

**Marshall County Planning & Zoning
STAFF REPORT
October 10, 2023
Issue: Variance for Building Setback**

OWNER/APPLICANT: Mark & Laurie Smith

PROPERTY DESCRIPTION: Lot 7A in the Plat of Isensee's Fifth Clear Lake Subdivision Located in Government Lots 1 and 2 in Section 12, T126N, R54W of the 5th P.M., Marshall County, South Dakota

CURRENT ZONING: Lake Front Residential (R-3)

SURROUNDING ZONING: Lake Front Residential (R-3) and Agricultural (Ag)

REQUEST: Mark and Laurie Smith have requested a variance to build a lake home to replace the old 35ft from the normal high-water mark instead of the 50ft requirement, per the Marshall County Zoning Ordinance.

HISTORY/ISSUE(S):

1. The Lot was purchased by the applicants on August 15, 2017.
2. The original cabin which sat on the Lot has been removed. There is also a garage on Lot 8, also owned by the applicants.
 - a. The oldest existing cabin was removed in order to build the new cabin in its place.
3. Lot 7A has an average depth of approximately 144.05ft and a width of approximately 48.7ft.
4. Note that there is a principal structure located less than fifty (50) feet from the normal high-water mark on properties contiguous to the lot or parcel upon which a proposed structure is to be constructed, the setback from the normal high-water mark will be established utilizing a sight line that averages the setback of the principal structures on the adjoining lots. Average setback: 18 feet.
 - a. The cabin lying Northwest of Lot 7A is 20' from the high-water mark. The next adjacent cabin to the East, sits 16' from the high-water mark setback.
5. Marshall County Ordinance requires new structures to be placed a minimum of 50ft from the normal high-water mark.
6. No written comments or objections were received prior to the hearing.
7. Staff Recommendation – **15' variance to the normal high-water mark setback.**
8. 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 high-water mark variances to lake lots in the past, when the neighbors had no objections.
 - i. Similar high-water mark variances allowed – 11.5' for L. & J. Johnson 4/22, 10' for R. Renner 6/21, 14' for R. Mahoney 10/12, 11' for K. Freudenthal 3/18, 18' for Bosse Family Cabin 8/23 and 18' for J. Nordquist 5/23.
 - 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 – 15' variance to the normal high-water mark setback.

NOTICE OF HEARING - APPLICATION FOR VARIANCE

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on October 10, 2023 at 9:00 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for variance from the Marshall County Zoning Ordinance.

Mark & Laurie Smith have requested a variance to build a lake home to replace the old on the property described as Lot 7A in the Plat of Isensee's Fifth Clear Lake Subdivision Located in Government Lots 1 and 2 in Section 12, T126N, R54W of the 5th P.M., Marshall County, South Dakota. The petitioner is asking to build the home 35ft from the normal high-water mark instead of the 50ft requirement, per the Marshall County Zoning Ordinance.

Erin Collins-Miles
Planning & Zoning Administrator

Published once at the approximate cost of

For publication: September 27, 2023

1T (Sept 27)
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Erin Collins-Miles, Planning &
(Continued on p8)

Zoning Administrator

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

September 22, 2023

Dear Property Owner,

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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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Erin Collins-Miles

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Planning and Zoning Administrator

Sent to the following adjacent landowners on 9/22/23:

1. Dale & Debra Normandin – 6404 Fairweather Dr. Anchorage, AK 99518
2. Dept. of Game, Fish & Parks c/o Habitat Section – 523 E Capitol Ave. Pierre, SD 57501

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 9-15-23

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) New Home within 35' of a (circle applicable): Twp Rd, County Rd, Federal or State Hwy, Other Rd, Lot Line or High Water Mark.

Structure would be located on (legal description): Lot 7A in Isaac's Fifth Class Lake subdivision located in Gov't Lots 1 & 2 / Lot 8 Isaac's Second Subdivision

Reason: Rebuilding @ same location as original
constr. Behind line of site between neighbors
front are both close

Applicant Name: Mark R Smith; Lorie K Smith ^{Revocable Trust} Phone: 520-425-0722
Address: 6137 West Sonoran Links Lane, Marana, AZ 85658
Applicant Signature: [Signature]
Owner Signature (if different than applicant): _____

For Internal Office Use Only:

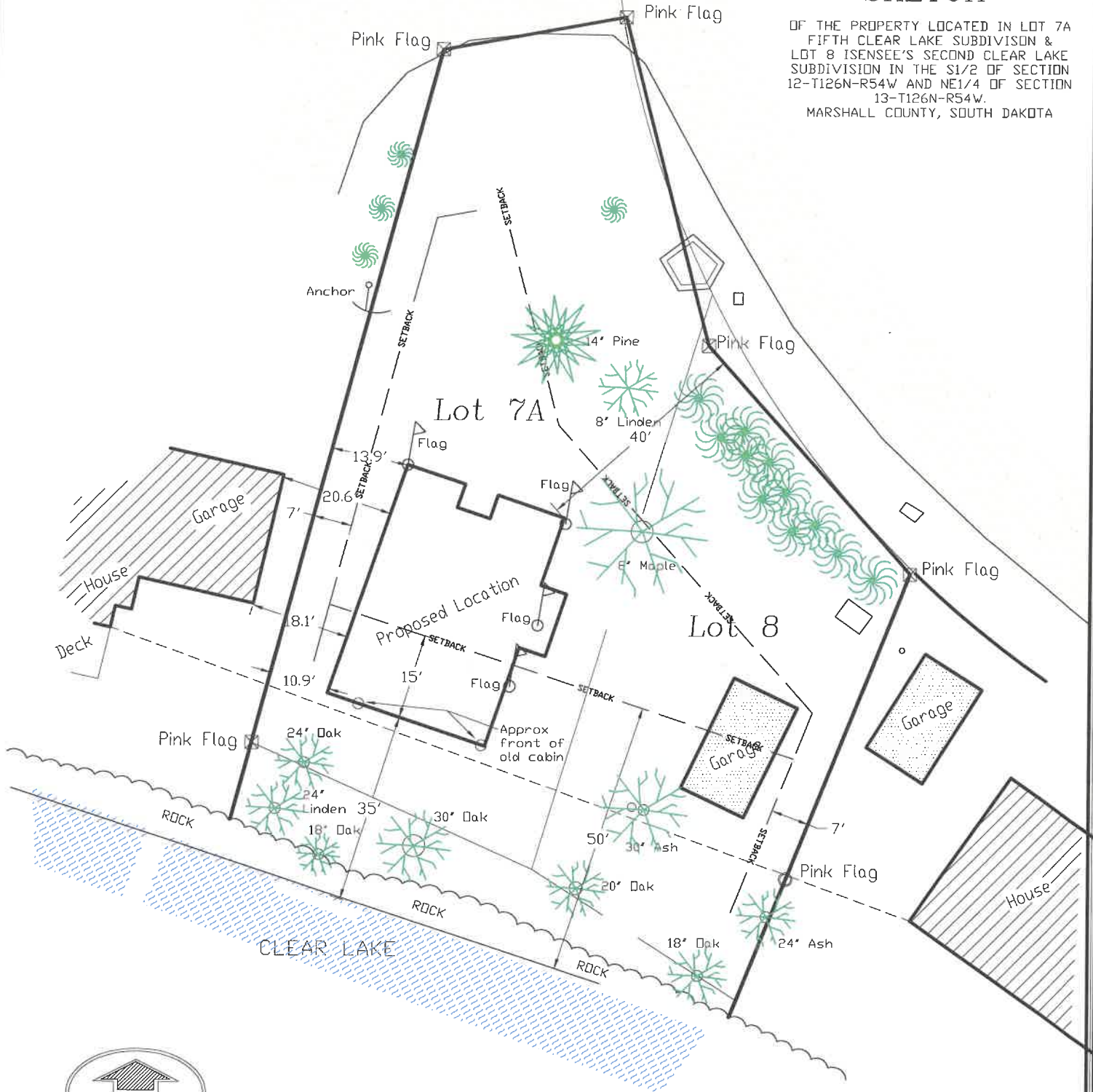
Date Received: 9/15/23 Fees(non-refundable): \$150.00 Paid: YES NO
Inspection Report: See Staff report

Date of Hearing by Planning and Zoning Commission: October 10, 2023

Action taken by Planning and Zoning Commission: _____

INFORMATIONAL SKETCH

OF THE PROPERTY LOCATED IN LOT 7A FIFTH CLEAR LAKE SUBDIVISION & LOT 8 ISENSEE'S SECOND CLEAR LAKE SUBDIVISION IN THE S1/2 OF SECTION 12-T126N-R54W AND NE1/4 OF SECTION 13-T126N-R54W. MARSHALL COUNTY, SOUTH DAKOTA



SCALE: 1" = 20'

- ☒ = RECOVERED MONUMENT
- = CAPPED MONUMENT SET

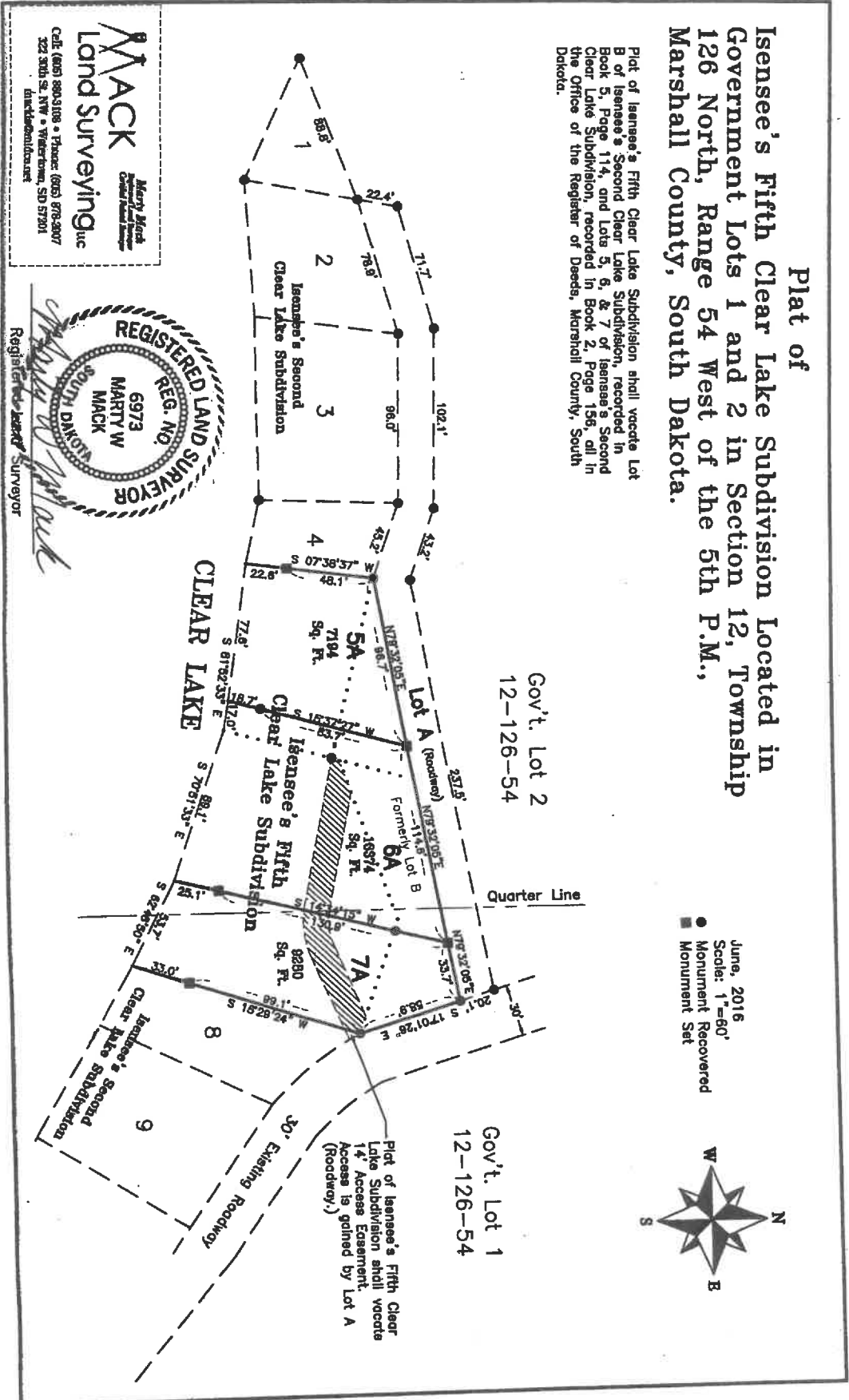
HOLTTON ENGINEERING INC.

Stadler Cad/Lake/Clear/north/isensee/lot_7a_lot_8_isensee.dwg
DRAWN: 09/14/23

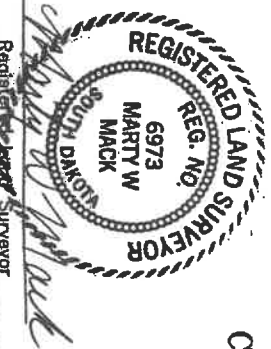
128 E HICKORY ST SISSETON, SD PH. 1-605-698-3850

**Plat of
Isensee's Fifth Clear Lake Subdivision Located in
Government Lots 1 and 2 in Section 12, Township
126 North, Range 54 West of the 5th P.M.,
Marshall County, South Dakota.**

Plat of Isensee's Fifth Clear Lake Subdivision shall vacate Lot B of Isensee's Second Clear Lake Subdivision, recorded in Book 5, Page 114, and Lots 5, 6, & 7 of Isensee's Second Clear Lake Subdivision, recorded in Book 2, Page 156, all in the Office of the Register of Deeds, Marshall County, South Dakota.

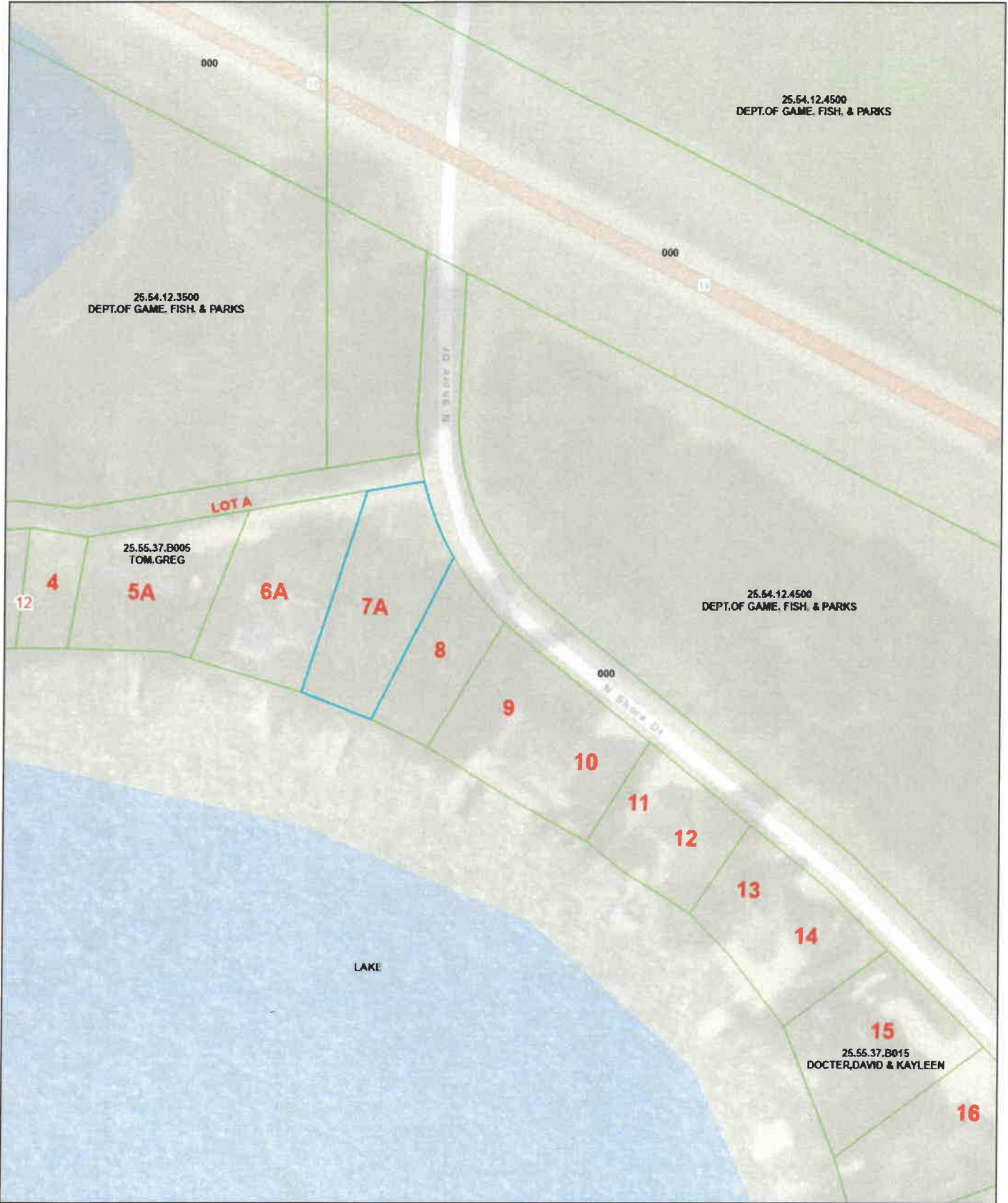


MACK
Marty Mack
Registered Land Surveyor
Land Surveying, LLC
Cell: (605) 880-9108 • Fax: (605) 876-3007
223 3703 St. NW • Yankton, SD 57701
m.mack@landsurveyor.com



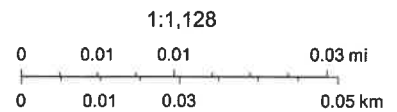
5-159 Slide

MARSHALL COUNTY WEB VIEWER



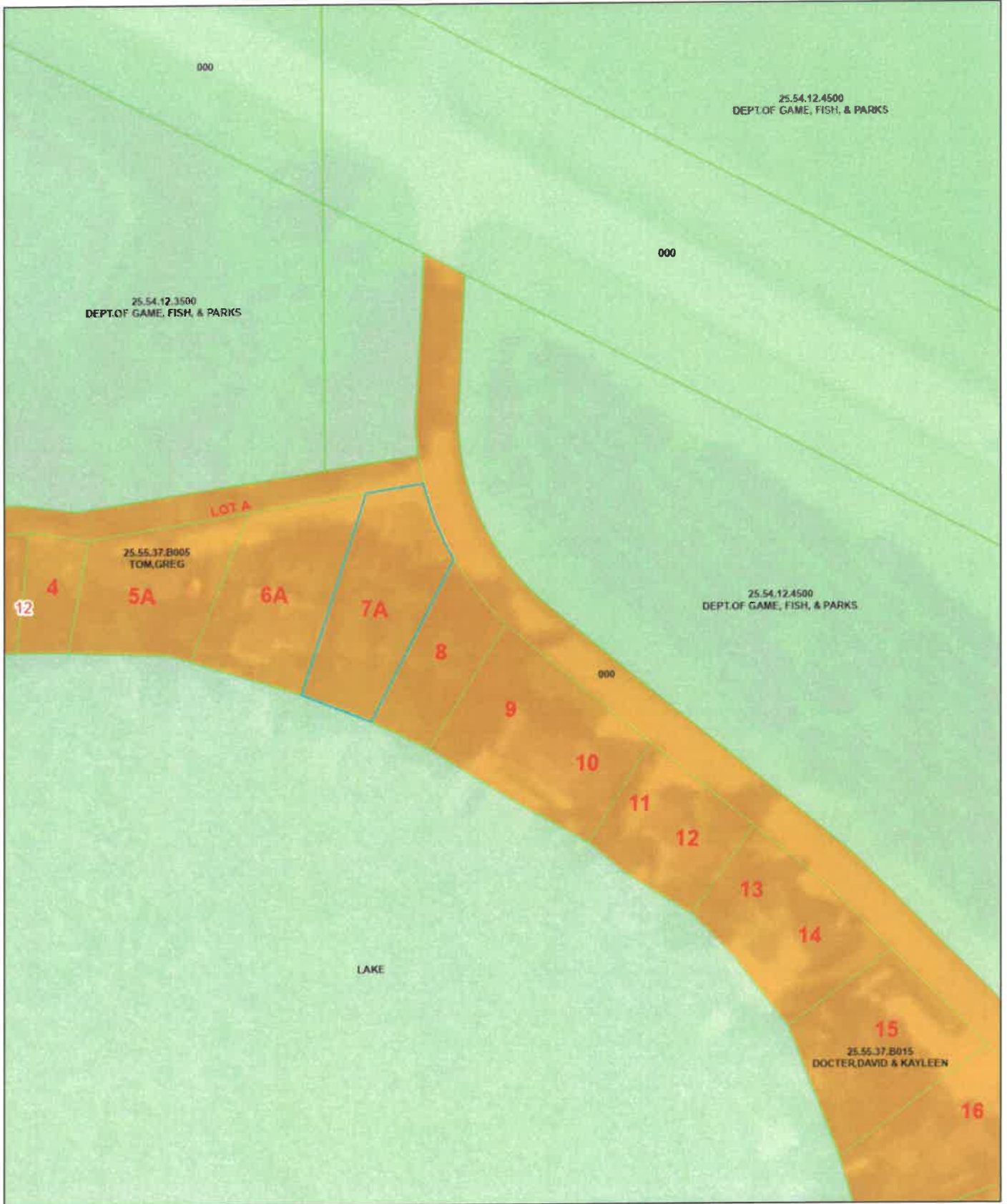
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- TOWNSHIPS
- SECTIONS
- PARCELS



Esri, HERE, Garmin, INCREMENT P, NGA, USGS

MARSHALL COUNTY WEB VIEWER

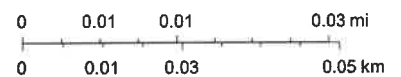


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ZONING

- Agricultural District
- Lake Front Residential District
- TOWNSHIPS
- SECTIONS
- PARCELS

1:1,128



Variance – Mark & Laurie Smith







