



# City of Norman, OK

Municipal Building  
Council Chambers  
201 West Gray  
Norman, OK 73069

## Master

**File Number: EN-1314-8**

**File ID:** EN-1314-8

**Type:** Encroachment

**Status:** Agenda Ready

**Version:** 1

**Reference:** Item No. 25

**In Control:** City Council

**Department:** Legal Department

**Cost:**

**File Created:** 08/28/2014

**File Name:** Consent to Encroachment for 275 12th Avenue SE

**Final Action:**

<b>Title:</b> CONSIDERATION OF CONSENT TO ENCROACHMENT NO. 1314-8 FOR LOT 3, BLOCK 1, ANATOLE ADDITION SECTION 5, CLEVELAND COUNTY, OKLAHOMA (275 12TH AVENUE S.E.)
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**Notes:** ACTION NEEDED: Motion to approve or reject Consent to Encroachment No. EN-1314-8; and, if approved, direct the filing thereof with the Cleveland County Clerk.

ACTION TAKEN: \_\_\_\_\_

**Agenda Date:** 09/09/2014

**Agenda Number:**

**Attachments:** Clerk Memo 12th.pdf, Consent to Encroach 1314-8.pdf, Application Packet 12th.pdf, Planning Consent, Memo from Utilities Department 12th.pdf, Memo from PW 12th.pdf, Letters from Utility Companies - 12th.pdf

**Project Manager:** Leah Messner, Assistant City Attorney

**Entered by:** denise.johnson@normanok.gov

**Effective Date:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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### Text of Legislative File EN-1314-8

Body

**BACKGROUND:** An encroachment request has been filed in the office of the City Clerk by Patrick Appleton of AZCA Investments, Inc., requesting Consent to Encroach into a utility easement at the above-described property.

**DISCUSSION:** The application for the Consent to Encroach concerns the encroachment of a portion of a storage building upon a City of Norman 15' utility easement, which was constructed in 2005. AZCA Investments bought the property in 2008. AZCA Investments is now selling the property and a survey was completed recently showing the encroachment. The City maintains a 6" water main within the 15' utility easement and a fire hydrant is located approximately 3' from the building and is supplied by this water main.

Because the potential failure of the water main or hydrant carries with it a serious risk of damaging the building, the Utilities Department has advised the property owner that relocating the main and hydrant would be preferable. The property owner has chosen to seek the consent to encroach instead.

Staff has reviewed the application and the "hold harmless" clauses. From a legal perspective, it protects the City's concerns with respect to damage to the property owner's property should the City or other authorized entity be required to perform work within its easement or should the main or hydrant fail.

The benefit to having the consent to encroach on file is that it is evidence of the property owners' understanding that, while the City is allowing them to encroach upon the easement, the City is not liable and will not be responsible for damage to the property owners' property in the event maintenance has to be performed within the easement, or for failure of the water main or failure of the hydrant.

**RECOMMENDATION:** Based upon the above and foregoing, the City Attorney's office is forwarding the above Consent to Encroach for Council consideration.