

June 13, 2016

VIA EMAIL

Nevada County Board of Supervisors  
950 Maidu Avenue Suite 200  
Nevada City, CA 95959

Re: Andresen property 10953 Floriston Avenue, Hirschdale, Nevada County, California

Dear Honorable Members of the Board,

My name is Patricia Simms. I am Cheryl Andresen's mother and mother in law to Larry Andresen. I am aware of the ongoing issues regarding access in Hirschdale.

I have visited Cheryl and Larry's properties (10953 Floriston Avenue, 10867 Floriston Avenue and the properties at Iceland) for a number of years and have been witness to the encroachments impeding access to their property at Iceland. There is one neighbor in particular whom has for a number of years made access difficult by parking various vehicles into the roadway making access difficult. It seem this was done intentionally.

I am aware of the Improvement Plan Larry and Cheryl are presenting to the County to try to rectify this issue.

I am also aware the county is having a closed session in regards to a lawsuit against my daughter and her husband for an area of their property to be used for public access.

I also am very much aware of the neighbor whom has many personal belongings on this roadway blocking access for all to use this roadway safely. It seems it would make more logical sense for the county to rather than spend time and money on a lawsuit, which would also bring much cost to my daughter and her husband, to simply ask this neighbor to remove his belongings off the roadway and make this "path of travel" safe for all to travel.

I have instilled in my children to be the best they can be for their community. I am a retired educator as I was a teacher for 35 years after raising my five children. I feel both Cheryl and Larry have done right by their community, as they have tried numerous times to improve their environment by being an active role in the community responses to the County in concern with the Hirschdale bridges. I know Cheryl has spent numerous hours writing to the County and researching many records for her community of Hirschdale. They also actively worked on the Sierra Pacific Power line issue along with the Martis Valley Travel Management Plan preserving their community.

They both are the most kind and respectful individuals I know and this not being said because I am Cheryl's mother. This is a personal feeling of them both. They are very selfless individuals and are always putting others first before themselves. Larry is a very hard working individual and always thinks things through completely in all aspects before moving forward with a plan.

I have witnessed his expertise in building many of their residences in Glenshire (8) and the log cabin at Iceland. He puts much thought into everything he does and has worked hard in the Truckee community

as an excavating contractor for over 33 years. He has serviced many contractors in this area and has made a good reputation for himself.

I do hope you take all into consideration when making this decision about litigation and come to realize, this all could be taken care of by one individual doing the right thing. That is moving his personal belongings off a roadway in which he has been told is not his personal property. The County should take this action and save the taxpayer's their tax dollar from being spend frivolously on a lawsuit when all that really needs to be done is one individual to do the right thing.

Thank you for your consideration concerning this matter.

Patricia Simms  
1232 Kent Drive  
Sparks, Nevada 89534

June 12, 2016

VIA EMAIL

Nevada County Board of Supervisors  
950 Maidu Avenue Site 200  
Nevada City, CA 95959

Re: Andresen property, 10953 Floriston Avenue, Hirschdale, Nevada County, California

Dear Honorable Members of the Board,

It has come to our attention that you will be once again having a closed session at this coming Tuesday Board meeting, June 14<sup>th</sup>, to discuss litigation against us in order to acquire a public easement over our property by virtue of implied dedication for use of our personal property, based on what you were told is a historical path of travel. You have been wrongfully informed that our property has been used for a "path of travel".

It is obvious if one looks at the alignment from the Legg's garage to Pete Rivara's rock, which are the two most obvious landmarks in Hirschdale along Floriston Avenue, as they have historically been there for decades, this is the historical path of travel. This is the same alignment of roadway when the gate was present. The gate was also aligned over historical path of travel. Historically traffic has not traveled over into the private property of the Andresen's. One would have to swerve over into our property and then swerve back over in front of the gate just before the Legg's garage. From illustrations we are providing you, you can see the large rock on Peter Rivara's property and boulders placed on our property were perfectly aligned with the Legg's garage and gate post. The pile of rocks and piping, if you look at photos, also was within the same alignment of Mr. Rivara's rock and the gate at the Legg's garage. It is obvious the area of which the public traveled was on the ROW dedicated to the County and Pete Rivara's property in front of his big boulder. This has been the existing path of travel as illustrated.

Mr. Minnis would park vehicles in front of his home which only allowed a very narrow path to travel. We could barely get through this roadway with our equipment especially when the gate was present and a number of times asked him not to park in this roadway. He refused many times to move his vehicle and a number of times would park in this area when his driveway was completely empty. (See illustrations)

An attached email from Josh Pack states "it's pretty obvious that the location in question is not an appropriate place to park a vehicle, especially since it blocks access to the gate and travel way, ..... It's common sense that parked vehicles cannot occupy the travel lane." We have dealt with this issue while traveling beyond to our property at Iceland numerous times with this travel way obstructed by vehicles, trailers, and a boat. We were told to call the Sheriff when this would occur. (Attached email from Josh Pack and Allison Green)

We have been told a number of times to "work with our neighbors". Attached you will see we did try this approach. We offered Larry's backhoe to set terraces for his belongings and I personally offered to help move the garden area. This approach did not work and we were told by this neighbor "I am not going to move anything unless the County asks me to." We have since this time had numerous issues of having access to our Iceland Road property because of obstructions along this path of travel.

The dedicated right of way has been obstructed for years with personal items, and structures built without permits and electrical inspections. These structures and personal belongings are what has obstructed this public right of way.



We placed a fence on our legally described property line, outside of any public right-of-way, according to County codes. This area of our private property was not used as a path of travel as it is clearly in alignment with the roadway as it existed. We have provided numerous photos illustrating our property was not the "path of travel" as depicted by others.

As you can also see from these illustrations the area of roadway used with a gate was compromised with many encroachments from a tent, vehicles, truck, trailers, boat and even a motor home from a resident. You will also have illustrated to you how this same neighbor has in the past encroached upon his neighbor's yard with a hoop tent.

Why should we have to dedicate our personal property for a roadway when there is already a dedicated right of way to the County of 40 feet? (which 30 feet is taken by encroachments). This is not reasonable when one whom is occupying this property with personal belongings and encroachments is the one obstructing this roadway. These structures were not permitted, are a hazard as they do not have proper wiring and as you have been illustrated is nothing but a lot of personal items, which could easily be moved to the rear of this person's personal property. Photos showing open space to the rear of his property are provided. It is also easy to see in these photos where the original portion of the house is with the metal roof and electrical wire hooked up to this area. The rest from that point forward to the roadway is all encroachments not allowing for public use as dedicated to the County.

It would be up to the County to prove with substantial evidence that our property was used for a path of travel. I hope these illustrations prove to you that would not be the case. It is obvious that Pete Rivara's property was used for a path of travel in front of the huge rock, but not our personal property.

These encroachments should be removed to allow for safe travel along this roadway. Our fence is legally placed on our property when in fact the encroachments on the neighboring property are not on personal property but on that of the County's right of way.

We have many illustrations of this roadway being narrowed by vehicles being parked within this right of way causing a very unsafe road of travel. We ask the Board to make the proper decision when considering litigation. This will be timely, costly and unnecessary. We are tax paying citizens ourselves and feel this is a waste of time, money and our tax dollars. There is a very simple solution to this issue and that is to have encroachments removed that have been illegally upon a public right of way and pathway of travel. Bringing this roadway back to a fire safe road to travel for all in the neighborhood and public makes sense and is reasonable. Resolutions have been passed to make county roads to the minimum standard today necessary for a fire safe roadway. Our roadway should be no exception to this concept.

It is obvious when looking at this roadway other neighbors have encroached along this "path of travel". The Floriston Avenue Improvement Plan removes these encroachments to bring this roadway to a minimum fire safe road to travel along the dedicated portion of the right of way given to the County decades ago.

A portion of this roadway has been narrowed to a one lane roadway and actually comes to a Y in the roadway. There is a bush that is taking up almost half of this one lane roadway. Pictures of this Y have also been provided. These pictures attached were taken June 12, 2016 so you can see them as it is today. When this roadway was inspected by Director of Public Works, this bush had no leaves and the impacts were not notable or obvious. It is obvious in the photos provided, this bush is fully in growth and an impact to line of sight and safety on this roadway taking up nearly half of the roadway of travel.



We requested by Public Records Act, February 22, 2016, for all records pertaining to our property including photos, written comments, maps and surveys, historical path of travel, right of way or easement rights, and encroachments within Floriston Avenue. We received nothing in response to this request which depicted a "path of travel" over our property showing a use for "decades". There is nothing to show substantially our property was used for public use or travel. Our photos show the historical "path of travel".

We received copies of numerous emails to Mr. Anderson. These emails gave updates as to what we were doing on our personal property. Placing boulders in the roadway, when in fact they were on our personal property, every move we made seemed to be reported to Mr. Anderson. Many of these statements were simply not true. All the neighbors have boulders or fences depicting their personal property lines. We have done nothing any different than a number of the neighbors in this community.

You have been provided previous letters from Ron and Virginia Legg residents of over 47 years whom has a residence at the end of the roadway and whom has the garage next to our property 10953 Floriston Avenue. In this letter it is stated access has been narrowed by unauthorized encroachments over the years. They had to hire a private attorney to have encroachments removed from their personal property of 20'. You also received a letter from Martha McBride a resident of Hirschdale for over 44 years. She states she recalls use of Floriston Avenue free of obstructions and stating "We look forward to the review, consideration, and approval of the proposed improvement project". Both state remembering this roadway being free of encroachments and obstructions. (See attached letters)

We ask that you take into consideration all information provided and hope that you come to the conclusion that our property has not been historically used as a path of travel and feel litigation is not favorable. We hope that you come to the conclusion that spending much time and tax payer's dollars on this issue would be a waste of both time and money and there is a much less costly and simpler way to resolve this situation for all using this roadway in our community and the general public. This would be by having the landowner remove his encroachments at no cost to the county. The email from Allison also stated there would be no cost for the removal of the utility pole as Liberty Utilities would remove this at no cost to the County.

Our Floriston Avenue Improvement Plan undoubtedly provides the community at no cost to anyone in the community nor the County, a reasonable fire safe road to travel. We are happy to answer any questions about this Improvement Plan. We look forward to a reasonable resolve with this issue.

Sincerely,

Cheryl/Larry Andresen  
10953 Floriston Avenue  
Truckee, CA 96161

Supervisor Anderson is our Board representative

**larandresen@gmail.com**

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**From:** "Alison Barratt-Green" <Alison.Barratt-Green@co.nevada.ca.us>  
**Date:** Monday, October 22, 2012 8:52 AM  
**To:** <larandresen@gmail.com>  
**Cc:** "Joshua Pack" <Joshua.Pack@co.nevada.ca.us>  
**Subject:** RE: Floriston Avenue site visit

Hi Larry:

Did you contact the Sheriff's Office, as Josh recommended? This appears to be a Vehicle Code violation. As with all Vehicle Code violations, a Sheriff's Deputy would need to observe the violation in order to take corrective action. I recognize that this may be inconvenient at times, but we all need to follow the proper process.

Alison

Alison Barratt-Green  
 County Counsel  
 County of Nevada  
 (530) 265-1319

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**From:** larandresen@gmail.com [mailto:larandresen@gmail.com]  
**Sent:** Saturday, October 20, 2012 8:04 PM  
**To:** Joshua Pack  
**Cc:** Alison Barratt-Green  
**Subject:** Fw: Floriston Avenue site visit

Josh,

The parking problem continues at 10949 Foriston Ave. as of today.....October 20, 2012  
 The ROW was blocked by Mr. Minnis parking his truck there as I have illustrated on the map I have provided to you, I had to ask him to move in order to pass through with my truck and trailer...

Larry

**From:** [larandresen@gmail.com](mailto:larandresen@gmail.com)  
**Sent:** Wednesday, October 17, 2012 7:24 AM  
**To:** [Joshua Pack](#)  
**Subject:** Re: Floriston Avenue site visit

Josh,

The parking problem at 10949 Floriston Ave. continues as of yesterday.....

Larry

**From:** [Joshua Pack](#)  
**Sent:** Monday, October 15, 2012 2:30 PM  
**To:** [larandresen@gmail.com](mailto:larandresen@gmail.com)



**Cc:** [Alison Barratt-Green](#)

**Subject:** RE: Floriston Avenue site visit

Larry –

Thanks for the email and update, as well as the offer to supply and post the no parking signage and paint.

From my field visit – as well as our discussion from a few months ago – it's pretty obvious that the location in question is not an appropriate place to park a vehicle, especially since it blocks access to the gate and travel way. In spots like this signage and striping is not necessary because it's common sense that parked vehicles cannot occupy the travel lane. The vehicle code doesn't require signage or striping measures as a result.

I'm also not convinced that the signage would deter illegal parking, especially since it's already obvious that it's not an appropriate location to park and the location is remote enough where regular sheriff enforcement isn't likely. The presence of a sign may not make any difference to the offending vehicle who is more than likely making a conscious choice to park here instead of someplace else.

Whether signage and striping were there or not, the resulting enforcement by the Sheriff's Department would still be the same action for either case. Therefore, per my previous email my recommendation is to contact the Sheriff's Department if/when the incident occurs and report the violation. A traffic ticket / citation would be a powerful deterrent to discourage parking in this area.

If enforcement does not resolve this issue the maybe we can consider some other options in the future.

Josh

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**From:** [larandresen@gmail.com](mailto:larandresen@gmail.com) [mailto:[larandresen@gmail.com](mailto:larandresen@gmail.com)]

**Sent:** Wednesday, October 10, 2012 6:41 AM

**To:** Joshua Pack

**Cc:** Alison Barratt-Green

**Subject:** Re: Floriston Avenue site visit

Josh,

The gate has remained unlocked since the day of our meeting.....Although it may appear to be locked, when looking a little closer you can see it's only a "clip link" that connects the gate to post. This method was suggested by Supervisor Owens.

The 10949 vehicle parking problem continues as of yesterday....I am offering to supply and post the no parking sign and paint the line, at no cost to county I am also willing to remove the tree/bush that is blocking the ROW at no cost to county. Can I obtain a permit to perform this work on the ROW property? Or as an alternative, is the county wiling to address these issues?

Thanks Josh,  
Sincerely, Larry

**From:** [Joshua Pack](#)

**Sent:** Friday, October 05, 2012 11:48 AM



To: [larandresen@gmail.com](mailto:larandresen@gmail.com)

Subject: Floriston Avenue site visit

Good morning Larry –

I had a chance to get out to Floriston and take a look at the location per your request at parking in front of 10949 Floriston Avenue. I agree that the location you identified in the pictures is too narrow to allow parked vehicles while maintaining unobstructed access to Floriston Road and Iceland Road. While I was at this location there was no vehicle parked at this location.

As you can imagine, we cannot issue citations or take action against residents based on pictures from other residents. Since the vehicle in question was not at the site during my site visit, there isn't much I can do at the present moment. However, I am in agreement that there is not sufficient space for a vehicle to park and allow access to this portion of Floriston Road.

**California Vehicle Code Section 22500 (g)** clearly states that no person shall stop, park, or leave standing any vehicle alongside any street when stopping, standing or parking would obstruct traffic. If/when the vehicle parks at this location again, I would encourage you to contact the Nevada County Sheriff's Department and report the vehicle code violation. If the vehicle is still at the site at the time of the officer's arrival, they will have the legal authority to cite the vehicle or take other appropriate measures. I don't think the area warrants any type of "No Parking" signage or red curb – the travel way is well delineated and it's fairly obvious that the location is not appropriate for parked vehicles.

On a side note, I also noticed that the locks have not been removed from the gate during my visit on October 1st. We were under the impression that those locks have been removed. I've forwarded this information on to our Attorney's office since they were the point of contact for our previous meeting on the subject back in August.

Josh

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**From:** Joshua Pack

**Sent:** Wednesday, September 26, 2012 9:39 AM

**To:** 'larandresen@gmail.com'

**Subject:** RE: status of r/w review for Floriston Avenue

Good morning Larry –

Sorry for the late response. My trip up to Floriston and Truckee late last week got a last minute cancellation due to a minor emergency here at the office. I've rescheduled my trip to either tomorrow or Friday (I've set aside both days to ensure I don't have any scheduling conflicts!). I'll have a response based on the field visit sometime next week.

I sincerely apologize about the delay and appreciate your continuing patience.

Josh

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**From:** larandresen@gmail.com [mailto:larandresen@gmail.com]

5/22/2016

**Sent:** Monday, September 24, 2012 7:13 AM  
**To:** Joshua Pack  
**Subject:** Re: status of r/w review for Floriston Avenue

Good Morning Josh,

I was wondering if you made it by 10949 Floriston Avenue and what actions are planned for the obstructions in this public right of way area?

Thank you, Larry

**From:** [Joshua Pack](#)  
**Sent:** Tuesday, September 11, 2012 4:53 PM  
**To:** [larandresen@gmail.com](mailto:larandresen@gmail.com)  
**Subject:** status of r/w review for Floriston Avenue

Hi Larry –

I received your phone call earlier today regarding your concerns with Floriston Avenue and adjacent parked traffic blocking a portion of the available travel way.

I have plans to review a few other engineering and public works related concerns up in the Truckee / Floriston area later next week, and was planning on checking out the conditions at this location during that visit. Once I've had chance to check it out in more detail I'll get back to you with my findings and our planned course of action.

Thanks for your continued patience,

Josh

**Joshua H. Pack, P.E.**  
Principal Civil Engineer  
Nevada County Department of Public Works  
950 Maidu Avenue  
Nevada City, CA 95959  
(530) 265-7059 - office  
(530) 265-9849 - fax



John and Mariam,

5-14-2012

Our house, (10953) is once again becoming vacant and being advertised for rent.

We are hopeful we will be able to find as good of tenants as we have had in the past.

This house costs approximately \$1,500 a month and when it is vacant that comes directly out of our pocket and hits us hard.

The visual nuisance of your belongings accumulated in the public right of way is negatively impacting our property, its value and its rent ability.

Last time it took three months. We went through 45 inquiries before finding Caleb and Kristine.

In other words the three month vacancy cost us over \$5,000

We cannot afford to have this house sit vacant due to the distracting condition of the public right of way. The encroaching tent, storage shed and miscellaneous stuff stored in the public right of way is an eyesore and needs to be removed ASAP. All other miscellaneous stuff stored in right of way also needs to be removed.

John and Mariam what you do on your property is your business. What you do on public right of property that negatively impacts and cost us dearly involves us.

As we have said before, we respect both of you. Even though this is a formal request asking you to remove property of from the public right of way we will not hold grudges or to think any less of you from a judgmental point of view.

We hope you understand and now with the property lines clearly marked there should be no misunderstandings of where the public right of way lays out on the ground.

I realize to contain all your belongings on your own property may be inconvenient, however a way to look at the bright side could be to appreciate the free use you've had of property that was not yours.

As I have offered before, I am willing to help you.....Move things, and or build some terraced pads behind your house so you have more useable space on your own property.....Let me know.....

In the meantime the public right of way area needs to be cleared and cleaned as soon as possible to avoid costing us more than it already has.

Sincerely, Larry & Cheryl



6-03-2012

Dear John and Miriam,

As I was driving through on the road in front of your house I noticed where the trailer tires left marks and highlighted them with white line marker.

This pathway or area is the minimal space that is needed to pass through with a trailer as I will often be doing.

Furthermore this area of road way may also be needed for emergency, rescue or fire equipment.

For these reasons I am asking you to not park anything at any time in this area. I will refer to this area as the "fire lane".

I plan to definitively mark for an easier understanding and awareness of this area and will post a "fire lane no parking sign", so it will be easy to see. Probably something similar to the small no parking signs Duane has posted along the road.

I am hoping you will want to be responsive and act promptly on all concerns and requests and that we can come to resolution on all the stated issues privately between Miriam and you and Cheryl and me.

However, if you disagree or feel we are being unreasonable, as an alternative and if you prefer, we could consult with county officials. I would imagine Department of Public Works, Department of Transportation and Fire Department would be appropriate officials.

Please let us know if you would like to discuss further. Are you are in agreement with

requests or would you prefer to have County involvement?

Thank you for your understanding,

Sincerely,

Larry

Ron and Virginia Legg -1340 Princess Avenue -Reno - NV - 89502

February 4, 2016

Director of Public Works  
950 Maidu Avenue Suite 170  
Nevada City, Ca 95959

Attention: Steven Castleberry

Dear Mr. Castleberry,

We own the property located at 10965 Floriston Avenue in Hirschdale. Ours is the last residence located on this street. We have owned this property for over 47 years.

Larry and Cheryl Andresen recently shared their plans with us to improve and widen the existing right-of-way on Floriston Avenue in order to provide fire safe access. We are writing this letter to inform you of our support of these plans.

Over the years, the right of way has continually narrowed due to unauthorized encroachments, storage of materials, and parking, which has impeded our ability to access our property. Several encroachments were actually constructed on our private property, and were only removed by the encroacher after we expended much money on legal counsel and a surveyor. This same encroacher has unlawfully constructed encroachments on the public right of way, obstructing the free passage over Floriston Avenue. These encroachments and blockage of the right away not only affect us, but also the portion of roadway which has been designated to the public going both directions from our property.

The proposed Floriston Avenue Road Improvement plan would restore the dedicated right of way, allowing access for necessary public services to reach our residence, such as fire, ambulance, and propane. We are both elderly, and allowing for safe passage of these public services, as well as unobstructed passage of our personal vehicles, is essential. Thank you for considering our concerns.

Sincerely,  
Ron and Virginia Legg



Ron and Virginia Legg-1340 Princess Avenue-Reno NV-89502  
775-329-8795

February 4, 2016

Board of Supervisors  
950 Maidu Avenue Suite 200  
Nevada City, Ca 95959

Dear Honorable Board of Supervisors:

We own the property located at 10965 Floriston Avenue in Hirschdale. Ours is the last residence located on this street before heading down Iceland. We have owned this property for over 47 years and can remember this roadway with no obstructions. Our house is directly beside all of these obstructions. The bush you pass approaching our home makes for a dangerous situation. Until you are right upon this bush you do not know what is on either side of it. At this point in the roadway the road becomes one lane wide. The same goes for exiting this roadway.

Over the years, the right of way has continually narrowed due to unauthorized encroachments, storage of materials, and parking, which has impeded our ability to access our property. Several encroachments were actually constructed on our private property, and were only removed by the encroacher after we expended much money on legal counsel and a surveyor. This same encroacher has unlawfully constructed encroachments on the public right of way, obstructing the free passage over Floriston Avenue. These encroachments and blockage of the right away not only affect us, but also the portion of roadway which has been designated to the public going both directions from our property.

Larry and Cheryl Andresen recently shared their plans with us to improve and widen the existing right-of-way on Floriston Avenue in order to provide fire safe access. We are writing this letter to inform you of our support of these plans. The proposed Floriston Avenue Road Improvement plan would restore the dedicated right of way, allowing access for necessary public services to reach our residence, such as fire, ambulance, and propane. We are both elderly, and allowing for safe passage of these public services, as well as unobstructed passage of our personal vehicles, is essential. The Andresen's fence is not of issue as it is place on their own property line which is acceptable to us as it is not on the dedicated County right of way.

Thank you for considering our concerns. We presented our thoughts also to Mr. Castleberry and Troy Adamson from Cal Fire. We have attached both letters to Mr. Castleberry and Troy Adamson for your review.

Sincerely,

Ron and Virginia Legg



February 7, 2016

Steven Castleberry  
Director of Public Works  
950 Maidu Avenue, Suite 170  
Nevada City, CA 95959

A roadway improvement plan affecting a long neglected portion of Floriston Avenue in the Hirschdale Subdivision community, submitted by Andresen Construction to Nevada County agencies, was recently brought to my attention by various neighbors.

The proposed plan indicates straightening the narrowed roadway to a minimum width of 18 feet, installing adequate drainage devices, and stabilizing the roadbed with properly compacted and graded materials. Relocating several privately owned storage structures presently existing on the originally designated road right-of-way, removing some obstructing vegetation, and relocating the fire hydrant and utility pole in cooperation with affected authorities, would be required.

The plan appears to be a way to mitigate hazards to necessary vehicle travel on this portion of Floriston Avenue that can benefit not only the property owners that routinely use the road, but those requiring unimpeded access to the area in times of peril e.g. fire and rescue vehicles, as well as provide adequate access for service vehicles such as mail, trash, and utilities require.

It is my understanding that Nevada County Public Works budget and work plans do not include any resources committed to maintaining and/or improving Floriston Avenue in the Hirschdale community. If reviewed and approved by Nevada County authorities, I believe that Larry can undertake the work at the earliest possible date in cooperation with the Public Works and Land Use Planning staff requirements.

Historically, as roads within the Hirschdale subdivision have never been maintained by the County, Larry has routinely plowed excess snow and routinely maintained Floriston Avenue and Iceland Road for about 20 years. His knowledge of the access issues for all concerned is invaluable to the health and safety of property owners in the area. To assure the quality of life in this aging community, I believe we can benefit from the good intentions of neighbors concerned for our welfare and intent on maintaining property values.

As property owners in the Hirschdale Truckee riverfront community for 44+ years, our family recalls use of Floriston Avenue free of obstructions [when the road was not closed by snow] and the cooperation of all neighbors maintained an exceptional community spirit. We look forward to the review, consideration, and approval of the proposed improvement project.

Respectfully,

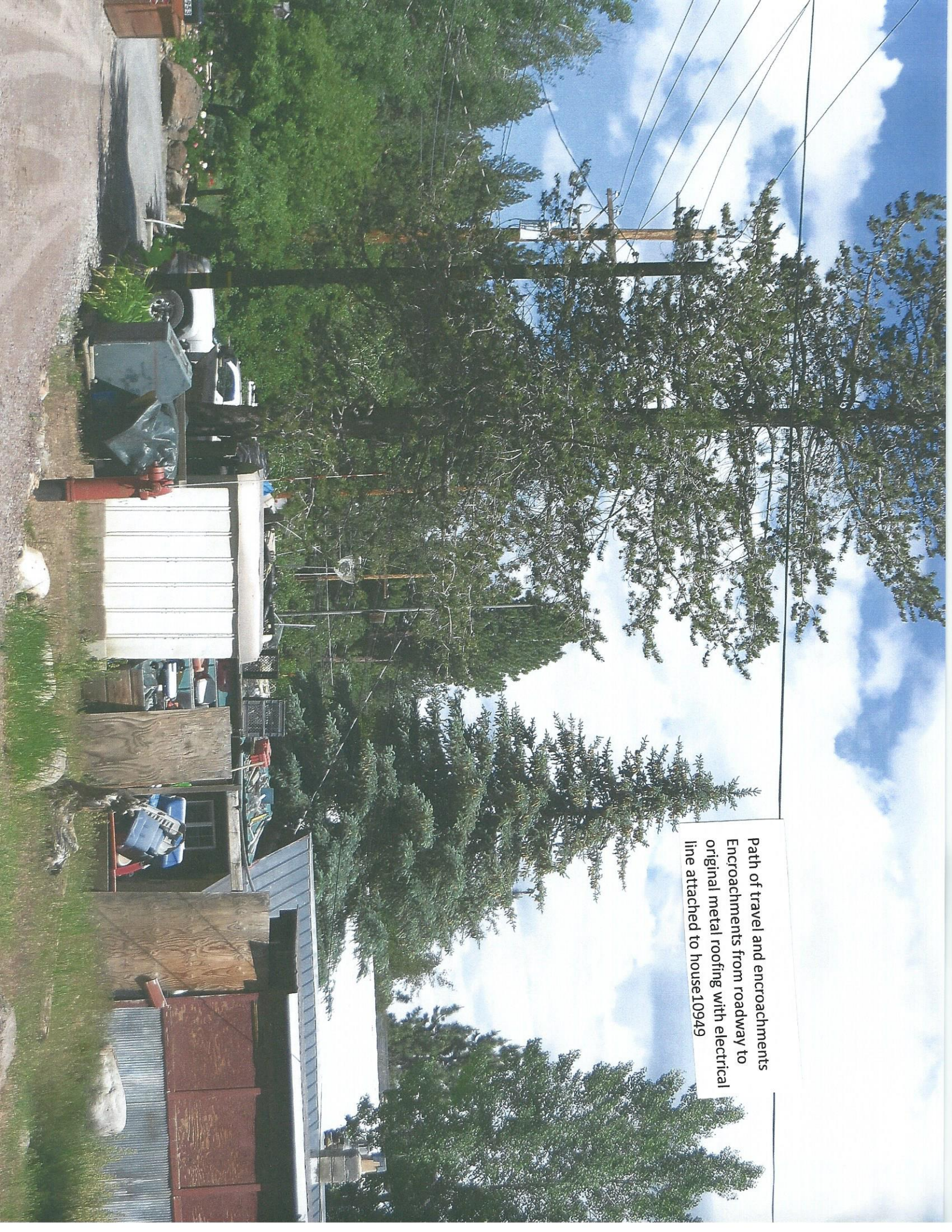
Martha McBride  
10877 Floriston Avenue, Hirschdale Community, Truckee, CA 96161





03/20/2013





Path of travel and encroachments  
Encroachments from roadway to  
original metal roofing with electrical  
line attached to house 10949



Hoop tent encroached upon  
neighboring property and trailer in  
roadway of travel

09/18/2013 20:11







Driveway completely empty but truck parked in path of travel

02/05/2015





Placement of rock in front of Rivara's driveway and garage in perfect alignment as path of travel



Showing perfect alignment with Legg's garage







Alignment of rocks in front of 10953  
Fence alignment with rock at Rivara's  
property line in perfect alignment of  
path of travel



Rocks and garage in perfect alignment







Close up of property to rear of 10949 Floriston Avenue with plenty of space to store belongings and area to move utility pole





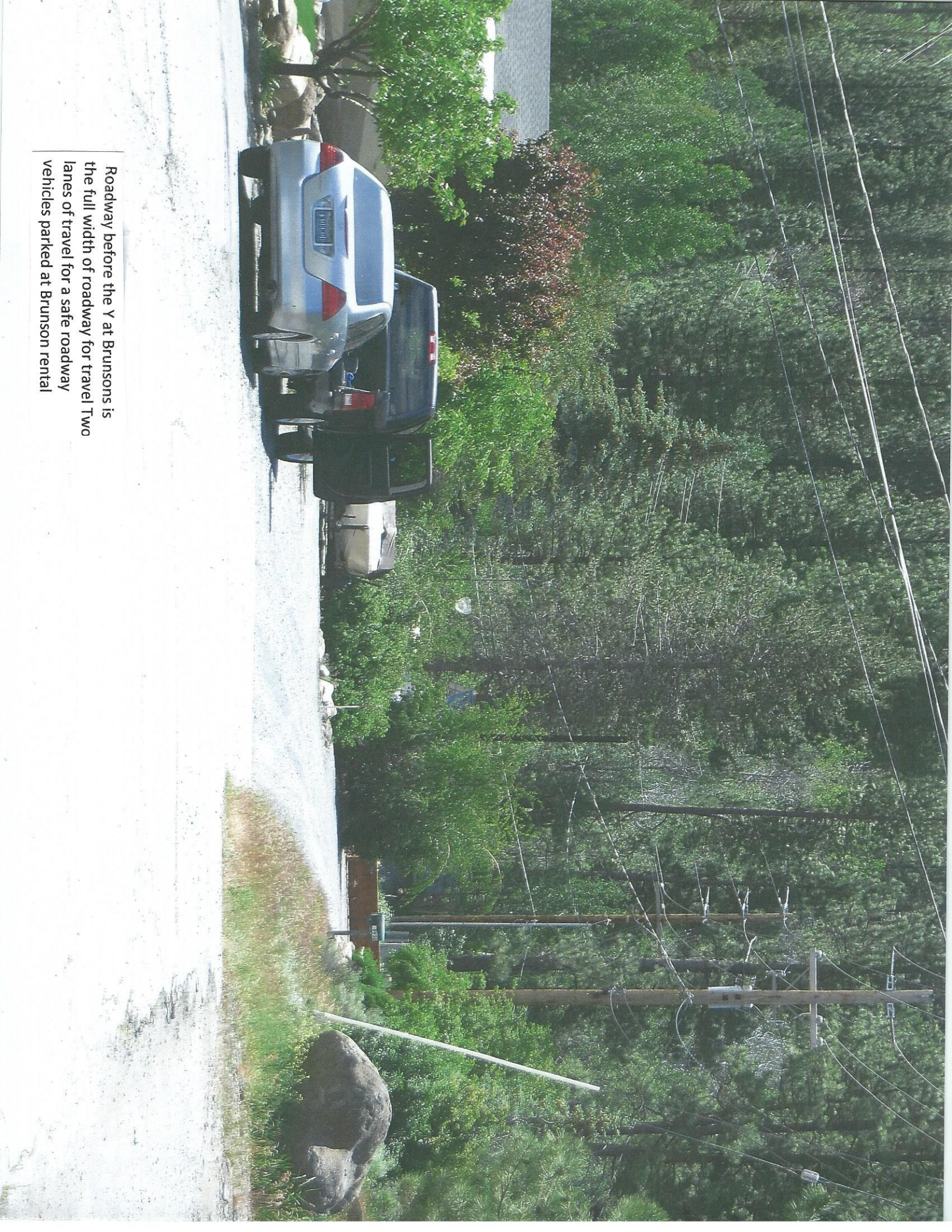
Picture showing there is ample room to store personal belongings to the rear of property at 10949 Floriston





Roadway is clearly a Y to Brunson's property Bush in roadway taking up half of roadway line of sight is very limited for cars approaching from either direction





Roadway before the Y at Brunsons is the full width of roadway for travel Two lanes of travel for a safe roadway vehicles parked at Brunson rental



Line of sight 6/12/2016 approaching  
bush from 10953 Floriston Avenue

10953





Bush and Line of sight in 2007







Path of travel clearly marked with use  
of roadway from Rivasas to in front of  
10953 Floriston Avenue

03/20/2013



Truck in path of travel 10949  
Floriston Avenue



02/14/2014 19:39



Truck protruding out into the path of travel obviously in the line of travel by road markings. Fence and garage in perfect alignment of path of travel

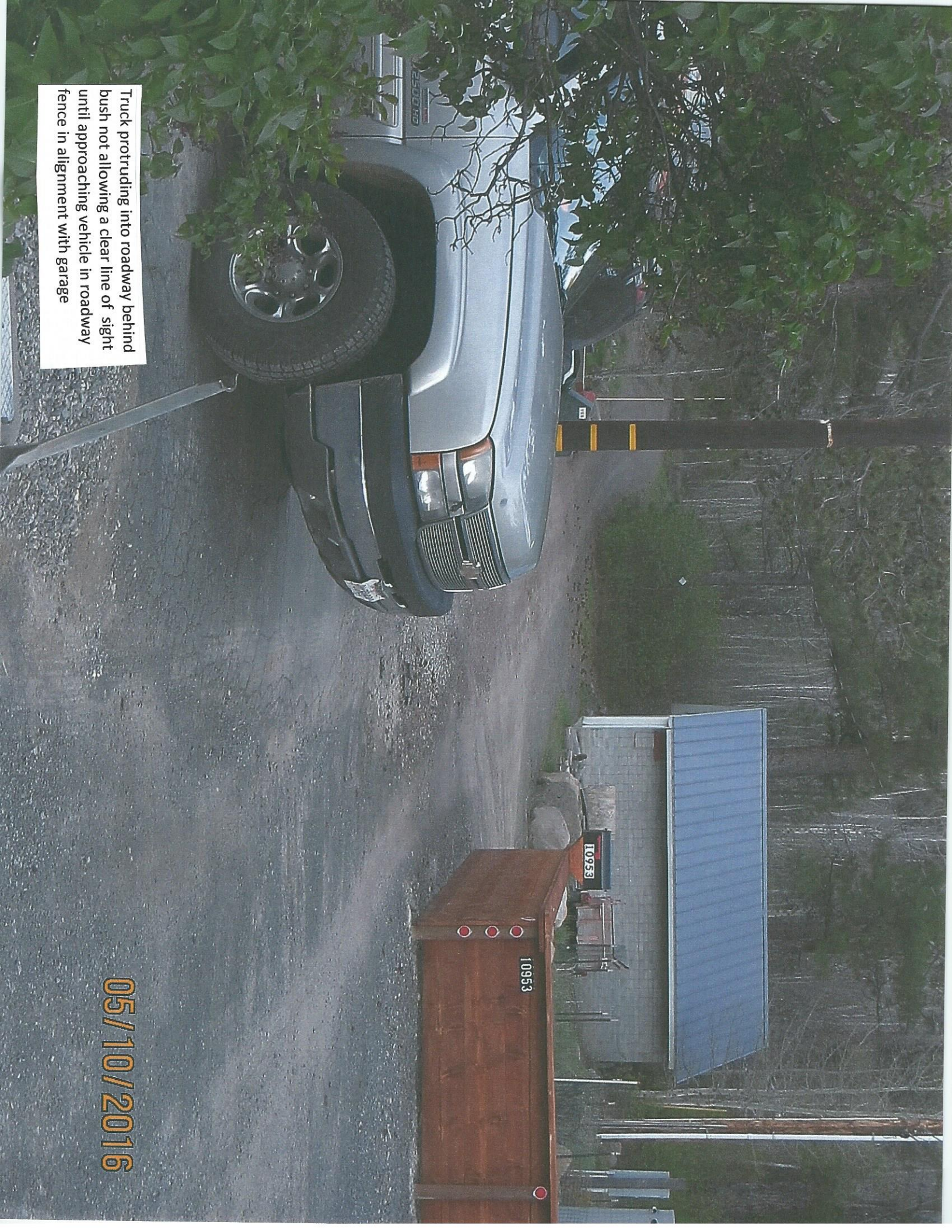


11/08/2015



Truck protruding into roadway behind bush not allowing a clear line of sight until approaching vehicle in roadway fence in alignment with garage

05/10/2016







Truck protruding in roadway not  
allowing clear access down the  
roadway

05/27/2016



Truck protruding in path of travel with plenty of space behind vehicle to back in off roadway

06/03/2016







10008 S.E. River Street  
Truckee, California 96161  
main 530.582.2280  
fax 530.582.2281  
www.stoel.com

June 13, 2016

GREG C. GATTO  
Direct (530) 582-2288  
greg.gatto@stoel.com

**VIA EMAIL**

Nevada County Board of Supervisors  
950 Maidu Avenue Suite 200  
Nevada City, Ca 95959

**Re: Nevada County Board of Supervisors June 14, 2016 Hearing - File No. SR 16-0520 -  
Andresen Property, 10953 Floriston Avenue, Hirschdale, Nevada County, California**

Dear Honorable Members of the Board:

This law firm represents Larry and Cheryl Andresen, owners of the residence located at 10953 Floriston Avenue, in the unincorporated area of Hirschdale, Nevada County, California (the "Andresen Property"). I am writing in response to the Board's June 14, 2016 Agenda, Closed Session File No. SR 16-050-20, "to determine whether litigation should be initiated by the County regarding an action to quiet title on a historic dedication to the public across real property owned by Larry & Cheryl Andresen." A previous letter regarding this matter was sent to the Board on February 8, 2016, and is enclosed herewith for your convenience.

Subsequent to our February 8 letter, we submitted Public Records Act requests to the Nevada County Community Development Agency and Clerk of the Board requesting in part, all records related to any historic path of travel over Floriston Avenue, any path of vehicular travel over the property located at 10953 Floriston Avenue, and any right of way or other easement rights claimed by the County over the property located at 10953 Floriston Avenue. In response to these requests, the County did not provide any evidence sufficient to establish an implied dedication or other right-of-way over the Andresen Property, outside of the expressly dedicated public right-of-way.

Given the absence of any evidence supporting the County's proposed action to quiet title to the Andresen Property, the Andresens again request that the Board consider a collaborative approach to resolve the issues relating to Floriston Avenue rather than resorting to meritless litigation. The Andresens have proposed an alternative solution, to be completed at the Andresens' sole cost, to





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widen the dedicated public right-of-way.<sup>1</sup> The Andresens remain open to other potential solutions, short of a taking of their private property, and have requested community wide meetings to discuss potential solutions.

We hope that the Board takes note of the lack of evidence supporting a quiet title action against the Andresens, and instead chooses to direct the County's resources towards a more productive solution. Thank you for your consideration of our comments.

Respectfully,

A handwritten signature in blue ink, appearing to read "Greg C. Gatto".

Greg C. Gatto

Enclosure

cc: Julie Patterson Hunter, Clerk of the Board  
Alison Barratt-Green, County Counsel

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<sup>1</sup> An appeal of the Andresens' application for encroachment permit is scheduled for the Board's consideration at its June 28, 2016 hearing.



Ron and Virginia Legg-1340 Princess Avenue-Reno NV-89502  
775-329-8795

May 10, 2016

Board of Supervisors  
c/o Julie Patterson-Hunter, Clerk of the Board  
950 Maidu Avenue Suite 200  
Nevada City, Ca 95959

Dear Honorable Board of Supervisors:

We own the property located at 10965 Floriston Avenue in Hirschdale. We previously wrote to you to express our support for the proposed Floriston Avenue Road Improvements submitted by the Andresens, and are again contacting you to inform you that we support the Floriston Avenue encroachment permit application submitted by the Andresens. We request that our February 4, 2016 letter be incorporated herein, and that you review that letter for background regarding the obstructions on Floriston Avenue.

As mentioned in our prior letter, the proposed Floriston Avenue Road Improvement plan would restore the dedicated right of way, allowing access for necessary public services to reach our residence, such as fire, ambulance, and propane. The encroachments that would be removed under the proposed plan take up the majority of the public right-of-way, with no concern for the residents that travel down this stretch of Floriston Avenue. They create an unsafe condition, and make it very difficult for us to access our property. The Improvement Plans do not seek to remove all encroachments within the right-of-way, but rather, only those that obstruct free passage on this road. The encroachment permit and proposed improvement plans would restore a large portion of the public-right-of way, and help to alleviate an ongoing problem and source of animosity in our community.

Thank you for considering our concerns.

Sincerely,

Ron and Virginia Legg





10008 S.E. River Street  
Truckee, California 96161  
main 530.582.2280  
fax 530.582.2281  
www.stoel.com

February 8, 2016

GREG C. GATTO  
Direct (530) 582-2288  
greg.gatto@stoel.com

**VIA EMAIL**

Nevada County Board of Supervisors  
950 Maidu Avenue Suite 200  
Nevada City, Ca 95959

**Re: Andresen Property, 10953 Floriston Avenue, Hirschdale, Nevada County, California**

Dear Honorable Members of the Board:

This law firm represents Larry and Cheryl Andresen, owners of the residence located at 10953 Floriston Avenue, in the unincorporated area of Hirschdale, Nevada County, California (the "Andresen Property"). It has recently come to our attention that the County will be considering whether to institute a legal action against the Andresens in order to acquire a public easement over the Andresen Property by virtue of implied dedication. We strongly urge the Board to reject any proposal to initiate litigation against the Andresens.

As summarized briefly below, there is no basis in law or fact to claim implied dedication over the Andresen Property. Further, any action attempting to take the Andresen Property for public use will expose the County to liability for, among other things, inverse condemnation, deprivation of substantive and procedural due process rights, and violation of equal protection guarantees. Rather than taking the draconian and unsanctioned step of filing a lawsuit against the Andresens, we respectfully request that the Board convene a committee to consider the Floriston Avenue Road Improvement plans submitted by the Andresens, and meet with community members to resolve this matter, without attempting to illegitimately convert private property to public use.

The current dispute regarding access over Floriston Avenue arises out of several unauthorized encroachments that have been constructed and maintained within the public-right-of-way. A brief summary of the dispute and the legal issues related to the encroachments can be found in the enclosed correspondence with Supervisor Anderson, attached as Exhibit A. This issue appears to have come to a head when the Andresens constructed a fence on their own property, in compliance with all County ordinances, and completely out of the public right-of-way. The neighbors that created the encroachments within the public right-of-way ironically complained that the fence, located entirely on private property, was impeding access by the public over





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Floriston Avenue. Based on the Andresens' actions to safeguard their property rights, County Public Works' staff is recommending the County take the exceptional step of suing the Andresens in an attempt to convert their private property to public use pursuant to the doctrine of implied dedication. As explained below, not only is this doctrine inapplicable to any use of the Andresen Property after 1972, but there is no evidence of the extensive type of general use of the public either prior to or after 1972 that would result in the severe sanction of transforming private property to a public roadway.

In order to give rise to an implied offer of dedication from public use of private property, a high standard of usage must be met so that private property rights of the owner are not too easily diminished. (*Hanshaw v. Long Valley Road Ass'n* (2004) 116 Cal.App.4th 471, 482.) The use required to establish an implied dedication "must be substantial, diverse, and sufficient," and the proponent of access must show "various groups of persons have used the land," rather than "a limited and definable number of persons." (*Ibid.*) While the Courts have limited the application of implied dedication to only very specific and unique circumstances, the California Legislature has taken a further step to protect private property from being converted to public property by virtue of implied dedication. In 1972, Civil Code section 1009 was adopted in order to curtail the effects of dedication implied in law. Civil Code section 1009 provides that no use of "property by the public after the effective date of this section [March 4, 1972] shall ever ripen to confer upon the public or any governmental body or unit a vested right to continue to make such use permanently, in the absence of an express written irrevocable offer of dedication of such property to such use..." (Civil Code § 1009(b).) In essence, this statute limits the application of implied dedication to uses vested before 1972.<sup>1</sup>

In this case, not only is there no evidence of use of the Andresen Property for road purposes prior to 1972, but there is no evidence of any use by the general public for any extended period of time, either pre- or post-1972, sufficient to demonstrate the Andresens' "*clear and unequivocal intent*" to dedicate the Andresen property for a public roadway. (10 Miller & Starr, Cal. Real

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<sup>1</sup> There is a currently a split of authority as to whether Civil Code section 1009 applies to only recreational use of private property, or whether it also precludes non-recreational use of private property from ripening into an implied dedication of a public road. This issue is currently pending before the California Supreme Court. (#15-219 *Scher v. Burke*, S230104. (B235892; 240 Cal.App.4th 381; Los Angeles County Superior Court; BC415646.) However, even if the Supreme Court were to rule that Civil Code § 1009 applies only to recreational use, the only use the general public would make of Floriston Avenue beyond the Andresen Property is to access a public recreational area. (See *Pulido v. Pereira* (2015) 234 Cal.App.4th 1246, 1252.) Therefore, regardless how the Supreme Court rules, Civil Code § 1009 would operate to preclude any post-1972 use of the Andresen property from ripening into an implied dedication.





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Estate (3rd ed. 2012) Dedication, § 26:4 (emphasis in original.) Accordingly, the County cannot establish implied dedication of the Andresen Property.

In addition to the legal principles precluding application of implied dedication in this case, public policy is strongly implicated to discourage the gift of public resources (public right of way) to some property owners, while depriving other property owners of their private property rights. Allowing others to illegally claim private rights over a public right-of-way, while attempting to divest an owner of his or own private property is an affront to all property owners in Nevada County, and violates established constitutional protections.

We sincerely hope that this Board recognizes the folly in pursuing litigation against the Andresens, and instead, adopts a collaborative approach to resolve the obstructive encroachments within Floriston Avenue.

Respectfully,

A handwritten signature in blue ink, appearing to read "Greg C. Gatto".

Greg C. Gatto

Attachment

cc: Alison Barratt-Green, County Counsel



# EXHIBIT A

EXHIBIT A



**Gatto, Greg C.**

---

**From:** Gatto, Greg C.  
**Sent:** Friday, August 23, 2013 8:48 AM  
**To:** Richard.Anderson@co.nevada.ca.us  
**Cc:** Larry and Cheryl Andresen (landresen@telis.org); Larry and Cheryl Andresen (landresen@gmail.com)  
**Subject:** Andresen Meeting re Floriston Ave.  
**Attachments:** Map of Portion of Hirschdale Subdivison.pdf

Supervisor Anderson:

Thank you again for taking the time to meet with the Andresens to discuss the encroachments on Floriston Avenue. Attached is a diagram prepared by Larry Andresen that illustrates the approximate location of the 40 foot County right-of-way (dedicated and accepted by Sub. 1-37 June 8, 1926) and the encroachments located thereon, including storage sheds, tents, and landscaping.

As the Andresens explained, the encroachments obstruct the public's use of, and passage on, Floriston Avenue. The reduced line of sight caused by the encroachments creates safety issues, especially for vehicles pulling trailers. At least one neighbor at the end of Floriston Avenue typically also parks vehicles, boats, and trailers in front of the encroachments (see the Andresen diagram), which blocks access on the entire right-of-way, creating serious ramifications for emergency vehicle access. These encroachments have resulted in a public nuisance over a County highway. (*See* Penal. Code § 370; Nevada County Code §§ G-IV 4.A.40, L-II 5.22.)

The Andresens have been uniquely impacted by the encroachments as they own two properties east of the encroachments. Delivery drivers and propane trucks typically park in the Andresens' private residential driveway, which impedes access to both of their properties. They have also lost several prospective tenants, who felt they would be unable to park their trailers or recreational vehicles in the Andresen's driveway because of the encroachments, which are located directly across from the driveway.

The Andresens have been advised by County staff to call the sheriff or CHP in the event free travel on Floriston Avenue is obstructed. Officers from both agencies have come out, but informed the Andresens that they need a County survey of the right-of-way before they can take any enforcement action. We are therefore requesting that the County survey the existing right-of-way and take any action necessary to abate this ongoing public nuisance.

We look forward to working with the County in an attempt to rectify this issue. Please do not hesitate to contact me if you have any questions or need further information.

Thank You,  
Greg

**Greg C. Gatto**  
STOEL RIVES LLP | 10008 S.E. River Street | Truckee, CA 96161  
Direct: (530) 582-2288 | Fax: (530) 582-2281  
[gcgatto@stoel.com](mailto:gcgatto@stoel.com) | [www.stoel.com](http://www.stoel.com)



COUNTY OF NEVADA  
STATE OF CALIFORNIA  
BOARD OF SUPERVISORS



**Richard Anderson**  
Supervisor, 5<sup>th</sup> District

Email: [richard.anderson@co.nevada.ca.us](mailto:richard.anderson@co.nevada.ca.us)

10879A Donner Pass Road  
Truckee, California 96161  
530.582.7826 | FAX: 530.582.7882

September 24, 2013

Greg Gatto  
Stoel Rives  
10008 SE River Street  
Truckee, CA 96161

Re: Floriston Avenue

Dear Mr. Gatto:

I have had the opportunity to review with County public works and legal staff Mr. Andresen's concerns as noted in your e-mail dated 23 August, and I have also had the opportunity to drive the section of Floriston Avenue in question. Here are the observations of staff:

1. Regarding the encroachments along the east side of Floriston Avenue, public works staff is familiar with the road, and believes the existing width of the path of travel and the line of sight in front of Mr. Andresen's home and adjacent rental property are adequate for "regular vehicular traffic," including emergency vehicles. The path of travel was apparently established many decades ago, and it is not uncommon for such paths of travel to meander within a right of way and even cross out of it, nor is it uncommon to have had structures encroach into a right of way and affect definition of a path of travel. (Such is the case, for example, in older sections of Truckee.) If Mr. Andresen would like to modify the path of travel on Floriston Avenue, staff recommends that he work with his neighbors along the road to formulate and present a proposal to the County.
2. Regarding the need for a County survey of the right of way in order for law enforcement personnel to ticket vehicles that block the path of travel, neither County public works staff or legal staff are familiar with any law that requires such a survey. If law enforcement personnel continue to assert a survey is needed, I strongly urge Mr. Andresen to note the officer's name or identification number and pass it along to me for appropriate follow-up.
3. During the meeting convened with the Andresens prior to your e-mail, the issue of paving Floriston Avenue (presumably to the south end of the Legg parcel adjacent to the Andresen's property) had been raised. Although this section of road is indeed a public road, it is not a part of the County's maintained-mileage system (a necessary precursor for paving it at County expense), and public works staff believes there is no compelling reason at this time to bring it into the maintained-mileage system. In fact, it has been the practice of the County over the past decade or so to remove roads from the maintained-mileage system whenever doing so might be feasible.

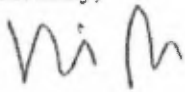
950 Maidu Avenue, Suite 200, Nevada City CA 95959-8617  
phone: 530.265.1480 | fax: 530.265.9836 | toll free: 888.785.1480 | email: [bdofsupervisors@co.nevada.ca.us](mailto:bdofsupervisors@co.nevada.ca.us)  
website: <http://www.mynevadacounty.com/nc/bos>



I apologize that these responses do not provide relief for the difficulties that Mr. Andresen believes have been imposed upon him. If you feel there are other ways to deal with these issues, please feel free to communicate them to me.

By the way, I had the opportunity to drive the Floriston-Iceland Road to Gray Creek. I noticed boulders were placed to block access to a parking area just west of Gray Creek on a parcel owned by the California Department of Fish and Wildlife. Also, no-trespassing signage there gives the incorrect impression that the bridge across Gray Creek is on private property rather than state land and that all of the property on the east side of Gray Creek is similarly private. You might want to inform Mr. Andresen of these concerns so that he can ensure the public has unimpeded access to the entirety of the acreage owned for their enjoyment by the CDFW.

Cordially,

A handwritten signature in dark ink, appearing to read 'Richard Anderson', written in a cursive style.

Richard Anderson  
Supervisor, District 5





1000B S.E. River Street  
Truckee, California 96161  
phone 530 582 2280  
fax 530 582 2281  
www.stoel.com

October 18, 2013

GREG C. GATTO  
Direct (530) 582-2288  
gcatto@stoel.com

**VIA U.S. FIRST-CLASS MAIL**

Supervisor Richard Anderson  
Nevada County District 5 Supervisor  
950 Maidu Avenue, Suite 200  
Nevada City, CA 95959

**Re: Floriston Avenue Encroachments, Hirschdale, California**

Dear Supervisor Anderson:

We are in receipt of your September 24, 2013 letter regarding the encroachments along Floriston Avenue. Thank you for taking the time to look at this issue and acknowledging the existing encroachments, which as depicted on the exhibit provided to you by the Andresens, consist of a tree, planters, sheds, tents, a paved driveway, and a home addition.

It appears that the County is reluctant to take action to require removal of the encroachments because public works staff believes the existing width of the path and the line of sight on Floriston Avenue is adequate for "regular vehicular traffic"<sup>1</sup> with the encroachments in place. Even if this were the case, it does not excuse the County from requiring the abatement of an undisputed public nuisance.

"It is a well-settled principle of common law, which has frequently been embodied in statutory form, that a structure maintained upon a public roadway is unlawful, and is a nuisance per se subject to abatement at the instance of proper authority." (*People v. Henderson* (1948) 85 Cal.App.2d 653, 656.) For example, the Penal Code (section 370) and the Civil Code (section 3479) both define a nuisance as follows: "Anything which ... unlawfully obstructs the free passage or use, in the customary manner, of any ... street, or highway, is a nuisance." (*See also Nevada County Code Secs. G-IV 4.A.33, 35, & 40.*) The test of a nuisance under statutes

<sup>1</sup> The County public works staff has not provided any definition of the term "regular vehicular traffic," and whether it includes the customary use of a public highway, such as vehicles pulling trailers. Moreover, as explained herein, there is no authority allowing for an encroachment to remain on a public highway if the highway is still passable by "regular vehicular traffic." To the contrary, the law provides that regardless of whether an encroachment allows for sufficient room to pass, it remains a public nuisance and must be abated. (*People v. Henderson* (1948) 85 Cal.App.2d 653, 656.)





Supervisor Richard Anderson  
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relating to public nuisances on public streets or highways is whether the structure in question unlawfully obstructs free passage of the public street or use of the street in the customary manner. (*City of Berkeley v. Gordon* (1968) 264 Cal.App.2d 461, 465.)

Further, it is no defense to a public nuisance that the structure is off the traveled part of the highway or that sufficient areas remain to allow public use of the right of way in the accustomed manner. (*Henderson*, 85 Cal.App.2d at 656; *Ex parte Bodkin* (1948) 86 Cal.App.2d 208, 210, "the primary purpose of a highway is the passing and repassing of the public, which is entitled ... to the full, unobstructed and uninterrupted enjoyment of the entire width of the layout for that purpose.") (quoting *In re Anderson* (1933) 130 Cal.App. 395, 398, 399.) An abutting owner does not have the right to exclusive occupancy, use, or control of any portion of public streets by reason of his or her ownership or occupancy of adjacent property and his or her rights are subordinate and must yield to the public use. (*Airways Water Co. v. Los Angeles County* (1951) 106 Cal.App.2d 787, 790; see also *Henderson*, 85 Cal.App.2d at 656 (where the sole question is whether the maintenance of the structure or obstruction is inconsistent with the full enjoyment of the right of way by the public, the owner of the fee is deemed to possess no greater rights than those who are strangers to the title).) Thus, even if the encroachments were situated in such a way as to allow for "regular vehicular traffic" to pass, which they do not, they constitute a public nuisance that must be abated.

It is also well established that "municipal authorities, as trustees for the public, have the duty to keep their communities' streets open and available for movement of people and property, the primary purpose to which the streets are dedicated." (*People v. Amdur* (1954) 123 Cal.App.2d Supp. 951, 959 (emphasis added).) A "public body cannot grant a permit for a permanent encroachment on dedicated public land." (*City of Berkeley v. Gordon* (1968) 264 Cal.App.2d 461, 465.) The County thus has a clear, present, and ministerial duty to abate the continuing public nuisance created by these encroachments.

Moreover, as the Andresens explained, the encroachments, as situated, make the road impassable within the County right-of-way, forcing drivers onto the Andresens' private property. The encroachments also do not allow sufficient room for turn-around at the end of the street, again forcing drivers to utilize the Andresens' private driveway and resulting in an unlawful dispossession of their property. There is also a vehicle frequently parked at the edge of the tree/shrub encroachment, creating line of sight and safety issues, especially when children are playing in the street. These situations, unless remedied, pose an unreasonable risk of harm to the Andresens' property and to the public in general.





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At least one of the neighbors maintaining the encroachments has stated his willingness to remove them if requested by the County. Based on the authority above, the Andresens again request that the County work with both them and the neighbors to clear this public street of the existing encroachments.

Thank you again for your consideration of the Andresens' concerns, and in upholding important public rights of access.

Respectfully,

Greg C. Gatto

GCG/ac

cc: Larry and Cheryl Andresen





10008 S.E. River Street  
Truckee, California 96161  
main 530.582.2280  
fax 530.582.2281  
www.stoel.com

May 23, 2016

GREG C. GATTO  
Direct (530) 582-2288  
greg.gatto@stoel.com

**VIA EMAIL**

Nevada County Board of Supervisors  
c/o Julie Patterson Hunter, Clerk of the Board  
950 Maidu Avenue Suite 200  
Nevada City, Ca 95959

**Re: Appeal of Decision Denying Encroachment Permit #9541**

Dear Honorable Members of the Board:

This law firm represents Larry and Cheryl Andresen, Appellants in the above-referenced matter (the "Appeal"). Appellants submit this letter in response to the Staff Report relating to the Board's consideration of the Appeal pursuant to Section L-II 5.12.G of the County Code. Appellants would like to clarify several matters in the staff report. Additional information will be presented in the event the Board elects to accept the appeal and schedules the matter for public hearing.

First, the encroachment permit does not require any work or expenditure of funds from the County to improve the road. The relocation of the power pole would be the responsibility of the utility provider pursuant to County Code Section G-II 4.5, and the removal of the private property encroaching in the public right-of-way would be the responsibility of the owners of the encroachments pursuant to, among other applicable regulations, County Code Sections G-IV 4.A.43 and L-II 5.21.F.2. All other proposed improvements would be made at Appellants' sole cost.

Second, to the extent that the Director's decision to deny the Encroachment Permit relied on any determination regarding the legal status of a right-of-way, a request to Appellants to remove a fence and/or boulders, and/or a discretionary decision by the County regarding potential code enforcement actions, Appellants reserve all rights to raise such issues on appeal. To the extent the Director's determination did not rely on these matters, Appellants reserve the right to raise these issues at a later date.





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Finally, in submitting this letter, Appellants in no way waive, and hereby reserve all rights and remedies related to Appellants contention that the Board of Supervisors should be disqualified from hearing this Appeal, for the reasons set forth in the Appeal application.

Thank you for your consideration of this matter.

Respectfully,

A handwritten signature in blue ink, appearing to read "Greg C. Gatto".

Greg C. Gatto

cc: Alison Barratt-Green, County Counsel