

Woodland Park City Council
Council Chambers – City Hall
March 5, 2020
6:00 PM

If interested in viewing the corresponding video / discussion related to the subject below you can go to the City's YouTube page to view the video.

6:00 PM – Council work session

1. ROLL CALL

Mayor Pro-tem Carr asked that the Council, Staff and audience share a moment of silence for Mayor Levy and his current health struggle.

- A. The following members of Council present were: Mayor Pro-Tem Carr, Kellie Case, Darwin Naccarato, Hilary LaBarre and Paul Saunier. Mayor Levy was absent.

PLEDGE OF ALLEGIANCE

The following Staff Members were also in attendance for this meeting:

City Manager Darrin Tangeman

Planning Director Sally Riley

Assistant City Manager/City Clerk Suzanne Leclercq

Community Engagement Manager Karen Casey

Finance Director Emily Katsimpalis

City Planner – Lor Pellegrino

Deputy Public Works Director Robyn Brown

Chief of Police Miles DeYoung

2. CEREMONIES, PRESENTATIONS AND APPOINTMENTS:

- A. Presentation by Woodland Park Police Officer Tim Bradley and Rico K-9 Officer of recent Top Dog Event.
Presenter: Officer, Tim Bradley

Officer Bradley shared with the Council his experience in the Top Dog event. Bradley shared a video of the competition and announced that K9 Rico came in 2nd place out of 750 dogs nationally.

4. ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA:

- A. None

5. CONSENT CALENDAR:

- A. Approve minutes of the February 20, 2020 Council Meeting.
B. Statement of expenditures January, 2020.

City Clerk Leclercq read both of these items into the Consent Agenda. Leclercq shared two corrections to the minutes from the February 20, 2020 meeting.

MOTION: Motion to approve Consent Calendar as presented. Naccarato/Case. Motion carried 6-0.

6. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA:

Billie Works spoke to the council regarding the Cruise Above the Clouds. Work asked that the City continue to support this event by allowing them to use Memorial Park. City Manager Tangeman expressed that the City was going to continue to allow them to use the park for this event.

Joe Morin read a letter into the record that contained two exhibits. Exhibits and letter are attached to the minutes.

7. UNFINISHED BUSINESS:

- A. None

8. ORDINANCES ON INITIAL POSTING:

- A. None

9. PUBLIC HEARINGS:

- A. Approve Ordinance No. 1376, Series 2020 to amend Ordinance No. 1164, 2012 (Reception No. 6S2992) by replacing the legal description in Exhibit B and the illustration in Exhibit C for a 30 foot wide (0.51 acre) public utility easement described with a corrected legal description (Exhibit AA) and corrected illustration (Exhibit BB) for a 30 foot wide (0.61 acre) utility, ingress and egress easement from Thunder Ridge Drive to the Woodland Park High School Tract in the N ½ of Section 19-T12S-R68W6th PM as requested by Thunder Ridge Haven, LLC (Property Owner) and Paradise of Colorado Metropolitan District (Interested Party).

City Planner Pellegrino reviewed Ordinance No. 1376, Series 2020 with the Council.

Mayor Pro-tem Carr opened the public hearing. There was not public comment, no council discussion and comment from the applicant. Mayor Pro-tem Carr closed the public hearing.

MOTION: Approve Ordinance No. 1376, Series 2020 to amend Ordinance No. 1164, 2012 (Reception No. 6S2992) by replacing the legal description in Exhibit B and the illustration in Exhibit C for a 30 foot wide (0.51 acre) public utility easement described with a corrected legal description (Exhibit AA) and corrected illustration (Exhibit BB) for a 30 foot wide (0.61 acre) utility, ingress and egress easement from Thunder Ridge Drive to the Woodland Park High School Tract in the N ½ of Section 19-T12S-R68W6th PM as requested by Thunder Ridge Haven, LLC (Property Owner) and Paradise of Colorado Metropolitan District (Interested Party). Case/Sawyer. Motion carried 6-0.

10. NEW BUSINESS:

- A. None

11. REPORTS:

(Public comment not necessary)

- A. Mayor's Report.
 - i. Mayor Pro-tem Carr reported the events for the next two weeks.
- B. Council Reports.

Councilmember Case mentioned the Candidate Forum and the upcoming Business after Hours being sponsored by Keller Williams. Councilmember LaBarre shared that they had interaction with some of the Police Officers and that they were very professional. Councilmember Naccarato shared information regarding the Historical Preservation Committee and that they are still looking for a youth liaison for the committee. Councilmember Saunier thanked the Woodland Park Police Department for a successful K-(program and reminded the audience that the Republican caucus was this Saturday. Councilmember Sawyer shared that he attended the DDA meeting and that taxes, lodging fees and vendor fees were discussed.

C. City Attorney's Report.

City Attorney Meyers shared that he would be bringing an ordinance forward to the Council regarding legal names on the municipal ballot.

D. City Manager's Report.

- i. City Manager Tangeman thanked Mr. Morin for coming before the Council. Tangeman shared that Council was made aware of Resolution No. 850. City Attorney Meyers stated that the City can't pretend that this agreement didn't exist. Councilmember Saunier shared that he strongly disagrees with this City on this matter and that the City's counsel has been poor on this issue. Saunier stated that CDOT has an obligation to the citizens and not to burden the tax payers.

City Manager Tangeman shared a press release with the Council regarding COVID-19. City Manager Tangeman also shared that Chief Miles DeYoung had been named the 2020 Wagon boss for the Chamber of Commerce.

- ii. Planning Director Riley gave an update on the 2020 Comprehensive Plan. Riley shared that they would be reviewing the RFP's this next week and asked for a Councilmember to be part of this process with her. Councilmember Naccarato volunteered to be part of this committee.
- iii. City Clerk Leclercq gave an election update and shared that the UACOVA ballots had been mailed.
- iv. Finance Director Katsimpalis reviewed the Sales Tax update for December of 2019 with the Council noting that there was a 9.85% decrease as compared to December of 2018.

Finance Director Emily Katsimpalis discussed the Third Quarter Financial update for 2019 and the Sales Tax update from November 2019.

Mayor Pro-tem Carr adjourned the public meeting at 7:58 and the Council moved to Executive Session.

Motion: to move into Executive Session pursuant to C.R.S. Section 24-6-402(4)(f)(i) for discussion of a personnel matter, specifically the City Manager's contract. Motion Sawyer/Case. 6-0. Motion carried.

Executive Session:

The Executive Session began at 8:02 PM and concluded at 8:12 PM. Present at the Executive Session were the following: Mayor pro-tem Carr, Councilmember Case, Councilmember LaBarre, Councilmember Naccarato, Councilmember Saunier and Councilmember Sawyer. Mayor Levy was absent. City Manager Tangeman and City Attorney Meyers were also present.

Concluding the Executive Session the Council returned to public meeting. A motion was made to finish contract with the City Manager. Case/Naccarato. 6-0. Motion carried.

12. COMMENTS ON WRITTEN CORRESPONDENCE:

A. None.

13. ADJOURNMENT: The meeting adjourned at 8:15 PM.



Suzanne Leclercq MMC, City Clerk

APPROVED THIS 19th DAY OF March, 2020



Val Carr, Mayor Pro-tem

**Letter delivered to Woodland Park City Council by Joe Morin on
3/5/2020**

Council-members,

On 2/24/2020, I met with City Manager Tangeman to discuss the status of a 1995 CDOT Access Permit (Exhibit A) that was referenced in Resolution 850 passed by City Council on 11/7/2019, as well as to deliver an attorney's determination on the matter (Exhibit B). As we discussed, one of the express Conditions of the Permit's issuance is as follows:

"CDOT must also receive a resolution from the City of Woodland Park's City Council accepting the terms and conditions of the permit, and specifically agreeing to construct the highway improvements as required below."

The attorney determined that because Council did not pass the Resolution as expressly conditioned by the permit, *"the City has never been bound by terms of the permit and that the City never agreed to construct the highway improvements."*

The City staff report of 11/7/2019 and Resolution 850 inaccurately represented to our Council that their predecessors, 25 years ago, had already agreed to construct the \$750K to \$1M worth of improvements to Highway 67. Specifically, Resolution 850 instructed Council that *"pursuant to said permit the city agreed in 1995 to make improvements to SH 67 when warranted [sic]"*. The report and Resolution failed to inform our City Council that in fact no preceding Council has ever agreed to make these improvements or has ever approved this permit, as the permit itself explicitly requires for issuance.

As the 1995 Permit was the key legal premise underlying Resolution 850, it is perplexing that this vital document was not included as one of the several documents attached to the staff's report for Council's review. Only if the Permit had been included in the staff report would Council have had a chance to discover that an essential Condition of the permit had never been met.

During our meeting when I asked Mr. Tangemen whether he or other staff knew before staff presented its report and Resolution to Council that no City Council has ever agreed to make the improvements, Mr. Tangemen told me that I would have to inquire with the City Attorney on that matter.

The following day I sent Mr. Tangeman a letter by email with copies sent to Council requesting answers to the three following questions to which I've

had no response thus far:

1) Were any staff members aware that this critical condition of the permit was not met before the staff report and Resolution 850 were presented to Council?

2) If yes, what efforts were made by City staff to investigate the Permit's efficacy in binding the City to terms to which Council never agreed as explicitly conditioned by the permit?

3) Under what legal rationale or instrument is the City bound to terms of a Permit that City Council failed to approve as an express requirement of the permit's effectiveness?

I respectfully ask Council to support this inquiry with staff and to investigate this incident, as only you are able. Council's appropriate response to this matter is crucial to the trust taxpayers place in their City government.

While it may be, perhaps, too late to reverse the fiscal damage caused to taxpayers, it is certainly not too late to hold our paid staff accountable for this enormously costly and questionable work.

I also want to express my sincere gratitude to those City Council members who are willing to dedicate their valuable time to properly research and decide upon very difficult and important issues like this one -- all as volunteers.

Thank you,



Joe Morin

Attachments:

Exhibit A -1995 CDOT Access Permit,

Exhibit B-2/21/2020 Attorney's Letter

EXHIBIT A

**COLORADO DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ACCESS PERMIT**



SH No/MP/Side: 67D/78.56/LT.
Local Jurisdiction: Teller County
Dist/Section/Patrol: 02/04/25
DOT Permit No.: 295095
Permit Fee: No charge
Date of Transmittal: 11-22-95

THE PERMITTEE:

APPLICANT: CITY OF WOODLAND PARK PROPERTY OWNER: F.B. Howes, Jr.
220 W. South Ave 700 Valley View Dr.
P.O. Box 5739 Woodland Park, Co 80866
Woodland Park, CO 80866

is hereby granted permission to construct and use an access to the state highway at the location noted below. The access shall be constructed, maintained and used in accordance with the terms and conditions of this permit, including the State Highway Access Code and listed attachments. This permit may be revoked by the issuing authority if at any time the permitted access and its use violate any of the terms and conditions of this permit. The use of advance warning and construction signs, flashers, barricades and flaggers are required at all times during access construction within State right-of-way in conformance with the MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES, Part VI. The issuing authority, the Department and their duly appointed agents and employees shall be held harmless against any action for personal injury or property damage sustained by reason of the exercise of the permit.

LOCATION:

On the west side of S.H. No. 67D, a distance of 2950 feet north from milepost 78 also known as Tamarac Parkway.

ACCESS TO PROVIDE SERVICE TO:

Tamarac Technical Park

PAID
No Charge

OTHER TERMS AND CONDITIONS:

SEE ATTACHED EXHIBIT "A" (ADDITIONAL TERMS & CONDITIONS-4 PAGES)



MUNICIPALITY OR COUNTY APPROVAL

Required only when the appropriate local authority retains issuing authority.

By (X) _____ Date _____ Title _____

Upon the signing of this permit the permittee agrees to the terms and conditions and referenced attachments contained herein. All construction shall be completed in an expeditious and safe manner and shall be finished within 45 days from initiation. The permitted access shall be completed in accordance with the terms and conditions of the permit prior to being used. The permittee shall notify Phil Breesawitz with the Colorado Department of Transportation in Colorado Springs at (719) 576-1868, at least 48 hours prior to commencing construction within the State Highway right-of-way.

The person signing as the permittee must be the owner or legal representative of the property served by the permitted access and have full authority to accept the permit and all its terms and conditions.

Permittee (X) Dave Howes (X) F.B. Howes, Jr. Date 27 Nov, 1995
City of Woodland Park F.B. Howes, Jr.

This permit is not valid until signed by a duly authorized representative of the Department.
DEPARTMENT OF TRANSPORTATION, STATE OF COLORADO

By (X) Brian L. Borge Date 11/28/95 Title Region 2 Access Coordinator
11-28-95 (Date of Issue)

①

- The following paragraph are pertinent highlights of the State Highway Access Code. These are provided for your convenience but do not abrogate compliance with all actions of the Access Code. A copy of the State Highway Access Code is available from your local issuing authority (local government) or the Colorado Department of Transportation (Department). When the permit was issued, the issuing authority made the decision based in part on information submitted by the applicant, on the access category which is assigned to the highway, what alternative access to other public roads and streets is available, and safety and design standards. Changes in use or design not approved by the permit or the issuing authority may cause the revocation or suspension of the permit.
1. Should the permittee or applicant choose to object to any of the terms or conditions of the permit placed therein by the Department, an appeal must be filed with the Colorado Transportation Commission within 60 days of transmittal of the permit for permittee signature. The request for the hearing shall be filed in writing and submitted to the Colorado Transportation Commission, 4201 East Arkansas Avenue, Denver, Colorado 80222. The request shall include reasons for the appeal and may include recommendations by the permittee or applicant that would be acceptable to him.
 2. The Department may consider any objections and requested revisions at the request of the applicant or permittee, if agreement is reached, the Department, with the approval of the local issuing authority (if applicable), may revise the permit accordingly, or issue a new permit, or require the applicant to submit a new application for reconsideration. Changes in the original application, proposed design or access use will normally require resubmission of a new application.
 3. Regardless of any communications, meetings, or negotiations with the Department regarding revisions and objections to the permit, if the permittee or applicant wishes to appeal the Department's decision to the Commission, the appeal must be brought to the Commission within 60 days of transmittal of the permit.
 4. Any appeal by the applicant or permittee of action by the local issuing authority and be consistent with the appeal procedure of the local authority (under subsection 2.4), shall be filed with the local authority and be consistent with the appeal procedure of the local authority.
 5. If the final action is not further appealed, the Department or local authority may record the decision with the County Clerk and Recorder.
1. Construction standards and requirements
 1. The access must be under construction within one year of the permit date. However, under certain conditions a one year time extension may be granted if requested in writing prior to permit expiration.
 2. The applicant shall notify the office specified on the permit at least 48 hours prior to construction. A copy of the permit shall be available for review at the construction site. Inspections will be made during construction.
 3. The access construction within right-of-way must be completed within 45 days.
 4. It is the responsibility of the permittee to complete the construction of the access according to the terms and conditions of the permit. If the permittee wishes to use the access prior to completion, arrangements must be approved by the issuing authority and Department and included on the permit. The Department or issuing authority may order a halt to any unauthorized use of the access. Reconstruction or improvements to the access may be required when the permittee has failed to meet required specifications of design or materials. If any construction element fails within two years due to improper construction or material specifications, the permittee is responsible for all repairs.
 5. In the event it becomes necessary to remove any right-of-way fence, the posts on either side of the access shall be securely braced with an approved end post before the fence is cut to prevent any slacking of the remaining fence. All posts and wire removed are Department property and shall be turned over to a representative of the Department.
 6. A copy of the permit shall be available for review at the construction site. If necessary, minor changes and additions shall be ordered by the Department or local authority field inspector to meet unanticipated site conditions.
 7. The access shall be constructed and maintained in a manner that shall not cause water to enter onto the roadway, and shall not interfere with the drainage system in the right-of-way.
 8. Where necessary to remove, relocate, or repair a traffic control device or public or private utilities for the construction of a permitted access, the work shall be accomplished by the permittee without cost to the Department or issuing authority, and in the direction of the Department or utility company. Any damage to the state highway or other public right-of-way beyond that which is allowed in the permit shall be repaired immediately.
 9. Adequate advance warning is required at all times during access construction, in conformance with the Manual on Uniform Traffic Control Devices for Streets and Highways. This may include the use of signs, flags, barriers, barricades and flaggers. This is also required by section 42-4-501, C.R.S., as amended. The issuing authority, the Department and their duly appointed agents and employees shall be held harmless against any action for personal injury or property damage sustained by reason of the exercise of the permit.
1. Changes in use and violations
 1. If there are changes in the use of the access, the access permit-issuing authority must be notified of the change. A change in property use which makes the existing access design or use in non-conformance with the Access Code or the terms and conditions of the permit, may require the reconstruction or relocation of the access. Examples of changes in access use are: an increase in vehicular volume by 20 percent, or an increase by 20 percent of a directional characteristic such as a left turn. The issuing authority will review the original permit; it may decide its adequate or request that you apply for a new permit.
 2. All terms and conditions of the permit are binding upon all assigns, successors-in-interest and heirs.
 3. When a permitted driveway is constructed or used in violation of the Access Code, the local government or Department may obtain a court order to halt the violation. Such access permits may be revoked by the issuing authority.
 1. Further information
 1. When the permit holder wishes to make improvements to an existing legal access, he shall make the request by filing a completed permit application form with the issuing authority. The issuing authority may take action only on the request for improvement. Denial does not revoke the existing access.
 2. The permittee, his heirs, successors-in-interest, and assigns, of the property served by the access shall be responsible for meeting the terms and conditions of the permit and the removal or clearance of snow or ice upon the access even though deposited on the access in the course of Department snow removal operations. The Department shall maintain unincorporated areas the highway drainage system, including those culverts under the access which are part of that system within the right-of-way.
 3. The issue date of the permit is the date the Department representative signs the permit which is after the permittee has returned the permit signed and paid any required fees.
 4. The Department may, when necessary for the improved safety and operation of the roadway, rebuild, modify, remove, or redesign the highway including any auxiliary lane.
 5. Any driveway, whether constructed before, on, or after June 30, 1979, may be required by the Department, with written concurrence of the appropriate local authority, to be reconstructed or relocated to conform to the Access Code, either at the property owner's expense. If the reconstruction or relocation is necessitated by a change in the use of the property which results in a change in the type of driveway operation; or at the expense of the Department if the reconstruction or relocation is necessitated by changes in road or traffic conditions. The necessity for the relocation or reconstruction shall be determined by reference to the standards set forth in the Access Code.

CONDITIONAL ACCESS PERMIT

EXHIBIT "A"

ADDITIONAL TERMS AND CONDITIONS

1. This Access Permit is issued to construct a new access which will become Tamarac Parkway. The centerline of the new street will align with the centerline of existing Sunnywood Lane.
2. This Access Permit is issued as a **CONDITIONAL ACCESS PERMIT**. The permit is conditional in that it allows construction of the access in 1995, but requires the design and construction of highway improvements at such time that the warrants, or projected warrants, within the State Highway Access Code are met.

It is also **CONDITIONAL** in that CDOT must also receive a resolution from the City of Woodland Park's City Council accepting the terms and conditions of the permit, and specifically agreeing to construct the highway improvements as required below.
3. A left turn lane will be required in the future under the following conditions: (1) should this access exceed the traffic volumes submitted for review of this permit, (2) exceed the requirements of Section 4, of the State Highway Access Code (2 CCR 601-1), as revised, with respect to the traffic volumes generated by the development on Tamarac Parkway, (3) develop an accident history, or (4) become a hazard in the opinion of the Department. Upon notice from the Department, the Permittee shall proceed with design and construction of the left turn lane in a timely manner. Failure to do so may render this access permit void and the access would be closed.
4. A right turn deceleration lane will be required in the future under the following conditions: (1) should this access exceed the traffic volumes submitted for review of this permit, (2) exceed the requirements of Section 4, of the State Highway Access Code, as revised, with respect to the traffic volumes generated by the development on Tamarac Parkway, (3) develop an accident history, or (4) become a hazard in the opinion of the Department. Upon notice from the Department, the Permittee shall proceed with design and construction of the left turn lane in a timely manner. Failure to do so may render this access permit void and the access would be closed.
5. The Left turn deceleration lane shall be 16 feet wide, with an approximate total length of 1500 feet long, if the widening for the lane is constructed equally on each side of the centerline of the highway. If the widening for the lane is completed totally on one side of the centerline of the highway, the approximate total length will be 2200 feet long. The final total length will be determined at the time of design. The components of the lane will be a 435 foot deceleration length, 175 feet of storage, a 240 foot taper, and two 360 to 720 foot redirect tapers. The shoulder adjacent to the "through" lanes shall be 4 to 8 feet in width. The shoulder width shall be determined during design. Lanes shall be constructed per Colorado Department of Transportation specifications. The surfacing shall be determined at the time of design.
6. The right turn deceleration lane shall be 12 feet wide, with a 4 foot shoulder adjoining the lane. The lane shall be 405 feet long, measured from the closest end of the radius (throat extended). A 240 foot, 20:1 taper shall be constructed exclusive of the deceleration lane (645 feet total length). The final total length will be determined at the time of design. Lanes shall be constructed per Colorado Department of Transportation specifications. The surfacing shall be determined at the time of design.
7. This permit is issued in accordance with the State Highway Access Code, and is based upon the information submitted by the Permittee. This permit is only for use and purpose stated in the application and permit. Any changes in traffic volumes, drainage, type of traffic or other operational aspects may render this permit void, requiring a new Application for Access Permit to be submitted for review by this office, based upon existing and anticipated future conditions. **PLEASE NOTE ACCESS CODE INFORMATION ON REVERSE SIDE OF THE PERMIT FORM.**
8. There shall be no backing into the highway right-of-way from this property. All vehicles shall enter and exit the highway right-of-way in a forward movement. Backing into the right-of-way shall be considered a violation of the Terms and Conditions of this Access Permit and may be revoked by the issuing authority.
9. Left turn movements in and out of the access may be prohibited at some future date.

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Access Permit No. 295095

Additional Terms and Conditions

Page 2

10. **A FULLY EXECUTED COPY OF THIS PERMIT MUST BE ON THE JOB WITH THE CONTRACTOR. FAILURE TO COMPLY WITH THIS OR ANY OTHER CONSTRUCTION REQUIREMENT MAY RESULT IN THE IMMEDIATE SUSPENSION OF WORK BY ORDER OF THE DEPARTMENT INSPECTOR.** (Fully executed means, a Colorado Department of Transportation (CDOT) Access Permit number assigned to the permit, stamped "PAID", and signed and dated by both the Permittee and an authorized representative of CDOT.)
11. Any additional permits required by other Federal, State, local government agency or ditch company are the responsibility of the applicant and property owner.
12. Prior to starting construction, the Permittee/contractor must submit a traffic control plan, according to the latest Manual on Uniform Traffic Control Devices, to Mr. Phil Breesawitz, Highway Maintenance Supervisor in Colorado Springs. Mr. Breesawitz can be contacted by telephone at (719) 576-1868. If any traffic control devices are evident within 50 feet of the construction area, the contractor must contact Mr. Terry Shippy, Regional Traffic Engineer in Pueblo. Mr. Shippy can be contacted at (719) 546-5734.

If any traffic control devices are evident within 100 feet of the construction area, the contractor must contact Mr. Terry Shippy, Regional Traffic Engineer in Pueblo. Mr. Shippy can be contacted at (719) 546-5734.
13. Coordinate construction work with Mr. Breesawitz.
14. Work shall **BEGIN AFTER 8:30 a.m.**, and all equipment shall be off the roadway **BEFORE 4:30 p.m.** each day. No work is allowed within the highway right of way on weekends or holidays. No construction vehicles shall be parked, or construction materials stockpiled, on the highway right-of-way overnight. No private vehicles may be parked on the highway right-of-way at anytime during construction.
15. Two-way traffic shall be maintained through the work area at all times.
16. Minor field changes may be required by the Resident Engineer, the Highway Maintenance Supervisor, or the City inspector. All major changes to the plans must be **approved in writing** by the Resident Engineer, the Highway Maintenance Supervisor, or the City inspector.
17. The contractor shall follow the applicable construction specifications set forth by CDOT in the latest "*Standard Specifications for Road and Bridge Construction*" manual.
18. Permittee is responsible for any utilities and/or traffic control devices disrupted by the construction of this driveway, and all expenses incurred for repair. There are existing utilities on the highway right of way by permit. Owners of those utilities must be contacted. Any work necessary to protect existing permitted utilities, such as an encasement, bulkheads, etc., will be the responsibility of the Permittee. Additional permits are required for water, sanitary sewer, gas, electrical, telephone, and landscaping.
19. Any damage to any existing highway facilities shall be repaired prior to continuing other work. Any mud or other material tracked, or otherwise deposited on the roadway, shall be removed daily or as ordered by the Inspector.
20. Attached is CDOT Standard Plan M-203-1, entitled "Approach Roads". The radii, surfacing, culvert, and side slope requirements defined in this permit supersede those stated within Standard M-203-1.
21. The surface width of the access shall be constructed 47 feet wide (lip of gutter to lip of gutter), with 50 foot radii, and at a 90° angle to the highway. Construct the access following the attached plans prepared by URS Consultants, Inc., Sheet 1 of 1, Project No. 6742108.06. Also, at the end of the curb and gutter (Stations 88 + 04.50 & 89 + 95.50) flare the curb and gutter away from the edge of pavement as shown on attached "DETAIL A".
22. The first 20 feet beyond the closest highway lane, including speed change lanes, shall slope down and away from the highway at a 2% grade to ensure proper drainage control.
23. The new pavement shall slope on the same plane as the present pavement surface.
24. The surfacing for the access and the widening shall be 6 inches of compacted Hot Bituminous Pavement (Grading C with 1% Lime), placed in 3 lifts, on a subgrade with "R > 66". If an R > 66 cannot be achieved, then 6 inches of Aggregate Base Course (Class 6) shall be placed. The surfacing for the access shall extend from the existing edge of pavement to the right of way line.

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MULCHING REQUIREMENT AND APPLICATION: 1.5 tons per acre native hay mechanically crimped into soil.
SEEDING APPLICATION: Drilled to a depth of .25" to .50" into soil where possible. Broadcast and raked to cover on steeper than 2:1 slopes where access is limited or unsafe for equipment.

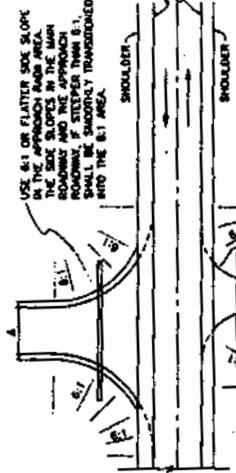
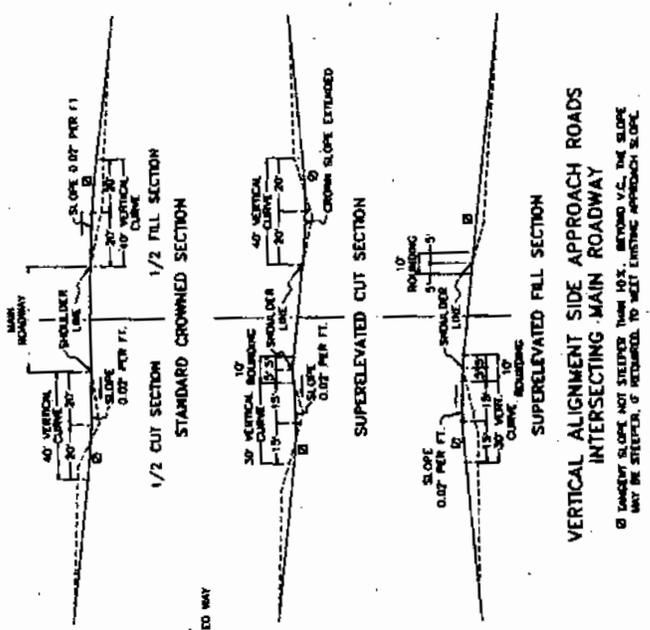
COMMERCIAL FERTILIZER ANALYSIS(%)
 Nitrogen 18
 Phosphorus 46
LB9. NUTRIENT/ACRE
 Nitrogen 27
 Phosphorus 69

COMMON NAME	BOTANICAL NAME	LB9. PLS/ACRE
Western Wheat grass V. Roseana	Pascopyrum Symbii	6
Sleeder Wheat grass V. Pritmar	Agropyron Trachycanthum	3
Blue Grama Grass V. Lowthionton	Bouteloua Gracillie	2
Sandberg Bluegrass	Poa Sandbergi	1
Sheep Fescue	Festuca Ovina	3
Albice Clover	Trifolium Hydratum	1
TOTAL		16 lbs/placre

39. Soil preparation, seeding, and mulching will be required within the right-of-way limits on all disturbed areas not surfaced. The following types and rates shall be used:
38. It is the responsibility of the property owner to prevent all livestock from entering the State Highway right of way. Any livestock that do enter the highway right of way are the responsibility of the property owner.
37. Signing and striping is the responsibility of the permittee. The signs shall be manufactured in accordance with the Manual on Uniform Traffic Control Devices. The sheeting for the signs shall be high intensity sheeting. (ASTM Type III retro reflective sheeting).
36. The new curb and gutter shall be constructed to insure proper drainage.
35. The new curb and gutter shall be CDOT Standard Type 2 (Section II B), or match the existing curb and gutter.
34. All existing drainage structures shall be extended to accommodate all new construction and safety standards.
33. No drainage from this site shall enter onto the surface of the highway.
32. Fill/cut slopes shall match the existing slope on the roadway, and at 6:1 slope on the easement.
31. The fill for the access shall be constructed to a 4:1 slope or flatter. The toe of the slope shall extend to the flow line of the culvert required below.
30. As shown on Standard M-203-1 the fill in the approach shall be 6:1. The fill for the access ("approach roadway") shall be constructed to a 4:1 slope or flatter. The toe of the slope shall extend to the flow line of the culvert required below.
29. Compaction of Hot Bituminous Pavement shall comply with Section 401.17 of CDOT Standard Specifications, and compaction of Aggregate Base Course shall comply with Section 304.06.
28. If frost is present in the subgrade, no surfacing material shall be placed until all frost is gone or removed.
27. The existing asphalt shall be saw cut adjacent to the new concrete to assure a straight edge for patching.
26. The existing asphalt shall be saw cut adjacent to all new pavement to assure a straight edge for the joint.
25. If patching is required 6 inches of Hot Bituminous Pavement (Grading C) shall be used. The material will be placed in 3 lifts.

9

REVISIONS	DATE	BY



SIDE DRAINS SHALL BE LOCATED BEYOND THE CLEAR ZONE, OR WHEN WITHIN THE CLEAR ZONE, SHALL BE INSTALLED WITH END SECTIONS CONFORMING TO THE CLEAR ZONE. ALL DRAINS SHALL BE INSTALLED WITH END SECTIONS CONFORMING TO THE CLEAR ZONE. ALL DRAINS SHALL BE INSTALLED WITH END SECTIONS CONFORMING TO THE CLEAR ZONE. ALL DRAINS SHALL BE INSTALLED WITH END SECTIONS CONFORMING TO THE CLEAR ZONE.

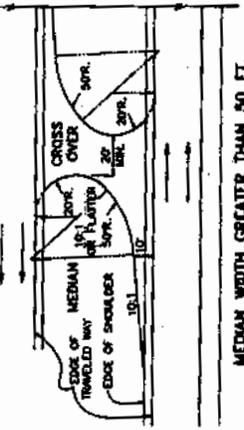
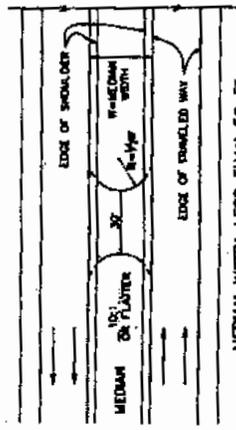
TYPICAL PLANS FOR SIDE APPROACH ROAD



TYPICAL SECTION FOR APPROACH

ROAD APPROACHES WHICH REQUIRE BITUMINOUS PAVEMENT, SHALL BE PLACED AS FOLLOWS:

PUBLIC APPROACHES AND ENTRANCES TO BUILDINGS OR ENCLOSURES SHALL BE PAVED 30 FEET OUT FROM EDGE OF SHOULDER OR TO THE NEAREST 20' WIDE DRIVE, WHICHEVER IS LESS. FIELD ENTRANCES SHALL BE PAVED 10 FEET FROM THE EDGE OF SHOULDER. SIDEWALKS SHALL BE PAVED 5 FEET FROM THE EDGE OF SHOULDER. SIDEWALKS SHALL BE AS SHOWN ON THE PLANS.



TYPICAL PLANS FOR EMERGENCY MEDIAN CROSS OVER



TYPICAL SECTION FOR MEDIAN CROSS OVER

ANY REQUIRED FILL OR PAVEMENT FOR MEDIAN CROSSOVER SHALL HAVE A TRANSMISSIBLE DESIGN AS SPECIFIED ON THE PLANS.

COLORADO DEPARTMENT OF TRANSPORTATION

APPROACH ROADS

ISSUED BY: STAFF DESIGN BRANCH

STANDARD PLAN NO. M-203-1

DATE: NOV. 1, 1992

REVISED DATE: NOV. 1, 1992

SHEET 1 OF 1

EXHIBIT B

MARK D. FRANCIS
ATTORNEY AND COUNSELOR AT LAW

1880 OFFICE CLUB POINTE, SUITE 1000
COLORADO SPRINGS, CO 80920
TELEPHONE (719) 265-6900
FACSIMILE (719) 272-8051
EMAIL mdfesq@earthlink.net

Via Email

February 21, 2020

Mr. Joseph J. Morin

[REDACTED]
Woodland Park, CO 80863

Re: *Colorado Department of Transportation Permit Number 295095*

Dear Mr. Morin:

You asked me to provide an opinion with respect to the Colorado Department of Transportation ("CDOT") permit identified above, specifically concerning questions of whether the City of Woodland Park was ever bound by the terms of the permit, whether the City ever agreed to construct the improvements, and if all conditions precedent for construction of the improvements were ever met.

In rendering this opinion, I reviewed that permit and the Exhibit A thereto. I understand your inquiries to the Woodland Park City staff verified that there is no record in the City of Woodland Park to show any Resolution was ever approved by the City Council that accepted the terms and conditions of the permit and by which the City expressly agreed to construct the highway improvements as required by the permit. I also understand that you submitted a Colorado Open Records Act ("CORA") request to CDOT which indicated that CDOT's records do not reflect CDOT ever receiving any such Resolution from the Woodland Park City Council nor does CDOT have any record of any subsequent office activity on the permit, nor records showing any construction ever being undertaken pursuant to the permit.

The permit shows the Applicant was the City of Woodland Park. The landowner F.B. Howes, Jr., also signed off with the City as the two permittees on November 27, 1995. A CDOT representative signed the permit for CDOT on November 28, 1995, making the permit then valid subject to all conditions stated therein.

Because it was expressly noted to be a "Conditional Permit" (see Permit Exhibit A), all conditions stated therein had to be satisfied before it became binding on the parties and work could commence. The conditions precedent to the permit's effectiveness are included in a number of areas in Exhibit A to the permit and I addressed them below.

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First and foremost, the permit was expressly conditioned on CDOT receiving "a resolution from the City of Woodland Park's City Council accepting the terms and conditions of the permit, and specifically agreeing to construct the highway improvements as required" by the permit. You indicated to me that after communications with City staff, you have no knowledge of such condition ever being met, even to this date.

Next, the access to the state highway must have been "under construction within one year of the permit date", something I understand has not occurred as no construction on the access has commenced subsequent to the permit's issuance and before November 28, 1996. I also understand that based upon your CORA request with CDOT, no one year extension was ever sought or granted.

Finally, the permit also requires a traffic control plan to be submitted and approved by CDOT. While those traffic control plans are fairly standard, that effort also requires additional documentation of CDOT's review and approval of the traffic control plan which the CORA request shows does not exist, further evidence that there has been no construction activity under this permit.

In sum, based upon the information stated herein, including the fact that express conditions precedent were never met, so much time has passed since the one year expiration date of the permit, and most critically that there is no City Council approved Resolution, it is my opinion that the City has never been bound by terms of the permit and that the City never agreed to construct the highway improvements as required by the permit.

In stating the opinions set forth in this letter the terms "I understand" or "you indicated" signifies that, in the course of my representation, no facts have come to my attention that would give me actual knowledge or actual notice that any information I am relying upon is inaccurate thereby rendering the opinion likewise inaccurate. Although I have undertaken no independent investigation or verification of the facts from you upon which I have relied, as any such investigation is beyond the scope of my representation, I have no reason to believe that the permit or any of the information you conveyed to me (on which I specifically relied) contains matters which are untrue, contrary to known facts, or unreasonable. I also have assumed that the terms and the conditions of the permit have not been amended, modified or supplemented, directly or indirectly, by any other agreement or understanding of the parties thereto.

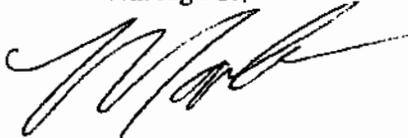
Please keep in mind, if you choose to disclose the contents of this opinion letter to any third parties, you will have waived any attorney-client privilege we have and you will thereafter lose the ability to protect this opinion letter from further discovery or dissemination. However, you can disclose the contents and continue to protect the attorney-client privilege over these

Mr. Joseph J. Morin
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communications by disclosing this opinion letter only to parties who have agreed in writing to hold the contents hereof in strict confidence and not further disclose the contents to any additional third parties. You can make disclosures if the communication is a settlement discussion protected by Colorado Rule of Evidence 408. And, you can also, of course, disclose this letter to any other attorneys with whom you have an attorney-client relationship pursuant to which the privilege has arisen.

I trust that this letter addresses your question concerning the permit.

With regards,

A handwritten signature in black ink, appearing to read 'Mark D. Francis', with a long, sweeping horizontal stroke extending to the right.

Mark D. Francis