



RESOLUTION No. _____

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION DENYING THE APPEAL FILED BY LARRY ANDRESEN REGARDING THE DECISION OF THE PUBLIC WORKS DIRECTOR TO DENY AN APPLICATION FOR AN ENCROACHMENT PERMIT ON FLORISTON AVENUE/ ICELAND ROAD IN HIRSCHDALE

WHEREAS, on April 5, 2016, Larry Andresen (Appellant), submitted an application for an encroachment permit to modify 440 feet of Floriston Avenue in the community of Hirschdale; and

WHEREAS, the encroachment permit also requested the County relocate utilities and remove existing structures within the right-of-way, as well as remove existing landscaping and vegetation; and

WHEREAS upon review, the Public Works Director determined the project is not an improvement in roadway safety as there is no crash history at this location, and the road is constrained in width on each end of the project; the project does not serve the convenience of others in the Hirschdale community; and the proposed improvements require expenditure of significant resources and financial obligations by the County as well as the potential for increased liability; thereby adversely affecting the County; and

WHEREAS, Sec. G-IV 4.A.15.1 of the Nevada County Development Code (LUDC) guides that encroachment permits may be denied if they adversely affect the interest of the County or the convenience or safety of the public; and

WHEREAS, on April 27, 2016, the request for a permit was denied by the Public Works Director after review for the above mentioned reasons, and

WHEREAS, on May 6, 2016, the Appellant filed their appeal to the decision; and

WHEREAS, on May 24, 2016, the Board of Supervisors accepted the appeal filed by the Appellant; and

WHEREAS, on June 28, 2016, 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 and complete history of the appeal.

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

1. The facts set forth above are true and correct.
2. That this Denial of Appellant's encroachment permit is consistent with the applicable provisions of the Land Use and Development Code, including G-IV 4.A.15.1, which states encroachment permits may be denied if they adversely affect the interest of the County or the convenience or safety of the public.

3. The proposed permit adversely affects the interest of the County because issuance of the permit and the proposed construction on a non-County maintained section of right-of-way would require the removal and/or relocation of long-standing existing public and private infrastructure, the infrastructure in question has existed since long before the County or the community recognized the County's ownership of the roadway in question, removal of this infrastructure would require substantial investments of staff time and taxpayer money, there no safety need or benefit to be gained by improving the roadway as proposed, and the investment of taxpayer resources that would be required to prepare the existing right-of-way for the proposed construction exceeds the value, need and benefit to the community of improving this roadway.
4. The proposed permit adversely affects the convenience and safety of the public because the proposed straightening, widening and re-construction of the roadway as proposed invites additional traffic on the road, contributes to increased speeds, and significantly disrupts the rural character of an existing neighborhood in a manner that is not consistent with the historic use of, and lack of crash history on, this segment of roadway.

BE IT FURTHER RESOLVED that the Board of Supervisors of the County of Nevada hereby denies the appeal of Larry Andresen and upholds the decision of the Public Works Director to deny the encroachment permit for modifications to Floriston Avenue in unincorporated Nevada County based on the findings as set forth herein.