



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: EN-1920-5

File ID: EN-1920-5 **Type:** Encroachment **Status:** ATS Review

Version: 1 **Reference:** Item 11 **In Control:** City Council

Department: Legal Department **Cost:** **File Created:** 05/04/2020

File Name: Consent to Encroach 3701 Hidden Hill Road **Final Action:**

Title: CONSENT TO ENCROACHMENT EN-1920-5: FOR LOT 11, BLOCK 1, BROOKHAVEN NO. 25 ADDITION, CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA. (3701 HIDDEN HILL ROAD)

Notes: ACTION NEEDED: Motion to approve or reject Consent to Encroachment EN-1920-5; and, if approved, direct the filing thereof with the Cleveland County Clerk.

ACTION TAKEN: _____

Agenda Date: 05/12/2020

Agenda Number: 11

Attachments: City Council Staff Report, Consent to Encroach, City Clerk Memo, Request to Encroach, Exhibit A - Plat Map, Exhibit B - Site Plan, Utility Company Responses, Memo from Public Works, Memo from Utilities, Memo from Planning

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:

Text of Legislative File EN-1920-5

Body

BACKGROUND: An encroachment request has been filed in the office of the City Clerk by Carl R. Hendrix, a Trustee of 3701 Hidden Hill Road, 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 a City of Norman and Norman Utilities Authority (NUA) twenty-two foot (22') utility easements for the construction of an addition to the existing residence. The owner is requesting that the addition be allowed to encroach upon the existing utility easement located

on the west lot line of the home. At the present time, the City has no utilities in this easement.

The applicant has obtained a response from Oklahoma Natural Gas and AT&T Oklahoma, 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. Cox Communications, Oklahoma Gas & Electric, Oklahoma Electric Cooperative (which has no known facilities) and Century Link do not object.

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. Oklahoma Natural Gas and AT&T Oklahoma 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. Cox Communications, Oklahoma Gas & Electric, Oklahoma Electric Cooperative and Century Link has also stated that they do not object.
7. By encroaching on said easements, the Owner Parties release Oklahoma Natural Gas, Cox Communications, Oklahoma Gas & Electric, Oklahoma Electric Cooperative, AT&T Oklahoma and Century Link 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.

8. Damages to Oklahoma Natural Gas, Cox Communications, Oklahoma Gas & Electric, Oklahoma Electric Cooperative, AT&T Oklahoma and Century Link 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.