



City of Ketchum

October 18, 2021

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to approve Right-of-Way Encroachment Agreement 22735 for placement of pavers in the City Right-of-Way.

Recommendation and Summary

Staff is recommending Council approve the attached Encroachment Agreement and adopt the following motion:

"I move to authorize the Mayor to sign Encroachment Agreement 22735 with Timothy Linehan."

The reasons for the recommendation are as follows:

- The improvements will not impact the use or operation of the residential street
- The improvements will not impact drainage within the City ROW

Introduction and History

A Right-of-Way Encroachment Permit request was received for a snowmelt driveway within the City's Right-of-Way at 112 Rember Street.

Right-of-Way standards were developed to achieve goals of drainage, parking, snow storage, access for emergency vehicles, and provide materials that can be reasonably maintained by the city. Pavers, snowmelt systems, and subsurface drip irrigation systems are not maintained by the City but may be approved through an encroachment agreement.

City code requires a right-of-way encroachment permit for any permanent encroachment in the public right-of-way. These agreements are intended to help protect the City in the event the proposed encroachments were to ever pose an issue requiring repair, relocation, or removal of the encroachment.

Analysis

The proposed encroachments were determined not to impact public access or city operations.

Financial Impact

There is no financial impact resulting from approval of this encroachment agreement.

Attachments:

Encroachment Agreement 22735

WHEN RECORDED, PLEASE RETURN TO:

**OFFICE OF THE CITY CLERK
CITY OF KETCHUM
POST OFFICE BOX 2315
KETCHUM, IDAHO 83340**

RIGHT-OF-WAY ENCROACHMENT AGREEMENT 22735

THIS AGREEMENT, made and entered into this ____ day of ____, 2021, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation ("Ketchum"), whose address is Post Office Box 2315, Ketchum, Idaho and TIMOTHY LINEHAN, (collectively referred to as "Owner"), whose address is 9038 15TH AVENUE NW, SEATTLE, WASHINGTON 98117.

RECITALS

WHEREAS, Owner is the owner of real property described as 112 REMBER STREET ("Subject Property"), located within the City of Ketchum, State of Idaho; and

WHEREAS, Owner wishes to permit placement of a concrete paver driveway within the right-of-way on Rember Street. These improvements are shown in Exhibit "A" attached hereto and incorporated herein (collectively referred to as the "Improvements"); and,

WHEREAS, Ketchum finds that said Improvements will not impede the use of said public right-of-way at this time subject to the terms and provisions of this Agreement;

NOW, THEREFORE, in contemplation of the above stated facts and objectives, it is hereby agreed as follows:

TERMS AND CONDITIONS

1. Ketchum shall permit Owner to maintain the improvements identified in Exhibit "A" within the public right-of-way of 112 Rember Street, Idaho, until notified by Ketchum to remove the improvements at which time Owner shall remove improvements at Owner's expense.

2. Owner shall be responsible for the maintenance of said Improvements. Any modification to the improvements identified in Exhibit "A" shall be approved by the City of Ketchum prior to any modifications taking place.

3. In consideration of Ketchum allowing Owner to maintain the Improvements in the public right-of-way, Owner agrees to indemnify and hold harmless Ketchum from and against any and all claims of liability for any injury or damage to any person or property arising from the Improvements constructed, installed and maintained in the public right-of-way. Owner shall further indemnify and hold Ketchum harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Owner's part to be performed under this Agreement, or arising from any negligence of Owner or Owner's agents, contractors or employees and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such action or proceeding brought thereon. In the event any action or proceeding is brought against Ketchum by reason of such claim, Owner, upon notice from Ketchum, shall defend Ketchum at Owner's expense by counsel satisfactory to Ketchum. Owner, as a material

part of the consideration to Ketchum, hereby assumes all risk of damages to property or injury to persons in, upon or about the Improvements constructed, installed and maintained in the public right-of-way arising from the construction, installation and maintenance of said Improvements and Owner hereby waives all claims in respect thereof against Ketchum.

4. Ketchum shall not be liable for injury to Owner's business or loss of income therefrom or for damage which may be sustained by the person, goods, wares, merchandise or property of Owner, its tenants, employees, invitees, customers, agents or contractors or any other person in or about the Subject Property caused by or resulting from the Improvements constructed, installed, removed or maintained in the public right-of-way.

5. Owner understands and agrees that by maintaining the Improvements in the public right-of-way pursuant to this Agreement, Owner obtains no claim or interest in said public right-of-way which is adverse to that of Ketchum and that Owner obtains no exclusive right to said public right-of-way nor any other right to use the public right-of-way not specifically described herein.

6. This Agreement shall be a covenant running with the Subject Property and the terms and provisions hereof shall inure to the benefit of and be binding upon the parties and the respective heirs, personal representatives, successors and assigns of the parties hereof.

7. In the event either party hereto retains an attorney to enforce any of the rights, duties and obligations arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorney's fees at the trial and appellate levels and, whether or not litigation is actually instituted.

8. This Agreement shall be governed by, construed, and enforced in accordance with the laws and decisions of the State of Idaho. Venue shall be in the District Court of the fifth Judicial District of the State of Idaho.

9. This Agreement sets forth the entire understanding of the parties hereto, and shall not be changed or terminated orally. It is understood and agreed by the parties hereto that there are no verbal promises or implied promises, agreements, stipulations or other representations of any kind or character pertaining to the Improvements maintained in the public right-of-way other than as set forth in this Agreement.

10. No presumption shall exist in favor of or against any party to this Agreement as the result of the drafting and preparation of this document.

11. This Agreement shall be recorded with the Blaine County Recorder by Ketchum.

12. The parties fully understand all of the provisions of this Agreement, and believe them to be fair, just, adequate and reasonable, and accordingly accept the provisions of this Agreement freely and voluntarily.

OWNER:

CITY OF KETCHUM:

By: Timothy Linehan

By: _____
Neil Bradshaw
Its: Mayor

STATE OF _____,)
County of _____.) ss.

On this ____ day of _____, 2021, before me, the undersigned Notary Public in and for said State, personally appeared Timothy Linehan, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public for _____
Residing at _____
Commission expires _____

STATE OF IDAHO)
) ss.
County of Blaine)

On this ____ day of _____, 2021, before me, the undersigned Notary Public in and for said State, personally appeared NEIL BRADSHAW, known or identified to me to be the Mayor of the CITY OF KETCHUM, IDAHO, and the person who executed the foregoing instrument on behalf of said municipal corporation and acknowledged to me that said municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

Notary Public for _____
Residing at _____
Commission expires _____

EXHIBIT “A”



City of Ketchum

OFFICIAL USE ONLY
Date Received: _____
By: _____
Permit Fee: _____
Date Paid: _____

RIGHT-OF-WAY ENCROACHMENT PERMIT APPLICATION

Property Owner: Tim Linehan
Owner Mailing Address: 9038 15th Ave NW, Seattle, WA 98117
Project Contact: Tim Linehan
Contact Email: timothyjlinehan@hotmail.com
Contact Phone Number: (206) 784-4514
Property Street Address: 112 Rember St, Ketchum, ID 83340
Encroachment(s) in Right-of-Way (be specific as possible): Concrete Paver Driveway From Property
Line to Edge of Street Asphalt

Name or Description of Right-of-Way Affected: Rember St ROW

Width of Right-of-Way: 50'

Dimensions of Right-of-Way Encroachment(s): As Shown on Benchmark Engineering Drawing

Attach diagram identifying streets and/or alleys, total width of right-of-way, dimensions of right-of-way encroachment, types(s) of encroachment and visual aids sufficient to show the impacts of the encroachment.

Owner's Signature Tim Linehan Date: 9/20/21

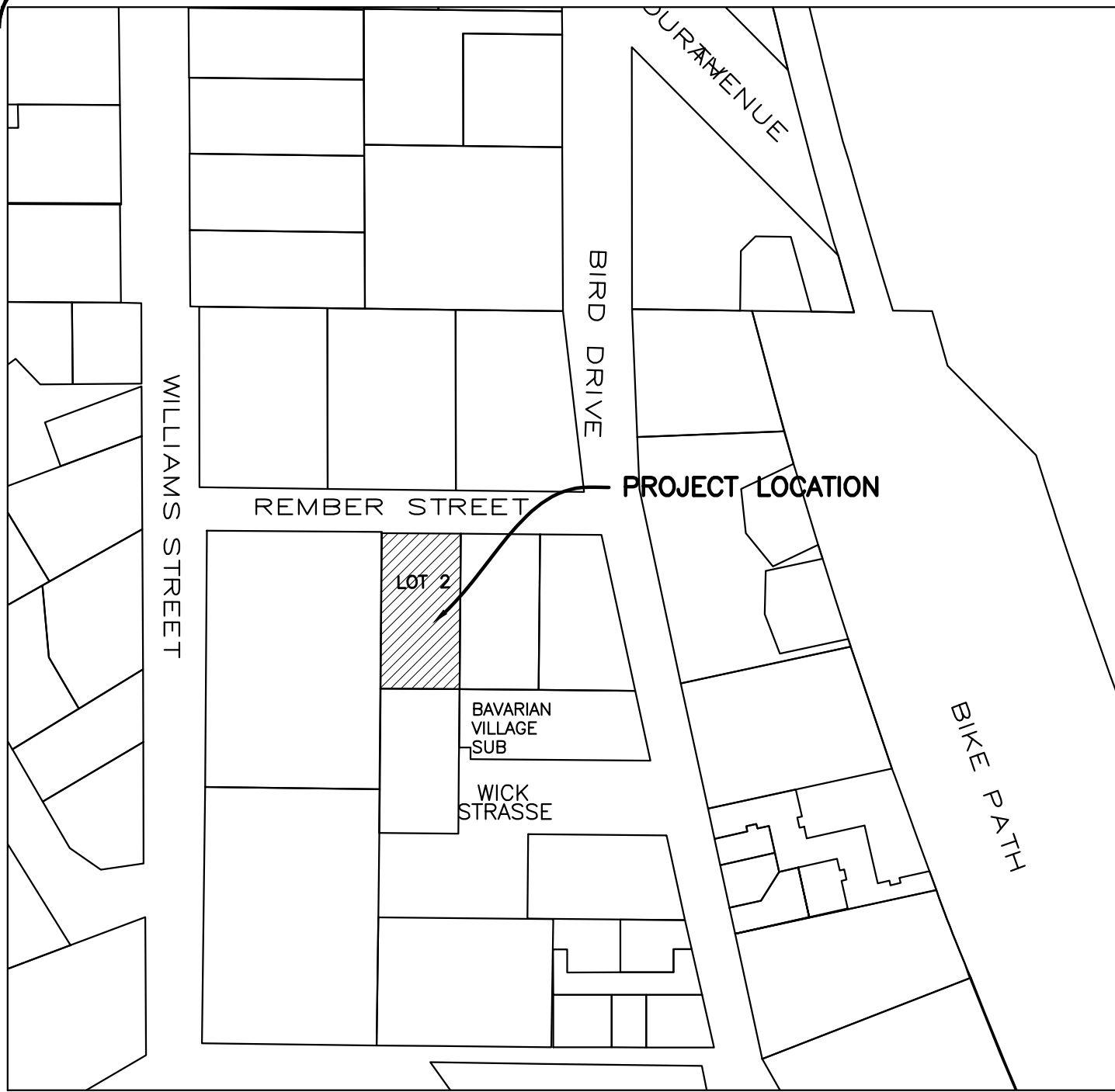
Administrative Use Only

Date Received: _____ Date of Council Meeting: _____

Council Meeting Date: _____

Action Taken by Council: _____

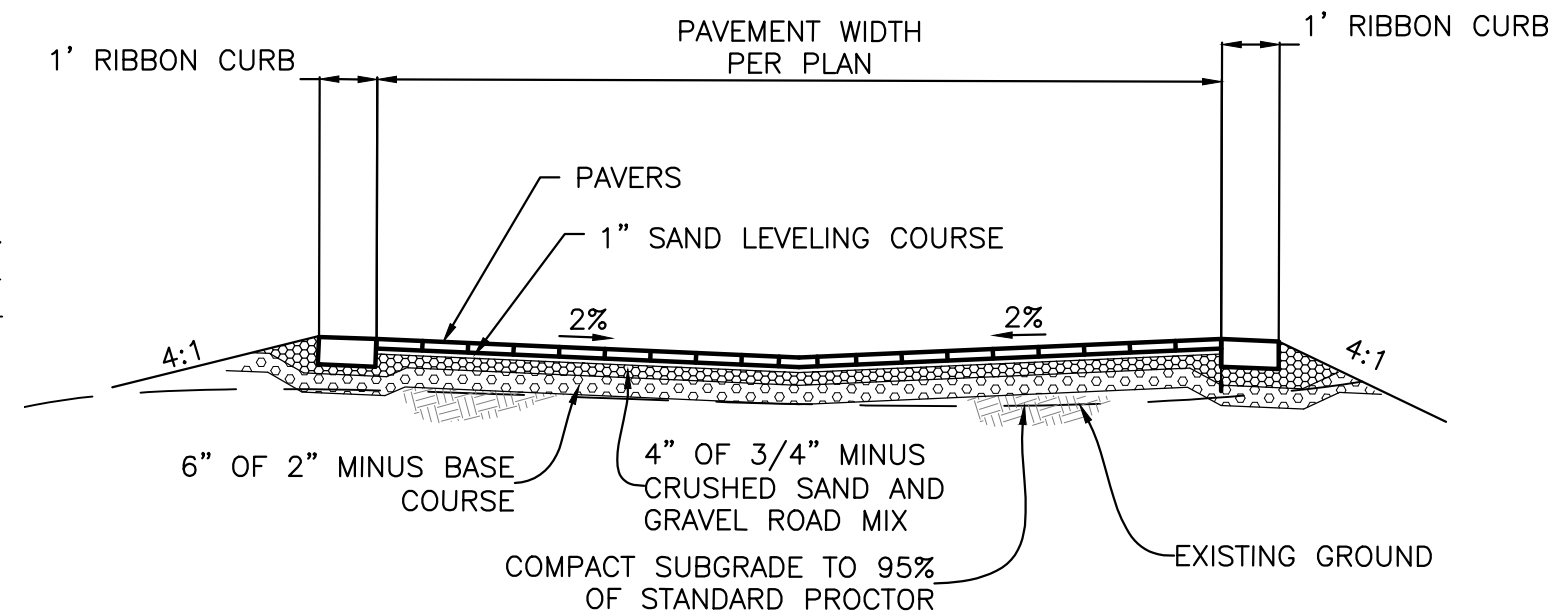
Date approved: _____ Date Denied: _____



VICINITY MAP

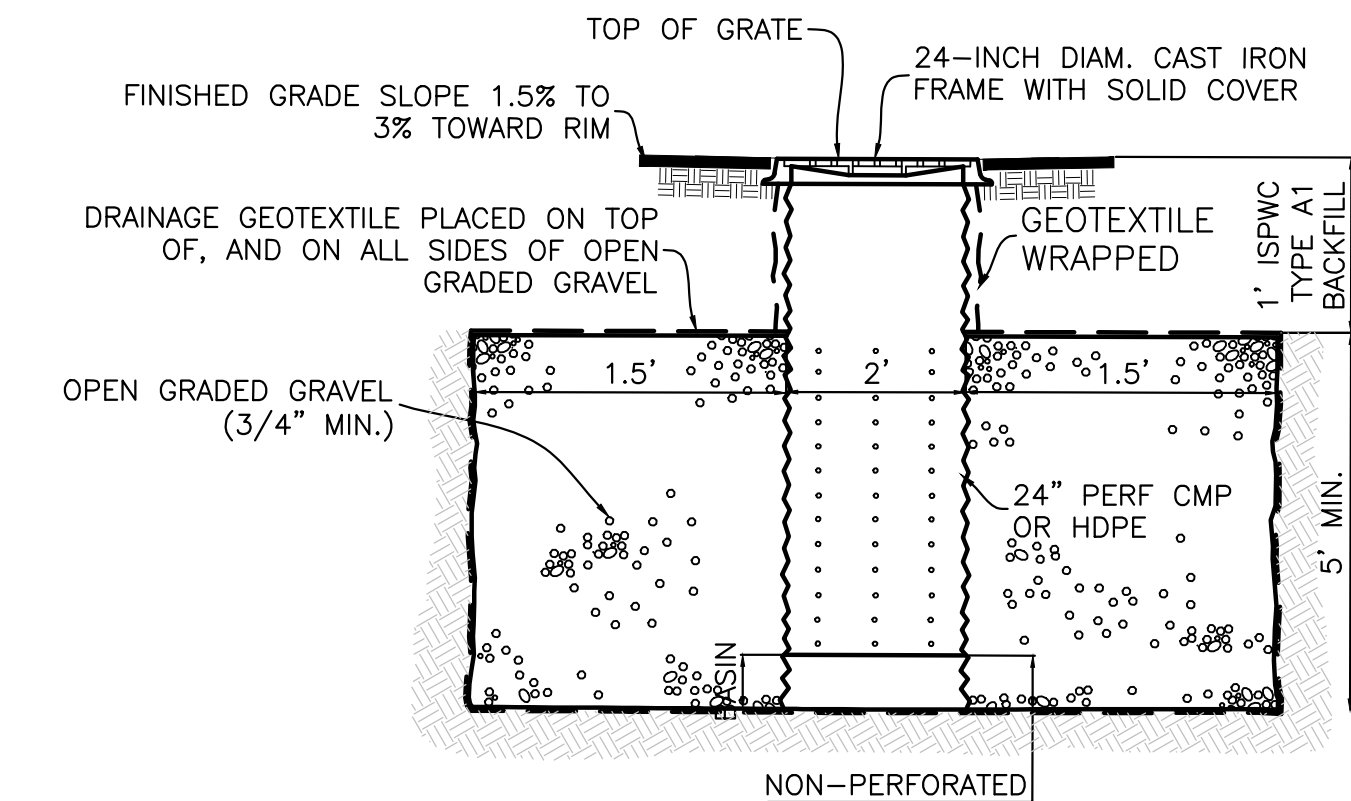
LEGEND	EXISTING	PROPOSED
PROPERTY LINE	---	---
ADJOINING PROPERTY LINE	---	---
CENTERLINE	---	---
FENCE	---	---
SEWER	---	---
SEWER MANHOLE	⊙	⊙
SEWER CLEANOUT	⊙	⊙
WATER	---	---
GAS	---	---
POWER	---	---
OVERHEAD POWER	---	---
TELEPHONE	---	---
CABLE TV LINE	---	---
ELEVATION CONTOUR	--- 5775 ---	---
SAWCUT LINE	---	---
FLOW LINE	---	---
DRYWELL	⊙	⊙
LANDSCAPE DRYWELL	⊙	⊙
STORM DRAIN PIPE	---	---
DOWN SPOUT	DS	DS
ASPHALT PAVEMENT	---	---
PAVERS	---	---
GRAVEL	---	---
GRASS PAVE	---	---
FG	---	---
EG	---	---
GB	---	---
ME	---	---

- GENERAL NOTES**
- CONTRACTOR SHALL FIELD VERIFY LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING CONSTRUCTION. ANY CONFLICT SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER.
 - CONTRACTOR SHALL NOTIFY DIGLINE (1-800-342-1585) AT LEAST 48 HOURS PRIOR TO BEGINNING CONSTRUCTION ACTIVITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING UTILITIES ENCOUNTERED DURING CONSTRUCTION.
 - CONTRACTOR SHALL BE RESPONSIBLE FOR DUST CONTROL DURING THE CONSTRUCTION OF ALL ITEMS HEREON. DUST CONTROL SHALL BE CONTINUOUS DURING CONSTRUCTION. 24 HOURS PER DAY 7 DAYS PER WEEK. THE CONTRACTOR SHALL FOLLOW THE REQUIREMENTS OF THE STORM WATER POLLUTION PREVENTION PROGRAM AT ALL TIMES UNTIL PERMANENT EROSION CONTROL IS ESTABLISHED.
 - CONTRACTOR SHALL ASSURE POSITIVE DRAINAGE AWAY FROM THE HOUSE.
 - TRENCH DRAIN SHALL BE A 6" WIDE HDPE CHANNEL WITH A 0.75 BUILT IN CHANNEL SLOPE (ZURN FLO-THRU MODEL Z886 OR EQUIVALENT). GRATE SHALL BE DUCTILE IRON WITH A SLOTTED PATTERN. CATCH BASIN SHALL BE 6" WIDE X 20" LONG X 20" DEEP AND SHALL BE MADE OF HDPE. OUTLET PIPE SHALL BE 4" DIAMETER. (FLO-THRU MODEL Z887 OR EQUIVALENT). ALL COMPONENTS SHALL BE RATED FOR H2O LOADING.
 - ALL WORK WITHIN THE CITY RIGHT OF WAY SHALL CONFORM TO CITY OF KETCHUM STANDARDS.



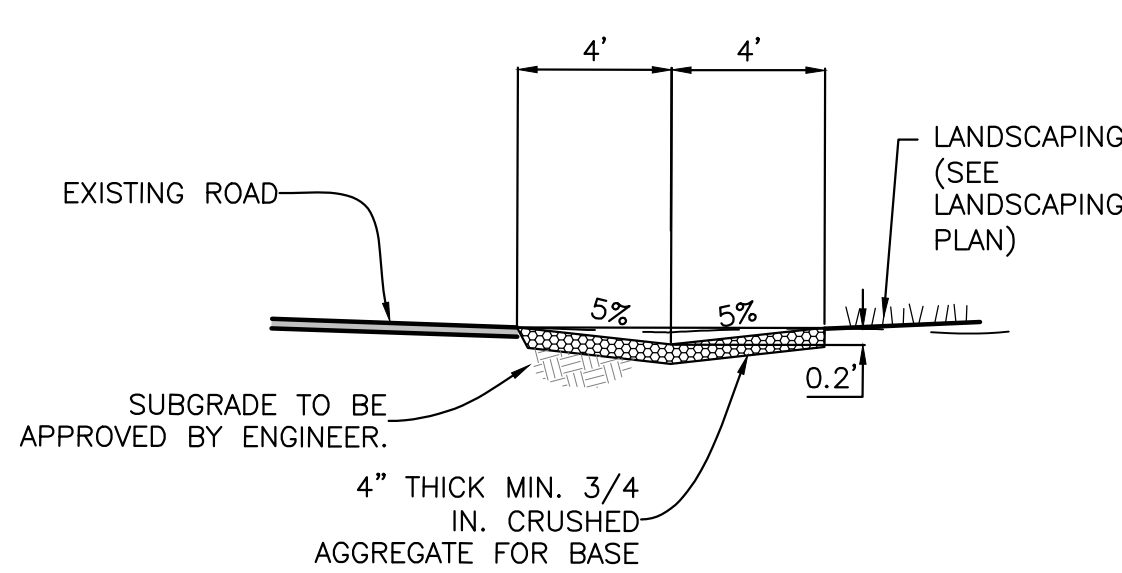
- NOTES:**
- COMPACT DRIVEWAY SUBGRADE AND ALL STRUCTURAL FILL MATERIAL TO AT LEAST 95% OF THE MAXIMUM DENSITY OF EACH MATERIAL ACCORDING TO STANDARD PROCTOR ASTM D-698.

1 DRIVEWAY TYPICAL SECTION
SCALE: N.T.S.

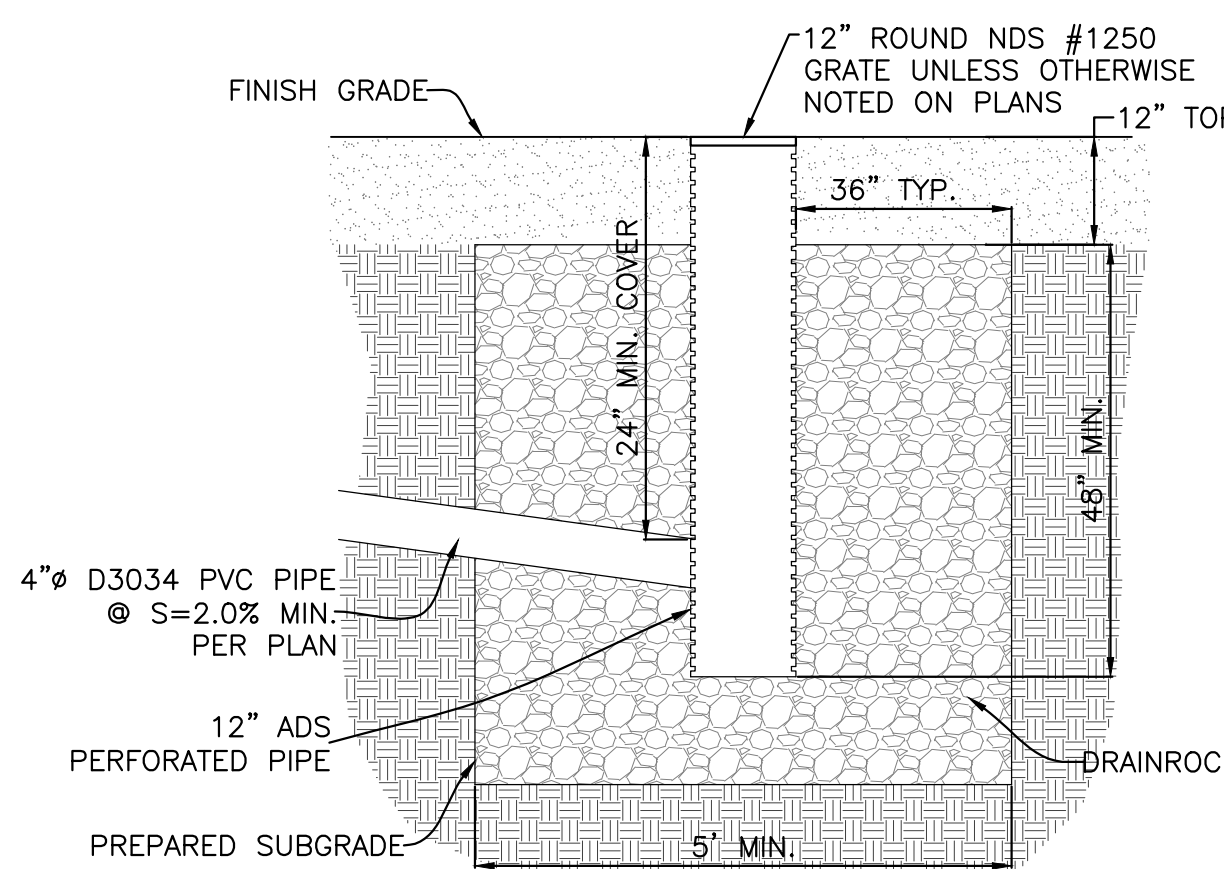


- NOTES:**
- ALL PRODUCTS AS NOTED OR APPROVED SUBSTITUTION.

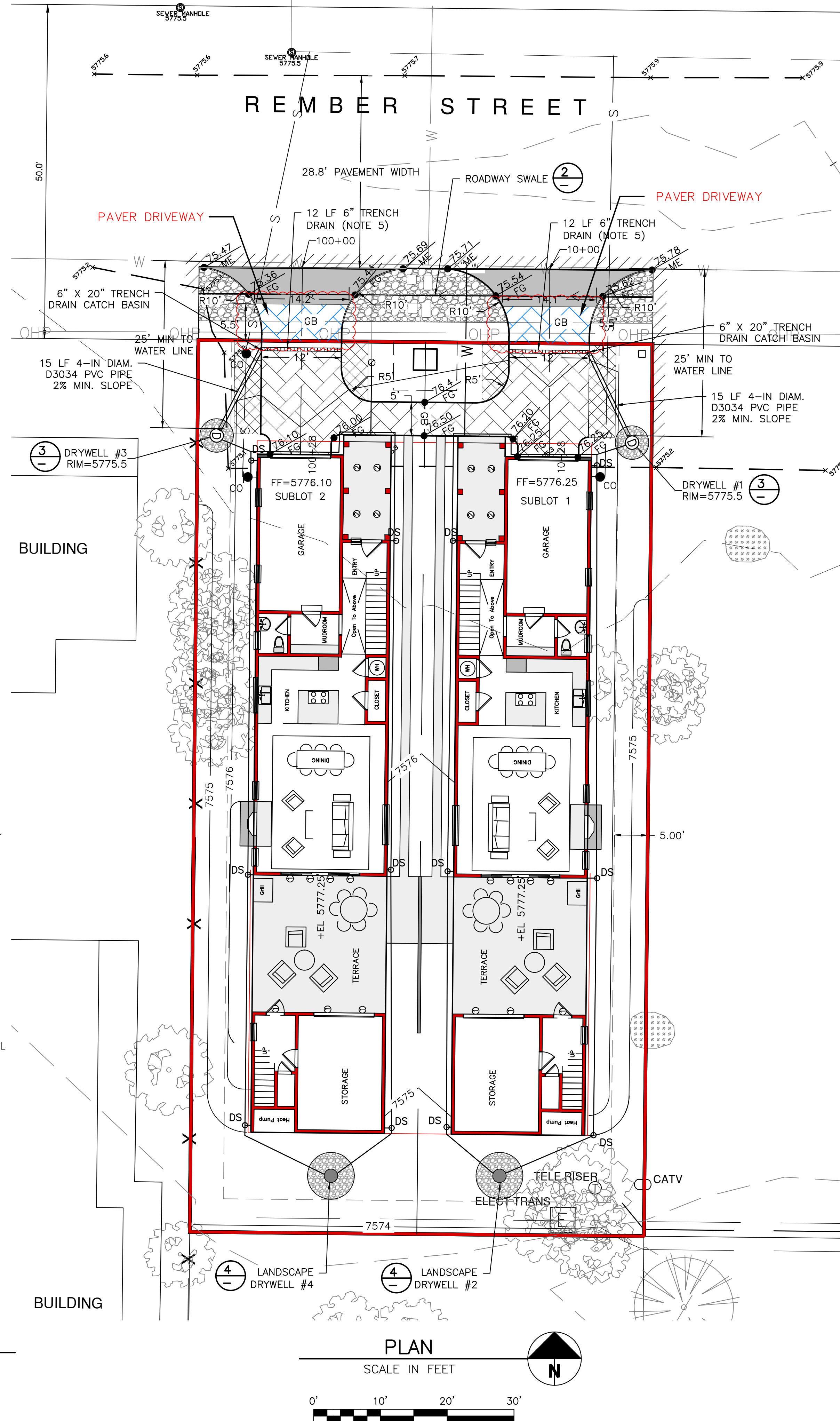
3 DRYWELL DETAIL
SCALE: N.T.S.



2 ROADWAY SWALE TYPICAL SECTION
SCALE: N.T.S.



4 LANDSCAPE DRYWELL
SCALE: N.T.S.



REVISIONS	DATE	BY
No.		
1		

BENCHMARK ASSOCIATES

PREPARED BY:
BENCHMARK ASSOCIATES, P.A.
P.O. BOX 733 100 BELL DRIVE
KETCHUM, IDAHO 83340
(208) 726-9512
FAX 726-9514
WEB: WWW.BMA5B.COM
MAIL: WWW.BMA5B.COM

ENCROACHMENT PLAN

BAVARIAN VILLAGE, LOT 2
T4N, R17E, SEC 13, B.M., CITY OF KETCHUM, IDAHO
PREPARED FOR: TIMOTHY LINEHAN

DRAWN BY:	PLJ
DESIGNED BY:	PLJ
CHECKED BY:	SB
DATE:	9/20/21
PROJECT NO.:	19162

DRAWING NO.

EXIB