



RESOLUTION No. _____

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION MAKING FINDINGS AND DENYING THE APPEAL FILED BY LARRY AND CHERYL ANDRESEN REGARDING AN ENCROACHMENT PERMIT VIOLATION ON FLORISTON AVENUE, DISTRICT V

WHEREAS, on April 5, 2016, Mr. Larry Andresen (Appellant) submitted an application for an encroachment permit to modify 440 feet of Floriston Avenue, a section of County unmaintained road right of way, stretching from approximately 10931 to 19068 Floriston Avenue; and

WHEREAS, on April 27, 2016, the request for a permit was denied by the Public Works Director; and

WHEREAS, on September 9, 2019, Mr. Larry Andresen submitted an encroachment permit to remove a bush and planter in the road right of way of Floriston Avenue fronting 10941 Floriston Avenue; and

WHEREAS, on September 20, 2019, Mr. Larry Andresen and Mrs. Cheryl Andersen (appellants) met with staff and Supervisor Richard Anderson to discuss their desire to remove the bush and planter in front of someone else's property; and

WHEREAS, on September 23, 2019, staff emailed Mr. Andresen stating that the plans were received but the neighbors were not in agreement with the removal of their bush and planter as indicated with the application; and

WHEREAS, on November 26, 2019, staff were notified by neighbors (pictures submitted are attached as Exhibit A) and the Sheriff's Department that Mr. Andresen had removed the bush and planter, removed railroad ties, relocated permitted personal property, and damaged a water meter box and water line; and

WHEREAS, on December 3, 2019, staff notified Mr. Andresen by letter to cease and desist all unpermitted work in the County right of way, attached as Exhibit B; and

WHEREAS, on December 20, 2019, staff provided a follow up letter, attached as Exhibit C, clarifying the violation of Nevada County Code Sections G-IV 4.A Regulating Roadway Encroachments and requiring, as authorized: 1) Restoration of the roadway per Section G-IV 4.A.29 Restoring Highway; 2) Relocation of the damaged water facilities per Section G-IV 4.A.32 Relocation of Facilities; 3) Mandatory fine of \$100 per Section G-IV 4.A.39 Violations/infractions; and 4) Payment of the cost of enforcement per Section G-IV 4.A.43 Cost of Enforcement (General Code excerpts attached as Exhibit D); and

WHEREAS, the Nevada County General Code is in compliance with the California Streets and Highways Code, Division 2. County Highways which specifies as follows: 1) Section 1460, any person who does work in the county highway without a permit is guilty of a misdemeanor and is liable to the agency for expenses and damages caused; and 2) Section 1495, any person who destroys a tree on a county highway is liable to a penalty of \$100 (Streets and Highways Code excerpts attached as Exhibit E); and

WHEREAS, on January 17, 2020, an Appeal to the Board of Supervisors (attached as Exhibit F) was timely filed;

WHEREAS, on February 11, 2020, the Board of Supervisors accepted the appeal per Resolution 20-042; and

WHEREAS, the County and Mr. Andresen entered into a tolling agreement for this hearing for six months; and

WHEREAS, on September 22, 2020, the Board of Supervisors held a duly noticed public hearing regarding the appeal and considered all evidence both oral and written regarding said appeal, including the staff report.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Nevada hereby finds and determines that:

- 1) The facts set forth above are true and correct.
- 2) That the County's determination that applicant violated Nevada County General Code Section G-IV 4.A is correct.
- 3) That the fine of \$100 is mandatory per County General Code Section G-IV 4.A Regulating Roadway Encroachments Section G-IV 4.A.39 Violations/infractions and the cost of enforcement in the amount of \$970.02 is due from the Appellant per Section G-IV 4.A.43 Cost of Enforcement.
- 4) That the County road right of way must be restored per Section G-IV 4.A.29 Restoring Highway and the water utilities relocated as a result of the applicant's unpermitted work per Section G-IV 4.A.32 Relocation of Facilities.

BE IT FURTHER RESOLVED that the Board of Supervisors of the County of Nevada hereby denies the appeal of Larry and Cheryl Andresen and upholds the December 20, 2019, "RE: Encroachment Permit Violation on Floriston Ave" of which compliance of the letter will be by October 23, 2020, based on the findings as set forth herein.