



## 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 22661 for placement of pavers and snowmelt in the City Right-of-Way at 195 South Bigwood Drive.**

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 22661 with Walt and Katherine Schlotfeldt."**

The reasons for the recommendation are as follows:

- The improvements will not impact the use or operation of the residential street
- No adjustments were made to the width or grades of the driveway
- The improvements were only a material change from asphalt to pavers

Introduction and History

A Right-of-Way Encroachment Permit request was received for a paver driveway with snowmelt within the City's Right-of-Way at 195 South Bigwood Drive.

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 22661

**WHEN RECORDED, PLEASE RETURN TO:**

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

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**RIGHT-OF-WAY ENCROACHMENT AGREEMENT 22661**

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 WALT AND KATHERINE SCHLOTFELDT, (collectively referred to as "Owner"), whose address is 2510 NORTH POST ROAD, ANCHORAGE, AK 99501.

*RECITALS*

WHEREAS, Owner is the owner of real property described as 195 South Bigwood Drive ("Subject Property"), located within the City of Ketchum, State of Idaho; and

WHEREAS, Owner wishes to permit placement of a paver driveway and snowmelt within the right-of-way on South Bigwood Drive. 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 195 South Bigwood Drive, 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: \_\_\_\_\_  
Walt Schlotfeldt

By: \_\_\_\_\_  
Neil Bradshaw

Its: Mayor

By: \_\_\_\_\_  
Katherine Schlotfeldt

STATE OF \_\_\_\_\_, )  
County of \_\_\_\_\_, ) ss.  
County of \_\_\_\_\_, )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned Notary Public in and for said State, personally appeared Walt Schlotfeldt, 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 \_\_\_\_\_, )  
County of \_\_\_\_\_, ) ss.  
County of \_\_\_\_\_, )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned Notary Public in and for said State, personally appeared Katherine Schlotfeldt, 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.

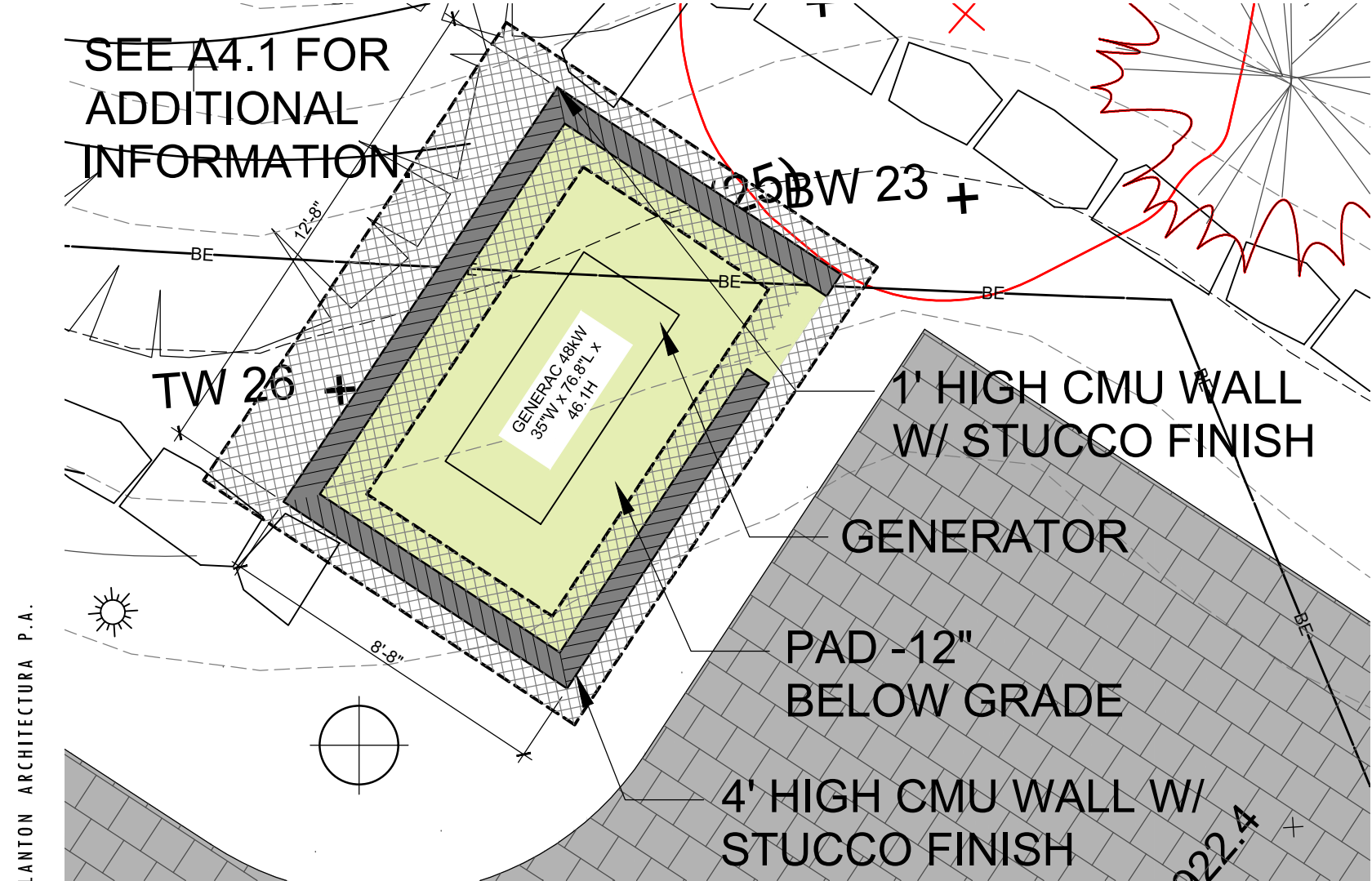
IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission expires \_\_\_\_\_

## **EXHIBIT “A”**



OWNERSHIP OF DOCUMENTS: This document, and the ideas and designs incorporated herein, as an instrument of professional service, is the property of RUSCITTO LATHAM BLANTON ARCHITECTURE P.A., and is not to be used in whole or in part, for any other project without written authorization of RUSCITTO LATHAM BLANTON ARCHITECTURE P.A.



- SANDESET DRIVEWAY PAVEMENT NOTES**
- PAVER: MATERIAL, SIZE AND PATTERN, PER PLAN
  - JOINT: SIZE AND PATTERN, PER PLAN
  - SAND: 1 1/2" SETTING BED WITH HYDRONIC HEAT
  - 4" GRAVEL LEVELING COURSE: COMPACTED 3/4" MINUS, ROAD MIX
  - 6" GRAVEL LEVELING COURSE: COMPACTED 2" MINUS, ROAD MIX
  - GEOTEXTILE: PER ENGINEER
  - COMPACTED SUBGRADE: SEE GEOTECHNICAL REPORT
  - VERIFICATION: ALL STRUCTURAL MATERIAL DIMENSIONS TO BE VERIFIED WITH ENGINEER PRIOR TO BEGINNING WORK

#### TYPICAL DRIVEWAY DETAIL

EXISTING DRIVEWAY WIDENED TO 20' W/ HEATED PAVERS, SEE TYPICAL DRIVEWAY DETAIL

12" EXISTING CULVERT TO REMAIN

SOUTH BIGWOOD DRIVE

STONERIDGE ROAD

LOT 42A

±29.404 S.C. ±28.8 Acres PER SURVEY

POOL

18' x 38'

POOL EQUIP. VAULT, BELOW PAVERS

14.88 WITNESS CORNER FDRB4 GKW

5915.3

5911.1

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SHEET LEGEND	
SYMBOL	DESCRIPTION
	Property Line
	Building Envelope
	Golf Course
	Existing Contours
	Proposed Contours
	Existing Vegetation
	Hardscape - Pavers TBD
	Hardscape - Paver Steps
	Masonry Wall
	Drystack Wall - Oakley Stone
	Landscape - Native
	Landscape - Lawn
	Landscape - Perennials
	Landscape Boulders (To Match Viewers)

#### PLANT SCHEDULE

QTY	ID	COMMON NAME	SIZE
5	AD	Amor Maple	8'-10'
5	QA	Quaking Aspen	9' CAL
25	PM	Plant Major Pine	8'-10'
10	PA	Norway Spruce	10'-12'
5	VP	Vanderhoof Pyramidal Liner Pine	12'-14'

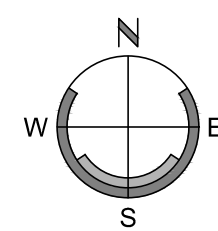
QTY	ID	COMMON NAME	SIZE
100		5 GALLON SHRUB	5 GAL
11	SH	10 GALLON SHRUB	10 GAL
9	FL	FLAME WILLOW	10 GAL

#### NOTES:

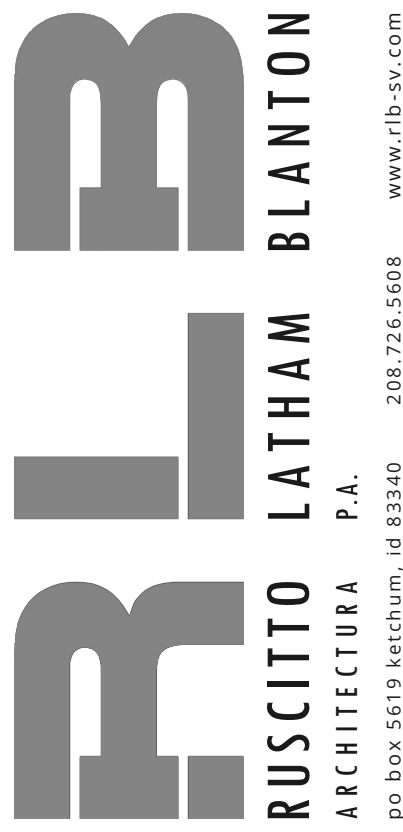
- PLANTING INSTALL TO BE DIRECTED IN FIELD WITH CLIENT, LANDSCAPE ARCHITECT, AND LANDSCAPE CONTRACTOR
- LANDSCAPING IRRIGATION SHALL MEET EPA WATER SENSE PROGRAM REQUIREMENTS
- TURF GRASS SHALL BE OF DROUGHT TOLERANT SPECIES (PERMANENTLY TALL FESCUE OR EQUIVALENT) OR LIMITED TO TWENTY FIVE (25%) OF THE TOTAL LANDSCAPED PORTION OF THE SITE
- SEVENTY FIVE (75%) OF NEW TREES AND SHRUBS SHALL BE NATIVE OR LISTED ON THE UNIVERSITY OF IDAHO'S LIST OF DROUGHT TOLERANT SHRUBS AND TREES

#### SITE PLAN + LANDSCAPE PLAN

SCALE: 1" = 10'-0"



ISSUED	
2019.12.20	DESIGN REVIEW SUB.
2020.01.31	BUILDING PERMIT SUB.
2020.04.23	CONSTRUCTION SET
2020.05.15	DELTA 1 REVISION
2020.05.18	ELECTRICAL PLAN REV.
2020.07.21	DESIGN REVIEW RE-SUB.
2020.07.30	CONSTRUCTION SET 2
2020.09.28	AD #10 NEW ENTRY
2020.09.30	RE-SUBMITTAL TO CITY
2021.08.05	SITE PLAN - R.O.W. PERMIT



SCHLOTfeldt RESIDENCE  
195 S BIGWOOD DRIVE | KETCHUM, IDAHO

PRINT DATE:  
2021-08-05  
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DRAWING

SITE PLAN +  
LANDSCAPE  
PLAN

DWG. #

A1.1