

## STAFF REPORT FOR THE PLANNING COMMISSION MEETING OF FEBRUARY 26, 2020

**FILE NUMBER:** AB-2020-0001

**AGENDA ITEM:** E..1

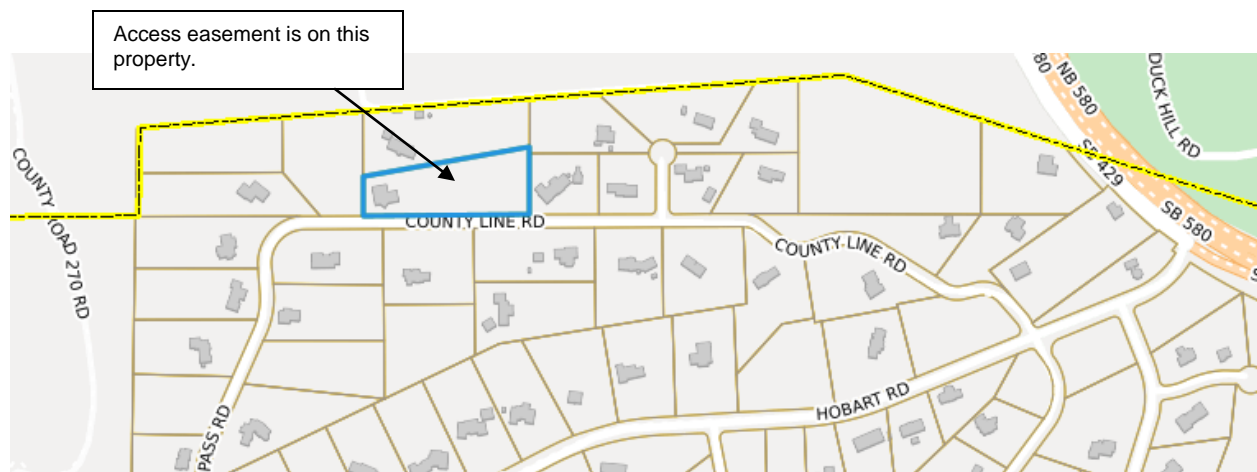
**STAFF CONTACT:** Hope Sullivan, Planning Manager

**AGENDA TITLE:** For Possible Action: Discussion and possible action regarding a right-of-way and access easement abandonment on property located at 4110 County Line Road, APN 007-201-05.

**STAFF SUMMARY:** In 2004, the City, through a gift deed of easement, acquired a permanent well and access easement and right-of-way for maintenance of the well, pipeline, and electrical conduits. In August 2019, the Board of Supervisors authorized the well to be returned to private ownership. As the City no longer owns the well, it no longer needs the access and right-of-way easement. The Board of Supervisors is authorized to abandon a right-of-way. The Planning Commission makes a recommendation to the Board.

**RECOMMENDED MOTION:** "I move to recommend that the Board of Supervisors approve AB-2020-0001, based on the findings and subject to the conditions of approval contained in the staff report."

### VICINITY MAP:



### RECOMMENDED CONDITIONS OF APPROVAL:

1. Prior to the recordation of said abandonment, the applicant shall be responsible for the submittal of all necessary legal documentation and title search materials as required by the Planning Division in order to fully complete the abandonment process.
2. The applicant must sign and return the Notice of Decision for conditions of approval within 10 days of receipt of notification. If the Notice of Decision is not signed and returned within 10 days, then the item may be rescheduled for the next Planning Commission meeting for further consideration. This Notice of Decision will be mailed to the applicant for signature after approval by the Board of Supervisors.
3. Conditional approval for the requested abandonment shall expire one year after Board of Supervisors approval of the original application, unless an extension of time has been granted by the Board of Supervisors.

**LEGAL REQUIREMENTS:** Nevada Revised Statutes (NRS) 278.480 (Vacation or Abandonment of Streets, Easements or Maps; Reversion of Divided Land) and Carson City Municipal Code (CCMC) Title 17 Division of Land, Subdivision of Land, Chapter 17.15 Abandonment of Right-of-Way.

**Adjacent MASTER PLAN DESIGNATION:** Low Density Residential (LDR)

**Adjacent ZONING:** Single Family 2 Acre (SF2A)

**KEY ISSUES:** Will the City or public be materially injured by the approval of the subject abandonment?

**SURROUNDING ZONING AND LAND USE INFORMATION:**

NORTH: Single Family 2 Acre (SF2A)/single family home

SOUTH: Single Family 2 Acre (SF2A)/single family home

WEST: Single Family 2 Acre (SF2A)/single family home

EAST: Single Family 2 Acre (SF2A)/single family home

**PREVIOUS REVIEW:**

At its meeting of August 15, 2019, the Board of Supervisors passed Resolution 2019-R-24 authorizing re-conveyance of a permanent well located on the subject property to the property owners.

**DISCUSSION:**

In the early 1980's, the City assumed ownership of the Lakeview Water system which included several wells located on private property. The property owners of the land on which Water Production Well #12 is located donated a permanent well and access easement to the City. The City did not utilize the well due to high uranium levels and sold its water rights in the well in 2018. In 2019, the Board of Supervisors passed Resolution 2019-R-24 authorizing re-conveyance of a permanent well located on the subject property to the property owners.

As the City no longer owns the well, there is no longer a need for an associated access easement and right-of-way. Therefore, the City's Real Property manager is seeking to abandon the access easement and right-of-way. If approved, the result will be that this easement will no longer encumber the property.

The City acquired the permanent well and access easement and right-of-way through a Gift Deed of Easement (Document 315661) for a sum of one dollar in 2004.

AT&T Nevada, Southwest Gas and Charter Communications have indicated they do not have utilities in the access easement. NV Energy has advised it does not have facilities in the right-of-way being abandoned, but has rights under the tariffs. The City Engineer has advised that with the re-conveyance of the well, the access easement is no longer needed.

Pursuant to NRS 278.480 Vacation or Abandonment of Street or Easement: If upon public hearing by the Board of Supervisors, the Board is satisfied that the public will not be materially injured by the proposed vacation it shall order the street or easement vacated.

With the recommended conditions of approval and if it is determined that based on the findings of fact the public will not be materially injured by the proposed vacation, it is recommended that the Planning Commission make a recommendation to the Board of Supervisors for approval of the requested abandonment.

**PUBLIC COMMENTS:** A public notice was sent by certified mail to the adjacent property owners per Nevada Revised States on February 7, 2020. At the writing of this report, there have been no comments received in opposition or support of the proposed abandonment.

**CITY DEPARTMENT/OUTSIDE AGENCY COMMENTS:** The following comments were received from City departments. Recommendations have been incorporated into the recommended conditions of approval, where applicable.

**Engineering:** The City Engineer has advised that the access easement is no longer needed, and he is supportive of abandonment.

**RIGHT-OF-WAY ABANDONMENT FINDINGS:** In accordance with Carson City Municipal Code Title 17.15.010, staff recommendation is based upon the following findings, which are substantiated in the public record.

**1. Will the abandonment result in material injury to the public?**

The access easement was intended to provide access to the well. The well is not in use, and the City no longer owns the well. Therefore, access to the well is not necessary. Abandonment of the access easement will not result in material injury to the public.

**2. What is the history regarding the street being dedicated or not?**

The City acquired the well and access easement and right-of-way in 2004 through a Gift Deed of Easement in consideration of the sum of one dollar.

**3. What should the reasonable consideration be if the street was not dedicated?**

No financial considerations are recommended. The well, access easement and right-of-way were acquired in consideration of a sum of one dollar, and the quitclaim deed of re-conveyance recorded in 2019 were in consideration of a sum of one dollar.

**4. If abandonment has a public benefit, how much of the public benefit should be offset against the determination of reasonable consideration?**

The existing access easement does not have a public benefit.

**5. What is the applicability of the parking value analysis applied to this request?**

There is no parking on the access easement.

**6. Should utilities easements be reserved, continued or vacated?**

AT&T Nevada, NV Energy, Southwest Gas Corporation, and Charter Communication do not have utilities in the easement. The request will only abandon the access easement created through Document 315661.

**7. Are any conditions of approval by the Board of Supervisors or recommendations by the Planning Commission or staff included?**

Only those conditions required by CCMC 18.02.105.9 are recommended.

Attachments:  
Draft Order of Abandonment  
Application (AB-2020-0001)

APN(s): 007-201-05

AN ORDER ABANDONING ENTIRELY THE ACCESS EASEMENT AND RIGHT-OF-WAY FOR THE MAINTENANCE OF A MUNICIPAL WATER PRODUCTION WELL, PIPELINE, AND ELECTRICAL CONDUITS CREATED THROUGH RECORDED DOCUMENT 315661 ON PROPERTY LOCATED AT 4110 COUNTY LINE ROAD, CARSON CITY, NV APN 007-201-05.

WHEREAS, on January 29, 2020, the Carson City Real Property Manager duly filed a written application seeking vacation and abandonment of the access easement and right-of-way that was created by recorded document 315661, a gift deed of easement located at 4110 County Line Road, Carson City, NV APN 007-201-05; and

WHEREAS, the application was thereafter referred to the Carson City Planning Commission and a public hearing was thereafter duly noticed and held before the Planning Commission on February 26, 2020. At the public hearing testimony was taken and the Commission, after discussion and deliberation, recommended approval of abandonment of the subject access easement and right-of-way to the Carson City Board of Supervisors, finding that the public would not be materially injured by the vacation; and

WHEREAS, the Carson City Board of Supervisors, at their regular and duly noticed meeting of March 19, 2020, found that the public would not be materially injured by the proposed vacation, and accordingly ordered the abandonment of the public right-of-way in question pursuant to the provisions of NRS 278.480, which among its provisions, requires a written order to be prepared and recorded in the office of the Carson City Recorder; and

WHEREAS, the vacation and abandonment of the access easement and

right-of-way is more particularly described on Document 315661 on record with the Carson City Recorder's Office.

NOW, THEREFORE, the Board of Supervisors hereby orders:

1. That the above-described access easement and right-of-way are hereby abandoned according to the provisions of NRS 278.480.
2. That if a utility company has a utility or an easement over or under the property hereby vacated and abandoned by this order, said easement or easements shall be continued and shall not be affected by the abandonment.
3. That utility facilities, which may presently exist within the areas affected by abandonment's, will be protected by easements. The abandonment is subject to reserving easements for utility companies and/or Carson City, as requested.

ORDERED this 19th day of March, 2020, by the Carson City Board of Supervisors.

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ROBERT CROWELL, MAYOR

ATTEST:

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AUBREY ROWLATT, Clerk-Recorder

<b>Carson City Planning Division</b> 108 E. Proctor Street, Carson City, NV 89701 Phone: (775) 887-2180 Email: <a href="mailto:planning@carson.org">planning@carson.org</a>		FOR OFFICE USE ONLY:  CCMC 17.15	
<b>FILE #</b>		<b>ABANDONMENT OF PUBLIC RIGHT-OF-WAY</b>	
APPLICANT Carson City		FEE*: \$2,450.00 + noticing fee *Due after application is deemed complete by staff	
PHONE # 775-283-7714		<input type="checkbox"/> SUBMITTAL PACKET – 4 Complete Packets (1 Unbound Original and 3 Copies) including: <input type="checkbox"/> Application Form <input type="checkbox"/> Written Project Description <input type="checkbox"/> Justification Statement <input type="checkbox"/> Site Map/Exhibit <input type="checkbox"/> Legal Descriptions <input type="checkbox"/> Development Engineering Memo of Support <input type="checkbox"/> Utility Statements <input type="checkbox"/> Title Report <input type="checkbox"/> Documentation of Taxes Paid to Date  <input type="checkbox"/> CD or USB DRIVE with complete application in PDF	
MAILING ADDRESS, CITY, STATE, ZIP 3505 Butti Way, Carson City, NV 89701-3498			
EMAIL ADDRESS CKleine@Carson.org			
PROPERTY OWNER Charles G. Hutter III			
PHONE #			
MAILING ADDRESS, CITY, STATE, ZIP 4110 County Line Road, Carson City, NV 89703		Application Reviewed and Received By:	
EMAIL ADDRESS		Submittal Deadline: Planning Commission application submittal <a href="#">schedule</a> .  Note: Submittals must be of sufficient clarity and detail to adequately review the request. Additional information may be required.	
APPLICANT AGENT/REPRESENTATIVE Cory J. Kleine, Real Property Mgr.			
PHONE # 775-283-7714			
MAILING ADDRESS, CITY, STATE, ZIP 3505 Butti Way, Carson City, NV 89701-3498		Submittal Deadline: Planning Commission application submittal <a href="#">schedule</a> .  Note: Submittals must be of sufficient clarity and detail to adequately review the request. Additional information may be required.	
EMAIL ADDRESS <div style="background-color: #cccccc; padding: 10px; text-align: center; font-size: 1.2em;">CKleine@Carson.org</div>			
Project's Assessor Parcel Number(s): 007-201-05		Street Address 4110 County Line Road, Carson City, NV 89703	

Briefly describe the proposed right-of-way abandonment. If you are abandoning an access, explain how the parcel will be accessed:

This request for abandonment is for that certain well and access easement granted to Carson City on March 19, 2004 as Document No. 315661. The well has been disconnected from Carson City water system and the improvements have been reconveyed back to the owner as approved by the Board of Supervisors on August 15, 2019, and as recorded in the Deed of Reconveyance on September 16, 2019 as Document No. 498392.

PROPERTY OWNER'S AFFIDAVIT

I, Cory J. Kleine, being duly deposed, do hereby affirm that Carson City is the record owner of the subject Easement property, and that I have knowledge of, and I agree to, the filing of this application.

Signature: [Signature] Address: 3505 Butti Way, Carson City, NV 89701 Date: 01-29-2020

Use additional page(s) if necessary for other names.

STATE OF NEVADA )  
COUNTY Carson )

On January, 29th, 2020 Cory James Kleine, personally appeared before me, a notary public, personally known (or proved) to me to be the person whose name is subscribed to the foregoing document and who acknowledged to me that he/she executed the foregoing document.

Notary Public: [Signature]

