

ORDINANCE NO.: 2009-102

Granting an encroachment to David Norton for installation and maintenance of a brick retaining wall and wooden privacy fence within the right of way area adjacent to 418 South Edisto Avenue and 2000 block of Oceola Street, Richland County TMS #11309-13-10

ORIGINAL
STAMPED IN RED

WHEREAS, David Norton (hereinafter "Grantee") desires to utilize a portion of the right of way area adjacent to his property at 418 South Edisto Avenue and 2000 block of Oceola Street, Richland County TMS #11309-13-10, for installation and maintenance of a brick retaining wall approximately two (2') feet to three and one-half (3' 6") feet in height and thirty-one (31') feet in length and a wooden privacy fence approximately six (6') feet in height and thirty-one (31') feet in length, with the total combined height of the retaining wall and privacy fence not to exceed nine (9') feet six (6") inches, as shown on the attached drawing; and,

WHEREAS, it appears that the encroachment will not interfere with the use of the sidewalk or street for traffic, utility locations or other uses within the foreseeable future; NOW, THEREFORE,

BE IT ORDAINED by the Mayor and City Council of the City of Columbia, South Carolina, this 6th day of January, 2010, that Grantee, his successors and assigns, is hereby granted the right to utilize a portion of the right of way area adjacent to his property at 418 South Edisto Avenue and 2000 block of Oceola Street, Richland County TMS #11309-13-10, for installation and maintenance of a brick retaining wall approximately two (2') feet to three and one-half (3' 6") feet in height and thirty-one (31') feet in length and a wooden privacy fence approximately six (6') feet in height and thirty-one (31') feet in length, with the total combined height of the retaining wall and privacy fence not to exceed nine (9') feet six (6") inches, as shown on the attached drawing.

ALL WORK SHALL COMPLY with the requirements of The City of Columbia and South Carolina Department of Transportation now in existence or hereafter enacted. The materials and type of finish to be used are to be approved by the City Engineer prior to installation. Any damage to the street or sidewalk caused by construction or maintenance shall be repaired to the satisfaction of the City Manager. Improvements constructed within the encroachment by or on behalf of Grantee shall be maintained by the Grantee at no cost to the City in a manner approved by the City Manager.

PROVIDED, HOWEVER, that in exercising the privileges granted under this ordinance, Grantees, their successors and assigns, will indemnify and save harmless the City from any and all claims or causes of action which may arise by reason of the construction or maintenance of the aforesaid encroachment.

ORIGINAL
STAMPED IN RED

PROVIDED FURTHER that the privilege granted hereby is subject to the Grantee complying with the following conditions, restrictions or limitations:

1. No item, including landscaping, shall be placed, planted, or allowed to grow such that it creates a visual impediment to persons safely entering or exiting the driveway or to persons safely walking along the sidewalk. The City reserves the right to remove or cut any item located within the right of way which it deems to be a safety hazard.

PROVIDED FURTHER that the privilege granted hereby may be modified or terminated by Columbia City Council at any time without notice to the Grantees, their successors and assigns.

PROVIDED FURTHER that a certificate of insurance be issued as evidence of general liability insurance with at least the minimum amount of \$600,000.00 for personal injury and property damage and naming the City as an insured, be provided to and filed annually with the City Clerk by Grantees, their successors and assigns, as required by Chapter 11, Licenses, Permits, Business Regulations, Article III, Contractors, Sec. 11-71, 1998 Code of Ordinances of the City of Columbia, South Carolina.

BE IT FURTHER ORDAINED that Grantees, in consideration of the above privilege, shall at their expense provide for protection and, if necessary, relocation of all utilities that might be within this area to the satisfaction of the City Manager.

Requested by:

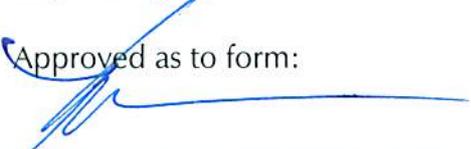
David Norton _____


MAYOR _____

Approved by:


City Manager _____

Approved as to form:


City Attorney _____

ATTEST:

City Clerk _____

Introduced: 12/16/2009
Final Reading: 1/6/2010

**CITY COUNCIL
ENCROACHMENT SUMMARY
2009-102**



**NX 418 SOUTH EDISTO AVENUE &
2000 BLOCK OF OCEOLA STREET**

Subject Property: NX 418 South Edisto Avenue & 2000 Block of Oceola Street, TMS# 11309-13-10

Council District: 3

Proposal: Request approval of encroachment for installation and maintenance of a brick retaining wall approximately two (2') feet to three and one-half (3' 6") feet in height and thirty-one (31') feet in length and a wooden privacy fence approximately six (6') feet in height and thirty-one (31') feet in length.

Applicant: David Norton

Staff Recommendation: Approve

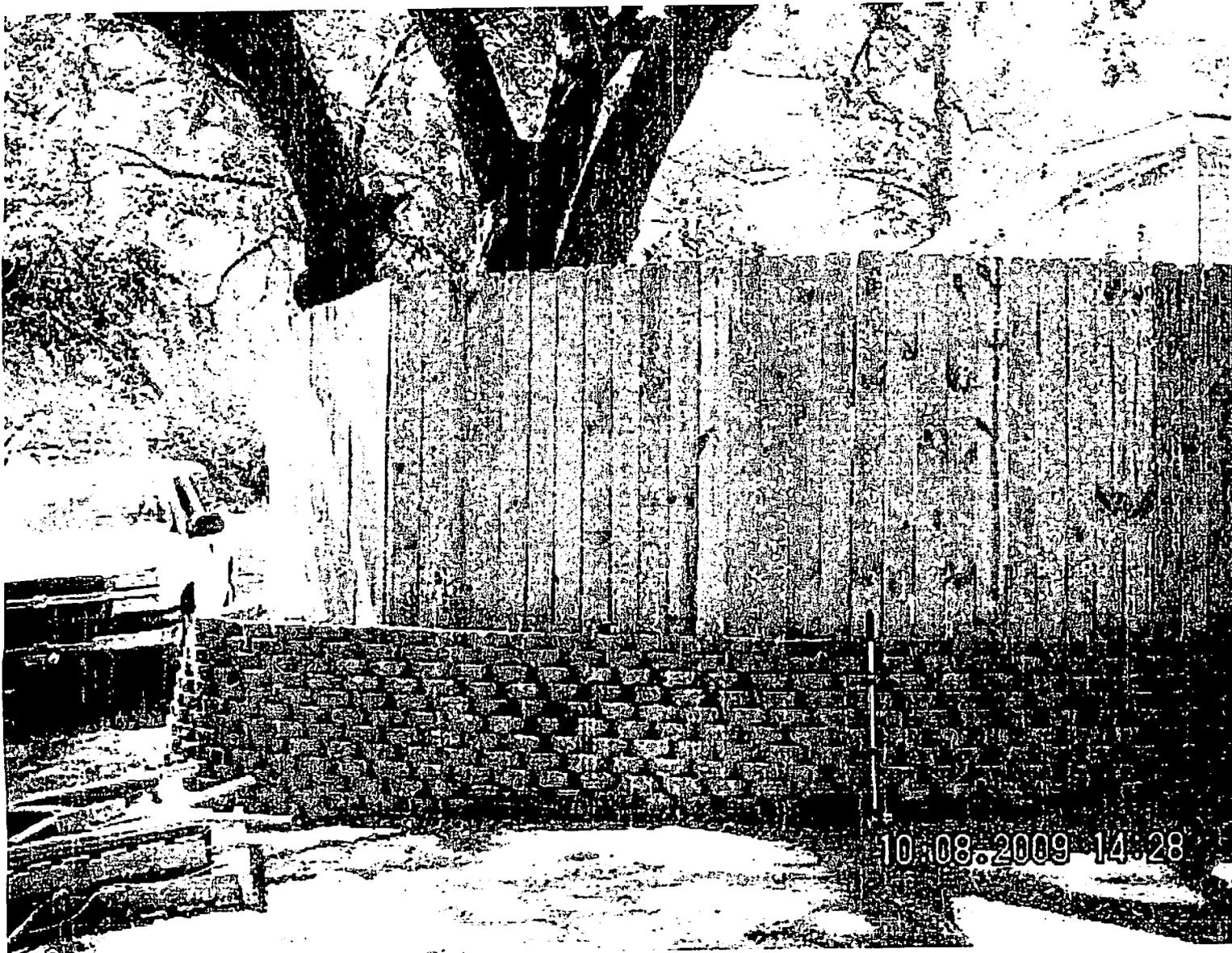
Conditions:

- No item, including landscaping, shall be placed, planted, or allowed to grow such that it creates a visual impediment to persons safely entering or exiting the driveway or to persons safely walking along the sidewalk. The City reserves the right to remove or cut any item located within the right of way which it deems to be a safety hazard.
- The construction of the fence enclosed a City tree within the yard and may have caused damage to the roots. All future maintenance and care of tree is the responsibility of the homeowner.

Detail: The homeowner constructed a new brick retaining wall with a fence on top to replace a low retaining wall that was in disrepair. The wall and fence are within the right-of-way. The fence exceeds the height permitted in secondary front yards and received a variance from the Board of Zoning Appeals on October 13, 2009. The previous retaining wall permitted access to the City tree, while the new wall and fence does not. For this reason, it is recommended that the homeowner assume all responsibility for the care and maintenance of this tree.

CITY AGENCY COMMENTS FOR ENCROACHMENT

Planning & Development	Recommend Approval with Conditions: No item, including landscaping, shall be placed, planted, or allowed to grow such that it creates a visual impediment to persons safely entering or exiting the driveway or to persons safely walking along the sidewalk. The City reserves the right to remove or cut any item located within the right of way which it deems to be a safety hazard.
Zoning	Recommend Approval – Sight visibility will not be impacted and a variance for fence height granted by the Board of Zoning Appeals on 10/13/09.
Streets	Recommend Approval
Utilities & Engineering	Recommend Approval
Traffic Engineering	Recommend Approval
Fire Department	Recommend Approval
Forestry	Recommend Approval with Conditions: The construction of the fence enclosed a City tree within the yard and may have caused damage to the roots. All future maintenance and care of tree is the responsibility of the homeowner.
Land Development	Recommend Approval



10.08.2009 14:28