

Transportation Commission Resolution #20240704

Approve Referral of CDOT Region 2 Access Appeal to the Office of Administrative Courts, C.R.S. § 43-2-147(6)(c) & 2 CCR 601-1(2.9)

Approved by the Transportation Commission on July 18, 2024.

Whereas, Applicant Michelle Eisenberger submitted a State Highway Access Permit Application dated January 31, 2024 (the “Application”); and

Whereas, the Application requests a Highway Access Permit for a new access to State Highway 115A to service the property located at 5550 Sandy Creek Heights, Colorado Springs, Colorado 80926 (the “Property”); and

Whereas, the Property to be served by the permit is owned by Michelle Eisenberger; and

Whereas, the Property currently has access to State Highway 115A via a recorded easement on an adjacent property (5560 Sandy Creek Heights), with which the Property shares an access; and

Whereas, CDOT denied the Application on March 29, 2024, explaining that the Application was denied because the Property is adjacent to State Highway 115A which has an Access Category of E-X (Expressway); there is a recorded ingress, egress and utility easement adjacent to the Property that can legally be used and is currently being used for access to the Property; the proposed access location is an undocumented field access that has not been approved for use; and the distance between the existing access to the Property and the proposed access does not meet the minimum distance requirements of the State Highway Access Code; and

Whereas, Michelle Eisenberger has filed a written appeal dated May 28, 2024 objecting the denial of the Application, in which she requested an administrative hearing to the Transportation Commission and the option to request a review by the Department’s internal administrative review committee pursuant to subsection 2.10 of the State Highway Access Code.

Now Therefore Be It Resolved, the Commission directs the hearing for Michelle Eisenberger’s appeal be heard before an Administrative Law Judge with the Office of Administrative Courts. The Office of the Attorney General is requested to facilitate the appeal pursuant to 2 CCR 601-1(2.9) and take all necessary actions to accommodate Michelle Eisenberger’s request for a hearing.

Be It Further Resolved, the Commission delegates its authority to conduct the hearing to the Office of Administrative Courts and for the preparation of a complete record of the hearing should additional appeals be necessary.

Herman F. Stockinger A.A.

Herman Stockinger, Secretary

Transportation Commission of Colorado