STAFF REPORT November 10, 2022

REZONING: AGRICULTURAL DISTRICT (AG) TO LAKE FRONT RESIDENTIAL (R3) DISTRICT

GENERAL INFORMATION:

PETITIONER Rodney and Lois Westby

REQUEST Rezone from Agricultural (AG) to Lake

Front Residential (R3)

LEGAL DESCRIPTION A part of the Unplatted Portion of Gov't

Lots 2 & 3, Section 19, T126N, R53W in the proposed Plat drawing showing Proposed Lots 7, 8, 9, & 10 Westby Lakeside Addn. in

Gov't Lots 2 & 3, Section 19, T126N, R53W of the 5th P.M., Marshall County,

South Dakota

(Proposed drawing available in the office of

Zoning Administrator.)

CURRENT ZONING Agricultural (AG)

SURROUNDING ZONING Agricultural (AG) & Lake Front Residential

(R3)

REPORTED BY Erin Collins-Miles

GENERAL COMMENT: The petitioner is requesting to rezone the above-described

property in order plat additional lots and to sell to various buyers. The proposed Lots also require variances to Lot sizes for Lots 7, 9 & 10. The rezone would bring the zoning into compliance with the same use as the property it is an

extension of.

REVIEW: Staff has reviewed this rezone. The Westby's would like to

create additional back lake lots. The site of the proposed Lots lies on the South side of Southeast Shore Dr (Township Road). Being as the current zoning is Agricultural and the Lot sizes proposed are more consistent with that of lakefront property, this rezone would bring Lots 7, 8, 9 & 10 into

compliance with surrounding zoning.

NOTICE OF PUBLIC HEARING OF THE MARSHALL COUNTY PLANNING AND ZONING COMMISSION AND MARSHALL COUNTY BOARD OF COUNTY COMMISSIONERS ON PROPOSED CHANGE OF THE ZONING ORDINANCE OF MARSHALL COUNTY

Notice is hereby given pursuant to SDCL 11-2 that on the 10th day of November, 2022, at 9:00a.m. in the Commission Chambers of the Marshall County Courthouse in Britton, South Dakota, is the time and place when and where all persons interested therein may appear and be heard before the Marshall County Planning & Zoning Commission and Marshall County Board of County Commissioners, concerning the proposed changes to the Zoning Ordinance of Marshall County. The Planning and Zoning Commission will submit to the Board of County Commissioners their recommendation as to whether or not the following ordinance should be passed by the respective governing bodies. If recommended for approval the Board of County Commissioners will then have the first reading of the proposed ordinance change.

AN ORDINANCE ENTITLED, An Ordinance to amend the Marshall County Zoning Map.

Be it ordained by the Board of County Commissioners of Marshall County, South Dakota: that Title 4 chapter 4.2 adopted by Ordinance No.32, September 28, 2021 as amended, of the Zoning Ordinance of Marshall County be amended to classify the following property:

A part of the Unplatted Portion of Gov't Lots 2 & 3, Section 19, T126N, R53W in the proposed Plat drawing showing Proposed Lots 7, 8, 9, & 10 Westby Lakeside Addn. in Gov't Lots 2 & 3, Section 19, T126N, R53W of the 5th P.M., Marshall County, South Dakota

(Proposed drawing available in the office of Zoning Administrator.)

To "R-3" Lake Front Residential District from "AG" Agricultural District

BE IT FURTHER ORDAINED by the Marshall County Commission, Britton, South Dakota, that the zoning official for the County of Marshall is hereby authorized to change the official zoning map for the County of Marshall to reflect this Ordinance.

map for the obtainty of Marshall to reflect this ordinance.
Passed and adopted this day of 20
Chairperson
Auditor
Any persons wishing to present testimony may appear at said hearing or may file written comments with the Marshall County Auditor P.O. Box 130, Britton, South Dakota 57430 prior to said hearing.
Dated this 19th day of October, 2022.
Erin Collins-Miles, Marshall County Planning & Zoning Administrator
Published once at the total approximate cost of

MARSHALL COUNTY PLANNING & ZONING COMMISSION P.O.BOX 9 BRITTON, SOUTH DAKOTA 57430

October 20, 2022

Dear Property Owner,

Please take notice that an application has been made by Rodney Westby for a hearing before the Marshall County Planning & Zoning Commission and Marshall County Board of County Commissioners for a proposed change of the zoning ordinance of Marshall County.

The application is for the rezoning of A part of the Unplatted Portion of Gov't Lots 2 & 3, Section 19, T126N, R53W in the proposed Plat drawing showing Proposed Lots 7, 8, 9, & 10 Westby Lakeside Addn. in Gov't Lots 2 & 3, Section 19, T126N, R53W of the 5th P.M., Marshall County, South Dakota (Proposed drawing available in the office of Zoning Administrator.) To "R-3" Lake Front Residential District from "AG" Agricultural District

The first reading of this application is on the agenda for a public hearing which will be held on November 10th, 2022 at 9:00 am at the Marshall County Courthouse, Commissioners Chambers.

This notice is sent to you as an owner of the property adjacent to the applicant. Should this request be of concern to you, you may appear at the above stated hearing or may send your comments to:

Marshall County Auditor PO Box 130 Britton, SD 57430

Sincerely,

Erin Collins-Miles

Erin Collins-Miles Planning & Zoning Administrator

MARSHALL COUNTY PLANNING & ZONING COMMISSION P.O.BOX 9 BRITTON, SOUTH DAKOTA 57430

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Marshall County Auditor PO Box 130 Britton, SD 57430

Sincerely,

Erin Collins-Miles

Erin Collins-Miles
Planning & Zoning Administrator

Sent to the following adjacent landowners on 10/20/22:

- 1. Larson Family Cabin, LLC 4731 Lilac Drive West Fargo, ND 58078
- 2. Karen Siefkes 39576 103rd St. Hecla, SD 57446
- 3. Jeffrey & Janine Wing 46704 Sage St. Sioux Falls, SD 57107
- 4. Timothy & Connie Vosberg 117465 South Shore Dr. Lake City, SD 57247
- 5. Leon & Julie Koeppe 45572 109th St. Sisseton, SD 57262

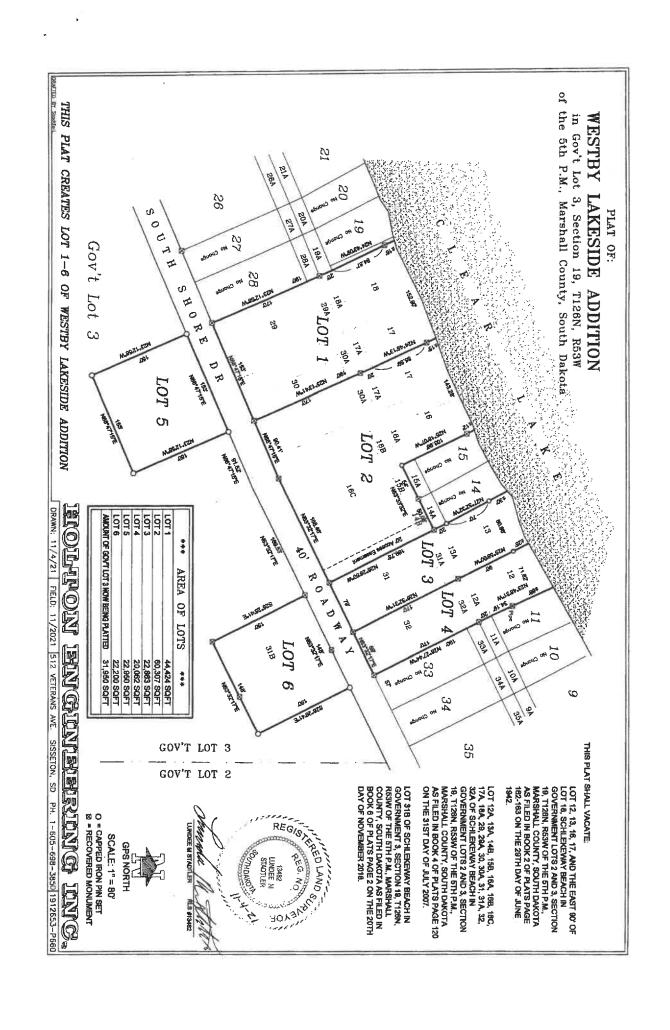
NOTICE OF REQUEST TO REZONE

Marshall County State of South Dakota

To:

Marshall County Planning and Zoning Commission Notice is hereby filed by Rodney K and Lois A Westby , landowner, and Rodney K and Lois A Westby, buyer, for the following described property to be rezoned from Ag Lake Front Residential Legally described as: A part of the Unplatted Portion of Gov't Lots 2 & 3, Section 19, T126N, R53W Landowner's Signature Sodrey R, Wast Buyer's Signature _____ Date For Internal Use Only: Date Received: 10-17-22 1 Date of Hearing by Marshall County Planning Commission: November 10, 2002 Action taken by Zoning and Planning Commission: 2 Date of hearing(s) by Marshall County Commissioners: November 22, 2022 Action taken by Marshall County Commissioners:

PROPOSED LOTS 7,8,9,&10 Westby Lakeside Addn. In Gov't Lots 2 & 3, Section 19, T126N, R53W of the 5th P.M., Marshall County, South Dakota Lot Variance of Roadside Width: Lots 7,9, & 10 Alignment of existing Lot Lines Present Owners; Rod & Lois Westby Proposed Buyers: Lot 7, Teddy Winburn Lot 8, Cory Siefkes Lot 9, Jeff Wing Lot 10, Tim Vosberg JARRETT WINBURN 10 RONEY RONE 15 35 Lot 4 STIEHA EXISTING Lot 3 KLEFSTAD 58 FAMILY Lot 2 Westby 51' 19 ROADWAY 20 EXISTING Lakeside Addn. Lot 1 Westby WING SIEFKES Lakeside Addn. WESTBY 21 LARSON KUEPPE 204 SIMONSON EXISTING 214 23 Lot 6 Westby 8 22A Lakeside Addn. 28 KLEFSTAN 33' Vosber WING SECTION 19 EXISTING Lot 5 Westby Lakeside Addn. Lot. 10 Lot 8 0414'20" Westby S 81d54'0" W 205.86 Lakeside Addn. GOV'T LOT 3 OWNERS: RODNEY AND LOIS WESTBY # 33' 33' Road contains 1.63 acres of gov't lot 3 TOWNSHIP R O A D1111.61 QUARTER SECTION LINE



WE, THE UNDERSIGNED, HEREBY CERTIFY THAT WE ARE THE ABSOLUTE AND UNQUALIFIED OWNER(S) OF LOT 16, LOT 17 EXCEPT THE WEST 63' SCHLEKEWAY BEACH IN GOVERNMENT LOTS 2 AND 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA AS FILED IN BOOK 2 OF PLATS PAGE 162-163 ON THE 29TH DAY OF JUNE 1942; LOT 14B, 15B, 16A, 16B, 16C, LOT 17A EXCEPT THE WEST 63', LOT 30 EXCEPT THE WEST 63', LOT 30A EXCEPT THE WEST 63', ALL IN SCHLEKEWAY BEACH IN GOVERNMENT LOT 2 AND 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA AS FILED IN BOOK 4 OF PLATS PAGE 120 ON THE 31ST DAY OF JULY 2007; AND HAVE CAUSED SAID THE SAME TO BE VACATED. ALSO THE OWNERS OF GOV'T LOT 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA. WE FURTHER CERTIFY THAT THE ABOVE DESCRIBED PROPERTY WAS SURVEYED AND PLATTED AT OUR REQUEST AND UNDER OUR DIRECTION AND THAT THE DEVELOPMENT OF THIS LAND SHALL CONFORM TO ALL EXISTING APPLICABLE ZONING, SUBDIVISION AND EROSION AND SEDIMENT CONTROL REGULATIONS. SAID PROPERTY AS SURVEYED AND PLATTED SHALL BE HEREAFTER KNOWN AS WESTBY LAKESIDE ADDITION IN GOV'T LOT 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA.

DATED THIS 4th DAY OF November 2021

RODNEY K WESTBY

LOIS A. WESTBY

ACKNOWLEDGMENT

STATE OF South Dakota

COUNTY OF Roberts

ON THIS 4 DAY OF NOV 2021 PERSONALLY APPEARED RODNEY K. WESTBY

WHO SATISFACTORILY PROVEN TO BE THE PERSON(S) WHOSE NAME INSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

MY COMMISSION EXPIRES: 03-28-2025

SURVEYOR'S CERTIFICATE

I, LUNDEE M STADTLER, A REGISTERED LAND SURVEYOR IN THE STATE OF SOUTH DAKOTA DO HEREBY CERTIFY THAT AT THE REQUEST OF THE OWNER(S), I HAVE SUPERVISED THE SURVEYING AND PLATTING OF WESTBY LAKESIDE ADDITION IN GOV'T LOT 3, SECTION 19, T128N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA AS SHOWN ON THE ATTACHED PLAT AND THAT I HAVE SUPERVISED THE SETTING OF IRON PINS WITH CAPS AS SHOWN AND THAT SAID SURVEY AND PLAT ARE TRUE AND CORRECT

DATED THIS 4 DAY OF Novamber 2021

RECT

LUNDEE M STADTLER RLS #13482

=6/8/2-

RE

HOLTON ENGINEERING INC

512 VETERANS AVE. SISSETON, SD PH. 1-605-698-3850 1912653-P660

WE, THE UNDERSIGNED, HEREBY CERTIFY THAT WE ARE THE ABSOLUTE AND UNQUALIFIED OWNER(S) OF THE WEST 63' OF LOT 17, THE EAST 90' OF LOT 18, SCHLEKEWAY BEACH IN GOVERNMENT LOTS 2 AND 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA AS FILED IN BOOK 2 OF PLATS PAGE 162-163 ON THE 29TH DAY OF JUNE 1942; THE WEST 63' OF LOT 17A, LOT 18A, LOT 29, LOT 29A, THE WEST 63' OF LOTS 30 AND 30A OF SCHLEKEWAY BEACH IN GOVERNMENT LOT 2 AND 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA AS FILED IN BOOK 4 OF PLATS PAGE 120 ON THE 31ST DAY OF JULY 2007; AND HAVE CAUSED THE SAME TO BE VACATED. WE FURTHER CERTIFY THAT THE ABOVE DESCRIBED PROPERTY WAS SURVEYED AND PLATTED AT OUR REQUEST AND UNDER OUR DIRECTION AND THAT THE DEVELOPMENT OF THIS LAND SHALL CONFORM TO ALL EXISTING APPLICABLE ZONING, SUBDIVISION AND EROSION AND SEDIMENT CONTROL REGULATIONS. SAID PROPERTY AS SURVEYED AND PLATTED SHALL BE HEREAFTER KNOWN AS WESTBY LAKESIDE ADDITION IN GOV'T LOT 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA.

DATED THIS 15 DAY OF Lorenter, 2021

LEON KOEPPE, TRUSTEE LEON & JULIE KOEPPE LIVING TRUST

JULIE KOEPPE, TRUSTÉE
LEON & JULIE KOEPPE LIVING TRUST

ACKNOWLEDGMENT

STATE OF South Dakota

COUNTY OF Roberts

LEON KOEPPE & JULIE KOEPPE, TRUSTEES

ON THIS 15 DAY OF November, 2021, PERSONALLY APPEARED LEON & JULIE KOEPPE LIVING TRUST WHO SATISFACTORILY PROVEN TO BE THE PERSON(S) WHOSE NAME INSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.



MY COMMISSION EXPIRESTIGATE EXAM 1:35-1026

WE, THE UNDERSIGNED, HEREBY CERTIFY THAT WE ARE THE ABSOLUTE AND UNQUALIFIED OWNER(S) OF LOT 12, SCHLEKEWAY BEACH IN GOVERNMENT LOTS 2 AND 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA AS FILED IN BOOK 2 OF PLATS PAGE 162-163 ON THE 29TH DAY OF JUNE 1942; LOT 12A, 32, AND 32A, OF SCHLEKEWAY BEACH IN GOVERNMENT LOT 2 AND 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA AS FILED IN BOOK 4 OF PLATS PAGE 120 ON THE 31ST DAY OF JULY 2007; AND HAVE CAUSED THE SAME TO BE VACATED. WE FURTHER CERTIFY THAT THE ABOVE DESCRIBED PROPERTY WAS SURVEYED AND PLATTED AT OUR REQUEST AND UNDER OUR DIRECTION AND THAT THE DEVELOPMENT OF THIS LAND SHALL CONFORM TO ALL EXISTING APPLICABLE ZONING, SUBDIVISION AND EROSION AND SEDIMENT CONTROL REGULATIONS. SAID PROPERTY AS SURVEYED AND PLATTED SHALL BE HEREAFTER KNOWN AS WESTBY LAKESIDE ADDITION IN GOVT LOT 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA.

DATED THIS 7th DAY OF December 20 21

DONALD J. STIEHA

LEEANN M STIFHA

ACKNOWLEDGMENT

STATE OF North Dokota

COUNTY OF COSS

DONALD JAY STIEHA A/K/A DONALD JAY STIEHA & LEEANN M STIEHA

ON THIS 7th DAY OF December 2021 PERSONALLY APPEARED_

WHO SATISFACTORILY PROVEN TO BE THE PERSON(S) WHOSE NAME INSCRIBED TO THE WITHIN

INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

Storie or North - Lote
Commission Earth of Oct. 1, 2024

MY COMMISSION EXPIRES: Oct 1, 2024

WE, THE UNDERSIGNED, HEREBY CERTIFY THAT WE ARE THE ABSOLUTE AND UNQUALIFIED OWNER(S) OF LOT 13, SCHLEKEWAY BEACH IN GOVERNMENT LOTS 2 AND 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA AS FILED IN BOOK 2 OF PLATS PAGE 162-163 ON THE 29TH DAY OF JUNE 1942; LOT 13A, 31, AND 31A, OF SCHLEKEWAY BEACH IN GOVERNMENT LOT 2 AND 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA AS FILED IN BOOK 4 OF PLATS PAGE 120 ON THE 31ST DAY OF JULY 2007; LOT 31B OF SCHLEKEWAY BEACH IN GOVERMENT LOT 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA AS FILED IN BOOK 6 OF PLATS PAGE 2 ON THE 20TH DAY OF NOVEMBER 2018; AND HAVE CAUSED THE SAME TO BE VACATED. WE FURTHER CERTIFY THAT THE ABOVE DESCRIBED PROPERTY WAS SURVEYED AND PLATTED AT OUR REQUEST AND UNDER OUR DIRECTION AND THAT THE DEVELOPMENT OF THIS LAND SHALL CONFORM TO ALL EXISTING APPLICABLE ZONING, SUBDIVISION AND EROSION AND SEDIMENT CONTROL REGULATIONS. SAID PROPERTY AS SURVEYED AND PLATTED SHALL BE HEREAFTER KNOWN AS WESTBY LAKESIDE ADDITION IN GOV'T LOT 3, SECTION 19, T128N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA.

DATED THIS 34DAY OF 100 2021

STEVEN H. KLEFSTAD, TRUSTEE OF STEVEN H. KLEFSTAD AND

LAUREL J. KLEFSTAD REVOCABLE TRUST

LAUREL J. KLEFSTAD, TRUSTEE OF

STEVEN H. KLEFSTAD AND

LAUREL J. KLEFSTAD REVOCABLE TRUST

ACKNOWLEDGMENT

STATE OF North Dakota

COUNTY OF Sargent

STEVEN H. KLEFSTAD & LAUREL J. KLEFSTAD, TRUSTEES OF STEVEN H. KLEFSTAD AND LAUREL J. KLEFSTAD REVOCABLE TRUST

ON THIS 24 DAY OF November, 20 21, PERSONALLY APPEARED WHO SATISFACTORILY PROVEN TO BE THE PERSON(S) WHOSE NAME INSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

MY COMMISSION EXPIRES: 1-5-2022

AUSTIN D. MCLASN Notary Public State of North Collete kily Commission Expires Jan. 5, 2021

THE PLAT OF WESTBY LAKESIDE ADDITION IN GOV'T LOT 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA

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HIGHWAY CERTIFICATE	
REVIEWED THE ATTACHED PLAT, AND APPL	TOWNSHIP SUPERVISOR, CERTIFY THAT I HAVE ROVE OF IN-PLACE ACCESS ROAD(S) OF SOUTH SHORE DRIVE
ONTO THE RIGHT-OF-WAY OF 117TH STREE	ET AND 443RD AVE.
DATED THIS 17 DAY OF Dea 2021	
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	Marketon
	TOWNSHIP SUPERVISOR, MARSHALL COUNTY, SOUTH DAKOTA

RESOLUTION BY THE BOARD OF MARSHALL COUNTY PLAN COMMISSION
ON MOTION MADE AND CARRIED THE FOLLOWING WAS ADOPTED: "BE IT RESOLVED BY THE COUNTY PLAN COMMISSION OF MARSHALL COUNTY, SOUTH DAKOTA IN REGULAR SESSION THAT THE PLAT OF WESTBY LAKESIDE ADDITION IN GOVT LOT 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA BE APPROVED THIS 18 DAY OF 2022 IN ACCORDANCE WITH THE PROVISIONS OF SDCL. CHAPTER 11-2-2 AND ALL ACTS AMENDATORY THERETO." I Declar 11-2-2-2 AND ALL ACTS AMENDATORY THERETO." I DECLAR 11-2-2-2 AND ALL ACTS AMENDATOR
CHAIRMAN MARSHALL COUNTY PLAN COMMISSION
RESOLUTION BY THE BOARD OF COUNTY COMMISSION MARSHALL COUNTY SOUTH DAKOTA
ON MOTION MADE AND CARRIED THE FOLLOWING RESOLUTION WAS ADOPTED: "BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MARSHALL COUNTY, SOUTH DAKOTA IN REGULAR MEETING ASSEMBLED THAT THE PLAT OF WESTBY LAKESIDE ADDITION IN GOVT LOT 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA BE APPROVED THIS 10 DAY OF 120 IN ACCORDANCE WITH THE PROVISIONS OF SDCL 11-3 AND ALL ACTS AMENDATORY THERETO." I COUNTY AUDITOR OF MARSHALL COUNTY, CERTIFY THAT THIS IS A TRUE COPY OF THE RESOLUTION ADOPTED BY THE BOARD OF COMMISSIONERS OF MARSHALL COUNTY, SOUTH DAKOTA.
DATED THIS 18 DAY OF Jan 2020 COUNTY AUDITOR, MARSHALL COUNTY SOUTH DAKOTA
DIRECTOR OF EQUALIZATION'S CERTIFICATE I. Kass: Torics Director of Equalization, MARSHALL COUNTY, SOUTH DAKOTA CERTIFY THAT I HAVE RECEIVED A COPY OF THE ATTACHED PLAT AS TO BE FILED.
DATED THIS 12 DAY OF January 2077 DIRECTOR OF EQUALIZATION, MARSHALL COUNTY, SOUTH DAKOTA
TREASURER'S CERTIFICATE 1. Richie Bollander, Treasurer of Marshall County, SOUTH DAKOTA CERTIFY THAT ALL TAXES WHICH ARE LIENS UPON THE LAND INCLUDED IN THE ATTACHED PLAT ARE SHOWN BY MY RECORDS TO BE FULLY PAID. DATED THIS 13 DAY OF Jun. 20 22 COUNTY TREASURER, MARSHALL COUNTY, SOUTH DAKOTA
202270711 REGISTER OF DEED'S CERTIFICATE
I. KAISSA STEZEX REGISTER OF DEEDS, MARSHALL COUNTY, SOUTH DAKOTA CERTIFY THAT I HAVE RECEIVED THE ORIGINAL COPY OF THE ATTACHED PLAT ON THIS 25 DAY OF JANUARY 20 22 AT 8 00 O'CLOCK A.M. AND DULY RECORDED IN REGISTER OF DEEDS, MARSHALL COUNTY, SOUTH DAKOTA

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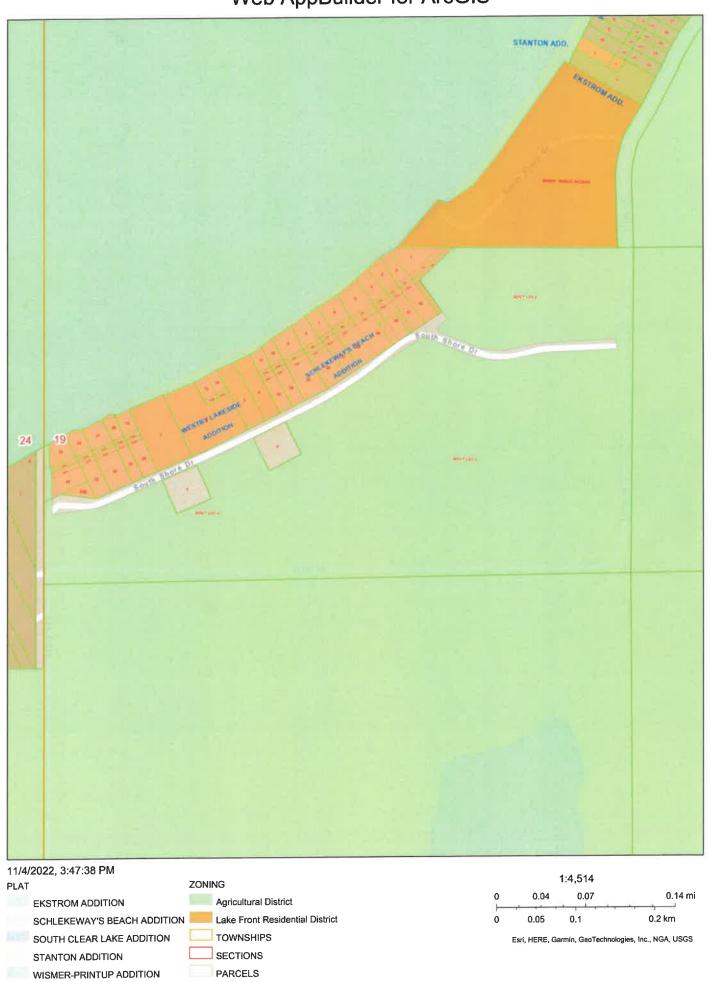
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