



**Planning and Community  
Development Department**  
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## DEVIATION REQUEST AND DECISION FORM

Updated: 6/26/2019

### PROJECT INFORMATION

Project Name :	The Gardens at North Carefree
Schedule No.(s) :	5500000135
Legal Description :	See attached

### APPLICANT INFORMATION

Company :	Mule Deer Investments, LLC
Name :	Heath A. Herber, Manager
	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Consultant <input type="checkbox"/> Contractor
Mailing Address :	2727 Glen Arbor Drive Colorado Springs, CO 80920
Phone Number :	719-331-0083
FAX Number :	
Email Address :	hherber@wheatlandscapital.com

### ENGINEER INFORMATION

Company :	Stantec	Colorado P.E. Number :	24997
Name :	Charles K. Cothorn		
Mailing Address :	5725 Mark Dabling Boulevard Suite 190 Colorado Springs, CO 80919		
Phone Number :	719-432-6889		
FAX Number :	719-227-7392		
Email Address :	Charles.cothorn@stantec.com		

**OWNER, APPLICANT, AND ENGINEER DECLARATION**

To the best of my knowledge, the information on this application and all additional or supplemental documentation is true, factual and complete. I am fully aware that any misrepresentation of any information on this application may be grounds for denial. I have familiarized myself with the rules, regulations and procedures with respect to preparing and filing this application. I also understand that an incorrect submittal will be cause to have the project removed from the agenda of the Planning Commission, Board of County Commissioners and/or Board of Adjustment or delay review until corrections are made, and that any approval of this application is based on the representations made in the application and may be revoked on any breach of representation or condition(s) of approval.

Mule Deer Investments LLC  
Death A Herber, manager  
Signature of owner (or authorized representative)

10/7/2019  
Date

Engineer's Seal, Signature  
And Date of Signature



**DEVIATION REQUEST (Attach diagrams, figures, and other documentation to clarify request)**

A deviation from the standards of or in Section **Chapter 2, Section 2.2.4 B** of the Engineering Criteria Manual (ECM) is requested.

Identify the specific ECM standard which a deviation is requested:

ECM Standard Drawing SD\_2-3: Urban Non-Residential Collector Roadway.

State the reason for the requested deviation:

To allow for a meandering sidewalk rather than a sidewalk parallel to the curb as approved in the PUD zone document for The Gardens at North Carefree. The sidewalk will be located partially in the r.o.w. and partially in an easement.

Explain the proposed alternative and compare to the ECM standards (May provide applicable regional or national standards used as basis):

Akers Drive is designated an Urban Nonresidential Collector. The current standard for this roadway classification is a 5-ft. wide sidewalk located 8-ft. behind the curb. The sidewalk on the west side of the road is 4-ft wide and is located approximately 4-ft. behind the curb.

The applicant proposes a sidewalk that will meander from within 4-ft. of the curb to 10-ft. of the curb instead of remaining parallel to the curb. The sidewalk will be located partially in the r.o.w. and partially within an easement as will be recorded with the plat.

**LIMITS OF CONSIDERATION**

(At least one of the conditions listed below must be met for this deviation request to be considered.)

- The ECM standard is inapplicable to the particular situation.
- Topography, right-of-way, or other geographical conditions or impediments impose an undue hardship and an equivalent alternative that can accomplish the same design objective is available and does not compromise public safety or accessibility.
- A change to a standard is required to address a specific design or construction problem, and if not modified, the standard will impose an undue hardship on the applicant with little or no material benefit to the public.

Provide justification:

The ECM does not have a standard for a meandering sidewalk as approved in the PUD zone document for The Gardens at North Carefree

**CRITERIA FOR APPROVAL**

Per ECM section 5.8.7 the request for a deviation may be considered if the request is **not based exclusively on financial considerations**. The deviation must not be detrimental to public safety or surrounding property. The applicant must include supporting information demonstrating compliance with **all of the following criteria**:

The deviation will achieve the intended result with a comparable or superior design and quality of improvement.

The intended result of a safe pedestrian walkway will be achieved by providing the appropriate walking surface; concrete at 5-ft. wide, and in addition provide a safer "safe harbor" by providing a wider pedestrian area behind the curb with a defacto wider r.o.w. to be used by pedestrians with the plat provision for additional easement to use for the meandering sidewalk. The additional safe area is only provided in the stretches of sidewalk that meander away from the curb; where the sidewalk is located at the standard distance behind the curb the additional safe area does not apply.

The deviation will not adversely affect safety or operations.

The function of the sidewalk will be the same or better with the additional safe area behind the curb. The additional safe area is only provided in the stretches of sidewalk that meander away from the curb; where the sidewalk is located at the standard distance behind the curb the additional safe area does not apply.

The deviation will not adversely affect maintenance and its associated cost.

The sidewalk width will be the same. Sidewalk maintenance cost will be the same.

The deviation will not adversely affect aesthetic appearance.

The deviation will improve the aesthetics along the roadway by providing a meandering sidewalk.

The deviation meets the design intent and purpose of the ECM standards.

The deviation meets the design intent by providing a 5-ft. wide sidewalk for pedestrians to travel behind the curb.

The deviation meets the control measure requirements of Part I.E.3 and Part I.E.4 of the County's MS4 permit, as applicable.

The deviation does not change the sidewalk function for pedestrian or for the Non-Residential Collector; therefore it does not change how the standard Non-Residential Collector meets the control measures requirements as described above in the MS4 permit.

**REVIEW AND RECOMMENDATION:**

**Approved by the ECM Administrator**

This request has been determined to have met the criteria for approval. A deviation from Section \_\_\_\_\_ of the ECM is hereby granted based on the justification provided.

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**Denied by the ECM Administrator**

This request has been determined not to have met criteria for approval. A deviation from Section \_\_\_\_\_ of the ECM is hereby denied.

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**ECM ADMINISTRATOR COMMENTS/CONDITIONS:**

## **1.1. PURPOSE**

The purpose of this resource is to provide a form for documenting the findings and decision by the ECM Administrator concerning a deviation request. The form is used to document the review and decision concerning a requested deviation. The request and decision concerning each deviation from a specific section of the ECM shall be recorded on a separate form.

## **1.2. BACKGROUND**

A deviation is a critical aspect of the review process and needs to be documented to ensure that the deviations granted are applied to a specific development application in conformance with the criteria for approval and that the action is documented as such requests can point to potential needed revisions to the ECM.

## **1.3. APPLICABLE STATUTES AND REGULATIONS**

Section 5.8 of the ECM establishes a mechanism whereby an engineering design standard can be modified when if strictly adhered to, would cause unnecessary hardship or unsafe design because of topographical or other conditions particular to the site, and that a departure may be made without destroying the intent of such provision.

## **1.4. APPLICABILITY**

All provisions of the ECM are subject to deviation by the ECM Administrator provided that one of the following conditions is met:

- The ECM standard is inapplicable to a particular situation.
- Topography, right-of-way, or other geographical conditions or impediments impose an undue hardship on the applicant, and an equivalent alternative that can accomplish the same design objective is available and does not compromise public safety or accessibility.
- A change to a standard is required to address a specific design or construction problem, and if not modified, the standard will impose an undue hardship on the applicant with little or no material benefit to the public.

## **1.5. TECHNICAL GUIDANCE**

The review shall ensure all criteria for approval are adequately considered and that justification for the deviation is properly documented.

## **1.6. LIMITS OF APPROVAL**

Whether a request for deviation is approved as proposed or with conditions, the approval is for project-specific use and shall not constitute a precedent or general deviation from these Standards.

## **1.7. REVIEW FEES**

A Deviation Review Fee shall be paid in full at the time of submission of a request for deviation. The fee for Deviation Review shall be as determined by resolution of the BoCC.

**LEGAL DESCRIPTION – THE GARDENS AT NORTH CAREFREE:**

BEING LOT 2, MULE DEER BUSINESS PARK FILING NO. 1 AND A TRACT OF LAND LOCATED IN THE EAST 1/2 OF SECTION 29, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, EL PASO COUNTY COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF AKERS DRIVE (80 FEET WIDE) AS PLATTED IN MULE DEER BUSINESS PARK FILING NO. 1, RECORDED WITH RECEPTION NO. 206712353 IN THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER, POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY OF NORTH CAREFREE CIRCLE (120 FEET WIDE) AS PLATTED IN PRONGHORN MEADOWS FILING NO. 1, RECORDED WITH RECEPTION NO. 202165571 OF SAID RECORDS:

THE FOLLOWING FIVE (5) COURSES ARE ON THE EASTERLY RIGHT-OF-WAY OF SAID AKERS DRIVE;

- 1) THENCE S00°41'40"E A DISTANCE OF 552.96 FEET TO A POINT OF CURVE TO THE LEFT;
- 2) THENCE ON THE ARC OF SAID CURVE, HAVING A RADIUS OF 960.00 FEET, A DELTA ANGLE OF 04°35'19", AN ARC LENGTH OF 76.88 FEET, WHOSE LONG CHORD BEARS S02°59'19"E A DISTANCE OF 76.86 FEET;
- 3) THENCE S05°16'59"E A DISTANCE OF 277.56 FEET TO THE NORTHWEST CORNER OF LOT 2, OF SAID MULE DEER BUSINESS PARK FILING NO. 1;
- 4) THENCE S05°16'59"E ON THE WESTERLY LINE OF SAID LOT 2, A DISTANCE OF 142.31 FEET TO A POINT OF CURVE TO THE RIGHT;
- 5) THENCE ON THE ARC OF SAID CURVE AND SAID WESTERLY LINE OF LOT 2, HAVE A RADIUS OF 1040.00 FEET, A DELTA ANGLE OF 03°59'26", AN ARC LENGTH OF 72.43 FEET, WHOSE LONG CHORD BEARS S03°17'16"E A DISTANCE OF 72.42 FEET TOT HE SOUTHWEST CORNER OF SAID LOT 2;

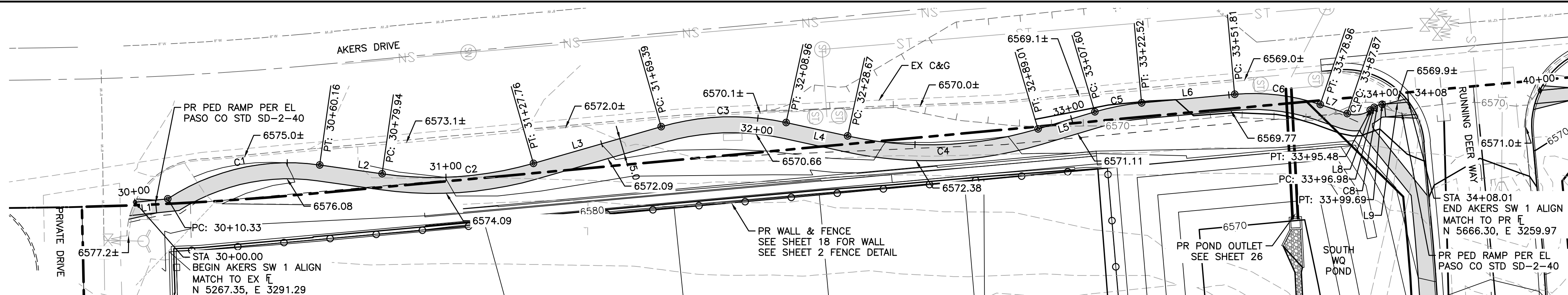
THENCE N88°42'27"E ONO THE SOUTH LINE OF SAID LOT 2, A DISTANCE OF 413.10 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2;

THENCE N00°02'55"E ON THE EAST LINE OF SAID LOT 2, A DISTANCE OF 209.74 FEET TOT HE NORTHEAST CORNER OF SAID LOT 2;

THENCE N00°02'55"E A DISTANCE OF 906.69 FEET TO A POINT ON THE SOUSTHERLY RIGHT-OF-WAY OF SAID NORTH CAREFREE CIRCLE;

THENCE S896°18'20"W ON SAID SOUTHERLY RIGHT-OF-WAY, A DISTANCE OF 467.50 FEET TO THE POINT OF BEGINNING.

THE ABOVE TRACT OF LAND CONTAINS 503,669 SQUARE FEET OR 11.563 ACRES, MORE OR LESS



**LEGEND**

- EX MINOR CONTOUR
- EX MAJOR CONTOUR
- EX WATER
- EX SAN SEWER
- EX GAS
- EX STORM SEWER
- EX WATER VALVE
- EX FIRE HYDRANT
- EX SANITARY SEWER MH
- PR MINOR CONTOUR
- PR MAJOR CONTOUR
- PR WATER LINE
- PR SANITARY SEWER
- PR STORM SEWER
- PR SANITARY SEWER MANHOLE
- PR STORM SEWER MANHOLE
- PR WATER VALVE
- PR FIRE HYDRANT

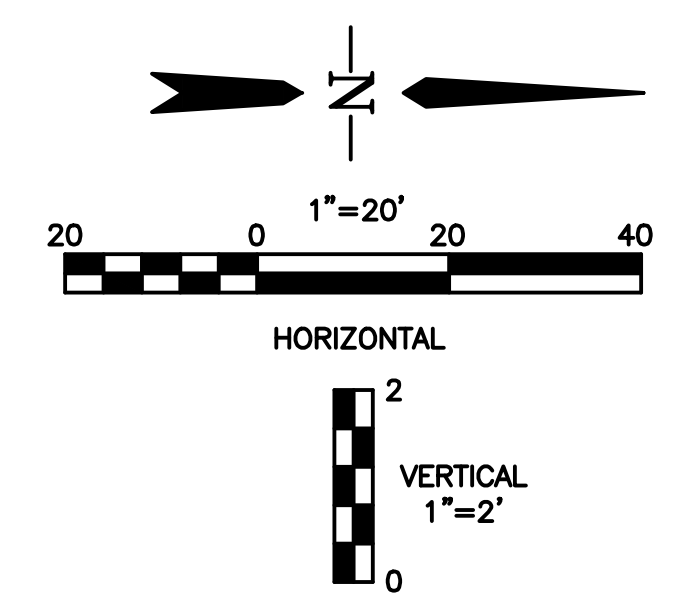
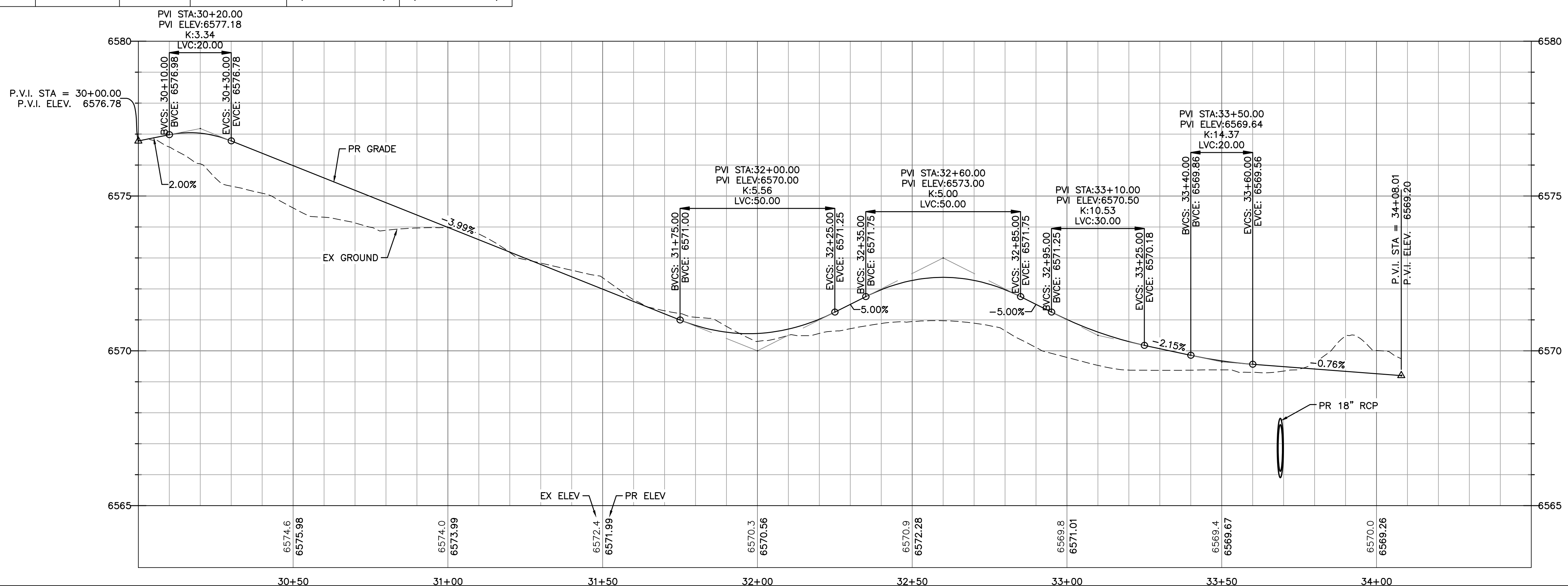
**LINE TABLE: ALIGNMENTS**

LINE #	LENGTH	START STA	END STA	DIRECTION	START POINT (EAST, NORTH)	END POINT (EAST, NORTH)
L1	10.33	30+00.00	30+10.33	N5° 52' 51.48"W	(3291.29,5267.35)	(3290.23,5277.63)
L2	19.78	30+60.16	30+79.94	N8° 06' 32.42"E	(3279.62,5325.21)	(3282.41,5344.79)
L3	41.64	31+27.76	31+69.39	N16° 01' 46.61"W	(3279.13,5392.14)	(3267.63,5432.16)
L4	19.71	32+08.96	32+28.67	N12° 18' 33.02"E	(3266.36,5471.31)	(3270.56,5490.56)
L5	18.59	32+89.01	33+07.60	N16° 37' 14.74"W	(3268.32,5550.22)	(3263.00,5568.03)
L6	29.29	33+22.52	33+51.81	N5° 13' 24.80"W	(3260.18,5582.66)	(3257.51,5611.82)
L7	8.91	33+78.96	33+87.87	N18° 42' 40.48"E	(3260.67,5638.59)	(3263.53,5647.04)
L8	1.51	33+95.48	33+96.98	N35° 44' 44.35"W	(3262.45,5654.28)	(3261.57,5655.50)
L9	8.32	33+99.69	34+08.01	N4° 41' 02.11"W	(3260.65,5658.01)	(3259.97,5666.30)

**AKERS SIDEWALK 1**

**CURVE TABLE: ALIGNMENTS**

CURVE #	START STA	END STA	RADIUS	LENGTH	CHORD DIRECTION	DELTA	START POINT (EAST, NORTH)	END POINT (EAST, NORTH)
C1	30+10.33	30+60.16	69.00	49.82	N12° 34' 36.38"W	41.37	(3290.23,5277.63)	(3279.62,5325.21)
C2	30+79.94	31+27.76	113.50	47.82	N3° 57' 37.09"W	24.14	(3282.41,5344.79)	(3279.13,5392.14)
C3	31+69.39	32+08.96	80.00	39.57	N1° 51' 36.79"W	28.34	(3267.63,5432.16)	(3266.36,5471.31)
C4	32+28.67	32+89.01	119.50	60.34	N2° 09' 20.86"W	28.93	(3270.56,5490.56)	(3268.32,5550.22)
C5	33+07.60	33+22.52	75.00	14.92	N10° 55' 19.77"W	11.40	(3263.00,5568.03)	(3260.18,5582.66)
C6	33+51.81	33+78.96	65.00	27.15	N6° 44' 37.84"E	23.93	(3257.51,5611.82)	(3260.67,5638.59)
C7	33+87.87	33+95.48	8.00	7.60	N8° 31' 01.94"W	54.46	(3263.53,5647.04)	(3262.45,5654.28)
C8	33+96.98	33+99.69	5.00	2.71	N20° 12' 53.23"W	31.06	(3261.57,5655.50)	(3260.65,5658.01)



**NOTE:**

1. ELEVATIONS ARE AT 50' INTERVALS UNLESS OTHERWISE NOTED.
2. EXISTING ELEVATIONS ARE AT TOP BACK OF EXISTING CURB.

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2019/07/31 10:13 AM By: Barone, Megan

Computer File Information	
Creation Date: 4-25-17	Initials: CMD
Last Modification Date:	Initials:
Full Path & Drawing File Name:	
Acad Ver. 2014	Scale: Units: Feet

Index of Revisions	

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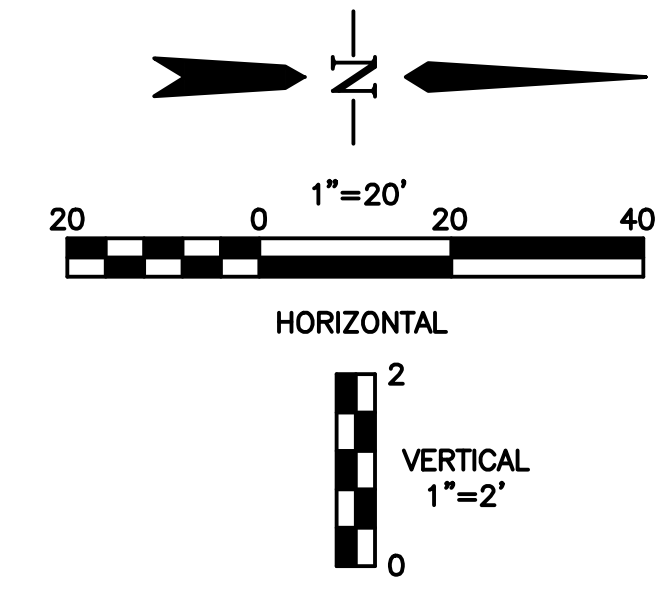
THE GARDENS AT NORTH CAREFREE PLAN AND PROFILE AKERS SIDEWALK 1	
Designer: CD	Structure Numbers
Detailer: MB	
Sheet Subst:	

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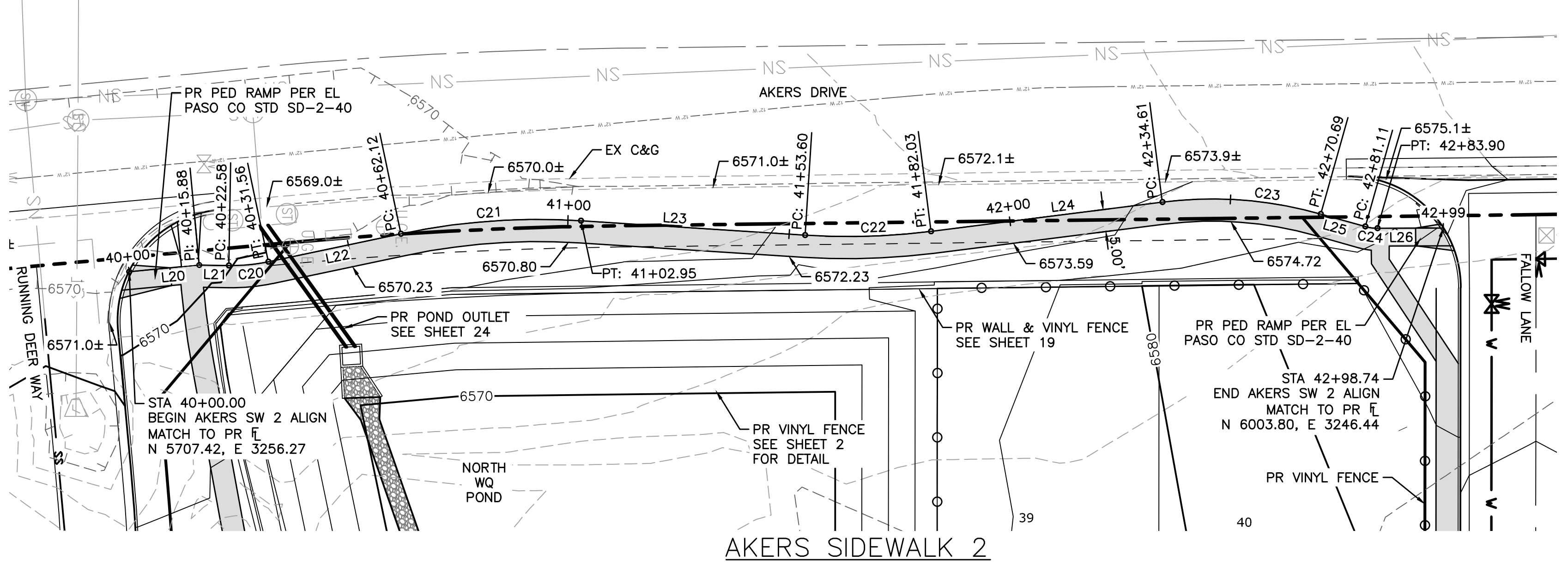
**LEGEND**

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EX MAJOR CONTOUR	---
EX WATER	---
EX SAN SEWER	---
EX GAS	---
EX STORM SEWER	---
EX WATER VALVE	---
EX FIRE HYDRANT	---
EX SANITARY SEWER MH	---
PR MINOR CONTOUR	---
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PR WATER LINE	---
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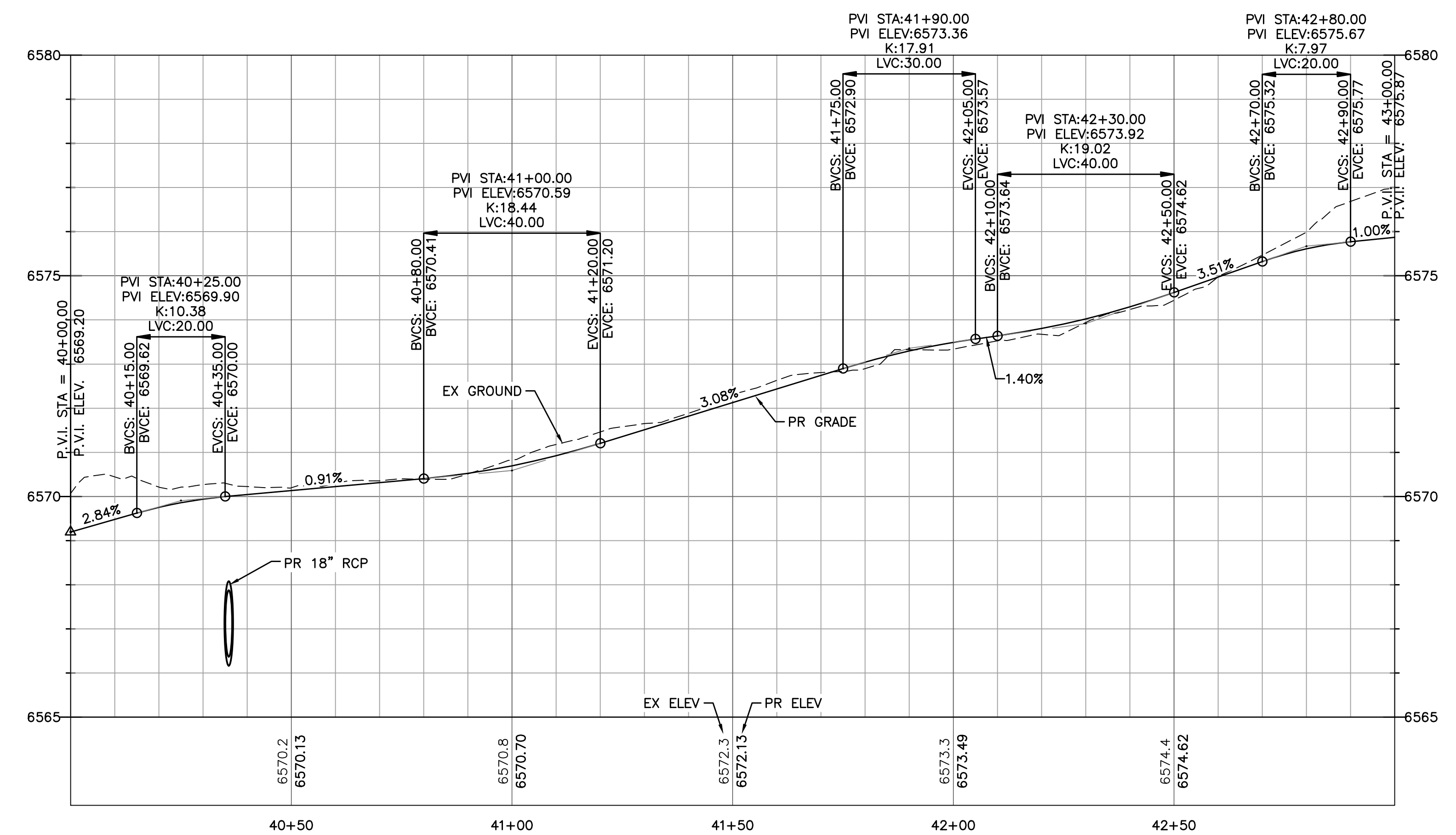


**LINE TABLE: ALIGNMENTS**

LINE #	LENGTH	START STA	END STA	DIRECTION	START POINT (EAST, NORTH)	END POINT (EAST, NORTH)
L20	15.88	40+00.00	40+15.88	N5° 23' 59.80"W	(3256.27,5707.42)	(3254.78,5723.23)
L21	6.70	40+15.88	40+22.58	N1° 04' 58.31"E	(3254.78,5723.23)	(3254.90,5729.94)
L22	30.56	40+31.56	40+62.12	N11° 55' 15.90"W	(3254.05,5738.85)	(3247.73,5768.76)
L23	50.65	41+02.95	41+53.60	N3° 40' 19.45"E	(3244.81,5809.35)	(3248.05,5859.89)
L24	52.59	41+82.03	42+34.61	N7° 11' 19.06"W	(3247.18,5888.27)	(3240.60,5940.44)
L25	10.43	42+70.69	42+81.11	N15° 46' 35.06"E	(3243.28,5976.17)	(3246.12,5986.21)
L26	14.84	42+83.90	42+98.74	N0° 11' 30.21"W	(3246.49,5988.96)	(3246.44,6003.80)

**CURVE TABLE: ALIGNMENTS**

CURVE #	START STA	END STA	RADIUS	LENGTH	CHORD DIRECTION	DELTA	START POINT (EAST, NORTH)	END POINT (EAST, NORTH)
C20	40+22.58	40+31.56	40.00	8.98	N5° 29' 29.94"W	12.86	(3254.90,5729.94)	(3254.05,5738.85)
C21	40+62.12	41+02.95	150.00	40.82	N4° 07' 28.22"W	15.59	(3247.73,5768.76)	(3244.81,5809.35)
C22	41+53.60	41+82.03	150.00	28.43	N1° 45' 29.80"W	10.86	(3248.05,5859.89)	(3247.18,5888.27)
C23	42+34.61	42+70.69	90.00	36.07	N4° 17' 38.00"E	22.97	(3240.60,5940.44)	(3243.28,5976.17)
C24	42+81.11	42+83.90	10.00	2.79	N7° 47' 32.43"E	15.97	(3246.12,5986.21)	(3246.49,5988.96)



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**Computer File Information**

Creation Date: 4-25-17	Initials: CMD
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Full Path & Drawing File Name:	
Acad Ver. 2014	Scale:      Units: Feet

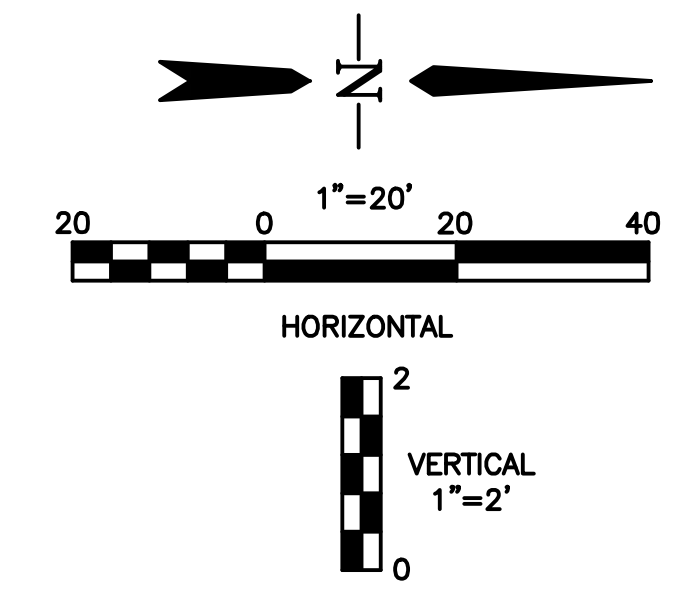
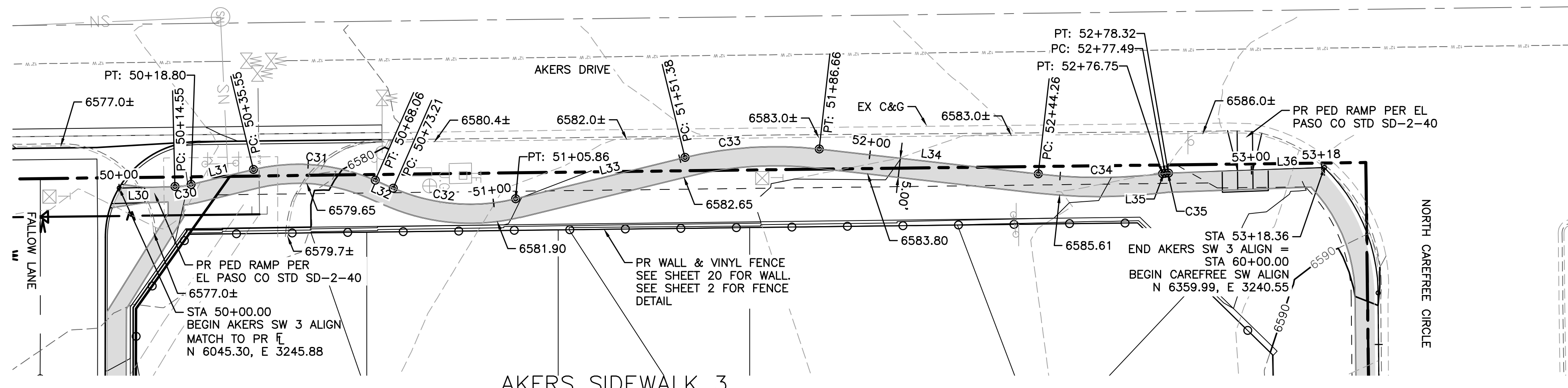
**Index of Revisions**


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**THE GARDENS AT NORTH CAREFREE  
PLAN AND PROFILE  
AKERS SIDEWALK 2**

Designer: CD	Structure Numbers
Detailer: MB	
Sheet Subset:	

Project No./Code	187608744
SHEET	14 OF 34



**LEGEND**

EX MINOR CONTOUR	---
EX MAJOR CONTOUR	---
EX WATER	---
EX SAN SEWER	---
EX GAS	---
EX STORM SEWER	---
EX WATER VALVE	---
EX FIRE HYDRANT	---
EX SANITARY SEWER MH	---
PR MINOR CONTOUR	---
PR MAJOR CONTOUR	---
PR WATER LINE	---
PR SANITARY SEWER	---
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PR STORM SEWER MANHOLE	---
PR WATER VALVE	---
PR FIRE HYDRANT	---

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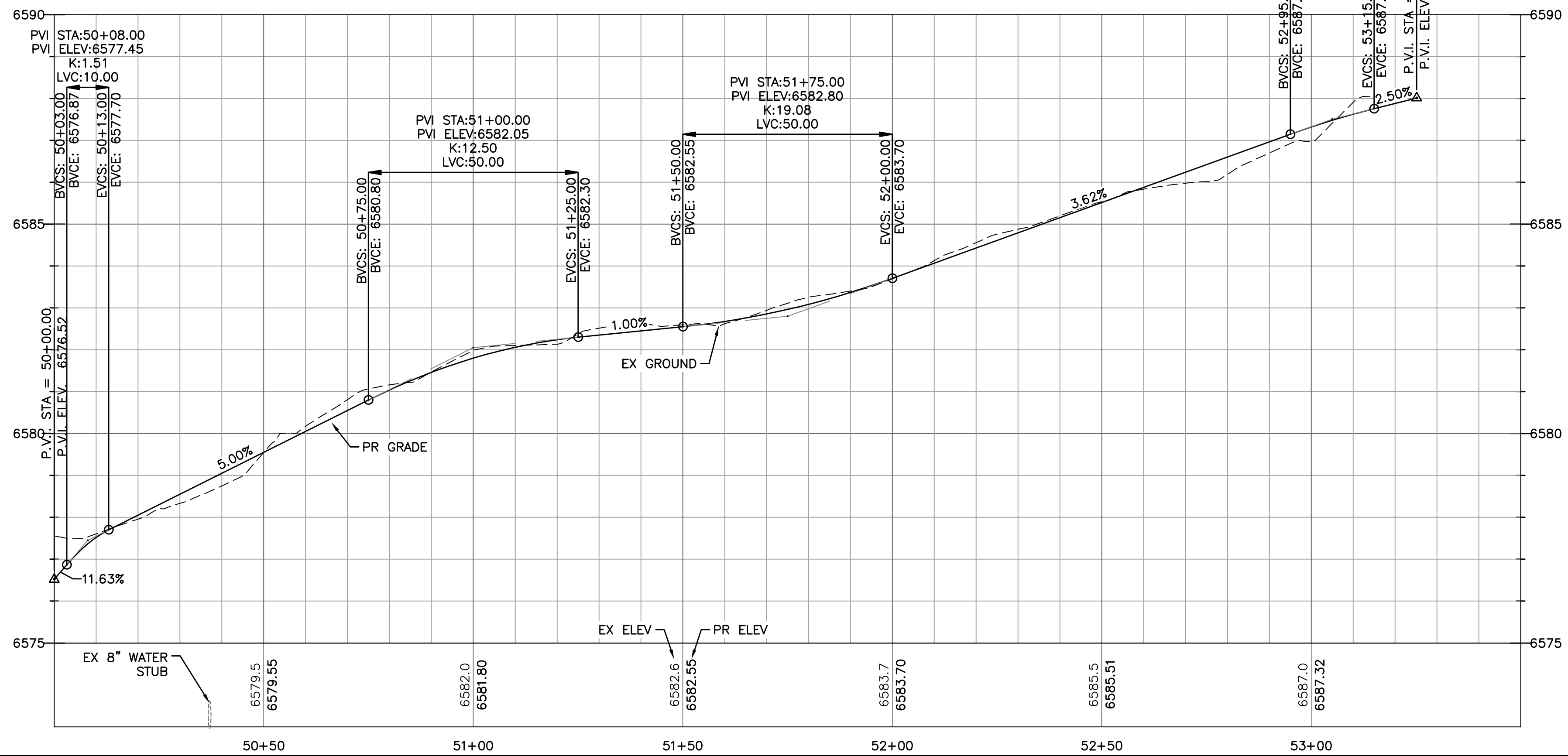
**AKERS SIDEWALK 3**

**CURVE TABLE: ALIGNMENTS**

CURVE #	START STA	END STA	RADIUS	LENGTH	CHORD DIRECTION	DELTA	START POINT (EAST, NORTH)	END POINT (EAST, NORTH)
C30	50+14.55	50+18.80	20.00	4.25	N7° 28' 31.86"W	12.17	(3245.52,6059.84)	(3244.97,6064.05)
C31	50+35.55	50+68.06	50.00	32.51	N5° 04' 01.70"E	37.26	(3241.04,6080.33)	(3243.86,6112.15)
C32	50+73.21	51+05.86	50.00	32.65	N4° 59' 17.71"E	37.42	(3245.93,6116.86)	(3248.72,6148.81)
C33	51+51.38	51+86.66	100.00	35.28	N3° 36' 47.53"W	20.21	(3237.92,6193.04)	(3235.71,6228.06)
C34	52+44.26	52+76.75	140.00	32.49	N0° 09' 18.21"W	13.30	(3242.23,6285.30)	(3242.14,6317.71)
C35	52+77.49	52+78.32	10.00	0.83	N4° 24' 57.69"W	4.78	(3242.05,6318.44)	(3241.99,6319.27)

**LINE TABLE: ALIGNMENTS**

LINE #	LENGTH	START STA	END STA	DIRECTION	START POINT (EAST, NORTH)	END POINT (EAST, NORTH)
L30	14.55	50+00.00	50+14.55	N1° 23' 19.58"W	(3245.88,6045.30)	(3245.52,6059.84)
L31	16.75	50+18.80	50+35.55	N13° 33' 44.15"W	(3244.97,6064.05)	(3241.04,6080.33)
L32	5.14	50+68.06	50+73.21	N23° 41' 47.54"E	(3243.86,6112.15)	(3245.93,6116.86)
L33	45.52	51+05.86	51+51.38	N13° 43' 12.12"W	(3248.72,6148.81)	(3237.92,6193.04)
L34	57.60	51+86.66	52+44.26	N6° 29' 37.06"E	(3235.71,6228.06)	(3242.23,6285.30)
L35	0.74	52+76.75	52+77.49	N6° 48' 13.49"W	(3242.14,6317.71)	(3242.05,6318.44)
L36	28.63	52+90.43	53+18.36	N2° 01' 41.88"W	(3241.56,6331.38)	(3240.55,6359.99)



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**Index of Revisions**


**THE GARDENS AT NORTH CAREFREE PLAN AND PROFILE AKERS SIDEWALK 3**

Designer: CD	Structure Numbers
Detailer: MB	
Sheet Subset:	

**Project No./Code**

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