



City of Ketchum

December 16, 2019

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation To Approve Alley Maintenance Agreement 20439 with Crossbuck Subdivision Homeowners Association

Recommendation and Summary

Staff is recommending the Council approve Agreement 20439 and adopt the following motion:

I move to authorize the Mayor to sign Agreement 20439.

The reasons for the recommendation are as follows:

- As part of the Crossbuck subdivision, the applicant proposed to improve the alley to allow access to the residential units. Because the City does not maintain alleys in residential districts, a project condition of approval required the applicant to enter into an alley maintenance agreement.
- The proposed agreement is acceptable to the applicant and the City.

Introduction and History

Residential alleys are not maintained by the City. Snow removal and general maintenance responsibilities rest with the adjacent property owners. When new development is proposed, and the development proposes primary access from a residential alley, the City requires the developer to enter into an alley maintenance agreement. This agreement ensures the alley is accessible and maintained by future owners.

Analysis

Each alley maintenance agreement is tailored for the specific project and location. This Agreement is for the alley between 6th and 7th Street just west of Second Avenue. The alley will be partially open as shown in Attachment B. This Agreement applies to the portion of the alley that will be improved by the applicant.

Financial Impact

There is no financial impact associated with the Agreement.

Attachments:

Alley Maintenance Agreement 20439

Recording Requested By and
When Recorded Return to:

City of Ketchum
P.O. Box 2315
480 East Ave. N.
Ketchum, ID 83340

For Recording Purposes Do
Not Write Above This Line

GRANT OF LICENSE AND ALLEY MAINTENANCE AGREEMENT 20439

This maintenance agreement ("Agreement") is made and entered into as of the ____ day of _____, 2019, the ("Effective Date") by and between the CITY OF KETCHUM, and Idaho municipal corporation ("the City"), who is the owner of the public lands as more specifically delineated on Exhibit "A" (hereinafter "Alley") attached hereto, and CROSSBUCK SUBDIVISION HOMEOWNERS ASSOICATION, BILL SUNDALI AND SHANE MACE AS REPRESENTATIVES, who is the owner of that certain parcel of real property (herein "Owner") as more specifically delineated on Exhibit "B" attached hereto and referred to as "Development".

1. **Grant of License** - The City hereby grants to Owner and its agents, employees, contractors, subcontractors, (collectively "Agents"), subject to the conditions and covenants set forth in this Agreement as of the date this Agreement is signed by all parties, (hereinafter the "Commencement Date"), a revocable license over and right of entry on and use of the Alley for the purposes of vehicular and pedestrian ingress, egress and access to the Development, including installation of pavement, and for the maintenance, snow removal and repair of the Alley identified in Exhibit B. The Alley shall always be open and available to the public and the City shall have exclusive authority with respect to all parking restrictions and enforcement.
2. **License Revocable** - This Agreement and the rights to use the Alley granted hereunder are revocable. City Shall provide Owner with 60 days notice if the Agreement is to be terminated. Owner understands and agrees that by entering into this Agreement Owner obtains no claim or interest in said City property which is adverse to that of the City, that Owner obtains no exclusive right to said City property nor any other right to use the City property not specifically described herein.
3. **Prior Rights** - This grant is made subject to and subordinate to the prior and continuing rights and obligations of the City, its successors and assigns, and the general public, to use the Alley in the performance of its municipal operations; provided, however, that

such use shall not materially interfere with the use of the Alley by the Owner for the Permitted Use. This Agreement is subject to all licenses, leases, easements, restrictions, conditions, covenants, encumbrances, liens and claims of title which may affect the Alley as of the Effective Date, and the word "grant" shall not be construed as a covenant against the existence of any of the foregoing.

4. **Term** - The term of the Agreement shall commence on the Commencement Date and shall be in effect until the City provides notice the Agreement is terminated.
5. **Permits, Licenses and Approvals** - As a condition to Owner's right to use the Alley for the Permitted Use, Owner shall obtain any required permits, licenses and approvals from the City and any other governmental agencies having jurisdiction over Owner's use of the Alley. Ownershall maintain such permits, licenses, ordinances and approvals in force throughout the term of this Agreement. Owner shall be solely responsible for any and all fees, charges, or other expenses that may be imposed by any regulatory agencies in connection with Owner's use or enjoyment of the Alley.
6. **Condition of Property** - The City makes no warranty or representation of any kind concerning the condition of the Alley or the fitness of the Alley for the Permitted Use, and hereby disclaims any personal knowledge with respect thereto, it being expressly understood by the parties hereto that Owner has personally inspected the Alley, knows its condition and accepts it as is.
7. **Alterations. Repair and Maintenance**
 - a) Owner agrees, at its sole cost and expense to pave the portion of the Alley identified in Exhibit B to the satisfaction of the City. Owner shall submit a paving and improvement plan to the City for review and approval that shall be incorporated into this Agreement by reference.
 - b) Owner agrees, at its sole cost and expense, to keep the Alley in reasonably safe, clean and sightly condition, reasonably free from waste and snow to the reasonable satisfaction of the City. Owner agrees, at its sole cost and expense, to perform snow removal for the full length of the Alley at a width of 20 feet and to place all removed snow in snow storage areas as designated by the City. Owner shall perform all repairs and maintenance to the Alley.
 - c) The Owner shall perform maintenance and snow removal in accordance with this Agreement. The City shall not be responsible for maintenance, repairs and snow removal in the Alley. If Owner fails to keep the Alley in the condition required under this Section 7, then the City may, after ten (10) days written notice to Owner and a five (5) day opportunity to cure said problem, perform the necessary work at the expense of Owner, which expense Owner agrees to pay to the City upon written

demand.

- d) All alterations, maintenance and repairs by Owner upon the Alley shall be performed in a good manner reasonably satisfactory to the City.
 - e) Any open holes shall be satisfactorily covered at all times when Owner's Agents are not physically working in the vicinity of such holes. Upon completion of work, all such holes shall be filled in to meet the surrounding ground level and the Alley shall be left in a neat and safe condition reasonably satisfactory to the City.
 - f) Owner shall not suffer any mechanic's or materialman's liens of any kind to be enforced against the Alley for any work done or materials furnished at Owner's request. If any such liens are filed, Owner shall bond or remove them within sixty (60) days of learning of the same, at Owner's expense, and shall pay any judgment which may be entered in connection therewith.
 - g) Should Owner fail, neglect or refuse to do so, the City, after giving Owner twenty (20) business days written notice, shall have the right to pay any amount required to release any such liens or to defend any action brought and to pay any judgment entered. Owner shall be liable to the City for all costs, damages, reasonable attorney's fees and any amounts expended in defending any proceedings or in payment of any of said liens or judgment. The City may post and maintain upon the property notices of non-responsibility as provided by applicable law.
8. **Permitted Uses and Restriction on Use** – The Owner may use the alley for the purposes of vehicular and pedestrian ingress, egress and access to the Development, including installation of pavement, and for the maintenance, snow removal and repair of the Alley. The Alley shall be open and available to the public at all times and the City shall have exclusive authority with respect to all parking restrictions and enforcement. Owner agrees not to conduct any activities on or about the Alley that constitute waste or nuisance or any activities which constitute a continuing or repeated and unreasonable annoyance of which the City is notified by the owners or occupants of neighboring property or other members of the public.
9. **Indemnification**- In consideration of City allowing Owner to construct and maintain the Improvements on City property, Owner agrees to indemnify and hold harmless City 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 on City property. Owner shall further indemnify and hold City 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 City by reason of such claim, Owner,

upon notice from City, shall defend City at Owner's expense by counsel satisfactory to City. Owner, as a material part of the consideration to City, hereby assumes all risk of damages to property or injury to persons in, upon or about the Improvements constructed, installed and maintained on City property arising from the construction, installation and maintenance of said Improvements and Owner hereby waives all claims in respect thereof against City.

10. **Compliance with Laws** - The Permitted Use of the Alley shall conform to all applicable zoning laws and regulations. Owner shall comply, at Owner's expense with all applicable laws, regulations, rules and orders with respect to the use of the Alley, regardless of when they become or became effective, including, without limitation, those relating to construction, grading, signage, health, safety, noise, environmental protection, hazardous materials, waste disposal and water and air quality, and shall furnish reasonably satisfactory evidence of such compliance upon the written request of the City.

11. **Notices**-All notices required or permitted to be given under this Agreement shall be in writing and mailed postage prepaid by certified or registered mail, return receipt requested, or by personal delivery or by overnight courier, to the appropriate address indicated below or at such other place or places as either party may from time to time designate in written notice given to the other. Notices shall be deemed sufficiently served four days after the date of mailing or upon personal delivery.

The City:

To Owner:

City of Ketchum
Post Office Box 2315
Ketchum, Idaho 83340

Crossbuck Subdivision Homeowners Association
PO Box 1884
Ketchum, Idaho, 83340

12. **Assignment** - Owner shall have the right to assign and transfer this Agreement to any party who purchases one hundred (100%) of the Development, upon receiving the written consent of the City, which consent to assign shall not be unreasonably withheld or delayed. The City and any subsequent assignee may not consent to subsequent modifications to this License with assignees, sublessors or successors of Owner without notifying Owner and obtaining Owner's consent thereto.

13. **No Waiver**- No waiver of any default or breach of any covenant of this Agreement by either party shall be implied from any omission by either party to take action on account of such default other than the default specified in the waiver, and then the waiver shall be operative only for the time and to the extent stated. Waivers of any covenant, term or condition by either party shall not be construed as waivers of any

subsequent breach of the same covenant, term or condition. The consent or approval by either party to or for any act by either party requiring further consent or approval shall not be deemed to waive or render unnecessary that party's consent or approval to or of any subsequent similar acts.

14. **Severability** - Each provision of this Agreement is intended to be severable. If any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.
15. **Attorney's Fees** - If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the party in the proceeding shall receive, in addition to all court costs, reasonable attorney's fees.
16. **No Costs to the City** - Except as expressly set forth in this Agreement to the contrary, Owner shall bear all costs and expenses of any kind or nature in connection with Owner's use of the Alley.
17. **Waiver of Liability** - Neither the City nor any of its council members, commissions, departments, boards, officers, agents or employees, when acting of the City behalf, shall be liable for any damage to the property of Owner or its Agents, or for any bodily injury or death to such persons resulting or arising from the condition of the Alley or its use by Owner, or if such damage occurs before the Effective Date, unless caused by the intentional acts of the City nor any of its council members, commissions, departments, boards, officers, agents or employees.
18. **Non-Discrimination** - Owner shall not, in the operation and use of the Alley, discriminate against any person or group of persons solely because of race, color, creed, national origin, ancestry, age, sex, or disability.
19. **Governing & Law** - The rights and liability of the parties under this Agreement shall be interpreted in accordance with the laws of the State of Idaho. The Venue shall be in the Idaho 5th Judicial District, Blaine County, Idaho.
20. **Taxes** - Any and all real property tax or any other form of tax assessed or imposed against the Alley arising out of or attributable to Owner's use shall be borne by Owner.
21. **Utilities** - Owner shall pay for all water, gas, heat, light, power, telephone, and other utilities and services applied to the Alley and used by Owner or its Agents, together with

any taxes thereon.

22. **Successors and Assigns** - This Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

23. **Interpretation/Amendment**-This Agreement constitutes the complete expression of the agreement between the parties hereto and supersedes any prior agreements, whether written or oral, concerning the subject of this Agreement which are not fully expressed herein. Any addition to, deletion from, termination' extension or any other modification or to this Agreement must be in writing signed by the party against whom such modification operates.

24. **Recordation** - Upon execution of this Agreement, the City shall duly record the Agreement in the public records of Blaine County, Idaho and shall thereafter promptly submit a conformed copy of the same to Owner.

IN WITNESS WHEREOF, the parties have executed this License Agreement as of the day and year first written above by their duly authorized representatives.

OWNER:

CITY OF KETCHUM:

By: _____

By: _____

Bill Sundali, Representative for
Crossbuck Subdivision Homeowners
Association

Neil Bradshaw, Mayor

By: _____

Shane Mace, Representative for
Crossbuck Subdivision Homeowners
Association

ATTEST:

Robin Crotty
City Clerk

STATE OF _____)
) ss.
County of _____)

On this ____ day of _____, 2019, before me, the undersigned Notary Public in and for said State, personally BILL SUNDALI, 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 _____)
) ss.
County of _____)

On this ____ day of _____, 2019, before me, the undersigned Notary Public in and for said State, personally SHANE MACE, 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.

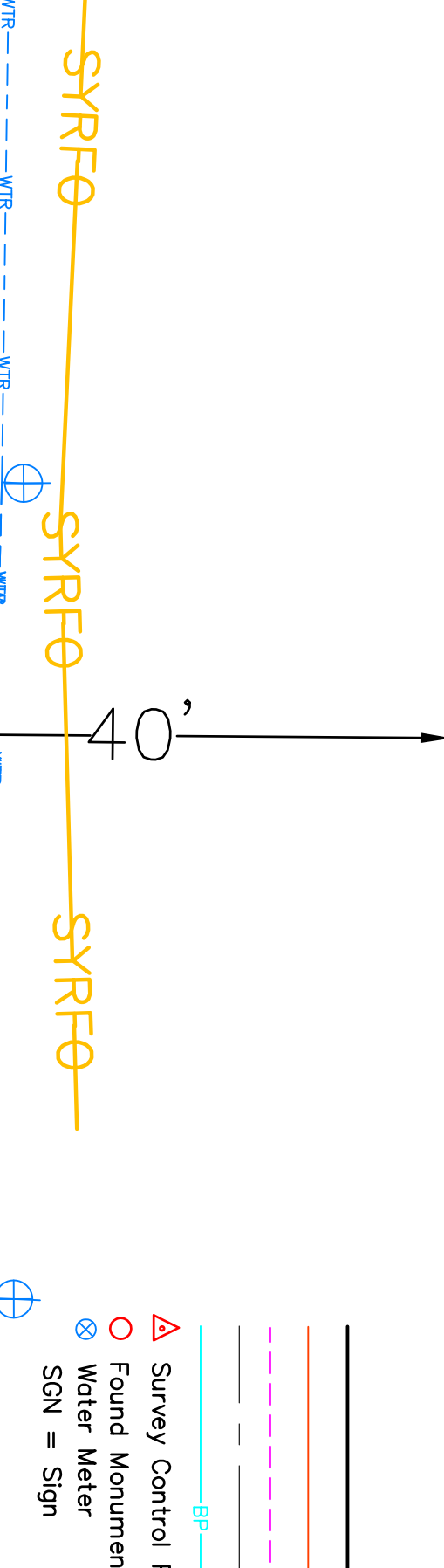
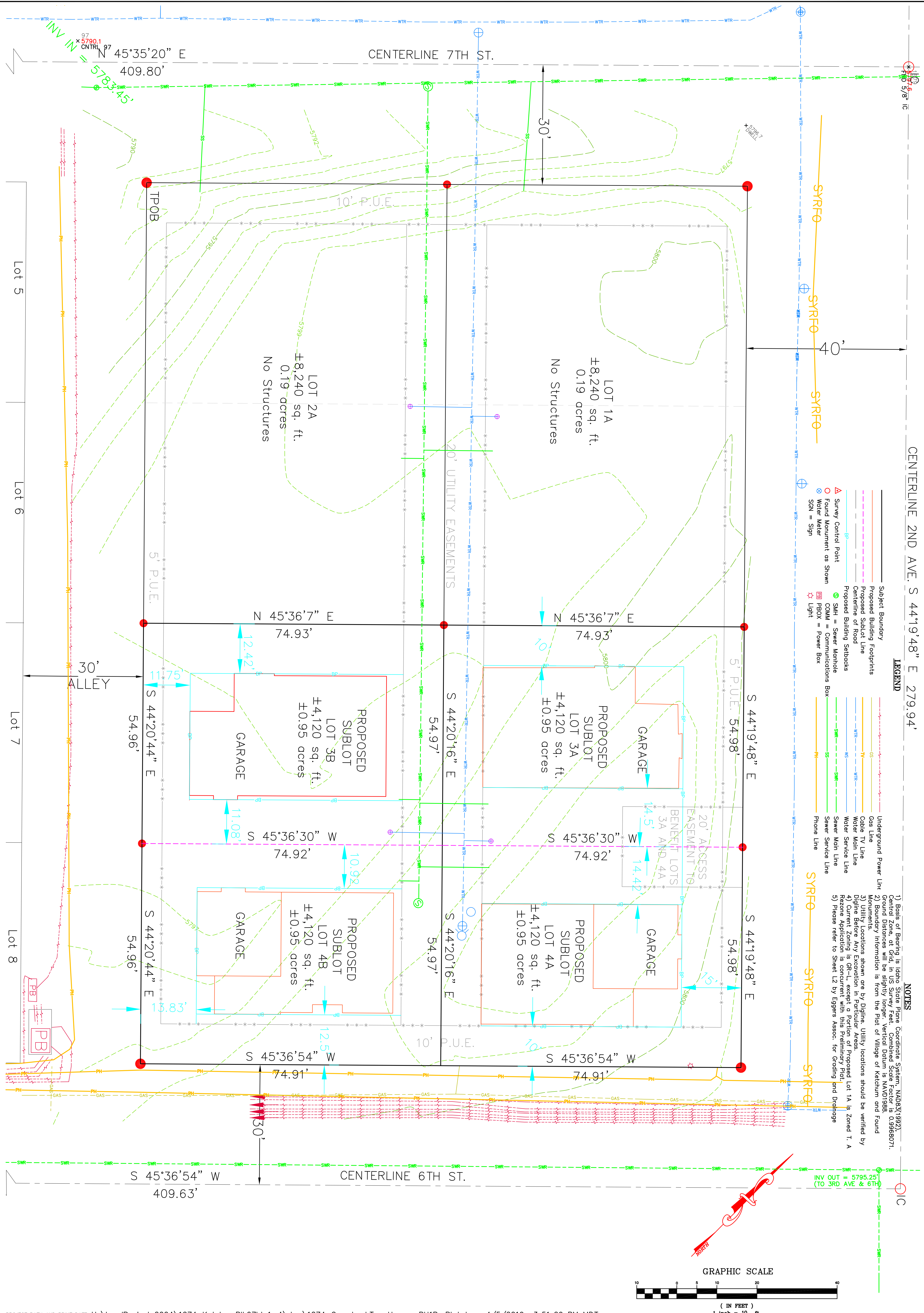
Notary Public for _____
Residing at _____
Commission expires _____

STATE OF IDAHO)
) ss.
County of Blaine)

On this ___ day of _____, 2018, 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.

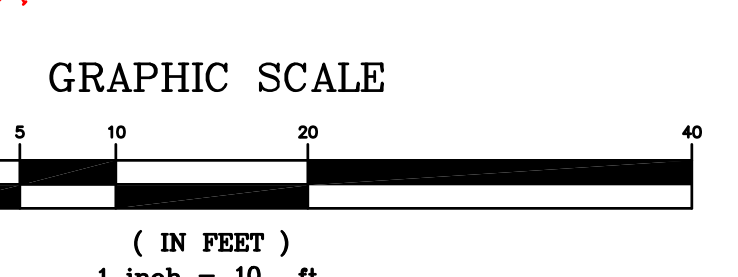
IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

Notary Public for _____
Residing at _____
Commission expires _____



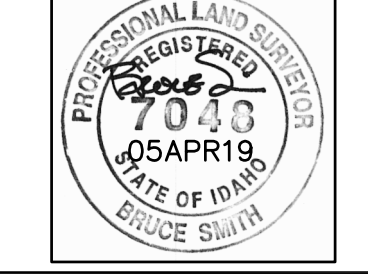
LEGEND

- NOTES**
- 1) Basis of Bearing is Idaho State Plane Coordinate System, NAD83(1983). General Reference to the Idaho State Plane Coordinate System, NAD83(1983), is made by this reference. Vertical Datum is NAVD1988.
 - 2) Boundary Information is from the Plat of Village of Ketchum and Found Monuments.
 - 3) Utility Locations shown are by Digline. Utility locations should be verified by Digline Before Any Excavation in Particular Areas.
 - 4) Current Zoning is GR-L, except a Portion of Proposed Lot 1A is Zoned T. A Rezoning Application is concurrent with this Preliminary Plat.
 - 5) Please refer to Sheet L2 by Eggers Assoc. for Grading and Driveway



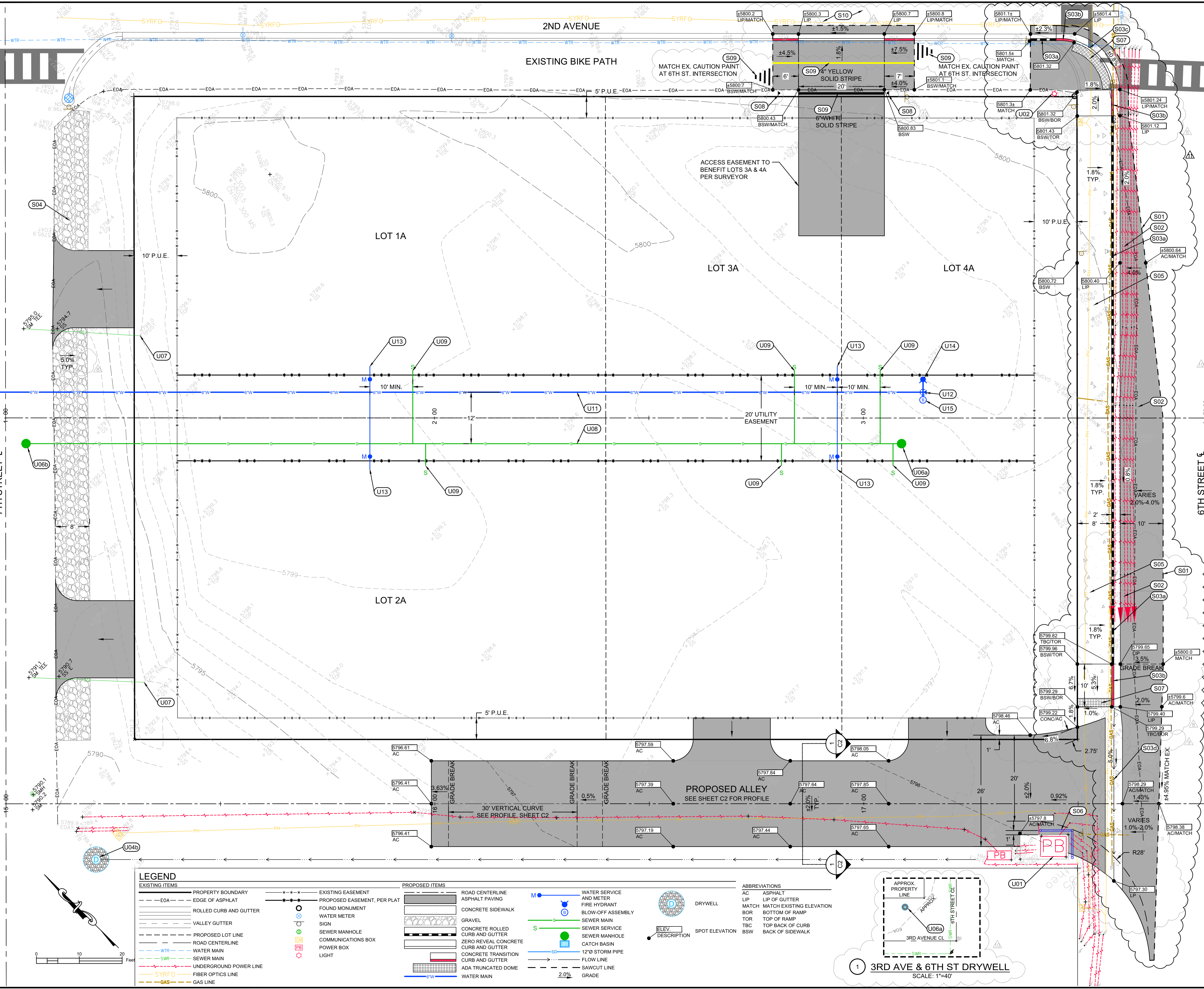
PROJECT PATH AND PRINT DATE U:\LandProjects2004\1274_KetchumBlk67Lts1-4\dwg\1274_CrossCurbTownHomes_PH1PrePlat.dwg 4/5/2019 3:51:29 PM MDT

REVISIONS	NO	DATE	BY
Change Linetypes, Move 3A & 3B Units 2"	1	05Apr19	BWS



Alpine Enterprises Inc.
 Surveying, Mapping, and Natural Hazards Consulting
 660 Bell Drive, Unit 1
 P.O. Box 2037, Ketchum, ID 83340 USA
 (208) 727-1988 727-1987 fax
 email: bsmith@alpineenterprisesinc.com

A PRELIMINARY PLAT SHOWING:
CROSSCURB TOWNHOMES
 WITHIN LOTS 3A, & 4A, BLOCK 67
 S13, T.4N., R.17E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO
 PREPARED FOR SUNDALI AND MACE



- NOTE:**
 1. SEE SHEET C0 FOR GENERAL NOTES.
- CONSTRUCTION KEYNOTES**
SITE IMPROVEMENTS
- S01 SAWCUT EXISTING ASPHALT TO A MINIMUM OF 24 INCHES TO PROVIDE FOR A CLEAN VERTICAL EDGE.
 - S02 CONSTRUCT/REPAIR ASPHALT. SEE DETAIL 1, SHEET C3.
 - S03 CONSTRUCT CONCRETE CURB AND GUTTER
 - a. 3" ROLLED CONCRETE CURB AND GUTTER PER DETAIL 2, SHEET C3.
 - b. CURB TRANSITION PER DETAIL 10, SHEET C3.
 - c. ZERO REVEAL CURB AND GUTTER PER DETAIL 10, SHEET C3.
 - d. 4" WIDE CONCRETE VALLEY GUTTER PER IDAHO STANDARDS FOR PUBLIC WORKS CONSTRUCTION (ISPW) STANDARD DETAIL SD-708.
 - S04 INSTALL 8" WIDE GRAVEL SHOULDER PER CITY OF KETCHUM STANDARD
 - S05 INSTALL CONCRETE SIDEWALK PER DETAIL 10, SHEET C3.
 - S06 BOLLARDS, TO BE INSTALLED BY IDAHO POWER
 - S07 CONSTRUCT ADA COMPLIANT PEDESTRIAN RAMP WITH TRUNCATED DOME DETECTABLE WARNING INSERT, TUFTILE OR APPROVED EQUAL.
 - S08 INSTALL BLIND DRIVEWAY SIGN PER DETAIL 2, THIS SHEET PER MUTCD FIGURE 9B-1 OVER ULINE 12" CONVEX MIRROR (H 1547-0 OR APPROVED EQUAL, BOTTOM OF MIRROR SHALL BE 3' FROM FINISH GRADE, INSTALL ON KETCHUM STANDARD SIGN POST.
 - S09 INSTALL BIKE PATH PAVEMENT MARKINGS PER PLANS
 - S10 INSTALL NO PARKING PAVEMENT MARKINGS PER CITY OF KETCHUM ADJACENT TO DRIVEWAY
- UTILITY IMPROVEMENTS**
- U01 RETAIN AND PROTECT EXISTING POWER SWITCH GEAR AND CONCRETE VAULT.
 - U02 REMOVE EXISTING STREET LIGHT AND REPLACE WITH NEW STREET LIGHT PER CITY OF KETCHUM STANDARD
 - U03 (NOT USED)
 - U04 INSTALL DRYWELL PER DETAIL 4, SHEET C4. GRADE SURROUNDING AREA FOR POSITIVE DRAINAGE TO DRYWELL RIM
 - a. RIM ELEV= MATCH EX. LP ELEV.
 - b. RIM ELEV= MATCH EX.
 - U05 INSTALL 12" Ø D3034 PVC PIPE @ S=2.0% MIN.
 - U06 INSTALL SANITARY SEWER MANHOLE
 - a. RIM ELEV= 5798.70
 - IE OUT= 5791.83
 - b. RIM ELEV= 5793.4±
 - IE IN (PROP)= 5785.70
 - IE IN (EX)= 5785.6±
 - IE OUT (EX)= 5785.5±
 - U07 RETAIN AND PROTECT EXISTING SEWER SERVICE, CONTRACTOR SHALL VERIFY EXISTING LOCATION AND CONDITION OF SERVICE WITH FLOW TEST AND NOTIFY ENGINEER IF SERVICES DO NOT FUNCTION PROPERLY.
 - U08 INSTALL 8" SANITARY SEWER MAIN, SEE PLAN AND PROFILE ON SHEET C2
 - U09 INSTALL 4" SANITARY SEWER SERVICE
 - U10 CONNECT TO EXISTING WATER MAIN. INSTALL 6"x8"x6" STAINLESS STEEL TAPPING SADDLE 6" GATE VALVE W/ THRUST BLOCKS
 - U11 INSTALL 6" PVC C-900 WATER MAIN. SEE DETAIL 9, SHEET C3 FOR TRENCHING DETAIL
 - U12 INSTALL 6" D.I. TEE W/ THRUST BLOCK
 - U13 INSTALL 2" WATER SERVICE PER DETAIL 6, SHEET C3
 - U14 INSTALL FIRE HYDRANT ASSEMBLY W/ MOUNTAIN EXTENSION SEE DETAIL 7, SHEET C3
 - U15 INSTALL 4" BLOW-OFF ASSEMBLY PER ISPWC SD-405.

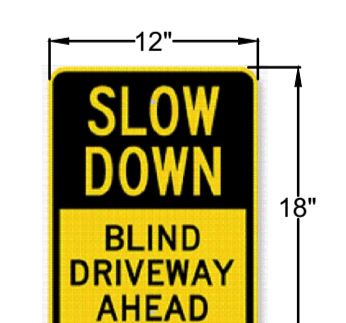
LEGEND

EXISTING ITEMS		PROPOSED ITEMS	
- - - -	PROPERTY BOUNDARY	ROAD CENTERLINE	ROAD CENTERLINE ASPHALT PAVING
- - - -	EDGE OF ASPHALT	CONCRETE SIDEWALK	CONCRETE SIDEWALK
- - - -	ROLLED CURB AND GUTTER	GRAVEL	GRAVEL
- - - -	VALLEY GUTTER	CONCRETE ROLLED CURB AND GUTTER	CONCRETE ROLLED CURB AND GUTTER
- - - -	ROAD CENTERLINE	ZERO REVEAL CONCRETE CURB AND GUTTER	ZERO REVEAL CONCRETE CURB AND GUTTER
- - - -	PROPOSED LOT LINE	CONCRETE TRANSITION CURB AND GUTTER	CONCRETE TRANSITION CURB AND GUTTER
- - - -	WATER MAIN	ADA TRUNCATED DOME	ADA TRUNCATED DOME
- - - -	SEWER MAIN	WATER MAIN	WATER MAIN
- - - -	UNDERGROUND POWER LINE	WATER SERVICE AND METER	WATER SERVICE AND METER
- - - -	FIBER OPTICS LINE	FIRE HYDRANT	FIRE HYDRANT
- - - -	GAS LINE	BLOW-OFF ASSEMBLY	BLOW-OFF ASSEMBLY
- - - -		SEWER MAIN	SEWER MAIN
- - - -		SEWER SERVICE	SEWER SERVICE
- - - -		SEWER MANHOLE	SEWER MANHOLE
- - - -		CATCH BASIN	CATCH BASIN
- - - -		12"Ø STORM PIPE	12"Ø STORM PIPE
- - - -		FLOW LINE	FLOW LINE
- - - -		SAWCUT LINE	SAWCUT LINE
- - - -		GRADE	GRADE

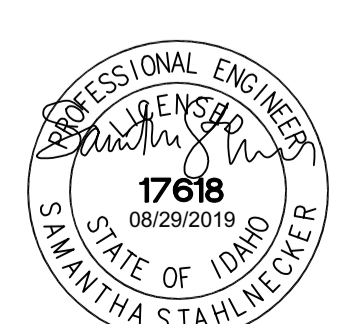
ABBREVIATIONS

AC	ASPHALT	SPOT ELEVATION	SPOT ELEVATION
LIP	LIP OF GUTTER	DESCRIPTION	DESCRIPTION
MATCH	MATCH EXISTING ELEVATION		
BOR	BOTTOM OF RAMP		
TOR	TOP OF RAMP		
TBC	TOP BACK OF CURB		
BSW	BACK OF SIDEWALK		

1 3RD AVE & 6TH ST DRYWELL
 SCALE: 1"=40'



2 BLIND DRIVEWAY SIGN
 N.T.S.



REVISIONS

NO	DATE	BY	REVISIONS
A	04/02/19	SKS	ALLEY REVISION-TRANSFORMER CLEARANCE
A	07/16/19	SKS	SIDEWALK RE-ALIGNMENT, GRADING DETAIL
A	07/25/19	SKS	SIDEWALK RE-ALIGNMENT, GRADING DETAIL
A	08/15/19	SKS	PATH CROSSING SIGNAGE, 6TH DRAINAGE
A	08/29/19	SKS	SIDEWALK WIDENING

NO DATE BY REVISIONS

DESIGNED BY	SKS
DRAWN BY	SKS
CHECKED BY	SKS

REUSE OF DRAWINGS
 This drawing may be used for any project or extension of this project except by agreement in writing with Galena Engineering, Inc.

GALENA ENGINEERING, INC.
 Civil Engineers & Land Surveyors
 317 N. River Street
 Hailey, Idaho 83433
 (208) 788-1705
 (208) 788-4612 fax
 email: galena@galena-engineering.com

KETCHUM BLOCK 67, LOTS 1-4
 LOCATED WITHIN SECTION 13, T.4 N., R.18 E., CITY OF KETCHUM, BLAINE COUNTY, IDAHO
 PREPARED FOR BILL SUNDAL

C1