# Marshall County Planning & Zoning STAFF REPORT November 10, 2022

Issue: Variance for Lot Size

OWNER/APPLICANT: Rodney & Lois Westby

**PROPERTY DESCRIPTION:** Lots 7, 9 & 10 from 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: Lake Front Residential (R-3) and Agricultural (Ag)

**REQUEST:** Rodney Westby has requested a variance to lot size width for lots 7, 9 & 10 to create Lot 7 with a width of 57 feet, Lot 9 with a width of 50 feet and Lot 10 with a width of 64 feet instead of the 75-foot requirement, per the Marshall County Zoning Ordinance.

### **HISTORY/ISSUE(S)**:

- 1. The Lots in question are a part of a plat that will be going through in the coming weeks.
- 2. The Lot sizes proposed are equal to those of the existing Lots across the road (Lots 27, 28 and 33). The owners of Lots 27, 28 & 33 are those that will be purchasing these proposed Lots.
- 3. Lots 7, 9 & 10 all have an average depth of 150' feet and meet Marshall County Zoning requirements.
- 4. Marshall County Ordinance requires that all lots without shoreline frontage shall have a minimum width of seventy-five (75) feet and a minimum depth of one hundred fifty (150) feet.
- 5. No written comments or objections were received prior to the hearing.
- 6. Staff Recommendation 18' variance to the lot size width requirement for Lot 7, 25' variance to the lot size width require9ment for Lot 9, and an 11' variance to the lot size width requirement for Lot 10.
- 7. The Board could table, deny or approve the request. If the Board chooses to approve the variance, it could use the following findings, similar to those used in previous approvals of setback requirements in R-3 District.
  - a. The Board has granted similar Lot Size variances to lake lots in the past, when the neighbors had no objections.
    - i. Similar lot size variances allowed 34.38/33.31 for H. Mairs 6/17 and 9 Lots for S. Bull 12/19 (see file).
  - b. The Board would consider approving other similar requests meeting the unique circumstances.

If the Board chooses to deny the variance, it could use the following findings, similar to those used in previous denials of setback variances.

- a. The lot and situation are not so unique to necessitate the relaxation for the setback requirement.
- b. The granting of this variance would confer upon the applicant special privilege denied to others in the R-3 District.

Action Item – 18' variance to the lot size width requirement for Lot 7, 25' variance to the lot size width requirement for Lot 9, and an 11' variance to the lot size width requirement for Lot 10.

#### NOTICE OF HEARING - APPLICATION FOR VARIANCE

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on November 10, 2022 at 9:00 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for variance from the Marshall County Zoning Ordinance.

Rodney Westby has requested a variance to lot size width for lots 7, 9 & 10 from 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). The petitioner is asking to create Lot 7 with a width of 57 feet, Lot 9 with a width of 50 feet and Lot 10 with a width of 64 feet instead of the 75-foot requirement, per the Marshall County Zoning Ordinance.

**Erin Collins-Miles** Planning & Zoning Administrator

Published once at the approximate cost of

For publication: October 19, 2022

#### IT (Oct 19) NOTICE OF HEARING - APPLICATION FOR VARIANCE

Notice is hereby given the the Marshall County Plannin & Zoning Board will meet o November 10, 2022 at 9:0 a.m. at the Marshall Count Courthouse Commissioner Chambers, concerning the fol lowing application for ance from the Marshall Count Zoning Ordinance

(Continued on p8)

# **Public Notices**

(Continued from p5)

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Erin Collins-Miles

Zoning Planning

Administrator

Published at an approximate cost of \$10.15 and can be viewed free of charge at www.sdpublicnotices.com

## MARSHALL COUNTY PLANNING & ZONING COMMISSION P.O.BOX 9 BRITTON, SOUTH DAKOTA 57430 605.448.7540

October 20, 2022

Dear Property Owner,

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on November 10, 2022 at 9:00 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for variance from the Marshall County Zoning Ordinance.

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As an adjacent landowner, you are being notified of the hearing. If you have any questions, please contact my office. Any comments or concerns should be stated in writing and forwarded to my office or expressed at the scheduled hearing.

Sincerely,

Erin Collins-Miles

Erin Collins-Miles Planning and Zoning Administrator

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Sincerely,

Erin Collins-Miles

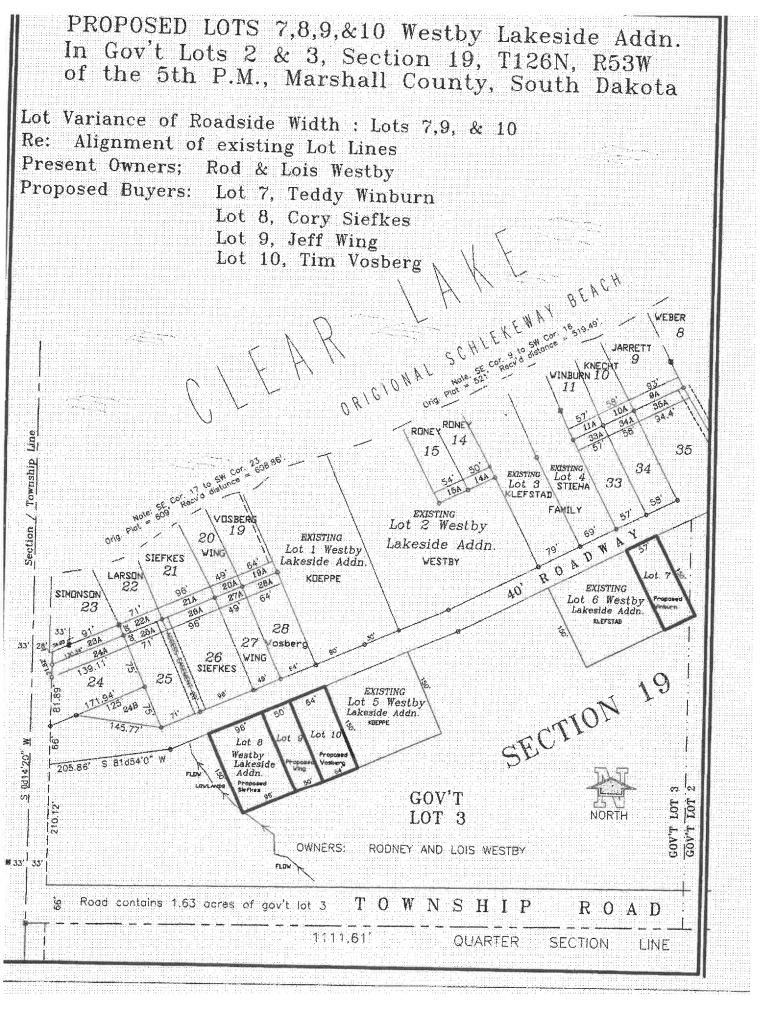
Erin Collins-Miles Planning and Zoning Administrator

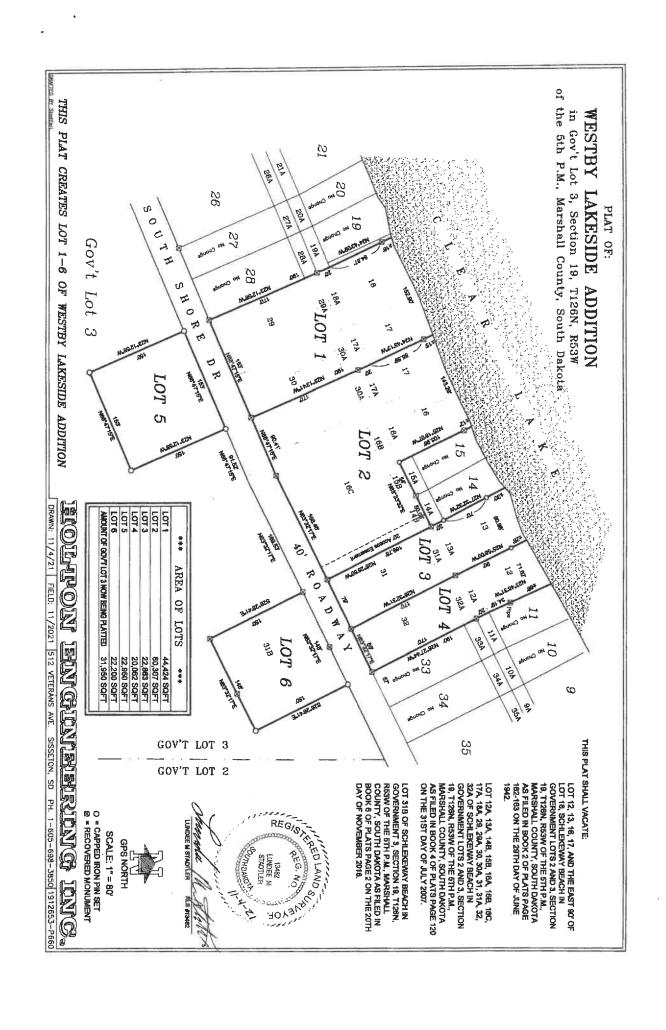
## Sent to the following adjacent landowners on 10/20/22:

- 1. Larson Family Cabin, LLC 4731 Lilac Drive West Fargo, ND 58078
- 2. Karen Siefkes 39576 103<sup>rd</sup> 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 109<sup>th</sup> St. Sisseton, SD 57262

# MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 10-12-22 To: Marshall County Planning and Zoning Commission PO Box 9 Britton, SD 57430 The undersigned do hereby request a variance from the Marshall County Zoning Ordinance to build (or set) within of a (circle applicable): Twp Rd, County Rd, Federal or State Hwy, Other Rd, Lot Line or High Water Mark. Proposed Lots 7, 8, 9, and 10 in Westby Lakeside Addition Structure would be located on (legal description): in Gov't Lots 2 & 3. Section 19, T126N, R53W of the 5th P.M., Marshall County, South Dakota. Reason: Platting the size of lots in order to line in with existing lot lines. Applicant Name: Rodney K and Lois A Westby 605-268-0762 Address: P.O. Box Applicant Signature: Sodner Owner Signature (if different than applicant): For Internal Office Use Only: Date Received: 10-17-22 Fees(non-refundable): 8/50-00 Paid: YES Inspection Report: See Staff report Date of Hearing by Planning and Zoning Commission: November 10, 2022 Action taken by Planning and Zoning Commission:





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 4 DAY OF November 2021

RODNEYA 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

REG/S/Z

#### 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

LUNDEE M STADTLER RLS #13482
ENGINEERING INC

LINDEE M

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 LUKADO 202

LEON KOEPPE, TRUSTEE **LEON & JULIE KOEPPE LIVING TRUST** 

JULYE KOEPPE, TRUSTÉE **LEON & JULIE KOEPPE LIVING TRUST** 

**ACKNOWLEDGMENT** 

STATE OF South Da Koto COUNTY OF Robert

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 EXPIRES SOM ENGINE 224 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 GOV'T LOT 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA.

DATED THIS 7 DAY OF December 2021

DONALD J. STIEHA A/K/A DONALD AY STIEHA

**ACKNOWLEDGMENT** 

STATE OF North Dakota

COUNTY OF COSS

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

ON THIS? TO 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.

NATURY PULL Side or North: Lide Continuission Eurit as 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 GOVT LOT 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA.

DATED THIS HOAY OF NOU 2021

STEVEN H. KLEFSTAD, TRUSTÈE 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 Surgent

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

ON THIS 24 DAY OF November 2021, PERSONALLY APPEARED DANKE INSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

MY COMMISSION EXPIRES: 1-5-2022

AUSTIN D. MCLAEN
Nation Public
State of North Pototok
Ship Commission Explication, 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

	,4 <sup>(</sup> )
HIGHWAY CERTIFICATE	•
	, TOWNSHIP SUPERVISOR, CERTIFY THAT I HAVE PROVE OF IN-PLACE ACCESS ROAD(S) OF SOUTH SHORE DRIVE EET AND 443RD AVE.
DATED THIS 17 DAY OF Dea 2021	<u>£</u> .
	Maridella
	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 GOV'T LOT 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL: COUNTY, SOUTH DAKOTA BE APPROVED THIS 16 DAY OF 2022 IN ACCORDANCE WITH THE PROVISIONS OF SDCL CHAPTER 11-2-2 AND ALL ACTS AMENDATORY THERETO." I Decay South Chairman Marshall County Plan Commission Certify that the Foregoing is a true copy of the RESOLUTION ADOPTED BY THE BOARD OF MARSHALL COUNTY PLAN COMMISSION AT A MEETING OF THE BOARD HELD ON THIS 18 DAY OF 2022.	
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CHAIRMAN MARSHALL COUNTY PLAN COMMISSION	
RESOLUTION BY THE BOARD OF COUNTY COMMISSION MARSHALL COUNTY SOUTH DAKOTA	
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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 GOV'T LOT 3, SECTION 19, T126N, R53W OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA BE APPROVED THIS 18 DAY OF	
DATED THIS 18 DAY OF Jan 2023	
COUNTY AUDITOR, MARSHALL COUNTY SOUTH DAKOTA  DIRECTOR OF EQUALIZATION'S CERTIFICATE  I, Kassi Jones  DIRECTOR OF EQUALIZATION,  MARSHALL COUNTY, SOUTH DAKOTA CERTIFY THAT I HAVE  RECEIVED A COPY OF THE ATTACHED PLAT AS TO BE  FILED.	
. 1/ 4/	I
DATED THIS 12" DAY OF January 20 7.2 DIRECTOR OF EQUALIZATION, MARSHALL COUNTY, SOUTH DAKOTA	
TREASURER'S CERTIFICATE  1. Richie Bohlander 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 Jan. 20 22  COUNTY TREASURER, MARSHALL COUNTY, SOUTH DAKOTA	
UPON THE LAND INCLUDED IN THE ATTACHED PLAT ARE SHOWN BY MY RECORDS TO BE FULLY PAID.  DATED THIS 13 DAY OF Jan. 20 22 Bulke Bollandy, Deputy	. Xorig
UPON THE LAND INCLUDED IN THE ATTACHED PLAT ARE SHOWN BY MY RECORDS TO BE FULLY PAID.  DATED THIS 13 DAY OF Jan. 20 22  COUNTY TREASURER, MARSHALL COUNTY, SOUTH DAKOTA	A STATE OF THE STA
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  20 22 70711  REGISTER OF DEED'S CERTIFICATE  1. KAISSA STOZEK 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  PEGISTER OF DEEDS MARSHALL COUNTY, SOUTH DAKOTA	

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# Web AppBuilder for ArcGIS



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