

ORDINANCE NO.: 2009-004

Granting an encroachment to Norman V. Clark for installation and maintenance of fencing and columns at 420 Edisto Avenue

WHEREAS, Norman V. Clark (hereinafter "Grantee") desires to utilize a portion of the rights of way area adjacent to 420 Edisto Avenue for installation and maintenance of walk gates, a wrought iron fence approximately seventy (70') feet in length and forty-two (42") inches in height with eight (8) columns approximately sixteen (16") inches in diameter and forty-four (44") inches tall, 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 1st day of April, 2009, that Grantee, his successors and assigns, is hereby granted the right to utilize a portion of the rights of way area adjacent to 420 Edisto Avenue for installation and maintenance of walk gates, a wrought iron fence approximately seventy (70') feet in length and forty-two (42") inches in height with eight (8) columns approximately sixteen (16") inches in diameter and forty-four (44") inches tall, 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, Grantee, his 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.

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

1. Driveway opening must be designed to prohibit any visibility issues;
2. City trees and root systems must be protected;

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STAMPED IN RED

ORIGINAL
STAMPED IN RED

3. When the City trees have reached the end of their useful life cycle and must be removed, Grantee agrees to remove any portions of the fence necessary to allow City crews access to the lower trunk and stump from the street. The fence may be replaced after work is complete. The tree will not be replaced by the City but may be replaced by the Grantee;

4. As the City trees grow, the trunk circumference will increase and may grow close to the fence causing the trunks to become incorporated into the fence. In an effort to prevent this and maintain sound tree trunks, Grantee agrees to cut the fence to allow room for the tree trunks growth if this becomes a problem.

PROVIDED FURTHER that the privilege granted hereby may be modified or terminated by Columbia City Council at any time without notice to the Grantee, his 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 Grantee, his 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 Grantee, in consideration of the above privilege, shall at his 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:

Norman V. Clark



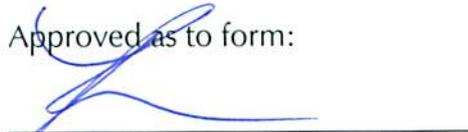
MAYOR

Approved by:



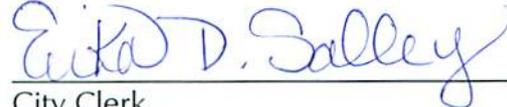
Interim City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 3/25/2009

Final Reading: 4/1/2009

Matter No.: 09010001
 Attorney: 175186
 Date In: 12/09
 File No.: 2009-004
 Date Out: 2/6/09

REQUEST FOR AN ENCROACHMENT ORDINANCE

For a continuing encroachment on any type of property in which the City has an interest (i.e., rights of way, tree zone, sidewalk, streets), the person or entity is required to have an encroachment ordinance enacted by City Council permitting the encroachment. Encroachment ordinances are required for but not limited to: irrigation systems; landscaping; fencing; walls; pavers; walkways; outdoor dining items (chairs, tables, umbrellas, etc.); awnings; bollards and directional signs (i.e., churches) *Business signs are NOT permitted via an encroachment. An encroachment must comply with all existing City codes, rules and regulations, the Americans With Disabilities Act, if applicable, and is subject to review and approval by City staff. Enactment of the encroachment ordinance by a majority vote of City Council, which is a discretionary legislative act, is also required.*

Please complete and submit this form along with any attachment(s) to Shari Ardis by e-mail at slardis@columbiasc.net ; fax at 803-737-4250; or mail to Shari Ardis, Legal Department, POB 147 Columbia, SC 29217, for preparation of an encroachment ordinance. Copies to City departments should be directed to the contact person for that department as shown below and not through the Legal Department. Judy Edwards with Risk Management (343-8778 or jgedwards@columbiasc.net) should be contacted regarding the insurance requirements.

Date: 12/10/2008 Applicant's Name: Norman V. Clark
 Telephone Number: 803.253.6897 Fax Number: 803.253.6898
 E-mail address: nclorke@clarkbenefits.com
 Encroachment Location (Address): 420 Edisto Avenue

Encroachment type: Wall Fence Irrigation System Landscaping
 If wall or fence - dimensions: _____ (height/length) construction material: stucco + chlorine (wrought iron)
 Please provide photographs and drawing or site plan drawn to scale.

Church Directional Signs (Must provide picture or drawing of proposed signs that reflect dimensions)
 Location(s) signs are to be placed (i.e. Northeast corner of Main Street) _____

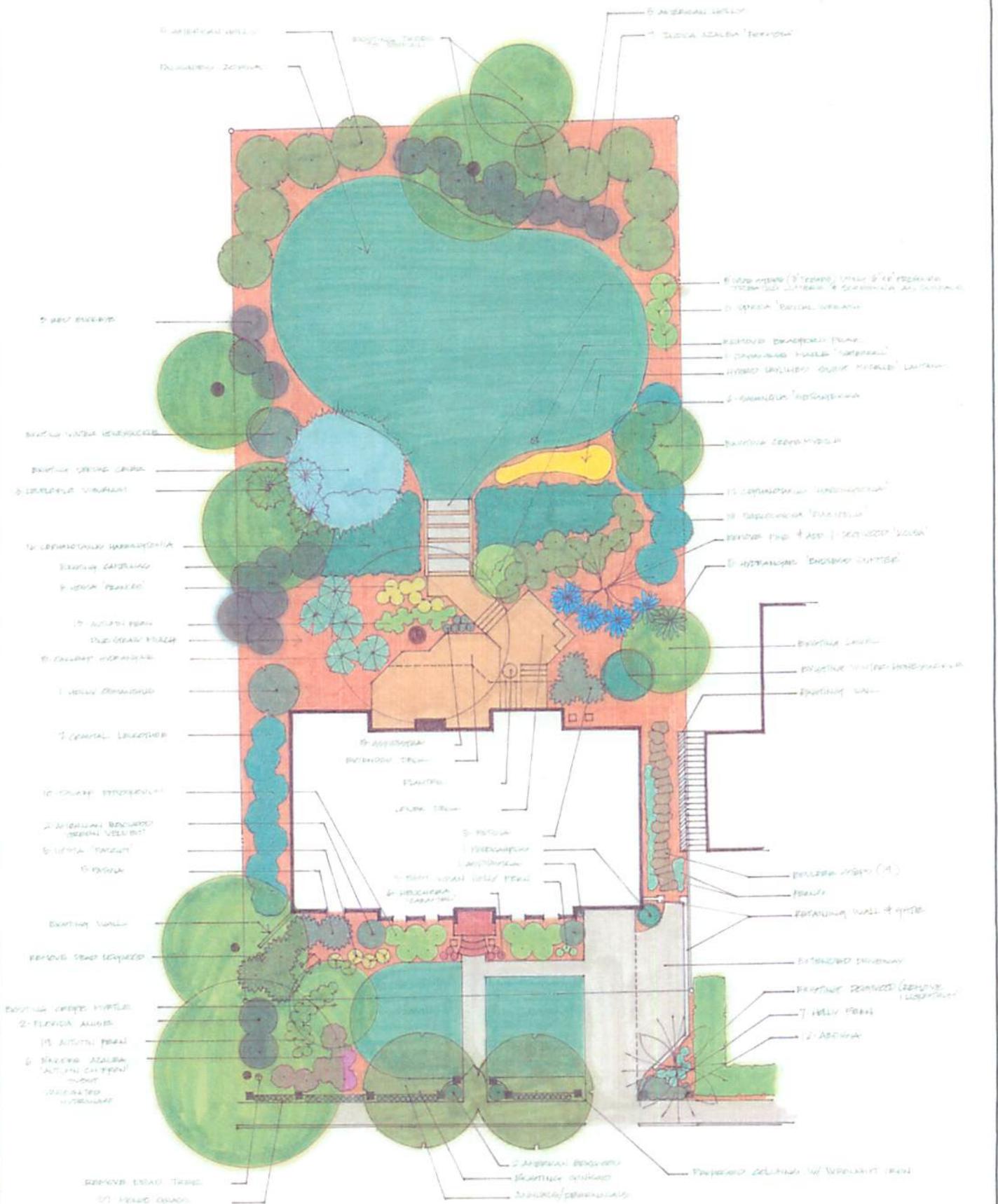
Outdoor dining/decoration No. of chairs: _____ No. of Tables _____
 Number of planters: _____ Business Hours: _____ Other: _____

The proposed ordinance will be sent to the requesting party and City offices for review and approval. Chip Land will compile the recommendations and forward them to the City Clerk for scheduling before City Council. This process may take from 30-90 days.

Contact	Department	Telephone Number	Fax Number
John Dooley	Utilities and Engineering	545-3240	733-8674
Joey Jaco	Engineering	545-3400	988-8199
Missy Gentry	Public Works	545-3780	733-8648
Marc Mylott	Planning and Development Services	545-3426	255-8935
Chip Land	Planning and Development Services	545-3222	733-8647
Jerry Thompson	Building Official	545-3442	733-8699
Sara Hollar	Forestry & Beautification	545-3860	733-8648
Amy Moore	Historic Preservation	545-3222	733-8647
Fred Delk	Columbia Dev. Corporation	988-8040	988-8039
Judy Edwards	Risk Management	343-8778	733-8245
Dana Higgins	Construction Management	545-3372	545-4130
David Brewer	Traffic Engineering	545-3850	733-8648
Robert Sweatt	Street Division	545-3790	545-3785
Jonathan Chambers	Planning and Development Services	545-3206	343-8779
Carmen Floyd	Fire Marshall	545-3703	401-8839
Krista Hampton	Planning and Development Services	545-3420	733-8699

Last Revised: 8/25/2008





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NORMAN CLARKE
 420 EDGEMO AVENUE

SCALE: 1" = 10' DRAWN BY:

December 29, 2008

To: Chip Land

Re: Building in the right of way for 420 Edisto Ave

I built my home at 420 Edisto Ave. approximately 12 years ago. I received a zoning variance from the city allowing me to build closer to the street in order to save an 80 year old tree that is near the back of my home (I have 20.5 feet between my front porch steps and the sidewalk and 26.5 feet to Edisto Ave. from my front door step). In the last 5 years I have had two children whose primary outdoor play area is in the front yard. Due to cut through and student traffic that habitually speed down Edisto Ave. and on street parking for one of my cars and several other cars from a rental duplex next door, this makes a very dangerous situation for my children with the traffic and concealed blind spots from cars parked on the street when they are playing.

In order to protect the safety of my children I have proposed building a fence across the front of my property. This fence is to be constructed of capped columns made of stucco to match the exterior siding of the home and aluminum fencing designed to look like wrought iron. I have had this aspect of the plan approved by the Preservation Department of the City but have been unable to get a permit due to being in the right of way.

I am petitioning the city for the approval to build the fence in the right of way due to the closeness of my home and the limited amount of front yard that I have. I have attached the request for an encroachment and a landscape plan. I have attached a copy of my insurance policy with USAA showing that I carry 1 million in additional liability. The back yard is conceptual and it put on hold due to the costs and the economy. Thank you for your prompt consideration in this matter.

Sincerely,

Norman Clarke

From: Norman Clarke [mailto:nclarke@clarkebenefits.com]
Sent: Thursday, January 22, 2009 2:42 PM
To: Ardis, Shari
Subject: RE: Publicmeetings3.pdf - Adobe Reader

1. The fence including gate and driveway will be 70 feet across. The breakdown is as follows:

29 ¾ feet + gate (46 inches)+ 15 ½ feet+ 12 ft. driveway + 6 feet

Any questions let me know.

Norman Clarke | Clarke & Company Benefits LLC

2422 Devine St. Suite B, Columbia, SC 29205

V 803-253-6997 | V 888-540-9403 | F 803-253-6998

Visit our website @ www.clarkebenefits.com

nclarke@clarkebenefits.com

From: Norman Clarke [mailto:nclarke@clarkebenefits.com]

Sent: Wednesday, January 14, 2009 3:59 PM
To: Ardis, Shari
Subject: RE: Publicmeetings3.pdf - Adobe Reader

The columns are 16x16 and the height varies because of the topography, but the highest should be around 44' with a cap on that. The fence will be vary in height but at the highest should be around 42" .

Norman Clarke | Clarke & Company Benefits LLC

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nclarke@clarkebenefits.com