

**Marshall County Planning & Zoning
STAFF REPORT
May 19, 2026**

GENERAL INFORMATION:

OWNER/APPLICANT: Rick & Myra Sommers

REQUEST: **The petitioners are asking to build the new deck 42ft from the normal high-water mark instead of the 50ft requirement; per the Marshall County Zoning Ordinance.**

PROPERTY DESCRIPTION: Lots 11-13 in the Plat showing Sckerl's Roy Lake Subdivision in the NE1/4 of the SW1/4 of Sec. 27, T126N, R55W

CURRENT ZONING: Lake Front Residential (R-3)

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

REPORTED BY: E. Collins-Miles

COMMENTS/HISTORY:

1. This property has been owned solely by Myra Sommers since July 4, 2003.
2. The applicant's home is situated across all 3 Lots owned. There is also a detached garage located on the East side of the house closer to Roykota Dr.
3. The petitioner is asking for the variance in order to replace the old deck with a new structure which would be wider and have longer steps.
4. The road lying to the East is a public road and is a span of 30'.
5. The Lots combined have an average depth of approximately 224.73ft and a width of approximately 61.15ft.
6. 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: 39.25ft.**
7. According to the SDDENR Measured Lakes website at the time of writing this report; <https://apps.sd.gov/NR65LakeInfo/public.aspx>,
 - a. The outlet elevation is 1,795.2', and the Ordinary High-Water Mark is measured at 1,795.7ft.
 - i. Note: website information shows that the OHWM is currently sitting slightly above outlet level, and that the measured lake elevation on 9/23/25 was notably higher at 1,796.16ft.
 - ii. **Note Website Disclaimer:** *Though we make efforts to provide and maintain accurate, complete, usable, and timely information at our*

websites the user should understand that the information is not guaranteed to be correct or complete. Conclusions or actions taken (based upon the maps and the information contained therein) is the sole responsibility of the user.

8. Marshall County Ordinance requires new structures to be placed a minimum of 50ft from the normal high-water mark.
9. No written comments or objections were received prior to the writing of this staff report.
10. **Staff Recommendation – 8’ 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.**
11. 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 – 7’ for J. Monson 10/2020, 6’ for T. Vosberg, 34’ for S. Phillips 9/2020 (*not similar structure or distance but same subdivision and variance request) and 12’ for P. Torness-Smith 9/25.
 - b. The Board would consider approving other similar requests meeting the unique circumstances.
12. 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.
13. If the Board chooses to grant the variance, it must make findings pursuant to TITLE 19, Chapter 19.6 of the Zoning Ordinance.

Staff Recommendation – 8’ 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.

NOTICE OF HEARING - APPLICATION FOR VARIANCE

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on May 19, 2026 at 9:00 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for variance from the Marshall County Zoning Ordinance.

Rick & Myra Sommers have requested a variance to replace a deck on the property described as Lots 11-13 in the Plat showing Sckerl's Roy Lake Subdivision in the NE1/4 of the SW1/4 of Sec. 27, T126N, R55W. The petitioners are asking to build the new deck 42ft 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 29, 2026

1T (April 29)
MARSHALL COUNTY
PLANNING & ZONING
BOARD
BRITTON, SOUTH DAKOTA
NOTICE OF HEARING
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- Erin Collins-Miles, Planning & Zoning Administrator
Published at an approximate cost of \$8.70 and can be viewed free of charge at www.sdpublicnotices.com.

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 4/20/26

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 50' (42' from HW) 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): Lots - 11-13 Star's Addition
Lako Township

Reason: Replacing existing deck with one a little wider and with longer steps

Applicant Name: Rick & Myra Sommas Phone: (605) 380-6513

Address: P.O. Box 68, Eden, SD 57232

Applicant Signature: [Signature]

Owner Signature (if different than applicant): Myra Sommas

For Internal Office Use Only:

Date Received: 4/20/26 Fees (non-refundable): \$150.00 Paid: YES NO

Inspection Report: See staff report

Date of Hearing by Planning and Zoning Commission: May 19, 2026

Action taken by Planning and Zoning Commission:

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

April 24, 2026


Dear Property Owner,

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on May 19, 2026 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
Planning and Zoning Director

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

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Sincerely,

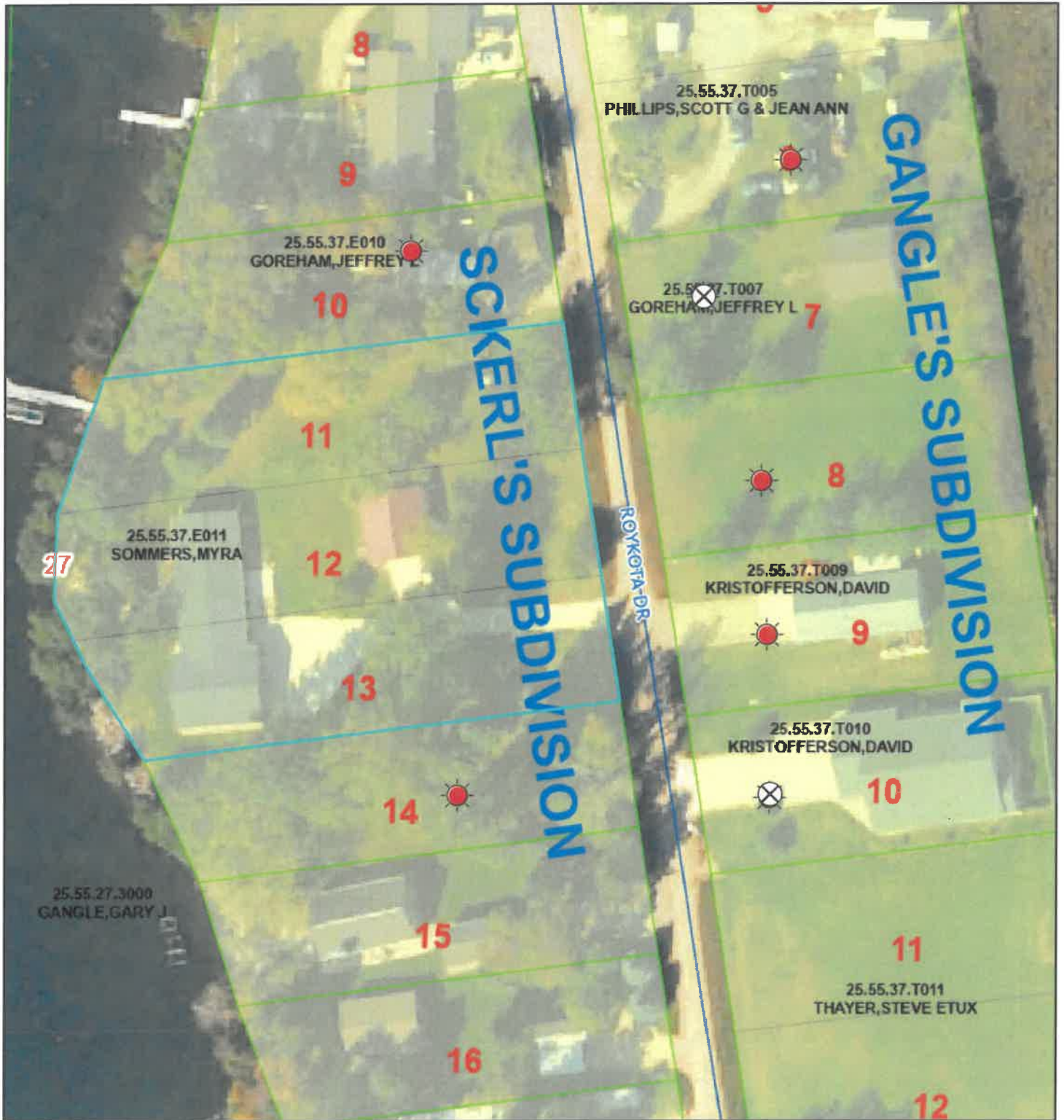


Erin Collins-Miles
Planning and Zoning Director

Sent to the following adjacent landowners on 4/24/26:

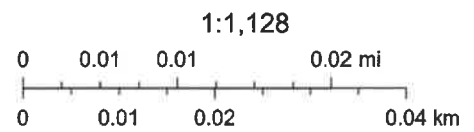
1. Jeffrey Goreham – 215 14th Ave. SW Aberdeen, SD 57401
2. Roger & Gloria Damgaard – 47193 Clubhouse Rd. Sioux Falls, SD 57108
3. Scott & Jean Phillips – PO Box 116 Lake City, SD 57247
4. Mona & Jerald Anderson – 7860 Rimrock Dr. Gillette, WY 82718
5. David Kristofferson – 116710 Roykota Dr. Lake City, SD 57247

MARSHALL COUNTY WEB VIEWER

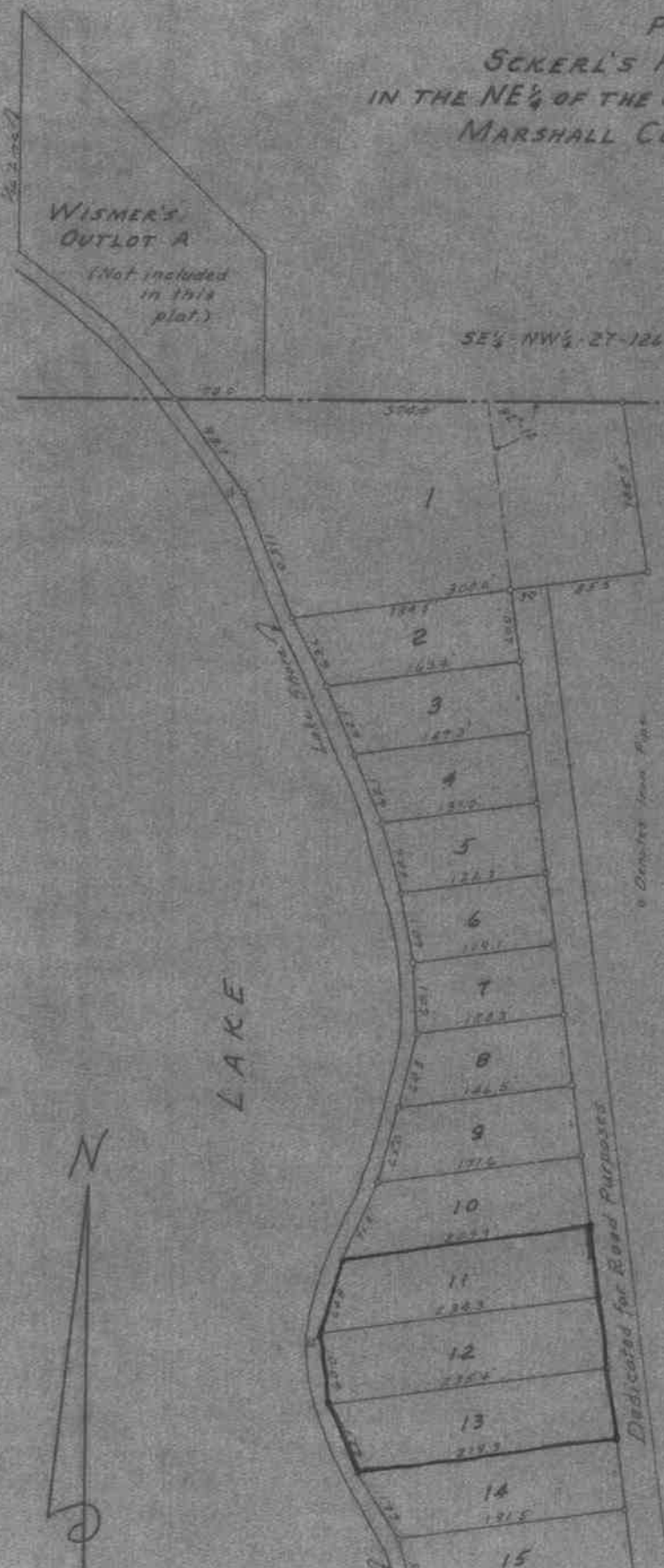


4/24/2026, 1:36:01 PM

- PLAT
- SECTIONS
 - GANGLE'S SUBDIVISION
 - SCKERL'S SUBDIVISION
 - TOWNSHIPS
 - PARCELS
 - ROADS



Plot Showing
SCKERL'S ROY LAKE SUBDIVISION
 IN THE NE $\frac{1}{4}$ OF THE SW $\frac{1}{4}$ OF SEC. 27, T. 126 N., R. 55 W.,
 MARSHALL COUNTY, SOUTH DAKOTA



Lot 112
 (Copied)
 FILED IN BOOK 5

OWNER'S CERTIFICATE

I, Max M. Sckerl, do hereby certify that I am and unqualified owner of the Northwest Quarter of the Southwest Quarter of Section 27, Township 126 North of the Fifth Principal Meridian, in Marshall County, South Dakota, and that I have caused a portion to be surveyed and platted into lots as shown which shall hereafter be known and described as Roy Lake Subdivision in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of T. 126 N., R. 55 W. I further certify that the land is free from any incumbrances.

Signed this 16 day of April

Max M. Sckerl
 Owner

State of Arkansas
 County of Washington
 On this 16 day of April, 1908, before me, a Notary Public, personally appeared Max M. Sckerl, known to me to be the person whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same.

My commission expires:

Arthur J. [Signature]
 Notary Public
 My Commission Expires

SURVEYOR'S CERTIFICATE

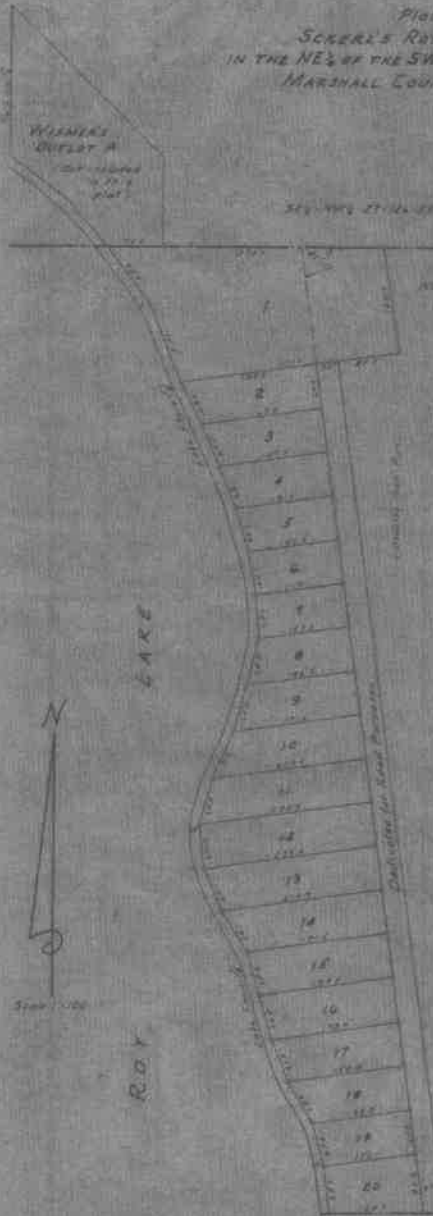
I, William D. Steiner, Registered Land Surveyor, do hereby certify that I have surveyed and platted Roy Lake Subdivision in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of T. 126 N., R. 55 W., as shown on this plat, that the iron pipe is shown, and that said survey and plat are correct.

Signed this 6th day of December, 1907.

William D. Steiner
 Registered Land Surveyor

State of South Dakota

**Plan Showing
SCKER'S ROY LAKE SUBDIVISION
IN THE NE 1/4 OF THE SW 1/4 OF SEC 27, T 124 N, R 55 W
MARSHALL COUNTY, SOUTH DAKOTA**



Lot 13
1000 Sq. Ft.
1000 Sq. Ft. 3, 1921

WITNESSETH
I, the undersigned, do hereby certify that I am the owner and proprietor of the above described property and that I have caused the same to be surveyed and divided into lots as shown on this plan, which I hereby certify to be true and correct as shown on the plan attached to the NE 1/4 of the SW 1/4 of Sec. 27, T. 124 N., R. 55 W., and I hereby certify that the above described lots are for sale and conveyance.

Witness my hand and seal this 16th day of April, 1921.
Wm. S. Scker

Notary Public
I, *Washington*, do hereby certify that I am a Notary Public in and for the State of South Dakota, and that I am duly qualified to perform the duties of such office, and that I am duly sworn to do so.

Wm. S. Scker
Notary Public, South Dakota

WITNESSETH
I, William S. Scker, do hereby certify that I am the owner and proprietor of the above described property and that I have caused the same to be surveyed and divided into lots as shown on this plan, which I hereby certify to be true and correct as shown on the plan attached to the NE 1/4 of the SW 1/4 of Sec. 27, T. 124 N., R. 55 W., and I hereby certify that the above described lots are for sale and conveyance.

Witness my hand and seal this 16th day of April, 1921.
Wm. S. Scker

Notary Public
I, *Washington*, do hereby certify that I am a Notary Public in and for the State of South Dakota, and that I am duly qualified to perform the duties of such office, and that I am duly sworn to do so.

Wm. S. Scker
Notary Public, South Dakota

WITNESSETH
I hereby certify that the following is a correct copy of the resolution passed by the Board of County Commissioners of Marshall County, South Dakota, at a meeting held on the 16th day of May, 1921.

Thomas Scker
County Clerk, Marshall County, S. D.

Be it enacted by the Board of County Commissioners of Marshall County, South Dakota, that the plan showing the subdivision of the NE 1/4 of the SW 1/4 of Sec. 27, T. 124 N., R. 55 W., be and the same be recorded in accordance with the provisions of Section 1204, Chapter 52-1 of the South Dakota Code of 1917, and amendments thereto.

WITNESSETH
I hereby certify that all taxes which are due upon any of the lands included in the above plan are paid by the owner of the same.

Wm. S. Scker
County Treasurer, Marshall County, S. D.

WITNESSETH
I hereby certify that I have received a copy of this plan on the 2nd day of May, 1921.

Wm. S. Scker
County Clerk, Marshall County, S. D.