

City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

		_				
Meeting Date:	July 25, 2024	Staff Member/Dept:	Paige Nied, Associate Planner			
			Planning and Building Department			
Agenda Item:			ncroachment Agreement #24915 and			
	Sidewalk In Lieu Agree	ment #24917 between	the City of Ketchum and Amy Martin.			
Recommended						
	, ,	•	ent Agreement #24915 and Sidewalk In Lieu			
Agreement #24	917 between the City of	Ketchum and Amy Mar	tin.			
_						
Reasons for Rec						
	= :	= -	under review and the applicant is proposing			
· ·	an underground retainir	_				
-	•		noval within the public right-of-way.			
• Snowme	elt is not proposed withir	n the right-of-way.				
 The proj 	ect complies with all star	ndards for Right-of-Way	y Encroachment Permit issuance specified in			
Ketchum	n Municipal Code §12.12	.060.				
The Plan	ning and Zoning Commis	ssion approved the 940	N Leadville Design Review application			
(File No.	P22-011) on June 14, 20	22. As a condition of Do	esign Review approval, the owner shall			
submit a design plan and cost estimate for the required sidewalk improvements that conform to						
city standards for review by the City Engineer.						
 Pursuan 	t to Ketchum Municipal (Code §17.96.060.B, the	City Engineer may waive the requirements			
for sidev	for sidewalks if it is found that sidewalks are not necessary because of existing geographic					
limitations, pedestrian traffic on the street does not warrant a sidewalk, and a sidewalk would not be						
beneficial to the general welfare and safety of the public.						
The City	Engineer waived the sid	ewalk requirement and	approved the sidewalk design plan and			
estimate	ed cost of construction. T	The applicant proposes	to satisfy the sidewalk improvement			
requiren	nent by paying an in-lieu	fee totaling \$10,890 at	time of building permit issuance.			
Policy Analysis a	and Background (non-cor	nsent items only):				

Sustainability Impact:

None OR state impact here: None, no snowmelt is proposed within the city's right-of-way.

Financial Impact:

None OR Adequate funds exist in account.	Sidewalk in-lieu fee contributions must be separated by the
	City and not used for any purpose other than sidewalk
	construction. Payment of this in-lieu fee will provide
	funding for city sidewalk improvements.

Attachments:

- 1. ROW Encroachment Agreement #24915 with exhibits
- 2. Sidewalk In Lieu Agreement #24917 with exhibits

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

City Clerk, City of Ketchum PO Box 2315 Ketchum Idaho, 83340

(Space Above Line For Recorder's Use)

RIGHT-OF-WAY ENCROACHMENT AGREEMENT 24915

THIS AGREEMENT, made and entered into this ______ day of _____, 2024, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation ("Ketchum"), whose address is Post Office Box 2315, Ketchum, Idaho 83340 and Amy Martin, ("Owner"), whose mailing address is Post Office Box 2505, Ketchum, Idaho, 83340 and who owns real property located at 940 N Leadville Ave, Ketchum, Idaho 83340 ("subject property") legally described as Ketchum Townsite Lot 3 Block 30.

RECITALS

WHEREAS, Owner wishes to permit the placement of an underground retaining wall footer within the right-of-way adjacent to 940 N Leadville Ave. 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, following construction of the Improvements, the Owner will restore the right-of-way, as shown in Exhibit "A", acceptable to the Streets and Facilities Director;

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

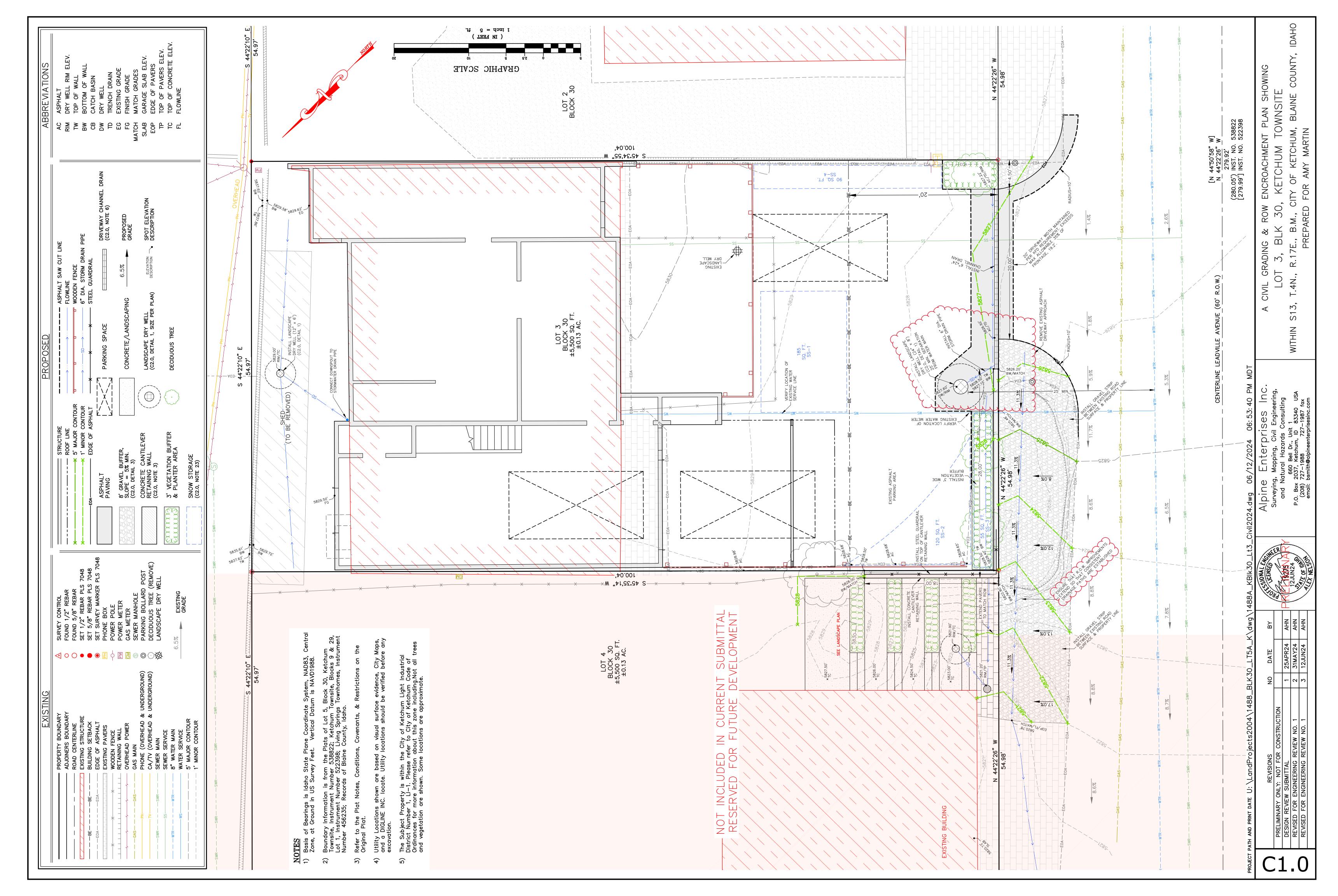
TERMS AND CONDITIONS

- 1. Ketchum shall permit Owner to install the Improvements identified in Exhibit "A" within the right-of-way off N Leadville Ave, until notified by Ketchum to 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 prior to any modifications taking place.
- 3. Owner shall be responsible for restoring the street, curb, 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.

- 4. 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.
- 5. 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.
- 6. 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.
- 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:
Ву:	By:
Amy Martin, Owner	Neil Bradshaw, Mayor
	Attest:
	By: Trent Donat, City Clerk
STATE OF,)	
On this day of, 2 and for said State, personally appeared AMY	2024, before me, the undersigned Notary Public in MARTIN, known or identified to me to be the person cknowledged to me that he executed the same.
IN WITNESS WHEREOF, I have here day and year first above written.	eunto set my hand and affixed my official seal the
	Notary Public for Residing at Commission expires

EXHIBIT "A"



GENERAL CONSTRUCTION NOTES

- 1) The location of existing underground utilities are shown on the plans in an approximate way. The contractor shall be responsible for locating existing utilities during the construction. The contractor agrees to be fully responsible for any and all damages which result from his failure to accurately locate and preserve any and all underground utilities.
- 2) See the Building Plan from Michael Blash Architects for the remainder of the design.
- 3) Contractor shall assure positive drainage away from the building and
- 4) All retaining walls shall be constructed under 4' in height, excluding those that are within the Building Setbacks, or have otherwise been approved by the City of Ketchum. All retaining Walls over 4' in height shall be designed by a structural engineer.
- 5) Contractor shall be responsible for dust control during 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.
- 6) The Channel 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. All components shall be rated for H—20 loading.
- 7) All construction shall be in accordance with the most current edition of the Idaho Standards for Public Works Construction, ISPWC, and the City of Ketchum, Idaho, Codes and Standards. The contractor shall be responsible for obtaining and keeping a copy of the ISPWC and the City of Ketchum Codes and Standards on site during construction.
- 8) Per Idaho Code, 55—1613, the contractor shall retain and protect all monuments, accessories to corners, benchmarks, and points set in control surveys. All monuments, accessories to corners, benchmarks, and points set in control surveys that are lost or disturbed by construction shall be reestablished and re—monumented, at the expense of the agency or person causing their loss or disturbance under the direction of a professional land surveyor.
- 9) The contractor shall clean up the site after construction so that it is in a condition equal to or better than that which existed prior to construction.
- 10) The contractor shall be required to obtain all the necessary permits prior to construction and shall check with the City of Ketchum for permits the owner may have already obtained.
- 11) Trenches shall be backfilled and compacted to a minimum of 95% of maximum density as determined by AASHTO T-99.
- 12) All clearing and grubbing shall conform to ISPWC Section 201 and City of Ketchum standards of excavation and backfill.
- 13) All excavation and embankment shall conform to ISPWC Section 202 and City of Ketchum standards for excavation and backfill. Excavated subgrade shall be compacted and all unsuitable Sections removed and replaced with structural fill as determined by the engineer per ISPWC Section 204. Minimum compaction of placed material shall be 95% of maximum laboratory density as determined by AASHTO T-99 or IDT T-91.
- 14) All 2" minus aggregate shall be placed in conformance with ISPWC Section 802. It shall be compacted per ISPWC Section 202 and the City of Ketchum standards. 2" minus crushed aggregate material shall conform to ISPWC Section 802 Type II and to the City of Ketchum specifications. Minimum compaction of placed material shall be 95% of maximum laboratory density as determined by AASHTO T-99 or IDT T-91.
- 15) All 3/4" minus aggregate shall be placed in conformance with ISPWC Section 802. It shall be compacted per ISPWC Section 202 and the City of Ketchum standards. 3/4" minus crushed aggregate for leveling course shall conform to ISPWC Table 802 Type I and to the City of Ketchum specifications. Minimum compaction of placed material shall be 95% of maximum laboratory density as determined by AASHTO T-99 or IDT T-91.
- 16) All asphaltic concrete pavement work shall conform to ISPWC Section(s) 805, 810, and 811 for Class II pavement and to the City of Ketchum standards. Asphalt aggregate shall be 1/2" nominal size conforming to Table 803b in ISPWC Section 803. Asphalt binder shall be pg 58-28 conforming to Table A-1 in ISPWC Section 805.
- 17) All concrete work shall conform to ISPWC Sections 701 and 703. All concrete shall be 3,000 psi minimum. 28 day, as defined in ISPWC Section 703. Table 1.C.
- 18) All edges of existing asphalt paving shall be saw cut a minimum of 24" to provide a clean pavement edge for matching. No wheel cutting shall be allowed. Pavement shall be cut prior to paving to prevent damage to the cut edge.
- 19) The contractor shall be responsible for providing traffic control per the current edition of the US Department of Transportation Manual of Uniform Traffic Control Devices (MUTCD).
- 20) All drainage is to be retained on—site. Grade open areas to drain to Dry Wells as shown hereon.
- 21) Grade away from foundation at 2% minimum.
- 22) All roof drains and downspouts shall not drain adjacent to the foundation and are to be connected to dry wells by a 4" dia. solid PVC Pipe sloped at a 1% minimum.
- 23) Snow Storage based on 30% of the Improved Parking and Pedestrian
- Circulation Areas.

 Front Parking Lot = 1,430 Sq. Ft.

 Walkways = 60 Sq. Ft.

 Total = 1,490 Sq. Ft.

 30% of Total = 447 Sq. Ft.

 Areas Designated:

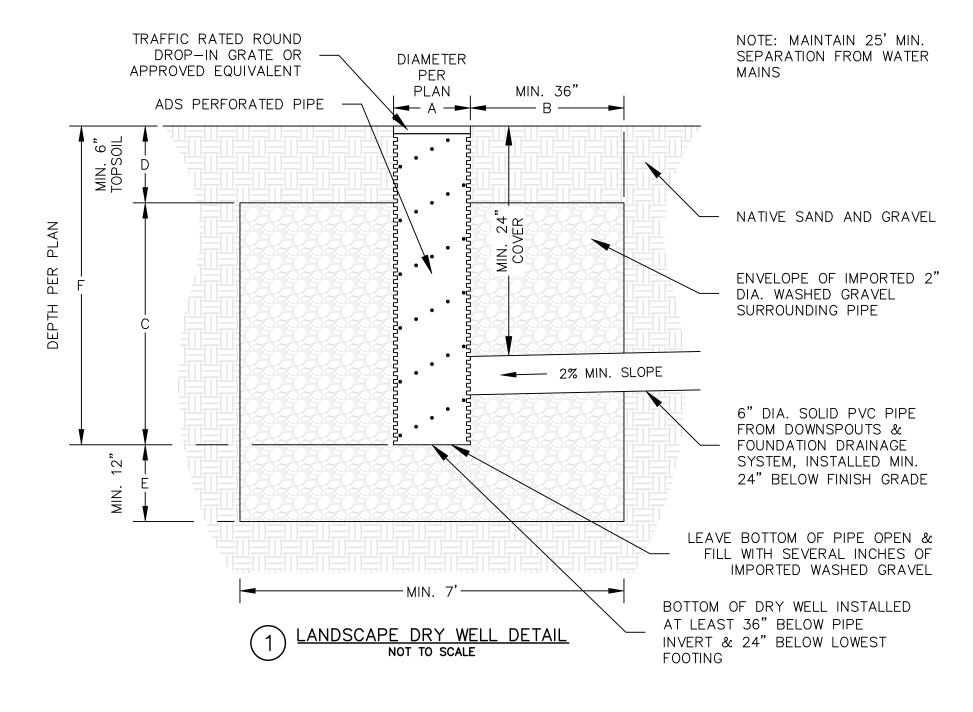
 SS-1: 185 Sq. Ft.

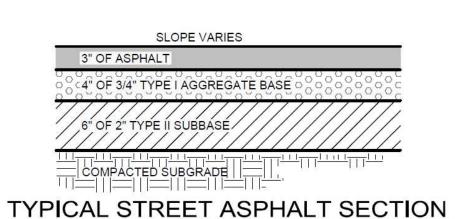
 SS-2: 120 Sq. Ft.

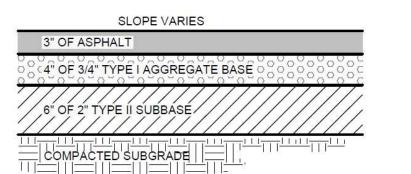
 SS-3: 55 Sq. Ft.

 SS-4: 90 Sq. Ft.

 Area Designated Total = 450 Sq. Ft. of Snow Storage
- 24) Alpine Enterprises Inc. is not responsible for any deviation from these plans, unless such changes have been authorized in writing.
- 25) All right—of—way improvements per sheet C1.0 must be completed prior to issuance of a temporary or final Certificate of Occupancy unless otherwise agreed upon in writing by the City.



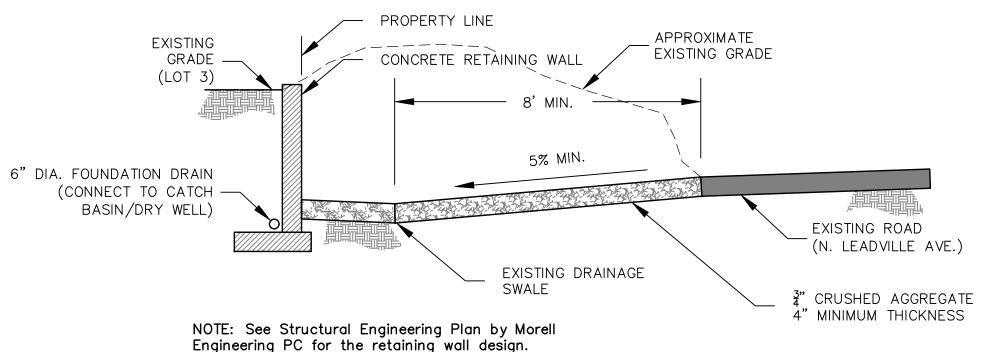




TYPICAL ALLEY ASPHALT SECTION

NO.	TES:
INO	ILO.

- SUBBASE CAN BE 2" TYPE II OR ¾" TYPE I CRUSHED AGGREGATE BASE COURSE.
- MATERIALS SHALL CONFORM WITH CURRENT ISPWC STANDARDS, DIVISION 800 AGGREGATES AND ASPHALT.
- 3. PAVEMENT SECTION MAY BE MODIFIED IF A PROJECT SPECIFIC GEOTECHNICAL REPORT, STAMPED BY A LICENSED ENGINEER, IS PROVIDED.
- 2 ASPHALT PAVING DETAIL
 CITY OF KETCHUM SD-3
 NOT TO SCALE



3 CROSS-SECTION: ROADSIDE SWALE (R.O.W. N. LEADVILLE AVE.)
NOT TO SCALE

- <u>NOTES</u>

 A) Material shall be pervious/permeable to allow drainage.
- B) Surface must allow for vehicle parking and be consistent along the entire property frontage.
- C) Material within the first eight (8) feet from edge of asphalt (Street) shall be distinct from driveway and rest of property in order to visually appear available for parking.
- D) Grading and drainage improvements as required by City Engineer Minimum 5% slope.
- E) No obstructions, such as boulders or berms.
- F) No buried irrigation systems within the first eight (8) feet the edge of asphalt (Street). Surface irrigation lines are permitted beyond the first eight (8) feet, however pop—up heads are not permitted anywhere in the
- G) No live plant material within the first eight (8) feet from edge of asphalt (Street). Low ground cover plant material, such as turf grass, is permitted beyond the first eight (8) feet. Drought—tolerant species is preferred.
- H) No snow-melt system (other than driveway).

A CIVIL GRADING & ROW ENCROACHMENT PLAN SHOWING
LOT 3, BLK 30, KETCHUM TOWNSITE
WITHIN S13, T.4N., R.17E., B.M., CITY OF KETCHUM, BLAINE COUNTY,
PREPARED FOR AMY MARTIN

Civil2024.dwg 06/12/2024 06:53:40 F

Alpine Enterprises Inc
Surveying, Mapping, Civil Engineering
and Natural Hazards Consulting
660 Bell Dr., Unit 1
660 Bell Dr., Unit 1
600 Boll Dr., Unit 1

SCKSSIONAL ENGLA	ER JUHO	TANZINS ATT	/ 12JUN24	TO SOLVE	SOLEN CONT
ВҮ		AHN	AHN	AHN	

DATE		25APR24	31MAY24	12JUN24	
NO		1	2	3	
REVISIONS	ONLY: NOT FOR CONSTRUCTION	EW SUBMITTAL	ENGINEERING REVIEW NO. 1	ENGINEERING REVIEW NO. 1	

C2.0

Sidewalk In Lieu Agreement 24917

Parties:

41 11001			
City of Ketchum	"City"	P.O. Box 2315, 151 5 TH Ave W,	
		Ketchum, Idaho 83340	
Amy Martin	"Owner"	P.O. Box 2505	
		Ketchum, ID 83340	

This Sidewalk In Lieu Payment Agreement ("Agreement") is entered into as of the ____ day of ____ 2024, by and between the City of Ketchum, an Idaho municipal corporation ("City") and Amy Martin ("Owner").

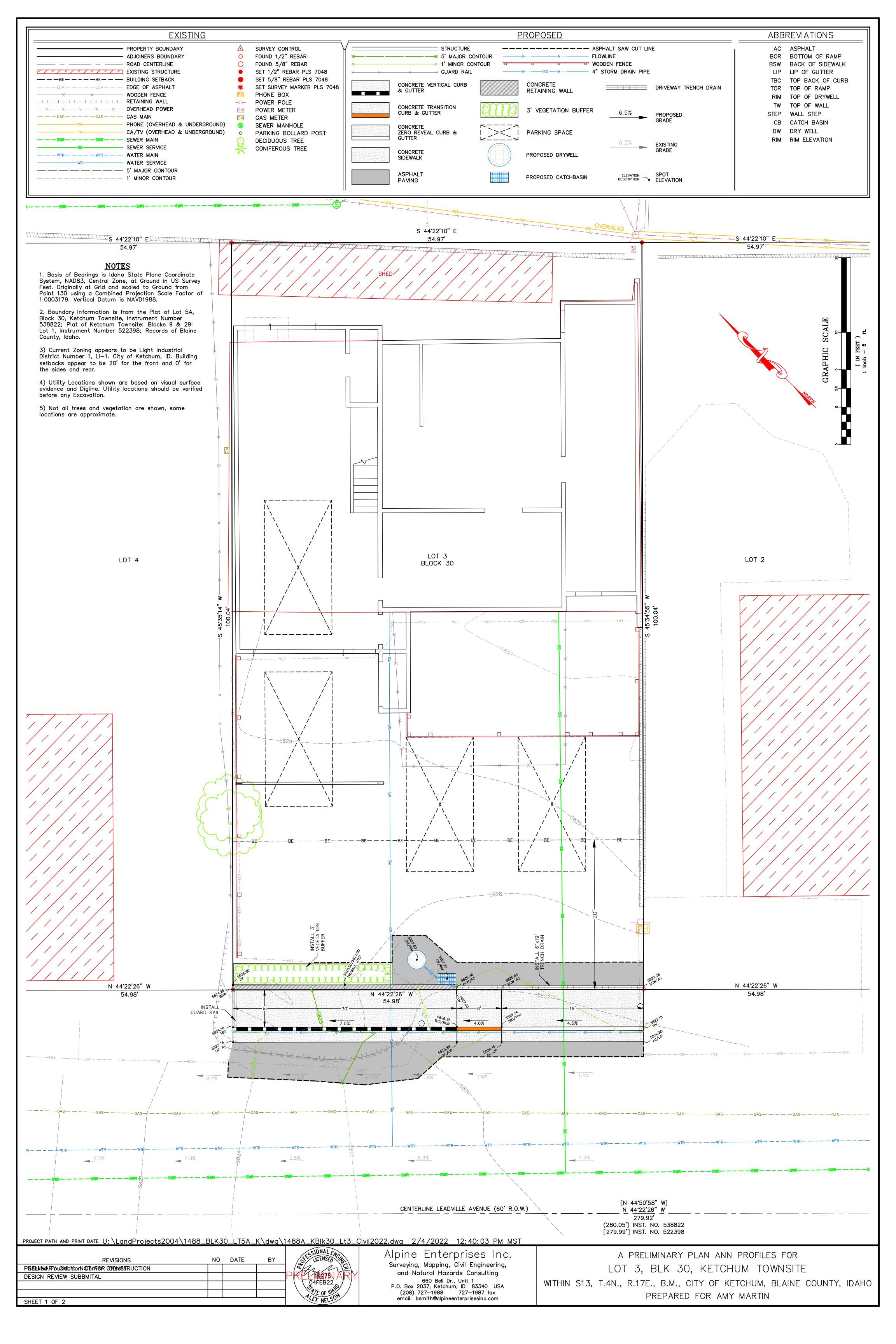
RECITALS

- A. The Owner is the owner of real property located at 940 N Leadville Ave, Ketchum, ID 83340, Parcel Number RPK00000300030 (the "subject property").
- B. The Planning and Zoning Commission approved the Design Review application (File No. P22-011) on June 14, 2022.
- C. As a condition of Design Review approval, the owner shall submit a design plan and cost estimate for the required sidewalk improvements that conform to city standards for review by the City Engineer.
- D. A building permit application (File No. 24-KET-00140) was submitted for 940 N Leadville and is currently under review.
- E. The subject property is located within the Light Industrial No. 1 (LI-1) zoning district which requires sidewalks, curbs and gutters to be designed and installed by the applicant when there is new construction per Ketchum Municipal Code 17.124.140.
- F. Pursuant to Ketchum Municipal Code 17.124.140.A.1, any person required to install sidewalk, curb and gutter may submit to the Administrator, as part of the design review or building permit process, a request for consideration of in lieu payment.
- G. The City Engineer recommends this property not be subject to the above-mentioned requirement because sidewalks are not necessary because of existing geographic limitations, pedestrian traffic on the street does not warrant a sidewalk, and a sidewalk would not be beneficial to the general welfare and safety of the public. Instead, 8' of gravel adjacent to the existing asphalt shall be installed.
- H. The Owner has followed City Engineer direction and requested consideration to provide a sidewalk in lieu payment for the required sidewalk improvements.

THEREFORE, in consideration of the mutual agreement herein contained and subject to the terms and conditions stated, it is hereby understood and agreed upon by the Parties as follows:

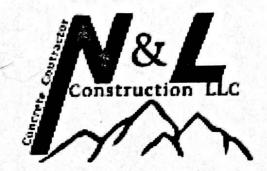
- 1. The City received a design plan for construction of sidewalk curb and gutter, together with the estimated cost of construction as outlined in Exhibit A.
- 2. Acceptance by City Engineer of cost of construction estimate. The design plan estimates that the cost of construction is \$9,900. Pursuant to Ketchum Municipal Code 17.96.060.B.6, the contribution amount shall be 110 percent of the estimated costs of concrete sidewalk and drainage improvements. The Owner shall satisfy the sidewalk improvement requirement by paying the in-lieu fee totaling \$10,980.
- 3. **Payment.** The Owner shall provide a sidewalk in-lieu payment in the amount of \$10,980 at the time of building permit issuance.
- 4. **Amendments.** This Agreement may not be amended, modified, altered or changed in any respect whatsoever, except by further agreement in writing executed by the parties in the manner the Agreement was approved.
- 5. **Binding Effect.** This Agreement shall be binding upon the heirs, estates, personal representatives, successors, and assigns of the parties.
- 6. **Attorney Fees and Costs.** If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.
- 7. **Notices.** Any notice under this Agreement shall be in writing and shall be treated as duly delivered if the same is personally delivered or deposited in the United States mail, certified, return receipt requested, postage prepaid, and properly addressed to the contacts as specified at the beginning of this Agreement.
- 8. **Partial Invalidity.** Whenever possible, each provision of this Agreement shall be interpreted in such a way as to be effective and valid under applicable law. If a provision of this Agreement is prohibited by or invalid under applicable law, it shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

DATED THISDAY OF	_2024.
Owner	City of Ketchum
Amy Martin	Neil Bradshaw, Mayor
	Attest:
	Trent Donat, City Clerk
STATE OF,) ss. County of)	
On this day of said State, personally appeared AMY M	, 2024, before me, the undersigned Notary Public in and for IARTIN, known or identified to me to be the person who knowledged to me that he executed the same.
	re hereunto set my hand and affixed my official seal the day
	Notary Public for Residing at
	Residing at Commission expires



N&L Construction LLC,

Po 8ex 522
Fairfield, ID 83327
United States
nlconstruction15@gmail.com



Estimate

ADDRESS

John zuck

ESTIMATE # 1469 DATE 05/29/2024

JOB NAME

Martin

DATE	ACTIVITY	DESCRIPTION	OTY	RATE	TRUCKA	
A THE THE	Slab	19 hizero reveal curb and gutter	19	60.00	1,140.00	
	Sales	6 It transition curb and gutter	6	60.00	360.00	
	Sales	30 ft vertical ourb and gutter	30	60.00	1,800.00	
	Sales	side walk 5 yard ketchum mixes	5.50	1,200.00	6,600.00	

TOTAL

\$9,900.00

Accepted By

Accepted Date