



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: EN-1920-5 AMD

File ID: EN-1920-5 AMD **Type:** Encroachment **Status:** Consent Item

Version: 1 **Reference:** Item 21 **In Control:** City Council

Department: Legal Department **Cost:** **File Created:** 09/29/2020

File Name: Amended Consent to Encroach 3701 Hidden Hill Road **Final Action:**

Title: AMENDED CONSENT TO ENCROACH EN-1920-5: FOR LOT 11, BLOCK 1, BROOKHAVEN NO. 25 ADDITION, CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA. (3701 HIDDEN HILL ROAD)

Notes: ACTION NEEDED: Motion to approve or reject Amended Consent to Encroachment EN-1920-5; and, if approved, direct the filing thereof with the Cleveland County Clerk.

ACTION TAKEN: _____

Agenda Date: 10/13/2020

Agenda Number: 21

Attachments: Amended Agreement & Consent, City Clerk Memo, Request to Encroach, Property Descriptions, Responses from Franchises (ONG, AT&T, CenturyLink), Memo from Planning, Memo from Public Works, Memo from Utilities

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-1920-5 AMD

Body

BACKGROUND: An amended encroachment request has been filed in the office of the City Clerk by Carl R. Hendrix, a Trustee of 3701 Hidden Hill Road, requesting an Amended Consent to Encroach into a utility easement at the above-described property.

DISCUSSION: The application for the Amended Consent to Encroachment concerns the encroachment upon a City of Norman and Norman Utilities Authority (NUA) twenty-two foot (22') utility easement for the installation of a driveway. The owner originally requested that a new addition to the home be allowed to encroach upon the existing utility easement located at the

west side of the lot and consent to encroach was authorized by City Council on May 26, 2020. The owner now submits a request to amend the application to include the installation of a driveway that will connect to the new addition. At the present time, the City has no utilities in this easement.

The applicant has obtained a response from AT&T Oklahoma and Oklahoma Natural Gas, who have indicated that they have facilities located in the easements, however they are not opposed to the encroachment so long as the owner abides by the certain requirements as indicated in #6 below. Cox Communications, Oklahoma Gas & Electric, Oklahoma Electric Cooperative and CenturyLink 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 owners’ 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 Amended Consent to Encroachment as listed below:

1. The property owner(s), and property owners’ heirs, successors, or assigns (hereafter collectively the “Owner Parties”), 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 Owner Parties or their agents;
2. The Owner Parties will be required to apply for and receive any applicable permits prior to commencing work;
3. The Owner Parties will be responsible for the cost the City and the NUA incurs to remove any paving, fence, curb, landscaping, retaining wall, and/or any other structure if needed to maintain or repair NUA facilities;
4. The Owner Parties will be responsible for the cost to repair or replace any paving, fence, curb, landscaping, retaining wall, or any other structure after such repair;
5. The Owner Parties will waive and release any claims against the City and the 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. AT&T Oklahoma and Oklahoma Natural Gas have facilities located in the easement however they are not opposed to the amended encroachment, so long as Owner Parties contact OKIE811 location services and that the facility owners are notified should their respective facility need to be relocated to accommodate excavation or construction. Cox Communications, Oklahoma Gas & Electric, Oklahoma Electric Cooperative and CenturyLink has also stated that they do not object;
7. By encroaching on said easement, the Owner Parties release AT&T, Cox Communications, Oklahoma Electric Cooperative, Oklahoma Gas & Electric, Oklahoma Natural Gas, and CenturyLink 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; and

8. Damages to AT&T Oklahoma, Cox Communications, Oklahoma Electric Cooperative, Oklahoma Gas & Electric, Oklahoma Natural Gas and CenturyLink facilities resultant from any current/future construction may carry possible financial charges to the Owner Parties.

The benefit to having the amended 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 Amended Consent Agreement and Covenant, with the conditions stated therein. Please note that this Amended Consent Agreement and Covenant 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 Amended Consent to Encroach, EN-1920-5 AMD, for Council consideration.