

Marshall County Planning & Zoning
STAFF REPORT
May 6, 2025; POSTPONED
May 20, 2025

Issue #1 Variance for Building Setback

OWNER/APPLICANT: Randy Lien

PROPERTY DESCRIPTION: as Lot 5A in the Plat of Lake Dumarce Island Fourth Subdivision in Government Lot 2 and Government Lot 3 in Section 24, T127N, R54W

CURRENT ZONING: Lake Front Residential (R-3)

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

REQUEST: The petitioner is asking to allow the existing deck to be 0 feet from the normal high-water mark instead of the 50ft requirement; per the Marshall County Zoning Ordinance.

HISTORY/ISSUE(S):

1. The applicants have owned the Lot containing the deck since October 27, 2023.
2. The deck in question was built on the lot prior to obtaining a building permit.
 - a. Applicant stated on the variance application that the deck was built with the intent of putting a dock out from/off of the structure, and for keeping an eye on grandchildren.
 - b. The structure was discovered on 3/10/25 by the Zoning Director. Game, Fish and Parks was called that day to make them aware. Jack Baumert, conservation officer for Marshall County, stated that he would give me a call if/when he had any updates.
 - c. 4/30/25 – called for any updates from Game, Fish & Parks and left a voicemail
 - d. 5/1/25 – Zoning Director spoke with Jack Baumert, Conservation Officer. Jack stated that the permit process for this structure is a 2-part permit between Game, Fish, and Parks and the Corp of Engineers. Although G, F & P needs to approve the permit, the Corp has final say when approving the permit.
 - e. Any further updates will be given as received, or disclosed at the hearing scheduled for 5/6/25.
 - f. **NEW** 5/6/25 – The Board voted to postpone both the variance and building permit applications until May 20th, 2025 to allow for further communication from Game, Fish and Parks on the matter. Rapkoch, Marshall County States Attorney, has been working to contact Jack Baumert.
3. The Lot was previously platted as “Lot 5,” in 2012, but was vacated and replatted in 2018 to make the Lot bigger.
4. Note that there is **NO** 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: **50ft.**
5. Marshall County ordinance states that No building permit shall be issued by the Zoning Administrator except in conformity with the provisions of this Article, unless he/she received a written order from the Board of Adjustment in the form of an administrative review, conditional use, or variance as provided by this Article.
6. Marshall County Ordinance requires new structures to be placed a minimum of 50ft from the normal high-water mark.
7. No written comments or objections have been received prior to the writing of this staff report.

8. **NEW** Staff Recommendation – Discussion on the topic of the building being placed prior to a permit being acquired/approved, and how the structure sits over the top of the lake; noting that efforts to contact G, F, & P to discuss the matter have been ongoing. If approved, the Board would be granting a 50' variance to the normal high-water mark setback, and to adopt the facts and the recommended findings of the Planning Commission listed in the staff report.
9. 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. **NEW** Similar high-water mark variances allowed; *Noting that there are no exact instances – 38' for D. Stapleton 6/13, 31' for D. & K. Docter 10/2020 and 33' for D. & K. Siefkes 9/22*
 - 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 – Discussion on the topic of the building being placed prior to a permit being acquired/approved, and how the structure sits over the top of the lake; noting that efforts to contact G, F, & P to discuss the matter have been ongoing. If approved, the Board would be granting a 50' variance to the normal high-water mark setback, and to adopt the facts and the recommended findings of the Planning Commission listed in the staff report.

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 4/7/25

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) Deck within 0' 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 5A Plat of Lake Dumas Island 4th Subdivision in Gov't Lot 2 And Gov't Lot...

Reason: Putting a dock out from/off of deck.

Visual purpose also to keep eye on Grandkids swimming.

Applicant Name: Randy Lien Phone: 290 - 4791
Address: 442731 Dumas RD. N Vehlen SD. 57270
Applicant Signature: Randy Lien
Owner Signature (if different than applicant): _____

For Internal Office Use Only:

Date Received: 4/17/25 Fees(non-refundable): \$15000 Paid: (YES) NO
Inspection Report: See staff report

Date of Hearing by Planning and Zoning Commission: May 6, 2025

Action taken by Planning and Zoning Commission: Postponed; see below
*Kilker motioned; Luttrell seconded to **POSTPONED until the next scheduled commissioner hearing set for May 20, 2025,** for the requested 50' variance for a deck to the normal high-water mark setback. This motion allows for further communication from Game, Fish and Parks on the matter prior to the next scheduled hearing; per the Marshall County Zoning Ordinance and to adopt the facts and the recommended findings of the Planning Commission listed in the staff report. A roll call vote was taken; Medhaug - Aye, Luttrell - Aye, Kilker - Aye, Bender - Aye, Schuller - Aye. Motion carried.*

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

May 6, 2025

Randy Lien
442731 Dumarce Rd. N
Veblen, SD 57270

To whom this may concern,

This letter is to inform you of the decision made by the Marshall County Planning & Zoning Board in regard to your variance application.

After review and county commissioner hearing held in the Commissioners Chambers on May 6, 2025, your application for a variance to the normal high-water mark, per the Marshall County Zoning Ordinance; is hereby: **POSTPONED until the next scheduled commissioner hearing set for May 20, 2025.**

Please see below for detail:

*Kilker motioned; Luttrell seconded to **POSTPONED until the next scheduled commissioner hearing set for May 20, 2025,** for the requested 50' variance for a deck to the normal high-water mark setback. This motion allows for further communication from Game, Fish and Parks on the matter prior to the next scheduled hearing; per the Marshall County Zoning Ordinance and to adopt the facts and the recommended findings of the Planning Commission listed in the staff report. A roll call vote was taken; Medhaug – Aye, Luttrell – Aye, Kilker – Aye, Bender – Aye, Schuller – Aye. Motion carried.*

Kilker Motioned; Luttrell seconded to postpone a building permit for the following applicant: Randy Lien – Dumarce Township. All members voted aye. Motion carried.

If you have any questions, please contact my office at the above-mentioned phone number or send me an email.

Sincerely,

Erin Collins-Miles

Erin Collins-Miles
Planning and Zoning/E911/Drainage Administrator

Marshall County Planning & Zoning
STAFF REPORT
May 6, 2025

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8. Staff Recommendation – **Discussion on the topic of the building being placed prior to a permit was approved, and how the structure sits over the top of the lake; noting that G, F, & P is also reviewing the structure. 50’ variance to the normal high-water mark setback, and to adopt the facts and the recommended findings of the Planning Commission listed in the staff report.**

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Subject **Re: TEST email**
From Baumert, Jack <Jack.Baumert@state.sd.us>
To Erin Collins-Miles <mczoning@venturecomm.net>
Date 2025-05-01 16:06

Good afternoon Erin,

I spoke with Rhet and as the structure is not built into the actual water, he does not think we will pursue it any further as the effort would greatly outweigh the outcome on our end.

Thank you and have a great afternoon!

JB

Get [Outlook for iOS](#)

From: Erin Collins-Miles <mczoning@venturecomm.net>
Sent: Thursday, May 1, 2025 3:10:20 PM
To: Baumert, Jack <Jack.Baumert@state.sd.us>
Subject: [EXT] TEST email

Hi Jack!

Just sending this over so you have my email. Like I mentioned, if they do want to send me a letter of objection, I would like to have that to my desk no later than 4:30 tomorrow.

Thank you so much!

Have a great day!

Erin Collins-Miles  [605.448.7540](tel:605.448.7540)
 mczoning@venturecomm.net
Erin Collins-Miles  marshall.sdcounties.org/planningzoning/
Planning & Zoning, Drainage, E911 Director  PO Box 9, 911 Vander Horck St. Britton, SD 57430
Marshall County

NOTICE OF HEARING - APPLICATION FOR VARIANCE

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on May 6, 2025 at 9:00 a.m. at the North Marshall Firehall meeting room, concerning the following application for variance from the Marshall County Zoning Ordinance.

Randy Lien has requested a variance for an existing deck on the property described as Lot 5A in the Plat of Lake Dumarce Island Fourth Subdivision in Government Lot 2 and Government Lot 3 in Section 24, T127N, R54W. The petitioner is asking to allow the existing deck to be 0 feet 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: April 23, 2025

the Marshall County Planning & Zoning Board will meet on May 6, 2025 at 9:00 a.m. at the North Marshall Firehall meeting room, concerning the following application for variance from the Marshall County Zoning Ordinance.

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1T(Apr 23)
NOTICE OF HEARING
- APPLICATION FOR
VARIANCE

Notice is hereby given that

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

April 25, 2025

Dear Property Owner,

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on May 6, 2025 at 9:00 a.m. at the North Marshall Firehall meeting room, 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 Director

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

April 25, 2025

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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,

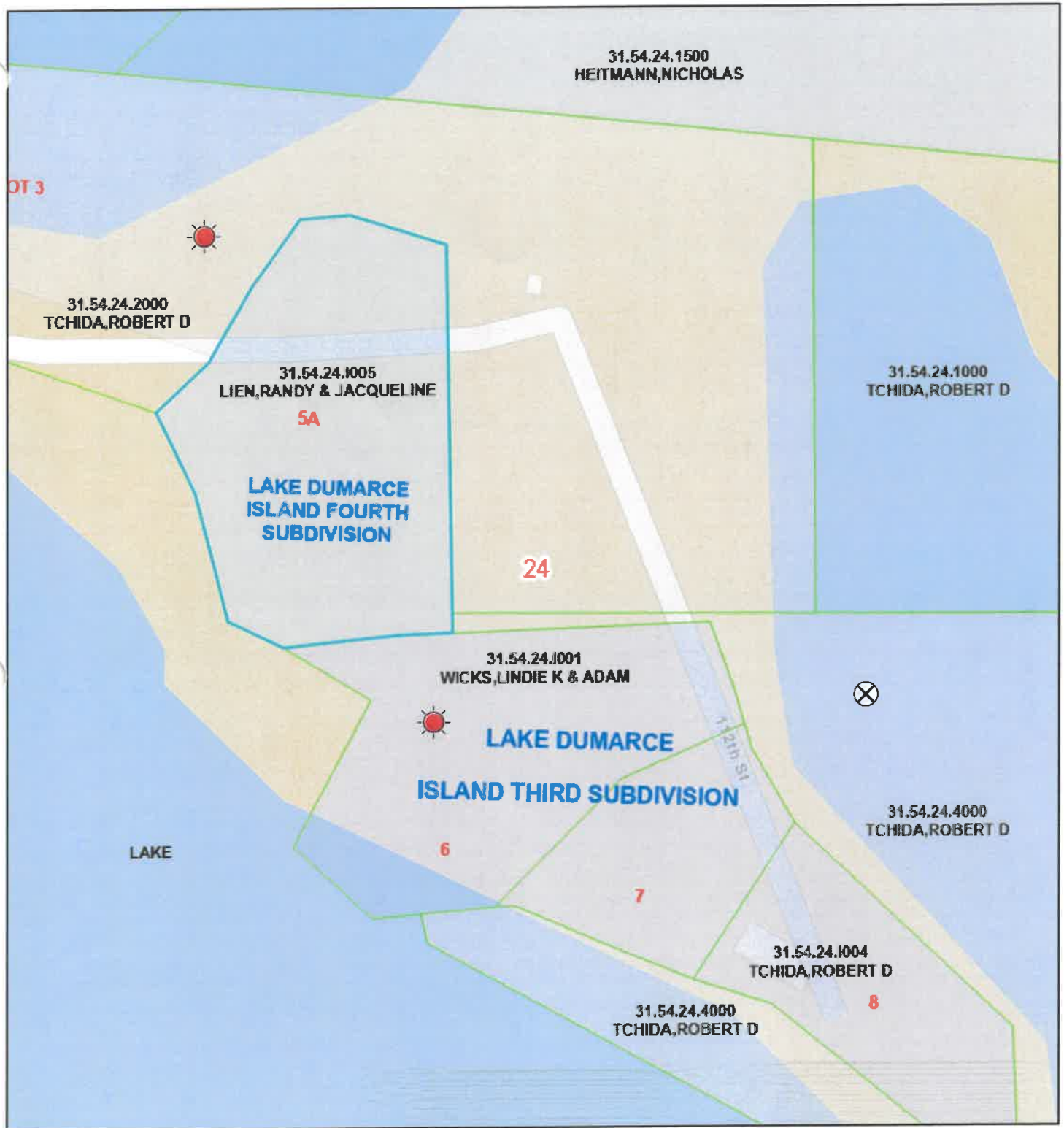
Erin Collins-Miles

Erin Collins-Miles
Planning and Zoning Director

Sent to the following adjacent landowners on 4/25/25:

1. Robert Tchida – 44201 Dumarce Rd. Veblen, SD 57270
2. Lindie & Adam Wicks – 402 E 3rd Ave. Andover, SD 57422

MARSHALL COUNTY WEB VIEWER

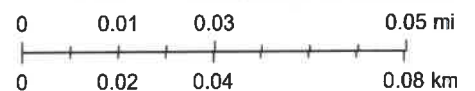


4/25/2025, 9:43:11 AM

PLAT

- LAKE DUMARCE ISLAND FOURTH ADDITION
- LAKE DUMARCE ISLAND THIRD ADDITION
- <Null>
- HEITMANN BROTHERS SUBDIVISION
- TOWNSHIPS
- SECTIONS
- PARCELS

1:2,257



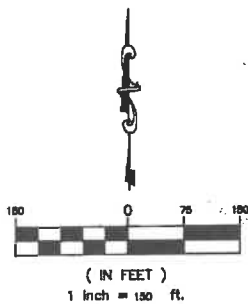
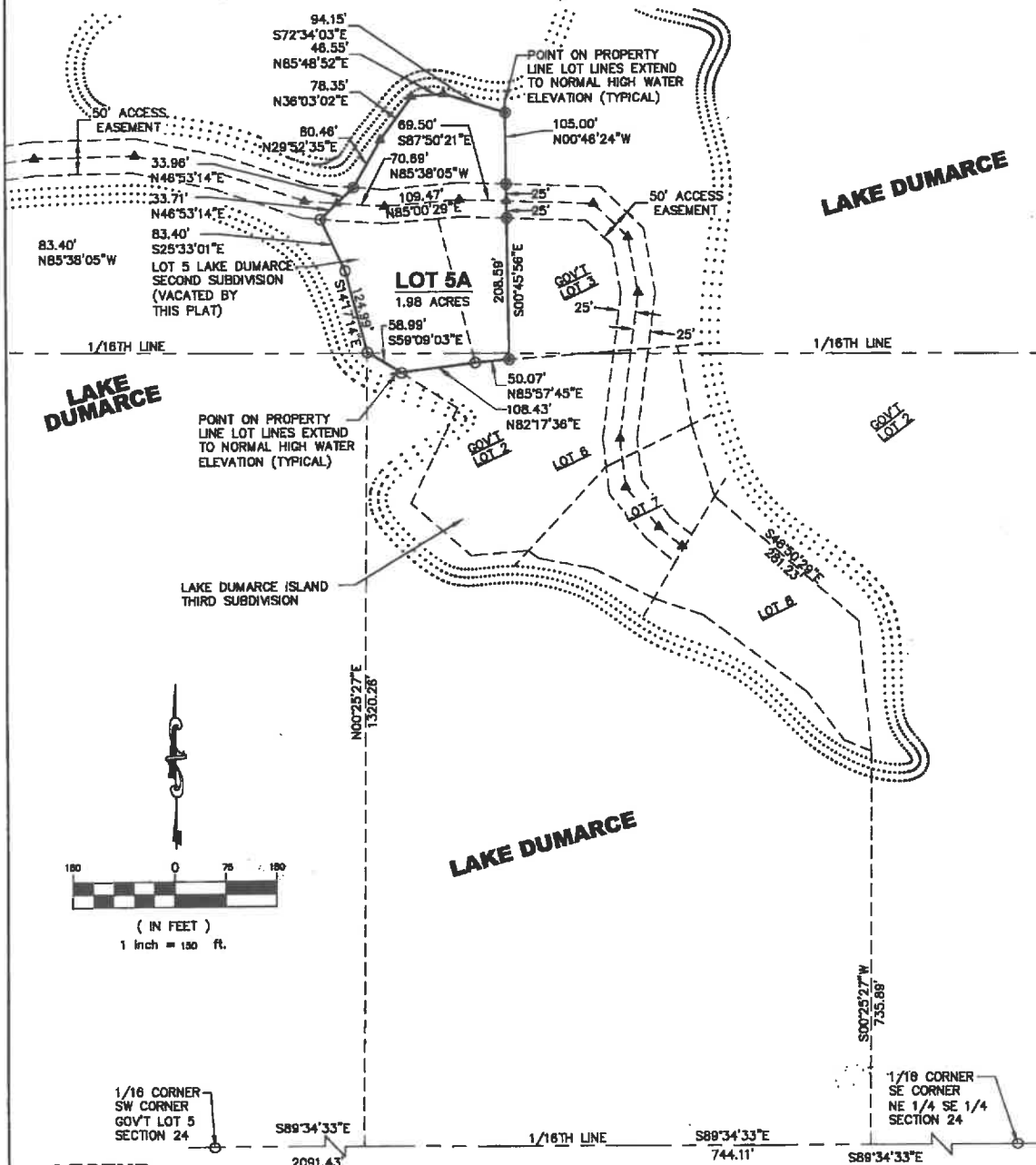
Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

ArcGIS Web AppBuilder

This map is intended for general planning purposes only. District III and Marshall County makes no claims, representations, and warranties regarding the accuracy of the data.

8940-3

PLAT OF
PLAT OF LAKE DUMARCE ISLAND FOURTH SUBDIVISION
IN GOVERNMENT LOT 2 AND GOVERNMENT LOT 3 IN
SECTION 24-T127N-R54W OF THE 5TH P.M.
MARSHALL COUNTY, SOUTH DAKOTA

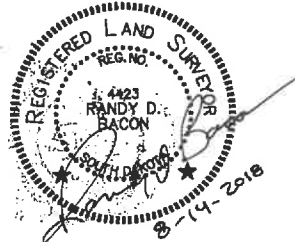


LEGEND

- FOUND PROPERTY CORNER
- ⊙ SET 5/8" X 18" REBAR WITH SURVEY CAP STAMPED BACON RLS 4423
- SET 3" SPIKE W/ WASHER STAMPED BACON RLS 4423
- ▲ CALCULATED POSITION

BASIS OF BEARINGS

TRUE MERIDIAN GPS



Helm & Associates
 221 Brown County Highway 19
 P.O. Box 111
 Aberdeen, S.D. 57401
 Phone 605.225.1212 Fax 605.225.3189

CIVIL ENGINEERS & LAND SURVEYORS

Slide
5-175 152

MARSHALL COUNTY WEB VIEWER

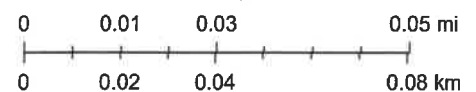


4/30/2025, 3:13:39 PM

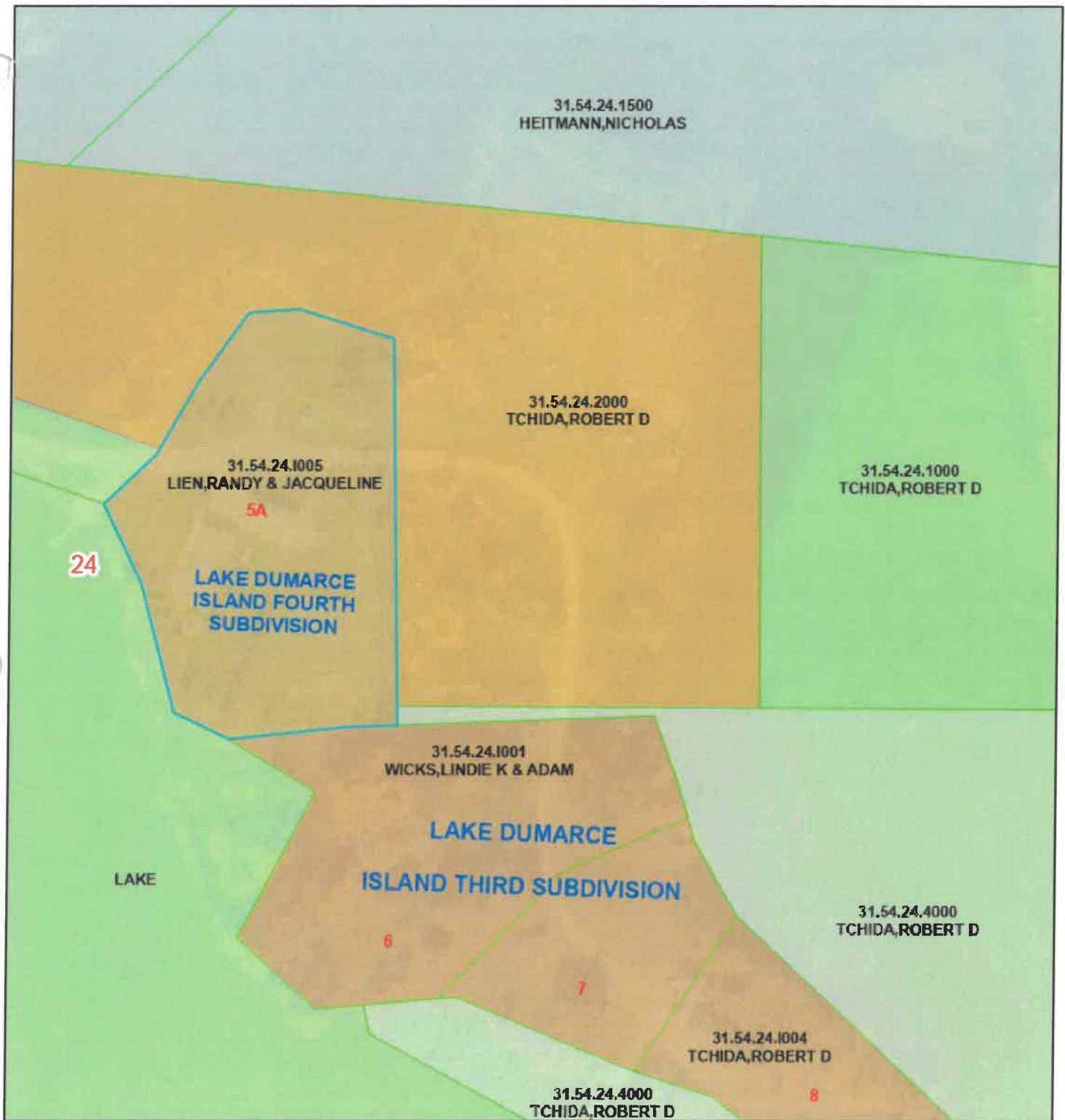
PLAT

- LAKE DUMARCE ISLAND FOURTH ADDITION
- LAKE DUMARCE ISLAND THIRD ADDITION
- <Null>
- HEITMANN BROTHERS SUBDIVISION
- TOWNSHIPS
- SECTIONS
- PARCELS

1:2,257



MARSHALL COUNTY WEB VIEWER



4/30/2025, 2:53:40 PM

ZONING

- Agricultural District
- Lake Front Residential District

PLAT

- LAKE DUMARCE ISLAND FOURTH ADDITION
- LAKE DUMARCE ISLAND THIRD ADDITION

<Null>

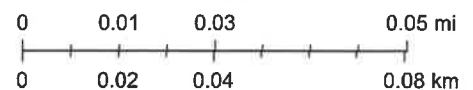
HEITMANN BROTHERS SUBDIVISION

TOWNSHIPS

SECTIONS

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1:2,257



Randy Lien – Variance





