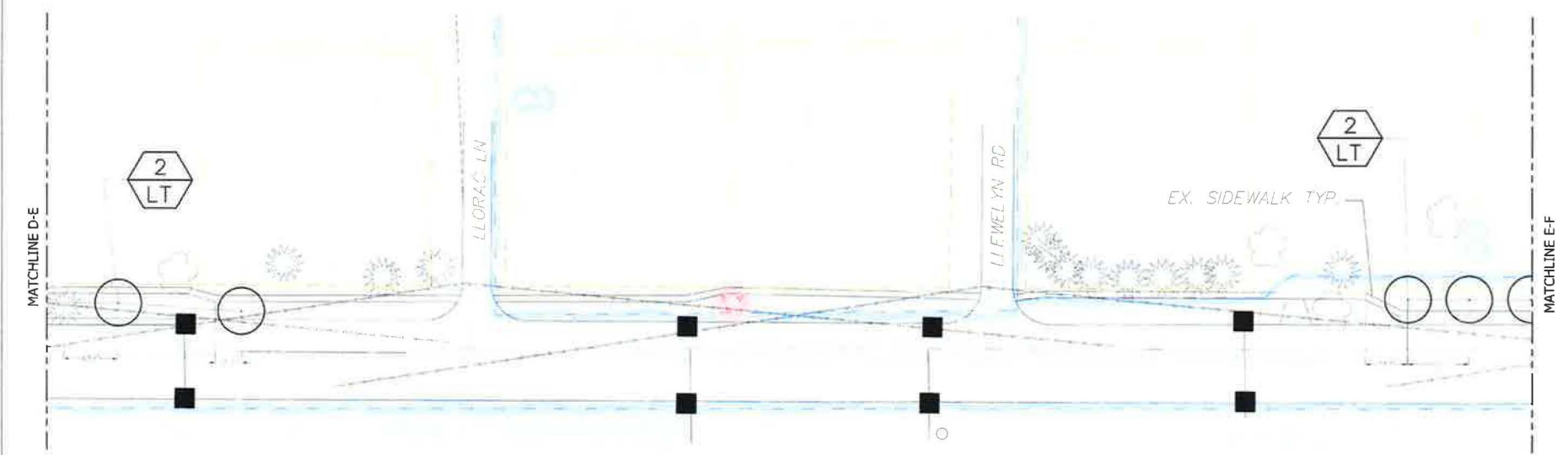
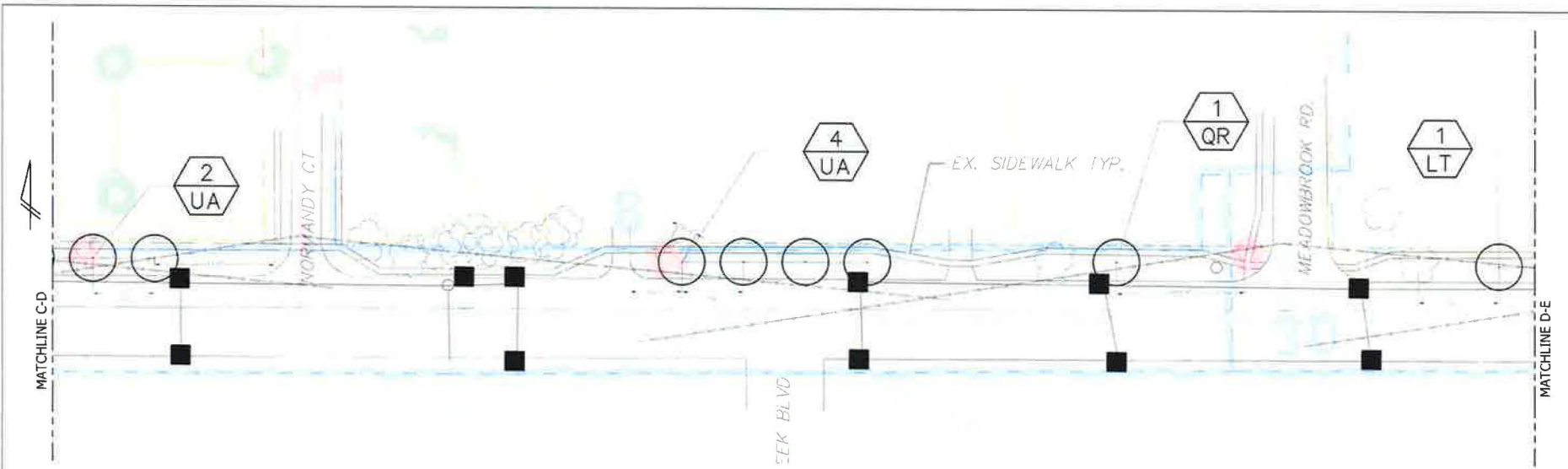
NOTE:  
 PLANT TREES NO CLOSER THAN 10 FT FROM  
 HYDRANT, MANHOLE OR CATCH BASIN AND NO  
 CLOSER THAN 5 FEET FROM SIDEWALK



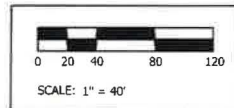
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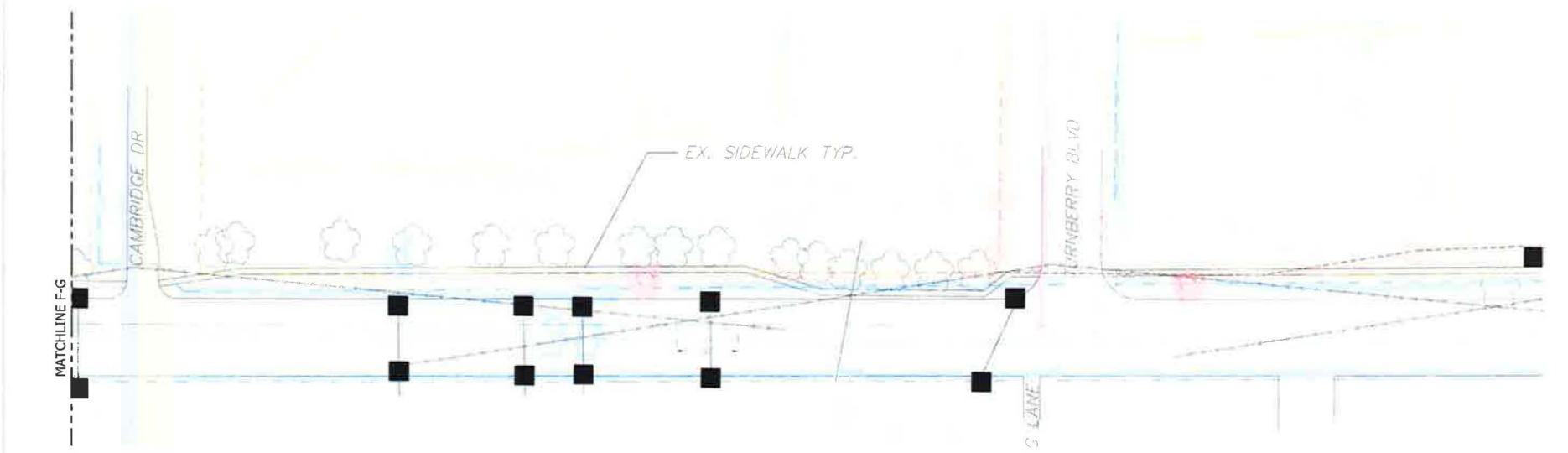
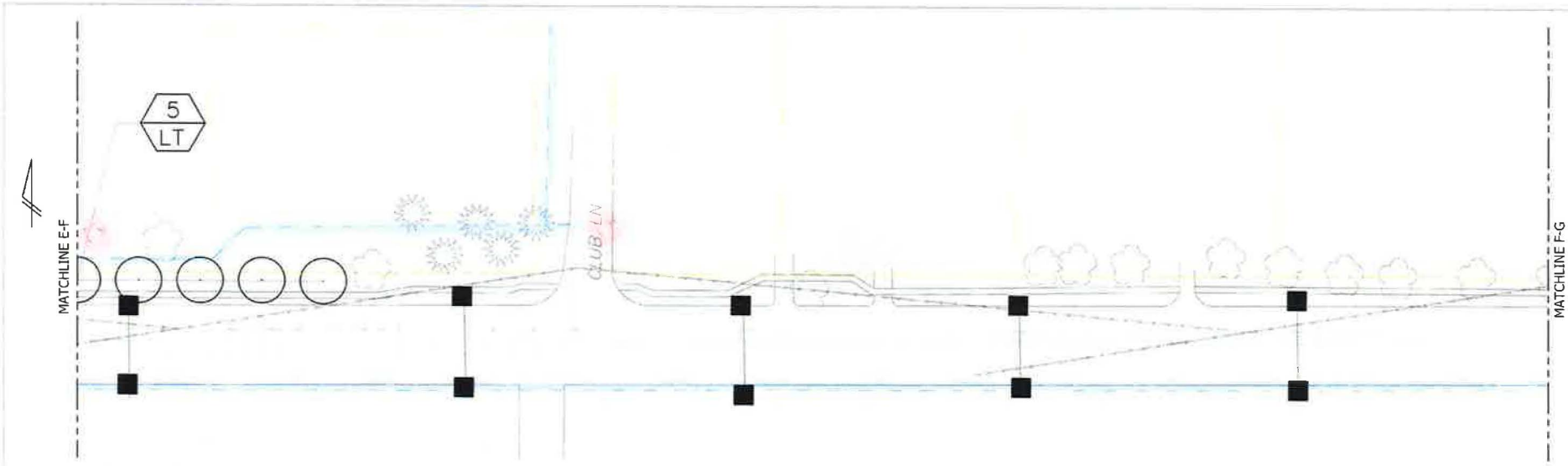






NOTE:  
 PLANT TREES NO CLOSER THAN 10 FT FROM HYDRANT, MANHOLE  
 OR CATCH BASIN AND NO CLOSER THAN 5 FEET FROM SIDEWALK





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 PLANT TREES NO CLOSER THAN 10 FT FROM HYDRANT, MANHOLE  
 OR CATCH BASIN AND NO CLOSER THAN 5 FEET FROM SIDEWALK

