



# City of Norman, OK

Municipal Building  
Council Chambers  
201 West Gray  
Norman, OK 73069

## Master

**File Number: EN-2021-7**

**File ID:** EN-2021-7

**Type:** Encroachment

**Status:** Consent Item

**Version:** 1

**Reference:** Item 25

**In Control:** City Council

**Department:** Legal Department

**Cost:**

**File Created:** 09/15/2020

**File Name:** Consent to Encroach 320 North Porter Avenue

**Final Action:**

**Title:** CONSENT TO ENCROACH EN-2021-7: FOR LOT 17, BLOCK 20, ORIGINAL TOWNSITE, CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA. (320 NORTH PORTER AVENUE)

**Notes:** ACTION NEEDED: Motion to approve or reject Consent to Encroachment EN-2021-7; and, if approved, direct the filing thereof with the Cleveland County Clerk.

ACTION TAKEN: \_\_\_\_\_

**Agenda Date:** 09/22/2020

**Agenda Number:** 25

**Attachments:** Consent Agreement and Covenant, Memo from City Clerk, Request to Encroach, Depiction of Existing Sign, 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

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:

### Text of Legislative File EN-2021-7

Body

**BACKGROUND:** An encroachment request has been filed in the office of the City Clerk by property owner, Jerry's L.L.C., requesting a Consent to Encroach into public right-of-way the above-described property.

**DISCUSSION:** The application for the Consent to Encroach concerns the encroachment upon a City of Norman right-of-way easement for an existing sign. This item is a companion to six easements also presented to City Council on this agenda. Among these easements is the grant of permanent right-of-way for the construction of the Porter Avenue and Acres Street Intersection 2019 Bond Project ("Project").

Upon acquisition of the easement, the existing sign will overhang the private right-of-way, as well as the sidewalk that will eventually be constructed as a part of the Project as a whole. The owner has submitted this request as a part of the underlying agreement the owner and the City of Norman have reached regarding acquisition of the necessary right-of-way from the owner's parcels in order to complete the Project as designed.

No City or other utilities are located within this right-of-way. The City does not object to the proposed encroachment on the basis that a Consent Agreement and Covenant is executed, much in the same form as others involving utility easements, by the owner which provides the City certain protections regarding the encroachment.

Staff has reviewed the application and the "hold harmless" clauses. From a legal perspective, it protects the City's concerns with respect to damage potentially resulting from the encroachment while furthering the underlying agreement reached with the owner of the property concerning a unique condition created by the underlying City street project.

There are some conditions applied to this Consent to Encroachment as listed below:

1. The property owners(s), and property owners' heirs, successors, or assigns (hereafter collectively the "Owner Parties") are permitted to carry out future repairs, replacements, and/or improvements to the existing sign that would otherwise be allowable under City regulations despite this encroachment, so long as the degree of encroachment is not increased thereby.
2. The Owner Parties will be responsible for the cost to repair any damages to the City's infrastructure or right-of-way interest caused by repairs, replacement or improvement addressed above, and any excavation, piercing or other construction activities conducted by the Owner Parties or their agents in relation thereto;

The benefit to having the consent to encroach on file is that it is evidence of the property owners' understanding that, while the City is allowing them to encroach upon the easement, the City is not liable and will not be responsible for damages associated with use of the right-of-way, nor any alternations allowed to the existing sign by Owner Parties per this Consent Agreement and Covenant.

All necessary City departments have responded on this item and have no objection to the proposed Consent Agreement and Covenant, with the conditions stated therein.

**RECOMMENDATION:** Based upon the above and foregoing, the City Attorney's office is forwarding the above Consent to Encroach, EN-2021-7, for Council consideration contingent upon further approval of the parties' Agreement for Acquisition of Right-of-Way, also on this agenda.