



# City of Norman, OK

Municipal Building  
Council Chambers  
201 West Gray  
Norman, OK 73069

## Master

**File Number: EN-1920-6**

**File ID:** EN-1920-6

**Type:** Encroachment

**Status:** Non-Consent Items

**Version:** 1

**Reference:** Item 44

**In Control:** City Council

**Department:** Legal Department

**Cost:**

**File Created:** 07/31/2020

**File Name:** Consent to Encroach 2501 Pendleton Drive

**Final Action:**

**Title:** CONSENT TO ENCROACH EN-1920-6: FOR LOT 1, BLOCK 1, LEGACY TRAILS APARTMENTS ADDITION, CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA. (2501 PENDLETON DRIVE)

**Notes:** ACTION NEEDED: Motion to approve or reject Consent to Encroachment EN-1920-6; and, if approved, direct the filing thereof with the Cleveland County Clerk.

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

**Agenda Date:** 08/25/2020

**Agenda Number:** 44

**Attachments:** Consent Agreement Legacy, City Clerk memo, Request to Encroach, Sign location, 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:
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### Text of Legislative File EN-1920-6

Body

**BACKGROUND:** An encroachment request has been filed in the office of the City Clerk by Lektron Branding Solutions on behalf of property owner HPI Legacy, L.L.C., 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 City of Norman and Norman Utilities Authority (NUA) utility easements for the replacement of an existing sign. The owner is requesting that the replacement sign be allowed to encroach upon the existing utility easement located at the front of the parcel.

The property is zoned by a PUD pursuant to Ordinance No. O-1415-29. In order to accommodate the existing and replacement sign, the property owner has also brought a request for PUD amendment, addressing the setback amendment necessary to accommodate the sign only, which is brought as a companion to this item for City Council consideration (as Ordinance No. O-2021-2).

Along the south property line, a platted 17.5-foot easement exists and will be encroached upon for the proposed. An 8-inch water line is located within this easement running east/west but is approximately 10 feet north of the proposed sign. Within the 15-foot easement for the property abutting to the south, an 8-inch sewer flowing from east to west is approximately 10 feet from the proposed sign.

The applicant has obtained a response from OG&E, AT&T, and Oklahoma Natural Gas, which 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 did not indicate that it had existing facilities within the easement, but made no objection to the encroachment request. Cox Communications was provided with sufficient notice of the encroachment request but did not provide a response.

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”) 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 sign, 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 sign, fence, curb, retaining wall, landscaping 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 areas;
6. Oklahoma Natural Gas, OG&E and AT&T 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 and Century Link has also stated that it does not object;

7. By encroaching on said easements, the Owner Parties release Oklahoma Natural Gas, Cox Communications, Oklahoma Gas & Electric, Oklahoma Electric Cooperative, and AT&T 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; and
8. Damages to Oklahoma Natural Gas, Cox Communications, Oklahoma Gas & Electric, Oklahoma Electric Cooperative, and AT&T 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 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 Consent to Encroach, EN-1920-6, for Council consideration.