



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: EN-1920-4

File ID: EN-1920-4

Type: Encroachment

Status: Consent Item

Version: 1

Reference:

In Control: City Council

Department: Legal Department

Cost:

File Created: 10/22/2019

File Name: Consent to Encroach 208 Wilderness Drive

Final Action:

Title: CONSENT TO ENCROACH EN-1920-4: FOR LOT 10, BLOCK 5, SUTTON PLACE #2 ADDITION, CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA A/K/A 208 WILDERNESS DRIVE.

Notes: ACTION NEEDED: Motion to approve or reject Consent to Encroachment EN-1920-4; and, if approved, direct the filing thereof with the Cleveland County Clerk.

ACTION TAKEN: _____

Agenda Date: 11/12/2019

Agenda Number:

Attachments: Consent Agreement, Memo from City Clerk, Request to Encroach, Memo from Planning Department, Memo from Utilities Department, Memo from Public Works Department, 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-1920-4

Body

BACKGROUND: An encroachment request has been filed in the office of the City Clerk by Brent Bartel, owner of 208 Wilderness Drive, requesting a Consent to Encroach into utility easements at the above-described property.

DISCUSSION: The application for the Consent to Encroachment concerns the encroachment upon two (2) City of Norman and Norman Utilities Authority (NUA) five foot (5') utility easements for the installation of sidewalks. The owner is requesting that the sidewalks be allowed to encroach upon the existing utility easements located on the east and west lot lines along each side of the home. At the present time, the City has no utilities in these easements.

The applicant has obtained a response from Cox Communications, Oklahoma Natural Gas and Oklahoma Gas & Electric, 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. Oklahoma Electric Cooperative does not object and no response was received from AT&T Oklahoma.

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), and property owners’ heirs, successors, or assigns (hereafter collectively the “Owner Parties”), are required to apply for and receive a paving permit prior to commencing work.
2. 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; and
3. The Owner Parties 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; and
4. The Owner Parties 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 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 areas.
6. Cox Communications, Oklahoma Natural Gas and Oklahoma Gas & Electric have facilities located in the easements however they are not opposed to the 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. Oklahoma Electric Cooperative has also stated that they 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 these easements, property owner(s) are cautioned to contact AT&T Oklahoma for this information.
8. By encroaching on said easements, the Owner Parties 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 areas.

9. 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 Owner Parties.

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 easements, 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 easements.

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.