



City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: September 16, 2024 Staff Member/Dept: Paige Nied, Associate Planner
Planning and Building Department

Agenda Item: Recommendation to review and approve Right-of-Way Encroachment Agreement #24930 between the City of Ketchum and Angelo Brunacini Trustee and Lisa Maria Brunacini Trustee.

Recommended Motion:

I move to authorize the Mayor to sign Right-of-Way Encroachment Agreement #24930 between the City of Ketchum and Angelo Brunacini Trustee and Lisa Maria Brunacini.

Reasons for Recommendation:

- A building permit modification for 541 Onyx Drive is currently under review and the applicant is proposing to place driveway pavers within the city right-of-way.
- The improvements will not impact drainage or snow removal within the public right-of-way.
- Snowmelt is not proposed within the right-of-way.
- The project complies with all standards for Right-of-Way Encroachment Permit issuance specified in Ketchum Municipal Code §12.12.060.

Policy Analysis and Background (non-consent 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. | There is no financial requirement from the city for this action. |
|--|--|

Attachments:

1. ROW Encroachment Agreement #24930 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 24930

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 Angelo Brunacini Trustee Lisa Maria Brunacini Trustee, ("Owner"), whose mailing address is Post Office Box 6363, Albuquerque, New Mexico, 87197 and who owns real property located at 541 Onyx Drive, Ketchum, Idaho 83340 ("subject property") legally described as Lot 3A, Meadow Crest Subdivision.

RECITALS

WHEREAS, Owner wishes to permit the placement of driveway pavers within the right-of-way on Onyx 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;

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 Onyx Drive right-of-way, 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.

EXHIBIT "A"

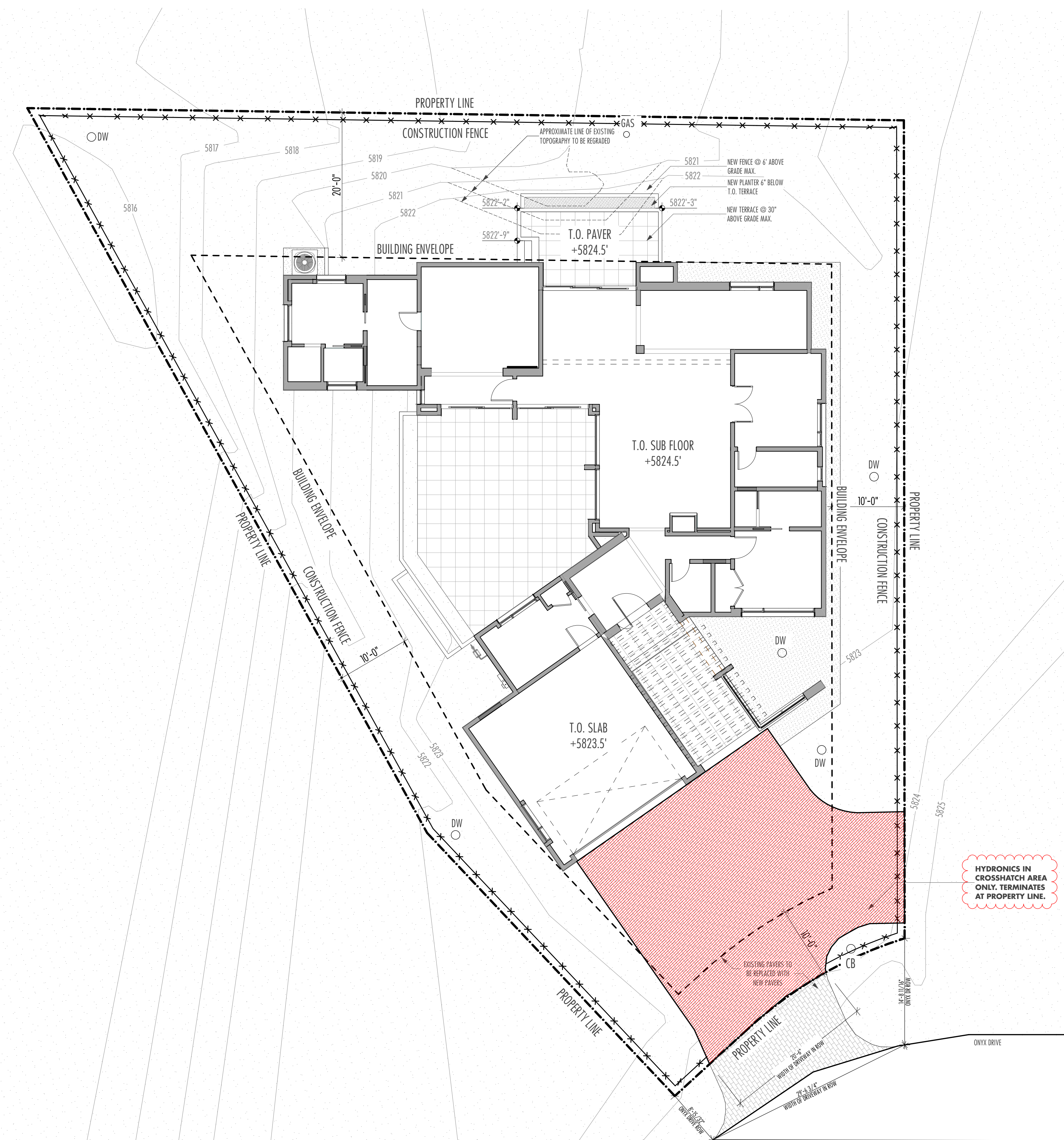
CONSTRUCTION ACTIVITY NOTES

- ALL ADJACENT PROPERTY OWNERS WILL BE PROVIDED NOTICE OF THE PROJECT, SCHEDULE, AND GENERAL CONTRACTORS CONTACT INFORMATION PRIOR TO THE START OF CONSTRUCTION.
- THE PERIMETER OF THE JOBSITE SHALL BE SCREENED WITH A 4'-6" HIGH CONSTRUCTION OR TEMPORARY FENCE.
- DURING WINTER MONTHS, CONSTRUCTION PARKING IS ONLY PERMITTED DURING THE DAY, NO OVERNIGHT PARKING IS PERMITTED.
- DURING WINTER MONTHS, MATERIAL DELIVERY STAGING IS ONLY PERMITTED DURING THE DAY, NO OVERNIGHT STORAGE OF MATERIALS IS PERMITTED WITHIN THE ROW.
- DURING THE WINTER MONTHS, CONTRACTORS ARE RESPONSIBLE FOR SNOW REMOVAL INSIDE & OUTSIDE OF THE CONSTRUCTION FENCE. NO REMOVED SNOW WILL BE STORED OR PLACED IN THE ROW.
- SITE TO BE SPRINKLERED WHEN DUST RELATED ACTIVITIES ARE PRESENT.
- DAILY JOB CLEAN-UP MEASURES & JOB SITE CONDITIONS: TRASH TO BE PLACED IN DUMPSTERS AND PICKED UP ON SITE DAILY. NO DEBRIS TO BE ON THE LOT UNLESS IN THE DUMPSTER OR RECYCLING AND PLANNED FOR REMOVAL. MATERIAL FOR CONSTRUCTION TO BE STORED IN THE LAYDOWN AREA. MUD TO BE CONTROLLED AT EXITS OF THE LOTS.
- THE GENERAL CONTRACTOR IS RESPONSIBLE FOR ALL SUBCONTRACTORS AND WILL BE HELD RESPONSIBLE FOR ALL ASPECTS OF THE CONSTRUCTION ACTIVITY PERMIT.
- THE CONDITION OF THE RIGHT-OF-WAY SHALL BE DOCUMENTED WITH PHOTOGRAPHS AND A SITE VISIT WITH STREET DEPARTMENT. PERSONNEL REPAIR OF DAMAGE TO THE RIGHT-OF-WAY SHALL BE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR.
- MANHOLES MAY NOT BE OBSTRUCTED AT ANY TIME. IN ADDITION, A MINIMUM OF THREE FEET CLEAR SHALL BE MAINTAINED ON BACK AND SIDES OF FIRE HYDRANTS, AND A MINIMUM OF FIFTEEN FEET CLEAR SHALL BE MAINTAINED ON THE FRONT (STREET SIDE) OF FIRE HYDRANTS.
- SPEED LIMITS FOR CONSTRUCTION VEHICLES SHALL BE LIMITED TO 15 MPH WITHIN ONE BLOCK OF A CONSTRUCTION SITE, UNLESS OTHERWISE DETERMINED BY THE KETCHUM POLICE DEPARTMENT.

LEGEND

- x—x— LINE OF CONSTRUCTION FENCING
- *GREEN WINDSCREEN OVER CHAIN LINK
- - - - - LINE OF EXISTING GRADE/CONTOUR (TO BE RELOCATED)
- — — — — LINE OF NEW GRADE/CONTOUR
- *FINISH GRADE TO SLOPE AWAY FROM BUILDING & DIRECTED TO EXISTING DRAINAGE PATTERNS & SYSTEMS
- NEW PLANTING BED = 27 SF (1.48 cubic yds)
- *BED PREPARED WITH PLANTING MIX OF 50% COMPOST & 50% TOP-SOIL
- NEW TERRACE = 192 SF (13 cubic yds)
- *ALL CUT FOR NEW TERRACE TO BE USED AS COMPACTED FILL BELOW SAND SET PAVERS
- NEW HYDRONICS UNDER DRIVEWAY PAVERS

HYDRONICS IN CROSSHATCH AREA ONLY. TERMINATES AT PROPERTY LINE.



OWNERSHIP OF DOCUMENTS:
 THE INSTRUMENTS OF SERVICE HEREIN ARE SOLELY FOR THE USE WITH RESPECT TO THIS PROJECT. WILLIAMS | PARTNERS ARCHITECTS, P.C. AND THE ARCHITECTS' CONSULTANTS SHALL BE DEEMED THE AUTHORS AND OWNERS OF THEIR RESPECTIVE INSTRUMENTS OF SERVICE AND SHALL RETAIN ALL COMMON LAW, STATUTORY AND OTHER RESERVED RIGHTS, INCLUDING COPYRIGHTS.



Brunacini Residence

541 Onyx Drive, Ketchum, ID

WILLIAMS PARTNERS ARCHITECTS

MAIL P.O.B. 4373
 KETCHUM, IDAHO 83340
 PHONE 208.726.0020
 FAX 208.726.0019
 WWW WILLIAMS-PARTNERS.COM

DRAWINGS
 DATE: 11/03/23
 ISSUED: BUILDING PERMIT
 FOR CONSTRUCTION 01/10/24

| NUMBER | DATE | REVISIONS |
|--------|------------|-----------|
| 01 | 02/05/2024 | |
| 02 | 05/31/2024 | |
| 03 | 06/10/2024 | |
| 04 | 06/12/2024 | |
| 05 | 06/25/2024 | |

ROW INFO 08/28/2024

