

## Legislation Text

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**File #:** BILL NO. 21-119, **Version:** 1

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An Ordinance authorizing the execution of a License Agreement by and between the City of Lee's Summit, Missouri, and Richard V. Baker & Joan M. Baker, to allow an encroachment within the City's right-of-way located at a property commonly known as 200 SE Brownfield Drive. (PWC 6/7/21)

### Issue/Request:

An Ordinance authorizing the execution of a License Agreement by and between the City of Lee's Summit, Missouri, and Richard V. Baker & Joan M. Baker, to allow an encroachment within the City's right-of-way located at a property commonly known as 200 SE Brownfield Drive.

### Key Issues:

- The owners of the property commonly known as 200 SE Brownfield Drive, Richard V & Joan M. Baker (hereinafter "Requesting Party"), are requesting a right of way permit to demolish the existing fence, rebuild one to match the existing footprint, and leave the swing set as-is (hereinafter "Improvement").
- The location of the Improvement is considered a non-allowed encroachment within a platted utility easement and right of way.
- A License Agreement between the Requesting Parting and the City is required according to the City's Encroachment Policy, as adopted under Resolution No. 20-06, for this non-allowed encroachment.
- The Requesting Party and City both desire to enter into a License Agreement to bring the Improvement into compliance with the City's Encroachment Policy.

### Proposed Committee Motion:

I move to recommend to City Council approval of an Ordinance authorizing the execution of a License Agreement by and between the City of Lee's Summit, Missouri, and Richard V. Baker & Joan M. Baker, to allow an encroachment within the City's right-of-way located at a property commonly known as 200 SE Brownfield Drive.

### Proposed City Council Motion:

FIRST MOTION: I move for a second reading of an Ordinance authorizing the execution of a License Agreement by and between the City of Lee's Summit, Missouri, and Richard V. Baker & Joan M. Baker, to allow an encroachment within the City's right-of-way located at a property commonly known as 200 SE Brownfield Drive.

SECOND MOTION: I move for adoption of an Ordinance authorizing the execution of a License Agreement by and between the City of Lee's Summit, Missouri, and Richard V. Baker & Joan M. Baker, to allow an encroachment within the City's right-of-way located at a property commonly known as 200 SE Brownfield Drive.

Background:

According to the City's Encroachment Policy, a wooden fence and swing set are considered non-allowed uses within the right-of-way and require Director approval of those department(s) impacted, as well as a license agreement to be entered into by the Requesting Party and the City for the encroachment.

The Public Works Department has confirmed their allowance of these encroachments. The fence and swing set were surveyed and shown the 1992 as-built plans for the construction of Todd George Parkway. The plans show the fence and swing set were to be left in place behind (west of) the sidewalk along Todd George Parkway. The City did not relocate the fence or swing set beyond the right-of-way as part of that project.

Recently, a car struck the fence and knocked over part of the fence. The wood fence was reviewed for traffic safety compatibility. Generally 4x4 wood posts and wood fencing are considered breakaway objects in regards to roadside safety. The swing set is of similar construction, and it is also at least 16 feet away from the roadway travel lanes, so it is outside the clear zone for the posted speed limit along Todd George Road.

The homeowner hired a Contractor to rebuild the fence in its current location, which is in accordance with the 1992 plans accepted by the City. Relocating the fence is currently impractical because it requires installing the fence around several utilities. The area contains multiple underground and overhead utility lines that include communications, cable, and electric. The area of the fence encroachment is approximate 16 feet by 173 feet for a footprint of about 2,770 square feet. The total length of fencing in the right of way will be about 205 linear feet.

Both the property owner and City desire to enter into a License Agreement in order to permit the owner's fence replacement in its current location and leave the swing set as-is. Considering the fence and swing set will be in the same place as it was before the City undertook a project to improve Todd George Parkway, and the impracticality of relocating the fence, City Staff is recommending approval of a license agreement to leave the fence in its current location.

George Binger, Deputy Director of Public Works/City Engineer

Recommendation:

Staff recommends approval of an Ordinance authorizing the execution of a License Agreement by and

between the City of Lee's Summit, Missouri, and Richard V. Baker & Joan M. Baker, to allow an encroachment within the City's right-of-way located at a property commonly known as 200 SE Brownfield Drive.

Committee Recommendation: The Public Works Committee voted unanimously 3-0 (Councilmember Carlyle "Absent"), to recommend to City Council approval of an Ordinance authorizing execution of a License Agreement by and between the City of Lee's Summit, Missouri, and Richard V. Baker & Joan M. Baker, to allow an encroachment within the City's right-of-way located at a property commonly known as 200 SE Brownfield Drive.