



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: EN-1920-1

File ID: EN-1920-1

Type: Encroachment

Status: Consent Item

Version: 1

Reference: Item 18

In Control: City Council

Department: Legal Department

Cost:

File Created: 08/14/2019

File Name: Consent to Encroach 4412 Winding Ridge Circle

Final Action:

Title: CONSENT TO ENCROACH EN-1920-1: FOR LOT 3, BLOCK 22, BROOKHAVEN 17 ADDITION, CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA, A/K/A 4412 WINDING RIDGE CIRCLE.

Notes: ACTION NEEDED: Motion to approve or reject Consent to Encroachment EN-1920-1; and, if approved, direct the filing thereof with the Cleveland County Clerk.

ACTION TAKEN: _____

Agenda Date: 10/08/2019

Agenda Number: 18

Attachments: Consent Agreement, City Clerk memo, Request to Encroach, Maps, photos and rendering, Planning memo, Public Works memo, Utilities memo, Responses from franchises

Project Manager: Beth Muckala, Assistant City Attorney

Entered by: sarah.encinias@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-1920-1

Body

BACKGROUND: An encroachment request has been filed in the office of the City Clerk by Steven and Taylor McDaniel, owners of 4412 Winding Ridge Circle, requesting a Consent to Encroach into a utility easement at the above-described property.

DISCUSSION: The application for the Consent to Encroachment concerns encroachment upon a City of Norman and Norman Utilities Authority (NUA) ten foot (10') utility easement for a pool/spa and landscaping to be built on the site. The owners are requesting that the pool/spa and landscaping be allowed to encroach upon the existing utility easement located along the south lot line. At the present time, the City and the NUA have an eight-inch (8") vitrified clay

sanitary sewer line utility in this easement.

The applicant has obtained a response from Oklahoma Natural Gas and Cox Communications, Inc., who are not opposed to the encroachment of the pool/spa and landscaping so long as they are notified should their respective facility need to be relocated to accommodate excavation or construction. Oklahoma Gas & Electric, Oklahoma Electric Cooperative and AT&T Oklahoma were also notified and do not object.

Staff has reviewed the application and the "hold harmless" clauses. From a legal perspective, it protects the City's and the NUA's concerns with respect to damage to the property owner's property should the City and the NUA or other authorized entity be required to perform work within its easement. There are some conditions applied to this Consent to Encroachment as listed below:

1. The property owner(s) will be responsible for the cost to repair any damages to the City's and the NUA's utilities caused by any excavation, piercing or other construction activities conducted by the property owner(s) or their agents.
2. There is an existing eight (8") inch vitrified clay sanitary sewer line located within said easement at an average depth of ten (10') feet and the property owner(s) will be responsible for the cost of repairs for any damages to the City's ten (10') foot easement along the south property line caused by any excavation or other construction activities conducted on their behalf.
3. The property owner(s) will be responsible for the cost the City and the NUA incurs to remove any fence, curb, landscaping, retaining wall, and/or any other structure if needed to maintain or repair NUA facilities.
4. The property owner(s) will be responsible for the cost to repair or replace any fence, curb, retaining wall, landscaping, or any other structure after such repairs.
5. The property owner(s) will waive and release any claims against the City and NUA for any damages to the residence and related improvements caused by failure or repair and maintenance of the City's and the NUA's utilities within the easement area.
6. Oklahoma Natural Gas and Cox Communications, Inc. have facilities located in the easement however they are not opposed to the encroachment, so long as they are notified should their respective facility need to be relocated to accommodate excavation or construction. Oklahoma Gas & Electric, Oklahoma Electric Cooperative and AT&T Oklahoma also do not object.
7. By encroaching on said easement, the property owner(s) release Oklahoma Natural Gas, Cox Communications, Inc., Oklahoma Gas & Electric, Oklahoma Electric Cooperative and AT&T Oklahoma for any damages caused by any excavation by these utility companies for purposes of maintaining or replacing the City's and the NUA's utility facilities within the easement area.

8. Damages to Oklahoma Natural Gas, Cox Communications, Inc., Oklahoma Gas & Electric, Oklahoma Electric Cooperative and AT&T Oklahoma facilities resultant from any current/future construction may carry possible financial charges to the property owner(s).

The benefit to having the consent to encroach on file is that it is evidence of the property owners' understanding that, while the City and the NUA is allowing them to encroach upon the easement, the City and the NUA are 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.

All necessary City departments have responded on this item and have no objection to the proposed Consent Agreement, with the conditions stated therein. Please note that this Consent Agreement concerns only the City's consent to encroach where a project is otherwise permissible under City Code. Further evaluation will occur once such an application has been submitted by applicant relating to this project.

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