



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: EN-1819-4

File ID: EN-1819-4

Type: Encroachment

Status: Consent Item

Version: 1

Reference: Item 10

In Control: City Council

Department: Legal Department

Cost:

File Created: 05/10/2019

File Name: Consent to Encroach 3804 Shadowridge Dr

Final Action:

Title: CONSENT TO ENCROACHMENT EN-1819-4: FOR LOT 8, BLOCK 4, SHADOWRIDGE ADDITION, CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA. (3804 SHADOWRIDGE DRIVE)

Notes: ACTION NEEDED: Motion to approve or reject Consent to Encroachment EN-1819-4; and, if approved, direct the filing thereof with the Cleveland County Clerk.

ACTION TAKEN: _____

Agenda Date: 05/28/2019

Agenda Number: 10

Attachments: Text File, Consent Agreement 1819-4, City Clerk Memo, Request for Encroachment, Site Plan, Memo from Utilities, Memo from Planning, Memo from Public Works, Responses 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-1819-4

Body

BACKGROUND: An encroachment request has been filed in the office of the City Clerk by Michael Dow, owner of 3804 Shadowridge Drive, requesting a Consent to Encroach into a utility easement at the above-described property.

DISCUSSION: The application for the Consent to Encroach concerns encroachment upon a City of Norman and Norman Utilities Authority (NUA) twenty foot (20') utility easement for a pool and raised concrete patio to be built on the site. The owner is requesting that pool and raised concrete patio be allowed to encroach upon the existing utility easement located along the rear portion of the lot line. At the present time, the City and the NUA have an abandoned 30-inch sewer main in this easement.

The applicant has obtained a response from Oklahoma Natural Gas (ONG) and Cox Communications, Inc., who are not opposed to the encroachment of the pool and raised concrete patio, so long as the property owner(s) notifies them should their respective utility need to be relocated to accommodate excavation or construction. The

applicant is responsible to notify all potential utility owners, and no other utilities have been identified within the easement.

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) be responsible for the cost to repair any damages to the City's and NUA's utilities caused by any excavation, piercing or other construction activities conducted by the property owner(s) or their agents; and
2. The property owner(s) will be responsible for the cost the City and NUA incurs to remove any fence, curb, landscaping, retaining wall, and/or any other structure if needed to maintain or repair NUA facilities; and
3. 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.
4. 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 NUA's active and abandoned utilities within the easement area. The abandoned 30-inch main is believed to have been completed filled with flowable fill (grout) but this cannot be verified to ensure that settlement will not occur or that sewage cannot backflow from the active 42-inch sewer main into the abandoned 30-inch sewer main.
5. The property owner(s) will hold the City and the NUA harmless for any unforeseen conditions related to the abandoned 30-inch main should the excavation extend down to the depth of the abandoned main or should unforeseen conditions be encountered.
6. Oklahoma Natural Gas and Cox Communications, Inc. have utilities located in the easement however they are not opposed to the encroachment, so long as the property owner(s) notifies them should their respective utility need to be relocated to accommodate excavation or construction. Oklahoma Gas & Electric, Oklahoma Electric Cooperative, and Oklahoma Natural Gas also do not object.
7. The City sent a request for approval or disapproval of this encroachment request to AT&T Oklahoma however no response was received from them. Although it is not known if a facility owned by AT&T Oklahoma exists in this easement, property owner(s) are cautioned to contact AT&T Oklahoma for this information.
8. By encroaching on said easement, the property owner(s) release Oklahoma Gas & Electric, Oklahoma Electric Cooperative, Oklahoma Natural Gas, AT&T Oklahoma, and Cox Communications, Inc., for any damages caused by any excavation by these utility companies for purposes of maintaining or replacing the City's and NUA's utility facilities within the easement area.
9. Damages to Oklahoma Gas & Electric, Oklahoma Electric Cooperative, Oklahoma Natural Gas, AT&T Oklahoma, and Cox Communications, Inc. facilities resultant from any current/future construction may carry possible financial charges to the property owners.

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 are 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.

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

