



NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memo

MEETING DATE: February 11, 2020
TO: Board of Supervisors
FROM: Julie Patterson Hunter
SUBJECT: Resolution making findings, accepting the appeal filed by Larry and Cheryl Andresen of a decision of the Department of Public Works' issuance of a Notice of Encroachment Permit Violation regarding unpermitted work that occurred in the County right of way on Floriston Avenue and scheduling a Public Hearing

RECOMMENDATION: Adopt Resolution making findings as recommended by staff, accepting the appeal and setting the hearing on the appeal for March 25, 2020, at 9:30 a.m.

FUNDING: Filing fee of \$1,546.40 collected from Appellants for costs.

BACKGROUND:

On December 20, 2019, the Nevada County Department of Public Works issued a Notice of Encroachment Permit Violation to Larry Andresen to cease and desist for unpermitted work in the County right of way on Floriston Avenue. The Notice included requirements for the Appellant to restore the highway, relocate or repair damaged or removed water utility facilities and to pay an enforcement fine of \$1,070.02. The Notice provided 30 days from the date of the notice for an appeal to be filed with the Clerk of the Board, pursuant to Section G-IV 4.A.43 of the Nevada County General Code. The notice also provided revisions to the encroachment permit application.

On January 17, 2020, Larry and Cheryl Andresen filed an appeal regarding Department of Public Works' decision noted above.

Table L-II 5.2 of the Nevada County Land Use and Development Code (LUDC) summarizes which County body reviews, recommends, and takes final action on land use permits, Sections G-IV 4.A.15.1 of the General Code, provides for an appeal of a decision to revise an encroachment permit application, and G-IV 4.A.43, of the General Code, provides an appeal regarding regulating roadway encroachments is appealable to the Board of Supervisors. Only where a body has final permitting authority are those decisions appealable to the Board of Supervisors. The Department of Public Works is the permitting authority for the above, and the Board of Supervisors is the appealing body for the Department of Public Works.

Section L-II 5.12.G of the Nevada County Land Use and Development Code requires the Clerk to present the appeal to the Board of Supervisors at a regular meeting, so the Board can consider whether to accept this appeal and, if accepted, schedule it for a public hearing. County Counsel and the Clerk of the Board have reviewed the appeal and recommend that the Board find:

- The applicants are interested parties who have standing to file the appeal; and
- The appeal was timely filed; and
- The appeal satisfies the minimum requirements set forth in Section L-II 5.12.F of the County's Land Use and Development Code, and Sections G-IV 4.A.15.1 and G-IV 4.A.43 of the County's General Code.

Staff further recommends that the Board accept the appeal of the actions approved by the Department of Public Works and set it for public hearing on March 25, 2020 at 9:30 a.m.

Respectfully submitted,

Item Initiated by: Jeffrey Thorsby, Senior Management Analyst

Approved by: Julie Patterson Hunter, Clerk of the Board