

**City of Wagner  
Board of Adjustments  
Agenda  
Monday September 16th, 2024  
Wagner City Hall  
5:30 PM**

\*\*\* Pledge of Allegiance.

\*\*\* Conflict of Interest Declaration.

\*\*\* Approval of Agenda.

\*\*\* Public Comment (*Public Comment offers opportunity for anyone NOT listed on the agenda to address the board of adjustments. Speaking time will be limited to 3 minutes. No action will be taken on questions or items not on the agenda*)

\*\*\* Public Hearing regarding a variance request by Jay Wunder of 12 feet into the required setback for a front lot.

\*\*\* Consideration of a recommendation of approval from the planning board on a variance request of 12 feet on a setback for Jay Wunder located at 417 First Street SW.

\*\*\* Public Hearing regarding a variance request by Cody Spreckels for a variance of 836 square feet on an accessory building over the 3,000 square foot limit.

\*\*\* Consideration of a recommendation of approval from the planning board on a variance request of 836 square feet on an accessory building by Cody Spreckels located at 39326 Sd Hwy 46.

\*\*\* Adjournment

\*\*\* **Note: This agenda is subject to change 24 hours prior to council meeting. SDCL 1-25-1.1 states that in order for the council to take action on an item, the city office must be notified at least 24 hours in advance of the meeting, stating the item to be considered. Public comments are welcome, but no action can be taken by the council on comments received at the meeting.**

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Board-

Here are a few things on the items on the agenda-

1<sup>st</sup> item- is a variance on a corner lot. He is asking for a 12 foot variance. Which means the setback is from ABOUT the curb is 20 feet he is wanting to only be 8 feet away from the curb..... keep in mind this is at an intersection, so line of sight matters

2<sup>nd</sup> item- is a variance for 836 square feet for an accessory building. The set amount for accessory buildings is 3000 square feet in that zone. If you look at the definition of variances, they are limited to height bulk and yard requirements. An option was given to rezone that parcel to commercial and that would not limit the size of building.

The sheet describing the process in which how or when a variance should be approved is enclosed. A hardship should be met.

Any questions give me a call -Kesa

**Wagner Planning and Zoning Commission**  
**Monday August 26th, 2024**  
**Wagner Armory**  
**5:30PM**

The meeting was called to order by Sharon Haar at 5:45 pm.

The Pledge of Allegiance was recited.

Mrs. Haar asked if anyone would like to declare a conflict of interest. Mike Novak declared a conflict with an item on the agenda for Jay Wunder. Sharon Haar declared a conflict with the item for Nathan Kafka/ Fischer Farms on the agenda.

A motion was made by Dehaan, seconded by Novak for the approval of the agenda. All voted aye, motion carried.

Members Present: Sharon Haar, Jean Pirner, Dave Brecke, Mike Novak, Don Dehaan Absent: none  
ETJ Members: Kyle Tjeerdsma, Janet Lhotak, and Ruth Bouza Absent: none. Others present: Kesa Alexander, Zoning Administrator/ City Clerk, Deb Houseman, City Administrator, Brian McGinnis District III, and City Attorney, Beau Barrett. There was 70 people from the public who signed in to attend the meeting. A sign was posted for the possibility of a quorum if Alderman attended.

Sharon Haar stated she was not facilitating the meeting the city attorney Beau Barrett, would be the one facilitating it.

Beau Barrett stated his name and title and said he would be the one conducting the meeting.

Mr. Barrett called for public comment and clarified the parameters of public comment on the agenda.

Jolene Stewart stepped forward to state her concerns with ETJ requirements such as manure management, signs and shelterbelts.

Mr. Barrett closed public comment

The attorney clarified the first items on the agenda would only be items city board members would be acting on since it is within city limits.

Barrett read the first item of consideration for a replat submitted by Commercial State Bank of Swatek Tracts 1 and 2 in Lots 11 and 12, Block 2, original City of Wagner Addition, Charles Mix County, South Dakota.

No one was present to speak on the plat.

No discussion was held.

Barrett called for a motion to approve the plat. Motion was made by Dehaan, seconded by Novak. All voted aye, motion carried.

Second item on the agenda was a request for a variance of 12 feet by Jay Wunder. Mr. Wunder was present to briefly explain his proposed work.

Mr. Barrett then called for a motion to open the public hearing. Motion made by Brecke, seconded by Pirner. All voted aye, motion carried.  
No one appeared to speak on the item.

A motion to close the public hearing was made by Brecke, seconded by Pirner. All voted aye, motion carried.

No discussion was held.

Barrett called for a motion to approve the variance for Jay Wunder of 12 feet into the required setback for a front lot. Motion was made by Dehaan, seconded by Brecke. All voted aye, motion carried.

Barrett then stated that the remaining agenda items the ETJ board will be included on.

Cody Spreckles was present to explain his request for the variance.

The board discussed concerns on commercial use in a residential area.

The attorney briefly clarified a variance, asking Mr. McGinnis to read aloud the zoning book, specifically on when to consider a variance.

No one appeared for public hearing.

No other discussion was held.

Mr Barrett called for a motion to approve the variance of 836 square feet on an accessory building. Motion was made by Tjeerdsma, seconded by Novak. All voted aye, motion carried.

Mr. Barrett then asked Nathan Kafka to present his request to amend the ETJ boundaries to exclude 80 acres for a feedlot to operate.

Nathan Kafka presented his request addressing concerns of noise and odor. His manure management plan does not sit within the ETJ boundaries. He presented the economic value of the feedlot.

Mr. Barrett then asked the board to decide a time limit for the public hearing since there were many that signed to speak. Mr. Barrett proposed 3 minutes. Motion was made for 3 minutes by Dehaan, Seconded by Brecke. All voted aye, motion carried.

Mr. Barrett then opened up the public hearing portion for the request.

Dayla Picotte representing Yankton Sioux Tribe appeared in opposition to feedlot due to tribal lands near the feedlot.

Jason Cooke Vice Chairman of Yankton Sioux Tribe appeared in opposition due to tribal lands near feedlot and that the tribe was not notified of this request.

Ken Thaler appeared and asked the board to not support this request due to environmental reasons and the history of Wagner and these particular issues and it is the whole reason we enacted the ETJ.

Roger Schroeder appeared stating he was on the council when they approved the ETJ boundary and was not aware that this area was included.

Jeff Stewart spoke in opposition to carving out the 80 acres. He felt there were more questions that needed to be asked.

Jolene Stewart spoke that rules should be applied to everyone not just someone's last name or amount of money someone has. She also felt regulations needed to be looked at.

Julie Weddell spoke that she wanted to share in the denial of feedlot. The odor study was a joke and not accurate.

Philip Kafka spoke that the feedlot would bring in 600 trucks and stimulate the city economy.

Angie Fousek stated she lives near the area when it was a dairy and it never smelled, and it was never noisy. She was sad young people want to leave the town. This is an opportunity for young people.

Ron Kokesh spoke and had a question on what his property was zoned. He wanted to see the feedlot go through.

Frances Bear spoke on how people had an issue with the hog farm and this is no different, investors have other interests. There is no contract that he will buy things in city limits.

Daniel Zephier stated environmental concerns and is opposed. More research needed to be done

Dan Kafka stated it smells, its dusty, its noisy- it puts food in your mouths.

Robin Bear was upset the tribe wasn't notified of request and was upset no tribal members are on the boards.

Whinny Weddell wanted to share health effects of flooding in lands with feedlots.

Mike Van duysen appeared and stated he has been around cattle all his life and never seen anything travel over a mile. Vote in favor of it.

Justin Bouza stated he had plat issues with ETJ and to vote in favor of the feedlot.

Mr. Barrett asked for a motion to close the public hearing. Motion was made by Dehaan, seconded by Bouza. All voted aye, motion carried.

No discussion was held.

Mr. Barrett asked for a motion to approve the request to amend the boundaries of the ETJ to exclude 80 acres for a feedlot. Motion was made by Tjeerdsma, seconded by Lhotak. Barrett stated the vote needed to be a roll call vote and handed the microphone to Alexander who knew the names of the board. Roll call vote was taken Bouza-yes, Lhotak-yes, Dehaan-yes, Tjeerdsma-yes, Novak-Yes, Brecke-yes, Pirner-yes, Haar-abstained. Yes-7 no-0 Abstained-1. Motion passes.

Mr. Barrett said this is a recommendation of approval to the council. He then announced this concludes the agenda for the meeting.

Barrett asked for a motion to adjourn. Motion made by Dehaan. Seconded by Bouza. All voted aye, motion carried.

The meeting was adjourned at 7:03 p.m.

Respectfully submitted,

Kesa Alexander  
Zoning Administrator/City Clerk

Published once at the approximate cost of \_\_\_\_\_

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- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
- G. Required yards and other open spaces; and
- H. General compatibility with adjacent properties and other property in the district.

#### Section 2011 Board of Adjustment Variance Process

The Board of Adjustment shall have the power to hear requests for variances from this ordinance in instances where strict enforcement would cause unnecessary hardship, and to grant such variances only when the following provisions apply:

1. No such variance shall be authorized by the Board of Adjustment unless it finds that the strict application of the ordinance would produce hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes on convenience, profit, and caprice;
2. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance;
3. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variances;
4. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until a written application, pursuant to Section 1813 for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; that literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district;
5. The Planning Commission has reviewed the application pursuant of Section 1905 of this ordinance;
6. Notice of public hearing shall be given, as in Section 2009 (3-5); the public hearing shall be held. Any party may appear in person for by agent or by

attorney; the Board of Adjustment shall make findings that the requirements of this Section have been met by the applicant for a variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare;

7. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 2203 of this ordinance; and
8. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

City of Wagner  
**BUILDING PERMIT APPLICATION**

1. Name of Applicant: Jay (James) Wunder  
Mailing Address: P.O. Box 622 Phone: 481-1570 Email: jwunder@wbsi.biz
2. Physical Address at which structure is to be located: 417 1<sup>st</sup> St SW
3. Legal Description: Lot No. 1+2 Blk. 1 Tract All
4. Zoned: \_\_\_\_\_ Parcel #: 2814W 28.63.01.001
5. Lot size: 140 x 100
6. Describe work to be done: REMOVE EXISTING DECK AND INSTALL 14'6" X 14'6" FOUR SEASONS ROOM, AND ADD A 26' X 16' BEDROOM ADDITION ON WEST SIDE OF HOUSE
7. Contractor: Name WAGNER Building & Supply Inc  
Address 39379 SD Hwy 46, WAGNER, SD Phone (605)-384-3654
8. Estimated cost of work: \$ 90,000.00
9. Size of proposed structure: L 14'6" x W 14'6" x H 8' L 16' x W 26' x H 8'
10. Type of material used for structure: CONCRETE FOUNDATION, WOOD STRUCTURE
11. Distance structure will be located from lot lines: (Lot line starts where street or alley right of way ends.  
Street right of way typically 33 ft from center line. Alley right of way typically 10 feet from center.)
- |              |                |           |                         |         |               |      |
|--------------|----------------|-----------|-------------------------|---------|---------------|------|
| FOUR SEASONS | a. Front Yard: | <u>15</u> | feet from property line | BEDROOM | a. FRONT YARD | NA   |
|              | b. Rear Yard:  | <u>NA</u> | feet from property line |         | b. REAR YARD  | NA   |
|              | c. Side Yard:  | <u>NA</u> | feet from property line |         | c. SIDE YARD  | 8'6" |
|              | d. Side Yard:  | <u>NA</u> | feet from property line |         | d. SIDE YARD  | NA   |
12. Approximate Start Date SEPT 16<sup>th</sup> Completion Date JUNE, 2025
13. Check off the following: Site plan drawn to scale including-
- ☒ North Arrow
  - ☒ Dimensions of new structure
  - ☒ Existing structures on lot
  - ☒ Distance from property lines and right of ways
  - ☒ All adjacent streets and alleys

**NOTICE**

This permit will expire if work or construction authorized is not commenced within 180 days. If work or construction is not completed within (2) years of issuance, this permit will expire.

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulation construction or the performance of construction.

Jay Wunder 8-05-24  
Signature of Owner Date

\_\_\_\_\_  
Zoning Administrator or Authorized Representative Date

For Office Use Only	
Permit Fee: \$	<u>25</u>
Fine: \$	
Receipt #:	<u>2384</u>
Cash/Check	
Site Inspection Date:	
Building Permit Sign Issued:	
BUILDING PERMIT #:	

2024-05-26

# CITY OF WAGNER

(Print or Type)

APPLICATION #:

NAME:

ADDRESS:

DAYTIME PHONE#:

PROPERTY ADDRESS:

LEGAL:

DATE OF BUILDING PERMIT REQUEST:

DATE OF DENIAL:

REASON FOR BUILDING PERMIT DENIAL:

EXISTING USE OF PROPERTY:

PRESENT ZONING CLASSIFICATION

PROPOSED ZONING CLASSIFICATION

SECTION OF CODE

REASON FOR REQUEST:

LIST SPECIFIC HARDSHIPS:

Applications for Conditional Use Permits and/or Rezoning Requests will not be accepted until the following information has been provided by the applicant:

- A) Detailed Site Plan (Refer to handout)
- B) Location and Use of Adjacent Structures
- C) Application Fee

SCHEDULED FOR PLANNING COMMISSION ACTION (Date):

SCHEDULED FOR BOARD OF ADJUSTMENT ACTION (Date):

\*TENTATIVE DATE (IF APPEALED): Final date announced at Planning Commission Meeting:

APPLICATION FEE:

CHECK #:

RECEIPT #:

The undersigned acknowledges/declares that all the facts and representations stated in this application are true and by signing, acknowledges the cost and the procedure for the processing of the application and certifies that the property described by the provided legal description, is not tax delinquent.

Name of Applicant/Owner

Date

Signature of Applicant/Owner

Date

CONDITIONAL USE

REZONING

☒ VARIANCE



City of Wagner  
**BUILDING PERMIT APPLICATION**

1. Name of Applicant: Cody + Dana Sprackels  
Mailing Address: Po Box 72 Phone: 605-481-8359 Email: Sprackels.H@gmail.com
2. Physical Address at which structure is to be located: 39326 SD-46 Wagner SD
3. Legal Description: Lot No. 2 Blk. Moan Meadow tract 32-910-03
4. Zoned: Rural Residential Parcel #: 01.32.3502
5. Lot size: 150' x 152' roughly
6. Describe work to be done: Build garage behind house.
7. Contractor: Name Kuhlman Construction  
Address 32944 299th St, Wagner Phone 605-491-3159
8. Estimated cost of work: \$280,000
9. Size of proposed structure: L 64' x W 60' x H 16' 20'10" 210
10. Type of material used for structure: Steel Siding, Wood, Concrete
11. Distance structure will be located from lot lines: (Lot line starts where street or alley right of way ends.  
Street right of way typically 33 ft from center line. Alley right of way typically 10 feet from center.)
- a. Front Yard: 24 feet from property line N
- b. Rear Yard: 60 feet from property line S
- c. Side Yard: 100 feet from property line W
- d. Side Yard: ~16 feet from property line E
12. Approximate Start Date March 15, 2024 Completion Date March 15, 2025
13. Check off the following: Site plan drawn to scale including-
- ☒ North Arrow
  - ☒ Dimensions of new structure
  - ☒ Existing structures on lot
  - ☒ Distance from property lines and right of ways
  - ☒ All adjacent streets and alleys

**NOTICE**

This permit will expire if work or construction authorized is not commenced within 180 days. If work or construction is not completed within (2) years of issuance, this permit will expire.

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulation construction or the performance of construction.

C. Sprackels 2-26-24  
Signature of Owner Date

\_\_\_\_\_  
Zoning Administrator or Authorized Representative Date

For Office Use Only	
Permit Fee: \$	<u>2500</u>
Fine: \$	_____
Receipt #:	_____
Cash/Check	_____
Site Inspection Date:	_____
Building Permit Sign Issued:	_____
BUILDING PERMIT #:	_____

PR24-2

# CITY OF WAGNER

(Print or Type)

APPLICATION #:

BP24-2

NAME:

Cody & Dana Speckels

ADDRESS:

39326 SD Hwy 46, Wagner

DAYTIME PHONE#:

605-481-0890

PROPERTY ADDRESS:

39326 SD Hwy 46, Wagner

LEGAL:

Lots 2:4, Men Meadow Subdivision, 32-796-R63

DATE OF BUILDING PERMIT REQUEST:

2-26-24

DATE OF DENIAL:

2/29/24

REASON FOR BUILDING PERMIT DENIAL:

Does not conform with RR

EXISTING USE OF PROPERTY:

Bare Land

PRESENT ZONING CLASSIFICATION

Rural Residential

PROPOSED ZONING CLASSIFICATION

N/A

SECTION OF CODE

2705

REASON FOR REQUEST:

840 sq. ft building variance - 10ft additional depth. making building 60' x 64' - 3840 sq. ft.

LIST SPECIFIC HARDSHIPS:

Purchased lots 2:4 for purpose of building accessory building. The cost to add the ~800 sq ft variance later down the road would cost approx. 1/2 of the current project price, not including future inflation.

Applications for Conditional Use Permits and/or Rezoning Requests will not be accepted until the following information has been provided by the applicant:

- A) Detailed Site Plan (Refer to handout)
- B) Location and Use of Adjacent Structures
- C) Application Fee

SCHEDULED FOR PLANNING COMMISSION ACTION (Date):

SCHEDULED FOR BOARD OF ADJUSTMENT ACTION (Date):

\*TENTATIVE DATE (IF APPEALED): Final date announced at Planning Commission Meeting:

APPLICATION FEE:

100.00

CHECK #:

RECEIPT #:

The undersigned acknowledges/declares that all the facts and representations stated in this application are true and by signing, acknowledges the cost and the procedure for the processing of the application and certifies that the property described by the provided legal description, is not tax delinquent.

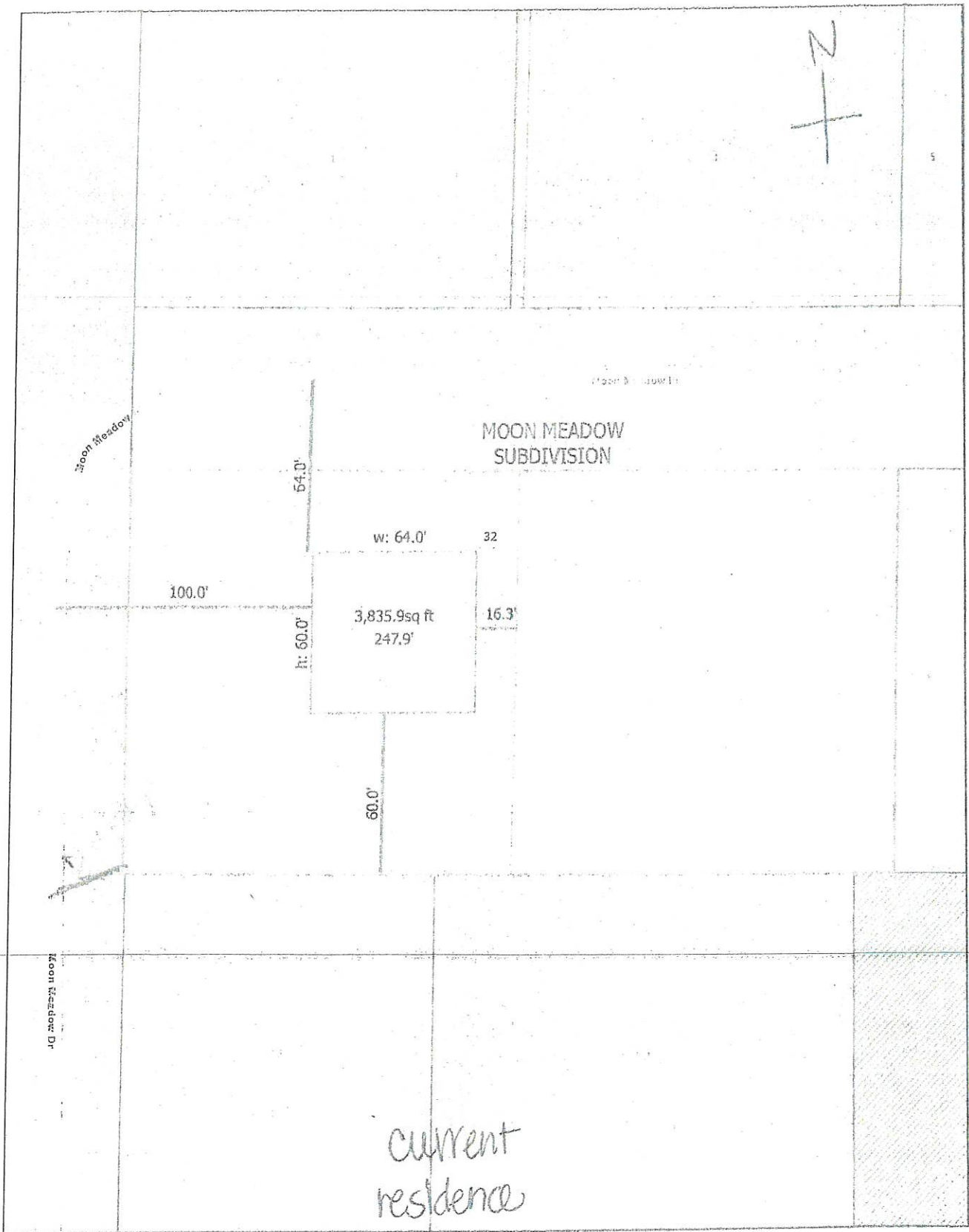
Name of Applicant/Owner

Date

Signature of Applicant/Owner

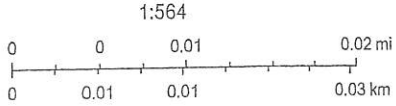
Date

CHARLES MIX WEB VIEWER



8/16/2023, 1:51:45 PM

- ☐ Lots
- ☐ Subdivisions
- ☐ MOON MEADOW SUBDIVISION
- ☐ Recent Sales
- ☐ Sections
- ☐ Parcels
- ☐ Townships

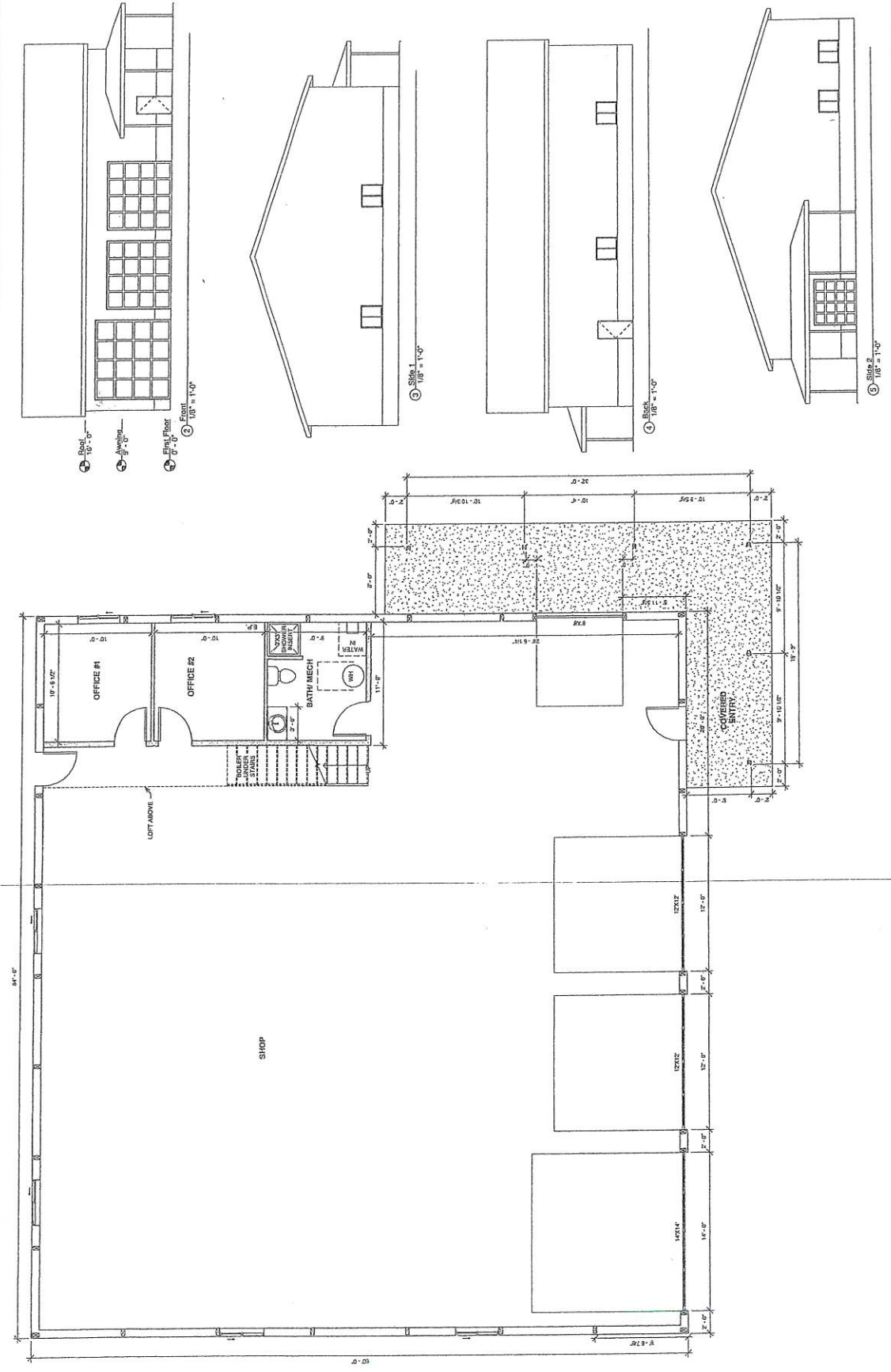


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**Cody Spreckels**  
 Date: 07/27/2023  
 Project: Cody Spreckels  
 Drawing: 16  
 Title: 16  
 Author: Cody Spreckels  
 Designer: Cody Spreckels  
 Checker: Cody Spreckels  
 Approver: Cody Spreckels



As indicated  
 A1  
 Section: Section 16  
 Detail: Detail 16  
 Scale: Scale 1/8" = 1'-0"



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