

Applicant: Erica Sniegowski; On behalf of St. Edwards Catholic Church
Consultant: Barr Engineering
Project: BMP Retrofit – Rainwater Gardens at St. Edwards Catholic Church
Location: 9401 Nesbitt Avenue: Bloomington
Rule(s): 3,5,10
Reviewer: BCO

General Background & Comments

The project proposes the construction of two rainwater garden in the green space area between two parking lot areas on the St. Edwards Catholic Church property located at 9401 Nesbitt Avenue in Bloomington. This project is to provide water quality treatment for surface water runoff from impervious areas on the church property that currently does not exist. No other land-disturbing activity or construction is proposed or submitted for NMCWD regulatory approval under this application. The project is being undertaken by the church in partnership with NMCWD, which will contract for and direct the work.

The project will excavate more than 50 cubic yards of material for the construction of the rainwater gardens but will disturb less than 5000 square feet of surface area. The District's Stormwater Rule (4) applies since the project will meet Rule 4.2.1a. However since there are no impermeable areas associated with the project that will be constructed or reconstructed to generate runoff, the requirements of Rules 4.3.1a) volume retention, b) limit peak flow rates for the 2, 10, and 100 year storm events to existing conditions and c) water quality management are not imposed. Rule 4.3.3, Chloride management, does however apply to the project. The District wetland buffer requirements, Rule 3.4, applies to the project because there is a wetland, Minnesota Public Waters Wetland 1063W (1063W), located along the eastern property boundary, downgradient from the proposed work. The District's Erosion and Sediment Control Rule (5.2.1a) applies to the project because of the volume of disturbance proposed.

A MnRAM wetland functional assessment has been prepared and provided by the City of Bloomington for wetland 1063W. The MnRAM has determined the wetland to be a medium value wetland requiring a minimum 20 foot and 40 foot average wetland buffer. A wetland boundary determination has been completed utilizing a desktop analysis including aerial photography and Public Waters Inventory data. The existing parking lot is located within 6 feet

from the wetland boundary identified as shown on the attached figure. Because of the existing site constraints, existing surface parking, a variance from the average and minimum buffer width requirements in section 3.4 is requested.

Sediment filter logs and inlet protection are to be installed to provide erosion control.

Exhibits

1. Permit Application dated April 7, 2020.
2. Plans and project narrative dated April 6, 2020 prepared by Barr Engineering.
3. MnRAM assessment from the 2010 City of Bloomington Wetland Inventory Update for wetland 1063W.

3.0 Wetland Management

The wetland area on the site, 1063W, has been identified as medium value wetland. The requirements of the District's buffer rule, 3.4, requires a minimum 20 foot and 40 foot average buffer to be provided for a medium value wetland because the wetland is downgradient from the proposed land-disturbing activities. (No disturbance of the wetland itself is proposed.) At its closest point, the wetland boundary is within approximately 6 feet of the eastern parking lot. Because of the limits of the existing parking lot, a buffer area of 18,074 square feet is to be provided, a shortfall of 14,099 square feet from the total that would be achieved if the average width were met, requiring a variance. The areas of the property where buffer is required will not be disturbed by the proposed work and the area between the wetland and the limits of the existing parking lot is currently in a natural condition and vegetated. The applicant is also requesting a variance from the maintenance requirement for the buffer area.

4.0 Stormwater Management

As previously stated, the requirements of Rule 4 applies since the project will meet Rule 4.2.1a. However since there are no impermeable areas associated with the project that will be created to generate runoff, the requirements of Rules 4.3.1a) volume retention, b) limit peak flow rates for the 2, 10, and 100 year storm events to existing conditions and c) water quality management are not imposed. Under the cooperative agreement between the applicant NMCWD and St. Edward's, the stormwater facilities will be maintained for 17 years – short of the perpetual maintenance term in the standard NMCWD maintenance plan.

In accordance with Rule 4.3.4, a post-project chloride management plan must be provided that will, 1) designate an individual authorized to implement the chloride-use plan and 2) designate a MPCA certified salt applicator engaged in the implementation of the chloride-use plan for the site. The applicant is requesting a variance from the perpetual stormwater-facility maintenance term and the chloride-management plan requirement; discussed below.

5.0 Erosion and Sediment Control

The submitted erosion and sediment control plan includes sediment control logs and inlet protection. The project contact is Erica Sniegowski, Nine Mile Creek Watershed District Program and Project Manager.

10.0 Variances and Exceptions

The applicant NMCWD is requesting that the managers approve a variance from the wetland buffer width, buffer and stormwater-facility maintenance and chloride-management

requirements of the NMCWD rules. (The attached report on the St. Edward's project from the NMCWD engineer provides facts and reasoning addressing the variance criteria.)

Specifically as to the wetland buffer: The location of the existing parking lot does not allow for compliance with the 20 foot minimum or the 40 foot average (total buffer area) buffer requirement. The existing condition will not change as a result of the project. The alternative to not approving the variance would be to request the applicant remove a portion of the existing parking lot for compliance with the District's buffer requirements. With regard to the maintenance requirement, the buffer area will not be disturbed by the project activities. As-is, the area is grass with a few trees and invasive buckthorn – i.e., not high-quality vegetation, the maintenance of which serves a critical policy of NMCWD.

Analysis of the hardship criterion is most probative: Under usual circumstances, a variance is requested and is supported by a determination that the applicant did not create the unique condition on the property that results in the need for the variance. The facts of the property cited above are relevant as to the buffer-width and -area shortfalls (i.e., the existing impervious is an inherent, preexisting site condition). But more significantly as to all of the shortfalls from compliance, not only were the conditions resulting in the shortfalls from compliance not created by St. Edward's, they were effectively created by NMCWD in pursuing the project. The managers may well find that requiring a voluntary participant in a NMCWD project to meet additional requirements triggered by the circumstances of the project to work an injustice on the property owner and would result, long-term, in sully NMCWD's reputation as a partner and diminishing its capacity to successfully form partnership to achieve water-resources protection and improvement. Specifically, requiring the applicant to seek certification from the state Smart Salting program and to implement a maintenance plan is "extra" work that the property owner did not agree to. However, NMCWD staff could, as condition of approval of the variance, be directed to work with the property owner on chloride-use management and practices that will reduce chloride in runoff from the substantial parking area on the property.

As to whether the activity for which the variance is sought will not materially adversely affect the water resources, flood levels, drainage or the general welfare in the watershed: Again uniquely, the project does not include any proposed elements that do not improve water resources in the watershed. That is, usually the NMCWD rules act to counterbalance or prevent negative effects on water resources and flood-storage capacity. Here, all of the proposed activity results in improved water resources, and the variances are sought only because the work does not result in more protection.

Finally, while it is a matter entirely with the managers' purview, as noted above, the engineer and staff suggest that the interests of justice support granting the variance.

The engineer finds that there is a reasonable factual and analytical basis for approval of the variance, and commends to the managers' discretion the determination as to how to direct NMCWD staff to build on the cooperative agreement for the project to pursue Smart Salting chloride management and wetland-buffer maintenance. .

11.0 Fees

Because the applicant project proponent is a public entity, no fees are charged.

Rules 2.0-6.0 \$0

12.0 Sureties

Because the applicant and project proponent is a public entity, the District's financial assurance requirements do not apply.

Sureties for the project are:

\$0

Findings

The proposed project includes the information necessary, plan sheets and erosion control plan, for review.

1. Rules 4 and 5 are met.
2. The applicant is requesting a variance from compliance with Rule 3.4.1b, buffer requirement, as applied to the project. The existing site condition for the variance request is a result of site development pre-2008 rules of the District.

Recommendation

Approval, contingent upon:

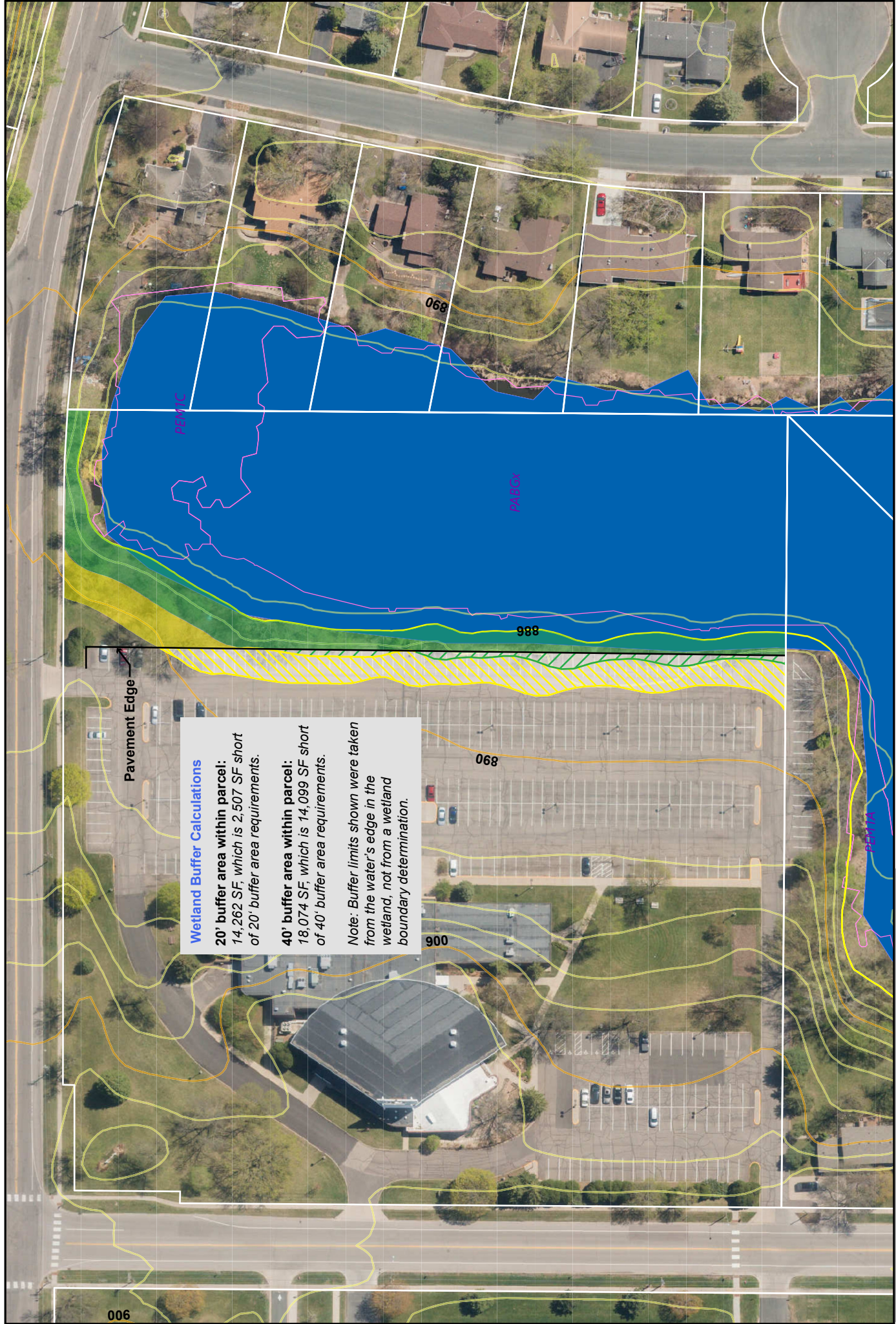
1. General Conditions

By accepting the permit, when issued, the applicant agrees to the following stipulations:

1. Submission of a plan for post-project management of Chloride use on the site. The plan must include 1) the designation of an individual authorized to implement the chloride use plan and 2) the designation of a Minnesota Pollution Control Agency certified salt applicator engaged in the implementation of the chloride-use plan for the site.
2. Wetland buffer markers installed in compliance with Rule 3.4.5.

Board Action

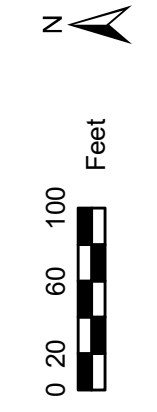
It was moved by Manager _____, seconded by Manager _____ to approve permit application No. 2020-34 with the conditions recommended by staff.



Wetland Buffer Calculations
20' buffer area within parcel:
 14,262 SF, which is 2,507 SF short of 20' buffer area requirements.
40' buffer area within parcel:
 18,074 SF, which is 14,099 SF short of 40' buffer area requirements.
Note: Buffer limits shown were taken from the water's edge in the wetland, not from a wetland boundary determination.

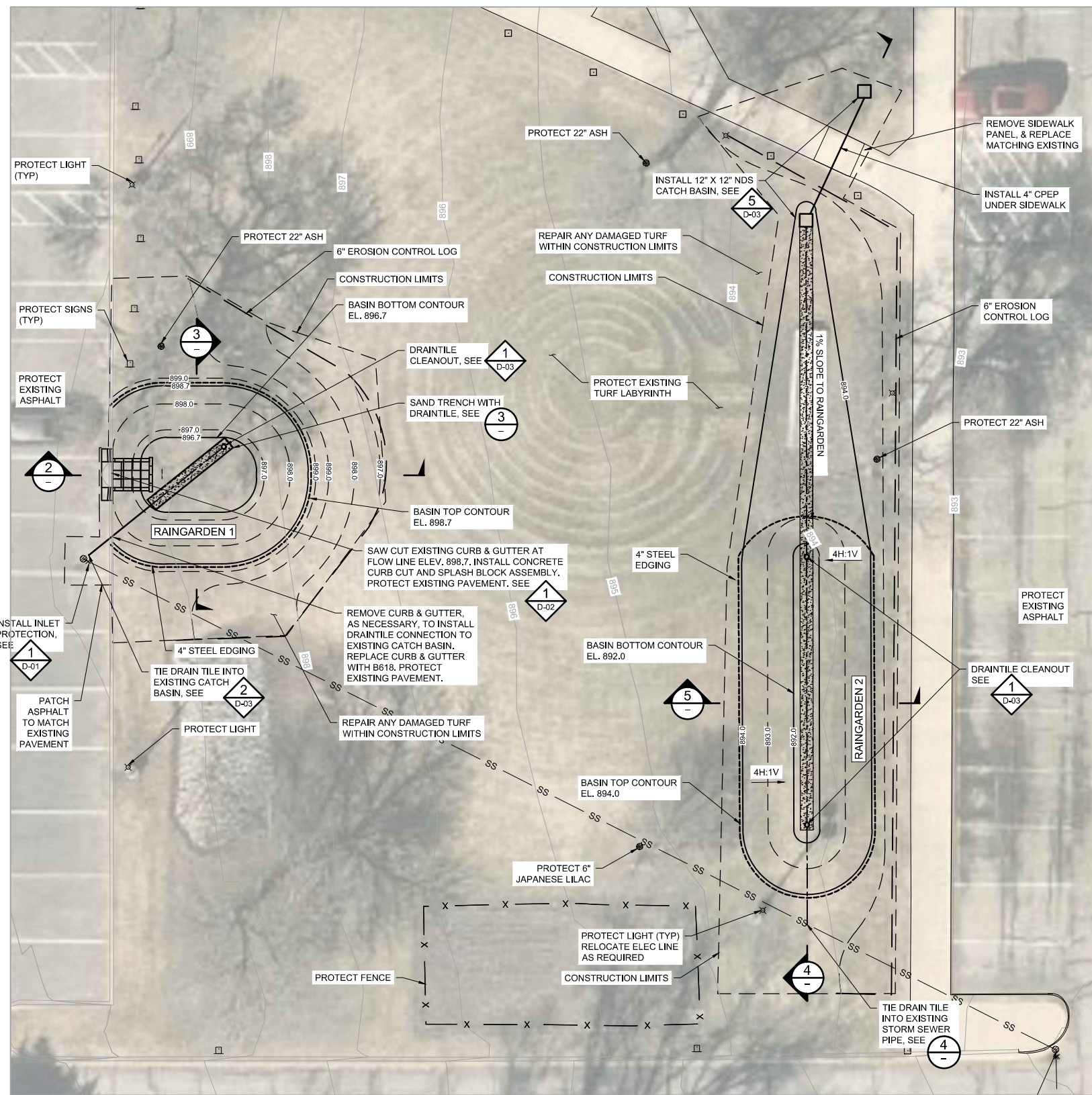
**Non-Profits 2019 BMP Retrofit Projects:
 Wetland Buffer Permit Requirement - Variance Request**

St. Edwards Catholic Church
 9401 Nesbitt Ave S., Bloomington, MN

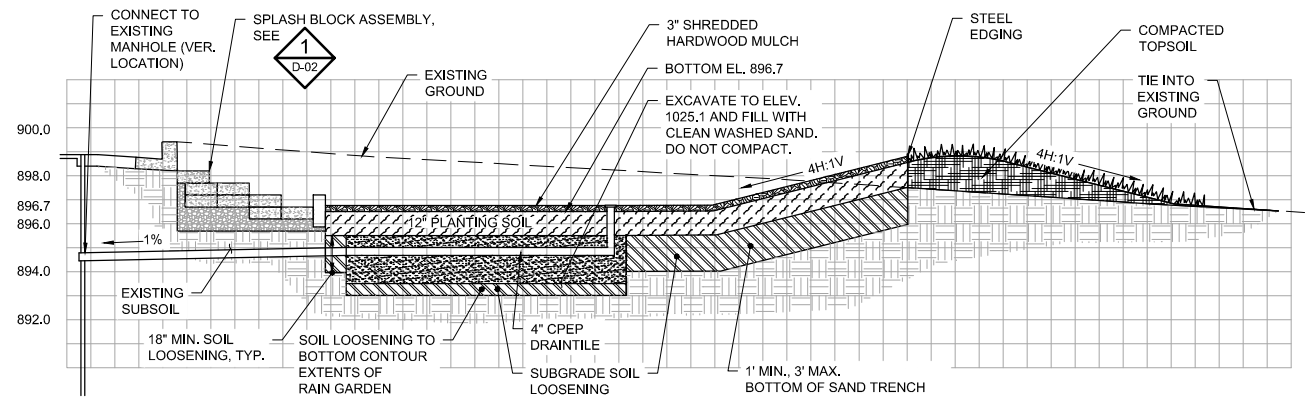


	Parcel Boundaries		20' Buffer within Parcel
	10-Foot Contour		40' Buffer within Parcel
	2-Foot Contour		20' Buffer not met
	National Wetland Boundary		40' Buffer not met
	Public Water Inventory Wetland		

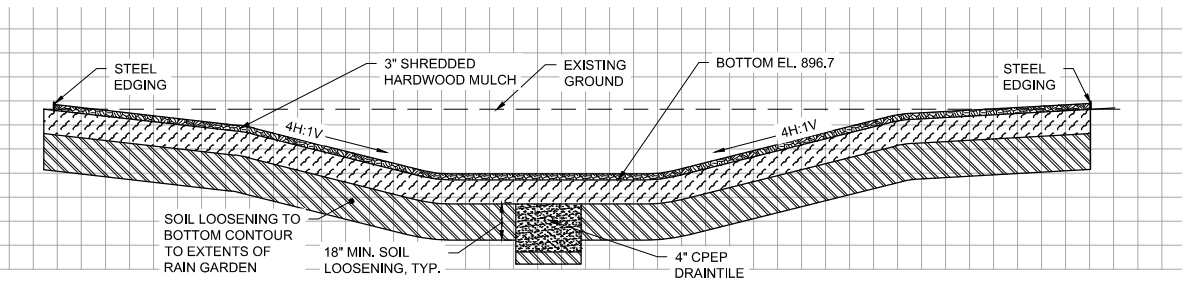
CADD USER: MATT KUMKA FILE: M:\DESIGN\23270634_00\2327063400_NONPROFIT_CADD\DWG_PLOT SCALE: 12.5849 PLOT DATE: 2/6/2020 10:17 AM



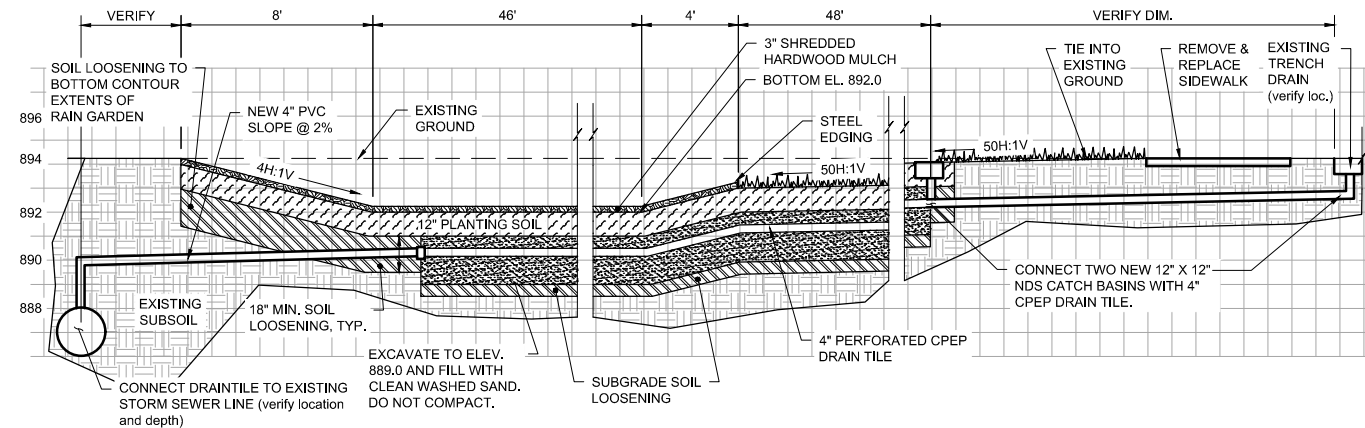
1 PLAN: GRADING, EROSION CONTROL, AND REMOVALS



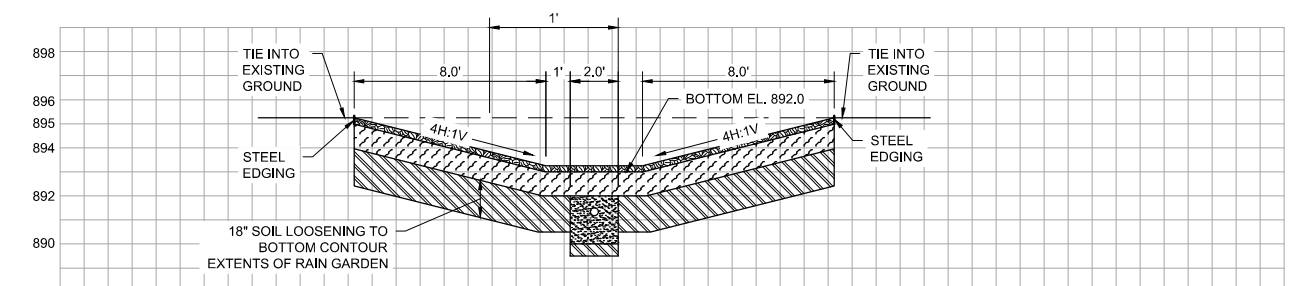
2 PROFILE: RAINWATER GARDEN 1
NOT TO SCALE



3 SECTION: RAINWATER GARDEN 1
NOT TO SCALE



4 PROFILE: RAINWATER GARDEN 2
NOT TO SCALE



5 SECTION: RAINWATER GARDEN 2
NOT TO SCALE

ISSUED FOR BID
AND CONSTRUCTION

1 I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA. PRINTED NAME: MATTHEW E. KUMKA SIGNATURE: <i>[Signature]</i> DATE: 01/17/2020 LICENSE #: 53974				CLIENT: [2/4/19] BID: 1/17/20 2:05/20 CONSTRUCTION: 1/17/20 RELEASED TO/FOR: A B C 0 1 2 3 DATE RELEASED:				Project Office: BARR ENGINEERING CO. 4300 MARKETPOINTE DRIVE Suite 200 MINNEAPOLIS, MN 55435 Corporate Headquarters: Minneapolis, Minnesota Ph: 1-800-632-2277 Fax: (952) 832-2601 www.barr.com				Scale: AS SHOWN Date: 01/17/2020 Drawn: PEB Checked: MEK2 Designed: PEB Approved: MEK2				NINE MILE CREEK WATERSHED DISTRICT EDEN PRAIRIE, MN				NONPROFIT SITES BMP RETROFITS CONSTRUCTION 2020 ST EDWARDS CATHOLIC CHURCH GRADING, EROSION CONTROL, & REMOVALS PLAN				BARR PROJECT No. 23/27-0634.00 CLIENT PROJECT No. DWG. No. C-03 REV. No. 1			
NO.	BY	CHK.	APP.	DATE	REVISION DESCRIPTION																						
1	EEF	MEK2	MEK2	02/05/2020	ADDENDUM #1- CURB AND GUTTER TYPE																						
0	PEB	EEF	MEK2	01/17/2020	ISSUED FOR BID AND CONSTRUCTION																						