

**DSO ADMINISTRATIVE DEVIATION
LEE COUNTY, FLORIDA**

WHEREAS Eduardo Perez-Orive on behalf of FM Real Estate International, LLC, has filed an application for approval of three administrative deviations from the technical requirements of the Lee County Land Development Code (Exhibit "B"), for property located at 11901 Kelly Road, Fort Myers, FL, described more particularly as:

LEGAL DESCRIPTION: In Section 06, Township 46 South, Range 24 East, Lee County, Florida:

ATTACHED AS EXHIBIT "A"

WHEREAS, the applicant has indicated that the property's current STRAP number is 06-46-24-10-00000.0280; and

WHEREAS, the property is zoned RM-2 (Multiple-Family Residential) and is located in the Central Urban Future Land Use Map designation in Lee County; and

WHEREAS, an application for an administrative deviation from the technical requirements of Chapter 10 of the Lee County Land Development Code has been filed; and

WHEREAS, Lee County Land Development Code, as amended, provides for administrative deviations from certain technical requirements for matters involving streets, access streets, intersections, rights-of-way, drainage swales, public water, public sewer, water mains, mass transit facilities, setbacks for water retention/detention excavations, indigenous native vegetation and similar matters not related to a change in use of the property in question; and

WHEREAS, A development order (DOS2021-00075) has been submitted for a 76 unit multifamily apartment and housing complex and other site related infrastructure; and

WHEREAS, a deviation is requested in the RM-2 district from Lee County Land Development Code Section 10-329(d)(1)(a)(2) which requires excavations to be setback a minimum of 50 feet from any existing or proposed right-of-way line or easement for a collector or arterial street to allow a setback of 25 feet as shown on the attached plan enclosed as Exhibit "C"; and

WHEREAS, Kelly Road is classified as a county-maintained major collector with a posted speed limit of 35 miles per hour; and

WHEREAS, the excavation bank slopes will be designed in accordance with the design criteria in Land Development Code Section 10-329(d)(4) and protection for wayward vehicles will be provided in the form of a berm and landscaping; and

WHEREAS, a deviation is requested in the RM-2 district from Lee County Land Development Code Section 10-285(a) - Table 1 which requires motor vehicle connections to a road from an accessway to be separated a minimum distance of 245 feet for a major

collector roadway in future urban areas to allow a minimum connection separation of 115 feet as shown on the attached plan enclosed as Exhibit "C"; and

WHEREAS, Land Development Code Section 10-291(3) requires residential development greater than 5 acres to provide more than one ingress or egress from the development to protect the health, safety, and welfare of the residents of the development and the public; and

WHEREAS, the subject property is 4.98 acres in size and is not subject to the requirements of Section 10-291(3), however, the health, safety and welfare of the residents and the general public will be enhanced by providing two means of ingress and egress to the proposed development as shown on the attached site plan enclosed as Exhibit "C"; and

WHEREAS, the proposed access locations are designed as optimally as possible to reduce traffic conflicts; and

WHEREAS, the Lee County Department of Transportation has reviewed the requested deviation and has no objection; and

WHEREAS, a deviation is requested in the RM-2 district from Lee County Land Development Code Section 10-418(3) which limits hardened shoreline structures to no more than 20 percent of an individual lake shoreline to allow a maximum of 25 percent of an individual lake shoreline to be hardened as shown on the attached site plan enclosed as Exhibit "C"; and

WHEREAS, the additional hardening is accommodated by providing additional compensatory littoral plantings in accordance with Land Development Code Section 10-418(3); and

WHEREAS, the requested deviation to allow a maximum of 25 percent of the lake shoreline to be hardened is less than the 40 percent maximum allowed by the South Florida Water Management District as detailed in paragraph 5.4.2(f) of the Environmental Resource Permit Applicant's Handbook Volume II; and

WHEREAS, the following findings of fact are offered:

- (a) That the proposed alternatives to allow a minimum excavation setback of 25 feet from any existing or proposed right-of-way line or easement for a collector or arterial street, to allow a maximum of 25 percent of an individual lake shoreline to be hardened, and to allow a minimum connection separation of 115 feet is based on sound engineering practice in consideration of the following criteria:
 - i The Lee County Department of Transportation has reviewed and has no objection to the requested deviation to Land Development Code Section 10-285(a) - Table 1 to reduce the minimum connection separation to 115 feet.
 - ii The excavation bank slopes will be designed in accordance with the design criteria in Land Development Code Section 10-329(d)(4).
 - iii Increased water quality treatment will be provided by compensatory littoral plantings to offset the increased hardened shoreline.

- iv The increased hardened shoreline is less than the 40% allowed by South Florida Water Management District permitting criteria.
- (b) That said proposed alternative is no less consistent with the health, safety, and welfare of abutting land owners and the general public than the standard from which the deviation was requested; and
 - i Safeguards, to protect wayward vehicles, in the form of a berm and vegetation will be provided to reduce the risk associated with the reduced excavation setback from the roadway.
 - ii Two points of ingress and egress to the development will enhance the health, safety, and welfare of the residents of the community and the general public in the event of an emergency.
 - iii The proposed access points to the development have been located as to reduce the chances of conflict based on the existing conditions of Kelly Road.
- (c) The granting of the deviation is not inconsistent with any specific directive of the Board of County Commissioners, any other ordinance, or any Lee Plan Provision.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for Administrative Deviations in the RM-2 district from Lee County Land Development Code Sections 10-329(d)(1)(a)(2), 10-285(a) - Table 1, and 10-418(3) is approved as conditioned:

- (a) That approval is subject to substantial compliance with the Grading, Paving and Drainage Plan entitled "Kelly Road 76 Unit", signed and sealed 07/05/2022 by Peter M. Maastricht, P.E. and attached as Exhibit "C"; and
- (b) At time of development order the plans must provide a berm and vegetation arranged in a manner to provide protection of wayward vehicles in the area of the reduced excavation setback to the right-of-way; and
- (c) **If it is determined that inaccurate or misleading information was provided to the County or if this decision does not comply with the LDC when rendered, then, at any time, the Director may issue a modified decision that complies with the Code or revoke the decision. If the approval is revoked, the applicant may acquire the necessary approvals by filing an application for public hearing in accordance with Chapter 34.**

Duly passed, adopted, and electronically signed on 8/24/2022

Jessica Sulzer, PE, Manager

Exhibits

Exhibit A – Legal Description

Exhibit B – Narrative Request for Deviations – Kelly Road 76 Units

Exhibit C – Grading, Paving and Drainage Plan – "Kelly Road 76 Unit", signed and sealed 07/05/2022 by Peter M. Maastricht, P.E.

SKETCH TO ACCOMPANY DESCRIPTION

LOT 28

KELLY BROOKE

A SUBDIVISION LYING IN

SECTION 6, TOWNSHIP 46 SOUTH, RANGE 24 EAST

(PLAT BOOK 32, PAGE 33)

LEE COUNTY, FLORIDA

- LEGEND:

P.U.E.
PUBLIC UTILITY EASEMENT

D.E. DRAINAGE EASEMENT

(P) AS PER PLAT

R/W RIGHT-OF-WAY

Centerline



SKETCH TO ACCOMPANY DESCRIPTION
SEE EXHIBIT 'A' FOR DESCRIPTION
TO ACCOMPANY THIS SKETCH

DRAWN: <i>PM</i>	CHECK: <i>FBH</i>	SCALE <i>1"=100'</i>	PROJ. # <i>11901 KELLY</i>	<i>HARRIS-JORGENSEN, LLC</i> <i>3048 DEL PRADO BL VD. S. #100</i> <i>CAPE CORRAL, FLORIDA 33304</i> <i>PHONE: (239) 257-2624</i> <i>FAX: (239) 257-2921</i>
SURVEY DATE <i>06/18/2021</i>	FILE NO. <i>46-24-6</i>	SHT. - <i>1</i>	DF - <i>1</i>	

SCALE IN FEET

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH

DESCRIPTION:

LOT 28
KELLY BROOKE

A SUBDIVISION LYING IN
SECTION 6, TOWNSHIP 46 SOUTH, RANGE 24 EAST
(PLAT BOOK 32, PAGE 33)
LEE COUNTY, FLORIDA



PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA
04/26 /2021

REVIEWED
ADD2022-00052
Hunter Searson, GIS
Planner
Lee County Government
4/12/2022



7370 College Parkway, Suite 211, Fort Myers, FL 33907
239.362.1605 | Maastricht-eng.com | 239.849.6805

Narrative for Requests for Deviations – Kelly Road 76 Units- ADD2022-00052

1. Deviation from LDC Section 10-329(d)(1)(a)(2) requirement that an excavation for a retention/detention lake be set back a minimum of 50 feet from any existing or proposed right-of-way line or easement for a collector or arterial street, unless granted an administrative deviation in accordance with section 10-104. The setback for an excavation from an existing or proposed right-of-way line or easement is requested to be reduced to 25 feet from the Northern property line.

JUSTIFICATION: This lake is to be incorporated into the water management system for nutrient loading and water quality purposes. This reduction in the setback will bring the value to the land by increasing the suitable fill material and maximizing the lake size within the constraints of the property for both water management benefits and aesthetic lake views for residents. As such, the proposed deviation will enhance the proposed development and will not be a detriment to the public health, safety and welfare. In addition, the proposed lake design is based on sound engineering practices and criteria from Section 10-329. We have also provided additional protection for wayward vehicles in the form of a berm separating the lake area from the roadway per LDC Section 10-329 (d)(1)(a)(2).

2. Deviation from Administrative Code 10-11 and LDC Section 10-285 requirement for an access roadway intersection separation of 245 feet along a Major collector roadway. The intersection separation is requested to be reduced to 115 feet for the proposed driveway to the existing driveway on the north side of Kelly Road near the subject property's NW corner.

JUSTIFICATION: This property is 4.98 acres in area which is nearly the 5 acres that typical engineering practices and design standards would warrant the need for two access driveways for the development Per LDC 10-291. Given the need for 2 means of ingress or egress, the proposed driveway locations are designed as optimally as possible to create as few conflicts as possible. Based on the driveways' current locations, the only conflict is a right in turn about 120' West from our proposed driveway on the opposite side of the road. Our proposed driveway will have minimum impacts on this entrance since a majority of the trips generated from our site will be utilizing the eastern part of Kelly Road as seen from the TIS (65%). In addition, the use of an additional driveway does not change the current level of service of Kelly Road, so it is no less consistent with the health, safety, and welfare of the abutting landowners and the general public than the standard that we are deviating from. Since this separation requirements between driveways of 245' cannot be met, we would like to request a deviation for the minimum requirements to be reduced to 115'.

3. The Deviation from LDC Sections 10-418 requirement of hardened shoreline structures may comprise up to 20% of an individual lake shoreline. The hardened shoreline is requested to be increased to 25% of an individual lake shoreline.

JUSTIFICATION: The proposed lake provides LDC requisite planted and compensatory littoral shelves/ plantings, the additional 5% of hardened shoreline is accommodated with additional compensatory littoral plantings. The proposed lake is limited in size and abuts the amenity pool area which is elevated to meet the minimum stormwater grading criteria. The resulting hardened shoreline required to meet this grade differential is only 5% greater or about 20 LF less than that allowed by the minimum 20% code and is offset by additional littoral plantings as shown on the landscaping plan. These additional plantings are no less consistent with the health, safety and welfare of abutting landowners and the general public than the standard from which the deviation is being requested. Also the granting of the deviation is not inconsistent with any specific policy directive of the Board of County Commissioners, any other ordinance or any Lee Plan provision

Kelly Road – 76 Unit – DOS2021-00075

March 11, 2022

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If you should have any questions or require additional information, please advise.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter M. Maastricht', written in a cursive style.

Peter M. Maastricht, P. E.
MAASTRICHT ENGINEERING, INC.



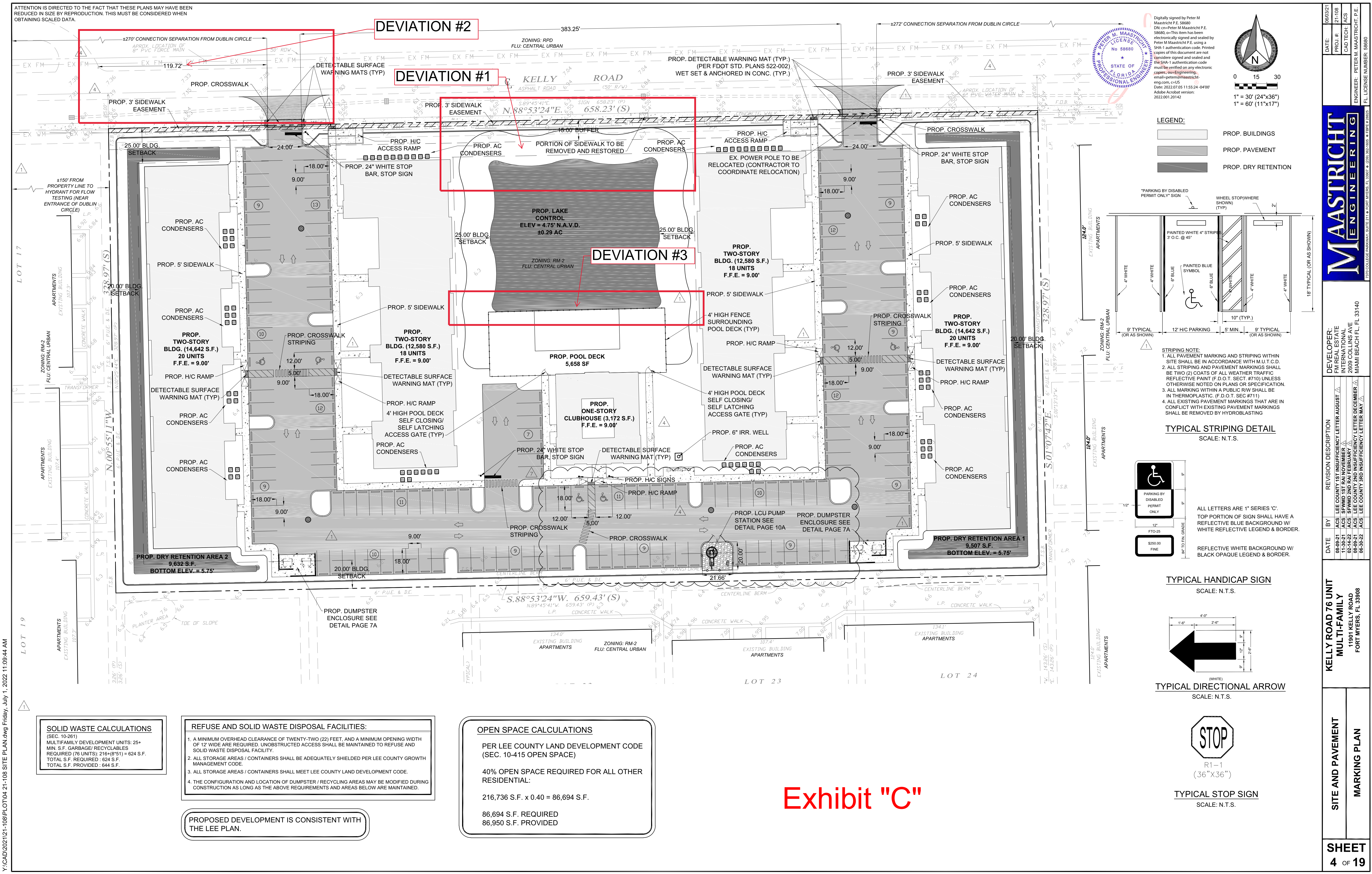
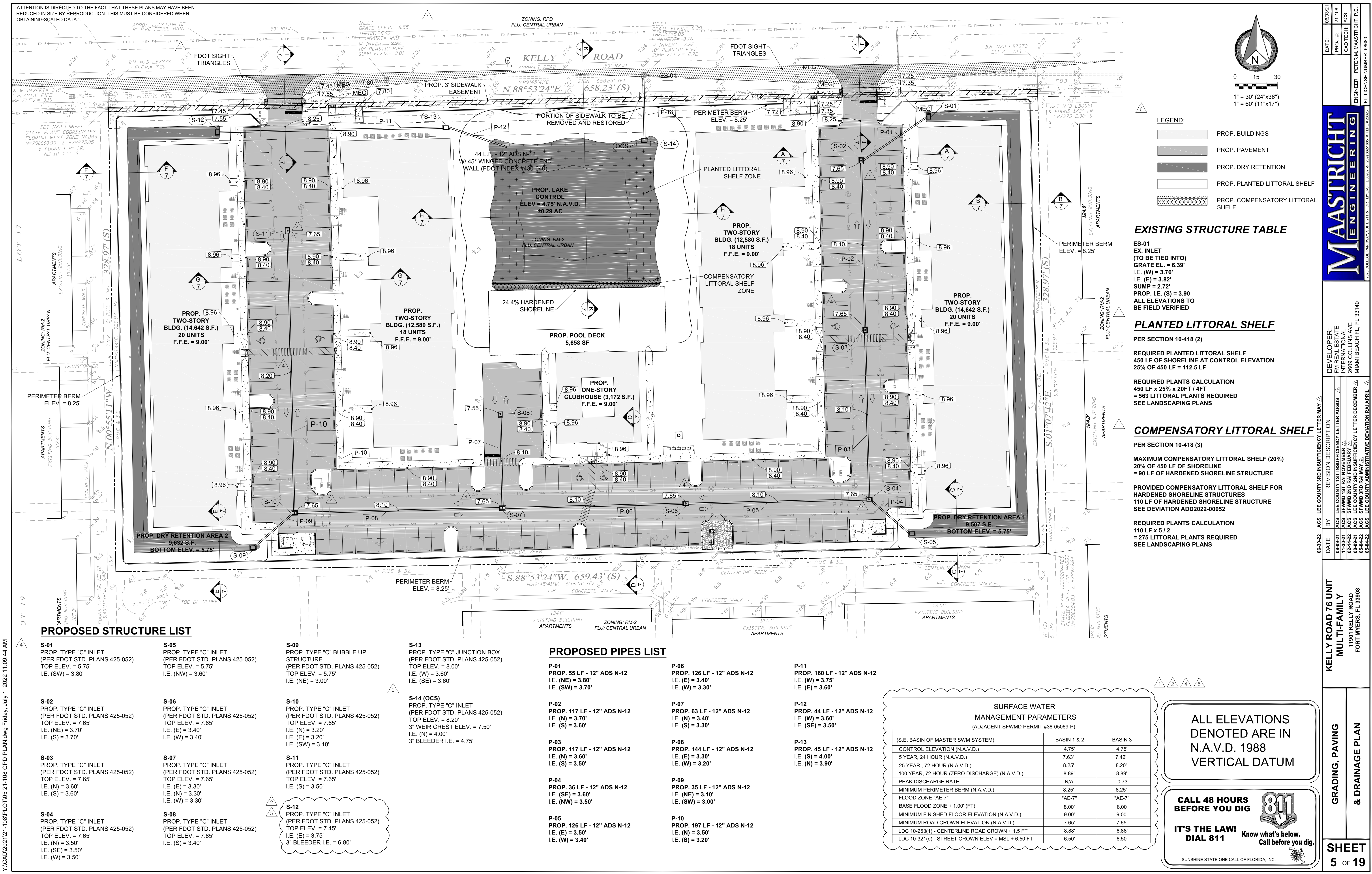
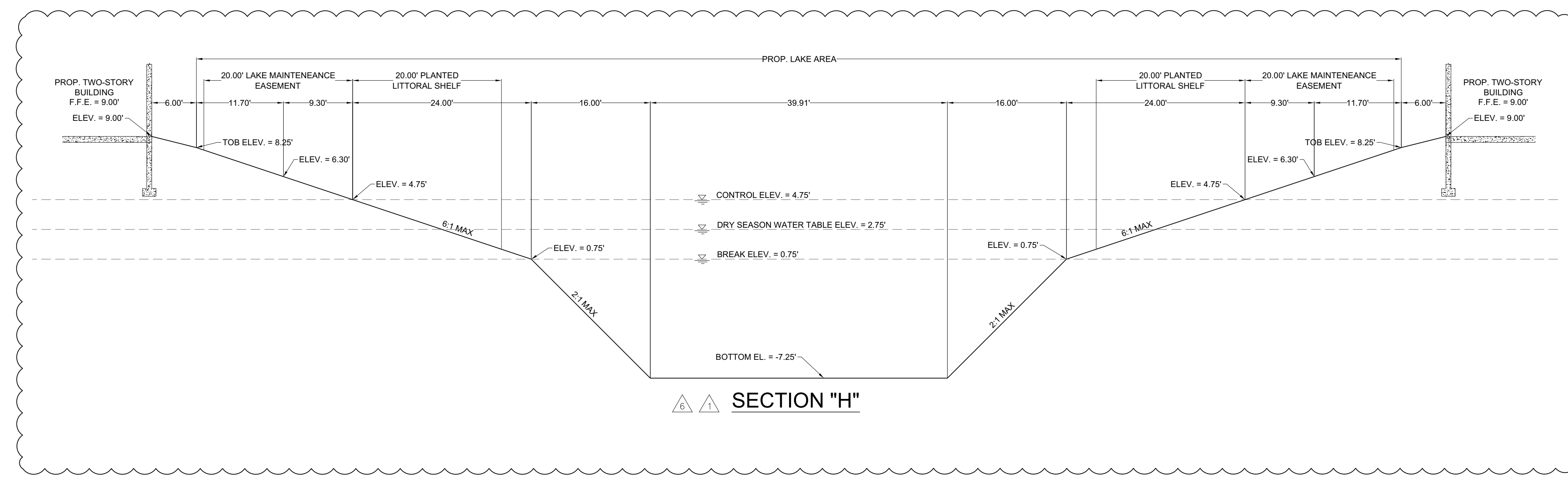
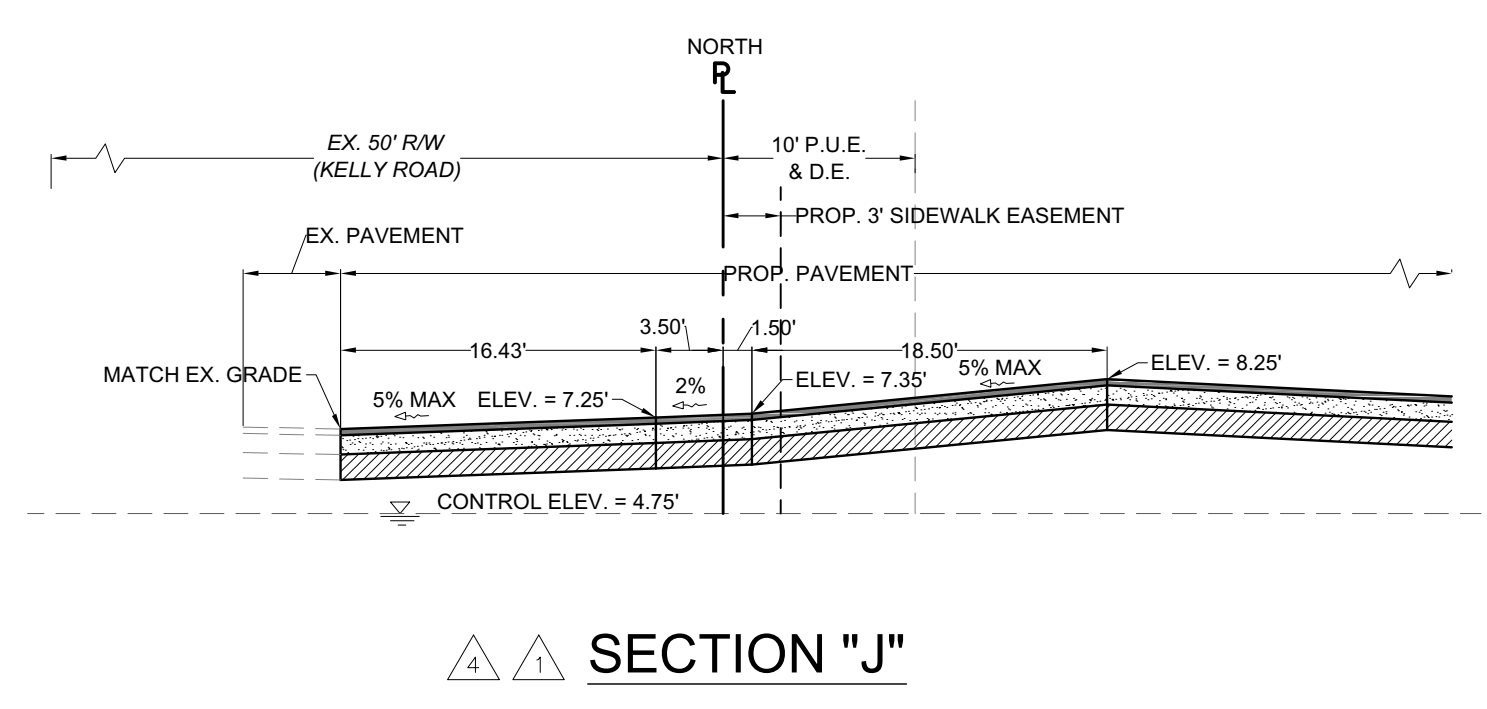
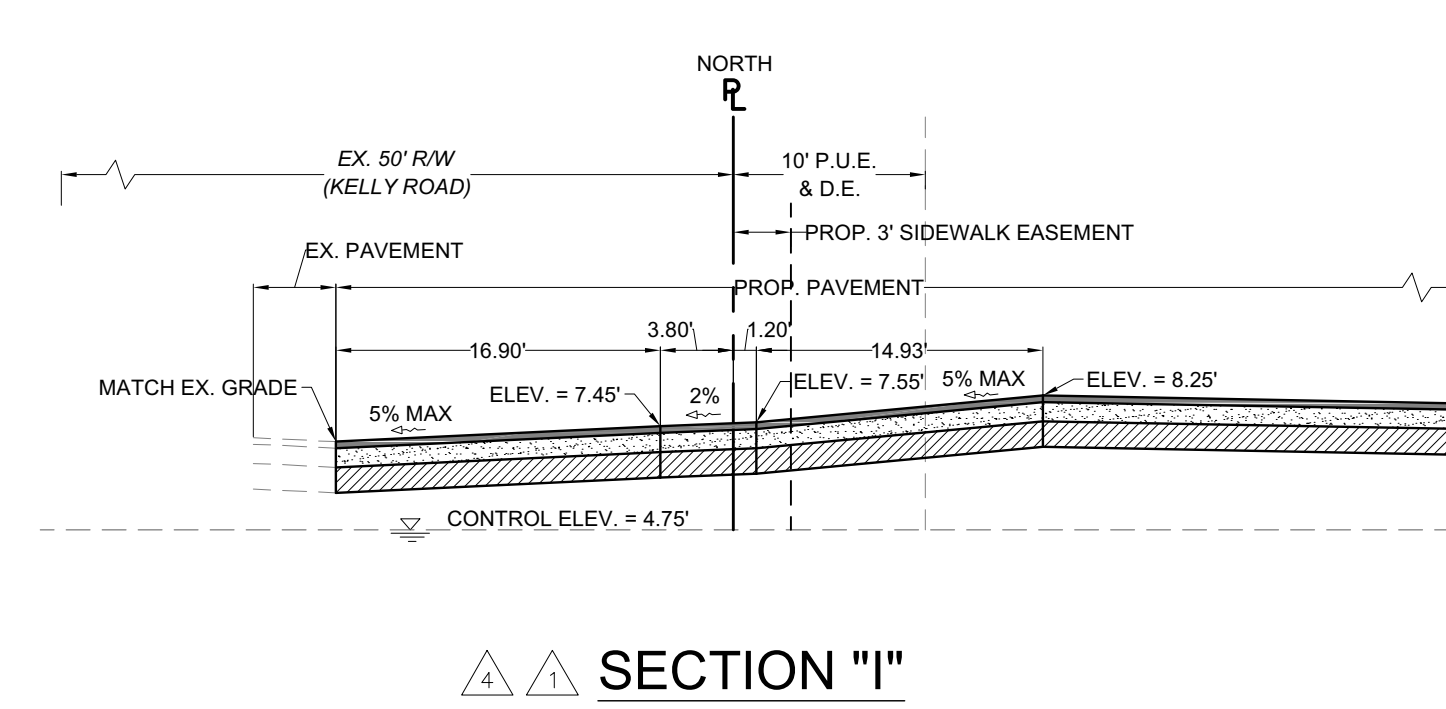
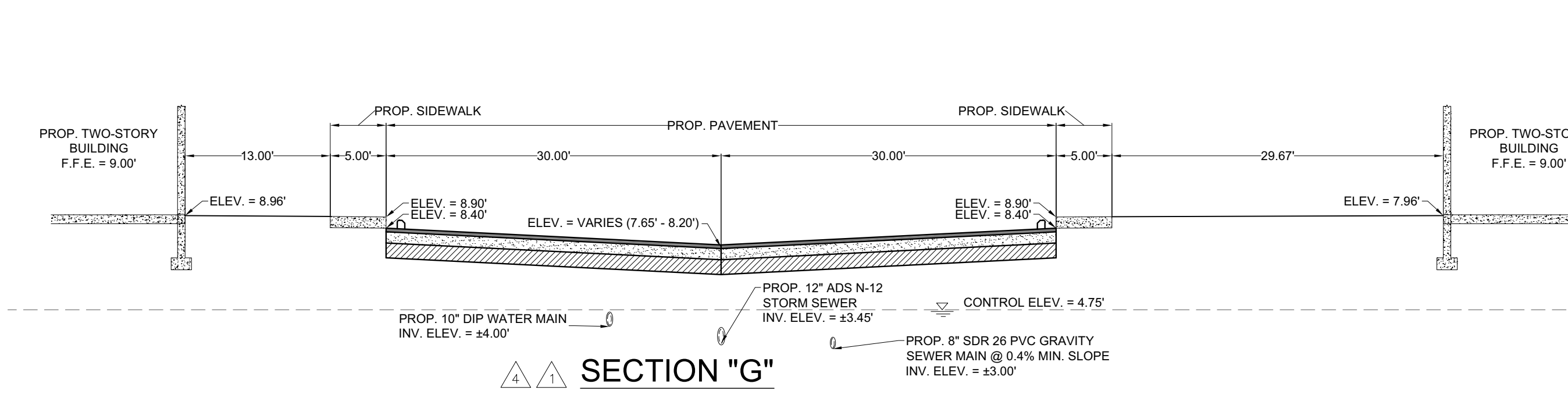
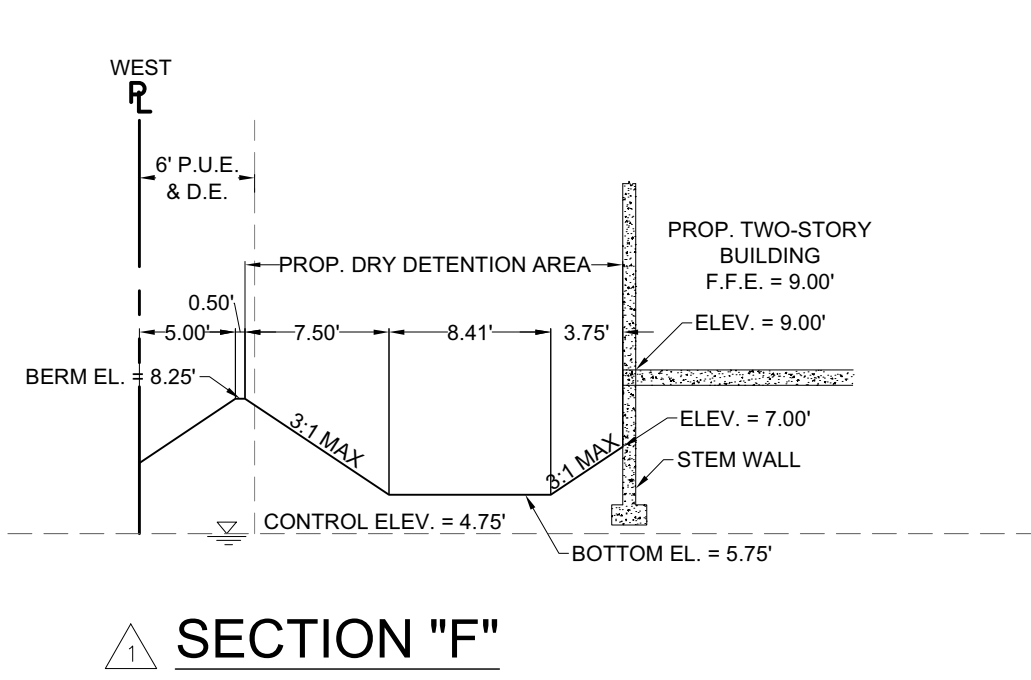
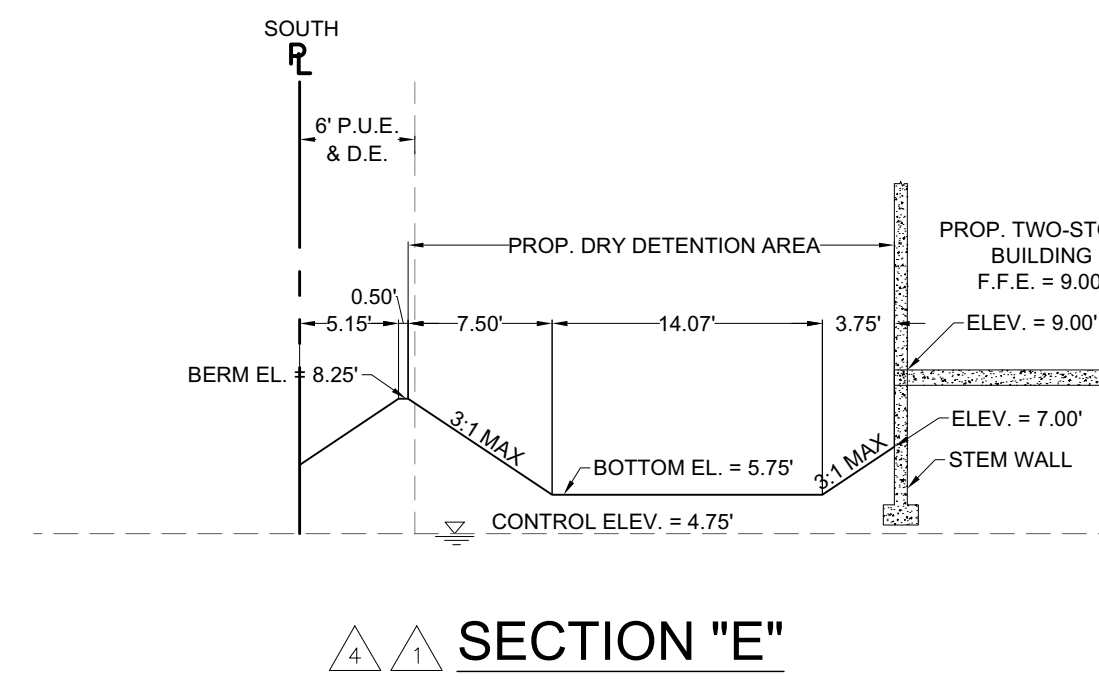
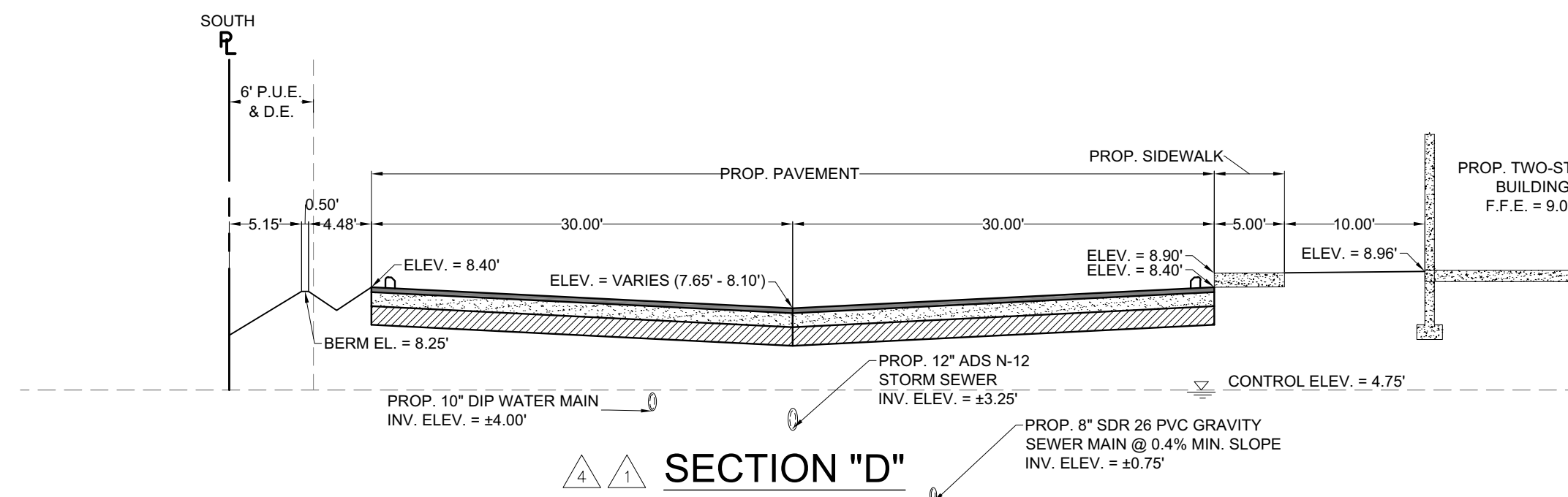
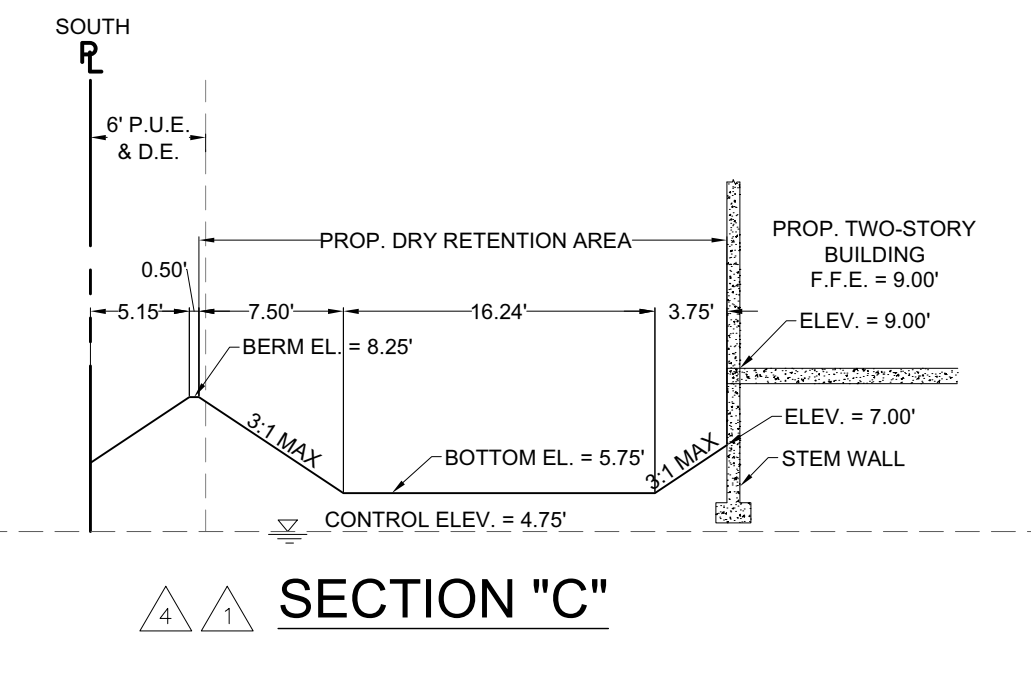
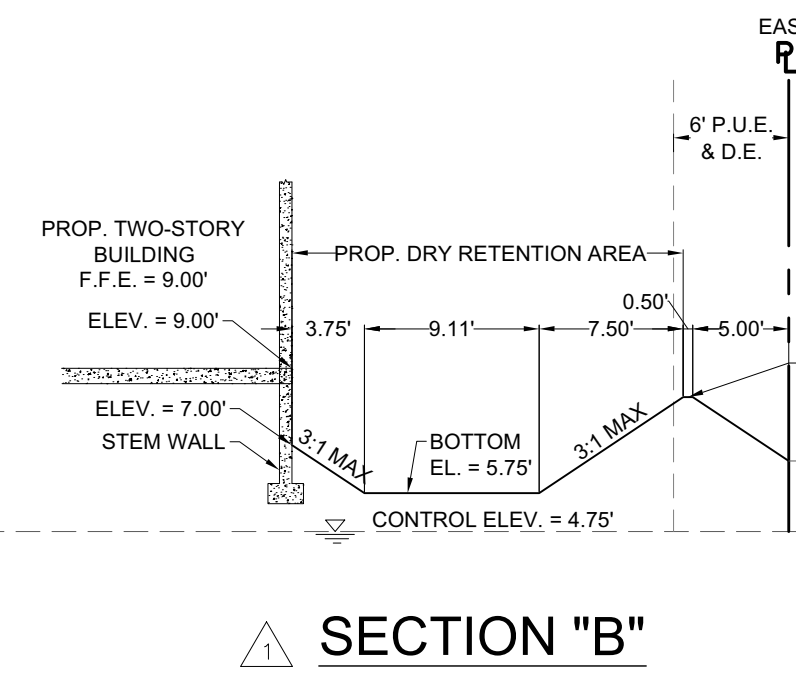
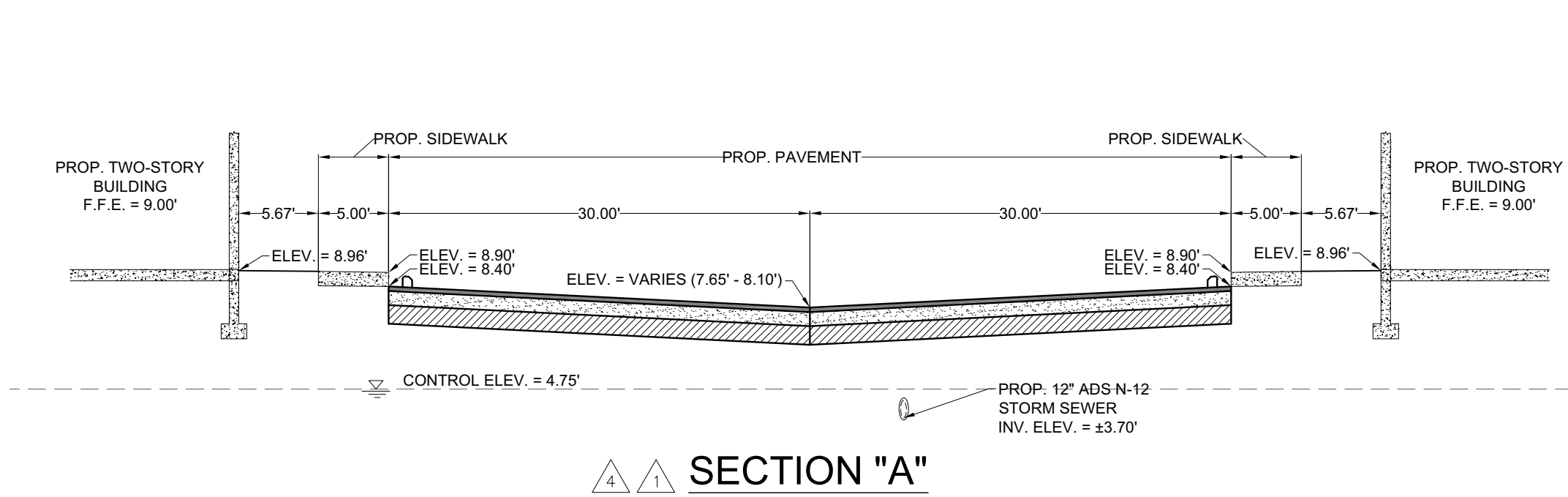


Exhibit "C"



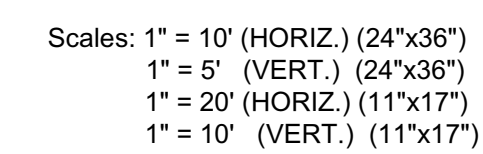
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Scales: 1" = 10' (HORIZ.) (24"x36")
1" = 5' (VERT.) (24"x36")
1" = 20' (HORIZ.) (11"x17")
1" = 10' (VERT.) (11"x17")



SEE NEXT PAGE FOR CROSS SECTION K

DATE: 06/03/21	PROJ. #: 21-108	CAD TECH: JCS	ENGINEER: PETER M. MAASTRICHT, P.E.	FL LICENSE NUMBER: 19860
MAASTRICHT ENGINEERING 7375 COLLEGE PARKWAY, SUITE 211 • FORT MYERS, FL 33907 • (239) 921-1008 • PMP & PDES				
DEVELOPER: PAUL REAL ESTATE INTERNATIONAL 2609 COLLINS AVE MIAMI BEACH, FL 33140				
DATE: 06/03/21	BY: JCS	REVISION DESCRIPTION: LEE COUNTY 1ST INSUFFICIENCY LETTER AUGUST 11-2021	KELLY ROAD 76 UNIT MULTI-FAMILY 11901 KELLY ROAD FORT MYERS, FL 33908	
DATE: 02-14-22	BY: JCS	REVISION DESCRIPTION: SWFWD 1ST RAI NOVEMBER 11-2021	CROSS SECTIONS	
DATE: 08-09-21	BY: JCS	REVISION DESCRIPTION: LEE COUNTY 2ND INSUFFICIENCY LETTER DECEMBER 02-2021		
DATE: 05-04-22	BY: JCS	REVISION DESCRIPTION: LEE COUNTY ADMINISTRATIVE DEVIATION RAI APRIL 05-2022		
SHEET 6 OF 19			SHEET 6 OF 19	



SHEET 6A OF 19	CROSS	KELLY ROAD 76 UNIT MULTI-FAMILY 11901 KELLY ROAD FORT MYERS, FL 33908	DATE		BY	REVISION DESCRIPTION	DEVELOPER: FM REAL ESTATE INTERNATIONAL 2609 COLLINS AVE MIAMI BEACH FL 33140	MAASTRICHT ENGINEERING	DATE: 04/09/21 PROJ. #: 21-108 CAD TECH: ACS ENGINEER: PETER M. MAASTRICHT, P.E. FL LICENSE NUMBER: 94880
	SECTIONS								