RESOLUTION 08-12117

A RESOLUTION DETERMINING RIGHT-OF-WAY PERMIT FOR 'HARDSCAPE' PARKING FOR A PRIVATE RESIDENCE IN THE PUBLIC RIGHT-OF-WAY AT 374 3RD AVENUE NORTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 20, 1999, the City Council approved Resolution 99-8455 establishing a policy that grassed right-of-way can only be converted into hard surface right-of-way for parking with approval of City Council; and

WHEREAS, on June 20, 2001, the City Council approved Resolution 01-9256 establishing a policy, a procedure and permit form for the processing of applications for the conversion of grassed right-of-way to hard surface for parking; and

WHEREAS, the property owner, Lawton Mullin, of 374 3rd Avenue North has made application for conversion of grassed right-of-way to hard surface for parking; and

WHEREAS, the City staff has reviewed the application, reviewed site conditions, prepared an analysis and has prepared special conditions for approval attached to the application; and

WHEREAS, after considering the recommendation of the City staff and after providing the permit applicant, staff and the public an opportunity to present testimony and evidence, the City Council finds that the criteria for granting approval of a right-of-way permit are met;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That the right-of-way permit application for the purpose of constructing, operating and maintaining hard surfaced parking in the public right-of-way of 374 3rd Avenue North is hereby granted, a copy of which is attached.

Section 2. This resolution shall take effect immediately upon adoption.


Bill Barnett, Mayor

Attest:
Tara A. Norman, City Clerk

Approved as to form and legality:
Robert D. Pritt, City Attorney

Date filed with City Clerk: 7-22-08
PERMIT SUBMITTAL
TO PERFORM WORK IN THE PUBLIC RIGHT-OF-WAY
CITY OF NAPLES
DEVELOPMENT SERVICES DEPARTMENT

Date Received: 18 Jan 08
Permit Location/Address: 374 3rd Ave. N.
Permit Purpose: TURF BLOCK INSTALLATION in R/W
Permit Period: NOT APPLICABLE
Owner/Agent: Layton Lyn Mullin
Address: 374 3rd Ave N
Telephone: 298 1065 Fax: Same

NOTES: The following are Standard Conditions and Special Conditions for approval to perform work within, to use and to maintain the City's public rights-of-way (R/W) consistent with City of Naples Code of Ordinances, Resolutions and applicable Florida Statutes.

STANDARD PERMIT CONDITIONS:

1. Permits are required for all work performed in any rights-of-way or easements within the City of Naples provided for public use and a responsibility of the City.
2. When permitted facilities are placed within a public right-of-way or easement, the installation is for permissive use only and placing of facilities shall not operate to create or vest any property right in the associated right-of-way or easement in the owner/agent/permittee. Furthermore, the owner/agent/permittee shall be responsible for operation and maintenance of such facilities if and until such time as the City of Naples decides to accept such operation and maintenance.
3. All materials and equipment placed in the City's R/W shall be subject to inspection and approval by the City's Development Services Department's assignee.
4. Request for inspection shall be made 72 hours prior to commencing work requiring inspection.
5. During the construction, the Contractor/Permittee shall comply with the 'State of Florida Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways' and the 'Manual on Uniform Traffic Control Devices' (MUTCD) and with all other governing operating/maintenance/safety regulations.
6. The City of Naples shall be relieved of all responsibility from damage or liability of damage of any nature arising from work authorized under this permit.

7. All crossing of existing pavement shall be by jacking and boring at a minimum depth of twenty-four inches (24"), unless otherwise authorized by the Development Services Department's assignee.

8. All overhead installations shall conform to clearance standards of the City and all underground crossing installations shall be placed a minimum depth of twenty-four inches (24") below the pavement and/or a minimum depth of twenty-four inches (24") below the roadside swale invert. Primary cable (voltage exceeding 500 volts) will have minimum thirty-six inch (36") cover. Exceptions may be made by authority of the Development Services Department’s assignee.

9. Immediately following work and/or concurrent with permitted work as may be required, replacement of sod and/or grassing shall be required for any disturbed rights-of-way.

10. All property disturbed by authorization of this permit shall be restored better than or equal to its original condition and to the satisfaction of the Development Services Department's assignee.

11. Whenever necessary for the construction, repair, maintenance, improvement, alteration or relocation of said right-of-way or easement as determined by the City's assignee, any or all poles, wires, pipes, culverts, cables, sod, landscaping, driveways, sprinklers, or other facilities and appurtenances authorized shall be removed from said right-of-way or easement or reset or relocated thereon as required and so notified by the City’s assignee and at the expense of the permittee, his successor or assigns. The minimum notice of the requirement for non-emergency removal is 10 days; for emergency removal, the City reserves the right to remove improvements without notice.

12. Where the owner/agent/permittee or his successor or assign is notified of a need for construction, repair, maintenance, improvement, alteration or relocation within the right-of-way or easement and no action is taken by the responsible party within the time frame specified by the City’s assignee, the City shall cause the permitted work to be altered, relocated, or removed, with the total expense being borne by the permittee or the responsible party.

13. Applicant shall remain responsible for locating any and all utilities both aerial and underground.

14. Applicant shall remain obligated to obtain necessary rights of entry for construction and maintenance where required right-of-way for private and/or public use has not been dedicated and accepted by the City of Naples.

15. Assume all responsibilities and liabilities for any and all damage from permitted activity.

16. The Permittee shall provide, install and maintain a 'maintenance of traffic' plan (MOT) as set forth in FDOT/MUTCD specifications. The MOT shall be subject of submittal/review/approval/monitoring by the City.

17. Permittee shall assure 'No-Cuts' notice and identification of all utilities to include City for locates for landscape irrigation system.

18. Due to safety concerns, the permittee shall immediately notify the Development Services Department, Attention Traffic Engineer @ 434-4784 of any vehicle crashes, Property damage, personal injury or questionable activities so as to ensure that the City is aware of operational characteristics and can implement changes as necessary.
19. Permittee shall be responsible to coordinate removal of City landscaping with City of Naples, Community Services, Attention Terry Fedelem (434-4680). Restoration of City landscaping shall also be subject of coordination with and approval of Terry Fedelem.

20. City reserves the right to undertake changes, modifications and/or terminate permitted activities without risk or liability of any kind, and the Permittee shall remain responsible and liable for resulting conditions from any and all actions of the City in terminating any and all segments of the work.

21. R/W shall be subject of daily 'housekeeping' so as to maintain safe surfaces and safe R/W for continuation of existing R/W uses to include vehicular, biking, pedestrian, and others.

22. Work within the roadway swale shall be subject of elevation controls to assure no blockage of drainage.

Applicant, by execution of this Permit Approval, agrees to conduct all work and use of R/W in accordance with the above conditions, approved attachments and applicable City, County, State and Federal Codes and Laws.

Listing of Attachments: SURVEY, SITE SKETCH, GRID PAPER, STANDARDS

Special Additional Conditions: SEE ATTACHED EXHIBIT #4

[Signature]

Applicant's Name and Address

[Signature] 1-18-08

City of Naples Authorization/Date
CITY OF NAPLES

SPECIAL R/W PERMIT CONDITIONS
FOR INSTALLATION OF
TURF-BLOCKS IN THE CITY RIGHT-OF-WAY

@ 374 3RD AVENUE NORTH

April 2008

SUBJECT: The following are Special Conditions applicable to the use of the public right-of-way for the installation of turf-blocks for parking. These special conditions along with the standard permit conditions shall serve to place the permittee/property owner on notice of their responsibilities and liabilities:

SPECIAL RIGHT-OF-WAY PERMIT CONDITIONS:

1. The permittee shall remain responsible and liable for any and all impacts of the subject turf-block installation in the public r/w, particularly as it may relate to operation, maintenance and repair of public and private utilities. This responsibility shall include the requirement for removal of improvements upon notice of the City due to pending City improvements, utility installations, maintenance and/or repair work.

2. Where the permittee or his successor or assign is notified of a need for turf-block removal/relocation due to utility construction, repair, maintenance, improvement, alteration or utility relocation within the right-of-way and no action is taken within the time frame specified by the City’s assignee, the City shall cause the permitted parking to be altered, relocated, or removed, with the total expense of such work being borne by the permittee.

3. This approval is for temporary use of the right-of-way for ‘hardscape/greenscape’ parking and such approval is permissive and may be subject to reconsideration by the City at any time. The permittee shall take no action, without prior approval, to prohibit the use of the parking space by the public.

4. This approval is not intended to supersede any Naples Code requirement and the permittee shall comply with all applicable Code requirements.

5. The City of Naples shall be relieved of any and all responsibility from damage or liability of damage of any nature arising from work authorized under this permit.

6. By accepting this permit, the permittee recognizes that there are no vested rights to parking in the public right-of-way and agrees to abide by all permit conditions.