STATE OF NORTH CAROLINA

DEPARTMENT OF TRANSPORTATION

JAMES B. HUNT JR.
GOVERNOR

DIVISION OF HIGHWAYS
124 Prison Camp Rd., Statesville, NC 28677

GARLAND B. GARRETT JR.
SECRETARY

October 17,1997

Iredell County

Memorandum To: Mr. R.W.Spangler
District 12 Engineer

From: Mr. J.W. Rand
District 2 Engineer

Subject: Right of Way Encroachment Agreement
Mr.Michael L.Krom & Judie M.Anderson
Brooktree Drive (Oakbrook Subdivision)

Attached for your further handling is a proposed encroachment agreement with request for approval for the installation of 160 linear feet of 2 inch schedule 40 pvc sewer line 15' off edge of pavement and 30"under ditch line elevation.

The Department of Transportation (does)(does not) guarantee the right of way on this road (but will not) (nor will it) be responsible for claim damages by any property owner by reason of the installation.

Proper erosion and sediment devices will be employed.

This encroachment is(outside)(inside) the city limits.

If additional information is needed, please advise.

JWR:jm

Attachments: Joe Lamb, Billy Trivette, File

10/21/97 DOT without sign off until work are found over to them. Do they have any problem w/ This. DWT

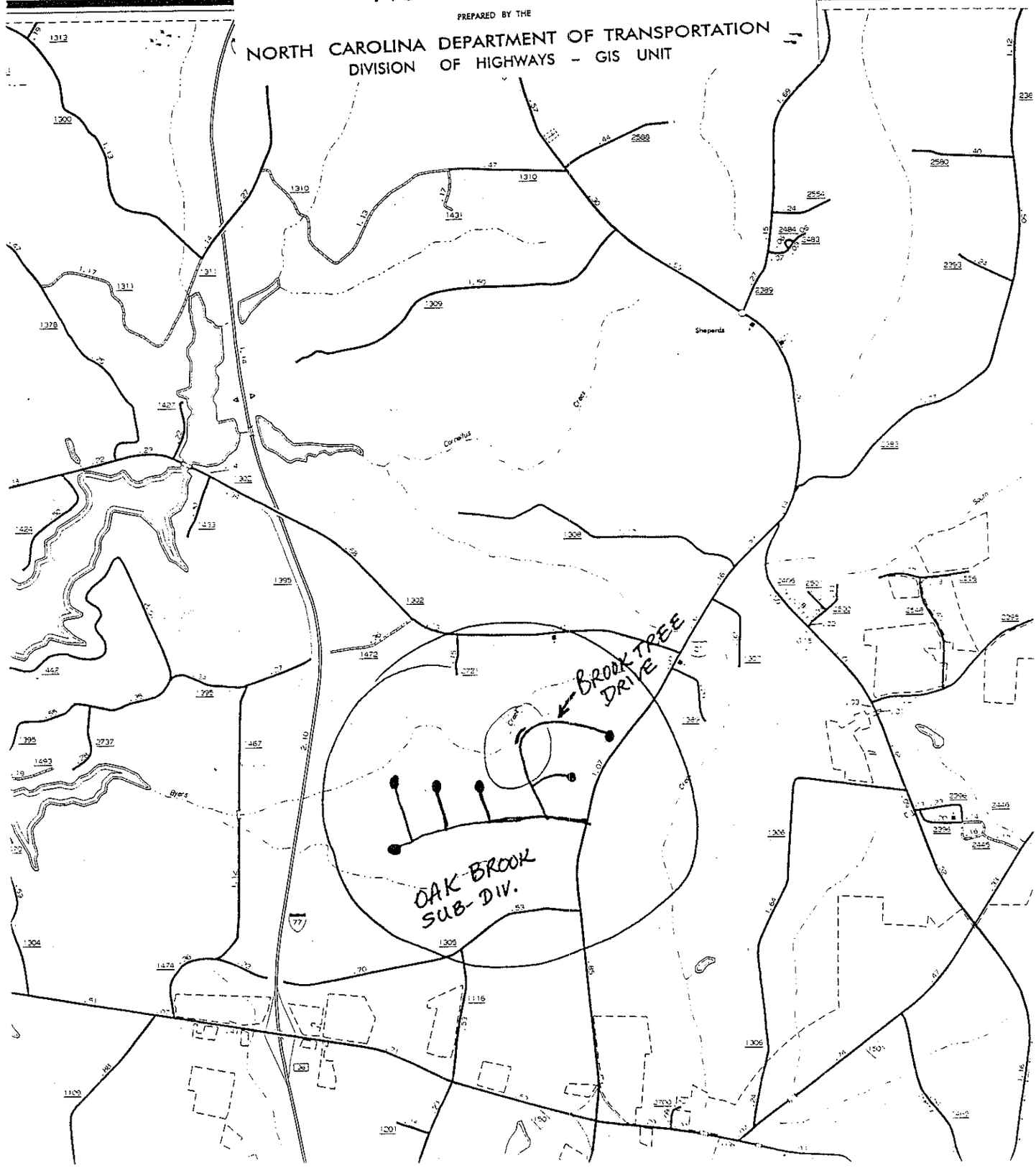
ENLARGED MUNICIPAL AND SUBURBAN AREAS

IREDELL COUNTY

NORTH CAROLINA

PREPARED BY THE

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS - GIS UNIT



ROUTE BROOKTREE DRIVE IN OAK BROOK S.D. NON/SYSTEM PROJECT _____ STATE OF NORTH CAROLINA COUNTY OF IREDELL

DEPARTMENT OF TRANSPORTATION

-AND-

RIGHT OF WAY ENCROACHMENT AGREEMENT

PRIMARY AND SECONDARY HIGHWAYS

MR. MICHAEL L. KROM AND
WIFE JUDIE M. ANDREWS
149 YACHT COVE LN., MOORESVILLE, N.C. 28115

THIS AGREEMENT, made and entered into this the 16TH day of OCTOBER, 19 97, by and between the Department of Transportation, party of the first part; an _____ MICHAEL L. ~~AND~~ KROM AND JUDIE M. ANDREWS party of the second part,

W I T N E S S E T H:

THAT WHEREAS, the party of the second part desires to encroach on the right of way of the public road designated as Route BROOKTREE DR. located US-21 IN CADDLE CREEK TOWNSHIP AS SHOWN ON THE ATTACHED MAP. with the construction and/or erection of I 160 L.F. OF 2" SCHEDULE 40 PVC SEWER LINE 15' OFF EDGE OF PAVEMENT AND 30" UNDER DITCH LINE ELEVATION.

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the party of the first part in the exercise of authority conferred upon it by statute, is willing to permit the encroachment within the limits of the right of way as indicated, subject to the conditions of this agreement;

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to the party of the second part the right and privilege to make this encroachment as shown on attached plan sheet (s), specifications and special provisions which are made a part hereof upon the following conditions, to wit:

That the installation, operation, and maintenance of the above described facility will be accomplished in accordance with the party of the first part's latest POLICIES AND PROCEDURES FOR ACCOMMODATING UTILITIES ON HIGHWAY RIGHTS-OF-WAY, and such revisions and amendments thereto as may be in effect at the date of this agreement. Information as to these policies and procedures may be obtained from the Division Engineer or State Utility Agent of the party of the first part.

That the said party of the second part binds and obligates himself to install and maintain the encroaching facility in such safe and proper condition that it will not interfere with or endanger travel upon said highway, nor obstruct nor interfere with the proper maintenance thereof, to reimburse the party of the first part for the cost incurred for any repairs or maintenance to its roadways and structures necessary due to the installation and existence of the facilities of the party of the second part, and if at any time the party of the first part shall require the removal of or changes in the location of the said facilities, that the said party of the second part binds himself, his successors and assigns, to promptly remove or alter the said facilities, in order to conform to the said requirement, without any cost to the party of the first part.

That the party of the second part agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and other warning devices for the protection of traffic in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and Amendments or Supplements thereto. Information as to the above rules and regulations may be obtained from the Division Engineer of the party of the first part.

That the party of the second part hereby agrees to indemnify and save harmless the party of the first part from all damages and claims for damage that may arise by reason of the installation and maintenance of this encroachment.

That the party of the second part agrees to restore all areas disturbed during installation and maintenance to the satisfaction of the Division Engineer of the party of the first part. The party of the second part agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces or other property; or pollution of the air. There shall be compliance with applicable rules and regulations of the North Carolina Division of Environmental Management, North Carolina Sedimentation Control Commission, and with ordinances and regulations of various counties, municipalities and other official agencies relating to pollution prevention and control. When any installation or maintenance operation disturbs the ground surface and the existing ground cover, the party of the second part agrees to remove and replace the sod or otherwise reestablish the grass cover to meet the satisfaction of the Division Engineer of the party of the first part.

That the party of the second part agrees to assume the actual cost of any inspection of the work considered to be necessary by the Division Engineer of the party of the first part.

That the party of the second part agrees to have available at the construction site, at all times during construction, a copy of this agreement showing evidence of approval by the party of the first part. The party of the first part reserves the right to stop all work unless evidence of approval can be shown.

Provided the work contained in this agreement is being performed on a completed highway open to traffic; the party of the second part agrees to give written notice to the Division Engineer of the party of the first part when all work contained herein has been completed. Unless specifically requested by the party of the first part, written notice of completion of work on highway projects under construction will not be required.

That in the case of noncompliance with the terms of this agreement by the party of the second part, the party of the first part reserves the right to stop all work until the facility has been brought into compliance or removed from the right of way at no cost to the party of the first part.

That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun within one (1) year from the date of authorization by the party of the first part unless written waiver is secured by the party of the second part from the party of the first part.

During the performance of this contract, the second party, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

a. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U. S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

b. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

d. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

e. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract the Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to,

(1) withholding of payments to the contractor under the contract until the contractor complies, and/or

(2) cancellation, termination or suspension of the contract, in whole or in part.

f. Incorporation of Provisions: The contractor shall include the provisions of paragraphs "a" through "f" in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

IN WITNESS WHEREOF, each of the parties to this agreement has caused the same to be executed in the day and year first above written.

DEPARTMENT OF TRANSPORTATION

BY: _____
DIVISION ENGINEER

ATTEST OR WITNESS:

_____

_____

_____

MICHAEL L. KROM

JUDIE M. ANDREWS

Judie M Andrews by Michael L. Krom, her attorney in fact.

Second Party

INSTRUCTIONS

When the applicant is a corporation or a municipality, this agreement must have the corporate sea; amd be attested by the corporation secretary or by the empowered city official, unless a waiver or corporate seal and attestation by the secretary or by the empowered City official is on file in he Raleigh office of the Manager of Right of Way. In the space provided in this agreement for execution, the name of the corporation or municipality shall be typed above the name and title of all persons signing the agreement should be typed directly below their signature.

This agreement must be accompanied, in the form of an attachment, by plans or drawings showing the following applicable information:

1. All roadways and ramps
2. Right of way lines and where applicable, the control of access lines
3. Location of the existing and/or proposed encroachment
4. Length, size and type of encroachment
5. Method of installation
6. Dimensions showing the distance from the encroachment to edge of pavement, shoulders, structures, etc.
7. Location by highway survey station number. If station number cannot be obtained, location should be shown by distance from some identifiable point, such as a bridge, road, intersection, etc. (To assist in preparation of the encroachment plan, the Department's roadway plans may be seen at the various Highway Division Offices, or at the Raleigh office.)
8. Drainage structures or bridges if affected by encroachment (show vertical and horizontal dimensions from encroachment to nearest part of structure)
9. Method of attachment to drainage structures or bridges.
10. Manhole design
11. On underground utilities, the depth of bury under all traveled lanes, shoulders, ditches, sidewalks, etc.
12. Length, size and type of encasement where required.
13. On underground crossings, notation as to method of crossing - boring and jacking, open cut, etc.
14. Location of vents

GENERAL REQUIREMENTS

1. Any attachment to a bridge or other drainage structure must be approved by the Head of Structure Design in Raleigh prior to submission of encroachment agreement to the Division Engineer.
2. All crossings should be as near as possible normal to the centerline of the highway.
3. Minimum vertical clearances of overhead wires and cables above all roadways must conform to clearances set out in the National Electric Safety Code.
4. Encasements shall extend from ditch line to ditch line in cut sections and 5' beyond toe of slopes in fill sections.
5. All vents should be extended to the right of way line or as otherwise required by the Department.
6. All pipe encasements as to material and strength shall meet the standards and specifications of the Department.
7. Any special provisions or specifications as to the performance of the work or the method of construction that may be required by the Department must be shown on a separate sheet attached to encroachment agreement provided that such information cannot be shown on plans or drawings.
8. The Department's Division Engineer should be given notice by the applicant prior to actual starting of installation included in this agreement.

IREDELL COUNTY

