



Legislation Text

File #: EN-1718-3, **Version:** 1

CONSENT TO ENCROACHMENT EN-1718-3: FOR LOT 40, BLOCK 1, SUTTON PLACE ADDITION NO. 7, CLEVELAND COUNTY, CITY OF NORMAN, OKLAHOMA A/K/A 1505 GOLDFINCH COURT.

BACKGROUND: An encroachment request has been filed in the office of the City Clerk by John Mertens, owner of 1505 Goldfinch Court, requesting a Consent to Encroachment into a utility easement at the above-described property.

DISCUSSION: The application for the Consent to Encroachment concerns the encroachment upon a City of Norman seven and one-half (7.5') foot utility easement due to the new home being built on the site. The owner is requesting that the northwest corner of the house be allowed to encroach upon the existing utility easement. The City maintains a Sanitary Sewer Force Main within said utility easement along the side (west) lot line on the subject property.

Staff has reviewed the application and the "hold harmless" clauses. From a legal perspective, it protects the City's concerns with respect to damage to the property owner's property should the City 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 will be responsible for the cost to repair any damages to the City's utilities caused by any excavation, piercing or other construction activities conducted by the property owner or his agents.
2. The property owner will be responsible for the cost the City incurs to remove any fence, curb, landscaping, building, and any other structure if needed to facilitate maintenance or repair of the City's utilities.
3. The property owner will be responsible for the cost to repair or replace any fence, maintenance or repair of the City's utilities.
4. The property owner will waive and release any claims against the City for any damages to the residence and related improvements caused by failure or repair and maintenance of the City's utilities within the easement area.

The benefit to having the consent to encroachment 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 damage to the property owner's property in the event maintenance has to be performed within the easement.

RECOMMENDATION: Based upon the above and foregoing, the City Attorney's office is forwarding the above Consent to Encroachment for Council consideration.