



# Staff Report for Administrative Approval – Access Exception for a Private Right-of-Way

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** Consideration and action on a request to use a private right-of-way (ROW) as the primary access for one lot (Lot 1 of Cardon Estates Subdivision) without frontage on a street.

**Agenda Date:** Thursday, March 20, 2014

**Applicant:** Matthew Cardon

**File Number:** Access Exception (AE 2013-07)

### Property Information

**Approximate Address:** 7948 East 100 South (Approximate)

**Project Area:** 35 Acres

**Zoning:** Agricultural Valley-3 Zone (AV-3)

**Existing Land Use:** Agriculture

**Proposed Land Use:** Residential Lot

**Parcel ID:** 21-010-0028 (Subdivision Location) 21-007-0001, 21-010-0027, 21-026-0054, 21-026-0087

**Township, Range, Section:** T6N, R2E, Sections 8 & 17

### Adjacent Land Use

<b>North:</b> Agriculture	<b>South:</b> Agriculture/Residential
<b>East:</b> Agriculture	<b>West:</b> Agriculture

### Staff Information

**Report Presenter:** Sean Wilkinson  
swilkinson@co.weber.ut.us  
801-399-8765

**Report Reviewer:** SW

## Applicable Land Use Codes

- Weber County Land Use Code Title 104 (Zones) Chapter 6 (Agricultural Valley AV-3 Zone)
- Weber County Land Use Code Title 108 (Standards) Chapter 7 (Supplementary and Qualifying Regulations)

## Background

The applicant is requesting administrative approval to use a right-of-way (ROW) as the primary access for Lot 1 of Cardon Estates Subdivision which has no street frontage. Lot 1 is located at approximately 7948 East 100 South in the East Huntsville area and contains approximately 35 acres. The ROW connects Lot 1 to Highway 39 (approximately 1,350 feet) where the ROW entrance is located.

The applicant has provided a document, signed by the property owners where the ROW is located, which acknowledges their intent to grant a ROW. This document satisfies the condition for demonstrating legal and appropriate access.

The proposed ROW is required to meet the design, safety, and lot/parcel standards listed in Title 108 Chapter 7 Section 29 of the Weber County Land Use Code. In addition to these standards, the ROW is required to comply with the criteria and conditions listed in Section 31, which is specific to access by a private ROW. These standards are listed below under "Summary of Planning Division Considerations." Approval of the private ROW as the primary access does not act as approval of the subsequent subdivision plat.

## Summary of Planning Division Considerations

108-7-31. Lots/parcels which do not have frontage on a street, but which have access by a private right-of-way or access easement may, under certain circumstances, use a private right-of-way or access easement as the primary access. Approval is subject to the applicant demonstrating compliance with the following criteria and conditions:

1. Criteria

- a. The lot/parcel is a bona-fide agricultural parcel that is actively devoted to an agricultural use that is the main use; or
- b. Based on substantial evidence, it shall be shown that it is unfeasible or impractical to extend a street to serve such lot/parcel. Financial adversity shall not be considered; however, circumstances that may support an approval of a private right-of-way/access easement as access to a lot/parcel may include but not be limited to unusual soil, topographic, or property boundary conditions.

2. Conditions

- a. It shall be demonstrated that the agricultural parcel or other lot/parcel has appropriate and legal access due to historic use, court decree, or the execution of an easement, right-of-way, or other instrument capable of conveying or granting such right; and
- b. The landowner of record or authorized representative shall agree to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private right-of-way/easement with a street that would serve as a required access to additional lots. The agreement shall be in the form considered appropriate and acceptable to the office of the Weber County Recorder and shall recite and explain all matters of fact, including a lot/parcel boundary description, which are necessary to make the agreement intelligible and show its successive nature.

Staff has reviewed and analyzed the request for access by a private ROW using the criteria in Section 31. Based on review and analysis of staff's research and the information provided, staff has made the following determinations:

- Property boundary conditions are such that the parcel to be subdivided does not have access from a street and the applicants do not own additional property adjacent to a street that could be used to create a flag lot or build a road. If a road was required, other property owners adjacent to this property would have to agree to participate in its construction on their land.
- Construction of a road to serve this lot from Highway 39 is impractical because the property where the road would be located has several existing structures including a dwelling. A road located in this area would be disruptive to the existing dwelling and agricultural operation. The property also has an existing bridge which works for the ROW, but would have to be removed and reconstructed for a road. Due to these circumstances, construction of a road to serve one lot is impractical.
- The applicant has provided a document, signed by the property owners where the ROW is located, which acknowledges their intent to grant a ROW. This document satisfies the condition for demonstrating legal and appropriate access.
- Prior to receiving final occupancy on the new dwelling, the applicants must also sign an agreement to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private ROW with a street that would serve as a required access to additional lots.

### Conditions of Approval

- Prior to final subdivision approval, the applicants must also sign an agreement to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private ROW with a street that would serve as a required access to additional lots.
- Meeting applicable review agency requirements.

### Staff Administrative Approval

Based upon the findings listed above, administrative approval for use of a private right-of-way as the primary access for a lot without street frontage (Lot 1 of Cardon Estates Subdivision) is hereby approved this 20<sup>th</sup> day of March, 2014.

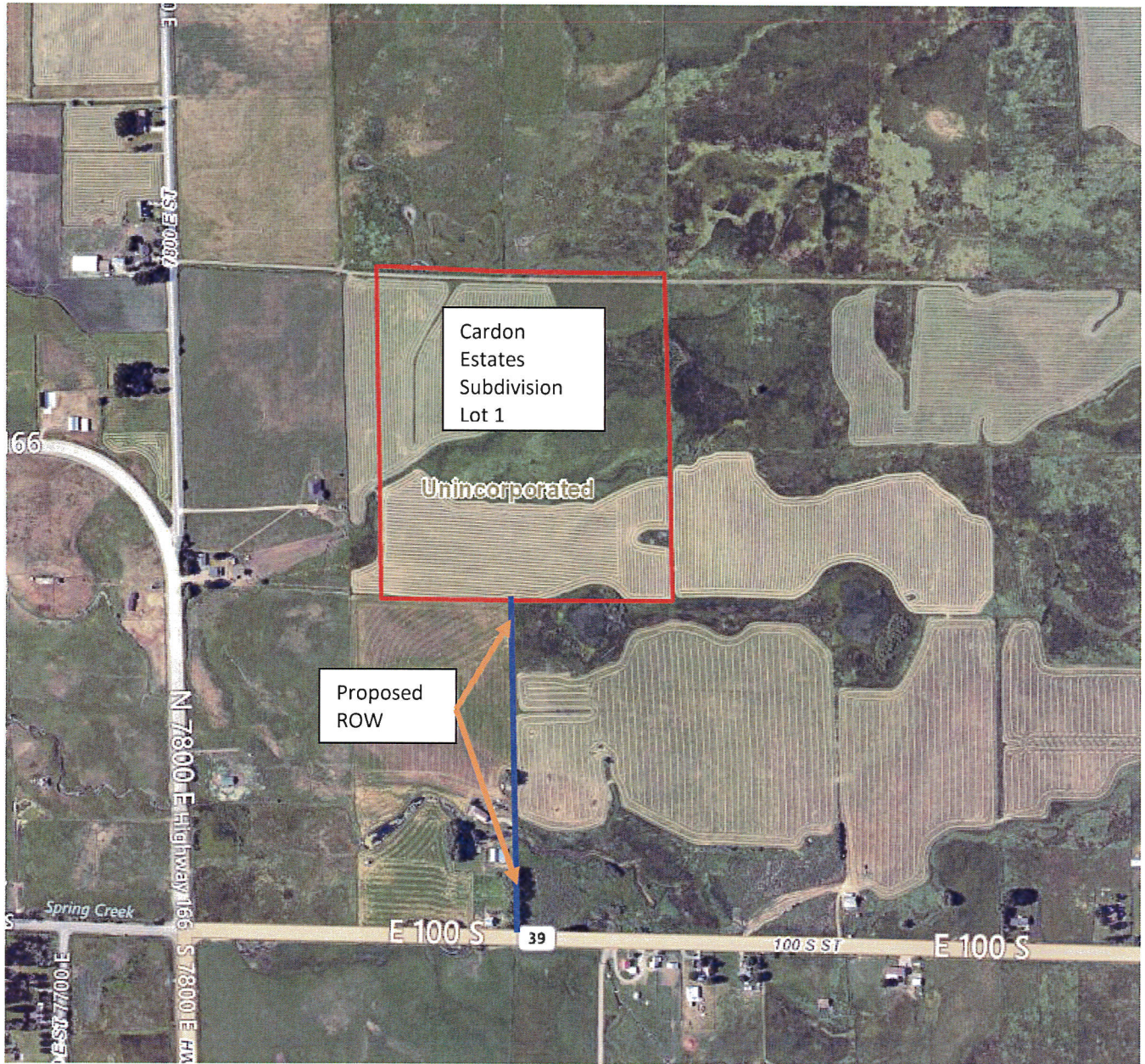


Sean Wilkinson  
Weber County Planning Director

## Exhibits

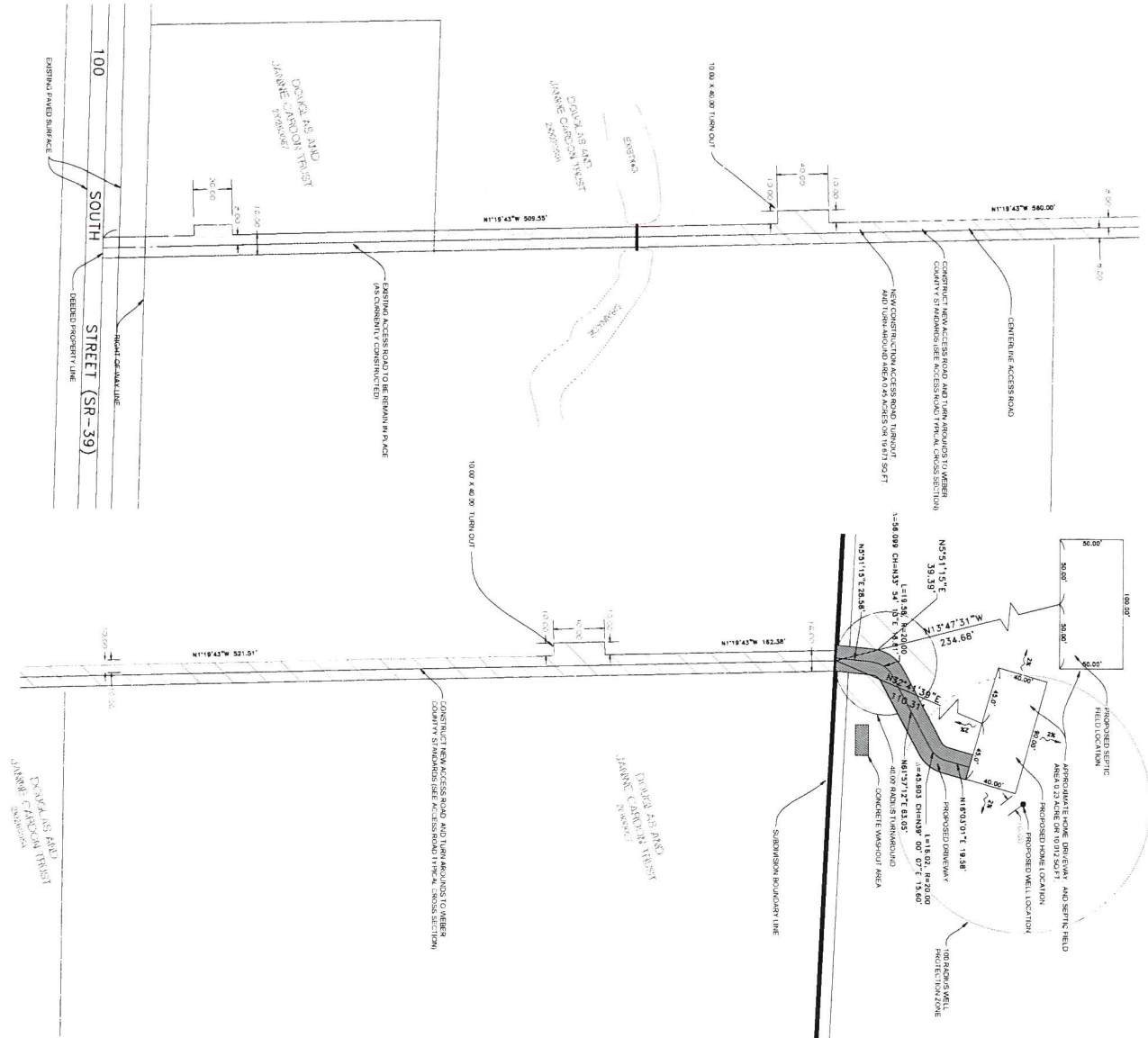
- A. Cardon Estates Subdivision Plat
- B. Cardon Estates Site Improvement Plan

## Map





# Exhibit B

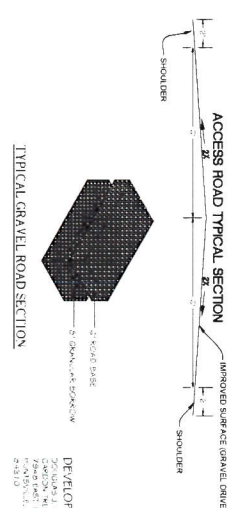
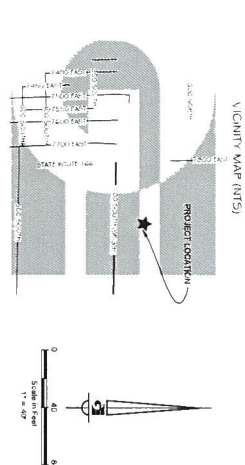


## CARDON SUBDIVISION

SITE PLAN  
WEBER COUNTY, UTAH  
FEBRUARY 2014

NOTES:  
1. ALL DIMENSIONS ARE IN FEET AND INCHES.  
2. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
4. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
5. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
6. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
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9. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
10. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

- STREET MAINTENANCE NOTES:**
- REMOVE ALL SIGNAGE DEPOSITED ON PAVED ROADWAY IMMEDIATELY.
  - REMOVE ALL SIGNAGE DEPOSITED ON UNPAVED ROADWAY IMMEDIATELY.
  - REMOVE ALL SIGNAGE DEPOSITED ON UNPAVED ROADWAY IMMEDIATELY.
  - REMOVE ALL SIGNAGE DEPOSITED ON UNPAVED ROADWAY IMMEDIATELY.
- NOTE:**  
1. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
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9. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
10. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.



REVISIONS		SCALE: 1" = 40'
DATE	DESCRIPTION	DATE: 11/11/13
		DESIGN: KHW
		DRAWN: KHW
		CHECKED: ###

**Gardner Engineering**  
5875 S. Adams Ave.  
P.O. Box 230  
Ogden, Utah 84405  
(801) 476-0202

**SITE PLAN**  
**CARDON SUBDIVISION**  
**NOVEMBER 2014**  
**WEBER COUNTY, UTAH**

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