



## City of Ketchum

### CITY COUNCIL MEETING AGENDA MEMO

Meeting Date:  Staff Member/Dept:

Agenda Item:

#### Recommended Motion:

I move to authorize the Mayor to sign Right-of-Way Encroachment Agreement 22827 with Corey Street Mass LLC.

#### Reasons for Recommendation:

- The improvements will not impact the use or operation of the street or decrease the number of on-street parking spaces along 1st Avenue or 4th Street. The improvements will not impact drainage or snow removal within the public right-of-way.
- The project complies with all standards for Right-of-Way Encroachment Permit issuance specified in Ketchum Municipal Code §12.12.060. The proposed snowmelt system meets the City's energy code and installation for commercial projects.
- The property owner is responsible for the installation, maintenance, and repair of the right-of-way encroachments, including the snowmelt system installed for the public sidewalks.

#### Policy Analysis and Background (non-consent items only):

The 380 N 1st Avenue Mixed-Use Building project is a 5,095-square-foot addition to the McAtee House —a historic log cabin that was constructed in the 1930s. The project site is located at 380 N 1st Avenue in the Mixed-Use Subdistrict of the Community Core (CC-2). The historic cabin will be repurposed as commercial office space and the new addition will accommodate two residential units, common area, and parking garages. The McAtee House is one of the 24 structures on the city's Historic Building List. The Historic Preservation Commission reviewed the McAtee House Addition project on July 7, 2021 and unanimously approved the applicant's request to alter the historic building. The Planning and Zoning Commission unanimously approved the 380 N 1st Avenue Mixed-Use Building Design Review Application File No. P21-085 on December 14, 2021.

The project proposes to construct new 8-foot-wide sidewalks along 1st Avenue, new 12-foot-wide sidewalks along 4th Street, and a new bulb out at the street corner. The new sidewalks and bulb out will be heated with a snowmelt system and surfaced with pavers. Pursuant to Condition of Approval No. 5 of Design Review Application File No. P21-085, the City Council must review and approve the proposed encroachments within the public right-of-way prior to issuance of a building permit for the project. The applicant has submitted a building permit for the project, which is currently under review by City Departments.

Pursuant to Ketchum Municipal Code §12.12.040.C, a Right-of-Way Encroachment Permit is required for any permanent encroachment within the public right-of-way where a permanent fixture in the ground or attached to a building will occur. The standards for issuance of a Right-of-Way Encroachment Permit are specified in Ketchum Municipal Code §12.12.060. The City Council has the authority to review and approve all permanent encroachments within the public right-of-way associated with a development project pursuant to Ketchum Municipal Code §17.96.030.C. The associated Right-of-Way Encroachment Agreement is 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. The agreement also obligates the property owner to install, maintain, and repair the permanent encroachments, including the snowmelt system for the public sidewalks.

The project requires a Right-of-Way Encroachment Permit for the snowmelt system and pavers installed for the new sidewalks and bulb out along 1st Avenue and 4th Street. The encroachments proposed for the 380 N 1st Avenue Mixed-Use Building comply with all standards for permanent right-of-way encroachments specified in Ketchum Municipal Code §12.12.060. Permanent encroachments within the right-of-way must be in the public interest pursuant to Ketchum Municipal Code §12.12.060.A. The permanent encroachments proposed for the project are in the public interest the snowmelt system will prevent the accumulation of snow and ice on the new sidewalks along 1st Avenue and 4th Street.

**Sustainability Impact:**

None OR state impact here: The ROW Encroachment Permit does not limit the ability of the city to reach the goals of the Ketchum Sustainability Action Plan – 2020. The proposed snowmelt system meets the City’s energy code and installation requirements for commercial projects.

**Financial Impact:**

None OR Adequate funds exist in account:	There is no financial requirement from the city for this action at this time.
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**Attachments:**

1. ROW Encroachment Agreement 22827

**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 22827**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_, 2023, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation ("Ketchum"), whose address is Post Office Box 2315, Ketchum, Idaho 83340, and WILLIAM J. MCMORROW, representing Corey Street Mass LLC, (collectively referred to as "Owner"), whose address is 11361 Farlin Street, Los Angeles, California 90049.

*RECITALS*

WHEREAS, Owner is the owner of real property described as 380 N 1<sup>st</sup> Avenue ("Subject Property"), located within the City of Ketchum, State of Idaho; and

WHEREAS, Owner wishes to permit the placement of a hydronic snowmelt system and pavers that are required for the development of the 380 N 1<sup>st</sup> Avenue Mixed-Use Building project within the public rights-of-way along 1<sup>st</sup> Avenue and 4<sup>th</sup> 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;

WHEREAS, the Owner will restore the sidewalk, street, curb and gutter and any landscaping back to the original condition acceptable to the Streets and Facilities Director;

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 install a hydronic snowmelt system and pavers identified in Exhibit "A" within the public rights-of-way on 1<sup>st</sup> Avenue and 4<sup>th</sup> Street until notified by Ketchum to remove the infrastructure at which time Owner shall remove the infrastructure at Owner's expense.

2. Owner shall be responsible for the maintenance of said Improvements and shall repair said improvements within 48 hours upon notice from Ketchum that repairs are needed. Any modification to the improvements identified in Exhibit "A" shall be approved by the City of Ketchum prior to any modifications taking place.

3. Snowmelt systems installed in the public right-of-way shall be installed and operate at all times during the winter according to the following:

- The system shall meet the requirements of the International Energy Conservation Code (2018 IECC, 403.12.2)
- The system shall have an electronic main control board to operate the system that is programmable and optimizes the way the system functions.
- Installation of in-ground control sensors linked to the main control board that detect snow and ice on the surface, monitor the sidewalk or driveway temperature, and automatically activates the system to be turned on or off based on the snow condition and air temperature.

4. Owner shall be responsible for restoring the sidewalk, curb and gutter and landscaping that is altered due to the construction and installation of the Improvements, to the satisfaction of the Director of Streets and Facilities.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

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

13. 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.

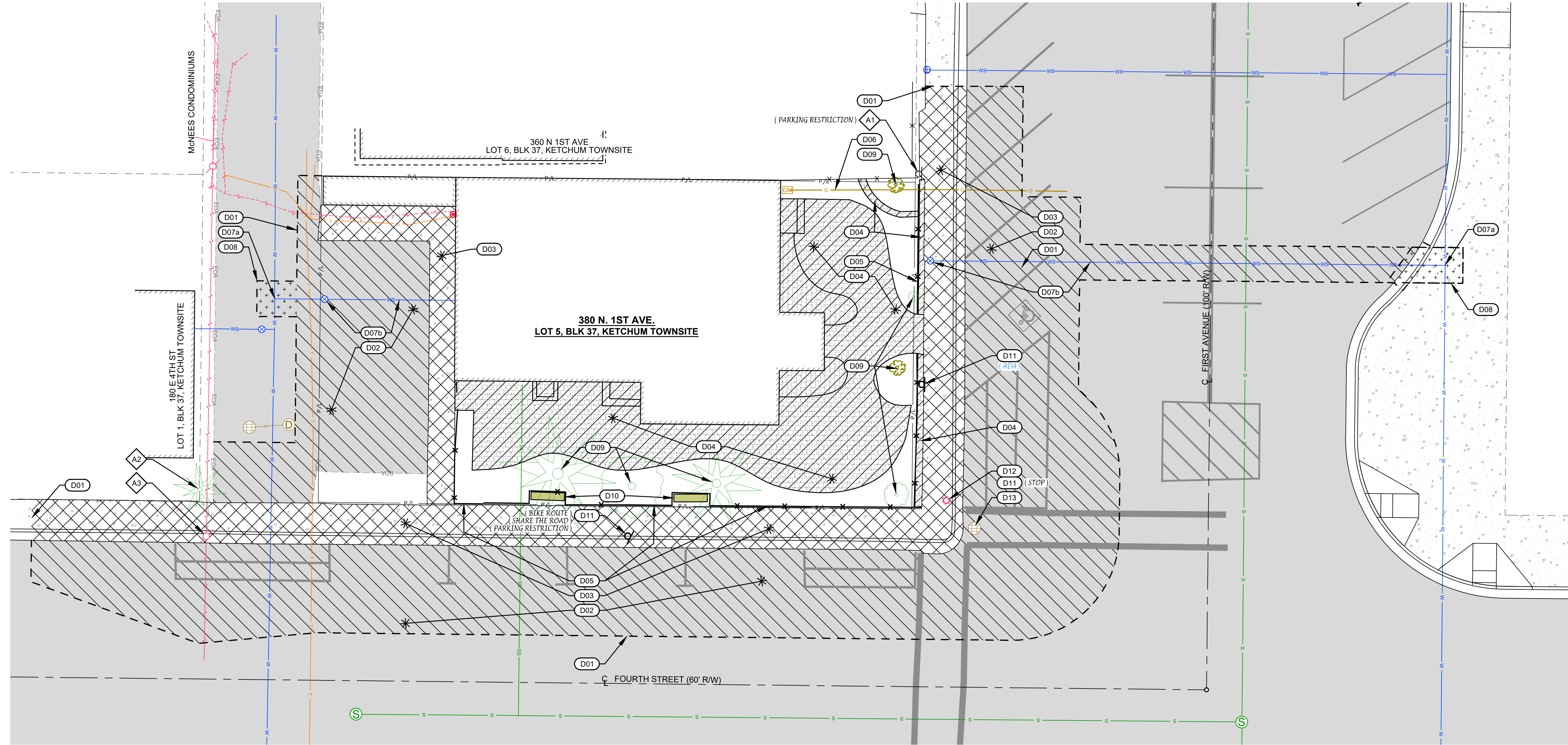


**EXHIBIT "A"**





REUSE OF DRAWINGS: These drawings, or any portion thereof, shall not be used on any project or extensions of this project except by agreement in writing with Galena Engineering, Inc.



**DEMOLITION KEY NOTES**

- D01 SAWCUT ASPHALT / CONCRETE TO PROVIDE FOR A CLEAN VERTICAL EDGE
- D02 REMOVE AND DISPOSE OF ASPHALT.
- D03 REMOVE AND DISPOSE OF CONCRETE CURB, GUTTER, AND/OR SIDEWALK.
- D04 REMOVE AND DISPOSE OF CONCRETE CURB, GUTTER, AND/OR SIDEWALK.
- D05 REMOVE AND DISPOSE OF FENCE.
- D06 GAS LINE TO BE ABANDONED. CONTRACTOR TO COORDINATE METHOD OF ABANDONMENT WITH UTILITY FRANCHISE.
- D07 WATER SERVICE TO BE ABANDONED.
  - a. CONTRACTOR TO LOCATE CONNECTION / CORP STOP AT WATER MAIN, SHUT OFF VALVE AND DISCONNECT WATER SERVICE LINE. ABANDON WATER SERVICE LINE IN PLACE. COORDINATE ACTIVITY WITH THE CITY OF KETCHUM.
  - b. REMOVE AND DISPOSE OF WATER SERVICE VALVE. ABANDON WATER SERVICE LINE IN PLACE.
- D08 REPAIR ASPHALT, CURB, GUTTER, AND SIDEWALK. MATCH EXISTING LINES, GRADES, MATERIALS, AND MATERIAL THICKNESSES. SEE ITEM S14, SHEET C1.10.
- D09 REMOVE AND DISPOSE OF TREE AND COMPLETE ROOT BALL.
- D10 REMOVE AND DISPOSE OF PARK BENCH.
- D11 REMOVE SIGN AND POST. SIGNS TO BE REUSED. (TYPE)
- D12 REMOVE AND RETAIN LIGHT AND ALL COMPONENTS. LIGHT WILL BE REUSED. DISPOSE OF FOOTING. RETAIN SIGN FOR FUTURE REUSE.
- D13 REMOVE AND DISPOSE OF CATCH BASIN / DRYWELL.
- RETAIN AND PROTECT:
  - 1. SIGN (TYPE)
  - 2. TREE
  - 3. UTILITY POLE

**380 N. 1ST AVE. MIXED-USE BUILDING  
SITE DEMOLITION PLAN**

LOCATED WITHIN SECTION 13, T.4N., R. 18E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO  
PREPARED FOR WILLIAMS PARTNERS

PROJECT INFORMATION  
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**PRELIMINARY  
FOR DESIGN  
REVIEW ONLY**

**NOT FOR  
CONSTRUCTION**

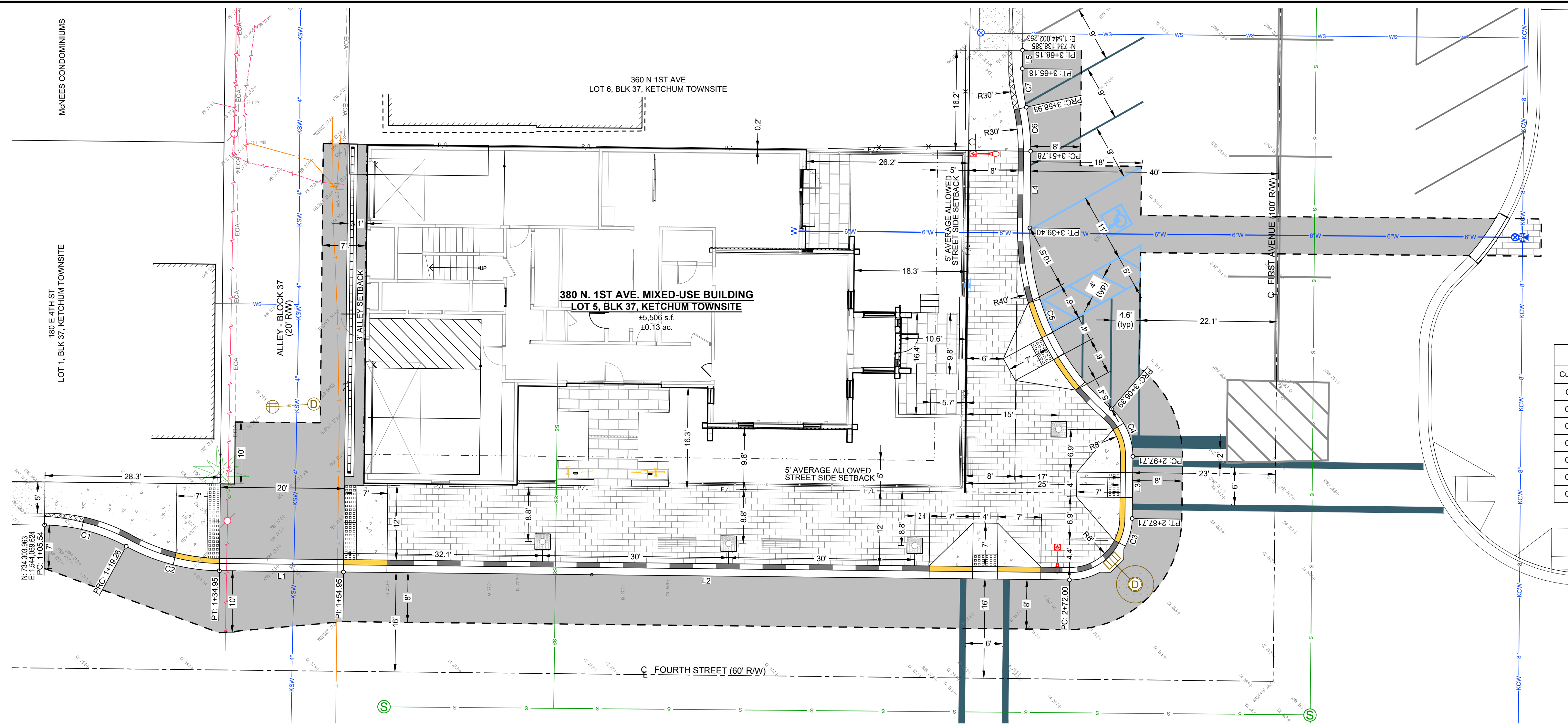
CT DESIGNED BY \_\_\_\_\_  
 CT DRAWN BY \_\_\_\_\_  
 JCL CHECKED BY \_\_\_\_\_

**GALENA**  
**ENGINEERING, INC.**  
 Civil Engineers & Land Surveyors  
 317 N. River Street  
 Hailey, Idaho 83433  
 (208) 768-1705  
 email: galena@galena-engineering.com

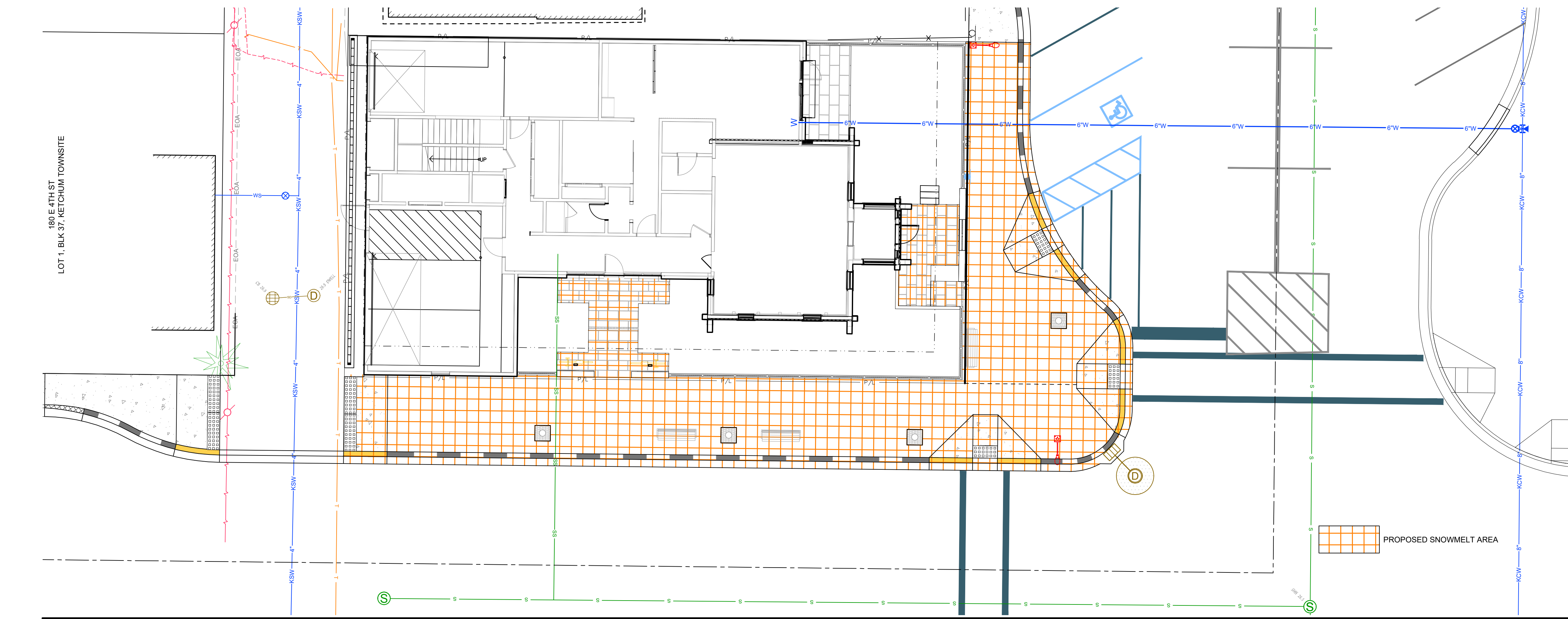
PURPOSE: ISSUE FOR REVIEW	REVISIONS	
NO.	DATE	BY

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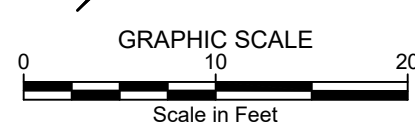
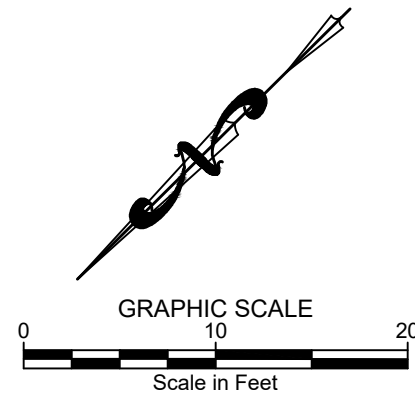
SITE GEOMETRY PLAN



SNOWMELT AREA PLAN

Line Table		
Line	Direction	Length
L1	S45° 37' 11"W	20.00'
L2	S45° 37' 11"W	117.05'
L3	S44° 22' 39"E	10.00'
L4	S44° 22' 39"E	12.37'
L5	S44° 22' 22"E	2.96'

Curve Table					
Curve	Radius	Length	Delta	Chord Direction	Chord Length
C1	28.00'	13.73'	28° 05' 10"	S59° 39' 46"W	13.59'
C2	32.00'	15.69'	28° 05' 10"	S59° 39' 46"W	15.53'
C3	10.00'	15.71'	88° 59' 49"	S00° 37' 16"W	14.14'
C4	10.00'	8.69'	49° 46' 19"	S69° 15' 48"E	8.42'
C5	38.00'	33.01'	49° 46' 19"	S69° 15' 48"E	31.98'
C6	32.00'	7.15'	12° 47' 59"	S50° 46' 38"E	7.13'
C7	28.00'	6.26'	12° 48' 16"	S50° 46' 30"E	6.24'



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CT  
DESIGNED BY  
CT  
DRAWN BY  
JCL  
CHECKED BY

**GALENA  
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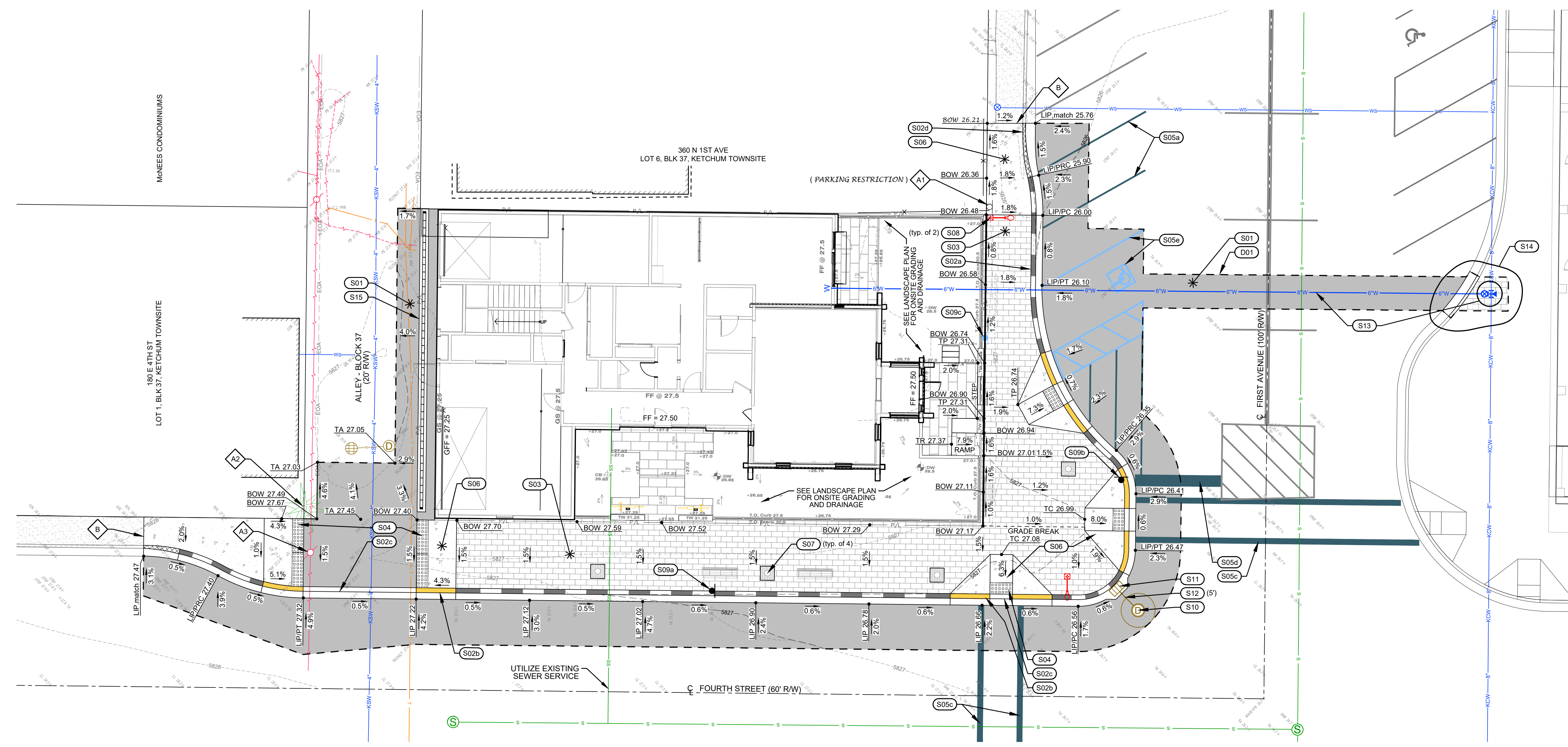
- ### SITE IMPROVEMENT KEY NOTES
- (D01)** SAWCUT ASPHALT / CONCRETE TO PROVIDE FOR A CLEAN VERTICAL EDGE
  - (S01)** CONSTRUCT ASPHALT ROADWAY REPAIR. SEE DETAIL 1 / C1.20.
  - (S02)** CONSTRUCT CONCRETE CURB AND GUTTER
    - a. 6" ROLLED CURB AND GUTTER PER DETAIL 2 / C1.20.
    - b. TYPICAL CURB TRANSITION (ROLLED TO ZERO REVEAL) PER DETAIL 3 / C1.20.
    - c. ZERO REVEAL CURB AND GUTTER PER DETAIL 3 / C1.20.
    - d. CURB TRANSITION (ROLLED TO VERTICAL).
  - (S03)** CONSTRUCT HEATED PAVER SIDEWALK, WIDTH AS SHOWN HEREON. SEE DETAIL 4 / C1.20.
  - (S04)** INSTALL DETECTABLE WARNING PLATE (CAST IRON TRUNCATED DOME) SEE DETAIL 7 / C1.20.
  - (S05)** INSTALL ROAD STRIPING / PAINT
    - a. YELLOW ASPHALT PARKING STRIPING (4" WIDE), MATCH CITY PATTERNS.
    - b. N/A
    - c. WHITE CROSSWALK STRIPING (12" WIDE).
    - d. WHITE STOP BAR STRIPING (24" WHITE).
    - e. BLUE ADA PARKING STRIPING (4" WIDE) AND SYMBOL. REFER TO DETAIL 12 / C1.20.
  - (S06)** CONSTRUCT CONCRETE SIDEWALK (PEDESTRIAN APPROACH OR FLAT AREA). SEE DETAIL 5 / C1.20.
  - (S07)** INSTALL CITY APPROVED STREET TREE WELL. SEE LANDSCAPE PLAN FOR DETAIL.
  - (S08)** INSTALL STREET LIGHT. REFER TO CITY OF KETCHUM STREET LIGHT DETAILS.
  - (S09)** SIGNS: SEE DETAIL 6 / C1.20 FOR SIGN BASE DETAIL.
    - a. INSTALL BIKE ROUTE / SHARE THE ROAD SIGN. INSTALL "NO PARKING" SIGN. ALL 3 SIGNS ON ONE POST.
    - b. INSTALL STOP SIGN (FROM ORIGINAL SIGN ON STREET LIGHT BASE).
    - c. INSTALL ADA PARKING SIGN. REFER TO DETAIL 11 / C1.20.
  - (S10)** CONSTRUCT DRYWELL. SEE DETAIL 10 / C1.20. RIM = 5826.59 I.E.(IN) = 5823.2
  - (S11)** INSTALL CATCH BASIN. SEE DETAIL 9 / C1.20. RIM = 5826.31 I.E.(OUT) = 5823.31
  - (S12)** INSTALL 12" ADS N-12 STORM DRAIN PIPE WITH A MINIMUM SLOPE OF 2.0%. SEE DETAIL 8 / C1.20 FOR TRENCHING.
  - (S13)** INSTALL 6" C-900 PVC WATER SERVICE.
    - 8"x6" STAINLESS STEEL TAPPING SADDLE
    - 6" GAVE VALVE
    - W/ THRUST BLOCKS
    - REFER TO DETAIL 8 / C1.20 FOR TRENCHING.

- (S14)** REPAIR ASPHALT, CURB, GUTTER, AND SIDEWALK. MATCH EXISTING LINES, GRADES, MATERIALS, AND MATERIAL THICKNESSES.
- (S14)** REPAIR ASPHALT, CURB, GUTTER, AND SIDEWALK. MATCH EXISTING LINES, GRADES, MATERIALS, AND MATERIAL THICKNESSES.
- (S15)** INSTALL TRENCH DRAIN. SEE DETAIL 13, SHEET C1.20. CONNECT TRENCH DRAIN TO ON-SITE STORM SYSTEM
- (A)** RETAIN AND PROTECT:
  - 1. SIGN (TYPE)
  - 2. TREE
  - 3. UTILITY POLE
- (B)** MATCH EXISTING LINES AND GRADES

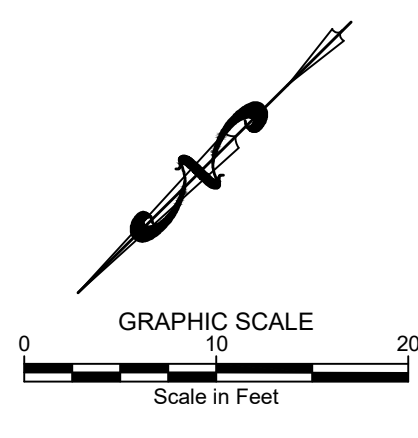
- ### GRADING LEGEND
- ROW 26.21 EXISTING GRADE SPOT ELEVATIONS
  - LIP/PT 27.37 PROPOSED GRADE SPOT ELEVATION
  - 3.7% PROPOSED GRADE
  - GRADE BREAK

- ### ABBREVIATIONS
- BAR = STOP BAR / ROAD PAINT
  - CB = CATCH BASIN
  - CC = CURB CUT
  - CK = CHECK
  - CL = CENTERLINE
  - COR = CORNER
  - CT = CONIFER TREE
  - DW = DRYWELL
  - EG = EXISTING GRADE
  - EOA = EDGE OF ASPHALT
  - EOC = EDGE OF CONCRETE
  - EOP = EDGE OF PAVERS
  - FEE = FINISHED FLOOR AT ENTRY
  - FNC = FENCE
  - LIP = LIP OF GUTTER
  - LP = LOW POINT
  - NG = NATURAL GRADE
  - PB = POWER BURIED
  - PHB = BURIED TELEPHONE
  - PC = POINT OF CURVATURE
  - PCC = POINT OF COMPOUND CURVE
  - PI = POINT OF INTERSECTION
  - POC = POINT OF CURVATURE
  - PT = POINT OF TANGENCY
  - RP = REFERENCE POINT
  - SN = SIGN
  - STRP = PARKING STRIPE
  - TA = TOP OF ASPHALT
  - TBC = TOP BACK OF CURB
  - TBW = TOP BACK OF WALK
  - TC / TOC = TOP OF CONCRETE
  - TP = TOP OF PAVERS
  - WB = WATER BURIED
  - WV = WATER VALVE
  - XW / XWLK = CROSS WALK ROAD PAINT

- ### GENERAL NOTES
- FINAL PLACEMENT OF THE STREETLIGHTS MUST BE SUBMITTED TO THE CITY FOR FINAL REVIEW AND APPROVAL PRIOR TO INSTALLATION.
  - SEE LANDSCAPE PLAN FOR ONSITE GRADING AND DRAINAGE.
  - SEE LANDSCAPE PLAN FOR BIKE RACK, BENCH, AND CHANNEL DRAIN DETAILS.



**PRELIMINARY  
NOT FOR  
CONSTRUCTION**



**PRELIMINARY FOR DESIGN REVIEW ONLY**

REGISTERED PROFESSIONAL ENGINEER  
7986  
5002/17723 AND  
STATE OF IDAHO  
JEFF C. LOOMIS

**NOT FOR CONSTRUCTION**

CT DESIGNED BY  
CT DRAWN BY  
JCL CHECKED BY

**GALENA ENGINEERING, INC.**  
Civil Engineers & Land Surveyors  
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Halley, Idaho 83333  
(208) 768-1705  
email: galena@galena-engineering.com

PURPOSE:	ISSUE FOR REVIEW	REVISIONS
NO.	DATE	BY

C1.10

**380 N. 1ST AVE. MIXED-USE BUILDING  
GRADING AND DRAINAGE PLAN**

LOCATED WITHIN SECTION 13, T.4N., R.17E., & SECTION 18, T.4N., R.18E.B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PROJECT INFORMATION  
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