

Permit Application Review

Permit No. 2020-96
Received complete: September 8, 2020

Applicant: Julie Long: City of Bloomington

Consultant:

Project: Trail Improvements

Location: West Bush Lake Road from West 86th Street Circle to Park Knoll Circle:
Bloomington

Rule(s): 3, 5 and 10

Reviewer(s): BCO

General Background & Comments

The City of Bloomington is proposing to improve and existing 7-foot wide non-motorized bituminous trial constructed in 1978. The improved multiuse trail along the west side of West Bush Lake Road from West 86th Street Circle to Park Knoll Circle will be 10 feet wide (centered along the centerline of the existing trail alignment) and, according to the city, is designed to meet American with Disabilities Act (ADA) guidelines. Because the trail project is a public improvement within the West Bush Lake linear corridor, the project is analyzed under the linear project provisions of the District rules. As stated in Rule 4.2.4, for linear projects creating less than one (1) acre of new or additional impervious area (0.09 acres, 3,719 square feet, of net new impervious area is to be created), the stormwater requirements of Rule 4.3.1 or 4.3.2 do not apply.

The District's wetland buffer Rule 3.4 applies to the project because the work will take place adjacent to public waters wetland 1015W, Bogen Pond, which has been determined to be a high value wetland from a completed MnRAM, summarized in the City Wetland Protection and Management Plan (Plan). The wetland boundary determination was completed on August 14, 2020. The City of Bloomington is the Local Governmental Unit (LGU) responsible for administering the Wetland Conservation Act (WCA). Per Rule 3.2.2., in cases where the District is not the Wetland Conservation Act LGU, applicable wetland buffer and stormwater treatment criteria (Rules 3.4 and 3.5) nevertheless apply for wetland 1015W downgradient from proposed construction activities. A high value wetland as defined by Rule 3.4.1a requires a minimum 30-foot and 60-foot average buffer width. The distance between the existing and proposed trail and the wetland boundary is approximately 20 feet, not complying with the minimum buffer requirements. The 30-foot minimum and 60- foot average buffer distance extends onto West Bush Lake Road. The city has applied for a variance from Rule 3.4.1a. Rule 3.4.6 does allow for trail designed for non-motorized use to be located within a buffer. There are no wetland impacts proposed by the project.

The District's requirements for erosion and sediment control apply to the project because more than 5,000 square feet or more surface area will be disturbed, Rule 5.2.1a and b. The project utilizes perimeter control, silt fence and/or bio-rolls, for erosion control.

Exhibits

1. Signed Permit Application dated August 26, 2020.
2. Plans dated March 2, 2020 prepared by the City of Bloomington.
3. Wetland boundary determination dated August 14, 2020 prepared by the City of Bloomington.
4. MnRAM determination and classification from the City of Bloomington's Wetland Protection and Management Plan.
5. Correspondence dated August 27, 2020, revised September 8, 2020 from the City of Bloomington requesting a variance from District Rule 3.4.1a.

3.0 Wetlands Management

As previously stated, the District's wetland buffer Rule 3.4 applies to the project as a result of land-disturbing activities upgradient of wetland 1015W, which is on property owned by the city.

The City of Bloomington is the Local Governmental Unit (LGU) responsible for administering the Wetland Conservation Act. Per Rule 3.2.2., in cases where the District is not the Wetland Conservation Act LGU, applicable wetland buffer and stormwater treatment criteria Rules 3.4 and 3.5 nevertheless apply.

The City's Plan classifies the wetland as high value requiring a 30-foot minimum and 60-foot average buffer width, Rule 3.4.1a. We agree with the wetland classification. Both the existing and proposed trail location are shown to be within approximately 20 feet of the wetland boundary for approximately 350 feet, the total length of the trail riparian to the wetland. The city has requested approval of a variance from Rule 3.4.1a for the trail and is further discussed in the Rule 10 paragraphs. As previously stated, the trail is for non-motorized use. Buffer markers, in accordance with Rule 3.4.5, are required to be installed.

The City has indicated that invasive species, buckthorn, will be removed and replaced with native plant species used for establishing a buffer area in a natural condition as set-forth in section 3.4.6 of the District rules.

5.0 Erosion and Sediment Control

Erosion and sediment control plans for the proposed work were submitted. Silt fence, storm drain inlet protection, hydromulch application and erosion control blanketing will be utilized for erosion prevention and sediment control measures. Sod and native seed mixtures will be implemented for final stabilization measures. Restoration, as proposed, complies with the requirements of Rule 3.4.6.

The project contact is Chris Long, City of Bloomington.

10.0 Variances and Exceptions

A variance request for compliance with Rule 3.4.1a (attached) has been prepared by the City of Bloomington to address Rules 10.1-10.4. The variance request is for compliance for both the 30-foot minimum and 60-foot average buffer required from the boundary of wetland 1015W. The location of both the existing and proposed trail is dictated by West Bush Lake Road. The trail alignment that is within 30 feet of the wetland boundary is approximately 350 feet in length, the total length of the trail riparian to wetland 1005 W. As previously stated, both the 30-foot minimum and 60-foot average distance extend onto West Bush Lake Road. The functionality and integrity of the existing buffer will not be diminished by the project. The only alteration/disturbance proposed being the reconstruction of a 10-foot wide trail and the removal of invasive species (buckthorn). Stormwater

11.0 Fees

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

Rules 3.0 and 5.0 \$0

12.0 Financial Assurances

Because the property owner 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. Rule 5 is met.
2. A variance from section 3.4.1a of the District rules is required by the Board of Managers.

Recommendation

Approval, contingent upon:

1. General Conditions
2. Per Rules 3.4.7 and 6.5, a written agreement is to be provided to the District stating the City's responsibility for the maintenance of the wetland buffer.

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

1. Buffer markers for compliance with Rule 3.4.5 are required.



September 8, 2020

Attn: The Board of Managers
Nine Mile Creek Watershed District
12800 Gerard Drive
Eden Prairie, MN 55346

Re: 2020-110 PMP Trail Improvement Project – Variance Request

Dear Board of Managers:

Background:

As part of the 2020-110 PMP Trail Improvement Project, the existing bituminous trail on the west side of West Bush Lake Road from Oakmere Road to Highwood Drive is scheduled to be replaced. During the permit application process with the Nine Mile Creek Watershed District, it became clear that due to proximity of the proposed trail to Bogen Pond (DNR ID 1015W), a wetland determined to be high value from a previous MnRAM, and the subsequent inability to maintain a 60-foot average buffer, a hardship variance due to existing conditions would be required for the trail project from W. 86th Street Circle to Park Knoll Circle from the Nine Mile Creek Board of Managers. We are requesting a variance from compliance with the wetland buffer rule for 30-foot minimum and 60-foot average due to space constraints between W 86th Street Circle and Park Knoll Circle. On either side of this, the trail will also be reconstructed to Highwood Drive to the north and Oakmere Road to the south. This permit only requests permission to complete the area between W 86th Street Circle and Park Knoll Circle.

Existing Conditions:

The current configuration of West Bush Lake Road was built by a City of Bloomington street project in 1978. The existing bituminous trail on the west side of the street was constructed at the same time as a seven-foot asphalt trail. Since then, the trail has fallen into disrepair and no longer meets the needs of multi-modal users. The existing bituminous trail presents many tripping hazards to both wheelchair users and those with visual impairments. Also, the existing concrete pedestrian ramps at the intersection of Park Knoll Circle no longer meet the requirements set forth in the MnDOT American with Disabilities Act (ADA) guidelines.

Bogen Pond has been identified as high-quality wetland based on the Minnesota Routine Assessment method (MnRAM). A wetland delineation was performed at Bogen Pond on August 14th, 2020 following the Army Corps of Engineer Wetland Delineation Manual. The results of that delineation are attached to this document. The proposed trail configuration will allow for approximately 20 feet of a native

vegetative buffer between the proposed trail and Bogen Pond. The existing backslope down to Bogen Pond varies between 40-45%.

Variance Request:

The Nine Mile Creek Watershed District considers variance request under the condition that the applicant meets four requirements under their Watershed District Rules. The City's permit application meets those four requirements as laid out below.

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 West Bush Lake Road was initially constructed in 1978. The existing trail on the west side was constructed at the same time.

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 hardship was constructed in 1978 well before the Watershed District rules were approved in 2008.

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; and

- There is no alternation that will be occurring within the wetland. The existing buffer will remain in place. The in place invasive species will be removed and replanted with native species.

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

- The alternative would be to leave the existing trail in place. The current trail represents a safety hazard as it no longer meets American with Disabilities Act standards as laid out in MnDOT standards.

Proposed Conditions:

The City of Bloomington is proposing to remove the existing seven-foot asphalt trail and replace it with a new ten-foot wide asphalt trail through this segment. The pedestrian ramps at Park Knoll Circle and W. 86th Street Circle will be reconstructed and brought into compliance with the latest MnDOT ADA standard details. The City will be adding approximately 3,719 square feet of new asphalt trail and concrete pedestrian ramps through this segment. The construction limits of proposed trail do not encroach or fill Bogen Pond at any location through this segment. The proposed trail through this area will not affect water resources, flood levels, or existing drainage patterns. Once completed the boulevard area will be reestablished with black dirt and hydroseed. The City of Bloomington is committed to planting a buffer to the fullest extent possible, approximately 20 feet wide, removing the existing invasive species between the proposed trail and wetland, planting native species, and managing the buffer area to NMCWD maintenance requirements. The removal of invasive species (predominantly buckthorn) and the planting of native species will be an improvement to the area and be better for the wetland downgradient than the current conditions.

Ultimately, the City of Bloomington cannot install a wider buffer because of the placement of West Bush Lake Road. The trail cannot be moved to make way for a wider buffer because, on that segment of West Bush Lake Road, there is no controlled pedestrian crossings. Having two pedestrian crossings at uncontrolled intersections would substantially increase the risk of a pedestrian accident. The City sees much value in wetland buffers and supports their installation where possible, but unfortunately, in this case, the road was built prior to the District's current rules and certainly without the health of this high-value wetland in mind.

The City of Bloomington asks that this variance be considered at the September 2020 Board Meeting. Should any comments or questions arise, please reach out.

Sincerely,

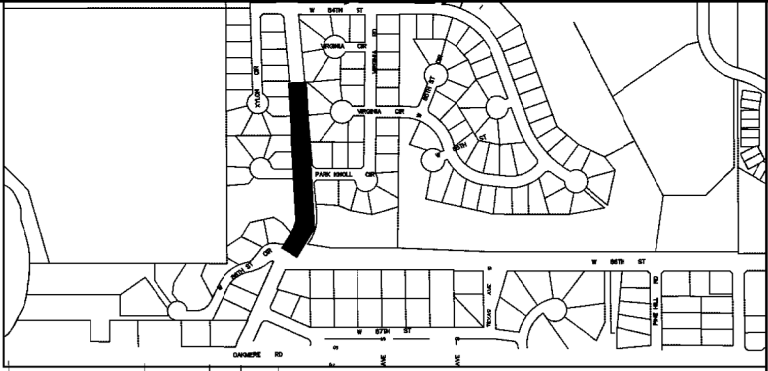
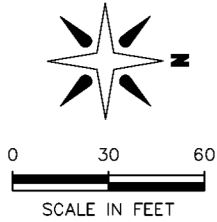
Darin Rezac, PE
City of Bloomington
Engineering Division

Enclosure No. 1: Bogen Pond Wetland Delineation
Enclosure No. 2: West Bush Lake Road Construction & SWPPP Plan Sheet
Enclosure No. 3: MnRAM assessment of Bogen Pond

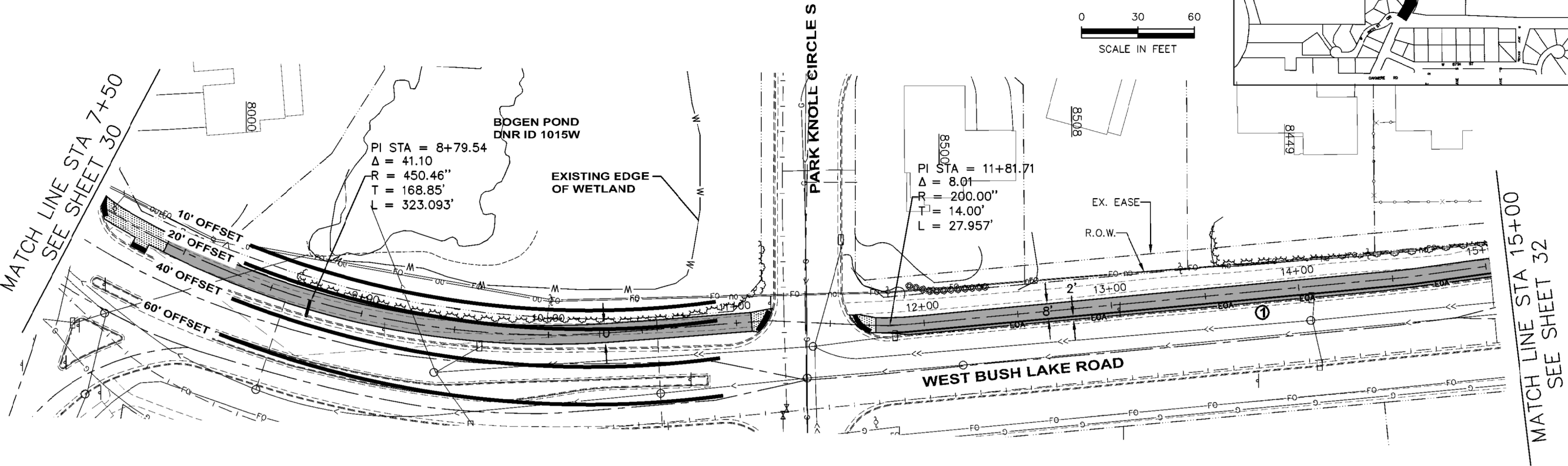
NOTES:
1. 4" SOLID LINE EPOXY (WHITE)

WEST BUSH LAKE ROAD

FROM STA 7+50
TO STA 15+00



TRAIL RECONSTRUCT
WEST BUSH LAKE ROAD:
FROM STA 7+50
TO STA 15+00



CITY OF BLOOMINGTON
1700 W 98TH ST.
BLOOMINGTON MN 55431
PHONE (952) 563-8700
ENGINEERING DIVISION
PUBLIC WORKS DEPARTMENT
2020-110 PMP TRAIL IMPROVEMENT PROJECT

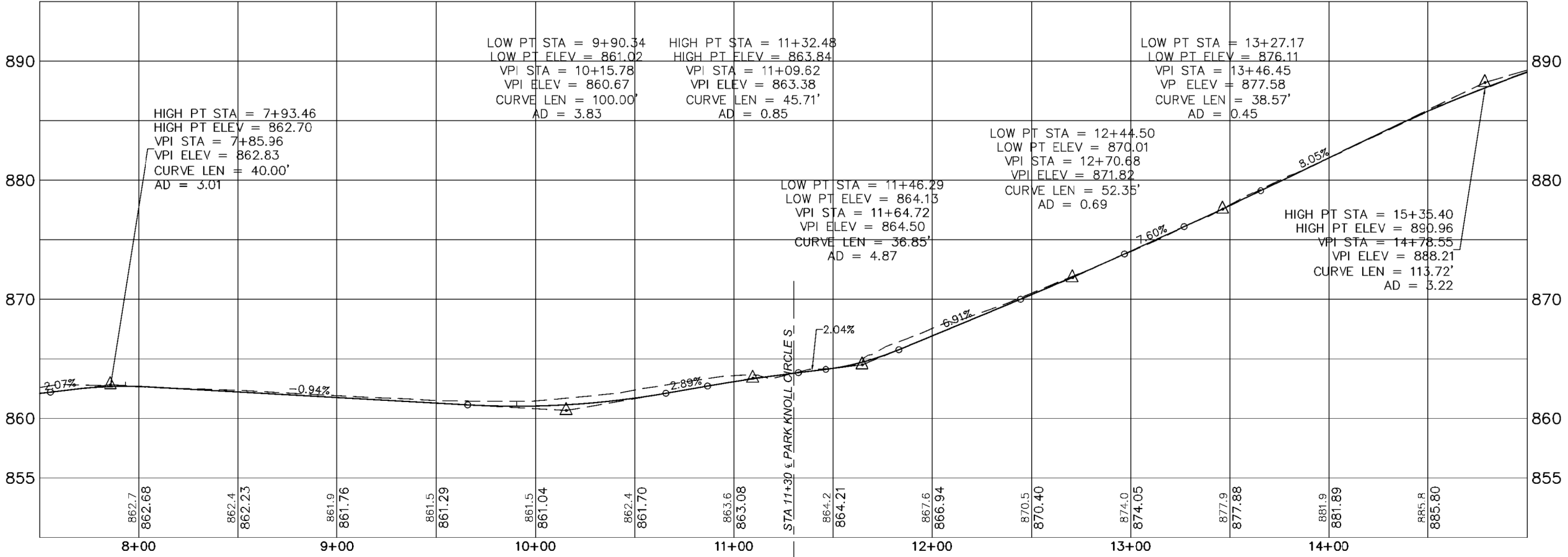
REVISIONS		DATE	DESCRIPTION	BY

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.

DARIN M. REZAC
54750
3/2/20
LIC. #

DRAWN: MJB
CHECKED: CS
APPROVED: DMR

SHEET: 31 OF 60



SCHEDULE 1
NON-PARTICIPATING

Drawing name: H:\PROJECTS\2020\2020-110 PMP Trails\Cad Files\20-110 SWPPP.dwg --- Printed: May 01, 2020 --- 2:15pm

LEGEND

- SILT FENCE, TYPE MACHINE SLICED
- INLET PROTECTION
- EX. RECTANGULAR CB
- EX. STORM MH
- PROP. RECTANGULAR CB
- PROP. STORM MH
- DIRECTION OF SURFACE DRAINAGE
- RAPID STABILIZATION METHOD 3 (SEED MIX 25-131)
- RAPID STABILIZATION METHOD 3 (SEED MIX 33-261)
- RAPID STABILIZATION METHOD 4 (SEED MIX 33-261)
- BIOROLL CHECK DAM

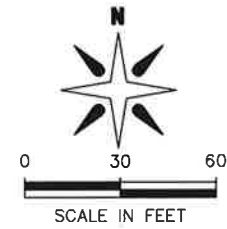
INLET PROTECTION ON ALL CATCH BASINS

PERIMETER SILT FENCE BETWEEN TRAIL AND BOGEN POND

BOGEN POND

WEST BUSH LAKE ROAD

FROM OAKMERE ROAD
TO HIGHWOOD DRIVE

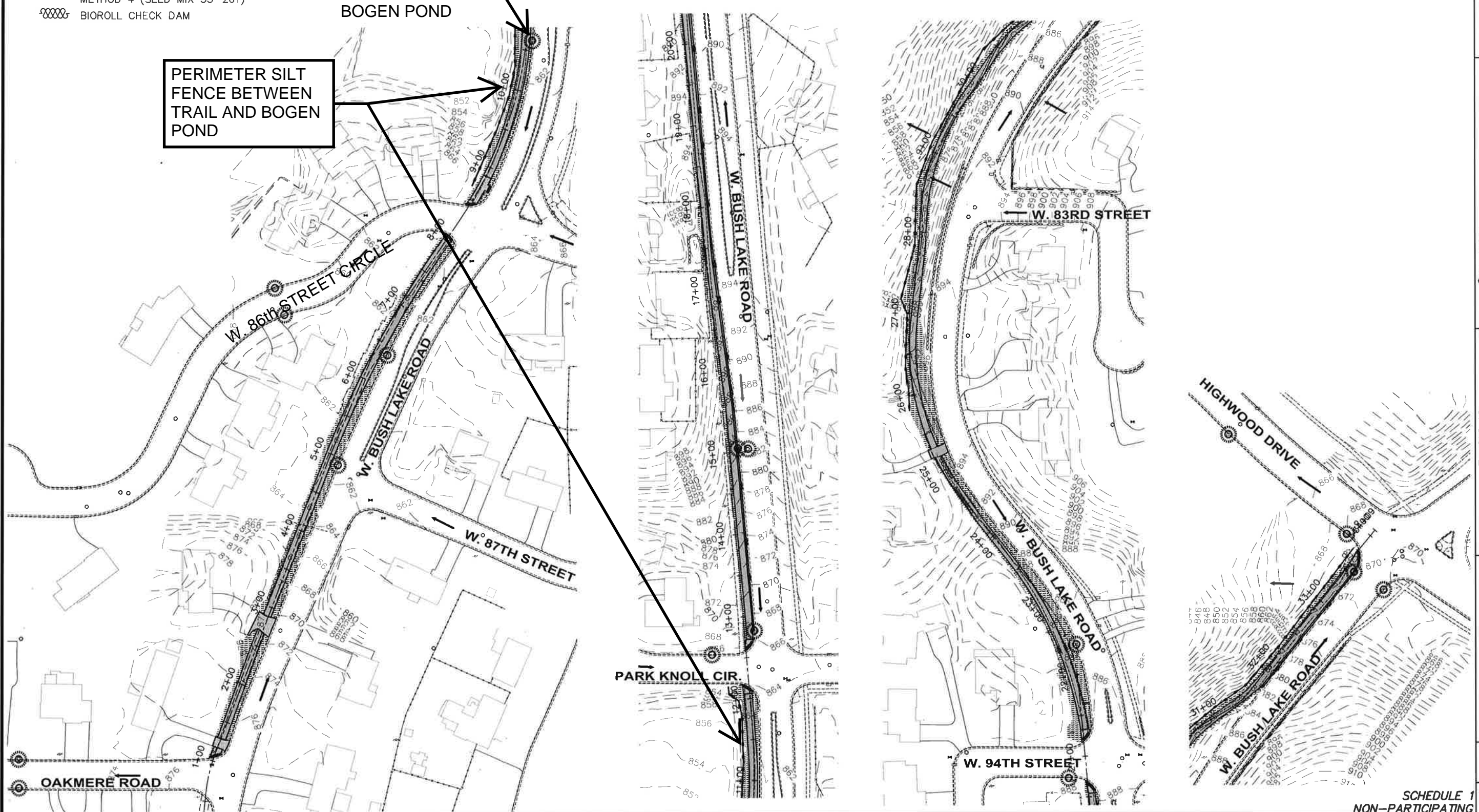


AREA LAND FEATURE CHANGES

TOTAL SITE AREA DISTURBED: 1.26 ACRES
TOTAL EXISTING IMPERVIOUS SURFACE AREA: 0.46 ACRES
TOTAL EXISTING PERVIOUS SURFACE AREA: 0.80 ACRES
TOTAL PROPOSED IMPERVIOUS SURFACE AREA: 0.69 ACRES
TOTAL PROPOSED PERVIOUS SURFACE AREA: 0.57 ACRES

SOIL CLASSIFICATION: LESTER-MALARDI COMPLEX, LOAM

DRAINS TO: 9 MILE CREEK, PICKFAIR POND, BOGAN POND,
TIERNEYS WOODS B., TIERNEYS QUALITY POND



STORM WATER POLLUTION
PREVENTION PLAN (SWPPP)
WEST BUSH LAKE ROAD

CITY OF
BLOOMINGTON
MINNESOTA
1700 W 98TH ST.
BLOOMINGTON MN 55431
PHONE (952) 963-8700
ENGINEERING DIVISION
PUBLIC WORKS DEPARTMENT
2020-110 PMP TRAIL IMPROVEMENT PROJECT

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.
54750 3/2/20 DATE
DARIN M REZAC LIC. #

DRAWN: ARA
CHECKED: CS
APPROVED: DMR

SHEET:
13 OF 60

SCHEDULE 1
NON-PARTICIPATING