



City of Norman, OK

Municipal Building Council
Chambers
201 West Gray Street
Norman, OK 73069

Master

File Number: GID-1213-77

File ID: GID-1213-77 **Type:** Development, Deferrals and Variances **Status:** Consent Item

Version: 1 **Reference:** Item No. 17 **In Control:** City Council

Department: Public Works Department **Cost:** **File Created:** 04/17/2013

File Name: Revocable Utility Permit-Cascade Addn **Final Action:**

Title: CONSIDERATION OF APPROVAL OF A REVOCABLE UTILITY INSTALLATION PERMIT FOR CASCADE ADDITION TO INSTALL IRRIGATION DISTRIBUTION SYSTEMS IN PUBLIC RIGHTS-OF-WAY.

Notes: ACTION NEEDED: Motion to approve or reject a Revocable Utility Installation Permit for Cascade Addition to install irrigation distribution systems in the public rights-of-way.

ACTION TAKEN: _____

Agenda Date: 06/25/2013

Agenda Number: 17

Attachments: Cascade Revocable Utility Installation Permit Application, Map.pdf, ATT Letter of No Objection, Cox Letter of No Objection, ONG Letter of No Objection, OGE Letter of No Objection, OEC Letter of No Objection, Council Study Session - Tuesday, April 16, 2013.pptx

Project Manager: Scott Sturtz, City Engineer

Entered by: pam.jones@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 GID-1213-77

body

BACKGROUND: During its March meeting, the Council Oversight Committee discussed domestic water wells for non-potable use and related permit requirements. Specifically, the Committee discussed a request by a neighborhood association (Cascade Addition Homeowner's Association) to install a water well for irrigation use. Staff was directed to move forward with a proposed ordinance that would modernize the City's regulations regarding domestic water wells consistent with State law.

On Tuesday, March 26, 2013, Mr. Vince DiCastro, President of the Cascade Addition Homeowner's Association, contacted the Public Works Department requesting permission for the HOA to install five (5)

underground street crossings in the public right of way for a private irrigation system to be used by the HOA to irrigate several common areas within the residential subdivision. A map is attached indicating the location of the areas to be irrigated and the proposed locations where the distribution lines will cross the public right-of-way. Cascade Addition is located south of Tecumseh Road and west of 36th Avenue NW. Mr. DiCastro related that he and his HOA Board of Directors have been working for some time on a project to convert these five irrigation "zones" located throughout the subdivision to one irrigation zone. The current five zones are served by water service lines connected to the City water system. The proposed single irrigation zone will be served by one new private water well. In order to connect the five current irrigation zones, the HOA is asking to bore 3-inch irrigation pipelines under five existing public streets.

At the request of Council Members Williams and Castleberry, the City Manager directed staff from the Public Works, Legal, Planning and Utilities Departments to research concerns and options to address the request from the Cascade HOA. Private sprinkler systems are commonly installed in the public rights-of-way without the City's knowledge or consent, but this is the first request Staff is aware of to install a private raw water distribution system throughout a neighborhood and requiring boring under five public streets.

The City has allowed use of the public rights-of-way in limited circumstances. Above ground encroachments into the public rights-of-way have been allowed upon execution of a revocable license. Council approved GID-1213-8 in August 2012 for a revocable license allowing the placement of archways within the right of way at the entrance to Fountain View Addition. Council has also approved revocable licenses for patios located within the public right of way for La Baguette, In the Raw, and Blackbird Gastropub. In all of these examples, the City's interests were protected by the language in the license. The essential terms of the licenses were as follows:

The City was required to inspect and approve plans for the encroachments

The City was allowed to inspect the encroachments any time after construction to ensure they were being maintained in a safe, sanitary and sightly condition.

The licensee agreed that the City and any other franchised utilities may do work in the right of way and will not be liable for any damage to the licensee's improvements located within the right-of-way.

The licensee agreed to indemnify, hold harmless, and defend the City against all actions or causes of actions, claims, liability, loss, damage or expense.

Additionally, an annual license fee was required.

Requests for below-ground encroachments into the right-of-way by entities other than franchised utilities are rare. In fact, Staff was only able to find one other instance of such a request. In 2009, Chickasaw Telecommunications and Norman Regional Health System applied for Revocable Utility Installation Permits to install fiber optic conduit in the public right-of-way connecting the Hospital's main campus at Robinson and Porter with the west campus at 36th Avenue West and Tecumseh Road. The permit contained special conditions to protect the City's interests including:

- Submittal of half size (11"x 17") plans and digital as-builts
- Traffic controls where necessary during work in the right of way
- Permittee required to leave property above in solid and safe conditions, and restore all sodded areas to original condition
- Permittee required to indemnify, protect and save harmless the City against any and all damages, claims, demands, suits, actions and causes of action.

Additionally, the following items were required with the application for the permit:

- Signed and sealed construction plans
- Proof of insurance policy (original) with standard comprehensive public liability coverage, including contractual liability insurance, covering bodily injuries and property damage naming the applicant/permittee and the City of Norman as co-insured, issued by an insurance company authorized to do business within the state of Oklahoma.
- Payment of a permit fee
- Letters of no objections from other franchised utilities in the right-of-way

This information and the Cascade Addition request was presented to the Council Oversight Committee on April 10, 2013. A copy of the presentation from this meeting is attached for further information. The Oversight Committee requested that the item be brought before the City Council in the Council Study Session on April 16, 2013. Representatives of Oklahoma Electric Cooperative (OEC) and Oklahoma Gas & Electric (OG&E) attended the Council Study Session to discuss their concerns with the Council. Written responses from OEC and OG&E are attached indicating their concerns with use of the right-of-way for irrigation distribution lines. During the Study Session, Council expressed a desire to move forward with this item acknowledging that even if the permit was approved by Council, all of the conditions for application and granting of the permit would have to be met before the permit could become effective.

DISCUSSION: Based on the Council Direction the City Attorney's office has prepared a Revocable Utility Installation Permit for the installation of the irrigation distribution lines to be located within the City rights-of-way. This Revocable Permit contains provisions to protect the City of Norman and franchise utilities. In addition to the items that were required for the Revocable Utility Installation Permit for the Norman Regional Hospital outlined above, this Permit requires:

- Applicant's participation in the One Call system to ensure both the City and the Permittee that work done within the right of way will not interfere with the irrigation lines or other utilities.
- Applicant's compliance with the City of Norman Water Conservation Plan as adopted now, and as may be amended in the future.

Additionally, the permit expressly forbids other property owners from tapping into the line under any circumstances.

It should be noted that the Applicant is also in the process of obtaining a water well permit for this project. Although the permit will likely be considered before changes to Section 21-404 are effective, the Applicant has agreed to comply with the changes outlined in Ordinance No. O-1213-48, which is on Council's agenda for consideration on June 25, 2013. The water well permit will be considered administratively by City staff.

RECOMMENDATION: The applicant has met all of the provisions of the Revocable Utility Installation Permit. Staff recommends approval of the Revocable Utility Installation Permit.