

**STAFF REPORT**  
**September 19, 2023**

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**REZONING: AGRICULTURAL DISTRICT (AG) TO LAKEFRONT DISTRICT (R-3)**

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GENERAL INFORMATION:

|  |   |
|--|---|
| PETITIONER   | Rodney & Lois Westby  |
| REQUEST  | <b>Agricultural (Ag) to Lakefront Residential (R-3)</b>   |
| LEGAL DESCRIPTION  | Proposed Lot 11 Westby Lakeside Addition in Gov't Lots 2 & 3, Section 19, T126N, R53W of the 5th P.M., Marshall County, South Dakota. |
| (Proposed Plat available in the office of the Zoning Administrator.) |   |
| CURRENT ZONING   | Agricultural (Ag)   |
| SURROUNDING ZONING   | Agricultural (Ag) and Lakefront Residential (R-3) (see map attached)  |
| REPORTED BY  | Erin Collins-Miles  |

GENERAL COMMENT: The petitioner is requesting to Rezone the above-described proposed lot in order to create a new lake lot without shore frontage. Currently, the land sits empty (no structures). The land cannot be platted prior to the Rezone as there can only be one Zoning classification on a parcel of land. The Rezone would make the land conform with other surrounding Zoning and bring it into compliance with the same use as other surrounding property. The property is currently Zoned Agricultural.

REVIEW: Staff has reviewed this Rezone. The land serves use as it is currently zoned. The land in question currently has no structures and is intended to be used as a lake property. Based on the intended use of the proposed lake lot, a Rezone is necessary. A Variance is also required as the Lot does not meet Lot size requirements as outlined in the R-3 District. No written comments or objections were received prior to the hearing.

**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 19th day of September, 2023, 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:

**Proposed Lot 11 Westby Lakeside Addition in Gov't Lots 2 & 3, Section 19, T126N, R53W of the 5th P.M., Marshall County, South Dakota.**

**(Proposed Plat available in the office of the Zoning Administrator.)**

To "R-3" Lakefront 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.

Passed and adopted this \_\_\_\_ day of \_\_\_\_ 20\_\_.

Matthew Schuller  
Chairperson

Megan Biel  
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 6<sup>th</sup> day of September, 2023.

Erin Collins-Miles, Marshall County Planning & Zoning Administrator

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

IT (Sept 6)  
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

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Megan Biel, Auditor

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Erin Collins-Miles, Marshall County Planning & Zoning Administrator  
Published at an approximate cost of \$23.78 and can be viewed free of charge at [www.sdpublicnotices.com](http://www.sdpublicnotices.com).

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

September 5, 2023

Dear Property Owner,

Please take notice that an application has been made by Rodney & Lois 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 Proposed Lot 11 Westby Lakeside Addition in Gov't Lots 2 & 3, Section 19, T126N, R53W of the 5th P.M., Marshall County, South Dakota. (Proposed Plat available in the office of the Zoning Administrator.) To "R-3" Lakefront 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 September 19<sup>th</sup>, 2023 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  
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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 9/5/23:**

1. Teddy Winburn – 218 Hillview Rd. Sisseton, SD 57262
2. Rebecca Hicks – P.O. Box 157 Lake City, SD 57247
3. Dept. of Game, Fish & Parks, Habitat Sec. – 523 E Capitol Ave. Pierre, SD 57501
4. Bureau of Indian Affairs - P.O. Box 688 Agency Village, 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 & Lois A Westby, landowner, and  
\_\_\_\_\_, buyer, for the following described property to be rezoned from  
Ag to Lake Front Residential.

Legally described as: a part of the unplatted portion of Gov't lot 2 & 3 in Section 19, T126N, R53'  
of the 5th P.M., Marshall County, South Dakota; Proposed Lot 11 Westby Lakeside Addition

Landowner's Signature *Rodney K. Westby* Date 8-12-23  
*Lois A. Westby*

Buyer's Signature \_\_\_\_\_ Date \_\_\_\_\_

*For Internal Use Only:* Date Received: 8/25/23

Date of Hearing by Marshall County Planning Commission: Sept. 19, 2023

Action taken by Zoning and Planning Commission:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of hearing(s) by Marshall County Commissioners:

September 19, 2023 + October 10, 2023

Action taken by Marshall County Commissioners: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ORDINANCE NO. 61

AN ORDINANCE AMENDING TITLE 4, CHAPTER 4.2  
AS AMENDED TO REZONE CERTAIN DESCRIBED PROPERTY

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:

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**(Proposed Plat available in the office of the Zoning Administrator.)**

**To "R-3" Lakefront 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.

Notice of Hearing \_\_\_\_\_ September 6, 2023

Passed First Reading \_\_\_\_\_ September 19, 2023

Passed Second Reading \_\_\_\_\_ October 10, 2023

Adopted \_\_\_\_\_ October 10, 2023

Published \_\_\_\_\_ October 11, 2023

Effective Date \_\_\_\_\_ October 31, 2023

\_\_\_\_\_  
Matthew Schuller, Chairman  
Marshall County Commission

ATTEST: \_\_\_\_\_  
Megan Biel, Marshall County Auditor

Published once at the total approximate cost of \$ \_\_\_\_\_.

Section / Township Line

Od14'20" W

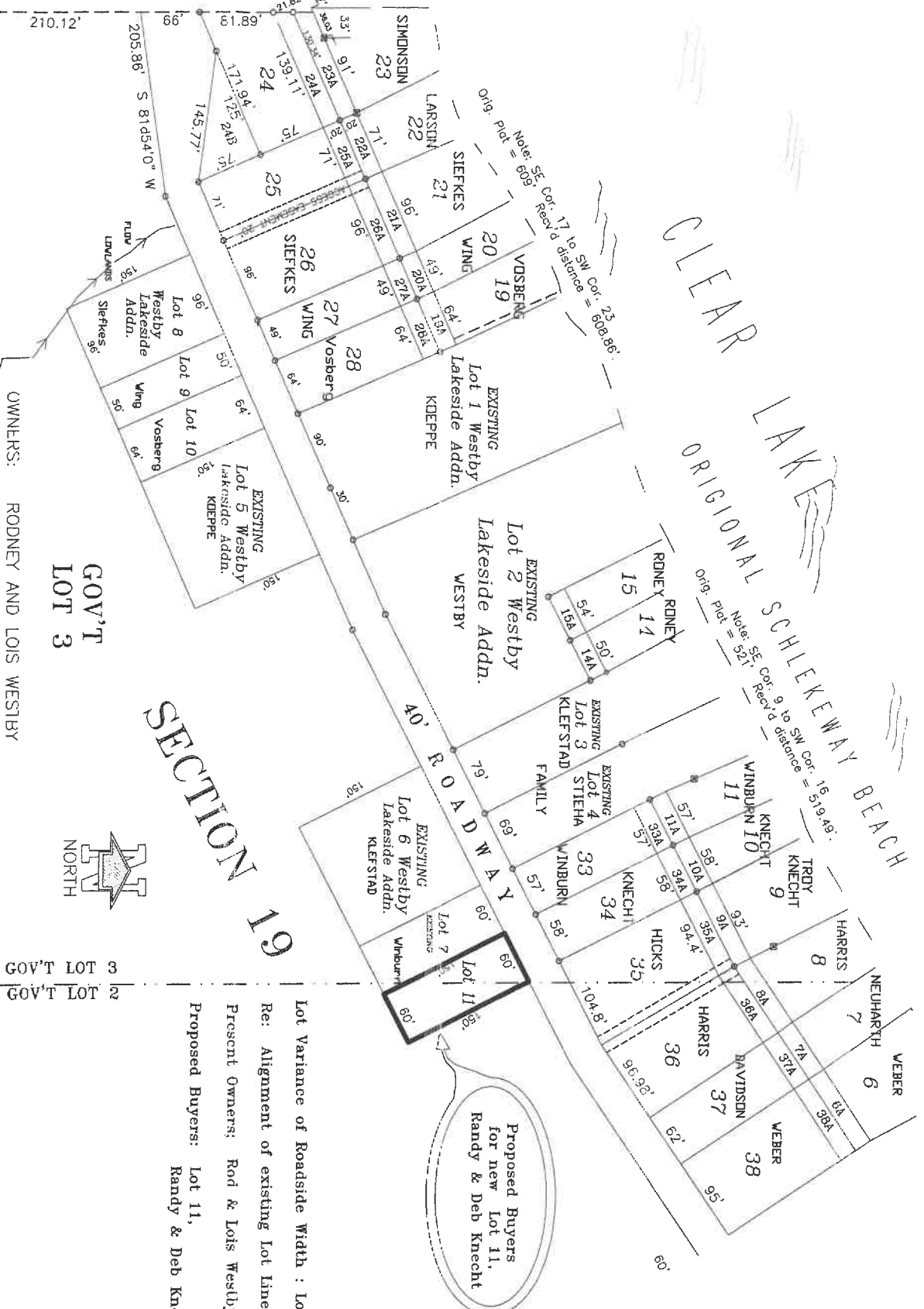
33' 33"

11111.61' TOWNSHIP ROAD

SECTION LINE

S 89d29'32" W

Road contains 1.63 acres of gov't lot 3



CLEAR LAKE ORIGINAL SCHLEKEWAY BEACH

GOV'T LOT 3

GOV'T LOT 3  
GOV'T LOT 2

OWNERS: RODNEY AND LOIS WESTBY

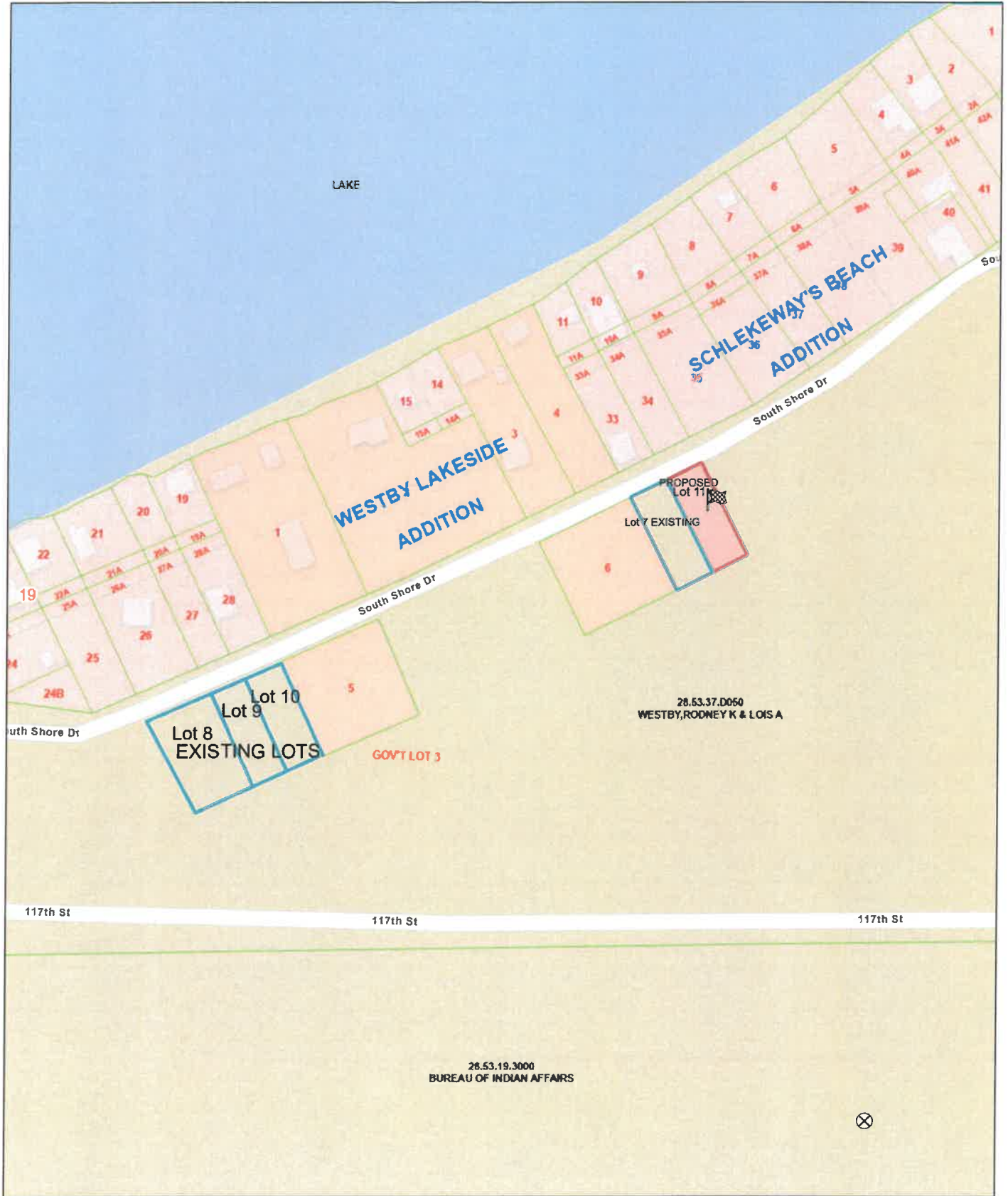


# SECTION 19

Proposed Buyers  
for new Lot 11,  
Randy & Deb Knecht

Lot Variance of Roadside Width : Lot 11  
 Re: Alignment of existing Lot Lines  
 Present Owners: Rod & Lois Westby  
 Proposed Buyers: Lot 11,  
 Randy & Deb Knecht

# MARSHALL COUNTY WEB VIEWER

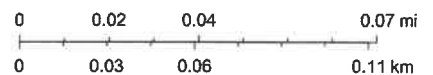


8/31/2023, 1:08:38 PM

PLAT

- SCHLEKEWAY'S BEACH ADDITION
- WESTBY LAKESIDE ADDITION
- TOWNSHIPS
- SECTIONS
- PARCELS

1:2,257



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# MARSHALL COUNTY WEB VIEWER



8/31/2023, 1:09:27 PM

PLAT

- SCHLEKEWAY'S BEACH ADDITION
- WESTBY LAKESIDE ADDITION
- TOWNSHIPS
- SECTIONS
- PARCELS

1:2,257



# MARSHALL COUNTY WEB VIEWER



8/31/2023, 1:11:11 PM

ZONING

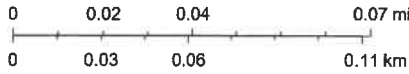
- Agricultural District
- Lake Front Residential District

PLAT

SCHLEKEWAY'S BEACH ADDITION

- WESTBY LAKESIDE ADDITION
- TOWNSHIPS
- SECTIONS
- PARCELS

1:2,257



28.53.19.3000  
BUREAU OF INDIAN AFFAIRS

28.53.37.1050  
WESTBY, RODNEY K & LOIS A

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

September 1, 2023

**TO:** Rodney & Lois Westby  
P.O. Box 137  
Rosholt, SD 57260

To whom this may concern,

This letter shows the official schedule for your **Rezone** application. Please note that a notice will be published in the paper on September 6<sup>th</sup>, 2023.

*Also note on your calendar that your variance application will be heard at the scheduled hearing on September 19<sup>th</sup>, 2023. A motion to approve/deny would be made by the Board for the variance which would be contingent upon the effective date of your rezone (October 31, 2023).*

Please see below for detail;

**Proposed Lot 11 Westby Lakeside Addition in Gov't Lots 2 & 3, Section 19, T126N, R53W of the 5th P.M., Marshall County, South Dakota.**

**(Proposed Plat available in the office of the Zoning Administrator.)**

To "R-3" Lakefront Residential District from "AG" Agricultural District

|                       |       |                    |
|-----------------------|-------|--------------------|
| Notice of Hearing     | _____ | September 6, 2023  |
| Passed First Reading  | _____ | September 19, 2023 |
| Passed Second Reading | _____ | October 10, 2023   |
| Adopted               | _____ | October 10, 2023   |
| Published             | _____ | October 11, 2023   |
| Effective Date        | _____ | October 31, 2023   |

If you have any questions, please contact my office.  
Sincerely,

*Erin Collins-Miles*

Erin Collins-Miles  
Planning and Zoning Administrator

**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  
 Re: Alignment of existing Lot Lines

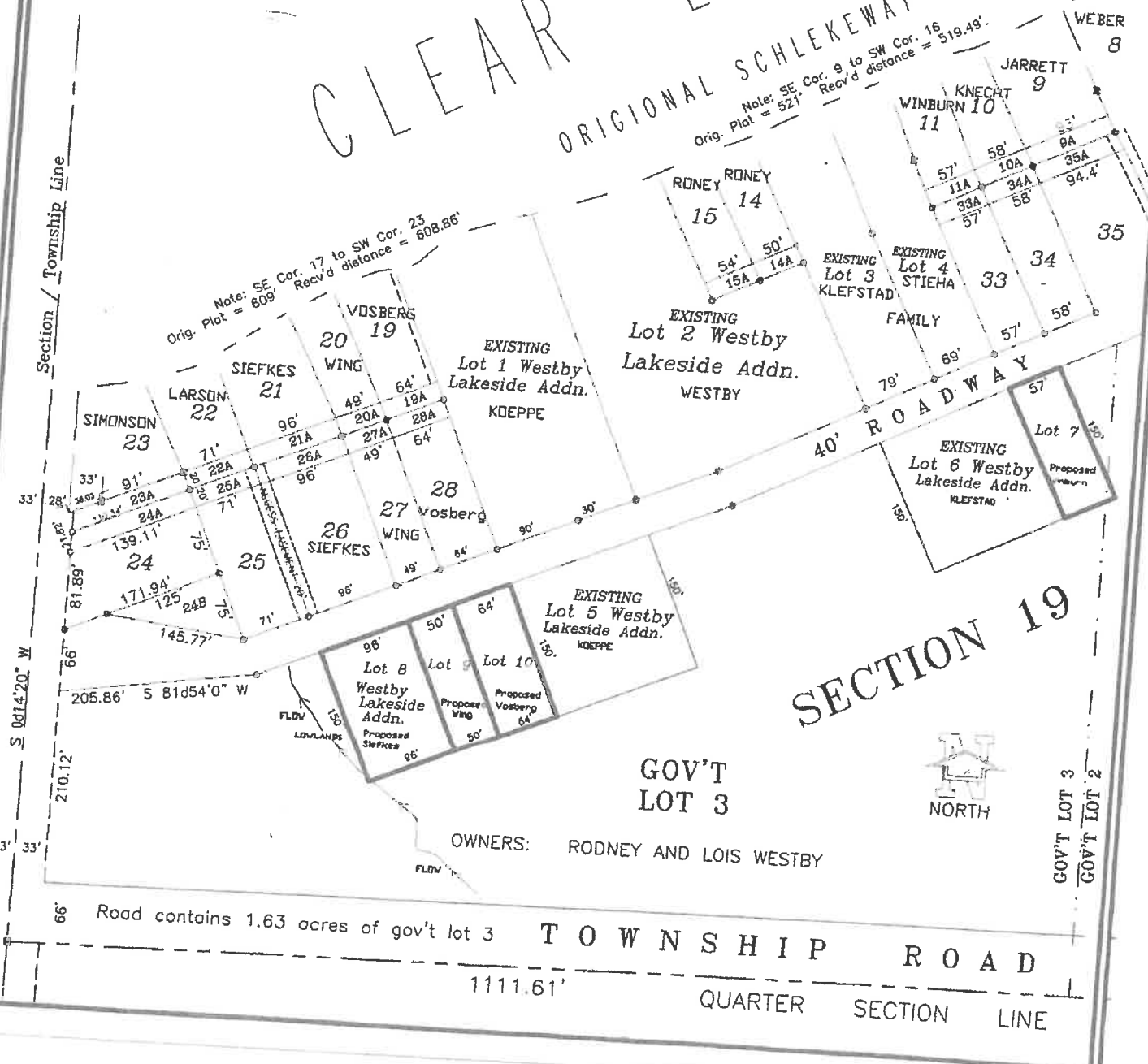
Present Owners; Rod & Lois Westby

Proposed Buyers: Lot 7, Teddy Winburn  
 Lot 8, Cory Siefkes  
 Lot 9, Jeff Wing  
 Lot 10, Tim Vosberg

CLEAR LAKE

ORIGINAL SCHLEKEWAY BEACH

Section / Township Line



GOV'T LOT 3

OWNERS: RODNEY AND LOIS WESTBY



GOV'T LOT 3  
 GOV'T LOT 2

Road contains 1.63 acres of gov't lot 3  
 TOWNSHIP ROAD  
 1111.61'  
 QUARTER SECTION LINE