

Applicant: Bob Simons; City of Bloomington
Consultant: Sam Westlund; SRF Consulting Group
Project: France Avenue Trail
Location: West 84th Street to Old Shakopee Road: Bloomington
Rule(s): 2,3,6, and 10
Reviewer: BCO

General Background & Comments

The City of Bloomington is proposing to construct a multi-use (non-motorized) off-street trail along the west side of France Avenue from West 84th Street to Old Shakopee Road. The project will include ADA and intersection improvements. The existing bicycle and pedestrian trail on the west side of France are a patch work of sidewalks, narrow trails and paved shoulders. The existing trail provides little if any separation between trail users and vehicular traffic along France Avenue.

Approximately three miles of trail including a boardwalk (15,840 feet in length) along the corridor will be constructed to comply with current standards for multi-use trails including width, intersection crossings, in addition to an improved crossing of the creek upstream from France Avenue. The typical trail width will be 10 feet and the boardwalk 14 feet wide.

The project will disturb approximately 8.6 acres and result in a decrease of 0.1 acres in impervious area. The existing impervious area is 3.5 acres, proposed impervious area is 3.4 acres and the boardwalk is 0.7 acres. The trail is considered a linear project and as stated in Rule 4.2.4 for linear projects creating less than one (1) acre of new or additional impervious area, the stormwater requirements of Rule 4.3.1 do not apply.

The District's wetland buffer Rule (3.4) applies to the project because of the medium value wetland, College Pond MDNR #27-12W, identified along the corridor alignment. The District's buffer requirements are not applicable to the trail location riparian to Marsh Lake, MDNR #27-1051P. A variance is required for the location of two section of the trail alignment within the 20 foot minimum wetland buffer setback. The City of Bloomington is the local governmental unit administering the requirements of the Wetland Conservation Act.

The District's Erosion and Sediment Control Rule (5.2.1a and b) applies to the project because of both the area and volume of disturbance proposed. The District's Waterbody Crossings and Structures Rule (6) applies to the project because of the proposed crossing of the creek south of West 90th Street.

Exhibits

1. Permit Application dated December 18, 2018.
2. Plan set, not dated, submitted on December 18, 2018 prepared by SRF Consulting Group.

3. Project narrative prepared by SRF Consulting Group dated December, 2018.
4. E-mail correspondence dated December 26, 2018 from the MDNR stating the project will not require a separate permit from the MDNR as long as a NMCWD permit is obtained for the work.
5. E-mail correspondence dated December 26, 2018 outlining 6 items required for the application to be considered complete by the District.
6. Wetland delineation report dated November, 2017 prepared by SRF Consulting Group.
7. WCA Notice of Decision dated November 7, 2017 approving the wetland boundary determination.

The project submittal is complete.

2.0 Floodplain Management and Drainage Alterations

The trail project design calls for 1,714 cubic yards of fill in the floodplain of Nine Mile Creek (Marsh Lake) triggering NMCWD Rule 2.0. To minimize floodplain impacts, the majority of the trail will be constructed as a boardwalk from West 90th Street to approximately 300 feet south of the creek crossing of France Avenue. The fill is a result of the placement of 12-inch diameter steel pipes for piling to support the boardwalk and minor filling/grading at the ends of the boardwalk where the trail intersects France Avenue. Compensatory storage of 1,721 cubic yards is provided. The compensatory storage is to be provided within +/- one (1) foot of the 100-year flood elevation of 806.6 M.S.L. of the creek (within Marsh Lake), in accordance with Rule 2.3.2a. The low chord elevation of the boardwalk, considered a structure as with the Three Rivers trail project, is to be a minimum of two (2) feet above the 100-year flood elevation of 806.6 M.S.L., complying with Rules 2.3.1 and 4.3.3.

3.0 Wetlands Management

A portion of the proposed trail alignment, as with the existing trail, will be located within the boundaries of Marsh Lake and riparian to College Pond (adjacent to Normandale College). The City of Bloomington is the local governmental unit administrating the requirements of the Wetland Conservation Act. Marsh Lake is a public water, MDNR #27-1051P, as identified by the Minnesota Department of Natural Resources, not a wetland, therefore the District's buffer requirements, Rule 3.4, are not applicable. College Pond, MDNR #27-12W, has been determined to be a medium value wetland requiring a minimum 20 foot and an average 40 foot buffer. The documentation provided shows under existing conditions an area of 555 square feet is within the required 20 foot minimum buffer and 9,842 square feet is provided within the 40 foot average buffer. The proposed trail location will increase the minimum buffer to 683 square feet and increase the average buffer to 9,889 square feet. The buffer area increase results from the removal of the existing trail and the reestablishment of wetland buffer. There is, however, one location where the proposed trail is within 10 feet of the wetland boundary for a distance of approximately 25 feet. There are two sections of the trail to be located a distance of 15 feet from the wetland boundary. The first section is for a distance of 105 feet and the second a distance of 120 feet. A variance from Rule 3.4.1b will be required for the trail in these two locations and is further discussed in the Rule 10 paragraphs. As previously stated, the trail is for non-motorized use.

5.0 Erosion and Sediment Control

The proposed work is to begin in the spring, 2019, April time frame. The boardwalk work within the wetland area and adjacent to the creek will begin after June 30th. Sediment control logs, inlet protection and flotation silt curtain will be installed to minimize material from leaving areas disturbed during construction. The project contact is Bob Simons Segar, city of Bloomington.

6.0 Waterbody Crossings and Structures

The project proposes a crossing of Nine Mile Creek with a boardwalk approximately 40 feet upstream of the France Avenue crossing of the creek. The work is within the boundaries of Public Water #27-1051P. Rule 6.3.1 states Construction, improvement, repair or removal of a waterbody crossing in contact with the bed or bank of a waterbody:

- a) *Shall retain adequate hydraulic capacity and assure no net increase in the flood stage of the pertinent waterbody:*

The existing creek crossing of France Avenue is two 8 foot x 8 foot box culverts (that will not be affected by the project) located approximately 1,900 feet south of West 90th Street. The 100-year flood elevation of the creek at this location (806.6 M.S.L.) overtops France Avenue. The 14 foot wide boardwalk will cross the creek approximately 40 feet upstream, to the west of France Avenue. The boardwalk is to be placed on 12-inch diameter steel piles spaced approximately 30 feet apart. A no-rise certification has been prepared by SRF for the City for submittal to the MDNR stating that the boardwalk crossing of the creek will not impact the floodway width or 100-year flood elevation of the creek.

- b) *Shall retain adequate navigational capacity pursuant to any requirements of the waterbody's classification by the District:*

This portion of the creek is typically not used for navigation.

- c) *Shall not adversely affect water quality, change the existing flowline/gradient, or cause increased scour, erosion or sedimentation:*

As stated in item (a), the hydraulic capacity of the existing system will be maintained as documented in the no-rise certification. Any change in the water quality of the creek or wetland will be temporary during the installation of the piles for the boardwalk. One set of piles will be located in the center of the channel in line with the center wall of the existing box culverts immediately downstream. This closely approximates the current creek flowline condition and gradient and has been accounted for in the modelling for the no-rise certification. During construction, erosion control measures, flotation silt curtain, will be installed to minimize water quality impacts (sedimentation). The potential of increased scour, erosion or sedimentation will not increase as a result of the project since the location of the pilings for the boardwalk replicate the spacing and configuration of the box culverts beneath France Avenue. The area temporarily disturbed by the pile installation could result in some turbidity as a result of the disturbance of the bottom sediments. This material, should it occur, will settle and be contained by the installation of flotation silt curtain and restoration of areas disturbed to pre-project conditions.

- d) *Shall preserve existing wildlife passage along each bank and riparian area:*

The project will not permanently change conditions that will deter wildlife from using the creek or surrounding wetland area once the project is complete. Construction activities may temporarily displace wildlife until the areas is restored to pre-project conditions.

e) *Shall represent the “minimal impact” solution to a specific need with respect to all other reasonable alternatives:*

The other options investigated by the applicant for the crossing included, 1) extending the box culverts for the trail to be located over the boxes, and 2) constructing a pedestrian bridge rather than the boardwalk crossing. The culvert extension would result in additional floodplain and wetland impacts. The cost of a pedestrian bridge was outside the project budget. A “do nothing” alternative would leave an existing non-user friendly trail in place that currently presents a safety concern between trail users and vehicular traffic.

Rule 6.3.3 states, Removal of structures or other waterway obstructions:

a) *Shall maintain the original cross-section and bed conditions to the greatest extent practicable:*

This does not apply.

b) *Shall achieve complete removal of the structure, including any footings or pilings that impede navigation:*

This does not apply.

c) *Shall not involve the removal of a water level control device:*

This does not apply.

Rule 6.3.4 states, *No activity affecting the bed of a protected water may be conducted between April 1 and June 30 on public waterbodies:*

The City has indicated that the project is anticipated to start in early spring, April timeframe. The boardwalk work within the wetland area and adjacent to the creek will begin after June 30th and be completed by late fall, 2019.

10.0 Variances and Exceptions

A variance request for compliance with Rule 3.4.1b (attached) has been prepared by SRF Consulting Group on behalf of the applicant to address Rules 10.1-10.4. The variance request is for compliance with the required minimum buffer of 20 feet from the wetland boundary of Wetland C. Reference to the buffer requirements for Wetland 1A and 1C are not applicable since both are part of Marsh Lake MDNR # 27-1051P and included within the public waters limits. The variance request for Wetland 1A and 1C does not apply in this instance. The location of the proposed trail is dictated by France Avenue. There is one section of the trail alignment that is within 10 feet of the wetland boundary for a distance of approximately 25 feet. There are two sections of the trail, 105 feet and 120 feet in length, proposed within 15 feet of the wetland boundary of College Pond. The existing trail in its current location does not comply with the 20 foot minimum setback.

11.0 Fees

Because the property owner is a public entity, no fees are charged.

Rules 2.0-6.0\$0

12.0 Sureties

Because the property owner is a public entity, the District’s financial assurance requirements do not apply.

Sureties for the project are: \$0

Findings

- 1. The proposed project includes the information necessary, plan sheets and erosion control plan for review.
- 2. Rule 5 and 6 are met.

The applicant is requesting a variance from compliance with Rule 3.4.1b, minimum setback requirement, as applied to the project. The proposed minimum setback will be 10 feet in one location for a distance of approximately 25 feet. There are two sections of the trail, 105 feet and 120 feet in length respectively that is within 15 feet of the wetland boundary.

- 3. The Department of Natural Resources General Permit #1997-6112 applies to authorize the work that is subject to Minnesota Rules 6115, as long as the permittee complies with the conditions of the general permit.

Recommendation

Approval, contingent upon:

- 1. General Conditions of the District.
- 2. A buffer on public land or right-of-way may be documented in a written agreement executed with the District in lieu of a recorded document; the agreement shall state that if the land containing the buffer is conveyed, the public body shall require the buyer to comply with subsection 3.4 of the District Rules.
- 3. Buffer markers in accordance with Rule 3.4.5 are required.

Board Action

It was moved by Manager _____, seconded by Manager _____ to approve permit application No. 18-140 with the conditions recommended by staff.

Permit #: 2018-140
Project Name: France Avenue Trail Replacement/Reconstruction; West 84th Street to Old Shakopee Road:
Bloomington
Approval Date: February 20, 2019

General Provisions

1. All temporary erosion control measures shown on the erosion and sedimentation control plans must be installed prior to commencement of surface or vegetation alteration and be maintained until completion of construction and vegetation is established as determined by NMCWD.

If silt fence is used, the bottom flap must be buried and the maximum allowable spacing between posts is 4-foot on center. All posts must be either 2-inch x 2-inch pine, hardwood, or steel fence posts. If hay bales are used, all bales must be staked in place and reinforced on the downstream side with snow fence.

2. All areas altered because of construction must be restored with seed and disced mulch, sod, wood fiber blanket, or be hard surfaced within two weeks after completion of land alteration and no later than the end of the permit period.
3. Upon final stabilization, the permit applicant is responsible for the removal of all erosion control measures installed throughout the project site.
4. At the entryway onto the site, a rock filter dike being a minimum of two feet in height and having maximum side slopes of 4:1 must be constructed. This rock filter dike will enable construction traffic to enter the site and also provide an erosion control facility.
5. If dewatering is required and sump pumps are used, all pumped water must be discharged through an erosion control facility prior to leaving the construction site. Proper energy dissipation must be provided at the outlet of the pump system.
6. The NMCWD must be notified a minimum of 48 hours prior to commencement of construction.
7. The NMCWD, its officers, employees and agents review, comment upon, and approve plans and specifications prepared by permit applicants and their consultants for the limited administrative purpose of determining whether there is reasonable assurance that the proposed project will comply with the regulations and criteria of the NMCWD. The determination of the NMCWD that issuance of this permit is appropriate was made in reliance on the information provided by the applicant.
8. The grant of this permit shall not in any way relieve the permittee, its engineer, or other professional consultants of responsibility, nor shall it make the NMCWD responsible for the technical adequacy of the engineer's or consultant's work. The grant of this permit shall not relieve the permittee from complying with all conditions and requirements of the permit which shall be retained by the permittee with the permit.
9. The issue of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.
10. This permit is permissive only. No liability shall be imposed upon the NMCWD or any of its officers, agents or employees, officially or personally, on account of the granting of this permit or on account of any damage to any person or property resulting from any act or omission of the permittee or any of its agents, employees, or contractors.

11. In all cases where the doing by the permittee of anything authorized by this permit shall involve the taking, using, or damaging of any property, rights or interests of any other person or persons, or of any publicly-owned lands or improvements or interests, the permittee, before proceeding therewith, shall obtain the written consent of all persons, agencies, or authorities concerned, and shall acquire all necessary property, rights, and interest.
12. The permit is transferable only with the approval of the NMCWD (see NMCWD Rule 1.0). The permittee shall make no changes, without written permission previously obtained from the NMCWD, in the dimensions, capacity, or location of any items of work authorized by this permit.
13. The permittee shall grant access to the site at all reasonable times during and after construction to authorized representatives of the NMCWD for inspection of the work authorized by this permit.
14. This permit may be terminated by the NMCWD at any time deemed necessary in the interest of public health and welfare, or for violation of any of the provisions of this permit.
15. Construction work authorized under this permit shall be completed on or before date specified above. The permittee may, in writing, request that the NMCWD extend the time to complete the project in accordance with NMCWD Rule 1.0.



Permit No.2018-140

Is hereby issued to Bob Simons, City of Bloomington, subject to the conditions specified in the attached form:

For the replacement/reconstruction of the trail along France Avenue from West 84th Street to Old Shakopee Road in Bloomington.

Steve Kloiber, Chair
Nine Mile Creek Watershed District

This permit expires on: March 1, 2020

The buffer between the proposed bituminous trail and the wetlands at the north and south ends of the proposed boardwalk would not meet the minimum 30-foot buffer requirement. However, removing portions of the existing bituminous trail and converting those areas to vegetated buffer would result in a net gain of approximately 0.17 acre of vegetated buffer between France Avenue and the Marsh Lake/Nine Mile Creek wetland complex.

Wetland 3

The portion of the proposed France Avenue Trail located adjacent to Wetland 3 is bounded by the wetland to the west and France Avenue to the east. The existing buffer between the trail and the wetland does not meet the minimum 20-foot buffer requirement. The proposed trail project would reconstruct the trail in place; therefore, the existing buffer width is not anticipated to change as a result of the proposed project.

Reason for Buffer Encroachment

The France Avenue Trail has been identified as a critical component of the regional trail network as it has been designated a Tier 1 Regional Bicycle Transportation Network alignment. Per the Hennepin County 2040 Bicycle Transportation Plan, it is recommended that multi-use trails have a minimum width of eight feet with a two-foot clear zone on each side and a preferred width of ten feet or greater to provide a high quality and safe environment. Improving the trail to meet the recommended design requirements for a multi-use trail and State Aid Rules would encroach into the vegetated wetland buffer (Wetlands 1A and 1C) and maintain existing inadequate buffer widths (Wetlands 1A, 1C, and 3).

- Rule 10.1 Requirements

The following demonstrates why a variance from the wetland buffer rule is justified based on NMCWD requirements in Rule 10.1:

10.1.1 - That because of unique conditions inherent to the subject property, which do not apply generally to other land or structures in the District, undue hardship on the applicant, not mere inconvenience, will result from strict application of the rule.

The buffers between the existing trail and Wetlands 1A and 1C and portions of Wetland 3 do not meet the minimum requirements. In addition, the existing condition of France Avenue Trail is poor and will continue to deteriorate. Segments of the trail are cracked and have become overgrown with vegetation. The trail is comprised of varying segments of paved sidewalk facilities, narrow trails, and highway shoulders with inconsistent widths. Near the bridge crossing over Nine Mile Creek, the trail transitions from an off-road facility to a narrow highway shoulder for approximately 0.25 mile. Improvements are necessary to meet the recommended design requirements for a multi-use trail and State Aid Rules.

Strict application of the NMCWD buffer rule (maintaining a minimum 30-foot buffer at Wetlands 1A and 1C and a minimum 20-foot buffer at Wetland 3) could only be accomplished by either impacting the wetlands or shifting the trail and roadway alignment, which would require additional right of way acquisition and result in additional wetland impacts on the east side of France Avenue.

10.1.2 – That the hardship was not created by the landowner, the landowner’s agent or representative, or a contractor, and is unique to the property. Economic hardship alone may not serve as grounds for issuing a variance if any reasonable use of the property exists under the terms of the District rules;

The need for the variance is driven by the location of the existing trail and roadway in comparison to the wetlands. The City of Bloomington has sought to use the existing trail alignment where possible and has opted to construct a boardwalk through the Marsh Lake/Nine Mile Creek wetland complex to meet the recommended trail design requirements and avoid/minimize floodplain and wetland impacts. *10.1.3 - That the activity for which the variance is sought will not materially adversely affect water resources, flood levels, drainage or the general welfare in the District.*

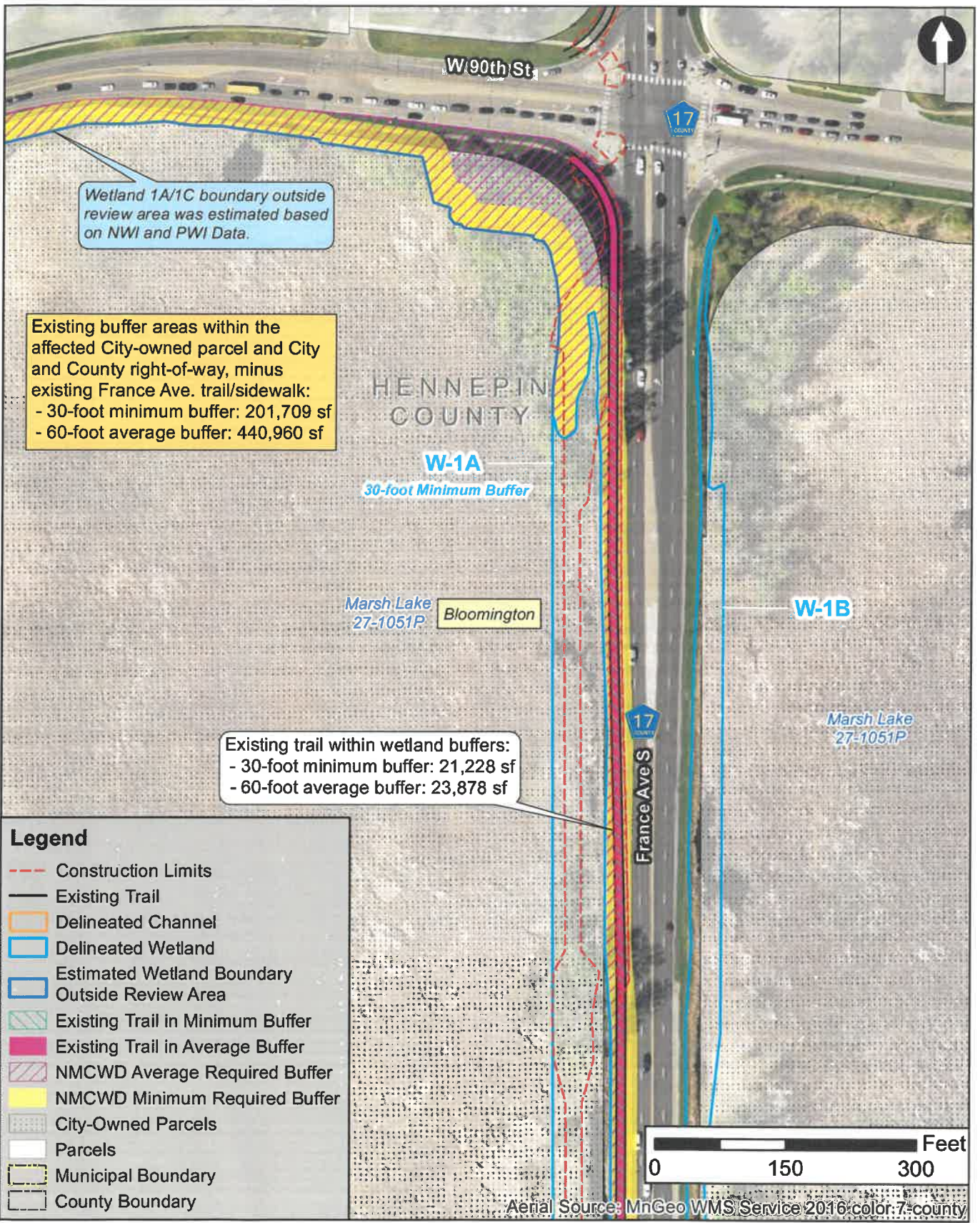
The proposed project would not materially adversely affect water resources, flood levels, drainage, or the general welfare in the District. The proposed boardwalk surface would be two feet above the 100-year water surface, and the set of piers within the Nine Mile Creek channel will be placed in line with the center wall of the existing downstream box culverts. The buffer area would be planted with an NMCWD-approved native seed mix. The project is anticipated to positively affect water resources through the net gain of approximately 0.17 acre of vegetated buffer along Wetlands 1A and 1C. The project is also anticipated to improve general welfare in the District by improving trail pavement conditions, increasing user safety along the corridor, and eliminating gaps in the existing trail network.

10.1.4 - That there is no feasible and prudent alternative to the proposed activity requiring a variance.

The City of Bloomington is proposing improvements to an existing trail system in existing right of way in a developed area. Moving the trail and roadway alignments farther away from Wetlands 1A, 1C and 3 to meet the buffer rule would result in impacts to a wetland complex and a park located east of France Avenue. Alternatively, meeting the buffer rule while maintaining the existing alignment would result in impacts to the wetlands.

Rule 4 – Stormwater Management

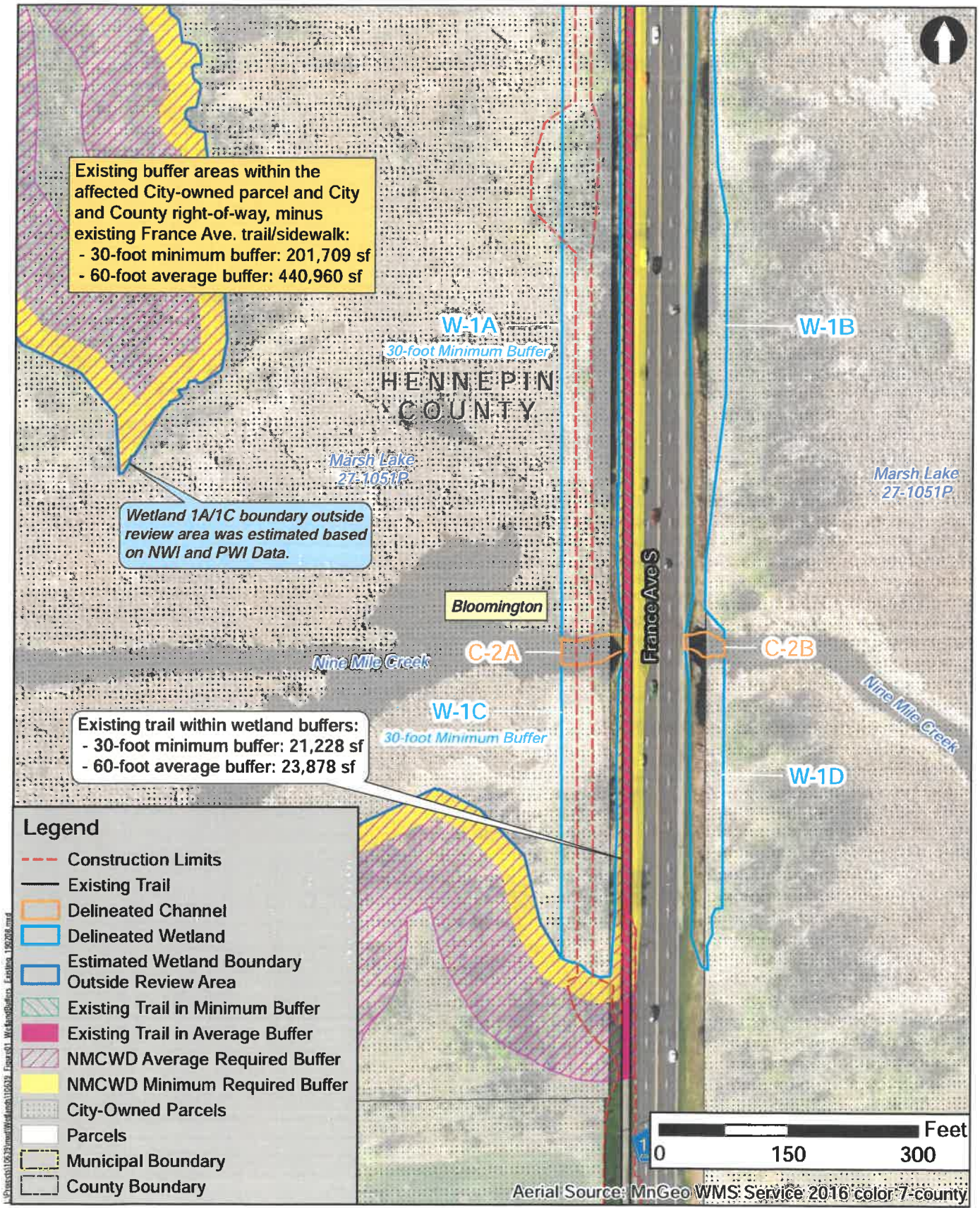
The project is classified as a linear project and will create less than 1 acre of new impervious. Therefore, the Stormwater Management Rule does not apply.



Existing Trail in Wetland Buffers

France Ave. (CSAH 17) Trail Survey & Design - SP 107-020-069 / 2019-201
 City of Bloomington

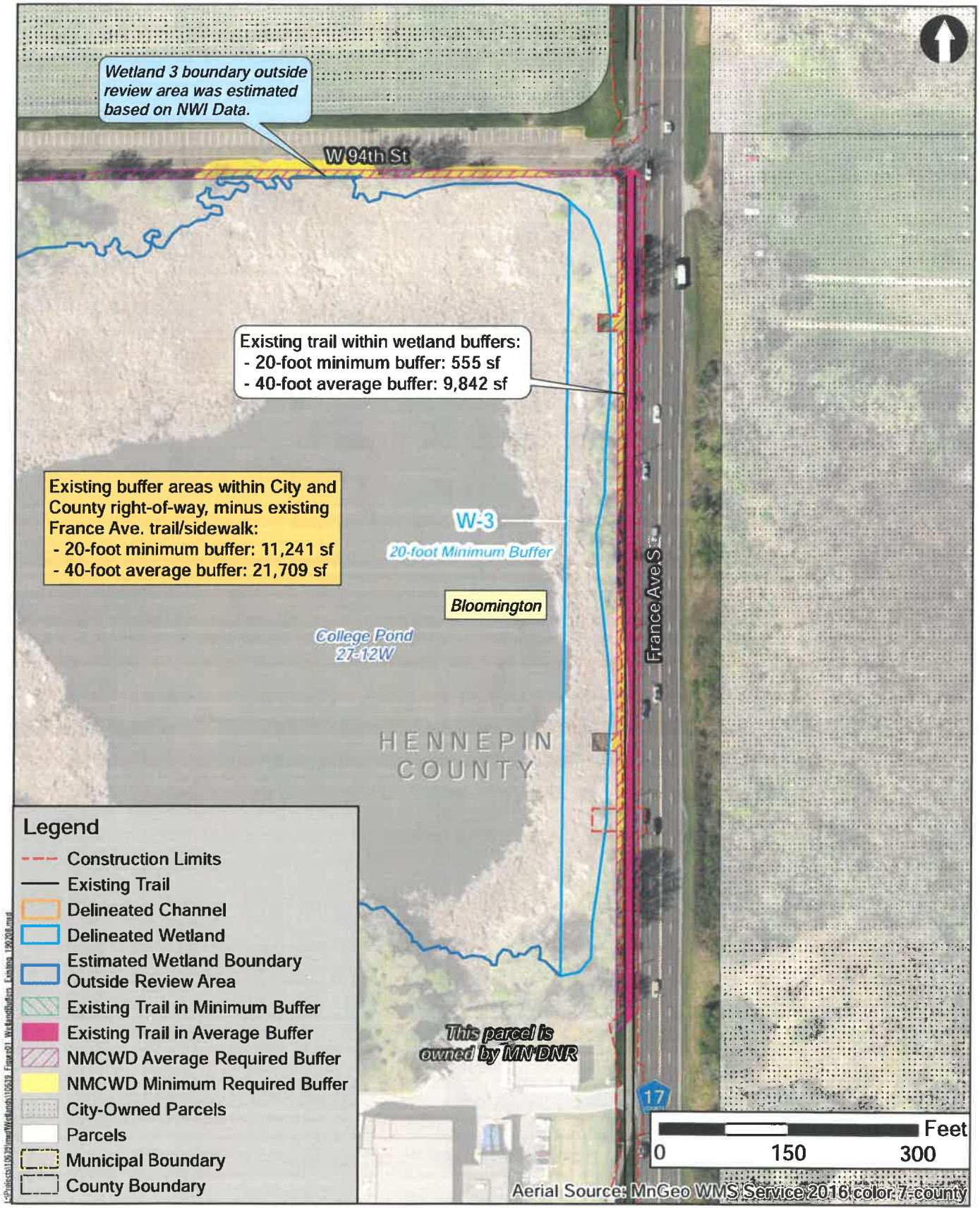
Figure 1



Existing Trail in Wetland Buffers

France Ave. (CSAH 17) Trail Survey & Design - SP 107-020-069 / 2019-201
 City of Bloomington

Figure 2



Existing Trail in Wetland Buffers

France Ave. (CSAH 17) Trail Survey & Design - SP 107-020-069 / 2019-201
 City of Bloomington

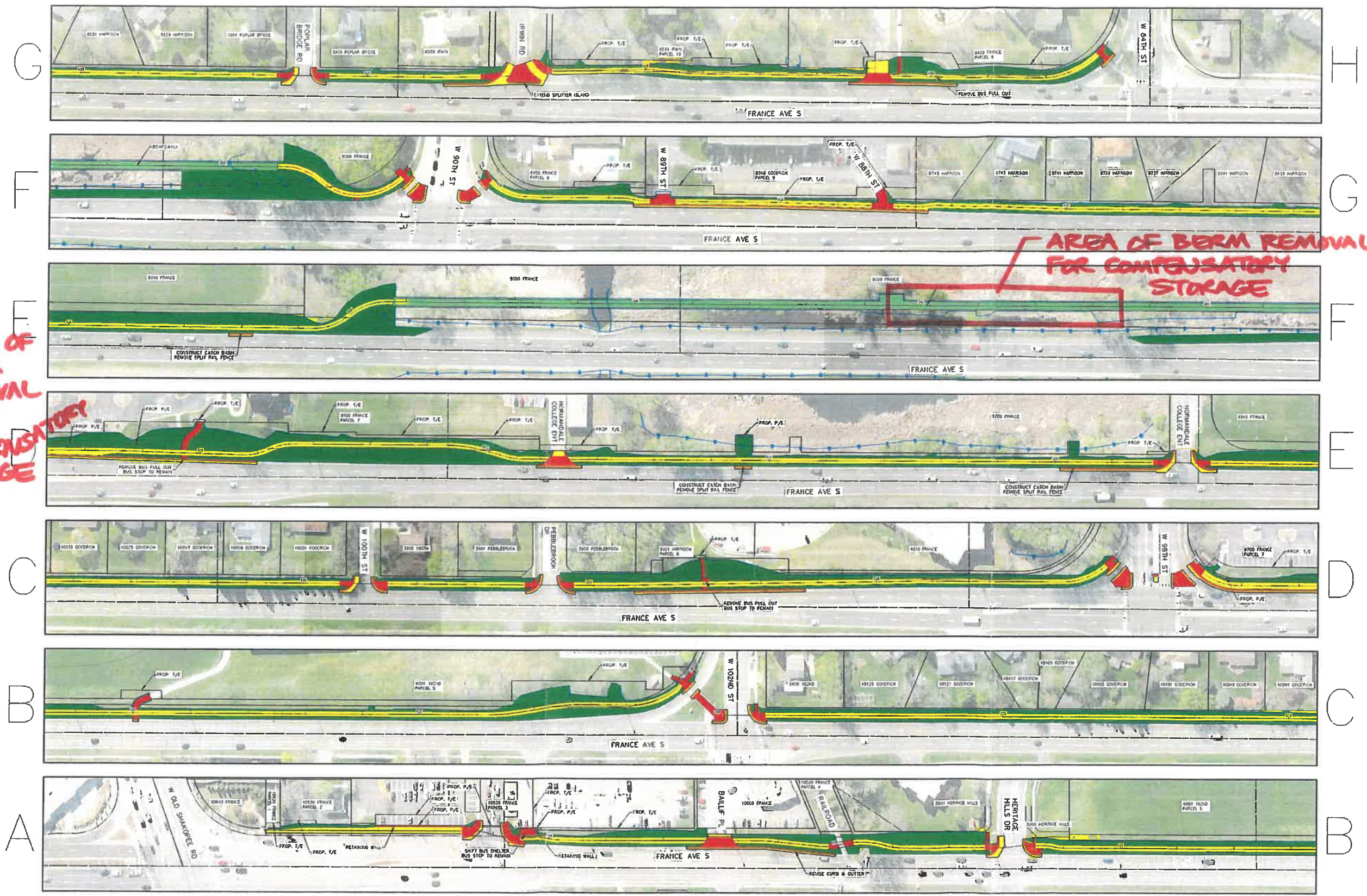
Figure 3

France Ave. (CSAH 17) Trail Survey & Design - SP 107-020-069 / 2019-201

Existing and Proposed Trail Areas in NMCWD Wetland Buffers

Wetlands 1A & 1C (High Value)	Existing Trail Area		Proposed Trail Area	
	Within Min. 30' Buffer (sq. ft.)	Within Avg. 60' Buffer (sq. ft.)	Within Min. 30' Buffer (sq. ft.)	Within Avg. 60' Buffer (sq. ft.)
City Property	0	0	984	1,477
County Property	21,228	23,878	12,093	14,475
Totals	21,228	23,878	13,077	15,952
Net Change				
			-8,151	-7,926

Wetland 3 (Medium Value)	Existing Trail Area		Proposed Trail Area	
	Within Min. 20' Buffer (sq. ft.)	Within Avg. 40' Buffer (sq. ft.)	Within Min. 20' Buffer (sq. ft.)	Within Avg. 40' Buffer (sq. ft.)
City Property	0	0	0	0
County Property	555	9,842	683	9,889
Totals	555	9,842	683	9,889
Net Change				
			128	47



AREA OF BERM REMOVAL FOR COMPENSATORY STORAGE

AREA OF BERM REMOVAL FOR COMPENSATORY STORAGE

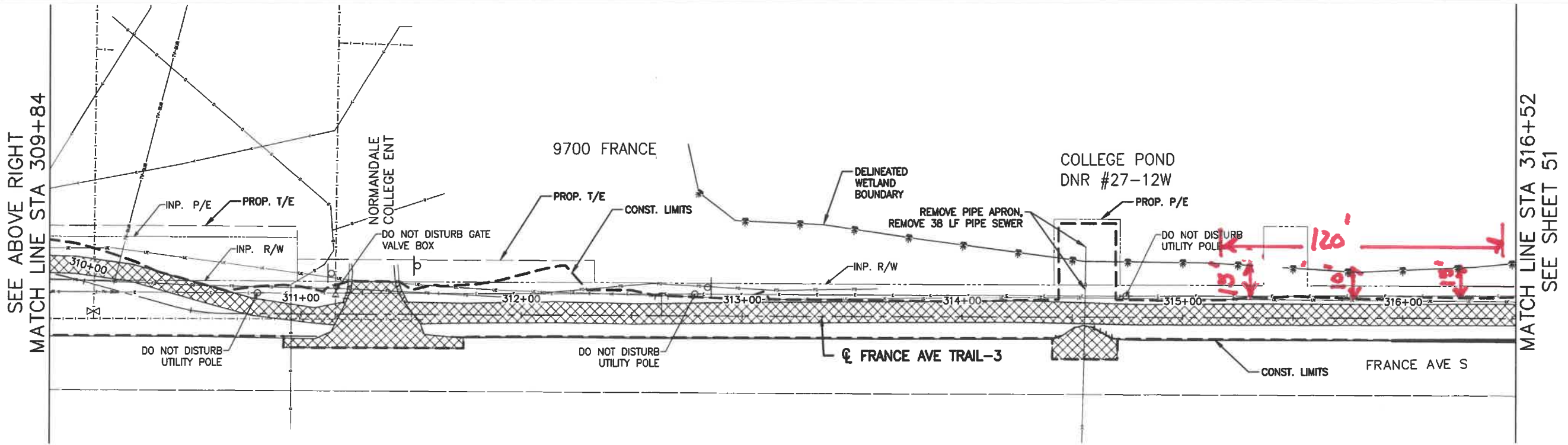
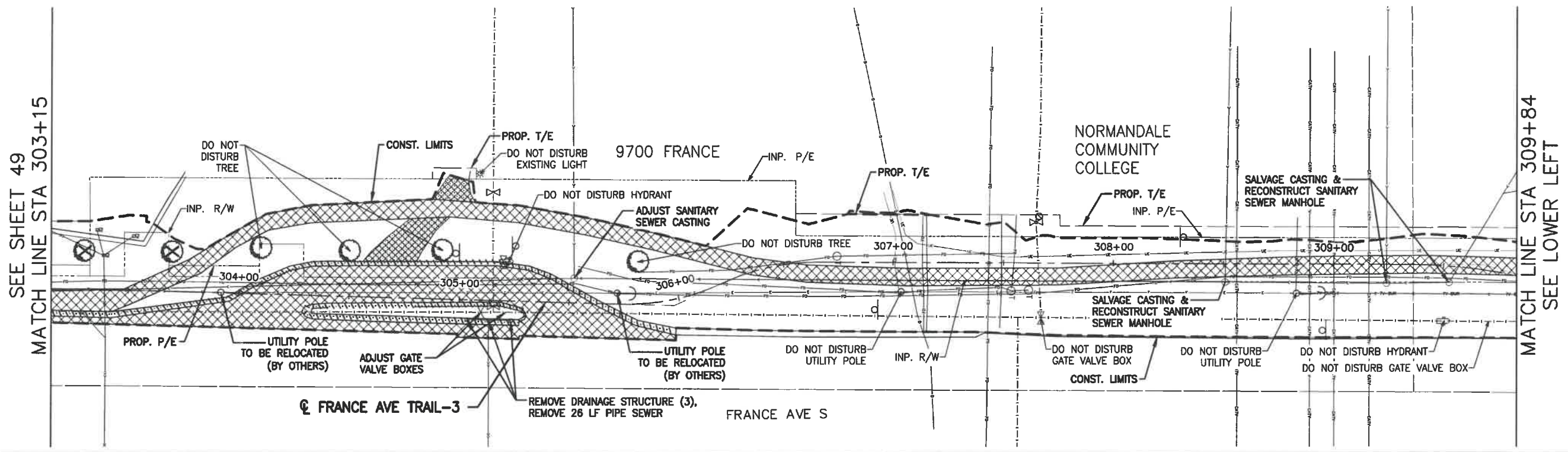
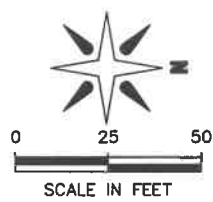


FRANCE AVENUE MULTI-MODAL TRAIL PROJECT

W OLD SHAKOPEE ROAD TO W 84TH STREET
90% DESIGN - 8/9/2018



FRANCE AVENUE MULTI-MODAL TRAIL



EXISTING TOPOGRAPHY, UTILITY,
& REMOVAL PLAN
FRANCE AVENUE MULTI-MODAL TRAIL
S.P. 107-020-069
FROM STA. 303+15 TO 316+52

CITY OF BLOOMINGTON
1700 W BERTH ST.
BLOOMINGTON MN 55401
PHONE (612) 253-0700
ENGINEERING DIVISION
PUBLIC WORKS DEPARTMENT
2019-201 FRANCE AVENUE MULTI-MODAL TRAIL

REVISIONS	DATE	DESCRIPTION	BY

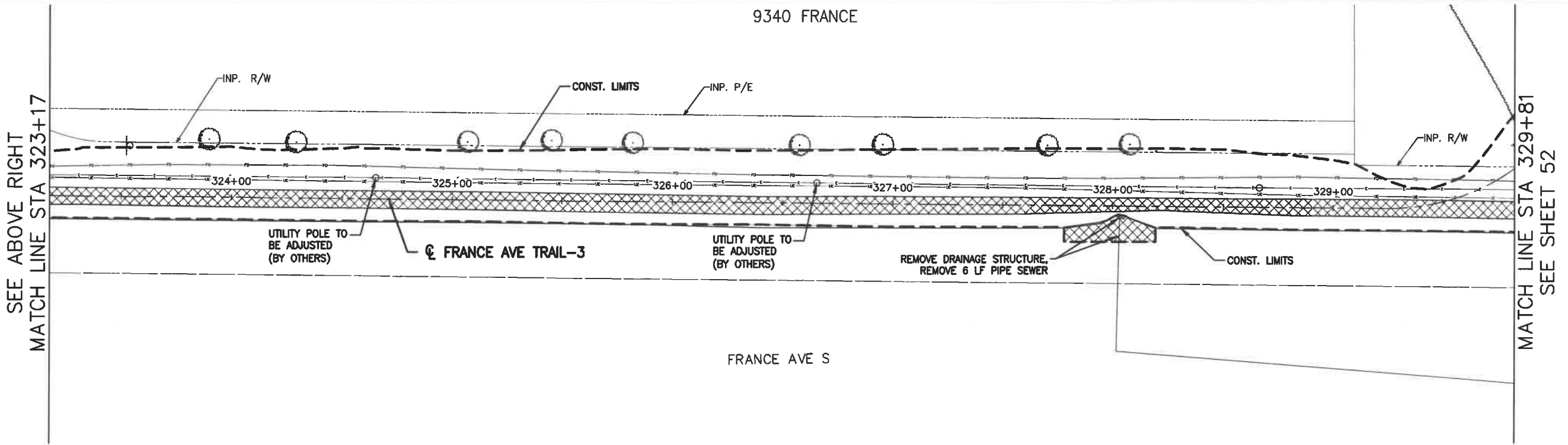
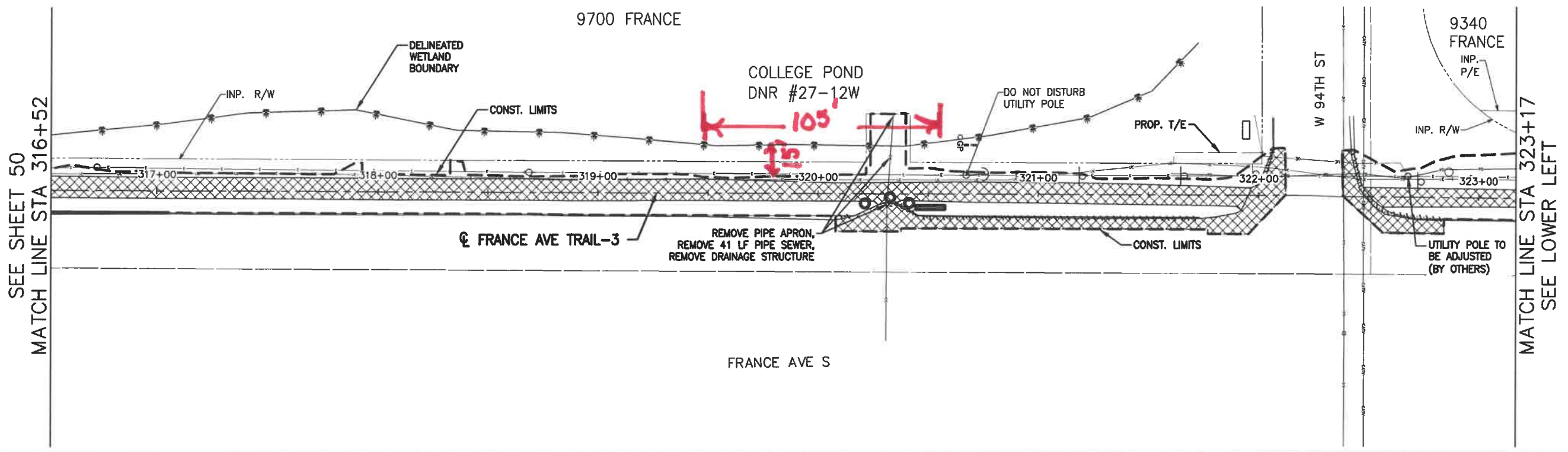
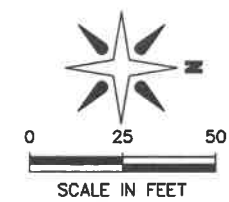
I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

STEVEN B. PRUSAK LIC. # 47622 DATE

DRAWN: ADG/TAM
CHECKED: SBP
S.P. 107-020-069
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FRANCE AVENUE MULTI-MODAL TRAIL



EXISTING TOPOGRAPHY, UTILITY,
& REMOVAL PLAN
FRANCE AVENUE MULTI-MODAL TRAIL
S.P. 107-020-069
FROM STA. 316+52 TO 329+81

CITY OF BLOOMINGTON MINNESOTA
ENGINEERING DIVISION
PUBLIC WORKS DEPARTMENT
1700 W 94TH ST. BLDG 800
PHONE (612) 868-8700
2019-201 FRANCE AVENUE MULTI-MODAL TRAIL

DATE	DESCRIPTION	BY

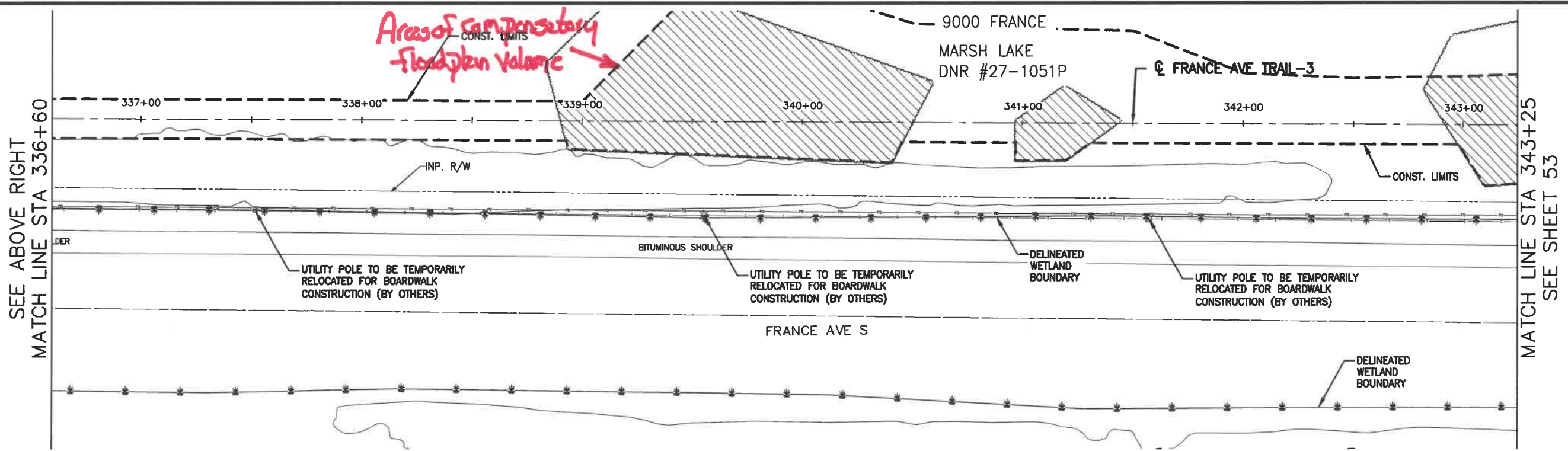
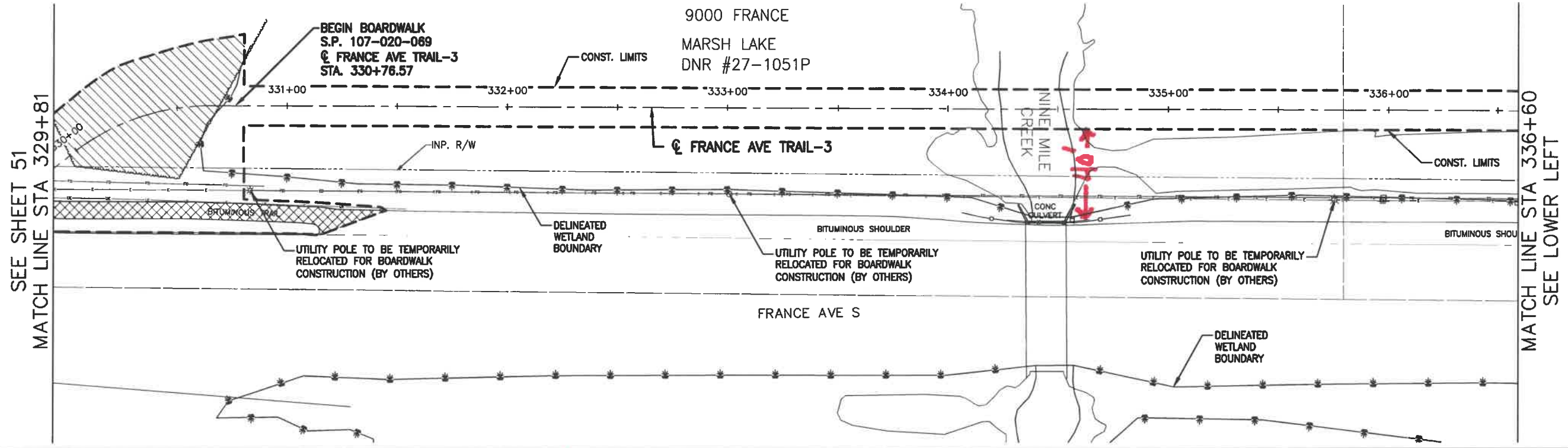
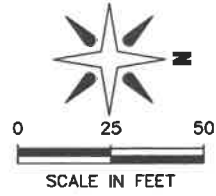
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STEVEN B. PRUSAK LIC. # 47622 DATE

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CHECKED: SBP
S.P. 107-020-069
SHEET:
51 OF 183

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FRANCE AVENUE MULTI-MODAL TRAIL



SEE SHEET 51
MATCH LINE STA 329+81

MATCH LINE STA 336+60
SEE LOWER LEFT

SEE ABOVE RIGHT
MATCH LINE STA 336+60

MATCH LINE STA 343+25
SEE SHEET 53

EXISTING TOPOGRAPHY, UTILITY,
& REMOVAL PLAN
FRANCE AVENUE MULTI-MODAL TRAIL
S.P. 107-020-069
FROM STA. 329+81 TO 343+25

CITY OF
BLOOMINGTON
MINNESOTA
ENGINEERING DIVISION
PUBLIC WORKS DEPARTMENT
2019-201 FRANCE AVENUE MULTI-MODAL TRAIL

REVISIONS	DATE	DESCRIPTION	BY

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
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52 OF 183