



RESOLUTION No. 16-217

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION MAKING FINDINGS, ACCEPTING IN PART AND REJECTING IN PART THE APPEAL FILED BY LARRY AND CHERYL ANDRESEN TO A DECISION OF THE PUBLIC WORKS DIRECTOR REGARDING APPLICATION FOR ENCROACHMENT PERMIT ON FLORISTON AVENUE/ICELAND ROAD AND SCHEDULING A PUBLIC HEARING

WHEREAS, on or about April 5, 2016, Larry and Cheryl Anderson applied for an encroachment permit to perform certain work on a portion of County owned right of way on Floriston Avenue/Iceland Road ("Permit Application"); and,

WHEREAS, on April 27, 2016, the Director of Public Works considered and denied the Permit Application; and

WHEREAS, pursuant to Section G-IV.A.15.1 of the County's General Code, a final decision of the Public Works Director is appealable to the Board of Supervisors within 10 days after the date of the decision and shall be scheduled and decided in accordance with the procedures set forth in Section L-II 5.12 of Article 5 of Chapter II of the Nevada County Land Use and Development Code; and

WHEREAS, on May 6, 2016, on behalf of himself and his wife Cheryl, Larry Andresen ("Appellants") filed an appeal to the Public Works Director's decision; and

WHEREAS, Section L-II 5.12.G of the County's Land Use and Development Code requires the Clerk of the Board to present the appeal to the Board of Supervisors at this regular meeting, so the Board can consider whether to accept this appeal and, if appropriate, schedule it for a public hearing.

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

1. Appellants are interested parties who have standing to appeal the Director's denial of the Permit Application.
2. Appellants' appeal of the denial of their Permit Application was timely filed.
3. To the extent the Appellants are appealing the Director of Public Works denial of an encroachment permit for changes to Floriston Avenue, the appeal as presented satisfies the minimum requirements set forth in Section G-IV 4.A.15.1 of the County's General Code and Section L-II 5.12 of the County's Land Use and Development Code. This portion of the appeal is hereby accepted by the Board of Supervisors and the Clerk of the Board is directed to schedule a Public Hearing on this portion of the appeal for June 28, 2016 at 1:30 pm.

4. To the extent Appellants are attempting to appeal the legal status of a right-of-way, a request to remove a fence and/or boulders, and/or a discretionary decision by a County staff person regarding potential code enforcement actions against others, none of these actions are appealable decisions within the scope of the appeal process provided for under Sections G-IV 4.A.15.1 of the General Code or L-II 5.12 of the Land Use and Development Code and therefore these portions of the appeal are summarily rejected.
5. To the extent Appellant is requesting a waiver of fees, there is no authority in the County Code for this request and therefore this request is denied.
6. No other issue except the denial of an encroachment permit is properly at issue in this appeal.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 24th day of May, 2016, by the following vote of said Board:

Ayes: Supervisors Nathan H. Beason, Edward Scofield, Dan Miller,
Hank Weston and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By:  _____

 _____
Dan Miller, Chair

5/24/2016 cc: Appellant
DPW*
CoCo*