



LARAMIE COUNTY PLANNING & DEVELOPMENT DEPARTMENT

Planning • Building

MEMORANDUM

TO: Laramie County Planning Commission

FROM: Brad Emmons, Planning Director

DATE: September 23, 2021

TITLE: Review and action of a Variance for the “Emery Accessory Building”, located at 5606 Caballo Trail, Cheyenne, WY 82007, Tract 45, Bison Crossing, 3rd Filing, Laramie County, WY.

EXECUTIVE SUMMARY

James and Tamara Emery of 5606 Caballo Trail submitted an application seeking approval of a front yard variance for a 40’x 64’ storage structure. The application was submitted for the purpose of seeking a 9’ setback variance to allow the structure to be setback 16’ from the front yard lot line within the Agricultural Residential (AR) Zone District.

BACKGROUND

Mr. Emery met with the Planning Staff to discuss the process for seeking a variance based on the location of the structure due to the topographical nature of the tract.

Pertinent Regulations:

- **Section 1-2-101** of the Laramie County Land Use Regulations, governing the procedures for approving a variance.
- **Section 2-2-118** of the Laramie County Land Use Regulations, governing Accessory Setbacks.
- **Section 4-2-101** of the Laramie County Land Use Regulations, governing the AR – Agricultural Residential Zone District.

DISCUSSION

The requested variance seeks relief from Section 2-2-118(a) (i), which states that for any accessory structure constructed within the AR Zone District, the required setback is 25' from the front property line. Due to the topography of the tract, Mr. Emery would like to place the structure 16' from the front property line. If the variance is granted the setback for this structure would be for 16' from the front property line.

The Comprehensive Plan designates the property as URI- Urban Rural Interface, with areas in the designation allowing for more intensive land uses and possible service-orientated development. Properties that are large-low density residential lots or intensive agricultural uses are should be deterred, but existing agricultural or low density residential uses may exist.

The PlanCheyenne category for the property is RR-Rural Residential, which supports single family residences on lots ideally 2.5 acres or larger that can have farm animals and horses. Within this category, development will be less dense, having one residential unit per 5-10 acres. PlanCheyenne lists the Agricultural Residential (AR), Agricultural and Rural Residential (A1) and Agricultural (A2) Zone Districts as applicable within the categorical area.

Per Section 4-2-101(d) governing setbacks within the AR Zone District, "*Accessory structure setbacks shall conform to Section 2-2-118 of this regulation.*" All Accessory structures are a Use-by-Right within all Zone Districts and unincorporated Laramie County. The applicant has verified that the proposed structure is not within or encroaching on any recorded easement and the total area of the structure does not exceed 30% of the total property area.

The Planning Office received a plot plan on August 16, 2021; all related agency comments have been addressed.

Required public notice has taken place. Neighbors received notice letters by certified mail per Section 1-2-104. Staff received no written comments from adjacent landowners.

The Planning Commission may grant a variance only if it finds that the application satisfies the following criteria:

- i. That there are unusual physical circumstances or conditions, including, without limitation, irregularity, narrowness or shallowness of the lot, exceptional topographical or other physical conditions peculiar to the affected property;
- ii. That the strict enforcement of the regulation would be detrimental to the existing property, adjacent property, or existing environment;
- iii. That the unusual physical circumstances or conditions do not exist throughout the neighborhood or zoning district in which the property is located;
- iv. That because of the unusual physical circumstances or conditions, the property cannot reasonably be developed in a manner substantially equivalent to the other landowners in the neighborhood;
- v. That the unusual physical circumstances or conditions are not the result of actions of the applicant taken after the adoption of this regulation; and

- vi. That the variance, if granted:
 - A. Would not harm the public safety and welfare;
 - B. Would not alter the essential character of the neighborhood or district in which the lot is located;
 - C. Would not substantially or permanently impair the reasonable use and enjoyment or development of adjacent property; and
 - D. Would be the minimum variance that would afford relief and would be the least modification of the applicable provisions of the zoning regulation.

Based on the findings of the Planning Staff, criteria i, iv, v and vi have been met, and rely on the Planning Commission's consideration of the remaining criteria's approval.

RECOMMENDATION and FINDINGS

If the planning commission finds the criteria specified in section 1-2-101(b) has been met, use the motion to approve. If the planning commission finds the criteria has not been met, use the motion to deny.

Based on evidence provided, staff recommends the Planning Commission find the following:

- a. The application *meets* the criteria listed in Section 1-2-101(b)(i, iv, v and vi);

And that the Planning Commission approve a setback variance of 9-feet to allow for the construction of an 40-ft x 64-ft storage structure located on Tract 45, Bison Crossing, 3rd Filing, Laramie County, WY.

PROPOSED MOTIONS

To Approve:

Based on evidence provided, the Planning Commission finds the following:

- a. The application *meets* the criteria listed in Section 1-2-101(b)(i, iv, v and vi);

and the Planning Commission approves a setback variance of 9-feet to allow for the construction of an 40-ft x 64-ft storage structure located on Tract 45, Bison Crossing, 3rd Filing, Laramie County, WY.

To Deny:

Based on evidence provided, the Planning Commission finds the following:

- a. The application *does not meet* the criteria listed in Section 1-2-101(b)(i, iv, v and vi);

And the Planning Commission denies a setback variance of 9-feet to allow for the construction of an 40-ft x 64-ft storage structure located on Tract 45, Bison Crossing, 3rd Filing, Laramie County, WY.

ATTACHMENTS

- Attachment 1: Location Map**
- Attachment 2: Aerial Map**
- Attachment 3: Comprehensive Plan Map**
- Attachment 4: PlanCheyenne Map**
- Attachment 5: Current Zoning Map**
- Attachment 6: Applicant Justification Letter**
- Attachment 7: Plot Plan**
- Attachment 8: Agency Comment Report**
- Attachment 9: Resolution Exhibit 'A' – Plot Plan**
- Attachment 10: Resolution**

Laramie County, Wyoming



Emery Variance Request

PZ-21-00253

Location Map

Subject
Properties



September 2021



0 200 400
Feet

Legend

Property Lines

Streets

Classification

Interstate

Arterial

Collector

Local

Platted, Not Built

Private









Eagleview

Legend

 Property Lines

Streets

Classification

-  Interstate
-  Arterial
-  Collector
-  Local
-  Platted, Not Built
-  Private

Laramie County, Wyoming



Emery Variance Request

PZ-21-00253

Aerial Map

Subject Properties

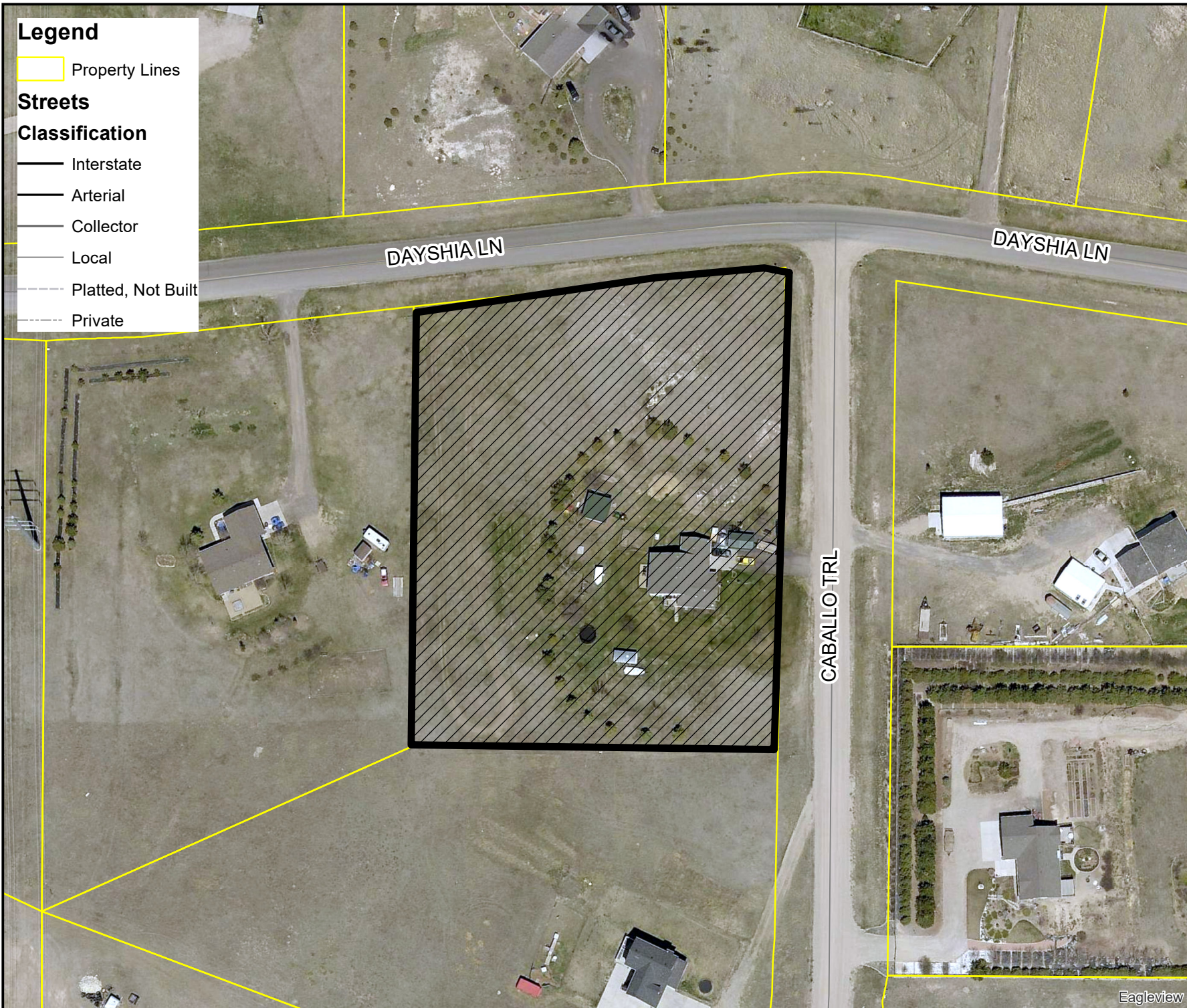


September 2021



0 60 120
Feet

Eagleview




Legend

 Property Lines

Future Land Use Districts

OTHER

 Urban-Rural Interface (URI)

 Rural Metro (RM)

 Rural Ag Interface (RAI)

 Ag & Range Land (AGR)

Laramie County, Wyoming



Emery Variance Request

PZ-21-00253

Comprehensive Plan Map

Subject
Properties

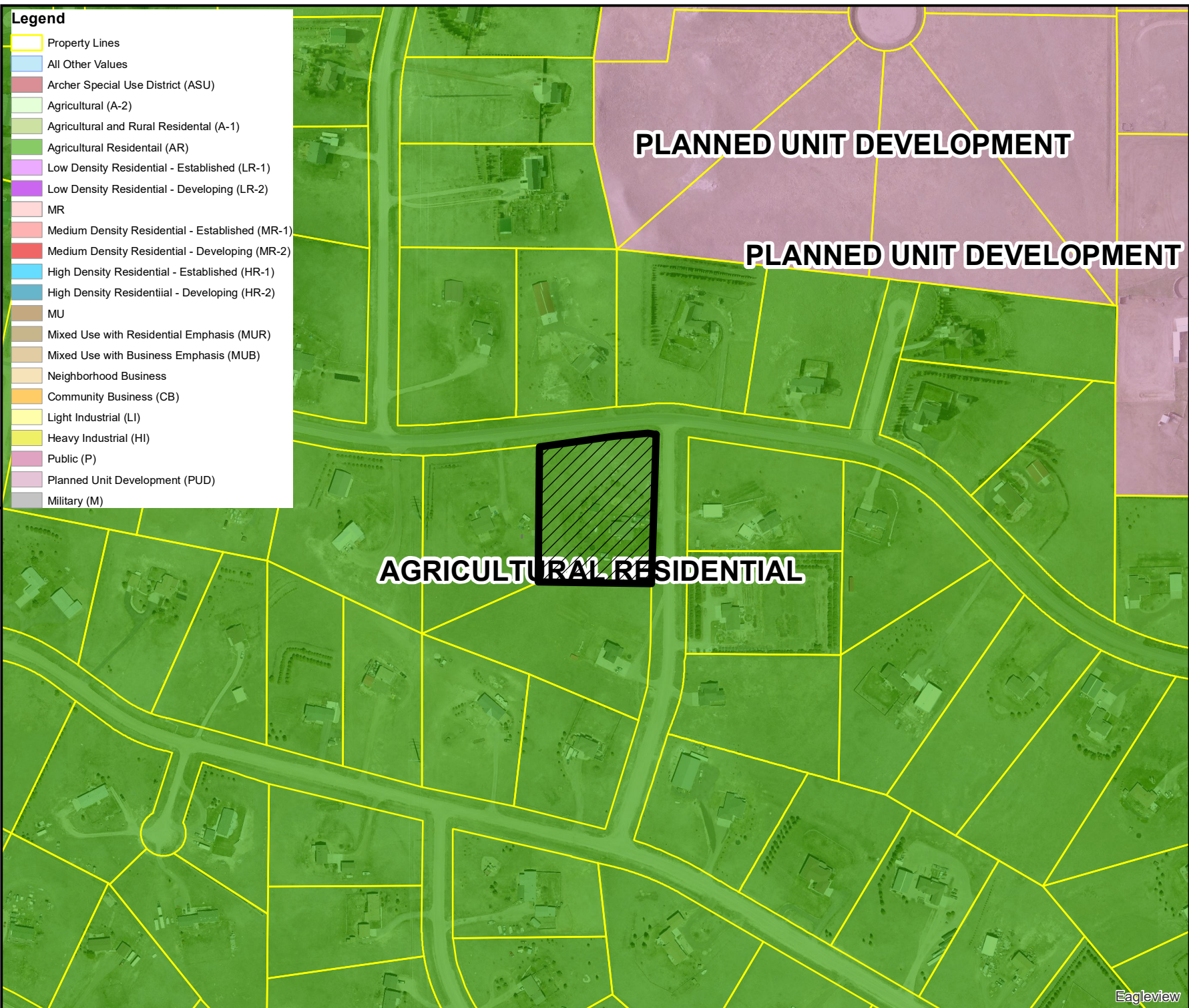


September 2021



0 200 400
Feet

Eagleview



Laramie County, Wyoming

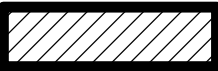


**Emery
Variance
Request**

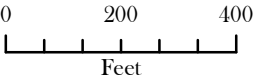
PZ-21-00253

**Current Zoning
Map**

**Subject
Properties**



September 2021



This map is made possible through the Cheyenne and Laramie County Cooperative GIS Program (CLCCGIS). The data contained herein was collected for its use and is for display and planning purposes only. The CLCCGIS will not be held liable as to the validity, correctness, accuracy, completeness, and/or reliability of the data. The CLCCGIS furthermore assumes no liability associated with the use or misuse of this information.

08/12/2021

PLANNING & DEVELOPMENT
OFFICE

Dear sir

I am requesting a variance to the 25' setback requirement instead allowing construction on the 16' public utility easement line for a pole barn to be used as garage and workshop. The location selected is ideal as it is most conducive for the intended purposes of the building. Is the only location that will not require additional driveway access. Will not affect drainage. Will preserve the wildlife habitat (fox den) located on the property.

The 2 5/8 acre property has some terrain and other factors that limit placement. The terrain rises quickly to the east and has a large hill and rock ledge in the northeast 1/4 that support a fox den and community of foxes November to April. The west half is the only suitable location for a septic system. Finally, to the south water drains off of Caballo trl from the south and flows down the southern section of the property.

The location was selected as it

- 1: is the only location that would not require additional driveway access.
- 2: minimizes impact to wildlife.
- 3: preserves the last remaining viable location for a septic system.
- 4: preserves natural drainage.

Item 1: is pretty self explanatory.

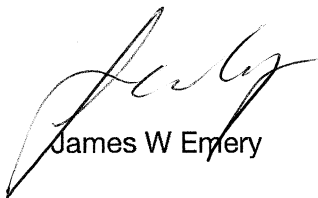
Item 2: having minimum impact to the community of foxes not only during construction but also over the life and use of the building is a high priority.

Item 3: only 8 years after its construction our original septic system located southwest failed for unknown reasons. We replaced it with a larger one to the west and as of yet have not had any problem with it . However given that we don't know why it failed so soon I am compelled to preserve the location northwest as the last viable location for a septic system.

Item 4: as stated the west is ruled out for septic system purposes. The south for drainage due to water running off the road and down the slope to the west during snow melt and thunderstorms. Placing a building in this area will reduce absorption and require excess water be diverted.

I am asking for the variance in order to keep the structure as close to the top of the hill as possible and remain as far from the fox den as possible. Keeping the structure on top of the hill preserves natural drainage and will minimize the excavation and grade work required. As the structure moves to the east more water that would have flowed to the north along Caballo trl will flow west. Additionally the added excavation and grade work will increasingly encroach towards the rock ledge and fox den and require the removal of several trees.

I greatly appreciate your consideration.
Respectfully submitted

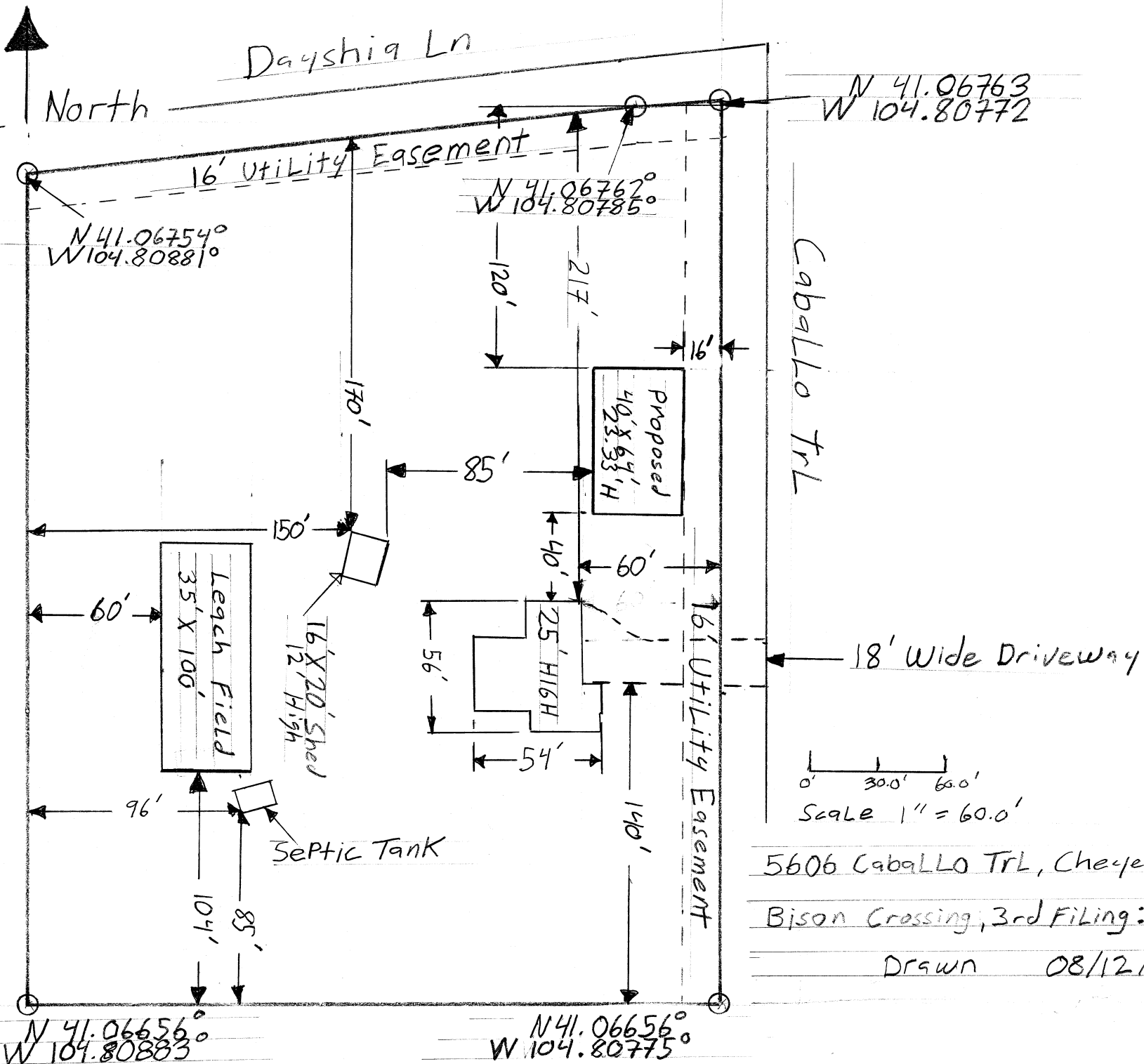


James W Emery

LARAMIE
COUNTY

PLANNING & DEVELOPMENT
OFFICE

5606 Caballo Trl, Cheyenne WY 82007
Bison Crossing, 3rd Filing: Tract 45
Drawn 08/12/2021



Intraoffice: Planners, Marissa Pomerleau Comments Attached 09/07/2021

1. Applicant is seeking approval of a variance from the setback requirements per Section 2-2-118(a)(i).
2. Zone AR setback requirements for accessory structures:
For sidewalks > 10':
25' from front property line(9' variance)
15' from side and rear property lines
3. Criteria for approval based upon Section 1-2-101(b)(1-viii). Criteria ii,iv, v, vii, and viii apply to this application. Fulfillment of Criteria i, iii, and vi must be considered by the Planning Commission in order for approval.
4. Section 2-2-118(ii) requires that no Accessory Structure be more than 30% of the total property area. The proposed building is in compliance.

AGENCIES WITH NO COMMENT:

County Assessor
County Attorney
County Real Estate Office
Environmental Health

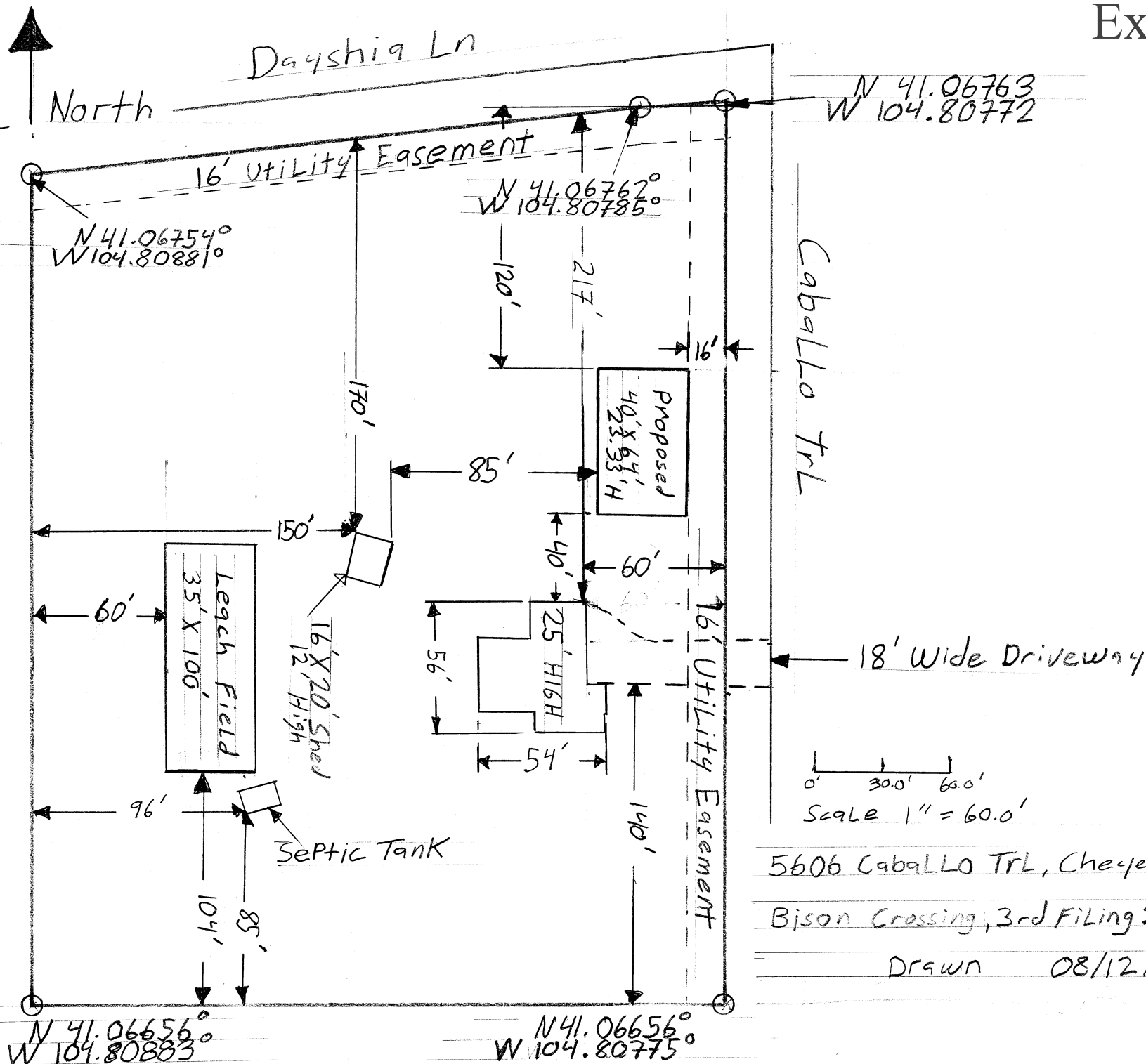
AGENCIES WITH NO RESPONSE:

County Clerk
County Treasurer

Exhibit 'A'

LARAMIE
COUNTY

PLANNING & DEVELOPMENT
OFFICE



5606 Caballo Trl, Cheyenne WY 82007

Bison Crossing, 3rd Filing: Tract 45

Drawn 08/12/2021

RESOLUTION # _____

A RESOLUTION DENYING A VARIANCE OF 9 FEET TO ALLOW FOR CONSTRUCTION OF AN 40-FT X 64-FT STORAGE STRUCTURE LOCATED ON TRACT 45, BISON CROSSING, 3RD FILING, LARAMIE COUNTY, WY.

WHEREAS, Wyoming State Statutes §18-5-201 to 18-5-208; §18-5-301 to 18-5-315 authorize Laramie County, in promoting the public health, safety, morals and general welfare of the county, to regulate the use of land through zoning in unincorporated Laramie County; and

WHEREAS, The Laramie County Board of Commissioners have previously adopted the Laramie County Land Use Regulations; and

WHEREAS, the power to hear and decide on applications for the variance of numerical requirements of the Laramie County Land Use Regulations has been assigned to the Laramie County Planning Commission; and

WHEREAS, the requested variance does not satisfy the criteria for a variance pursuant to section 1-2-101 of the Laramie County Land Use Regulations; and

NOW THEREFORE BE IT RESOLVED BY THE LARAMIE COUNTY PLANNING COMMISSION, as follows:

The Laramie County Planning Commission finds that:

- a. The application *does not meet* the criteria listed in Section 1-2-101(b)(i, iv, v and vi);

and the Planning Commission denies a setback variance of 9-feet to allow for the construction of an 40-ft x 64-ft storage structure located on Tract 45, Bison Crossing, 3rd Filing, Laramie County, WYas show on the attached Exhibit ‘A’ Plot Plan.

PRESENTED, READ, AND DENIED this _____ day of _____, 2021.

LARAMIE COUNTY PLANNING COMMISSION

Jody Clark, Chairman

State of Wyoming
County of Laramie County

Signed or attested before me on _____, 20__ by _____,
as Chairman of the Laramie County Planning Commission.

(Seal)

(Signature of notarial officer)

Notary Public

My Commission expires: _____

Reviewed and approved as to form:

Laramie County Attorney’s Office

RESOLUTION # _____

**A RESOLUTION APPROVING A VARIANCE OF 9 FEET TO ALLOW FOR
CONSTRUCTION OF AN 40-FT X 64-FT STORAGE STRUCTURE LOCATED ON
TRACT 45, BISON CROSSING, 3RD FILING, LARAMIE COUNTY, WY.**

WHEREAS, Wyoming State Statutes §18-5-201 to 18-5-208; §18-5-301 to 18-5-315 authorize Laramie County, in promoting the public health, safety, morals and general welfare of the county, to regulate the use of land through zoning in unincorporated Laramie County; and

WHEREAS, The Laramie County Board of Commissioners have previously adopted the Laramie County Land Use Regulations; and

WHEREAS, the power to hear and decide on applications for the variance of numerical requirements of the Laramie County Land Use Regulations has been assigned to the Laramie County Planning Commission; and

WHEREAS, the requested variance meets the criteria for a variance pursuant to section 1-2-101 of the Laramie County Land Use Regulations; and

NOW THEREFORE BE IT RESOLVED BY THE LARAMIE COUNTY PLANNING COMMISSION, as follows:

The Laramie County Planning Commission finds that:

- a. The application *meets* the criteria listed in Section 1-2-101(b)(i, iv, v and vi);

and the Planning Commission approves a setback variance of 9-feet to allow for the construction of an 40-ft x 64-ft storage located on Tract 45, Bison Crossing, 3rd Filing, Laramie County, WY as show on the attached Exhibit ‘A’ Plot Plan.

PRESENTED, READ, PASSED, APPROVED AND ADOPTED this _____ day of _____, 2021.

LARAMIE COUNTY PLANNING COMMISSION

Jody Clark, Chairman

State of Wyoming
County of Laramie County

Signed or attested before me on _____, 20__ by _____,
as Chairman of the Laramie County Planning Commission.

(Seal)

(Signature of notarial officer)

Notary Public

My Commission expires: _____

Reviewed and approved as to form:

Laramie County Attorney’s Office